

UTAH STATE BULLETIN

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

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

Division of Administrative Rules, Salt Lake City 84114

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NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between February 16, 2006, 12:00 a.m., and March 1, 2006, 11:59 p.m. are included in this, the March 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 Rules being repealed are completely struck out.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 April 14, 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 July 13, 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.

**Commerce, Occupational and
Professional Licensing
R156-17b
Pharmacy Practice Act Rules**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28530

FILED: 02/23/2006, 09:59

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Pharmacy Board have identified proposed changes that need to be made in the existing rule to correct cumbersome problems that have arisen in the practice of pharmacy since the rule was made effective in May 2005.

SUMMARY OF THE RULE OR CHANGE: In Subsection R156-17b-102(20), updated United States Pharmacopeia-National Formulary (USP-NF) books to the most current edition. In Subsections R156-17b-304(3)(e)(i) through (iii), changes include adding additional provisions for a person obtaining the approved training for pharmacy technician but did not receive the license within the required year. The situations covered in the three changes being added seem to be occurring most and additional clarification is necessary. In Subsection R156-17b-304(4)(b), changes provide additional clarification for the out-of-state trained pharmacy technician who is endorsing that license into Utah. The language being added is similar to language in Title 58, Chapter 1, that requires the licensee to have worked hours in the state of licensure before transferring the license to Utah. In Subsection R156-17b-306(4), corrected a statute citation. In Subsection R156-17b-308(3)(c), this amendment being added further clarifies the extension of a pharmacy intern license after graduation and receipt of a degree from a pharmacy school or college. In Section R156-17b-402, additional statute citations were added that are relevant to administrative penalties. In Subsection R156-17b-402(40), removal of items in parentheses is done to encompass all operating standards. There has been some confusion that the items in parentheses are the only standards considered. In Subsection R156-17b-502(10), a rule citation is corrected. In Subsection R156-17b-603(18), added that the responsibility of ensuring that all appropriate personnel in the pharmacy are licensed falls on the pharmacist-in-charge. In Section R156-17b-605, amendments are made to decrease the number of required inventories of noncontrolled substances and to make the requirements of the section less laborious for the pharmacist. In Section R156-17b-612, the amendments proposed in this section are the most controversial of all changes in the rule. The amendments eliminate the "one time transfer" of medication between pharmacies. The entire section has been reformatted in order to better understand the changes. In Subsection R156-17b-613(9)(a), amendments identify what records are to be maintained on transferred prescriptions. In Subsections R156-17b-614c(2) and (5)(b), technical changes are made to identify individuals who can be responsible for destruction of medication and to update that administrative facilities have a

consulting pharmacist and not a pharmacist-in-charge. Section R156-17b-618 is a new section outlining the requirements for change in ownership or location of a pharmacy. Sections R156-17b-619 through R156-17b-621 are renumbered because of adding the new section. In the new Subsection R156-17b-621(3), the addition identifies the number of required continuing education hours needed to update the knowledge of pharmacists who have achieved additional training for the administration of medications.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 58-17b-101 and 58-37-1; and Subsections 58-17b-601(1), 58-1-106(1)(a), and 58-1-202(1)(a)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Updates the United States Pharmacopeia/National Formulary (USP/NF) to the 2005 edition including Supplement 2 dated August 1, 2005, which is official from January 1, 2006, through Supplement 1, dated April 1, 2006

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$100 to reprint the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.
- ❖ **LOCAL GOVERNMENTS:** The proposed amendments do not affect local governments. The rule only affects licensed pharmacists, pharmacy interns, pharmacy technicians, and pharmacies. Therefore, there are no anticipated costs or savings to local governments.
- ❖ **OTHER PERSONS:** The Division anticipates there will be no significant costs or savings associated with these proposed amendments to either the general public or the regulated industry. Pharmacies may realize a saving in time and money due to the reduction in the inventory requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Division anticipates there will be no significant costs or savings associated with these proposed amendments to either the general public or the regulated industry. Pharmacies may realize a saving in time and money due to the reduction in the inventory requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule makes clarifying amendments to address various concerns raised by the industry, including provisions about applying for or renewing a license after passage of time; requirements for out-of-state licensees applying for licensure by endorsement; pharmacy intern license extensions; placing the responsibility of ensuring licensure of personnel on pharmacist-in-charge; reducing the number of required inventories for drugs that are not controlled substances; and transfer of prescriptions and record keeping requirements. The rule filing also makes some technical changes to correct references and to make other clarifying amendments. No fiscal impact to businesses is foreseen as a result of this rule filing, other than the regulated industry could experience a cost-savings due to decreased inventory requirements. Francine A. Giani, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Diana Baker at the above address, by phone at 801-530-6179, by FAX at 801-530-6511, or by Internet E-mail at dbaker@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 04/14/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 3/28/2006 at 9:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 4A, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2006

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.

R156-17b. Pharmacy Practice Act Rules.

R156-17b-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 17b, as used in Title 58, Chapters 1 and 17b or these rules:

(1) "ACPE" means the American Council on Pharmaceutical Education or Accreditation Council for Pharmacy Education.

(2) "Drugs", as used in these rules, means drugs or devices.

(3) "Dispense", as defined in Subsection 58-17b-102(23), does not include transferring medications for a patient from a legally dispensed prescription for that particular patient into a daily or weekly drug container to facilitate the patient taking the correct medication.

(4) "Drug therapy management" means the review of a drug therapy regimen of a patient by one or more pharmacists for the purpose of evaluating and rendering advice to one or more practitioners regarding adjustment of the regimen.

(5) "High-risk, medium-risk, and low-risk drugs" refers to the risk to a patient's health from compounding sterile preparations, as referred to in USP-NF Chapter 797, for details of determining risk level.

(6) "Hospice facility pharmacy" means a pharmacy that supplies drugs to patients in a licensed healthcare facility for terminal patients.

(7) "Hospital clinic pharmacy" means a pharmacy that is located in an outpatient treatment area where a pharmacist or pharmacy intern is compounding, admixing, or dispensing prescription drugs, and where:

(a) prescription drugs or devices are under the control of the pharmacist, or the facility for administration to patients of that facility;

(b) prescription drugs or devices are dispensed by the pharmacist or pharmacy intern; or

(c) prescription drugs are administered in accordance with the order of a practitioner by an employee or agent of the facility.

(8) "Legend drug" means any drug or device that has been determined to be unsafe for self-medication or any drug or device that bears or is required to bear the legend:

(a) "Caution: federal law prohibits dispensing without prescription";

(b) "Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian"; or

(c) "Rx only".

(9) "Maintenance medications" means medications the patient takes on an ongoing basis.

(10) "MPJE" means the Multistate Jurisprudence Examination.

(11) "NABP" means the National Association of Boards of Pharmacy.

(12) "NAPLEX" means North American Pharmacy Licensing Examination.

(13) "Parenteral" means a method of drug delivery injected into body tissues but not via the gastrointestinal tract.

(14) "PTCB" means the Pharmacy Technician Certification Board.

(15) "Qualified continuing education", as used in these rules, means continuing education that meets the standards set forth in Section R156-17b-309.

(16) "Sterile products preparation facility" means any facility, or portion of the facility, that compounds sterile products using aseptic technique.

(17) "Unauthorized personnel" means any person who is not participating in the operational processes of the pharmacy who in some way would interrupt the natural flow of pharmaceutical care.

(18) "Unit dose" means the ordered amount of a drug in a dosage form prepared for a one-time administration to an individual and indicates the name, strength, lot number and expiration date for the drug.

(19) "Unprofessional conduct", as defined in Title 58, Chapters 1 and 17b, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-17b-502.

(20) "USP-NF" means the United States Pharmacopeia-National Formulary (USP ~~28~~29-NF ~~23~~24), 200[4]5 edition, which is official from January 1, 200[5]6 through Supplement 1, dated April 1, 200[5]6, which is hereby adopted and incorporated by reference.

R156-17b-304. Licensure - Education Requirements.

(1) In accordance with Subsections 58-17b-303(2) and 58-17b-304(7)(c), the credentialing agency recognized to provide certification and evaluate equivalency of a foreign educated pharmacy graduate is the Foreign Pharmacy Graduate Examination Committee of the National Association of Boards of Pharmacy Foundation, or an equivalent credentialing agency as approved by the Division.

(2) In accordance with Subsection 58-17b-304(6), the preliminary education qualification for licensure as a pharmacy intern include:

(a) a current pharmacy student who has completed at least 15 semester hours of pharmacy course work in a college or school of pharmacy accredited by the ACPE;

(b) a graduate who has received a degree from a school or college of pharmacy which is accredited by the ACPE; or

(c) a graduate of a foreign pharmacy school who has received a certificate of equivalency from an approved credentialing agency defined in Subsection (1).

(3) In accordance with Subsection 58-17b-305(1)(f), a pharmacy technician must complete an approved program of education and training that meets the following standards:

(a) The didactic training program must be approved by the Division in collaboration with the Board and must address, at a minimum, the following topics:

(i) legal aspects of pharmacy practice including federal and state laws and rules governing practice;

(ii) hygiene and aseptic techniques;

(iii) terminology, abbreviations and symbols;

(iv) pharmaceutical calculations;

(v) identification of drugs by trade and generic names, and therapeutic classifications;

(vi) filling of orders and prescriptions including packaging and labeling;

(vii) ordering, restocking, and maintaining drug inventory;

(viii) computer applications in the pharmacy; and

(ix) non-prescription products including cough and cold, nutritional, analgesics, allergy, diabetic testing supplies, first aid, ophthalmic, family planning, foot, feminine hygiene, gastrointestinal preparations, and pharmacy care over-the-counter drugs, except those over-the-counter drugs that are prescribed by a practitioner.

(b) This training program's curriculum and a copy of the final examination shall be submitted to the Division for approval by the Board prior to starting any training session with a pharmacy technician in training. The final examination must include questions covering each of the topics listed in Subsection (3)(a) above.

(c) Approval must be granted by the Division in collaboration with the Board before a student may start a program of study. An individual who completes a non-approved program is not eligible for licensure.

(d) The training program must require at least 180 hours of practical training supervised by a licensed pharmacist in good standing with the Division and must include written protocols and guidelines for the teaching pharmacist outlining the utilization and supervision of pharmacy technicians in training that includes:

(i) the specific manner in which supervision will be completed; and

(ii) an evaluative procedure to verify the accuracy and completeness of all acts, tasks and functions performed by the pharmacy technician in training.

(e) An individual must complete an approved training program and successfully pass the required examinations as listed in Subsection R156-17b-302(3) within one year from the date of the first day of the training program, unless otherwise approved by the Division in collaboration with the Board.

(i) An individual who has completed an approved program, but did not seek licensure within the one year time frame must complete a minimum of 180 hours of refresher practice in a pharmacy approved by the board if it has been more than six months since having exposure to pharmacy practice.

(ii) An individual who has been licensed as a pharmacy technician but allowed that license to expire for more than two years and wishes to renew that license must complete a minimum of 180 hours of refresher hours in an approved pharmacy under the direct supervision of a pharmacist.

(iii) An individual who has completed an approved program, but is awaiting the results of the required examinations may practice

as a technician-in-training under the direct supervision of the pharmacist for a period not to exceed three months. If the individual fails the examinations, that individual can no longer work as at technician-in-training while waiting to retake the examinations. The individual shall work in the pharmacy only as supportive personnel.

(4) An applicant for licensure as a pharmacy technician is deemed to have met the qualification for licensure in Subsection 58-17b-305(f) if the applicant:

(a) is currently licensed and in good standing in another state and has not had any adverse action taken on that license;

(b) has engaged in the practice as a pharmacy technician for a minimum of 1,000 hours in that state within the past two years or equivalent experience as approved by the Division in collaboration with the Board; and

(c) has passed and maintained current the PTCB certification or a Board approved equivalent and passed the Utah law exam.

R156-17b-306. Licensure - Pharmacist - Pharmacy Internship Standards.

(1) In accordance with Subsection 58-17b-303(1)(g), the standards for the pharmacy internship required for licensure as a pharmacist include the following:

(a) At least 1500 hours of practice supervised by a pharmacy preceptor shall be obtained in Utah or another state or territory of the United States, or a combination of both.

(i) Internship hours completed in Utah shall include at least 360 hours but not more than 900 hours in a college coordinated practical experience program as an integral part of the curriculum which shall include a minimum of 120 hours in each of the following practices:

(A) community pharmacy;

(B) institutional pharmacy; and

(C) any clinical setting.

(ii) Internship hours completed in another state or territory of the United States shall be accepted based on the approval of the hours by the pharmacy board in the jurisdiction where the hours were obtained.

(b) Evidence of completed internship hours shall be documented to the Division by the pharmacy intern at the time application is made for a Utah pharmacist license.

(c) Pharmacy interns participating in internships may be credited no more than 50 hours per week of internship experience.

(d) No credit will be awarded for didactic experience.

(2) If a pharmacy intern is suspended or dismissed from an approved College of Pharmacy, the intern must notify the Division within 15 days of the suspension or dismissal.

(3) If a pharmacy intern ceases to meet all requirements for intern licensure, he shall surrender his pharmacy intern license to the Division within 60 days unless an extension is required and granted by the Division in collaboration with the Board.

(4) In accordance with Subsections 58-17b-102(5[+])~~0~~, to be an approved preceptor, a pharmacist must meet the following criteria:

(a) hold a Utah pharmacist license that is active and in good standing;

(b) have been engaged in active practice as a licensed pharmacist for not less than two years in any jurisdiction;

(c) is not currently under any sanction nor has been under any sanction at any time which when considered by the Division and the Board would be of such a nature that the best interests of the intern and the public would not be served.

(d) shall provide direct, on-site supervision to only one pharmacy intern during a working shift; and

(e) refer to the intern training guidelines as outlined in the Pharmacy Coordinating Council of Utah Internship Competencies, October 12, 2004, as information about a range of best practices for training interns.

R156-17b-308. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 17b is established by rule in Section R156-1-308.

(2) Renewal procedures shall be in accordance with Section R156-1-308.

(3) An intern license may be extended upon the request of the licensee and approval by the Division under the following conditions:

(a) have applied to the Division for a pharmacist license and to sit for the NAPLEX and MJPE examinations within three calendar months after obtaining full certification from the Foreign Pharmacy Graduate Equivalency Commission; or

(b) have passed the NAPLEX and MJPE examinations but lacks the required number of internship hours for licensure.

(c) An individual must pass the NAPLEX and MJPE examinations and seek licensure as a pharmacist within six months of graduation and receipt of a degree from a school or college of pharmacy which is accredited by the ACPE. An internship license will not be extended beyond the six month time frame from graduation and receipt of a degree.

(4) The extended internship hours shall be under the direct supervision of a preceptor who meets the criteria established in R156-17b-306(4).

R156-17b-402. Administrative Penalties.

In accordance with Subsection 58-17b-401(6) and Sections 58-17b-501 and 58-175-502, unless otherwise ordered by the presiding officer, the following fine and citation schedule shall apply.

(1) Preventing or refusing to permit any authorized agent of the Division to conduct an inspection:

initial offense: \$500 - \$2,000
subsequent offense(s): \$5,000

(2) Failing to deliver the license or permit or certificate to the Division upon demand:

initial offense: \$100 - \$1,000
subsequent offense(s): \$500 - \$2,000

(3) Using the title pharmacist, druggist, pharmacy intern, pharmacy technician or any other term having a similar meaning or any term having similar meaning when not licensed to do so:

initial offense: \$500 - \$2,000
subsequent offense(s): \$2,000 - \$10,000

(4) Conducting or transacting business under a name which contains as part of that name the words drugstore, pharmacy, drugs, medicine store, medicines, drug shop, apothecary, prescriptions or any other term having a similar meaning or in any manner advertising otherwise describing or referring to the place of the conducted business or profession when not licensed to do so:

initial offense: \$500 - \$2,000
subsequent offense(s): \$2,000 - \$10,000

(5) Buying, selling, causing to be sold, or offering for sale any drug or device which bears the inscription sample, not for resale, investigational purposes, or experimental use only or other similar words:

initial offense: \$1,000 - \$5,000
subsequent offense(s): \$10,000

(6) Using to the licensee's own advantage or revealing to anyone other than the Division, Board or its authorized representatives, any information acquired under the authority of this chapter concerning any method or process which is a trade secret:

initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000

(7) Illegally procuring or attempting to procure any drug for the licensee or to have someone else procure or attempt to procure a drug:

initial offense: \$500 - \$2,000
subsequent offense(s): \$2,000 - \$10,000

(8) Filling, refilling or advertising the filling or refilling of prescription drugs when not licensed to do so:

initial offense: \$500 - \$2,000
subsequent offense(s): \$2,000 - \$10,000

(9) Requiring any employed pharmacist, pharmacy intern, pharmacy technician or authorized supportive personnel to engage in any conduct in violation of this chapter:

initial offense: \$500 - \$2,000
subsequent offense(s): \$2,500 - \$10,000

(10) Being in possession of a drug for an unlawful purpose:

initial offense: \$500 - \$1,000
subsequent offense(s): \$1,500 - \$5,000

(11) Dispensing a prescription drug to anyone who does not have a prescription from a practitioner or to anyone who is known or should be known as attempting to obtain drugs by fraud or misrepresentation:

initial offense: \$500 - \$2,000
subsequent offense(s): \$2,500 - \$10,000

(12) Selling, dispensing or otherwise trafficking in prescription drugs when not licensed to do so or when not exempted from licensure:

initial offense: \$1,000 - \$5,000
subsequent offense(s): \$10,000

(13) Using a prescription drug or controlled substance for the licensee that was not lawfully prescribed for the licensee by a practitioner:

initial offense: \$100 - \$500
subsequent offense(s): \$1,000 - \$2,500

(14) Willfully deceiving or attempting to deceive the Division, the Board or its authorized agents as to any relevant matter regarding compliance under this chapter:

initial offense: \$500 - \$2,000
subsequent offense(s): \$2,500 - \$10,000

(15) Paying rebates to practitioners or any other health care provider, or entering into any agreement with a medical practitioner or any other person for the payment or acceptance of compensation for recommending the professional services of either party:

initial offense: \$500 - \$2,000
subsequent offense(s): \$2,500 - \$10,000

(16) Misbranding or adulteration of any drug or device or the sale, distribution or dispensing of any outdated, misbranded, or adulterated drugs or devices:

initial offense: \$1,000 - \$5,000
subsequent offense(s): \$10,000

(17) Accepting back and redistributing any unused drugs, with the exception as provided in Section 58-17b-503:

initial offense: \$1,000 - \$5,000
subsequent offense(s): \$10,000

- (18) Violating Federal Title II, PL 91, Controlled Substances Act or Title 58, Chapter 37, Utah Controlled Substances Act, or rules and regulations adopted under either act:
initial offense: \$500 - \$2,000
subsequent offense(s): \$2,500 - \$10,000
- (19) Failure to follow USP-NF Chapter 797 guidelines:
initial offense: \$500 - \$2,000
subsequent offense(s): \$2,500 - \$10,000
- (20) Failure to follow USP-NF Chapter 795 guidelines:
initial offense: \$250 - \$500
subsequent offense(s): \$500 - \$750
- (21) Administering without appropriate guidelines or lawful order:
initial offense: \$500 - \$2,000
subsequent offense(s): \$2,000 - \$10,000
- (22) Disclosing confidential patient information in violation of the provision of the Health Insurance Portability and Accountability Act of 1996 or other applicable law:
initial offense: \$100 - \$500
subsequent offense(s): \$500 - \$1,000
- (23) Engaging in the practice of pharmacy without a licensed pharmacist designated as the pharmacist in charge:
initial offense: \$100 - \$500
subsequent offense(s): \$2,000 - \$10,000
- (24) Failing to report to the Division any adverse action taken by another licensing jurisdiction, government agency, law enforcement agency or court:
initial offense: \$100 - \$500
subsequent offense(s): \$500 - \$1,000
- (25) Compounding a prescription drug for sale to another pharmaceutical facility:
initial offense: \$100 - \$500
subsequent offense(s): \$500 - \$1,000
- (26) Preparing a prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner:
initial offense: \$500 - \$1,000
subsequent offense(s): \$2,500 - \$5,000
- (27) Violating any ethical code provision of the American Pharmaceutical Association Code of Ethics for Pharmacists, October 27, 1994:
initial offense: \$250 - \$500
subsequent offense(s): \$2,000 - \$10,000
- (28) Failing to comply with the continuing education requirements set forth in these rules:
initial offense: \$100 - \$500
subsequent offense(s): \$500 - \$1,000
- (29) Failing to provide the Division with a current mailing address within 10 days following any change of address:
initial offense: \$50 - \$100
subsequent offense(s): \$200 - \$300
- (30) Defaulting on a student loan:
initial offense: \$100 - \$200
subsequent offense(s): \$200 - \$500
- (31) Failing to abide by all applicable federal and state law regarding the practice of pharmacy:
initial offense: \$500 - \$1,000
subsequent offense(s): \$2,000 - \$10,000
- (32) Failing to comply with administrative inspections:
initial offense: \$500 - \$2,000
subsequent offense(s): \$2,000 - \$10,000
- (33) Abandoning a pharmacy and/or leaving drugs accessible to the public:
initial offense: \$500 - \$2,000
subsequent offense(s): \$2,000 - \$10,000
- (34) Failure to return or providing false information on a self-inspection report:
initial offense: \$100 - \$250
subsequent offense(s): \$300 - \$500
- (35) Failure to pay an administrative fine:
Double the original penalty amount up to \$10,000
- (36) Any other conduct which constitutes unprofessional or unlawful conduct:
initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000
- (37) Failure to maintain an appropriate ratio of personnel:
Pharmacist initial offense: \$100 - \$250
Pharmacist subsequent offense(s): \$500 - \$2,500
Pharmacy initial offense: \$250 - \$1,000
Pharmacy subsequent offense(s): \$500 - \$5,000
- (38) Unauthorized people in the pharmacy:
Pharmacist initial offense: \$50 - \$100
Pharmacist subsequent offense(s): \$250 - \$500
Pharmacy initial offense: \$250 - \$500
Pharmacy subsequent offense(s): \$1,000 - \$2,000
- (39) Failure to offer to counsel:
Pharmacy personnel initial offense: \$500 - \$2,500
Pharmacy personnel subsequent offense(s): \$5,000 - \$10,000
Pharmacy: \$2,000 per occurrence
- (40) Violations of the laws and rules regulating operating standards [~~security system, unkept facility, no hot water, etc.~~] in a pharmacy discovered upon inspection by the Division:
initial violation: \$50 - \$100
failure to comply within determined time: \$250 - \$500
subsequent violations: \$250 - \$500
failure to comply within established time: \$750 - \$1,000
- (41) Practicing or attempting to practice as a pharmacist, pharmacist intern, or pharmacy technician or operating a pharmacy without a license:
initial offense: \$500 - \$2,000
subsequent offense(s): \$2,000 - \$10,000
- (42) Impersonating a licensee or practicing under a false name:
initial offense: \$500 - \$2,000
subsequent offense(s): \$2,000 - \$10,000
- (43) Knowingly employing an unlicensed person:
initial offense: \$500 - \$1,000
subsequent offense(s): \$1,000 - \$5,000
- (44) Knowingly permitting the use of a license by another person:
initial offense: \$500 - \$1,000
subsequent offense(s): \$1,000 - \$5,000
- (45) Obtaining a passing score, applying for or obtaining a license or otherwise dealing with the Division or Board through the use of fraud, forgery, intentional deception, misrepresentation, misstatement, or omission:
initial offense: \$100 - \$2,000
subsequent offense(s): \$2,000 - \$10,000
- (46) Violating or aiding or abetting any other person to violate any statute, rule or order regulating pharmacy:
initial offense: \$500 - \$2,000
subsequent offense(s): \$2,000 - \$10,000

(47) Violating or aiding or abetting any other person to violate any generally accepted professional or ethical standard:

initial offense: \$500 - \$2,000
subsequent offense(s): \$2,000 - \$10,000

(48) Engaging in conduct that results in conviction of, or a plea of nolo contendere, or a plea of guilty or nolo contendere held in abeyance to a crime:

initial offense: \$500 - \$2,000
subsequent offense(s): \$2,000 - \$10,000

(49) Engaging in conduct that results in disciplinary action by any other jurisdiction or regulatory authority:

initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000

(50) Engaging in conduct, including the use of intoxicants or drugs, to the extent that the conduct does or may impair the ability to safely engage in practice as a pharmacist, pharmacy intern or pharmacy technician:

initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000

(51) Practicing or attempting to practice as a pharmacist, pharmacy intern or pharmacy technician when physically or mentally unfit to do so:

initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000

(52) Practicing or attempting to practice as a pharmacist, pharmacy intern, or pharmacy technician through gross incompetence, gross negligence or a pattern of incompetency or negligence:

initial offense: \$500 - \$2,000
subsequent offense(s): \$2,000 - \$10,000

(53) Practicing or attempting to practice as a pharmacist, pharmacy intern or pharmacy technician by any form of action or communication which is false, misleading, deceptive or fraudulent:

initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000

(54) Practicing or attempting to practice as a pharmacist, pharmacy intern or pharmacy technician beyond the individual's scope of competency, abilities or education:

initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000

(55) Practicing or attempting to practice as a pharmacist, pharmacy intern or pharmacy technician beyond the scope of licensure:

initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000

(56) Verbally, physically or mentally abusing or exploiting any person through conduct connected with the licensee's practice:

initial offense: \$100 - \$1,000
subsequent offense(s): \$500 - \$2,000

(57) Failure to comply with the pharmacist-in-charge standards:

initial offense: \$500 - \$2,000
subsequent offense(s) \$2,000 - \$10,000

(58) Failure to resolve identified drug therapy management problems:

initial offense: \$500 - \$2,500
subsequent offense: \$5,000 - \$10,000

R156-17b-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) violating any provision of the American Pharmaceutical Association (APhA) Code of Ethics for Pharmacists, October 27, 1994, which is hereby incorporated by reference;

(2) failing to comply with the USP-NF Chapters 795 and 797;

(3) failing to comply with the continuing education requirements set forth in these rules;

(4) failing to provide the Division with a current mailing address within a 10 business day period of time following any change of address;

(5) defaulting on a student loan;

(6) failing to abide by all applicable federal and state law regarding the practice of pharmacy;

(7) failing to comply with administrative inspections;

(8) abandoning a pharmacy or leaving prescription drugs accessible to the public;

(9) failing to identify licensure classification when communicating by any means;

(10) the practice of pharmacy with an inappropriate pharmacist to pharmacy intern ratio established by Subsection R156-17b-306(4)(b)(d) or pharmacist to pharmacy technician ratio as established by Subsection R156-17b-601(3);

(11) allowing any unauthorized persons in the pharmacy;

(12) failing to offer to counsel any person receiving a prescription medication;

(13) failing to pay an administrative fine that has been assessed in the time designated by the Division;

(14) failing to comply with the pharmacist-in-charge standards as established in Section R156-17b-603; and

(15) failing to take appropriate steps to avoid or resolve identified drug therapy management problems as referenced in Subsection R156-17b-611(3).

R156-17b-603. Operating Standards - Pharmacist-in-charge.

The pharmacist-in-charge shall have the responsibility to oversee the implementation and adherence to pharmacy policies that address the following:

(1) assuring that pharmacists and pharmacy interns dispense drugs or devices, including:

(a) packaging, preparation, compounding and labeling; and
(b) ensuring that drugs are dispensed safely and accurately as prescribed;

(2) assuring that pharmacy personnel deliver drugs to the patient or the patient's agent, including ensuring that drugs are delivered safely and accurately as prescribed;

(3) assuring that a pharmacist, pharmacy intern or pharmacy technician communicates to the patient or the patient's agent information about the prescription drug or device or non-prescription products;

(4) assuring that a pharmacist or pharmacy intern communicates to the patient or the patient's agent, at their request, information concerning any prescription drugs dispensed to the patient by the pharmacist or pharmacy intern;

(5) assuring that a reasonable effort is made to obtain, record and maintain patient medication records;

(6) education and training of pharmacy technicians;

- (7) establishment of policies for procurement of prescription drugs and devices and other products dispensed from the pharmacy;
- (8) disposal and distribution of drugs from the pharmacy;
- (9) bulk compounding of drugs;
- (10) storage of all materials, including drugs, chemicals and biologicals;
- (11) maintenance of records of all transactions of the pharmacy necessary to maintain accurate control over and accountability for all pharmaceutical materials required by applicable state and federal laws and regulations;
- (12) establishment and maintenance of effective controls against theft or diversion of prescription drugs and records for such drugs;
- (13) if records are kept on a data processing system, the maintenance of records stored in that system shall be in compliance with pharmacy requirements;
- (14) legal operation of the pharmacy including meeting all inspection and other requirements of all state and federal laws, rules and regulations governing the practice of pharmacy;
- (15) assuring that any automated pharmacy system is in good working order and accurately dispenses the correct strength, dosage form and quantity of the drug prescribed while maintaining appropriate record keeping and security safeguards;
- (16) implementation of an ongoing quality assurance program that monitors performance of the automated pharmacy system, which is evidenced by written policies and procedures developed for pharmaceutical care;~~and~~
- (17) assuring that all relevant information is submitted to the Controlled Substance Database in the appropriate format and in a timely manner;
- (18) assuring that all personnel working in the pharmacy have the appropriate licensure.

R156-17b-605. Operating Standards - Inventory Requirements.

- (1) General requirements for inventory of a pharmacy shall include the following:
 - (a) the pharmacist-in-charge shall be responsible for taking all required inventories, but may delegate the performance of the inventory to another person or persons;
 - (b) the inventory records must be maintained for a period of five years and be readily available for inspection;
 - (c) the inventory records shall be filed separately from all other records;
 - (d) the inventory records shall be in a typewritten or printed form and include all stocks of ~~legend drugs and~~ controlled substances on hand on the date of the inventory including any that are out of date drugs and drugs in automated pharmacy systems. An inventory taken by use of a verbal recording device must be promptly transcribed;
 - (e) the inventory may be taken either as of the opening of the business or the close of business on the inventory date;
 - (f) the person taking the inventory and the pharmacist-in-charge shall indicate the time the inventory was taken and shall sign and date the inventory with the date the inventory was taken. The signature of the pharmacist-in-charge and the date of the inventory shall be documented within 72 hours or three working days of the completed initial, annual, change of ownership and closing inventory;
 - (g) the person taking the inventory shall make an exact count or measure all controlled substances listed in Schedule I or II;

- (h) the person taking the inventory shall make an estimated count or measure all Schedule III, IV or V controlled substances~~and legend drugs~~, unless the container holds more than 1,000 tablets or capsules in which case an exact count of the contents must be made;
 - (i) the inventory of Schedule I and II controlled substances shall be listed separately from the inventory of Schedule III, IV and V controlled substances~~which shall be listed separately from the inventory of the legend drugs~~; and
 - (j) if the pharmacy maintains a perpetual inventory of any of the drugs required to be inventoried, the perpetual inventory shall be reconciled on the date of the inventory.
- (2) Requirement for taking the initial inventory shall include the following:
 - (a) all pharmacies having any stock of ~~legend drugs or~~ controlled substances shall take an inventory on the opening day of business. Such inventory shall include all ~~stock of legend drugs and~~ controlled substances including any out-of-date drugs and drugs in automated pharmacy systems;
 - (b) in the event a pharmacy commences business with none of the drugs specified in paragraph (2)(a) of this section on hand, the pharmacy shall record this fact as the initial inventory; and
 - (c) the initial inventory shall serve as the pharmacy's inventory until the next completed inventory as specified in Subsection (3) of this section.
 - (3) Requirement for annual inventory shall be within 12 months following the inventory date of each year and may be taken within four days of the specified inventory date and shall include all stocks including out-of-date drugs and drugs in automated pharmacy systems.
 - (4) Requirements for change of ownership shall include the following:
 - (a) a pharmacy that changes ownership shall take an inventory of all legend drugs and controlled substances including out-of-date drugs and drugs in automated pharmacy systems on the date of the change of ownership;
 - (b) such inventory shall constitute, for the purpose of this section, the closing inventory for the seller and the initial inventory for the buyer; and
 - (c) transfer of Schedule I and II controlled substances shall require the use of official DEA order forms (Form 222).
 - (5) Requirement for taking inventory when closing a pharmacy includes the pharmacist-in-charge, owner, or the legal representative of a pharmacy that ceases to operate as a pharmacy shall forward to the Division, within ten days of cessation of operation, a statement attesting that an inventory has been conducted, the date of closing and a statement attesting the manner by which legend drugs and controlled substances possessed by the pharmacy were transferred or disposed.
 - (6) Requirements specific to taking inventory in a Class B pharmacy shall include the following:
 - (a) all Class B pharmacies shall maintain a perpetual inventory of all Schedule II controlled substances which shall be reconciled according to facility policy; and
 - (b) the inventory of the institution shall be maintained in the pharmacy; if an inventory is conducted in other departments within the institution, the inventory shall be listed separately as follows:
 - (i) the inventory of drugs on hand in the pharmacy shall be listed separately from the inventory of drugs on hand in the other areas of the institution; and

(ii) the inventory of the drugs on hand in all other departments shall be identified by department.

(7) All out of date legend drugs and controlled substances shall be removed from the inventory at regular intervals and in correlation to the date of expiration imprinted on the label.

R156-17b-612. Operating Standards - Prescriptions.

In accordance with Subsection 58-17b-601(1), the following shall apply to prescriptions:

(1) Prescription orders for controlled substances (including prescription transfers) shall be handled according to the rules of the Federal Drug Enforcement Administration.

(2) A prescription issued by an authorized licensed practitioner, if verbally communicated by an agent of that practitioner upon that practitioner's specific instruction and authorization, may be accepted by a pharmacist or pharmacy intern.

(3) A prescription issued by a licensed prescribing practitioner, if electronically communicated by an agent of that practitioner, upon that practitioner's specific instruction and authorization, may be accepted by a pharmacist, pharmacy intern and pharmacy technician.

(4) In accordance with Section 58-17b-609, prescription files, including refill information, shall be maintained for a minimum of five years and shall be immediately retrievable in written or electronic format.

(5) Prescriptions for legend drugs having a remaining authorization for refill may be transferred by the pharmacist or pharmacy intern at the pharmacy holding the prescription to a pharmacist at another pharmacy upon the authorization of the patient to whom the prescription was issued or electronically as authorized under Subsection R156-17b-613(9). The transferring pharmacist or pharmacy intern and receiving pharmacist or pharmacy intern shall act diligently to ensure that the total number of authorized refills is not exceeded. The following additional terms apply to such a transfer:

(a) the transfer shall be communicated directly between pharmacists or pharmacy interns or as authorized under Subsection R156-17b-613(9);

(b) both the original and the transferred prescription drug orders shall be maintained for a period of five years from the date of the last refill;

(c) the pharmacist or pharmacy intern transferring the prescription drug order shall void the prescription electronically or write void/transfer on the face of the invalidated prescription manually;

(d) the pharmacist or pharmacy intern receiving the transferred prescription drug order shall:

(i) indicate on the prescription record that the prescription was transferred electronically or manually; and

(ii) record on the transferred prescription drug order the following information:

(A) original date of issuance and date of dispensing or receipt, if different from date of issuance;

(B) original prescription number and the number of refills authorized on the original prescription drug order;

(C) number of valid refills remaining and the date of last refill, if applicable;

(D) the name and address of the pharmacy and the name of the pharmacist or pharmacy intern to which such prescription is transferred; and

(E) the name of the pharmacist or pharmacy intern transferring the prescription drug order information;

(e) the data processing system shall have a mechanism to prohibit the transfer or refilling of controlled substance prescription drug orders which have been previously transferred; and

(f) a pharmacist or pharmacy intern may not refuse to transfer original prescription information to another pharmacist or pharmacy intern who is acting on behalf of a patient and who is making a request for this information as specified in Subsection (12) of this section.

(6) Prescriptions for terminal patients in licensed hospices, home health agencies or nursing homes may be partially filled if the patient has a medical diagnosis documenting a terminal illness and may not need the full prescription amount.

(7) Refills may be dispensed only in accordance with the prescriber's authorization as indicated on the original prescription drug order;

(8) If there are no refill instructions on the original prescription drug order, or if all refills authorized on the original prescription drug order have been dispensed, authorization from the prescribing practitioner must be obtained prior to dispensing any refills.

(9) Refills of prescription drug orders for legend drugs may not be refilled after one year from the date of issuance of the original prescription drug order without obtaining authorization from the prescribing practitioner prior to dispensing any additional quantities of the drug.

(10) Refills of prescription drug orders for controlled substances shall be done in accordance with Subsection 58-37-6(7)(f).

(11) A pharmacist may exercise his professional judgment in refilling a prescription drug order for a drug, other than a controlled substance listed in Schedule II, without the authorization of the prescribing practitioner, provided:

(a) failure to refill the prescription might result in an interruption of a therapeutic regimen or create patient suffering;

(b) either:

(i) a natural or manmade disaster has occurred which prohibits the pharmacist from being able to contact the practitioner; or

(ii) the pharmacist is unable to contact the practitioner after a reasonable effort, the effort should be documented and said documentation should be available to the Division;

(c) the quantity of prescription drug dispensed does not exceed a 72-hour supply, unless the packaging is in a greater quantity;

(d) the pharmacist informs the patient or the patient's agent at the time of dispensing that the refill is being provided without such authorization and that authorization of the practitioner is required for future refills;

(e) the pharmacist informs the practitioner of the emergency refill at the earliest reasonable time;

(f) the pharmacist maintains a record of the emergency refill containing the information required to be maintained on a prescription as specified in this subsection; and

(g) the pharmacist affixes a label to the dispensing container as specified in Section 58-17b-602.

(12) If the prescription was originally filled at another pharmacy, the pharmacist may exercise his professional judgment in refilling the prescription provided:

(a) the patient has the prescription container label, receipt or other documentation from the other pharmacy which contains the essential information;

(b) after a reasonable effort, the pharmacist is unable to contact the other pharmacy to transfer the remaining prescription refills or there are no refills remaining on the prescription;

(c) the pharmacist, in his professional judgment, determines that such a request for an emergency refill is appropriate and meets the requirements of (a) and (b) of this subsection; and

(d) the pharmacist complies with the requirements of Subsections (11)(c) through (g) of this section. [

~~(13) The transfer of original prescription drug order information for legend drugs and Schedule III through V controlled substances is permissible between pharmacies on a one-time basis, except transfers back to the pharmacy making the original transfer and transfers within the same corporate pharmacy chain with a computer pharmacy system which accounts for the transfer to all sites, only for the valid remaining refills except as described in Subsection R156-17b-613(9).~~

~~(a) the transfer shall be communicated directly between pharmacists or pharmacy interns or as authorized under Subsection R156-17b-613(9);~~

~~(b) both the original and the transferred prescription drug orders shall be maintained for a period of five years from the date of the last refill;~~

~~(e) the pharmacist or pharmacy intern transferring the prescription drug order shall void the prescription electronically or write void on the face of the invalidated prescription manually;~~

~~(d) the pharmacist or pharmacy intern receiving the transferred prescription drug order shall:~~

~~(i) indicate on the prescription record that the prescription was transferred electronically or manually; and~~

~~(ii) record on the transferred prescription drug order the following information:~~

~~(A) original date of issuance and date of dispensing or receipt, if different from date of issuance;~~

~~(B) original prescription number and the number of refills authorized on the original prescription drug order;~~

~~(C) number of valid refills remaining and the date of last refill, if applicable;~~

~~(D) the name, address and, if a controlled substance, the DEA registration number of the pharmacy to which such prescription is transferred; and~~

~~(E) the name of the pharmacist or pharmacy intern transferring the prescription drug order information;~~

~~(e) the data processing system shall have a mechanism to prohibit the transfer or refilling of legend or controlled substance prescription drug orders which have been previously transferred; and~~

~~(f) a pharmacist or pharmacy intern may not refuse to transfer original prescription information to another pharmacist or pharmacy intern who is acting on behalf of a patient and who is making a request for this information as specified in Subsections (12) and (13) of this section.]~~

R156-17b-613. Operating Standards - Issuing Prescription Orders by Electronic Means.

In accordance with Subsections 58-17b-102(3) and 58-17b-601(1), prescription orders may be issued by electronic means of communication according to the following:

(1) Prescription orders for Schedule II - V controlled substances received by electronic means of communication shall be handled according to Title 58, Chapter 37, Utah Controlled Substances Act and R156-37, Utah Controlled Substances Act Rules.

(2) Prescription orders for non-controlled substances received by electronic means of communication may be dispensed by a

pharmacist or pharmacy intern only if all of the following conditions are satisfied:

(a) all electronically transmitted prescription orders shall include the following:

(i) all information that is required to be contained in a prescription order pursuant to Section 58-17b-602;

(ii) the time and date of the transmission, and if a facsimile transmission, the electronically encoded date, time and fax number of the sender; and

(iii) the name of the pharmacy intended to receive the transmission;

(b) the prescription order shall be transmitted under the direct supervision of the prescribing practitioner or his designated agent;

(c) the pharmacist shall exercise professional judgment regarding the accuracy and authenticity of the transmitted prescription. Practitioners or their agents transmitting medication orders using electronic equipment are to provide voice verification when requested by the pharmacist receiving the medication order. The pharmacist is responsible for assuring that each electronically transferred prescription order is valid and shall authenticate a prescription order issued by a prescribing practitioner which has been transmitted to the dispensing pharmacy before filling it, whenever there is a question;

(d) a practitioner may authorize an agent to electronically transmit a prescription provided that the identifying information of the transmitting agent is included on the transmission. The practitioner's electronic signature, or other secure method of validation, shall be provided with the electronic prescription; and

(e) an electronically transmitted prescription order that meets the requirements above shall be deemed to be the original prescription.

(3) This section does not apply to the use of electronic equipment to transmit prescription orders within inpatient medical facilities.

(4) No agreement between a prescribing practitioner and a pharmacy shall require that prescription orders be transmitted by electronic means from the prescribing practitioner to that pharmacy only.

(5) The pharmacist shall retain a printed copy of an electronic prescription, or a record of an electronic prescription that is readily retrievable and printable, for a minimum of five years. The printed copy shall be of non-fading legibility.

(6) Wholesalers, distributors, manufacturers, pharmacists and pharmacies shall not supply electronic equipment to any prescriber for transmitting prescription orders.

(7) An electronically transmitted prescription order shall be transmitted to the pharmacy of the patient's choice.

(8) Prescription orders electronically transmitted to the pharmacy by the patient shall not be filled or dispensed.

(9) A prescription order for a legend drug or controlled substance in Schedule III through V may be transferred up to the maximum refills permitted by law [~~with the prescriber's authorization~~] by electronic transmission providing the pharmacies share a real-time, on-line database provided that:

(a) the information required to be on the transferred prescription has the same information as described in Subsection [R156-17b-601(17)(b) and (i) through (v)] R156-17b-612(5)(a) through (f); and

(b) pharmacists, pharmacy interns or pharmacy technicians electronically accessing the same prescription drug order records

may electronically transfer prescription information if the data processing system has a mechanism to send a message to the transferring pharmacy containing the following information:

- (i) the fact that the prescription drug order was transferred;
- (ii) the unique identification number of the prescription drug order transferred;
- (iii) the name of the pharmacy to which it was transferred; and
- (iv) the date and time of the transfer.

R156-17b-614c. Operating Standards - Class B - Pharmaceutical Administration Facility.

In accordance with Subsections 58-17b-102(44) and 58-17b-601(1), the following applies with respect to prescription drugs which are held, stored or otherwise under the control of a pharmaceutical administration facility for administration to patients:

(1) The licensed pharmacist shall provide consultation on all aspects of pharmacy services in the facility; establish a system of records of receipt and disposition of all controlled substances in sufficient detail to enable an accurate reconciliation; and determine that drug records are in order and that an account of all controlled substances is maintained and periodically reconciled.

(2) Authorized destruction of all prescription drugs shall be witnessed by the medical or nursing director or a designated physician, ~~or~~ registered nurse or other licensed person employed in the facility and the supervising pharmacist or licensed pharmacy technician and must be in compliance with DEA regulations.

(3) Prescriptions for patients in the facility can be verbally requested by a licensed prescribing practitioner and may be entered as the prescribing practitioner's order; but the practitioner must personally sign the order in the facility record within 72 hours if a Schedule II controlled substance and within 30 days if any other prescription drug. The prescribing practitioner's verbal order may be copied and forwarded to a pharmacy for dispensing and may serve as the pharmacy's record of the prescription order.

(4) Prescriptions for controlled substances for patients in Class B pharmaceutical administration facilities shall be dispensed according to Title 58, Chapter 37, Utah Controlled Substances Act, and R156-37, Utah Controlled Substances Act Rules.

(5) Requirements for emergency drug kits shall include:

(a) an emergency drug kit may be used by pharmaceutical administration facilities. The emergency drug kit shall be considered to be a physical extension of the pharmacy supplying the emergency drug kit and shall at all times remain under the ownership of that pharmacy;

(b) the contents and quantity of drugs and supplies in the emergency drug kit shall be determined by the Medical Director or Director of Nursing of the pharmaceutical administration facility and the ~~pharmacist in charge~~ consulting pharmacist of the supplying pharmacy;

(c) a copy of the approved list of contents shall be conspicuously posted on or near the kit;

(d) the emergency kit shall be used only for bona fide emergencies and only when medications cannot be obtained from a pharmacy in a timely manner;

(e) records documenting the receipt and removal of drugs in the emergency kit shall be maintained by the facility and the pharmacy;

(f) the pharmacy shall be responsible for ensuring proper storage, security and accountability of the emergency kit and shall ensure that:

(i) the emergency kit is stored in a locked area and is locked itself; and

(ii) emergency kit drugs are accessible only to licensed physicians, physician assistants and nurses employed by the facility;

(g) the contents of the emergency kit, the approved list of contents and all related records shall be made freely available and open for inspection to appropriate representatives of the Division and the Utah Department of Health.

R156-17b-618. Change in Ownership or Location.

(1) In accordance with Section 58-17b-614, except for changes in ownership caused by a change in the stockholders in corporations which are publicly listed and whose stock is publicly traded, a licensed pharmaceutical facility that proposes to change its name, location, or ownership shall make application for a new license and receive approval from the division prior to the proposed change. The application shall be on application forms provided by the division and shall include:

(a) the name and current address of the licensee;

(b) the pharmacy license number and the controlled substance license number of the facility;

(c) the DEA registration number of the facility; and

(d) other information required by the division in collaboration with the board.

(2) A new license shall be issued upon a change of ownership, name or a change in location only after an application for change has been submitted and approved.

(3) Upon completion of the change in ownership, name or location, the original licenses shall be surrendered to the division.

R156-17b-~~618~~619. Operating Standards - Third Party Payors.
Reserved.

R156-17b-~~619~~620. Operating Standards - Automated Pharmacy System.

In accordance with Section 58-17b-621, automated pharmacy systems can be utilized in licensed pharmacies, remote locations under the jurisdiction of the Division and licensed health care facilities where legally permissible and shall comply with the following provisions:

(1) Documentation as to type of equipment, serial numbers, content, policies and procedures and location shall be maintained on site in the pharmacy for review upon request of the Division. Such documentation shall include:

(a) name and address of the pharmacy or licensed health care facility where the automated pharmacy system is being used;

(b) manufacturer's name and model;

(c) description of how the device is used;

(d) quality assurance procedures to determine continued appropriate use of the automated device; and

(e) policies and procedures for system operation, safety, security, accuracy, patient confidentiality, access and malfunction.

(2) Automated pharmacy systems should be used only in settings where there is an established program of pharmaceutical care that ensures that before dispensing, or removal from an automated storage and distribution device, a pharmacist reviews all prescription or medication orders unless a licensed independent practitioner controls the ordering, preparation and administration of the medication; or in urgent situations when the resulting delay would harm the patient including situations in which the patient experiences a sudden change in clinical status.

(3) All policies and procedures must be maintained in the pharmacy responsible for the system and, if the system is not located within the facility where the pharmacy is located, at the location where the system is being used.

(4) Automated pharmacy systems shall have:

(a) adequate security systems and procedures to:

- (i) prevent unauthorized access;
- (ii) comply with federal and state regulations; and
- (iii) prevent the illegal use or disclosure of protected health information;

(b) written policies and procedures in place prior to installation to ensure safety, accuracy, security, training of personnel, and patient confidentiality and to define access and limits to access to equipment and medications.

(5) Records and electronic data kept by automated pharmacy systems shall meet the following requirements:

(a) all events involving the contents of the automated pharmacy system must be recorded electronically;

(b) records must be maintained by the pharmacy for a period of five years and must be readily available to the Division. Such records shall include:

- (i) identity of system accessed;
- (ii) identify of the individual accessing the system;
- (iii) type of transaction;
- (iv) name, strength, dosage form and quantity of the drug accessed;
- (v) name of the patient for whom the drug was ordered; and
- (vi) such additional information as the pharmacist-in-charge may deem necessary.

(6) Access to and limits on access to the automated pharmacy system must be defined by policy and procedures and must comply with state and federal regulations.

(7) The pharmacist-in-charge or pharmacist designee shall have the sole responsibility to:

- (a) assign, discontinue or change access to the system;
- (b) ensure that access to the medications comply with state and federal regulations; and
- (c) ensure that the automated pharmacy system is filled and stocked accurately and in accordance with established written policies and procedures.

(8) The filling and stocking of all medications in the automated pharmacy system shall be accomplished by qualified licensed healthcare personnel under the supervision of a licensed pharmacist.

(9) A record of medications filled and stocked into an automated pharmacy system shall be maintained for a period of five years and shall include the identification of the persons filling, stocking and checking for accuracy.

(10) All containers of medications stored in the automated pharmacy system shall be packaged and labeled in accordance with federal and state laws and regulations.

(11) All aspects of handling controlled substances shall meet the requirements of all state and federal laws and regulations.

(12) The automated pharmacy system shall provide a mechanism for securing and accounting for medications removed from and subsequently returned to the automated pharmacy system, all in accordance with existing state and federal law. Written policies and procedures shall address situations in which medications removed from the system remain unused and must be secured and accounted for.

(13) The automated pharmacy system shall provide a mechanism for securing and accounting for wasted medications or

discarded medications in accordance with existing state and federal law. Written policies and procedures shall address situations in which medications removed from the system are wasted or discarded and must be secured.

R156-17b-~~620~~621. Operating Standards - Pharmacist Administration - Training.

(1) In accordance with Subsection 58-17b-502(9), appropriate training for the administration of a prescription drug includes:

- (a) current Basic Life Support (BLS) certification; and
- (b) successful completion of a training program which includes at a minimum:

(i) didactic and practical training for administering injectable drugs;

(ii) the current Advisory Committee on Immunization Practices (ACIP) of the United States Center for Disease Control and Prevention guidelines for the administration of immunizations; and

(iii) the management of an anaphylactic reaction.

(2) Sources for the appropriate training include:

- (a) ACPE approved programs; and
- (b) curriculum-based programs from an ACPE accredited college of pharmacy, state or local health department programs and other board recognized providers.

(3) Training is to be supplemented by documentation of two hours of continuing education related to the area of practice in each preceding renewal period.

KEY: pharmacists, licensing, pharmacies

Date of Enactment or Last Substantive Amendment: ~~May-17, 2005~~2006

Authorizing, and Implemented or Interpreted Law: 58-17b-101; 58-17b-601(1); 58-37-1; 58-1-106(1)(a); 58-1-202(1)(a)



Health, Health Care Financing, Coverage and Reimbursement Policy **R414-3A-6** Services

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28535

FILED: 02/28/2006, 17:23

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Pursuant to public comment, this rulemaking is necessary to amend and clarify criteria for sleep studies in the Medicaid program.

SUMMARY OF THE RULE OR CHANGE: Subsection R414-3A-6(9) is amended because at this time no single entity approves sleep laboratories. Only staffing requirements for sleep laboratories exist.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-1-5 and 26-18-3, and 42 CFR 440.20

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There is no impact to the state budget associated with this rulemaking because it only amends and clarifies criteria for sleep studies in the Medicaid program.
- ❖ LOCAL GOVERNMENTS: There is no budget impact to local governments as a result of this rulemaking because it only amends and clarifies criteria for sleep studies in the Medicaid program.
- ❖ OTHER PERSONS: There is no budget impact to other persons as a result of this rulemaking because it only amends and clarifies criteria for sleep studies in the Medicaid program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this rulemaking only amends and clarifies criteria for sleep studies in the Medicaid program.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These amendments are in response to public comment. They should have a positive fiscal impact on business. David N. Sundwall, MD, Executive Director

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Craig Devashrayee at the above address, by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@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 04/14/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2006

AUTHORIZED BY: David N. Sundwall, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-3A. Outpatient Hospital Services.

R414-3A-6. Services.

- (1) Services appropriate in the outpatient hospital setting for adequate diagnosis and treatment of a client's illness are limited to less than 24 hours and encompass medically necessary diagnostic, therapeutic, rehabilitative, or palliative medical services and supplies ordered by a physician or other practitioner of the healing arts.
- (2) Outpatient hospital services include:
 - (a) the service of nurses or other personnel necessary to complete the service and provide patient care during the provision of service;
 - (b) the use of hospital facilities, equipment, and supplies; and

(c) the technical portion of clinical laboratory and radiology services.

(3) Laboratory services are limited to tests identified by the Centers for Medicare and Medicaid Services (CMS) where the individual laboratory is CLIA certified to provide, bill and receive Medicaid payment.

(4) Cosmetic, reconstructive, or plastic surgery is limited to:

- (a) correction of a congenital anomaly;
- (b) restoration of body form following an injury; or
- (c) revision of severe disfiguring and extensive scars resulting from neoplastic surgery.

(5) Abortion procedures are limited to procedures certified as medically necessary, cleared by review of the medical record, approved by division consultants, and determined to meet the requirements of Utah Code 26-18-4 and 42 CFR 441.203.

(6) Sterilization procedures are limited to those that meet the requirements of 42 CFR 441, Subpart F.

(7) Nonphysician psychosocial counseling services are limited to evaluations and may be provided only through a prepaid mental health plan by a licensed clinical psychologist for:

- (a) mentally retarded persons;
- (b) cases identified through a CHEC/EPSDT screening; or
- (c) victims of sexual abuse.

(8) Outpatient individualized observation of a mental health patient to prevent the patient from harming himself or others is not covered.

(9) Sleep studies are only available in a sleep laboratory [approved by the Board of Polysomnography Technologists. The laboratory must be] staffed with at least one sleep medicine physician and one registered polysomnography technologist. The physician must be certified by the American Academy of Sleep Medicine. The polysomnography technologist must be registered through the Board of Polysomnography Technologists.

(10) Hyperbaric Oxygen Therapy is limited to service in a hospital facility in which the hyperbaric unit has been accredited or approved by the Undersea and Hyperbaric Medical Society.

(11) Lithotripsy is covered by an all-inclusive fixed fee. This payment covers all hospital and ambulatory surgery-related services for lithotripsy on the same kidney for 90 days, including repeat treatments. Lithotripsy for treatment of the other kidney is a separate service.

(12) Reimbursement for services in the emergency department is limited to codes and diagnoses that are medically necessary emergency services as described in the provider manual. The diagnosis reflecting the primary reason for emergency services must be used and must be one of the first five diagnoses listed on the claim form.

(13) Take home supplies and durable medical equipment are not reimbursable.

(14) Prescriptions are not a covered Medicaid service for a client with the designation "Emergency Services Only Program" printed on the Medicaid Identification Card.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: [February 1, 2006

Notice of Continuation: November 26, 2002

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-2.3; 26-18-3(2); 26-18-4

◆ ————— ◆

Natural Resources; Forestry, Fire and
State Lands

R652-20-1000
Rentals and Royalties

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 28536
FILED: 03/01/2006, 10:18

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The intent of the rule is to annually adjust the base royalty rate of sodium chloride (salt) to account for inflation, after the base rate of \$0.50 per dry ton is achieved. The purpose of the change is to clarify language in the rule that implies adjustments for inflation are calculated twice in the formula.

SUMMARY OF THE RULE OR CHANGE: The rule is currently misinterpreted to read that the inflationary change in the royalty rate is added into the formula twice. The intent of the rule is to adjust the base rate to reflect a royalty rate increase that matches the Producer Price Index for Industrial Commodities.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 65A-6-2(3)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There is no impact on cost to state government to implement the change in rule. The rule clarifies and (hopefully) simplifies the wording of the rule so that the inflation factor is calculated to a base year of 1997.
- ❖ **LOCAL GOVERNMENTS:** Budgets from local governments are not impacted by royalties from lessees on sovereign lands.
- ❖ **OTHER PERSONS:** Companies will still compensate the state for minerals extracted from the state's resources on a royalty rate that mimics inflation.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The costs vary by salt producer and depend on the tonnage of salt extracted from the state's mineral estate. Salt producers pay an adjusted royalty rate on salt tied to inflation, specifically the Producer Price Index for Industrial Commodities. This rule amendment would not change the producer's requirement nor amount of royalty to the state.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule clarifies the formula that is used to adjust royalty rates to inflation. Michael Styler, Executive Director

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

NATURAL RESOURCES
FORESTRY, FIRE AND STATE LANDS
1594 W NORTH TEMPLE

SUITE 3520
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dave Grierson at the above address, by phone at 801-538-5504, by FAX at 801-533-4111, or by Internet E-mail at davegrierson@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 04/14/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2006

AUTHORIZED BY: Joel Frandsen, Director

**R652. Natural Resources; Forestry, Fire and State Lands.
R652-20. Mineral Resources.
R652-20-1000. Rentals and Royalties.**

1. Rentals

(a) Rental for the first lease year is at the rate of \$1 per acre, or fractional part thereof, per annum, regardless of percentage of state ownership in any given acre of land. Subsequent rental paying dates shall be on or before the annual anniversary date of the effective date of the lease, the effective date of the lease being the first day of the month following the date on which the lease is issued.

(b) Any overpayment of advance rental occurring from mineral lease applicant's incorrect listing of acreage of lands described in the application may be credited toward the applicant's rental account.

(c) Minimum annual rental on any mineral lease is \$20.

(d) The division shall accept lease payments made by any party, but the acceptance of lease payments shall not be deemed to be a recognition of any interest of the payee in the lease.

2. Royalty Provisions

The following production royalty rates shall apply to all classified mineral leases, as listed in R652-20-200, issued on or after the effective date of the applicable adjusted royalty rate. Mineral leases entered into prior to the effective date of adjusted royalty rates shall retain the royalty rate as specified in the lease agreement.

(a) Royalty rates on substances under oil, gas, and hydrocarbon leases.

TABLE

Oil	12-1/2%	-	Sulfur	12-1/2%
Gas	12-1/2%	-	Other hydrocarbon substances	6-1/4%(1)

(1) The rental paid for the lease year shall be credited against production royalties as they accrue for that lease year, but not against advance or minimum royalties unless allowed by the mineral lease.

(2) During the first ten years of production and increasing annually thereafter at the rate of 1% to a maximum of 16-2/3%.

(b) Royalty rates on mineral commodities, coal, and solid hydrocarbons.

TABLE

Coal	8%	Phosphate	5%
Oil Shale (1)	5%	Potash and Associated Minerals	5%
Asphaltic/Bituminous Sands (2)	7%	Gypsum	5%
Gilsonite	10%	Clay	5%
Met. Minerals:		Geothermal Resources	10%
Fissionable	8%	Building Stone/Limestone	5%
Non-Fissionable	4%	(except 2% for calcined lime)	
Gemstone/Fossil(3)	10%	Volcanic Materials	5%
Magnesium	1-1/2%	Industrial sands	5%
Salt (Sodium chloride) (4)			
	\$0.50/dry ton		

(1) 5% during the first five years of production and increasing annually thereafter at the rate of 1% to a maximum of 12-1/2%.

(2) May be escalated after the first five years of production at the rate of 1% per annum to maximum of 12-1/2%.

(3) Requires payment of annual minimum royalty of \$5 per acre.

(4) Beginning January 1, 2001, the royalty rate per ton will be adjusted annually by the Producer Price Index for Industrial Commodities as provided under R652-20-1000(e) using 1997 as the base year.

(c) Notwithstanding the terms of oil, gas, and hydrocarbon lease agreements, gas and natural gas liquid reports, and their required royalty payments, are required to be received by the division on or before the last day of the second month succeeding the month of production. This extension of payment and reporting time for gas and NGL does not alter the payment and reporting time for oil and condensate royalty which must be received by the division on or before the last day of the calendar month succeeding the month of production, as currently provided in the lease form.

(d) Readjustment of salt royalties on royalty agreements negotiated before July 9, 1992.

i) The division is obligated to receive full value for the public trust resources leased to persons for profit. This obligation includes obtaining a fair royalty for salt produced from the waters of Great Salt Lake. The division shall readjust the royalty rate for sodium chloride on all royalty agreements negotiated prior to July 9, 1992. The royalty rate will be readjusted in accordance with analysis done by the Utah Bureau of Economic and Business Research, Office of Energy and Resource Planning and division staff and with a rule change approved by the Board of State Lands and Forestry on July 9, 1992 to increase the royalty on salt from \$0.10 per ton to a rate per ton approximately equivalent to three percent of gross value of dry salt. The division has determined this rate to be \$0.50 per dry ton. The royalty rate shall be phased in as provided in Subsections (ii) and (iii).

ii) Effective January 1, 1997, the royalty rate for sodium chloride shall be \$0.20 per dry ton. Effective January 1, 1998 and on each January 1 thereafter, the royalty rate for sodium chloride shall be increased by the lesser of \$0.10 per dry ton or \$0.10 per dry ton times the percent of salt in brine by weight at the point of intake for each lessee divided by the percent of salt by weight derived from samples at sampling point LVG4 as measured by the Utah Geological Survey for the current year. The method for calculating the percent salt in brine from Utah Geological Survey and company data shall be determined by the division, but shall include a weighted average of samples taken at low and high water and of samples taken at different depths at the sampling point. The point of sampling for each producer shall be determined by the division after considering factors including the location of the intake canal, point of diversion for water rights, and placement of intake pumps.

iii) The annual adjustment under Subsection(ii) shall continue until the royalty rate for a lessee is \$0.50 per dry ton or an amount per ton as determined under Subsection (e), whichever is greater, at which time subsequent annual adjustments shall be determined in accordance with Subsection (e).

(e) Effective January 1, 2001 or the date on which the royalty paid by a lessee reaches \$0.50 per dry ton, whichever is later, the royalty rate for sodium chloride will be adjusted annually by the Producer Price Index for Industrial Commodities using the following formula: ~~[the current year royalty rate per ton]~~ \$.50 times the Producer price index for Industrial Commodities for the current year divided by the Producer Price Index for Industrial Commodities for 1997.

KEY: royalties, salt, primary term[±], administrative procedures
Date of Enactment or Last Substantive Amendment: ~~February 1, 1997~~ 2006

Notice of Continuation: April 2, 2002

Authorizing, and Implemented or Interpreted Law: 65A-6-2; 65A-6-4(3)



Transportation, Administration **R907-68** Prioritization of New Transportation Capacity Projects

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 28532
 FILED: 02/24/2006, 16:07

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change reflects public comments.

SUMMARY OF THE RULE OR CHANGE: The amendment substitutes the term "economic development" for "economic impact" and changes the definition.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-1-304

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This amendment only deals with how to measure a proposed project's potential for spurring economic development. It will not make any changes that have a financial impact, so there is no cost.
- ❖ LOCAL GOVERNMENTS: This amendment only deals with how to measure a proposed project's potential for spurring economic development. It will not make any changes that have a financial impact, so there is no cost. The rule simply will not impose any costs on a local government.
- ❖ OTHER PERSONS: This rule does not affect industry or private citizens, so they will have no cost. The rule does not impose any costs on a person.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule does not affect industry or private citizens, so they will have no cost.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment has no fiscal impact on business. John R. Njord, Executive Director

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

TRANSPORTATION
ADMINISTRATION
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 04/14/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2006

AUTHORIZED BY: John R. Njord, Executive Director

R907. Transportation, Administration.

R907-68. Prioritization of New Transportation Capacity Projects.

R907-68-1. Definitions.

(1) "ADT" means Average Daily Traffic, which is the volume of traffic on a road, annualized to a daily average.

(2) "Capacity" means the maximum hourly rate at which vehicles reasonably can be expected to traverse a point or a uniform section of a lane or roadway during a given time period under prevailing roadway, traffic, and control conditions.

(3) "Commission" means the Transportation Commission, which is created in Utah Code Ann. Section 72-1-301.

(4) "~~Economic Development~~[Impact]" is a ~~forecast of the economic benefit that a proposed transportation project will cause. It~~ may include employment growth, employment retention, tourism growth, freight movements, tax base increase, and traveler or user cost savings in relation to construction costs.

(5) "Functional Classification" means the description of the road as one of the following:

- (a) Rural Interstate;
- (b) Rural Other Principle Arterial;
- (c) Rural Minor Arterial;
- (d) Rural Major Collector;
- (e) Urban Interstate;
- (f) Urban Other Freeway and Expressway;
- (g) Urban Other Principle Arterial;
- (h) Urban Minor Arterial;
- (i) Urban Collector;

(6) "Major New Capacity Project" means a transportation project that costs more than \$5,000,000 and accomplishes any of the following:

- (a) Add new roads and interchanges;
- (b) Add new lanes;
- (c) Modify existing interchange for capacity or economic development purpose.

(7) "MPO" as used in this section means metropolitan planning organization as defined in Utah Code Ann. Section 72-1-208.5.

(8) "Safety" means an analysis of the current safety conditions of a transportation facility. It includes an analysis of crash rates and crash severity.

(9) "Strategic Goals" means the Utah Department of Transportation Strategic Goals.

(10) "Strategic Initiatives" means the implementation strategies the Department will use to achieve the "Strategic Goals".

(11) "Transportation Efficiency" is the roadway attributes such as ADT, Truck ADT, Volume to Capacity, roadway Functional Classification, and Transportation Growth.

(12) "Transportation Growth" means the projected percentage of average annual increase in ADT.

(13) "Truck ADT" means the ADT of truck traffic on a road, annualized to a daily average.

(14) "Volume to Capacity Ratio" means the ratio of hourly volume of traffic to capacity for a transportation facility (measure of congestion).

R907-68-4. Prioritization of Major New Capacity Projects List.

(1) Major New Capacity Projects will be compiled from the State of Utah Long Range Transportation Plan.

(2) The list will be first prioritized based upon Transportation Efficiency Factors, and Safety Factors. Each criterion of these factors will be given a specific weight.

(3) The Major New Capacity Projects will be ranked from highest to lowest with priority being assigned to the projects with highest overall rankings.

(4) The Transportation Commission will further evaluate the projects with highest rankings considering contributing components that include other factors such as Economic Development[~~economic impact~~].

(5) For each Major New Capacity Project, the Department will provide a description of how completing that project will fulfill the Department's strategic goals.

(6) The Transportation Commission may consider other factors not listed above, in the final selection process. Their decision shall be made in a public meeting forum.

R907-68-6. Need for Local Government Participation for Interchanges.

New interchanges for Economic Development[~~economic development~~] purposes on existing roads will not be included on the Major New Capacity Project list unless the local government with geographical jurisdiction over the interchange location contributes at least 50% of the cost of the interchange from private, local, or other non-UDOT, funds.

**KEY: transportation commission, transportation, roads, capacity
Date of Enactment or Last Substantive Amendment: [January 4],
2006**

Authorizing, and Implemented or Interpreted Law: 72-1-201



Transportation, Program Development **R926-8-3** Factors Used to Consider Proposals

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28531

FILED: 02/24/2006, 14:09

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule change is intended to reflect comments made by members of the public and the Transportation Commission.

SUMMARY OF THE RULE OR CHANGE: The rule change contains a definition of "economic development" and adds text inadvertently left out of the original filing. (DAR NOTE: The original proposed new rule of R926-8 was published in the November 1, 2005, issue of the Bulletin under DAR No. 28274, and was effective 12/07/2005.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-2-123

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This change does not affect any part of the rule that will affect finances, so there should be no cost or savings.

❖ LOCAL GOVERNMENTS: This change does not affect any part of the rule that will affect finances, so there should be no cost or savings. However, the definition of "economic development" may affect the ability of a local project to be funded. If a proposal does not create "economic development," then it may not be funded under this rule. However, it is impossible to measure this as the rule, in any form, has not been tried.

❖ OTHER PERSONS: There will be no costs to others because no one is required to do anything or take any action as a result of this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no affected persons since the rule change does not regulate or license any activity or require any payments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on business. John R. 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 04/14/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2006

AUTHORIZED BY: John R. Njord, Executive Director

R926. Transportation, Program Development.**R926-8. Public Partnering.****R926-8-3. Factors Used to Consider Proposals.**

(1) In deciding whether to approve a county's or municipality's request for partnering, the Transportation Commission shall evaluate the proposal with the following factors in mind:

(a) whether the requested improvement is part of the Statewide Transportation Improvement Program (STIP), the Transportation Improvement Program (TIP), or the Long-Range Plan and, if part of the Long-Range Plan, will not delay any of the projects already included in the STIP;

(b) the benefits of the improvement to the State highway system and the county or municipality as well as the costs;

(c) level of local commitment, based on the amount or percentage of funding proposed;

(d) whether the proposed improvement was subject to a local planning initiative;

(e) whether the improvement will alleviate significant existing or future congestion or hazards to the traveling public or provide other substantial improvements to the transportation system;

(f) whether the proposal has the potential to extend department resources to other needs; and

(g) fulfills a need widely recognized by the public, elected officials, and transportation planners.

(2)(a) If a proposed improvement is to a surface street that approaches an interchange or ramp or for a new interchange or ramp and is being undertaken for economic development, the county or municipality shall provide at least a fifty percent (50%) local match. The match can include private contributions that are administered through the local entity. (Economic development may include such things as employment growth, employment retention, retail sales, tourism growth, freight movements, tax base increase, and traveler or user cost savings in relation to construction costs.)

(b) If a proposed improvement is to a surface street that approaches an interchange or ramp or for a new interchange or ramp and is being undertaken to relieve traffic congestion or to improve safety, the local match, if any, may be determined based on the benefit derived by the local entity.

KEY: transportation, local governments, partnering, highways
Date of Enactment or Last Substantive Amendment: [~~December 7, 2005~~2006

Authorizing, and Implemented or Interpreted Law: 72-2-123



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.: 28538

FILED: 03/01/2006, 17:30

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 72-6-118 requires that the commission develop a rule setting forth the criteria for deciding what, if any, portions of a road should be a toll road.

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: The rule does not affect local government, and therefore, there will be no costs to them. The costs to local governments will be incurred from using the toll roads, i.e., paying the tolls, which have not yet been set.
- ❖ 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, which has not yet been established. The designation of a toll lane will affect persons only if they use it. The amount of the toll is not yet set.

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, which has not yet been established. The designation of a toll lane will affect persons only if they use it. The amount of the toll is not yet set.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Costs to businesses are outweighed by the legislatively-directed need to establish HOT lanes. John R. 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 04/14/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2006

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.

(8) "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. 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.

R926-9-3. 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

◆ ————— ◆

**Workforce Services, Employment
Development
R986-200
Family Employment Program**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28537

FILED: 03/01/2006, 17:12

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department is in the process of rewriting all its rules. Many of these changes are nonsubstantive. The change to the conciliation process is needed to better serve our clients and avoid a revolving door issue. Other changes are described more fully in the summary of the rule change below.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment to Subsection R986-200-202(2) will restrict the \$500 requirement to the Utah labor market is being made to reflect the population served. What can be made in other labor markets is not relevant to the clients. The change in Subsection R986-200-202(3) is being proposed because clients have used medical records that are sometimes years old or based not on an examination of the client but a review of the client's old medical records. Eligibility is based on current need so current medical records and exams are essential. The change to Section R986-200-203 adds victims of trafficking as required by federal law. The change to Section R986-200-205 is to reflect current law on DNA testing on children born in wedlock. The Department is proposing a change to its reconciliation process in Section R986-200-212.

Previously, a client was allowed two months to cure a problem, now only one month is allowed. Additionally, the one-month reduction period no longer needs to immediately proceed termination of benefits under this proposed change. This is to prevent a problem with clients who would cure a problem but repeat the problem months later. Under the current rule the conciliation process would have to begin again with each client failure to comply. Language is also added that the failure to comply with program rules "without reasonable cause" will lead to sanctions to clarify current policy. In Section R986-200-214, the Department will no longer allow parents who have been deprived of their parental rights to act as a specified relative for their children. Those individuals will have to qualify for the Family Employment Plan. The proposed change to Section R986-200-218 is to allow medical evaluations from licensed Mental Health Therapists to match Department policy. Our clients sometimes have a difficult time finding psychologists or psychiatrists to treat or evaluate them. This will allow them to be evaluated by qualified therapists. Another proposed change to this section would allow an extension for parents who are needed in the home to care for dependents who are not minor children like an aging parent. Another proposed change would allow self employment if the parent makes minimum wage at that self employment. The change to Section R986-200-239 is to reflect current Department practice. The formula in the current rule is incorrect. All other changes are nonsubstantive in nature, are made to reflect current practice, or to correct errors.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 35A-1-104(4) and 35A-3-302(5)(b)

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 is a federally-funded program so there are no costs or savings to local government.
- ❖ OTHER PERSONS: There are no costs or savings to any other persons as there are no fees associated with this program and it is federally funded.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs or savings to any affected persons as there are no fees associated with this program and 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. There will be no fiscal impact on any business. 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 04/17/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 05/01/2006

AUTHORIZED BY: Tani Downing, Executive Director

R986. Workforce Services, Employment Development.

R986-200. Family Employment Program.

R986-200-201. Authority for Family Employment Program (FEP) and Family Employment Program Two Parent (FEPTP) and Other Applicable Rules.

(1) The Department provides services to eligible families under FEP and FEPTP under the authority granted in the Employment Support Act, UCA 35A-3-301 et seq. Funding is provided by the federal government through Temporary Aid to Needy Families (TANF) as authorized by PRWORA. ~~Utah is required to file a "State Plan" to obtain the funding. A copy of the State Plan is available at Department administrative offices. The regulations contained in 45 CFR 260 through 45 CFR 265 (1999) are also applicable and incorporated herein by reference.~~

(2) Rule R986-100 applies to FEP and FEPTP unless expressly noted otherwise.

R986-200-202. Family Employment Program (FEP).

(1) The goal of FEP is to increase family income through employment, and where appropriate, child support and/or disability payments.

(2) FEP is for families with ~~only~~ no more than one able bodied parent in the household. If the family has two able bodied parents in the household, the family is not eligible for FEP but may be eligible for FEPTP. Able bodied means capable of earning at least \$500 per month in the Utah labor market.

(3) If a household has ~~two parents, and~~ at least one ~~parent is~~ incapacitated parent, the parent claiming incapacity must verify that incapacity in one of the following ways:

- (a) receipt of disability benefits from SSA;
- (b) 100% ~~percent~~ disabled by VA; or
- (c) by submitting a written statement from:
 - (i) a licensed medical doctor;
 - (ii) a doctor of osteopathy;
 - (iii) a licensed Mental Health Therapist as defined in UCA 58-60-102;
 - (iv) a licensed Advanced Practice Registered Nurse; or
 - (v) a licensed Physician's Assistant~~;~~

(d) the written statement in paragraph (c) of this subsection must be based on a current physical examination of the parent, not just a review of parent's medical records.

(4) Incapacity means not capable of earning \$500 per month. The incapacity must be expected to last 30 days or longer.

(5) An applicant or ~~client~~ parent must cooperate in the obtaining of a second opinion regarding incapacity if requested by the Department. Only the costs associated with a second opinion

requested by the Department will be paid for by the Department. The Department will not pay the costs associated with obtaining a second opinion if the ~~client~~ parent requests the second opinion.

(6) An incapacitated parent is included in the FEP household assistance unit and the parent's income and assets are counted toward establishing eligibility unless the parent is a SSI recipient. If the parent is a SSI recipient, that parent is not included in the household and none of the income or assets of the SSI recipient is counted.

(7) An incapacitated parent who is included in the household must still negotiate, sign and agree to participate in an employment plan. If the incapacity is such that employment is not feasible now or in the future, participation may be limited to cooperating with ORS and filing for any assistance or benefits to which the parent may be entitled. If it is believed the incapacity might not be permanent, the parent will also be required to seek assistance in overcoming the incapacity. [

~~(8) If a household unit is eligible under both FEP and FEPTP, payment will be made under FEP.]~~

R986-200-203. Citizenship and Alienage Requirements.

(1) All persons in the household assistance unit who are included in the financial assistance payment, including children, must be a citizen of the United States or meet alienage criteria.

(2) An alien is not eligible for financial assistance unless the alien meets the definition of qualified alien. A qualified alien is an alien:

- (a) who is paroled into the United States under section 212(d)(5) of the INA for at least one year;~~[-or]~~
- (b) who is admitted as a refugee under section 207 of the INA;~~[-or]~~
- (c) who is granted asylum under section 208 of the INA;~~[-or]~~
- (d) who is a Cuban or Haitian entrant in accordance with the requirements of 45 CFR Part 401;~~[-or]~~
- (e) who is an Amerasian from Vietnam and was admitted to the United States as an immigrant pursuant to Public Law 100-202 and Public Law 100-461;~~[-or]~~
- (f) whose deportation is being withheld under sections 243(h) or 241(b)(3) of the INA;~~[-or]~~
- (g) who is lawfully admitted for permanent residence under the INA;~~[-or]~~
- (h) who is granted conditional entry pursuant to section 203(a)(7) of the INA;~~[-or]~~
- (i) who meets the definition of certain battered aliens under Section 8 U.S.C. 1641(c)~~[-];~~ or
- (j) who is a certified victim of trafficking.

(3) All aliens granted lawful temporary or permanent resident status under Sections 210, 302, or 303 of the Immigration Reform and Control Act of 1986, are disqualified from receiving financial assistance for a period of five years from the date lawful temporary resident status is granted.

(4) Aliens are required to provide proof, in the form of documentation issued by the ~~HNS~~ United States Citizenship and Immigration Services (USCIS), of immigration status. Victims of trafficking can provide proof from the Office of Refugee Resettlement.

R986-200-204. Eligibility Requirements.

(1) To be eligible for financial assistance under the FEP or FEPTP a household assistance unit must include:

(a) a pregnant woman when it has been medically verified that she is in the third calendar month prior to the expected month of delivery, or later, and who, if the child were born and living with her in the month of payment, would be eligible. The unborn child is not included in the financial assistance payment; or

(b) at least one minor dependent child who is a citizen or meets the alienage criteria. All minor children age 6 to 16 must attend school, or be exempt under 53A-11-102, to be included in the household assistance unit for a financial assistance payment for that child.

(i) A minor child is defined as being under the age of 18 years and not emancipated by marriage or by court order; or

(ii) an unemancipated child, at least 18 years old but under 19 years old, with no high school diploma or its equivalent, who is a full-time student in a secondary school, or in the equivalent level of vocational or technical training, and the school has verified a reasonable expectation the 18 year old will complete the program before reaching age 19.

(2) Households must meet other eligibility requirements ~~in R986-100 and~~ of income, assets, and participation as found in R986-100.

(3) Persons who are fleeing to avoid prosecution of a felony are ineligible for financial assistance.

R986-200-205. How to Determine Who Is Included in the Household Assistance Unit.

The amount of financial assistance for an eligible household is based on the size of the household assistance unit and the income and assets of all people in the household assistance unit.

(1) The income and assets of the following individuals living in the same household must be counted in determining eligibility of the household assistance unit:

(a) all natural parents, adoptive parents and stepparents, unless expressly excluded ~~[below]~~ in this section, who are related to and residing in the same household as an eligible dependent child. Natural parentage is determined as follows:

(i) A woman is the natural parent if her name appears on the birth record of the child.

(ii) For a man to be determined to be the natural parent, that relationship must be established or acknowledged or his name must appear on the birth record. If the parents have a solemnized marriage at the time of birth, relationship is established and can only be rebutted by a DNA test;

(b) household members who would otherwise be included but who are absent solely by reason of employment, school or training, or who will return home to live within 30 days;

(c) all minor siblings, half-siblings, and adopted siblings living in the same household as an eligible dependent child; and

(d) all spouses living in the household.

(2) The following individuals in the household are not counted in determining the household size for determining payment amount nor are the assets or income of the individuals counted in determining household eligibility:

(a) a recipient of SSI benefits. If the SSI recipient is the parent and is receiving FEP assistance for the child(ren) residing in the household, the SSI parent must cooperate with establishing paternity and child support enforcement for the household to be eligible. If the only dependent child is a SSI recipient, the parent or specified relative may receive a FEP assistance payment which does not include that child, provided the parent or specified relative is not on SSI and can meet all other requirements;

(b) a child during any month in which a foster care maintenance payment is being provided to meet the child's needs. If the only dependent child in the household is receiving a foster care maintenance payment, the parent or specified relative may still receive a FEP assistance payment which does not include the child, provided all other eligibility, income and asset requirements are met;

(c) an absent household member who is expected to be gone from the household for 180 days or more unless the absence is due to employment, school or training. If the absence is due to employment, school or training the household member must be included.

(3) The household assistance unit can choose whether to include or exclude the following individuals living in the household. If included, all income and assets of that person are counted:

(a) all absent household members who are expected to be temporarily absent from the home for more than 30 but not more than 180 consecutive days unless the absence is due to employment, school or training. If the absence is due to employment, school or training the household member must be included;

(b) Native American children, or deaf or blind children, who are temporarily absent while in boarding school, even if the temporary absence is expected to last more than 180 days;

(c) an adopted child who receives a federal, state or local government special needs adoption payment. If the adopted child receiving this type of payment is the only dependent child in the household and excluded, the parent(s) or specified relative may still receive a FEP or FEPTP assistance payment which does not include the child, provided all other eligibility requirements are met. If the household chooses to include the adopted child in the household assistance unit under this paragraph, the special needs adoption payment is counted as income;

(d) former stepchildren who have no blood relationship to a dependent child in the household ~~[-If assistance is requested for the former stepchildren, the rules for specified relative apply];~~

(e) a specified relative. If a household requests that a specified relative be included in the household assistance unit, only one specified relative can be included in the financial assistance payment regardless of how many specified relatives are living in the household. The income and assets of all household members are counted according to the provisions of R986-200-241.

(4) In situations where there are children in the home for which there is court ordered joint custody, the Department will determine if the children should be included in the household assistance unit based on the actual circumstances and not on the order. If financial assistance is allowed, the joint custody order might be modified by the court under the provisions of 30-3-10.2(4) and 30-3-10.4.

(5) The income and assets of the following individuals are counted in determining eligibility even though the individual is not included in the assistance payment:

(a) a household member who has been disqualified from the receipt of assistance because of an IPV, (fraud determination);

(b) a household member who does not meet the citizenship and alienage requirements; or

(c) a minor child who is not in school full time or participating in self sufficiency activities.

R986-200-206. Participation Requirements.

(1) Payment of any and all financial assistance is contingent upon all parents in the household, including adoptive and stepparents, participating, to the maximum extent possible, in:

- (a) assessment and evaluation;
 - (b) the completion of a negotiated employment plan; and
 - (c) assisting ORS in good faith to:
 - (i) establish the paternity of all minor children; and
 - (ii) establish and enforce child support obligations.
 - (d) obtaining any and all other sources of income. If any household member is or appears to be eligible for ~~unemployment~~, ~~SSA~~ ~~benefits~~, Workers Compensation, VA ~~benefits~~ or any other benefits or forms of assistance, the Department will refer the ~~client~~ individual to the appropriate agency and the individual must apply for and pursue obtaining those benefits. If an individual refuses to apply for and pursue these benefits or assistance, the individual is ineligible for financial assistance. If the ~~client~~ individual is otherwise eligible for FEP or FEPTP, financial assistance will be provided until eligibility for other benefits or assistance has been determined.
- (2) Parents who have been determined to be ineligible to be included in the financial assistance payment are still required to participate.
- (3) Children at least 16 years old but under 18 years old, unless they are in school full-time or in school part-time and working less than 100 hours per month are required to participate.

R986-200-207. Participation in Child Support Enforcement.

- (1) Receipt of child support is an important element in increasing a family's income.
- (2) Every natural, legal or adoptive parent has a duty to support his or her children and step[-]children even if the children do not live in the parental home.
- (3) A parent's duty to support continues until the child:
- (a) reaches age 18; ~~or~~
 - (b) is 18 years old and enrolled in high school during the normal and expected year of graduation; ~~or~~
 - (c) is emancipated by marriage or court order; ~~or~~
 - (d) is a member of the armed forces of the United States; or
 - (e) is self supporting.
- (4) A client receiving financial assistance automatically assigns to the state any and all rights to child support for all children who are included in the household assistance unit while receiving financial assistance. The assignment of rights occurs even if the client claims or establishes "good cause or other exception" for refusal to cooperate. The assignment of rights to support, cooperation in establishing paternity, and establishing and enforcing child support is a condition of eligibility for the receipt of financial assistance.
- (5) For each child included in the financial assistance payment, the client must also assign any and all rights to alimony or spousal support from the noncustodial parent while the client receives public assistance.
- (6) The client must cooperate with the Department and ORS in establishing and enforcing the spousal and child support obligation from any and all natural, legal, or adoptive non-custodial parents.
- (7) If a parent is absent from the home, the client must identify and help locate the non-custodial parent.
- (~~a~~)8) If a child is conceived or born during a marriage, the husband is considered the legal father, even if the wife states he is not the natural father.
- (~~b~~)9) If the child is born out of wedlock, the client must also cooperate in the establishment of paternity.
- (~~8~~)10) ORS is solely responsible for determining if the client is cooperating in identifying the noncustodial parent and with child

support establishment and enforcement efforts for the purposes of receipt of financial assistance. The Department cannot review, modify, or reject a decision made by ORS.

(~~9~~)11) Unless good cause is shown, financial assistance will terminate if a parent or specified relative does not cooperate with ORS in establishing paternity or enforcing child support obligations.

(~~10~~)12) Upon notification from ORS that the client is not cooperating, the Department will commence ~~conciliation~~ reconciliation procedures as outlined in R986-200-212. If the client continues to refuse to cooperate with ORS at the end of the ~~conciliation~~ reconciliation process, financial assistance will be terminated.

(~~11~~)13) Termination of financial assistance for non cooperation is immediate, without a ~~two month~~ reduction period outlined in ~~conciliation~~ R986-200-212, if:

- (a) the client is a specified relative who is not included in the household assistance unit; ~~or~~
- (b) the client is a parent receiving SSI benefits; or
- (c) the client is participating in FEPTP.

(~~12~~)14) Once the financial assistance has been terminated due to the client's failure to cooperate with child support enforcement, the client must then reapply for financial assistance. This time, the client must cooperate with child support collection prior to receiving any financial assistance.

(~~13~~)15) A specified relative, illegal alien, SSI recipient, or disqualified parent in a household receiving FEP assistance must assign rights to support of any kind and cooperate with all establishment and enforcement efforts even if the parent or relative is not included in the financial assistance payment.

R986-200-211. Education and Training As Part of an Employment Plan.

(1) A parent client's participation in education or training beyond that required to obtain a high school diploma or its equivalent is limited to the lesser of:

- (a) 24 months which need not be continuous; or
- (b) the completion of the education and training requirements of the employment plan.

(2) Post high school education or training will only be approved if all of the following are met:

- (a) The client can demonstrate that the education or training would substantially increase the income level that the client would be able to achieve without the education and training, and would offset the loss of income the household incurs while the education or training is being completed.
- (b) The client does not already have a degree or skills training certificate in a currently marketable occupation.
- (c) An assessment specific to the client's education and training aptitude has been completed showing the client has the ability to be successful in the education or training.
- (d) The mental and physical health of the client indicates the education or training could be completed successfully and the client could perform the job once the schooling is completed.
- (e) The specific employment goal that requires the education or training is marketable in the area where the client resides or the client has agreed to relocate for the purpose of employment once the education/training is completed.
- (f) The client, when determined appropriate, is willing to complete the education/training as quickly as possible, such as attending school full time which may include attending school during the summer.

(g) The client can realistically complete the requirements of the education or training program within the required time frames or time limits of the financial assistance program, including the 36 month lifetime limit for FEP and FEPTP, for which the client is eligible.

(3) A parent client may participate in education or training for up to six months beyond the 24-month limit if:

(a) the parent client is employed for 80 or more hours per month during each month of the extension; ~~and~~

(b) circumstances beyond the control of the client prevented completion within 24 months; and

(c) the Department director or designee determines that extending the 24 month limit is prudent because other employment, education, or training options do not enable the family to meet the objective of the program.

(4) A parent client with a high school diploma or equivalent who has received 24 months of education or training while receiving financial assistance must participate in full time work activities. Full time work activities is defined as at least part time education or training and 80 hours or more of work per month with a combined minimum of 30 hours work, education, training, and/or job search of 30 hours per week.

(5) Graduate work can never be approved or supported as part of an employment plan.

R986-200-212. ~~[Conciliation]~~Reconciling Disputes and Termination of Financial Assistance for Failure to Comply.

If a client who is required to participate in an employment plan consistently fails, without reasonable cause, to show good faith in complying with the employment plan, the Department will terminate all or part of the financial assistance. This will apply if the Department is notified that the client has failed to cooperate with ORS as provided in R986-200-207. A termination for the reasons mentioned in this paragraph will occur only after the Department attempts ~~[conciliation]~~reconciliation through the following ~~[three-step]~~ process:

(1) ~~[In step one, t]~~The employment counselor will attempt to discuss compliance with the client and explore solutions. If compliance is not resolved the counselor will move to the second ~~[step]~~phase.

(2) In ~~[step two]~~the second phase, the employment counselor will request a meeting with the client, the employment counselor, the counselor's supervisor and any other Department or allied entity representatives, if appropriate, who might assist in encouraging participation. ~~[If a resolution cannot be reached, the household assistance unit's financial assistance payment will be reduced by \$100 per month.]~~If the client does not attend the meeting, the meeting will be held in the client's absence. ~~[As soon as the client makes a good faith effort to comply, the \$100 reduction will cease.]~~A formal meeting with the client is not required for a third or subsequent occurrence. If a resolution cannot be reached, one of the following will occur:

(a) for the first occurrence, the client's financial assistance payment will be reduced by \$100 for one month. The reduction will occur in the month following the month the determination was made. If the client does not participate during the \$100 reduction month, financial assistance will be terminated beginning the month following the \$100 reduction month.

(b) for the second occurrence, the client's financial assistance payment will be terminated and the client will be ineligible for financial assistance for one month. If the client re-applies during the

one month termination period, the new application will be denied for non-participation. If the client re-applies after the one month termination period, the client must successfully complete a two week trial participation period before financial assistance will be approved.

(c) for the third and subsequent occurrences the client's financial assistance will be terminated beginning with the month following the determination by the employment counselor that the client is not participating. The client will be ineligible for financial assistance for two months and if the client re-applies during the two month period, the new application will be denied for non-participation. If the client re-applies after the two month termination period, the client must successfully complete a two week trial participation period before financial assistance will be approved.

(3) A client must demonstrate a genuine willingness to participate during the two week trial period.

(4) The occurrences are life-time occurrences and it does not matter how much time elapses between occurrences. If a client's assistance was reduced as provided in (2)(a) of this section three years ago, for example, the next occurrence will be treated as a second occurrence.

(5) The two week trial period may be waived only if the client has cured all previous participation issues prior to re-application.

(6) The provisions of this section apply to clients who are eligible for and receiving financial assistance during an extension period as provided in R986-200-218.

(7) A child age 16-18 who is not a parent and who is not participating will be removed from the financial assistance grant on the first and all subsequent occurrences. The financial assistance will continue for other household members provided they are participating. If the child successfully completes a two week trial period, the child will be added back on to the financial assistance grant.

(8) Reasonable cause under this section means the client was prevented from participating through no fault of his or her own or failed to participate for reasons that are reasonable and compelling.

~~— (3) In step three, the employment counselor will continue to attempt a face to face meeting between the client and appropriate Department and allied entity representatives, if appropriate, to prevent the termination of financial assistance. If after two months the client continues to show a failure to make a good faith effort to participate, financial assistance will terminate.~~

~~— (a) The two month reduction in assistance must be consecutive. If a client's assistance is reduced for one month and then the client agrees and demonstrates a willingness to participate to the maximum extent possible, assistance is restored at the full amount. If the client later stops participating to the maximum extent possible, the client's assistance must be reduced for two additional consecutive months before a termination can occur.~~

~~— (b) The two month reduction must immediately precede the termination. If the client's assistance was reduced during months other than the two months immediately prior to the termination, those months do not satisfy the requirements of this rule.~~

~~— (c) If a client's assistance has been reduced for failure to participate, and the client then agrees to participate within the same month, the Department may restore the \$100. Any month in which the \$100 was restored will not count toward the two month reduction period necessary to terminate assistance.~~

~~— (d) If a client has demonstrated a pattern and practice of having assistance reduced, agreeing to participate and having the reduction restored, but failing to follow through so that another period of~~

reduction results, the Department may continue the reduction even if the client agrees to participate until such time as the client demonstrates a genuine willingness to participate.

~~(4) Termination of assistance for non-participation is immediate without a two month reduction of assistance for:~~

~~(a) a dependent child age 16 or older if that child is not attending school; or~~

~~(b) a parent on FEPTP.~~

~~(5) If financial assistance has been terminated for failure to participate and the client reapplies for financial assistance, the client must successfully complete a trial participation period of no longer than two weeks before the client is eligible for financial assistance. The trial participation period may be waived only if the client has cured all previous participation issues prior to re-application.]~~

R986-200-213. Financial Assistance for a Minor Parent.

(1) Financial assistance may be provided to a single minor parent who resides in a place of residence maintained by a parent, legal guardian, or other adult relative of the single minor parent, unless the minor parent is exempt.

(2) The single minor parent may be exempt when:

(a) The minor parent has no living parent or legal guardian whose whereabouts is known; ~~[or]~~

(b) No living parent or legal guardian of the minor parent allows the minor parent to live in his or her home; ~~[or]~~

(c) The minor parent lived apart from his or her own parent or legal guardian for a period of at least one year before either the birth of the dependent child or the parent's having made application for FEP and the minor parent was self supporting during this same period of time; or

(d) The physical or emotional health or safety of the minor parent or dependent child would be jeopardized if they resided in the same residence with the minor parent's parent or legal guardian. A referral will be made to DCFS if allegations are made under this paragraph.

(3) Prior to authorizing financial assistance, the Department must approve the living arrangement of all single minor parents exempt under section (2) above. Approval of the living arrangement is not a certification or guarantee of the safety, quality, or condition of the living arrangements of the single minor parent.

(4) All minor parents regardless of the living arrangement must participate in education for parenting and life skills in infant and child wellness programs operated by the Department of Health and, for not less than 20 hours per week:

(a) attend high school or an alternative to high school, if the minor parent does not have a high school diploma;

(b) participate in education and training; and/or

(c) participate in employment.

(5) If a single minor parent resides with a parent, the Department shall include the income of the parent of the single minor parent in determining the single minor parent's eligibility for financial assistance.

(6) If a single minor parent resides with a parent who is receiving financial assistance, the single minor parent is included in the parent's household assistance unit.

(7) If a single minor parent receives financial assistance but does not reside with a parent, the Department shall seek an order requiring that the parent of the single minor parent financially support the single minor parent.

R986-200-214. Assistance for Specified Relatives.

(1) Specified relatives include:

(a) grandparents;

(b) brothers and sisters;

(c) stepbrothers and stepsisters;

(d) aunts and uncles;

(e) first cousins;

(f) first cousins once removed;

(g) nephews and nieces;

(h) people of prior generations as designated by the prefix grand, great, great-great, or great- great-great;[

~~(i) a natural parent whose parental rights were terminated by court order;]~~

~~(j)]~~ brothers and sisters by legal adoption;

~~(k)]~~ the spouse of any person listed above;

~~(l)]~~ the former spouse of any person listed above; and

~~(m)]~~ individuals who can prove they met one of the above mentioned relationships via a blood relationship even though the legal relationship has been terminated.

(2) The Department shall require compliance with Section 30-1-4.5

(3) A specified relative may apply for financial assistance for the child. If the child is otherwise eligible, the FEP rules apply with the following exceptions:

(a) The child must have a blood or a legal relationship to the specified relative even if the legal relationship has been terminated,

(b) Both parents must be absent from the home where the child lives. This is true even for a parent who has had his or her parental rights terminated; ~~[and]~~

(c) The child must be currently living with, and not just visiting, the specified relative; ~~[and]~~

(d) The parents' obligation to financially support their child will be enforced and the specified relative must cooperate with child support enforcement; and

(e) If the parent(s) state they are willing to support the child if the child would return to live with the parent(s), the child is ineligible unless there is a court order removing the child from the parent(s)' home.

(4) If the specified relative is currently receiving FEP or FEPTP, the child must be included in that household assistance unit.

(5) The income and resources of the specified relative are not counted unless the specified relative requests inclusion in the household assistance unit.

(6) If the specified relative is not currently receiving FEP or FEPTP, and the specified relative does not want to be included in the financial assistance payment, the specified relative shall be paid, on behalf of the child, the full standard financial assistance payment for one person. The size of the financial assistance payment shall be increased accordingly for each additional eligible child in the household assistance unit excluding the dependent child(ren) of the specified relative. Since the specified relative is not included in the household assistance unit, the income and assets of the specified relative, or the relative's spouse, are not counted.

(7) The specified relative may request to be included in the household assistance unit. If the specified relative is included in the household assistance unit, the household must meet all FEP eligibility requirements including participation requirements and asset limits.

(8) Income eligibility for a specified relative who wants to be included in the household assistance unit is calculated according to R986-200-241.

R986-200-215. Family Employment Program Two Parent Household (FEPTP).

(1) FEPTP is for households otherwise eligible for FEP but with two able-bodied parents in the household.

(2) Families may only participate in this program for seven months out of any 13-month period. Months of participation count toward the 36-month time limit in Sections 35A-3-306 and R986-200-217.

(3) One parent must participate 40 hours per week, as defined in the employment plan. That parent is referred to as the primary parent. The primary parent does not need to be the primary wage earner of the household. The primary parent must spend:

(a) 32 hours a week in paid employment and/or work experience and training. At least 16 hours of those 32 hours must be spent at a community work site or in paid employment. If the primary parent is under age 25 and has not completed high school or an equivalent course of education, time spent in educational activities to obtain a high school degree or its equivalent can count toward the minimum 16-hour work requirement. Training is limited to short term skills training, job search training, or adult education; and

(b) eight hours a week participating in job search activities. The Department may reduce the number of hours spent in job search activities if it is determined the parent has explored all local employment options. This would not reduce the total requirement of 40 hours of participation.

(4) The other parent is required to participate 20 hours per week as defined in the employment plan, unless there is good cause for not participating. Participation consists of a combination of paid employment, community work, job search, adult education, and skills training.

(5) Participation requirements for refugee parents can include English language instruction (English for Speakers of Other Languages (ESOL aka ESL) or refugee social adjustment services or targeted assistance activities or all three. English language instruction must be provided concurrently with, and not sequential to, employment or employment related services.

(6) Participation may be excused only for the following reasons:

(a) Illness. Verification of illness will be required for an illness of more than three days, and may be required for periods of three days or less; or

(b) good cause as determined by the Department. Good cause may include such things as death or grave illness in the immediate family, unusual child care problems, or transportation problems.

(7) The parents cannot share the participation requirements, but the Department may agree to change the assignments at the end of a participation period.

(8) Payment is made twice per month and only after proof of participation. Payment is based on the number of hours of participation by the primary parent. The base amount of assistance is equal to the FEP payment for the household size. The base FEP payment is then prorated based on the number of hours which the primary parent participated up to a maximum of 40 hours of participation per week. In no event can the financial assistance payment per month for a FEPTP household be more than for the same size household participating in FEP.

(9) If it is determined by the employment counselor that one of the parents has failed to participate to the maximum extent possible:

(a) if it is the primary parent, assistance for the entire household unit will terminate immediately [~~There is no two month period of reduction of assistance~~]; or

(b) if it is the other parent, that parent will be disqualified from the assistance unit. The disqualified parent's income and assets will still be counted for eligibility, but that parent will not be counted for determining the financial assistance payment.

(10) Because payment is made after performance, advance notice is not required to terminate or reduce assistance payments for households participating in FEPTP. However, if the client requests a hearing within 10 days of the termination, payment of financial assistance based on participation can continue during the hearing process as provided in R986-100-134.

(11) The parents must meet all other requirements of FEP including but not limited to, income and asset limits, cooperation with ORS if there are legally responsible persons outside of the household assistance unit, signing a participation agreement and employment plan and applying for all other assistance or benefits to which they might be entitled.

R986-200-217. Time Limits.

(1) Except as provided in R986-212-218 and in Section 35A-3-306, a family cannot receive financial assistance under the FEP or FEPTP for more than 36 months.

(2) The following months count toward the 36-month time limit regardless of whether the financial assistance payment was made in this or any other state:

(a) each month when ~~the family~~ a parent client received financial assistance beginning with the month of January, 1997;

(b) each month beginning with January, 1997, where a parent resided in the household, the parent's income and assets were counted in determining the household's eligibility, but the parent was disqualified from being included in the financial payment. Disqualification occurs when a parent has been determined to have committed fraud in the receipt of public assistance or when the parent is an ineligible alien; and

(c) each month when financial assistance was reduced or a partial financial assistance payment was received beginning with the month of January, 1997.

(3) Months which do not count toward the 36 month time limit are:

(a) months where both parents were absent from the home and dependent children were cared for by a specified relative who elected to be excluded from the household unit;

(b) months where the client received financial assistance as a minor child and was not the head of a household or married to the head of a household;

(c) months during which the parent lived in Indian country, as defined in Title 18, Section 1151, United States Code 1999, or an Alaskan Native village, if the most reliable data available with respect to the month, or a period including the month, indicate that at least 50% of the adults living in Indian country or in the village were not employed; or

(d) months when a parent resided in the home but were excluded from the household assistance unit. A parent is excluded when they receive SSI benefits.

(e) the first diversion period in any 12 month period of time is not counted toward the 36 month time limit. A second and all subsequent diversion periods within 12 months will count as one month toward the 36 month time limit. If a client has already used 36 months of financial assistance, the client is not eligible for diversion assistance unless the client meets one of the extension criteria in R986-200-218 in addition to all other eligibility criteria of diversion assistance.

R986-200-218. Exceptions to the Time Limit.

Exceptions to the time limit may be allowed on a month by month basis for up to 20% ~~percent~~ of the average monthly number of families receiving financial assistance from FEP and FEPTP during the previous Federal fiscal year for the following reasons:

(1) A hardship under Section 35A-3-306 is determined to exist when a parent:

(a) is determined to be medically unable to work. The client must provide proof of inability to work in one of the following ways:

(i) receipt of disability benefits from SSA; ~~or~~
 (ii) receipt of VA Disability benefits based on the parent being 100% ~~percent~~ disabled; ~~or~~
 (iii) placement on the Division of Services to People with Disabilities' waiting list. Being on the waiting list indicates the person has met the criteria for a disability; or

(iv) is currently receiving Temporary Total or Permanent Total disability Worker~~']s'~~ Compensation benefits; ~~or~~

(v) a medical statement completed by a medical doctor, a licensed Advanced Practice Registered Nurse, a licensed Physician's Assistant, or a doctor of osteopathy, stating the parent has a medical condition supported by medical evidence, which prevents the parent from engaging in work activities capable of generating income of at least \$500 a month. The statement must be completed by a professional skilled in both the diagnosis and treatment of the condition; or

(vi) a statement completed by a licensed clinical social worker, licensed psychologist, licensed Mental Health Therapist as defined in UCA Section 58-60-102, or psychiatrist stating that the parent has been diagnosed with a mental health condition that prevents the parent from engaging in work activities capable of generating income of at least \$500 a month. Substance abuse is considered the same as mental health condition; ~~or~~

(b) is under age 19 through the month of their nineteenth birthday; ~~or~~

(c) is currently engaged in an approved full-time job preparation, educational or training activity which the parent was expected to complete within the 36 month time limit but completion within the 36 months was not possible through no fault of the parent. Additionally, if the parent has previously received, beginning with the month of January 1997, 24 months of financial assistance while attending educational or training activities, good cause for additional months must be shown and approved; ~~or~~

(d) was without fault and a delay in the delivery of services provided by the Department occurred. The delay must have had an adverse effect on the parent causing a hardship and preventing the parent from obtaining employment. An extension under this section cannot be granted for more than the length of the delay; ~~or~~

(e) moved to Utah after exhausting 36 months of assistance in another state or states and the parent did not receive supportive services in that state or states as required under the provisions of PRWORA. To be eligible for an extension under this section, the

failure to receive supportive services must have occurred through no fault of the parent and must contribute to the parent's inability to work. An extension under this section can never be for longer than the delay in services; ~~or~~

(f) completed an educational or training program at the 36th month and needs additional time to obtain employment; or

(g) is unable to work because the parent is required in the home to meet the medical needs of a dependent. Dependent for the purposes of this paragraph means a person who the parent claims as a dependent on his or her income tax filing. Proof, consisting of a medical statement from a health care professional listed in subparagraph (1)(a)(v) or (vi) of this section~~[a medical doctor, doctor of osteopathy, licensed clinical social worker or licensed psychologist,~~ is required unless the dependent is on the Travis C medicaid waiver program. The medical statement must include all of the following:

(i) the diagnosis of the dependent's condition,

(ii) the recommended treatment needed or being received for the condition,

(iii) the length of time the ~~client~~ parent will be required in the home to care for the dependent, and

(iv) whether the ~~client~~ parent is required to be in the home full-time or part-time.

(2) Additional months of financial assistance may be provided if the family includes an individual who has been battered or subjected to extreme cruelty which is a barrier to employment and the implementation of the time limit would make it more difficult to escape the situation. Battered or subjected to extreme cruelty means:

(a) physical acts which resulted in, or threatened to result in, physical injury to the individual;

(b) sexual abuse;

(c) sexual activity involving a dependent child;

~~—(d) being forced as the specified relative of a dependent child to engage in nonconsensual sexual acts or activities;~~

~~(e)~~ threats of, or attempts at, physical or sexual abuse;

~~(f)~~ mental abuse which includes stalking and harassment; or

~~(g)~~ neglect or deprivation of medical care.

(3) An exception to the time limit can be granted for a maximum of an additional 24 months if:

(a) during the previous month, the parent client was employed for no less than 80 hours. The employment can consist of self-employment if the parent's net income from that self-employment is at or above minimum wage; and

(b) during at least six of the previous 24 months, the parent client was employed for no less than 80 hours a month.

(c) If, at the end of the 24-month extension, the parent client qualifies for an extension under Sections (1) or (2) of this rule, an additional extension can be granted under the provisions of those sections.

(4) All clients receiving an extension must continue to participate, to the maximum extent possible, in an employment plan. This includes cooperating with ORS in the collection ~~and~~ establishment ~~and~~ enforcement of child support and the establishment of paternity, if necessary.

(5) If a household filing unit contains more than one parent, and one parent has received at least 36 months of assistance as a parent, then the entire filing unit is ineligible unless both parents meet one of the exceptions listed above. Both parents need not meet the same exception.

(6) A family in which the only parent or both parents are ineligible aliens cannot be granted an extension under Section (3) above or for any of the reasons in Subsections (1)(c),(d),(e) or (f). This is because ineligible aliens are not legally able to work and supportive services for work, education and training purposes are inappropriate.

(7) A client who is no longer eligible for financial assistance may be eligible for other kinds of public assistance including [F]ood [S]tamps, Child Care Assistance and medical coverage. The client must follow the appropriate application process to determine eligibility for assistance from those other programs.

R986-200-219. Emergency Assistance (EA) for Needy Families With Dependent Children.

(1) EA is provided in an effort to prevent homelessness. It is a payment which is limited to use for utilities and rent or mortgage.

(2) To be eligible for EA the family must meet all other FEP requirements except:

(a) the client need only meet the "gross income" test. Gross income which is available to the client must be equal to or less than 185% ~~percent~~ of the standard needs budget for the client's filing unit; and

(b) the client is not required to enter into an employment plan or cooperate with ORS in obtaining support.

(3) The client must be homeless, in danger of becoming homeless or having the utilities at the home cut off due to a crisis situation beyond the client's control. The client must show that:

(a) The family is facing eviction or foreclosure because of past due rent or mortgage payments or unpaid utility bills which result from the crisis;~~and~~

(b) A one-time EA payment will enable the family to obtain or maintain housing or prevent the utility shut off while they overcome the temporary crisis;~~and~~

(c) Assistance with one month's rent or mortgage payment is enough to prevent the eviction, foreclosure or termination of utilities;~~and~~

(d) The client has the ability to resolve past due payments and pay future months' rent or mortgage payments and utility bills after resolution of the crisis; and

(e) The client has exhausted all other resources.

(4) Emergency assistance is available for only 30 consecutive days during a year to any client or that client's household. If, for example, a client receives an EA payment of \$300 for rent on April 1 and requests an additional EA payment of \$200 for utilities on or before April 30 of that same year, the request for an EA payment for utilities will be considered. If the request for an additional payment for utilities is made after April 30, it cannot be considered for payment. The client will not be eligible for another EA payment until April 1 of the following year. A year is defined as 365 days following the initial date of payment of EA.

(5) Payments will not exceed \$300 per family for one month's rent payment or \$500 per family for one month's mortgage payment, and \$200 for one month's utilities payment.

R986-200-230. Assets Counted in Determining Eligibility.

(1) All available assets, unless exempt, are counted in determining eligibility. An asset is available when the applicant or client owns it and has the ability and the legal right to sell it or dispose of it. An item is never counted as both income and an asset in the same month.

(2) The value of an asset is determined by its equity value. Equity value is the current market value less any debts still owing on the asset. Current market value is the asset's selling price on the open market as set by current standards of appraisal.

(3) Both real and personal property are considered assets. Real property is an item that is fixed, permanent, or immovable. This includes land, houses, buildings, mobile homes and trailer homes. Personal property is any item other than real property.

(4) If an asset is potentially available, but a legal impediment to making it available exists, it is exempt until it can be made available. The applicant or client must take appropriate steps to make the asset available unless:

(a) Reasonable action would not be successful in making the asset available; or

(b) The probable cost of making the asset available exceeds its value.

(5) The value of countable real and personal property cannot exceed \$2,000.

(6) If the household assets are below the limits on the first day of the month the household is eligible for the remainder of the month.

R986-200-231. Assets That Are Not Counted (Exempt) for Eligibility Purposes.

The following are not counted as an asset when determining eligibility for financial assistance:

(1) the home in which the family lives, and its contents, unless any single item of personal property has a value over \$1,000, then only that item is counted toward the \$2,000 limit. If the family owns more than one home, only the primary residence is exempt and the equity value of the other home is counted;

(2) the value of the lot on which the home stands is exempt if it does not exceed the average size of residential lots for the community in which it is located. The value of the property in excess of an average size lot is counted if marketable;

(3) ~~W~~water rights attached to the home property are exempt;

(4) a maximum of \$8,000 equity value of one vehicle. The entire equity value of one vehicle equipped to transport a disabled individual is exempt from the asset limit even if the vehicle has a value in excess of \$8,000;

(5) with the exception of real property, the value of income producing property necessary for employment;

(6) the value of any reasonable assistance received for post-secondary education;

(7) bona fide loans, including reverse equity loans;

(8) per capita payments or any asset purchased with per capita payments made to tribal members by the Secretary of the Interior or the tribe;

(9) maintenance items essential to day-to-day living;

(10) life estates;

(11) an irrevocable trust where neither the corpus nor income can be used for basic living expenses;

(12) [F]or refugees, as defined under R986-300-303(1), assets that remain in the refugee's country of origin are not counted;

(13) one burial plot per member of the household. A burial plot is a burial space and any item related to repositories used for the remains of the deceased. This includes caskets, concrete vaults, urns, crypts, grave markers, etc. If the individual owns a grave site, the value of which includes opening and closing, the opening and closing is also exempt;

(14) a burial/funeral fund up to a maximum of \$1,500 per member of the household;

(a) The value of any irrevocable burial trust is subtracted from the \$1,500 burial/funeral fund exemption. If the irrevocable burial trust is valued at \$1,500 or more, it reduces the burial/funeral fund exemption to zero.

(b) After deducting any irrevocable burial trust, if there is still a balance in the burial/funeral fund exemption amount, the remaining exemption is reduced by the cash value of any burial contract, funeral plan, or funds set aside for burial up to a maximum of \$1,500. Any amount over \$1,500 is considered an asset;

(15) ~~[A]~~any interest which is accrued on an exempt burial contract, funeral plan, or funds set aside for burial is exempt as income or assets. If an individual removes the principal or interest and uses the money for a purpose other than the individual's burial expenses, the amount withdrawn is countable income; and

(16) any other property exempt under federal law.

R986-200-234. Income Counted in Determining Eligibility.

(1) The amount of financial assistance is based on the household's monthly income and size.

(2) Household income means the payment or receipt of countable income from any source to any member counted in the household assistance unit including:

(a) children; and

(b) people who are disqualified from being counted because of a prior determination of fraud (IPV) or because they are an ineligible alien.

(3) The income of SSI recipients is not counted.

(4) Countable income is gross income, whether earned or unearned, less allowable exclusions listed ~~[below]~~in section R986-200-239.

(5) Money is not counted as income and an asset in the same month.

(6) If an individual has elected to have a voluntary reduction or deduction taken from an entitlement to earned or unearned income, the voluntary reduction or deduction is counted as gross income. Voluntary reductions include insurance premiums, savings, and garnishments to pay an owed obligation.

R986-200-235. Unearned Income.

(1) Unearned income is income received by an individual for which the individual performs no service.

(2) Countable unearned income includes:

(a) pensions and annuities such as Railroad Retirement, Social Security, VA, Civil Service;

(b) disability benefits such as sick pay and workers' compensation payments unless considered as earned income;

(c) unemployment ~~[I]~~insurance;

(d) strike or union benefits;

(e) VA allotment;

(f) income from the GI Bill;

(g) assigned support retained in violation of statute is counted when a request to do so has been generated by ORS;

(h) payments received from trusts made for basic living expenses;

(i) payments of interest from stocks, bonds, savings, loans, insurance, a sales contract, or mortgage. This applies even if the payments are from the sale of an exempt home. Payments made for the down payment or principal are counted as assets;

(j) inheritances;

(k) life insurance benefits;

(l) payments from an insurance company or other source for personal injury, interest, or destroyed, lost or stolen property unless the money is used to replace that property;

(m) cash contributions from any source including family, a church or other charitable organization;

(n) rental income if the rental property is managed by another individual or company for the owner. Income from rental property managed by someone in the household assistance unit is considered earned income;

(o) financial assistance payments received from another state or the Department from another type of financial assistance program including a diversion payment; and

(p) payments from Job Corps and Americorps living allowances.

(3) Unearned income which is not counted (exempt):

(a) cash gifts for special occasions which do not exceed \$30 per quarter for each person in the household assistance unit. The gift can be divided equally among all members of the household assistance unit;

(b) bona fide loans, including reverse equity loans on an exempt property. A bona fide loan means a loan which has been contracted in good faith without fraud or deceit and genuinely endorsed in writing for repayment;

(c) the value of food stamps, food donated from any source, and the value of vouchers issued under the Women Infants and Children program;

(d) any per capita payments made to individual tribal members by either the secretary of interior or the tribe are excluded. Income to tribal members derived from privately owned land is not exempt;

(e) any payments made to household members that are declared exempt under federal law;

(f) the value of governmental rent and housing subsidies, federal relocation assistance, or EA issued by the Department;

(g) money from a trust fund to provide for or reimburse the household for a specific item NOT related to basic living expenses. This includes medical expenses and educational expenses. Money from a trust fund to provide for or reimburse a household member for basic living expenses is counted;

(h) travel and training allowances and reimbursements if they are directly related to training, education, work, or volunteer activities;

(i) all unearned income in-kind. In-kind means something, such as goods or commodities, other than money;

(j) thirty dollars of the income received from rental income unless greater expenses can be proven. Expenses in excess of \$30 can be allowed for:

(i) taxes;

(ii) attorney fees expended to make the rental income available;

(iii) upkeep and repair costs necessary to maintain the current value of the property; and

(iv) interest paid on a loan or mortgage made for upkeep or repair. Payment on the principal of the loan or mortgage cannot be excluded;

(k) if meals are provided to a roomer/boarder, the value of a one-person food stamp allotment for each roomer/boarder;

(l) payments for energy assistance including H.E.A.T payments, assistance given by a supplier of home energy, and in-kind assistance given by a private non-profit agency;

(m) federal and state income tax refunds and earned income tax credit payments;

(n) payments made by the Department to reimburse the client for education or work expenses, or a CC subsidy;

(o) income of an SSI recipient. Neither the payment from SSI nor any other income, including earned income, of an SSI recipient is included;

(p) payments from a person living in the household who is not included in the household assistance unit, as defined in R986-200-205, when the payment is intended and used for that person's share of the living expenses;

(q) educational assistance and college work study except Veterans Education Assistance intended for family members of the student; and

(r) for a refugee, as defined in R986-300-303(1), any grant or assistance, whether cash or in-kind, received directly or indirectly under the Reception and Placement Programs of Department of State or Department of Justice.

R986-200-239. How to Determine the Amount of the Financial Assistance Payment.

(1) Once the household's size and income have been determined, the gross countable income must be less than or equal to 185%~~[percent]~~ of the Standard Needs Budget (SNB) for the size of the household. This is referred to as the "gross test".

(2) If the gross countable income is less than or equal to 185%~~[percent]~~ of the SNB, the following deductions are allowed:

(a) a work expense allowance of \$100 for each person in the household unit who is employed;

(b) fifty percent of the remaining earned income after deducting the work expense allowance as provided in paragraph (a) of this subsection, if the individual has received a financial assistance payment from the Department for one or more of the immediately preceding four months; and

(b)c) after deducting the amounts in paragraphs (a) and (b) of this subsection, if appropriate, the following deductions can be made:

(i) a dependent care deduction as described in subsection (3) of this section[below]; and

(e)ii) child support paid by a household member if legally owed to someone not included in the household[; and].

~~— (d) fifty percent of the remaining earned income, after the deductions in (a), (b) and (c) above, if the individual has received a financial assistance payment from the Department for one or more of the immediately preceding four months.]~~

(3) The amount of the dependant care deduction is set by the Department and based on the number of hours worked by the parent and the age of the dependant needing care. It can only be deducted if the dependant care:

(a) is paid for the care of a child or adult member of the household assistance unit, or a child or adult who would be a member of the household assistance unit except that this person receives SSI. An adult's need for care must be verified by a doctor; and

(b) is not subsidized, in whole or in part, by a CC payment from the Department; and

(c) is not paid to an individual who is in the household assistance unit.

(4) After deducting the amounts allowed under paragraph (2) above, the resulting net income must be less than 100%~~[percent]~~ of

SNB for size of the household assistance unit. If the net income is equal to or greater than the SNB, the household is not eligible.

(5) If the net income is less than 100%~~[percent]~~ of the SNB the following amounts are deducted:

(a) Fifty percent of earned countable income for all employed household assistance unit members if the household was not eligible for the 50%~~[percent]~~ deduction under paragraph (2)(~~d~~)b) above; and/or

(b) All of the earned income of all children in the household assistance unit, if not previously deducted, who are:

(i) in school or training full-time, or

(ii) in part-time education or training if they are employed less than 100 hours per month. "Part-time education or training" means enrolled for at least one-half the number of hours or periods considered by the institution to be customary to complete the course of study within the minimum time period. If no schedule is set by the school, the course of study must be no less than an average of two class periods or two hours per day, whichever is less.

(6) The resulting net countable income is compared to the full financial assistance payment for the household size. If the net countable income is more than the financial assistance payment, the household is not eligible. If it is less, the net countable income is deducted from the financial assistance payment and the household is paid the difference.

(7) The amount of the standard financial assistance payment is set by the State Legislature and available at all Department offices.

R986-200-241. Income Eligibility Calculation for a Specified Relative Who Wants to be Included in the Assistance Payment.

(1) The income calculation for a specified relative who wants to be included in the financial assistance payment is as follows:

(a) All earned and unearned countable income is counted, as determined by FEP rules, for the specified relative and his or her spouse, less the following allowable deductions:

(i) one hundred dollars for each employed person in the household. This deduction is only allowed for the specified relative and/or spouse and not anyone else in the household even if working; and

(ii) the child care expenses paid by the specified relative and necessary for employment up to the maximum allowable deduction as set by the Department.

(2) The household size is determined by counting the specified relative, his or her spouse if living in the home, and their dependent children living in the home who are not in the household assistance unit.

(3) If the income less deductions exceeds 100%~~[percent]~~ of the SNB for a household of that size, the specified relative cannot be included in the financial assistance payment. If the income is less than 100%~~[percent]~~ of the SNB, the total household income is divided by the household size calculated under ~~[paragraph (2) above]~~ subsection (2) of this section. This amount is deemed available to the specified relative as countable unearned income. If that amount is less than the maximum financial assistance payment for the household assistance unit size, the specified relative may be included in the financial assistance payment.

R986-200-242. Income Calculation for a Minor Parent Living with His or Her Parent or Stepparent.

(1) All earned and unearned countable income of all parents, including stepparents living in the home, is counted when

determining the eligibility of a minor parent residing in the home of the parent(s).

(2) From that income, the following deductions are allowed:

(a) one hundred dollars from income earned by each parent or stepparent living in the home, and

(b) an amount equal to 100%~~percent~~ of the SNB for a group with the following members:

(i) the parents or stepparents living in the home;

(ii) any other person in the home who is not included in the financial assistance payment of the minor parent and who is a dependent of the parents or stepparents;

(c) amounts paid by the parents or stepparents living in the home to individuals not living at home but who could be claimed as dependents for Federal income tax purposes; and

(d) alimony and child support paid to someone outside the home by the parents or stepparents living in the home.

(3) The resulting amount is counted as unearned income to the minor parent.

(4) If a minor parent lives in a household already receiving financial assistance, the child of the minor parent is included in the larger household assistance unit.

R986-200-243. Counting the Income of Sponsors of Eligible Aliens.

(1) Certain aliens who have been legally admitted into the United States for permanent residence must have a portion of the earned and unearned countable income of their sponsors counted as unearned income in determining eligibility and financial assistance payment amounts for the alien.

(2) The following aliens are not subject to having the income of their sponsor counted:

(a) paroled or admitted into the United States as a refugee or asylee;

(b) granted political asylum;

(c) admitted as a Cuban or Haitian entrant;

(d) other conditional or paroled entrants;

(e) not sponsored or who have sponsors that are organizations or institutions;

(f) sponsored by persons who receive public assistance or SSI;

(g) permanent resident aliens who were admitted as refugees and have been in the United States for eight months or less.

(3) Except as provided in subsection (7) of this section, ~~the~~ income of the sponsor of an alien who applies for financial assistance after April 1, 1983 and who has been legally admitted into the United States for permanent residence must be counted for five years after the entry date into the United States. The entry date is the date the alien was admitted for permanent residence. The time spent, if any, in the United States other than as a permanent resident is not considered as part of the five year period.

(4) The amount of income deemed available for the alien is calculated by:

(a) deducting 20%~~percent~~ from the total earned income of the sponsor and the sponsor's spouse up to a maximum of \$175 per month; then,

(b) adding to that figure all of the monthly unearned countable income of the sponsor and the sponsor's spouse; then the following deductions are allowed:

(i) an amount equal to 100%~~percent~~ of the SNB amount for the number of people living in the sponsor's household who are or

could be claimed as dependents under federal income tax policy; then,

(ii) actual payments made to people not living in the sponsor's household whom the sponsor claims or could claim as dependents under federal income tax policy; then,

(iii) actual payments of alimony and/or child support the sponsor makes to individuals not living in the sponsor's household.

(c) The remaining amount is counted as unearned income against the alien whether or not the income is actually made available to the alien.

(5) Actual payments by the sponsor to aliens will be counted as income only to the extent that the payment amount exceeds the amount of the sponsor's income already determined as countable.

(6) A sponsor can be held liable for an overpayment made to a sponsored alien if the sponsor was responsible for, or signed the documents which contained, the misinformation that resulted in the overpayment. The sponsor is not held liable for an overpayment if the alien fails to give accurate information to the Department or the sponsor is deceased, in prison, or can prove the request for information was incomplete or vague.

(7) In the case where the alien entered the United States after December 19, 1997, the sponsor's income does not count if:

(a) the alien becomes a United States citizen through naturalization;

(b) the alien has worked 40 qualifying quarters as determined by Social Security Administration; or

(c) the alien or the sponsor dies.

R986-200-245. TANF Non-FEP Training (TNT).

(1) TNT is to provide skills and training to parents to help them become suitably employed and self-sufficient.

(2) The client must be unable to ~~obtain suitable employment~~ achieve self-sufficiency without training.

(3) Eligible families must have a dependent child under the age of 18 residing in the home and the total household income must not exceed 200% of the Federal poverty level. If the only dependent child is 18 and expected to graduate from High School before their 19th birthday the family is eligible up through the month of graduation. Income is counted and calculated the same as for WIA as found in rule R986-600.

(4) Assets are not counted when determining eligibility for TNT services.

(5) The client must show need and appropriateness of training.

(6) The client must negotiate an employment plan with the Department and participate to the maximum extent possible.

(7) The Department will not pay for supportive services such as child care, transportation or living expenses under TNT. The Department can pay for books, tools, work clothes and other needs associated with training.

KEY: family employment program

Date of Enactment or Last Substantive Amendment: ~~October 5, 2005~~ 2006

Notice of Continuation: September 14, 2005

Authorizing, and Implemented or Interpreted Law: 35A-3-301 et seq.

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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

Purchasing and General Services

No. 28445 (AMD): R33-1-1. Definitions.
Published: January 15, 2006
Effective: February 21, 2006

No. 28447 (AMD): R33-3. Source Selection and Contract Formation.
Published: January 15, 2006
Effective: February 21, 2006

Commerce

Occupational and Professional Licensing

No. 28310 (AMD): R156-37. Utah Controlled Substances Act Rules.
Published: November 15, 2005
Effective: February 16, 2006

No. 28310 (CPR): R156-37. Utah Controlled Substances Act Rules.
Published: January 15, 2006
Effective: February 16, 2006

No. 28428 (AMD): R156-74. Certified Shorthand Reporters Licensing Act Rules.
Published: January 15, 2006
Effective: February 16, 2006

Community and Culture

Olene Walker Housing Trust Fund

No. 28402 (NEW): R235-1. Olene Walker Housing Loan Fund (OWHLF).
Published: January 1, 2006
Effective: March 1, 2006

Human Services

Aging and Adult Services

No. 28190 (AMD): R510-401. Utah Caregiver Support Program.
Published: September 15, 2005
Effective: February 23, 2006

No. 28190 (CPR): R510-401. Utah Caregiver Support Program (UCSP).
Published: November 15, 2005
Effective: February 23, 2006

Recovery Services

No. 28412 (AMD): R527-35. Non-IV-A Fee Schedule.
Published: January 1, 2006
Effective: February 22, 2006

Natural Resources

Oil, Gas and Mining; Non-Coal

No. 28337 (AMD): R647-1-106. Definitions.
Published: December 1, 2005
Effective: February 23, 2006

No. 28338 (AMD): R647-2. Exploration.
Published: December 1, 2005
Effective: February 23, 2006

No. 28339 (AMD): R647-3. Small Mining Operations.
Published: December 1, 2005
Effective: February 23, 2006

No. 28340 (AMD): R647-4. Large Mining Operations.
Published: December 1, 2005
Effective: February 23, 2006

No. 28341 (AMD): R647-5-101. Formal and Informal Proceeding.
Published: December 1, 2005
Effective: February 23, 2006

Workforce Services

Employment Development

No. 28425 (AMD): R986-300-305. Failure to Comply with an Employment Plan.
Published: January 1, 2006
Effective: March 1, 2006

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 March 1, 2006, the effective dates of which are no later than March 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. 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	

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R986-300-305	Failure to Comply with an Employment Plan	28425	AMD	03/01/2006	2006-1/31
R986-600-604	Adults, Youth, and Dislocated Workers	28400	NSC	01/01/2006	Not Printed
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R994-406-302	Repayment and Collection of Fault Overpayments	28480	NSC	02/22/2006	Not Printed

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ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

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	28402	R235-1	NEW	03/01/2006	2006-1/9
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	28468	R307-801-5	NSC	02/22/2006	Not Printed
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<u>art in public places</u> Community and Economic Development, Community Development, Fine Arts	28361	R207-1	NSC	01/01/2006	Not Printed
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<u>asbestos hazard emergency response</u> Environmental Quality, Air Quality	28468	R307-801-5	NSC	02/22/2006	Not Printed
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	28511	R651-222	5YR	02/13/2006	2006-5/49
	28512	R651-224	5YR	02/13/2006	2006-5/50
<u>boilers</u> Labor Commission, Safety	28515	R616-2	NSC	02/27/2006	Not Printed
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	28447	R33-3	AMD	02/21/2006	2006-2/5
	28438	R33-4	NSC	02/22/2006	Not Printed
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