

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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Kenneth A. Hansen, Director
Nancy L. Lancaster, Editor

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

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

Division of Administrative Rules, Salt Lake City 84114

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SPECIAL NOTICES

Governor's Executive Order 2006-0004: Improving Energy Efficiency

EXECUTIVE ORDER

Improving Energy Efficiency

WHEREAS, the Utah Energy Efficiency Policy is designed to increase energy efficiency in the State of Utah;

WHEREAS, this policy is designed to promote improved energy efficiency in State facilities and encourages collaboration and support of private-sector initiatives;

WHEREAS, the policy sets forth a goal to increase energy efficiency by 20% by 2015;

WHEREAS, peak demand in the State is growing more rapidly than the need for base load electricity;

WHEREAS, the State purchases approximately \$60 million in electricity each year; and

WHEREAS, the State may pay more for electricity use in the summer;

NOW, THEREFORE, I, Jon M. Huntsman, Jr., Governor of the State of Utah,

1. Direct State employees to sign up for and heed PowerForward email alerts and adopt an ethic of energy conservation through simple electricity-saving measures in the workplace and at home. Examples of such measures include:

- * Replacing incandescent light bulbs with compact fluorescent ("CFL") bulbs
- * Setting air conditioning thermostats to a higher temperature setting
- * Using dimmers, motion sensors, or timing devices on appropriate light fixtures
- * Using "energy-saving" settings on all appliances
- * Running dishwashers and laundry equipment only when fully loaded

2. Order State facilities managers to adopt practical conservation practices and procedures. Examples of such measures might include:

- * Adjusting building temperatures
- * Significantly reducing building power usage during non-traditional work hours (as practicable for individual agency function)
- * Replacing incandescent light bulbs with CFL fixtures

3. Request that the Department of Environmental Quality, in conjunction with the electric utilities within the State, continue to provide simple and timely conservation alerts for the citizens and businesses of Utah to help maintain affordable electricity rates and ensure system reliability.

4. Require all cabinet members to submit annual reports to the Department of Environmental Quality regarding actions taken in response to PowerForward alerts, and regarding all efforts to achieve the State's 2015 energy efficiency goals.

5. Direct the Department of Environmental Quality to prepare for the Governor's review a comprehensive annual report regarding the functioning of and responses to PowerForward within each State agency, and regarding each agency's efforts to achieve the State's 2015 energy efficiency goals.

IN WITNESS, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, this 30th day of May 2006.

(State Seal)

Jon M. Huntsman, Jr.
Governor

ATTEST:

Gary R. Herbert
Lieutenant Governor

2006/0004

Governor's Executive Order 2006-0005: Wildland Fire Management

EXECUTIVE ORDER

Wildland Fire Management

WHEREAS, the danger from wildland fires is extremely high throughout the State of Utah;

WHEREAS, numerous wildland fires are burning and continue to burn in various areas statewide and present a serious threat to public safety, property, natural resources and the environment;

WHEREAS, some of the areas are extremely remote and inaccessible and the situation has the potential to greatly worsen if left unattended;

WHEREAS, immediate action is required to suppress the fires and mitigate post-burn flash floods to protect public safety, property, natural resources and the environment; and,

WHEREAS, these conditions do create a disaster emergency within the intent of the Disaster Response and Recovery Act of 1981;

NOW, THEREFORE, I, Jon M. Huntsman, Jr., Governor of the State of Utah, by virtue of the power vested in me by the Constitution and the laws of the State of Utah do hereby order that:

It is found, determined and declared that a "State of Emergency" exists statewide due to the threat to public safety, property, natural resources and the environment for thirty days, effective as of June 10, 2006, requiring aid, assistance and relief available pursuant to the provisions of state statutes, and the State Emergency Operations Plan, which is hereby activated.

IN WITNESS, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, this 10th day of June 2006.

(State Seal)

Jon M. Huntsman, Jr.
Governor

ATTEST:

Gary R. Herbert
Lieutenant Governor

2006/0005

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 June 2, 2006, 12:00 a.m., and June 15, 2006, 11:59 p.m. are included in this, the July 1, 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 July 31, 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 October 29, 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.

Administrative Services, Records
Committee
R35-1
State Records Committee Appeal
Hearing Procedures

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28776

FILED: 06/02/2006, 10:36

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The 2006 Legislative Session expanded the time frames listed in the Government Records Access and Management Act (H.B. 117) and therefore, this rule needs to reflect these changes. (DAR NOTE: H.B. 117 (2006) is found at Chapter 284, Laws of Utah 2006, and was effective 05/01/2006.)

SUMMARY OF THE RULE OR CHANGE: In Subsection R35-1-1(1), the Executive Secretary now has five business days to respond to an appeal and the Decision and Order in Subsection R35-1-3(1) can be distributed within five business days after the hearing.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 63-2-403(4) and 63-2-403(11), and 63-2-502(2)(a)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There is no fiscal impact to the state budget because this rule change extends the time frames for scheduling a hearing and distributing an order.
- ❖ LOCAL GOVERNMENTS: There is no fiscal impact to local government because this rule change extends the time frames for scheduling a hearing and distributing an order.
- ❖ OTHER PERSONS: There is no fiscal impact to other persons because this rule change extends the time frames for scheduling a hearing and distributing an order.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs since this rule change extends the time frames for scheduling a hearing and distributing an order.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change extends the time frames for scheduling a hearing and distributing an order and does not create any fiscal impact on businesses. D'Arcy Dixon Pignanelli, Executive Director

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

ADMINISTRATIVE SERVICES
RECORDS COMMITTEE
ARCHIVES BUILDING

346 S RIO GRANDE
SALT LAKE CITY UT 84101-1106, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Janell Tuttle at the above address, by phone at 801-531-3862, by FAX at 801-531-3867, or by Internet E-mail at jtuttle@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 07/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2006

AUTHORIZED BY: Patricia Smith-Mansfield, Director

R35. Administrative Services, Records Committee.**R35-1. State Records Committee Appeal Hearing Procedures.****R35-1-1. Scheduling Committee Meetings.**

(1) The Executive Secretary shall respond in writing to the notice of appeal within ~~three~~ five business days.

(2) Two weeks prior to the Committee meeting or appeal hearing the Executive Secretary shall send a notice of the meeting to at least one newspaper of general circulation within the geographic jurisdiction.

(3) One week prior to the Committee meeting or appeal hearing the Executive Secretary shall post a notice of the meeting indicating the agenda, date, time and place of the meeting at the building where the meeting is to be held and at the Utah State Archives.

R35-1-3. Issuing the Committee Decision and Order.

(1) The Decision and Order shall be signed by the Committee Chair and distributed by the Executive Secretary within ~~three~~ five business days after the hearing. Copies of the Decision and Order will be distributed to the petitioner, the governmental entity and all other interested parties. The original order shall be maintained by the Executive Secretary. A copy of the order shall be made available for public access at the Utah State Archives website.

KEY: government documents, state records committee, records appeal hearings

Date of Enactment or Last Substantive Amendment: ~~March 14,~~ 2006

Notice of Continuation: July 2, 2004

Authorizing, and Implemented or Interpreted Law: 63-2-502(2)(a)

Commerce, Consumer Protection
R152-1a
Internet Content Provider Ratings
Methods

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 28777

FILED: 06/02/2006, 12:11

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to establish acceptable rating methods to be implemented by a content provider and to test the effectiveness of a service provider's system for blocking material that is harmful to minors.

SUMMARY OF THE RULE OR CHANGE: The rule establishes acceptable rating labels as "XXX", "xxx" or "NFM". In addition, the rule identifies acceptable locations for placing the labels within an Internet website, e-mail or chat-room message.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 76-10-1231(7)(c) and 76-10-1233(2)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** None--Since the rule establishes standards to be implemented by Internet content providers, this rule will impose no fiscal impact to the state budget.
- ❖ **LOCAL GOVERNMENTS:** None--Since the rule establishes standards to be implemented by Internet content providers, this rule will impose no fiscal impact to local government.
- ❖ **OTHER PERSONS:** Although Internet content providers will likely incur additional costs complying with the statute, those additional costs are not a result of the rule. If anything, by establishing standards for the affected industry to follow the rule will assist the industry in complying with the statute.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Internet content provider is required by statute to restrict access to material that is harmful to minors. The rule establishes standards by which the provider will label its materials. As a result, the rule should reduce the costs of a provider in complying with the statute.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There appears to be no fiscal impact to businesses as a result of this rule filing other than those already anticipated by the Utah Legislature in passing the statutes authorizing the Division of Consumer Protection to adopt these rules as to acceptable rating methods. Francine Giani, Executive Director

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

COMMERCE
CONSUMER PROTECTION
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:

Thad LeVar or Kevin V Olsen at the above address, by phone at 801-530-6929 or 801-530-6306, by FAX at 801-530-6446 or 801-530-6001, or by Internet E-mail at tlevar@utah.gov or kvolsen@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 07/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2006

AUTHORIZED BY: Kevin V Olsen, Director

R152. Commerce, Consumer Protection.**R152-1a. Internet Content Provider Ratings Methods****R152-1a-1. Authority and Purpose.**

In accordance with Utah Code Sections 76-10-1231(7)(c) and 76-10-1233(2), these rules (R152-1a) establish acceptable rating methods by which a content provider may restrict access to material harmful to minors.

R152-1a-2. Definitions.

As used in these rules (R152-1a):

- (1) "Content provider" is as defined in Utah Code Section 76-10-1230.
- (2) "Harmful to minors" is as defined in Utah Code Section 76-10-1201.
- (3) "HTML" means Hypertext Markup Language, the authoring language used to create documents on the Internet, which defines the structure and layout of an Internet document.
- (4) "URL" means an Internet address, usually consisting of at least an access protocol and a domain name.
- (5) "Utah content provider" means a content provider described in Utah Code Section 76-10-1233(1).

R152-1a-3. Compliance with Utah Code Section 76-10-1233(1).

A Utah content provider may comply with Utah Code Section 76-10-1233(1) by rating material harmful to minors with a rating label:

- (1) listed in R152-1a-4; and
- (2) placed in a location listed in R152-1a-5.

R152-1a-4. Acceptable Rating Labels.

A Utah content provider may rate material harmful to minors with one of the following labels:

- (1) "XXX" in all capital letters;
- (2) "xxx" in all lower case letters; or
- (3) "-NFM-" which consists of the letters NFM in all capital letters:
 - (a) immediately preceded by a single hyphen, en dash, or em dash; and
 - (b) immediately followed by a single hyphen, en dash, or em dash.

R152-1a-5. Acceptable Rating Locations.

A Utah content provider may rate material harmful to minors by placing a label listed in R152-1a-4 in one of the following locations:

- (1) if the material harmful to minors is contained within an Internet website:
 - (a) within the URL of the website; or

(b) within the first 300 characters of the HTML for the website;

(2) if the material harmful to minors is contained within an email message:

(a) within the first 300 characters of the email message;

(b) in the subject line of the email message;

(c) in the return address of the email message; or

(d) in any of the descriptive headers of the email message; or

(3) if the material harmful to minors is contained within a chat-room message or any other type of instant message:

(a) within the first 300 characters of the chat-room message or instant message; or

(b) within the personal identification of the sender of the chat-room message or instant message.

KEY: Internet ratings, consumer protection

Date of Enactment or Last Substantive Amendment: 2006

Authorizing, and Implemented or Interpreted Law: 76-10-1231(7)(c); 76-10-1233(2)

◆ ————— ◆

Commerce, Occupational and Professional Licensing **R156-22-302c** Qualifications for Licensure - Experience Requirements

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 28807

FILED: 06/15/2006, 13:41

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Professional Engineers and Professional Land Surveyors Board are proposing amendments to the rule to clarify the setting and type of experience that must be completed before an applicant can become licensed. Recent inquiries and applications by potential licensees have shown that the current rule is not sufficiently clear about what is and is not appropriate experience.

SUMMARY OF THE RULE OR CHANGE: The amendments are proposed to clarify experience requirements that must be completed by an applicant for licensure. Common requirements for all three types of licenses granted (professional engineer, professional structural engineer and professional land surveyor) have been moved to Subsection R156-22-302c(1). In addition, some clarifications have been added that are contained in the National Council of Examiners for Engineering and Surveying's (NCEES) model act and also clarifications that have been used in other professions regulated by the Division.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-22-101 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$75 to reprint the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget. The Division's review process for applicants will not change significantly as a result of the proposed amendments and no additional costs or savings is anticipated with respect to the review process.

❖ **LOCAL GOVERNMENTS:** Proposed amendments do not apply to local governments; therefore, no costs or savings are anticipated. Proposed amendments only apply to potential licensees as either a professional engineer, professional structural engineer, or professional land surveyor.

❖ **OTHER PERSONS:** Overall the proposed amendments do not appear to substantially affect costs or savings to applicants for licensure as either a professional engineer, professional structural engineer or professional land surveyor. However, if an applicant's experience is not acceptable under the proposed amendments, it could delay licensure until appropriate experience is obtained.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Overall the proposed amendments do not appear to substantially affect costs or savings to applicants for licensure as either a professional engineer, professional structural engineer or professional land surveyor. However, if an applicant's experience is not acceptable under the proposed amendments, it could delay licensure until appropriate experience is obtained.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing reorganizes and makes other technical clarifications to the experience requirement provisions. No fiscal impact to businesses is anticipated. 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:

Dan S. Jones at the above address, by phone at 801-530-6720, by FAX at 801-530-6511, or by Internet E-mail at dansjones@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 07/31/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/19/2006 at 9:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 402 (428), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2006

AUTHORIZED BY: J. Craig Jackson, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-22. Professional Engineers and Professional Land
Surveyors Licensing Act Rules.**

**R156-22-302c. Qualifications for Licensure - Experience
Requirements.**

(1) General Requirements. These general requirements apply to all applicants under this chapter and are in addition to the specific license requirements in Subsections (2), (3) and (4).

(a) Experience must be progressive on projects that are of increasing quality and requiring greater responsibility.

(b) Only experience of an engineering, structural engineering or surveying nature, as appropriate for the specific license, is acceptable.

(c) Experience is not acceptable if it is obtained in violation of applicable statutes or rules.

(d) Unless otherwise provided in Subsection (1)(e), experience shall be gained under the direct supervision of a person licensed in the profession for which the license application is submitted. Supervision of an intern by another intern is not permitted.

(e) Experience is also acceptable when obtained in a work setting where licensure is not required or is exempted from licensure requirements, including experience obtained in the armed services if:

(i) the experience is performed under the supervision of qualified persons and the applicant provides verifications of the credentials of the supervisor; and

(ii) the experience gained is equivalent to work performed by an intern obtaining experience under a licensed supervisor in a licensed or civilian setting, and the applicant provides verification of the nature of the experience.

(f) Proof of supervision. The supervisor shall provide to the applicant the certificate of qualifying experience in a sealed envelope with the supervisor's seal stamped across the seal flap of the envelope, which the applicant shall submit with the application for licensure.

(g) In the event the supervisor is unavailable or refuses to provide a certification of qualifying experience, the applicant shall submit a complete explanation of why the supervisor is unavailable and submit verification of the experience by alternative means acceptable to the board, which shall demonstrate that the work was profession-related work, competently performed, and sufficient accumulated experience for the applicant to be granted a license without jeopardy to the public health, safety or welfare.

(h) In addition to the supervisor's documentation, the applicant shall submit at least one verification of qualifying experience from a person licensed in the profession who has personal knowledge of the applicant's knowledge, ability and competence to practice in the profession applied for.

(i) Duties and responsibilities of a supervisor. The duties and responsibilities of a licensee under Subsection (1)(d) or other qualified person under Subsection (1)(e) include the following.

(i) A person may not serve as a supervisor for more than one firm.

(ii) A person who renders occasional, part time or consulting services to or for a firm may not serve as a supervisor.

(iii) The supervisor shall be in responsible charge of the projects assigned and is professionally responsible for the acts and practices of the supervisee.

(iv) The supervision shall be conducted in a setting in which the supervisor is independent from control by the supervisee and in which the ability of the supervisor to supervise and direct the practice of the supervisee is not compromised.

(v) The supervisor shall be available for advice, consultation and direction consistent with the standards and ethics of the profession.

(vi) The supervisor shall provide periodic review of the work assigned to the supervisee.

(vii) The supervisor shall monitor the performance of the supervisee for compliance with laws, standards and ethics applicable to the profession.

(viii) The supervisor shall provide supervision only to a supervisee who is an employee of a licensed professional or alternatively in a setting wherein both the supervisor and the supervisee are engaged in a work setting in which the work is exempt from licensure requirements.

(ix) The supervisor shall submit appropriate documentation to the division with respect to all work completed by the supervisee during the period of supervised experience, including the supervisor's evaluation of the supervisee's competence to practice in the profession.

(x) The supervisor shall assure each supervisee has obtained the degree which is a prerequisite to the intern beginning to obtain qualifying experience.

(+12) Experience Requirements - Professional Engineer.

(a) In accordance with Subsection 58-22-302(1)(e), an applicant for licensure as a professional engineer shall complete the following qualifying experience requirements:

(i) Submit verification of qualifying experience, obtained while under the supervision of one or more licensed professional engineers, which experience has been certified by the licensed professional who provided the supervision documenting completion of a minimum of four [~~calendar~~]years of full time or equivalent part time qualifying experience in professional engineering approved by the division in collaboration with the board in accordance with the following:

(A) The qualifying experience must be obtained after meeting the education requirements.

(B) A maximum of three of the four years of qualifying experience may be approved by the board as follows:

(I) A maximum of three years of qualifying experience may be granted for teaching advanced engineering subjects in a college or university offering an engineering curriculum accredited by EAC/ABET.

(II) A maximum of three years of qualifying experience may be granted for conducting research in a college or university offering an engineering curriculum accredited by EAC/ABET provided the research is under the supervision of a licensed professional and is directly related to the practice of engineering, as long as such research has not been credited towards the education requirements. Therefore research which is included as part of the classwork, thesis or dissertation or similar work is not acceptable as additional work experience.

(III) A maximum of one year of qualifying experience may be granted for completion of a masters degree in engineering provided that both the earned bachelors and masters degree in engineering meet the program criteria set forth in Subsection R156-22-302b(1).

(IV) A maximum of two years of qualifying experience may be granted for completion of a doctorate degree in engineering provided that both the earned bachelors or masters degree and doctorate

degree in engineering meet the program criteria set forth in Subsection R156-22-302b(1).]

~~—(ii) The supervisor shall provide to the applicant the certificate of qualifying experience in a sealed envelope with the supervisor's engineer seal stamped across the seal flap of the envelope, which the applicant shall submit with the application for licensure.~~

~~—(iii) In the event the supervisor is unavailable or refuses to provide a certification of qualifying experience, the applicant shall submit a complete explanation of why the supervisor is unavailable and submit verification of the experience by alternative means acceptable to the board which shall demonstrate that the work was engineering related work and was competently performed and the accumulated experience is sufficient for the applicant to be granted a license without jeopardy to the public health, safety or welfare.~~

~~—(iv) The supervisor shall be engaged in a work setting in which the supervisor is independent from control by the supervisee and in which the ability of the supervisor to supervise and direct the practice of the supervisee is not compromised.~~

~~—(v) The applicant shall submit at least one additional verification of the qualifying experience from persons other than the supervisor, which must be from a licensed engineer who has personal knowledge of the applicant's knowledge, ability and competence to practice professional engineering.]~~

(b) The performance or supervision of construction work as a contractor, foreman or superintendent is not qualifying experience for licensure as a professional engineer.

(c) ~~[Full or part time employment, research, or teaching for periods of time less than ten weeks in length will not be considered as qualifying experience.]~~ Experience should include demonstration of, knowledge, application, and practical solutions using engineering mathematics, physical and applied science, properties of materials and the fundamental principles of engineering design.

([2]3) Experience Requirements - Professional Structural Engineer.

(a) In accordance with Subsection 58-22-302(2)(e), each applicant shall submit verification of three years of full time or equivalent part time professional structural engineering experience obtained while under the supervision of one or more licensed professional structural engineers, which experience is certified by the licensed structural engineer supervisor and is in addition to the qualifying experience required for licensure as a professional engineer.

(b) Professional structural engineering experience shall include responsible charge of structural design in one or more of the following areas:

(i) structural design of any building or structure two stories and more, or 45 feet in height, located in a region of moderate or high seismic risk designed in accordance with current codes adopted pursuant to Section 58-56-4;

(ii) structural design for a major seismic retrofit/rehabilitation of an existing building or structure located in a region of moderate or high seismic risk; or

(iii) structural design of any other structure of comparable structural complexity.

(c) Professional structural engineering experience shall include structural design in all of the following areas:

(i) use of three of the following four materials as they relate to the design, rehabilitation or investigation of buildings or structures:

- (A) steel;
- (B) concrete;
- (C) wood; or

(D) masonry;

(ii) selection of framing systems including the consideration of alternatives and the selection of an appropriate system for the interaction of structural components to support vertical and lateral loads;

(iii) selection of foundation systems including the consideration of alternatives and the selection of an appropriate type of foundation system to support the structure;

(iv) design and detailing for the transfer of forces between stories in multi-story buildings or structures;

(v) application of lateral design in the design of the buildings or structures in addition to any wind design requirements; and

(vi) application of the local, state and federal code requirements as they relate to design loads, materials, and detailing. [~~(d) The supervisor shall provide to the applicant the certificate of qualifying experience in a sealed envelope with the supervisor's engineer seal stamped across the seal flap of the envelope, which the applicant shall submit with the application for licensure.~~

~~—(e) In the event the supervisor is unavailable or refuses to provide a certification of qualifying experience, the applicant shall submit a complete explanation of why the supervisor is unavailable and submit verification of the experience by alternative means acceptable to the board which shall demonstrate that the work was engineering related work and was competently performed and the accumulated experience is sufficient for the applicant to be granted a license without jeopardy to the public health, safety or welfare.~~

~~—(f) The supervisor shall be engaged in a work setting in which the supervisor is independent from control by the supervisee and in which the ability of the supervisor to supervise and direct the practice of the supervisee is not compromised~~

~~—(g) The applicant shall submit at least one additional verification of the qualifying experience from persons other than the supervisor, which must be from a licensed professional structural engineer who has personal knowledge of the applicant's knowledge, ability and competence to practice professional structural engineering.]~~

([3]4) Experience Requirements - Professional Land Surveyor.

(a) In accordance with Subsections 58-22-302(3)(d), an applicant for licensure as a professional land surveyor shall complete the following qualifying experience requirements:

(i) Submit verification of qualifying experience obtained under the supervision of one or more licensed professional land surveyors who have provided supervision, which experience is certified by the licensed professional land surveyor supervisor and is in accordance with the following:

(A) Applicants who have met the education requirements in Subsection 58-22-302(3)(d)(i) shall document four years of full time or equivalent part time qualifying experience in land surveying which experience may be obtained before, during or after completing the education requirements for licensure.

(B) Prior to January 1, 2007, applicants who did not complete the education requirements in Subsection 58-22-302(3)(d)(i) shall document eight years of qualifying experience in land surveying.

(b) The four years of qualifying experience required in R156-22-302c(3)(a)(i)(A) and four of the eight years required in R156-22-302c(3)(a)(i)(B) shall comply with the following:

(i) Two years of experience should be specific to field surveying with actual "hands on" surveying, including all of the following:

- (A) operation of various instrumentation;
- (B) review and understanding of plan and plat data;

- (C) public land survey systems;
- (D) calculations;
- (E) traverse;
- (F) staking procedures;
- (G) field notes and manipulation of various forms of data encountered in horizontal and vertical studies; and
- (ii) Two years of experience should be specific to office surveying, including all of the following:
 - (A) drafting (includes computer plots and layout);
 - (B) reduction of notes and field survey data;
 - (C) research of public records;
 - (D) preparation and evaluation of legal descriptions; and
 - (E) preparation of survey related drawings, plats and record of survey maps.
- (c) The remaining qualifying experience required in R156-22-302c(3)(a)(i)(B) shall include any aspects of the practice of land surveying under the supervision of a licensed professional land surveyor in accordance with Subsection 58-22-102(16).[
- ~~—(d) Full or part time employment for periods of time less than ten weeks in length will not be considered as qualifying experience.~~
- ~~—(e) The supervisor shall provide to the applicant the certificate of qualifying experience in a sealed envelope with the supervisor's land surveyor seal stamped across the seal flap of the envelope, which the applicant shall submit with the application for licensure.~~
- ~~—(f) In the event the supervisor is unavailable or refuses to provide a certification of qualifying experience, the applicant shall submit a complete explanation of why the supervisor is unavailable and submit verification of the experience by alternative means acceptable to the board which shall demonstrate that the work was land surveying related work and was competently performed and the accumulated experience is sufficient for the applicant to be granted a license without jeopardy to the public health, safety or welfare.~~
- ~~—(g) The supervisor shall be engaged in a work setting in which the supervisor is independent from control by the supervisee and in which the ability of the supervisor to supervise and direct the practice of the supervisee is not compromised~~
- ~~—(h) The applicant shall submit at least one additional verification of the qualifying experience from persons other than the supervisor, which must be from a licensed professional land surveyor who has personal knowledge of the applicant's knowledge, ability and competence to practice professional land surveying.]~~

KEY: engineers, surveyors, professional land surveyors, professional engineers
Date of Enactment or Last Substantive Amendment: [April 3, 2006
Notice of Continuation: January 13, 2003
Authorizing, and Implemented or Interpreted Law: 58-22-101; 58-1-106(1)(a); 58-1-202(1)(a)



**Commerce, Occupational and
 Professional Licensing
 R156-53-501
 Administrative Penalties - Unlawful
 Conduct**

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE No.: 28781
 FILED: 06/05/2006, 16:14

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and Landscape Architects Board are proposing an amendment to update and add the fine schedule into the rule. The existing fine schedule applicable to licensees and unlicensed persons under Title 58, Chapter 53, is a Division policy.

SUMMARY OF THE RULE OR CHANGE: Section R156-53-501 regarding administrative penalties for unlawful conduct has been added. The fine amounts being added are being increased over the current fine amounts to be consistent with other fine schedules for occupations and professions the Division regulates.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-53-101 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** As a result of the fine schedule amounts being increased over the amount currently in Division policy, the state budget may realize a positive fiscal impact. However, it should be noted that the Division has only issued one - two fines affecting persons who have violated Title 58, Chapter 53, in the past several years. The Division will incur minimal costs of approximately \$50 to reprint the rule once the proposed amendment is made effective. Any costs incurred will be absorbed in the Division's current budget.
- ❖ **LOCAL GOVERNMENTS:** The proposed amendments will not affect local governments; therefore no costs or savings are anticipated. The proposed fine schedule amendment only affects persons who violate the specified sections of Title 58, Chapter 53, as outlined in the fine schedule.
- ❖ **OTHER PERSONS:** The proposed fine schedule amendment will affect persons (both licensed and unlicensed) who violate the specified sections of Title 58, Chapter 53, by doubling the amount of the fines from the current amount. The Division is unable to determine how many fines in the future may be issued to persons violating the specified sections of Title 58, Chapter 53. The proposed fine schedule will also have an impact on fines collected through stipulated or written agreements; but it is expected this impact would be minimal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Division is not able to determine an exact compliance cost to persons affected by the proposed amendment as it would depend on what violation they had committed and if the violation was a first, second, or third offense. However, it is estimated that the average increase in cost per citation issued would be double the existing fine amount.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As authorized by statute, this rule amendment adopts a fee schedule for violations of the law. This fine schedule increases the fine amounts previously

applied by the Division to violators of the Landscape Architects Licensing Act. Historically, there have been few citations in this profession, so the additional fines are expected to be minimal. No other fiscal impact to businesses is anticipated. 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:

Dan S. Jones at the above address, by phone at 801-530-6720, by FAX at 801-530-6511, or by Internet E-mail at dansjones@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 08/08/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 8/07/2006 at 9:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (formerly 4A), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/15/2006

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.

R156-53. Landscape Architects Licensing Act Rules.

R156-53-501. Administrative Penalties - Unlawful Conduct.

In accordance with Sections 58-1-501 and 58-53-501 and Subsection 58-1-501(1)(a) through (d), unless otherwise ordered by the presiding officer, the following fine schedule shall apply.

(1) Engaging in unlicensed practice or using any title that would cause a reasonable person to believe the user of the title is licensed under this chapter.

First Offense: \$800

Second Offense: \$1,600

(2) Engaging in, or representing oneself as engaged in the practice of landscape architecture as a corporation, proprietorship, partnership, or limited liability company unless exempted from licensure.

First Offense: \$800

Second Offense: \$1,600

(3) Impersonating another licensee or engaging in practice under this chapter using a false or assumed name, unless permitted by law.

First Offense: \$1,000

Second Offense: \$2,000

(4) Knowingly employing any person to practice under this chapter who is not licensed to do so.

First Offense: \$1,000

Second Offense: \$2,000

(5) Knowingly permitting any person to use his license except as permitted by law.

First Offense: \$1,000

Second Offense: \$2,000

(6) Citations shall not be issued for third offenses, except in extraordinary circumstances approved by the investigative supervisor. If a citation is issued for a third offense, the fine is double the second offense amount with a maximum amount not to exceed the maximum fine allowed under Subsection 58-53-502(1)(i)(iii).

(7) If multiple offenses are cited on the same citation, the fine shall be determined by evaluating the most serious offense.

(8) An investigative supervisor may authorize a deviation from the fine schedule based upon the aggravating or mitigating circumstances.

(9) In all cases the presiding officer shall have the discretion, after a review of the aggravating and mitigating circumstances, to increase or decrease the fine amount based upon the evidence reviewed.

KEY: landscape architects, licensing

Date of Enactment or Last Substantive Amendment: [~~July 7, 1998~~2006

Notice of Continuation: June 2, 2003

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-53-101

◆ ————— ◆

Commerce, Occupational and
Professional Licensing
R156-63-503
Administrative Penalties

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28779

FILED: 06/05/2006, 14:39

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division found, after further review, three corrections that need to be made in the rule. The amendment with respect to the maximum fine amount that can be charged was originally requested by Hunter Finch from the Governor's Office of Planning and Budget with respect to all of the Division's fine schedules that appear in various rules.

SUMMARY OF THE RULE OR CHANGE: In the fine schedule, two statutory citations have been updated to reflect the correct citation. Subsection 58-53-501(2) has been changed to Subsection 58-63-501(3). In Subsection R156-63-503(2), wording has been added that the maximum amount of a fine is not to exceed the maximum fine allowed under Subsection 58-63-503(3)(h)(iii).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-63-101 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The Division will incur minimal costs of approximately \$50 to reprint the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.
- ❖ LOCAL GOVERNMENTS: The proposed amendments do not apply to local governments; therefore no costs or savings are anticipated. The proposed amendments only affect persons who violate the specified sections of Title 58, Chapter 63, as outlined in the fine schedule.
- ❖ OTHER PERSONS: The Division does not anticipate any costs or savings to affected persons who violate the specified sections of Title 58, Chapter 63, as outlined in the fine schedule as a result of the proposed amendments since the amendments are only correcting two statutory citations and clarifying the maximum amount of a fine that can be charged.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Division does not anticipate any costs or savings to affected persons who violate the specified sections of Title 58, Chapter 63, as outlined in the fine schedule as a result of the proposed amendments since the amendments are only correcting two statutory citations and clarifying the maximum amount of a fine that can be charged.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change contains technical amendments correcting statutory references. In addition, it clarifies that in no circumstances may a fine for a third offense exceed the maximum fine permitted by statute. No fiscal impact to businesses is anticipated as a result of these clarifying amendments. Francine A. Gian, 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:
 Clyde Ormond at the above address, by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at cormond@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2006

AUTHORIZED BY: J. Craig Jackson, Director

**R156. Commerce, Occupational and Professional Licensing.
 R156-63. Security Personnel Licensing Act Rules.
 R156-63-503. Administrative Penalties.**

(1) In accordance with Subsection 58-63-503, the following citation fine schedule shall apply to citations issued under Title 58, Chapter 63:

TABLE FINE SCHEDULE		
FIRST OFFENSE		
Violation	Contract Security Company	Armed or Unarmed Security Officer
58-63-501(1)	\$ 800.00	N/A
58-63-501([2]3)	\$ 800.00	\$ 500.00
SECOND OFFENSE		
58-63-501(1)	\$1,600.00	\$1,000.00
58-63-501([2]3)	\$1,600.00	\$1,000.00

(2) Citations shall not be issued for third offenses, except in extraordinary circumstances approved by the investigative supervisor. If a citation is issued for a third offense, the fine is double the second offense amount, with a maximum amount not to exceed the maximum fine allowed under Subsection 58-63-503(3)(h)(iii).

(3) If multiple offenses are cited on the same citation, the fine shall be determined by evaluating the most serious offense.

(4) An investigative supervisor may authorize a deviation from the fine schedule based upon the aggravating or mitigating circumstances.

(5) The presiding officer for a contested citation shall have the discretion, after a review of the aggravating and mitigating circumstances, to increase or decrease the fine amount imposed by an investigator based upon the evidence reviewed.

KEY: licensing, security guards, private security officers
Date of Enactment or Last Substantive Amendment: [~~January 10, 2006~~2006]
Notice of Continuation: September 1, 2005
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-63-101



Education, Administration
R277-410-4
 Transfer or Acceptance of Credit

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE No.: 28808
 FILED: 06/15/2006, 15:20

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This section is being amended to make the rule consistent with Section R277-705-3 which provides language relating to S.B. 56, 2006 General Session, requiring public schools to accept credit and grades from schools that have been accredited by the Northwest Association of Accredited Schools. (DAR NOTE: S.B. 56 (2006) is found at Chapter 227, Laws of Utah 2006, and was effective 05/01/2006.)

SUMMARY OF THE RULE OR CHANGE: The amendment removes outdated language and adds the reference to Section R277-705-3.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated cost or savings to state budget. Any related or speculative costs would be borne by individuals earning credits from private sources.

❖ LOCAL GOVERNMENTS: There are no anticipated cost or savings to local entities or local school boards. Any related or speculative costs would be borne by individuals earning credits from private sources.

❖ OTHER PERSONS: Any cost or savings to individuals are highly speculative. Individuals may now pay varying amounts to private education providers and expect to receive credit(s) toward graduation from public/charter high schools.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Public schools will comply without additional costs. There are no direct or known costs for individuals.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.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 07/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2006

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.**R277-410. Accreditation of Schools.****R277-410-4. Transfer or Acceptance of Credit.**

A. Utah public schools shall accept transfer credits from accredited secondary schools [~~accredited special purpose schools and the Utah Electronic High School~~] consistent with R277-705-3.

B. Utah public schools [~~shall~~] may accept transfer credits from [~~supplemental education providers, which may or may not be accredited, and~~] other credit sources consistent with R277-705-3.

KEY: accreditation, public schools, nonpublic schools

Date of Enactment or Last Substantive Amendment: [~~March 6,~~] 2006

Notice of Continuation: September 12, 2002

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-402(1)(c); 53A-1-401(3)

Education, Administration

R277-459Teachers' Supplies and Materials
Appropriation**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 28812

FILED: 06/15/2006, 15:21

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to reflect changes in the language appropriating funds for teachers' supplies and materials.

SUMMARY OF THE RULE OR CHANGE: The amendment to conform the rule title with the title of the appropriation expands eligibility to include teachers whose responsibilities include counseling, and also changes the reporting date for districts and others from 10/01/2006 to 11/01/2006.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated cost or savings to state budget. The state appropriation was made by the 2006 Legislature so there are no additional costs, and the rule provides for distribution to school districts/charter schools.

❖ LOCAL GOVERNMENTS: There are no anticipated cost or savings to local boards of education or school districts. The appropriation will be extended--more equitably to educators who both teach and counsel students.

❖ OTHER PERSONS: There are no anticipated cost or savings to other persons, other than the highly uncertain savings to some teachers/counselors who will now receive a designated amount to help them with personal expenses for classroom supplies.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The change to the rule provides for the appropriation for classroom supplies to also be given to those who counsel students.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kathy Akin at the above address, by phone at 801-538-7830, by FAX at 801-538-7768, or by Internet E-mail at kathy.akin@schools.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 07/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2006

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.

R277-459. [~~Teachers~~Classroom Supplies [~~and Materials~~ Appropriation.

R277-459-1. Definitions.

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

B. "Classroom teacher" means a permanent teacher position filled by one or more teachers employed by a school district, the Utah Schools for the Deaf and the Blind, the Edith Bowen Laboratory School, and charter schools and paid on the teachers' salary schedule or a charter school salary schedule. Teachers shall be employed for an entire contract period, ~~and~~ The teacher's primary responsibility shall be to provide instructional or a combination of instructional and counseling services to students in public schools.

C. "Field trip" means a district, or school authorized excursion for educational purposes.

D. "Teaching supplies and materials" means both expendable and nonexpendable items that are used for educational purposes by teachers in classroom activities and may include such items as:

(1) paper, pencils, workbooks, notebooks, supplementary books and resources;

(2) laboratory supplies, e.g. photography materials, chemicals, paints, bulbs (both light and flower), thread, needles, bobbins, wood, glue, sandpaper, nails and automobile parts;

(3) laminating supplies, chart paper, art supplies, and mounting or framing materials;

(4) This definition should be broadly construed in so far as the materials are used by the teacher for instructional purposes in classrooms, lab settings, or in conjunction with field trips.

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

R277-459-3. Distribution of Funds.

A. Each school district, the Utah Schools for the Deaf and the Blind, the Edith Bowen Laboratory School, and charter schools shall provide the USOE with a teacher count of full-time classroom teachers, as defined above, as of ~~October~~ November 1 of each year.

B. The USOE shall distribute funds through each school district, the Utah Schools for the Deaf and the Blind, the Edith Bowen Laboratory School, and charter schools proportionally per eligible position to the extent of the appropriation.

C. Individual teachers shall designate the uses for their allocations within the criteria of this rule. Districts and other eligible schools shall develop procedures and timelines to facilitate the intent of the appropriation.

D. Each school district shall ensure that each eligible individual has the opportunity to receive the proportionate share of the appropriation.

E. If a teacher has not spent or committed to spend the individual allocation by April 1, the school or district may make the excess funds available to other teachers or may reserve the money for use by teachers the following years.

F. These funds are to supplement, not supplant, existing funds for these purposes.

G. These funds are to be accounted for by the district or eligible school using state or district procurement and accounting policies.

KEY: teachers, supplies

Date of Enactment or Last Substantive Amendment: [~~August 1, 2002~~2006

Notice of Continuation: July 6, 2005

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-402(1)(b)



Education, Administration **R277-474** School Instruction and Human Sexuality

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28811

FILED: 06/15/2006, 15:20

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The amendment to this rule deletes Section R277-474-8 and any language referring to that section. Because funding is no longer provided for teenage pregnancy prevention, the section

on fund distribution and reporting is no longer necessary. Other changes make the rule consistent with state law.

SUMMARY OF THE RULE OR CHANGE: The amendment removes Section R277-474-8 of the rule and language is changed to make the rule consistent with state law.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-13-101(1)(c)(ii)(B)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated cost or savings to state budget. When the state withdrew state funding for this specific program, the federal government also withdrew federal matching funds.

❖ LOCAL GOVERNMENTS: There are no anticipated cost or savings to local government. Local boards of education have not received these funds for some years and no longer use or promote teenage pregnancy prevention programs with state or federal money.

❖ OTHER PERSONS: There are no anticipated cost or savings to other persons. Teenage pregnancy prevention programs disappeared with the funding.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Teenage pregnancy prevention programs disappeared with the funding.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.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 07/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 08/08/2006

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.

R277-474. School Instruction and Human Sexuality.

R277-474-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution, Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-13-101(1)(c)(ii)(B) which directs the Board to develop a rule to allow local boards to adopt human sexuality education materials or programs under Board rules [~~Section 53A-17a-121 which directs the Board to distribute pregnancy prevention funds to districts,~~] and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purposes of this rule are:

(1) to provide requirements for the Board, school districts and individual educators consistent with legislative intent and the Board Resolution of March 14, 2000 which addresses instruction about and materials used in discussing human sexuality in the public schools;

(2) to provide a process for local boards to approve human sexuality instructional materials; and[

~~(3) to distribute teenage pregnancy prevention funds to school districts consistent with the law.]~~

R277-474-4. State Board of Education Responsibilities.

The Board shall:

A. develop and provide inservice programs and assistance with training for educators on law and rules specific to human sexuality instruction and related issues.

B. develop and provide a parental notification form and timelines for use by school districts.

C. establish a review process for human sexuality instructional materials and programs using the Instructional Materials Commission and requiring final Board approval of the Instructional Materials Commission's recommendations [~~prior to use of those materials and programs in the public schools~~].

D. approve only medically accurate human sexuality instruction programs.

E. receive and track parent and community complaints and comments received from school districts related to human sexuality instructional materials and programs.

R277-474-5. School District Responsibilities.

A. Annually each school district shall require all newly hired or newly assigned Utah educators with responsibility for any aspect of human sexuality instruction to attend a state-sponsored inservice outlining the human sexuality curriculum and the criteria for human sexuality instruction in any courses offered in the public education system.

B. Each school district shall provide training consistent with R277-474-5A at least once during every three years of employment for Utah educators.

C. Local school boards shall form curriculum materials review committees (committee) at the district or school level as follows:

(1) The committee shall be organized consistent with R277-474-1B.

(2) Each committee shall designate a chair and procedures.

(3) The committee shall review and approve all guest speakers and guest presenters and their respective materials relating to human sexuality instruction in any course prior to their presentations.

(4) The committee shall not authorize the use of any human sexuality instructional program not previously approved by the Board, ~~or~~ approved consistent with R277-474-6, or approved under Section 53A-13-101(1)(c)(ii).

(5) The district superintendent shall report educators who willfully violate the provisions of this rule to the Commission for investigation and possible discipline.

(6) The district shall use the common parental notification form or a form that satisfies all criteria of the law and Board rules, and comply with timelines approved by the Board.

(7) Each district shall develop a logging and tracking system of parental and community complaints and comments resulting from student participation in human sexuality instruction, to include the disposition of the complaints, and provide that information to the USOE upon request.

D. If a student is exempted from course material required by the Board-approved Core Curriculum, the parent shall take responsibility, in cooperation with the teacher and the school, for the student learning the required course material consistent with Sections 53A-13-101.2(1), (2) and (3).

R277-474-7. Utah Educator Responsibilities.

A. Utah educators shall participate in training provided under R277-474-5A.

B. Utah educators shall use the common parental notification form or a form approved by their employing school district, and timelines approved by the Board.

C. Utah educators shall individually record parent and community complaints, comments, and the educators' responses regarding human sexuality instructional programs.

D. Utah educators may respond to spontaneous student questions for the purposes of providing accurate data or correcting inaccurate or misleading information or comments made by students in class regarding human sexuality.

~~R277-474-8. Teenage Pregnancy Prevention Fund Distribution and Reporting Requirements.~~

~~— A. School districts shall complete a written application for pregnancy prevention funding and submit the application to the USOE Health Education Specialist.~~

~~— B. The application shall:~~

~~— (1) include the name of the school district and contact person;~~

~~— (2) describe curriculum and materials selected;~~

~~— (3) describe specifically how the program meets parental involvement criteria under Section 53A-17a-121(3)(b);~~

~~— (4) summarize previous research findings that demonstrate the selected program or program components has been effective at increasing or improving knowledge, attitude, behaviors and behavioral intentions that promote abstinence from sexual activity prior to marriage and fidelity after marriage.~~

~~— (5) include school district or county specific pregnancy data;~~

~~— (6) include a process for review of teaching materials, multi-media materials, textbooks, and curriculum materials to be used in the program for medical accuracy and potential positive impact, by the committee;~~

~~— (7) certify that all selected materials comply with Section 76-7-321 through Section 76-7-325 and Board Adopted Instructional Materials List available from the USOE Instructional Materials~~

~~Specialist, or were approved through a local board adoption process consistent with R277-474-6.~~

~~— C. Funds shall be awarded to school districts as follows:~~

~~— (1) based on submission of a completed application to the USOE;~~

~~— (2) using a formula which takes into account the enrollment of students in grades seven and ten on October 1 of the year previous to the one in which participation is sought who are enrolled in a health education course that teaches a curriculum of teenage pregnancy prevention as compared to the total number of students enrolled in such programs in school districts throughout the state;~~

~~— (3) providing a minimum base of \$10,000 to all school districts that submit completed applications.~~

~~— D. Districts shall prepare and submit a year end report that:~~

~~— (1) details how funds were expended during the program period;~~

~~— (2) identifies any program funds not obligated or expended;~~

~~— (3) includes a request to carry forward any program funds not expended or obligated during the approved program period with a plan for expenditure of remaining program funds for USOE approval;~~

~~— (4) provides for an internal or external evaluation or audit of the program if requested by the USOE.~~

[KEY: schools, sex education~~, pregnancy prevention~~*

Date of Enactment or Last Substantive Amendment: ~~December 5, 2001~~2006

Notice of Continuation: August 15, 2005

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-13-101(1)(c)(ii)(B); 53A-1-401(3)



Education, Administration **R277-609** Standards for School District Discipline Plans

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 28810

FILED: 06/15/2006, 15:20

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to require school districts/charter schools to define, prohibit, and intervene in bullying. This requirement should include policy review, awareness, intervention strategies, and training specific to aggression.

SUMMARY OF THE RULE OR CHANGE: The amendment provides a definition of bullying, updates authority and purpose, provides for bullying language in the District and School Plans section, and removes outdated language.

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There are no anticipated cost or savings to state budget. The amendments do not require the use of any resources at the state level.
- ❖ LOCAL GOVERNMENTS: There may be some costs for school districts to develop, amend, and then implement existing policies. Any costs can be handled within existing budgets.
- ❖ OTHER PERSONS: There are no anticipated cost or savings to other persons. The amendments to the rule require school district implementation--not individuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The amendments to the rule require school district implementation--not individuals.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.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 07/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2006

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.**R277-609. Standards for School District Discipline Plans.****R277-609-1. Definitions.**

~~[B]~~A. "Board" means the Utah State Board of Education.

B. "Bullying" means behavior that:

- ~~(1) is intended to cause harm or distress;~~
- ~~(2) exists in a relationship in which there is an imbalance of power; and~~
- ~~(3) may be repeated over time.~~

~~[A]~~C. "Discipline" means:

- (1) Imposed discipline: Code of conduct prescribed for the highest welfare of the individual and of the society in which the individual lives; and
- (2) Self-Discipline: A personal system of organized behavior designed to promote self-interest while contributing to the welfare of others.

R277-609-2. Authority and Purpose.

A. This rule is authorized ~~[under]~~by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-401(3) which ~~[permits]~~allows the Board to adopt rules in accordance with ~~[the Board's]~~its responsibilities, and Section 53A-1-402(1)(b) which ~~[permits]~~requires the Board to ~~[adopt]~~establish rules concerning discipline and control; ~~Section 53A-11-103(3) which requires the Board to adopt a uniform fee schedule for truancy citations, and 53A-17a-135(4) which directs districts to adopt discipline plans to qualify for state funding].~~

B. The purpose of this rule is to ~~[specify the standards]~~define bullying and outline requirements for school discipline plans and policies which school districts and charter schools [must be met in order] shall meet to qualify for ~~[state education funds]~~funding.

R277-609-3. District and School Plans.

A. Each school district shall develop and implement a ~~[B]~~board approved comprehensive district plan for school discipline. The plan shall include:

(1) goals and objectives, giving special emphasis to the teaching and practice of self-discipline~~[and]~~, citizenship skills, and social skills;

(2) an evaluation process whereby the goals and objectives are assessed annually;

(3) an ongoing staff development program related to student self-discipline~~[and]~~, good citizenship, and social skills;

(4) policies and procedures relating to the use and abuse of alcohol and controlled substances~~[-]~~; and

~~[(5) procedures for issuing truancy citations allowed under Section 53A-11-103 if the district's board of education authorizes truancy citations. The plan shall contain provisions to assure that any fee assessed with a truancy citation is in accordance with the current uniform fee schedule adopted by the Board.]~~(5) policies to define, prohibit, and intervene in bullying, including the requirement of awareness and intervention strategies, including training for social skills, for students and school staff. The policies shall:

(a) provide training specific to overt aggression that may include physical fighting such as punching, shoving, kicking, and verbal threatening behavior, such as name calling, or both physical and verbal aggression or threatening behavior;

(b) provide training specific to relational aggression or indirect, covert, or social aggression, including rumor spreading, intimidation, enlisting a friend to assault a child, and social isolation;

(c) provide training specific to cyber bullying, including use of email, web pages, text messaging, instant messaging, three-way calling or messaging or any other electronic means for aggression inside or outside of school;

(d) provide for student assessment of the prevalence of bullying in schools/school district, specifically locations where students are unsafe and additional adult supervision may be required, such as playgrounds, hallways, and lunch areas;

(e) complement existing safe and drug free school policies and school harassment and hazing policies;

(f) include strategies for providing students and staff, including aides, paraprofessionals, and coaches, with awareness and intervention skills such as social skills training;

(g) include strategies to provide for necessary adult supervision;

(h) be clearly written and consistently enforced;
(g) include parents, community council and other community members in policy development, training and prevention implementation.

B. Each school district and school shall develop written standards for behavior and class and school management, including consequences for appropriate and inappropriate behavior. The standards ~~[are]~~ shall be developed by administration, instruction and support staff, students, parents, and community members in such a manner as to create widespread understanding and a sense of participation, ownership, support, and responsibility.

C. All discipline policies and procedures, including notice to parents and students and student due process, ~~[must]~~ shall be in accordance with the law.

R277-609-4. Intervention.

A continuum of intervention strategies ~~[must]~~ shall be made available to assist students whose behavior in school is repeatedly short of reasonable expectations. Earnest and persistent effort shall be made to resolve individual discipline problems within the least restrictive school setting.

~~[R277-609-5. Truancy Citation Uniform Fee Schedule.~~

~~A. The Board's uniform fee schedule for truancy citations consists of 5 levels. As the number of the level increases, so does the permitted maximum fee assessment. The maximum fee assessment which may be required of a student is calculated by determining the level for that student and the current base value and increment value adopted by the Board. The value of the base and the increment are subject to change by the Board.~~

TABLE

LEVEL	CITATION	MAXIMUM FEE ASSESSMENT PERMITTED
1	First	Warning
2	Second	Base
3	Third	Base + 1 Increment
4	Fourth	Base + 2 Increments
5	Fifth or More	Base + 3 Increments

~~B. The Board shall develop operational and maximum fee assessment guidelines to accompany the uniform fee schedule.~~

[KEY: disciplinary actions~~], truancy]~~

~~[1988]2006~~

Notice of Continuation: August 10, 2004

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-1-402(1)(b); [53A-11-103; 53A-11-103(3); 53A-17a-135(4)]53A-3-602.5



Education, Administration
R277-705-3
District Policy Explaining Credits
Earned and Reciprocity for Credit for
Demonstrated Competency

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE No.: 28809

FILED: 06/15/2006, 15:20

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This section is rewritten as a result of S.B. 56, 2006 General Session, that requires public schools to accept credit and grades from schools that have been accredited by the Northwest Association of Accredited Schools. (DAR NOTE: S.B. 56 (2006) is found at Chapter 227, Laws of Utah 2006, and was effective 05/01/2006.)

SUMMARY OF THE RULE OR CHANGE: The old Section R277-705-3 is deleted and a new Section R277-7053 is provided.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 53A-1-402(1)(b) and (c)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There are no anticipated cost or savings to state budget. Any related or speculative costs would be borne by individuals earning credits from private sources.
- ❖ LOCAL GOVERNMENTS: There are no anticipated cost or savings to local entities or local school boards. Any related or speculative costs would be borne by individuals earning credits from private sources.
- ❖ OTHER PERSONS: Any cost/savings to individuals are are highly speculative. Individuals may now pay varying amounts to private education providers and expect to receive credit(s) toward graduation from public/charter high schools.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Public schools will comply without additional costs. There are no direct or known costs for individuals.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

EDUCATION
 ADMINISTRATION
 250 E 500 S
 SALT LAKE CITY UT 84111-3272, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.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 07/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2006

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.

R277-705. Secondary School Completion and Diplomas.

~~R277-705-3. District Policy Explaining Credits Earned and Reciprocity for Credit for Demonstrated Competency.~~

~~—A. All Utah schools or school districts shall have a written policy explaining the process and standards for acceptance and reciprocity of credits earned by students.~~

~~—(1) Policies need not repeat the requirements of state law or this rule.~~

~~—(2) Policies shall provide a review process at the school or school district level for credit for demonstrated competency.~~

~~—(3) Policies shall provide a review process for credit earned for home schooling. This provision does not require schools/school districts to grant credit for home school courses or programs.~~

~~—B. Units of credit shall be awarded to students and be recorded on student transcripts for satisfaction of district approved courses or subject matter.~~

~~—C. Students may earn credit by any of the following methods, as designated by the school district policy:~~

~~—(1) successful completion, as determined by the school district or school, of secondary school courses;~~

~~—(2) successful completion, as determined by the school district or school, of concurrent enrollment classes consistent with Section 53A-17a-120 and R277-713;~~

~~—(3) demonstrated competency, as determined by the school district or school;~~

~~—(4) assessment, as determined by the school district or school;~~

~~—(5) review of student work or projects consistent with school district or school procedures and criteria; and~~

~~—(6) following successful completion, as determined by the school district or school, of correspondence or electronic coursework offered by accredited education institutions with prior approval by the school district or school to the extent practicable and consistent with other provisions of this rule.~~

~~—D. School districts or schools shall designate by written policy at least four methods or credit earning processes in addition to traditional public school courses by which students of the district may earn credit.~~

~~—E. Schools shall accept credits from accredited secondary schools, accredited special purpose schools and the Utah Electronic High School.~~

~~—F. Schools shall accept credits from supplemental education providers and other credit sources with written approval from the student's principal or designee consistent with R277-705-3D prior to program enrollment.~~

~~—G. Credits earned from supplemental education providers:~~

~~—(1) shall be aligned with state Core Curriculum;~~

~~—(2) shall have course content that matches Core course requirements; and~~

~~—(3) shall have end of course tests that meet or exceed school district assessments.~~

~~—H. Grades from supplemental education providers may be accepted, at the school/school district's discretion, as pass/fail grades.~~

~~—I. Credits accepted consistent with R277-705-3E and F shall be recognized as original credit earned for specific courses, including Core courses. For instance, a tenth grade language arts course taken from an accredited provider, consistent with this rule and school district policy, shall count for tenth grade language arts for high school graduation.~~

~~—J. School districts may not waive credits required for graduation, but may, consistent with this rule and documentation available to the district, grant credit based on demonstrated competency, assessment, or mastery.~~

~~—K. School districts may require documentation of compliance with Section 53A-11-102 prior to reviewing student home school or competency work, testing, or materials.~~

~~—L. A school district or school has the final decision-making authority for the awarding of credit consistent with state law, due process, and this rule.]~~

R277-705-3. Required School District Policy Explaining Student Credit.

A. All Utah school districts or schools and charter schools shall have a policy, approved in an open meeting by the governing board, explaining the process and standards for acceptance and reciprocity of credits earned by students in accordance with Utah state law. Policies shall provide for specific and adequate notice to students and parents of all policy requirements and limitations.

B. School districts and schools shall adhere to the following standards for credits or coursework from schools, supplemental education providers accredited by the Northwest Association of Accredited Schools, and accredited distance learning schools:

—(1) Public schools shall accept credits and grades awarded to students from schools or providers accredited by the Northwest Association of Accredited Schools or approved by the Board without alteration.

—(2) School district or school policies may establish reasonable timelines and may require adequate and timely documentation of authenticity for credits and grades submitted.

C. School district or school policies shall provide various methods for students to earn credit from non-accredited sources, course work or education providers. Methods, as designated by the school district or school may include:

—(1) Satisfaction of coursework by demonstrated competency, as evaluated at the school district or school level;

—(2) Assessment as proctored and determined at the school or school level;

—(3) Review of student work or projects by school or school district administrators; and

—(4) Satisfaction of electronic or correspondence coursework, as approved at the school or school district level.

D. Schools/school districts may require documentation of compliance with Section 53A-11-102 prior to reviewing student home school or competency work, assessment or materials.

E. School/school district policies for participation in extracurricular activities, awards, recognitions, and enhanced diplomas may be determined locally consistent with the law and this rule.

F. A school district or school has the final decision-making authority for the awarding of credit and grades from non-accredited sources consistent with state law, due process, and this rule.

KEY: curricula

Date of Enactment or Last Substantive Amendment: [~~March 6,~~ 2006]

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-402(1)(b); 53A-1-603 through 53A-1-611; 53A-1-401(3)

◆ ————— ◆

Environmental Quality, Air Quality R307-415-4 Applicability

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 28814

FILED: 06/15/2006, 17:09

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the amendment is to update the Utah rule to match changes in the federal rule.

SUMMARY OF THE RULE OR CHANGE: Changes in the text of Section R307-415-4 exclude five area sources of air pollution from the requirements of Rule R307-415. This change is made because on 12/19/2005 notice was published in the Federal Register (70 FR 75319) granting an exemption to certain area sources from Title V Operating Permit Programs (40 CFR Part 70). The exemptions were promulgated in individual Subparts of Part 63. The area sources that were granted exemption are those subject to the following Federal requirements: 1) National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities (40 CFR Part 63, Subpart M); 2) National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks (40 CFR Part 63, Subpart N); 3) Ethylene Oxide Emissions Standards for Sterilization Facilities (40 CFR Part 63, Subpart O); 4) National Emission Standards for Halogenated Solvent Cleaning (40 CFR Part 63, Subpart T); and 5) National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production (40 CFR Part 63, Subpart RRR). Rule R307-415 is the Utah rule implementing 40 CFR Part 70.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-2-109.1 and 19-2-104

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There is no cost to the state budget because all costs for the operating permits program are covered by user fees.

❖ **LOCAL GOVERNMENTS:** Local governments in Utah are not known to operate any facilities affected by this change.

❖ **OTHER PERSONS:** There will be some savings for sources. Previously, some of the sources were required to compile and submit inventories of their emissions to the Division of Air Quality, and they paid a fee based on the amount of their emissions. Now, they are no longer required to submit

inventories or pay fees, and they will not have the expense of applying for, and complying with the conditions of, operating permits.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be some savings for sources. Previously, some of the sources were required to compile and submit inventories of their emissions to the Division of Air Quality, and they paid a fee based on the amount of their emissions. Now, they are no longer required to submit inventories or pay fees, and they will not have the expense of applying for, and complying with the conditions of, operating permits.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Generally, the exempted sources emit small amounts of air pollutants, and their costs for participation in the operating permits program were small. Exempting them from the program removes those costs. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-0085, or by Internet E-mail at janmiller@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 07/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 09/06/2006

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

—————

**R307. Environmental Quality, Air Quality.
R307-415. Permits: Operating Permit Requirements.
R307-415-4. Applicability.**

(1) Part 70 sources. All of the following sources are subject to the permitting requirements of R307-415, and unless exempted under (2) below are required to submit an application for an operating permit:

(a) Any major source;

(b) Any source, including an area source, subject to a standard, limitation, or other requirement under Section 111 of the Act, Standards of Performance for New Stationary Sources;

(c) Any source, including an area source, subject to a standard or other requirement under Section 112 of the Act, Hazardous Air Pollutants, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under Section 112(r) of the Act, Prevention of Accidental Releases;

(d) Any Title IV affected source.

(2) ~~[Source category e] Exemptions. [The following source categories are exempted from the requirement to obtain an operating permit.]~~

(a) All ~~[sources and]~~ source categories that would be required to obtain an operating permit solely because they are subject to 40 CFR Part 60, Subpart AAA - Standards of Performance for New Residential Wood Heaters, are exempted from the requirement to obtain a permit.^[5]

(b) All ~~[sources and]~~ source categories that would be required to obtain an operating permit solely because they are subject to 40 CFR Part 61, Subpart M - National Emission Standard for Hazardous Air Pollutants for Asbestos, Section 61.145, Standard for Demolition and Renovation, are exempted from the requirement to obtain a permit.

For Part 70 sources, demolition and renovation activities within the source under 40 CFR 61.145 shall be treated as a separate source for the purpose of R307-415.

(c) Certain area sources have been exempted from the requirement to obtain an operating permit under a subpart of 40 CFR Part 63. These include:

(i) 40 CFR Part 63, Subpart M, National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities;

(ii) 40 CFR Part 63, Subpart N, National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks;

(iii) 40 CFR Part 63, Subpart O, Ethylene Oxide Emission Standards for Sterilization Facilities;

(iv) 40 CFR Part 63, Subpart T, National Emission Standards for Halogenated Solvent Cleaning;

(v) 40 CFR Part 63, Subpart RRR, National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production.

(3) Emissions units and Part 70 sources.

(a) For major sources, the Executive Secretary shall include in the permit all applicable requirements for all relevant emissions units in the major source.

(b) For any area source subject to the operating permit program under R307-415-4(1) or (2), the Executive Secretary shall include in the permit all applicable requirements applicable to emissions units that cause the source to be subject to the operating permit program.

(4) Fugitive emissions. Fugitive emissions and fugitive dust from a Part 70 source shall be included in the permit application and the operating permit in the same manner as stack emissions, regardless of whether the source category in question is included in the list of source categories contained in the definition of major source.

(5) Control requirements. R307-415 does not establish any new control requirements beyond those established by applicable requirements, but may establish new monitoring, recordkeeping, and reporting requirements.

(6) Synthetic minors. An existing source that wishes to avoid designation as a major Part 70 source under R307-415, must obtain federally-enforceable conditions which reduce the potential to emit, as defined in R307-101-2, to less than the level established for a major Part 70 source. Such federally-enforceable conditions may be obtained by applying for and receiving an approval order under R307-401. The approval order shall contain periodic monitoring, recordkeeping, and reporting requirements sufficient to verify continuing compliance with the conditions which would reduce the source's potential to emit.

KEY: air pollution, environmental protection, operating permit, emission fee

Date of Enactment or Last Substantive Amendment: ~~[August 3, 2004]~~2006

Notice of Continuation: February 9, 2004

Authorizing, and Implemented or Interpreted Law: 19-2-109.1; 19-2-104

◆ ————— ◆

Environmental Quality, Radiation Control R313-19-34 Terms and Conditions of Licenses

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 28802

FILED: 06/15/2006, 09:50

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for this change is to enhance the physical security for portable devices with radioactive materials. The change will also keep Utah's Radiation Control Rules compatible with federal requirements found in 10 CFR 30.

SUMMARY OF THE RULE OR CHANGE: The modification adds a requirement for portable gauge licensees to use a minimum of two independent physical controls that form tangible barriers to secure gauges when they are not under the control and constant surveillance of the licensee.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-3-104 and 19-3-108

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There is one State-owned licensee that will be affected by this modification. Because a licensee has flexibility in selecting the physical controls to be used in securing the portable gauge, the actual cost would depend on the controls selected. The cost per unit could range from \$100 for a metal cable to \$400 for a simple metal tool box, to even a higher cost for a more elaborately designed metal enclosure. In the U.S. Nuclear Regulatory Commission's regulatory analysis, an average of \$200 per unit was used. Because the proposed changes allow each specific licensee flexibility in methods used to attain compliance with the rule, overall costs to affected persons will depend on their business practices and cannot be determined.

❖ **LOCAL GOVERNMENTS:** There are a few local governments presently licensed under Title R313 that may be affected by this modification. Some licensed entities may currently use two independent physical controls, but others may need to

implement additional security measures. The cost per unit could range from \$100 for a metal cable to \$400 for a simple metal tool box, to even a higher cost for a more elaborately designed metal enclosure. In the U.S. Nuclear Regulatory Commission's regulatory analysis, an average of \$200 per unit was used. Because the proposed changes allow each specific licensee flexibility in methods used to attain compliance with the rule, overall costs to affected persons will depend on their business practices and cannot be determined.

❖ OTHER PERSONS: There are approximately 53 other persons presently licensed under Title R313 that may be affected by this modification. Some licensed entities may currently use two independent physical controls, but others may need to implement additional security measures. The cost per unit could range from \$100 for a metal cable to \$400 for a simple metal tool box, to even a higher cost for a more elaborately designed metal enclosure. In the U.S. Nuclear Regulatory Commission's regulatory analysis, an average of \$200 per unit was used. Because the proposed changes allow each specific licensee flexibility in methods used to attain compliance with the rule, overall costs to affected persons will depend on their business practices and cannot be determined.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because a licensee has flexibility in selecting the physical controls to be used in securing the portable gauge, the actual cost would depend on the controls selected. The cost per unit could range from \$100 for a metal cable to \$400 for a simple metal tool box, to even a higher cost for a more elaborately designed metal enclosure. In the U.S. Nuclear Regulatory Commission's regulatory analysis, an average of \$200 per unit was used.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Based on reports from the U.S. Nuclear Regulatory Commission, the nationwide theft of portable gauges continues at a rate of about 50 gauges per year with a recovery rate of about 50%. More than two thirds of the stolen gauges are taken from vehicles parked outdoors. The primary intent of this rulemaking is to increase the control of portable gauges and thereby reduce the opportunity for and the number of unauthorized removals or thefts of portable gauges and, as a result, reduce the potential impact to public health and safety. The fiscal impact on businesses is minimal with regard to potential costs associated with the loss of one portable gauge. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
RADIATION CONTROL
Room 212
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gwyn Galloway at the above address, by phone at 801-536-4258, by FAX at 801-533-4097, or by Internet E-mail at ggalloway@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 07/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 08/11/2006

AUTHORIZED BY: Dane Finerfrock, Director

R313. Environmental Quality, Radiation Control.
R313-19. Requirements of General Applicability to Licensing of Radioactive Material.

R313-19-34. Terms and Conditions of Licenses.

(1) Licenses issued pursuant to Rule R313-19 shall be subject to provisions of the Act, now or hereafter in effect, and to all rules, and orders of the Executive Secretary.

(2) Licenses issued or granted under Rules R313-21 and R313-22 and rights to possess or utilize radioactive material granted by a license issued pursuant to Rules R313-21 and R313-22 shall not be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of a license to a person unless the Executive Secretary shall, after securing full information find that the transfer is in accordance with the provisions of the Act now or hereafter in effect, and to all rules, and orders of the Executive Secretary, and shall give his consent in writing.

(3) Persons licensed by the Executive Secretary pursuant to Rules R313-21 and R313-22 shall confine use and possession of the material licensed to the locations and purposes authorized in the license.

(4) Licensees shall notify the Executive Secretary in writing and request termination of the license when the licensee decides to terminate activities involving materials authorized under the license.

(5) Licensees shall notify the Executive Secretary in writing immediately following the filing of a voluntary or involuntary petition for bankruptcy under any Chapter of Title 11, Bankruptcy, of the United States Code by or against:

(a) the licensee;

(b) an entity, as that term is defined in 11 U.S.C.101(14), controlling the licensee or listing the license or licensee as property of the estate; or

(c) an affiliate, as that term is defined in 11 U.S.C.101(2), of the licensee.

(6) The notification specified in Subsection R313-19-34(5) shall indicate:

(a) the bankruptcy court in which the petition for bankruptcy was filed; and

(b) the date of the filing of the petition.

(7) Licensees required to submit emergency plans pursuant to Subsection R313-22-32(8) shall follow the emergency plan approved by the Executive Secretary. The licensee may change the approved plan without the Executive Secretary's approval only if the changes do not decrease the effectiveness of the plan. The licensee shall furnish the change to the Executive Secretary and to affected off-site response organizations within six months after the change is made. Proposed changes that decrease, or potentially decrease, the effectiveness of the approved emergency plan may not be implemented without prior application to and prior approval by the Executive Secretary.

(8) Each licensee preparing technetium-99m radiopharmaceuticals from molybdenum-99/technetium-99m generators shall test the generator eluates for molybdenum-99 breakthrough in accordance with Rule R313-32 (incorporating 10 CFR

35.204 by reference). The licensee shall record the results of each test and retain each record for three years after the record is made.

(9) Each portable gauge licensee shall use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges are not under the control and constant surveillance of the licensee.

KEY: license, reciprocity, transportation, exemptions

Date of Enactment or Last Substantive Amendment: ~~May 13, 2005~~2006

Notice of Continuation: October 10, 2001

Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-3-108

◆ ————— ◆

Health, Health Systems Improvement, Emergency Medical Services

R426-100

Emergency Medical Services Do Not Resuscitate

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 28813

FILED: 06/15/2006, 16:27

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment provides for the use of medic alert type-bracelet in addition to the Department of Health-issued bracelet for use with an Emergency Medical Services (EMS) "Do Not Resuscitate" declaration.

SUMMARY OF THE RULE OR CHANGE: The rule change clarifies and adds language to allow the use of metal medic alert type-bracelets and necklaces. This will allow patients who choose to declare a "Do Not Resuscitate" order, the option of wearing a metal bracelet or necklace, rather than the plastic hospital type bracelet provided and currently required by the Department of Health, Bureau of EMS.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 8a; and Section 75-2-1105

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There is no anticipated cost or savings to state budget because this option is entirely voluntary to the individual.

❖ **LOCAL GOVERNMENTS:** There is no anticipated cost or saving to local government because this option is entirely voluntary to the individual.

❖ **OTHER PERSONS:** Assuming that 10 individuals annually opt to use the alternative bracelets, the cost will be approximately \$300 annually.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Each person who chooses to participate in this option will pay approximately \$30

for the alternate bracelet. However, participation is completely voluntary.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will improve use of medical alert bracelets and should have no negative fiscal impact on regulated businesses. A. Richard Melton, Acting Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Don Wood at the above address, by phone at 801-538-6287, by FAX at 801-538-6808, or by Internet E-mail at donwood@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2006

AUTHORIZED BY: Richard Melton, Deputy Director

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

R426-100. Emergency Medical Services Do Not Resuscitate.

R426-100-2. EMS/DNR Forms, Directives, ~~and~~ Bracelets, and Necklaces.

(1) Only the Utah Department of Health may create EMS/DNR forms. Each EMS/DNR form must have a state of Utah watermark and a unique identifying number provided by the Department.

(2) The Department shall distribute the EMS/DNR directive forms to any licensed physician as requested.

(3) An EMS/DNR directive is valid only if made on an EMS/DNR form upon which a physician licensed to practice medicine under Part 1 of Chapter 12, Title 58, the Utah Osteopathic Medicine Licensing Act, or under Part 5, of Chapter 12, Title 58, the Utah Medical Practice Act, also makes a determination certifying that the declarant is in a terminal condition.

(4) ~~Only the Department may create an~~ An EMS/DNR bracelet or necklace ~~which~~ may be issued only to individuals whose physician has determined that the declarant is in a terminal condition and who submits an EMS/DNR directive to the Department. ~~The bracelet shall clearly display the declarant's name, the name of the proxy if the EMS/DNR directive was made by a proxy, attending physician's name and telephone number, and the unique identifying number from the EMS/DNR form.~~

(5) An EMS/DNR bracelet or necklace may only be issued by either the Department or by an entity approved by the Department.

(6) For EMS/DNR bracelets or necklaces issued by a Department-approved entity:

(a) the entity may issue bracelets or necklaces for which the Department has approved the design and construction quality;

(b) the entity may issue an EMS/DNR bracelet or necklace only after verifying with the Department that the individual has submitted a valid EMS/DNR directive to the Department;

(c) the bracelet or necklace shall clearly display:

(i) the words "UTAH EMS - DO NOT RESUSCITATE"; and

(ii) the declarant's EMS/DNR number, or a unique identifying number that the entity links to the declarant's EMS/DNR number;

(7) A Department-approved entity must:

(a) keep a hard copy or an electronically scanned image of each EMS/DNR directive for which it has issued a bracelet or necklace;

(b) be continuously available by toll-free telephone service 24-hours every day, including weekends and holidays that is staffed by an EMT or other licensed health care individual knowledgeable in providing medical care;

(c) immediately send a copy of the EMS/DNR directive to an EMS provider in the field upon request, either by facsimile or in a readily readable electronic format, as requested by the EMS provider; and

(d) verify that the bracelet or necklace matches an EMS/DNR order on file with the entity.

R426-100-3. Issuance of an EMS/DNR Directive, or Bracelet, or Necklace.

(1) If the prospective declarant or proxy desires to make an EMS/DNR directive, the physician who makes the determination that the declarant is in a terminal condition must:

(a) explain to the prospective declarant or proxy, and his family, the significance of making an EMS/DNR directive;

(b) complete the information requested on the EMS/DNR form;

(c) sign and date the EMS/DNR form certifying that the declarant is in a terminal condition;

(d) give the original of the directive with the watermark to the declarant or the proxy; and

(e) fill out and give to the declarant or proxy the authorized EMS/DNR bracelet to be placed on the declarant.

(2) The physician or designee, who places the bracelet, must explain to the declarant or proxy how and by whom the EMS/DNR directive may be revoked.

(3) The physician or designee, shall confirm with the Department the execution of the EMS/DNR directive and placement of the EMS/DNR and bracelet or necklace by submitting a duplicate original of the EMS/DNR directive to the Department.

(4) The EMS/DNR directive is effective immediately upon the physician's signing the EMS/DNR directive. The EMS/DNR directive is the property of the declarant and shall be kept with the declarant's medical record, but is not part of the medical record.

(a) To be honored by EMS personnel, the EMS/DNR directive must be placed in an unobstructed view above the declarant on the wall or in close proximity to the head of the bed or the declarant must be wearing the EMS/DNR bracelet, except in health care facilities licensed pursuant to Title 26, Chapter 21.

(b) To be honored by EMS personnel who are called to render service in health care facilities licensed pursuant to Title 26, Chapter 21, the EMS/DNR directive must be displayed in the declarant's medical record or the declarant must be wearing an EMS/DNR

bracelet. Health care facility personnel must present the medical record to responding EMS personnel upon their arrival. Health care facilities shall document for Department review that appropriate health care facility staff have been informed of the declarant's EMS/DNR directive sufficient to notify EMS personnel of the existence of the EMS/DNR directive.

(5) If the EMS/DNR directive is not complete or does not appear to conform to statutory and regulatory requirements, the Department shall notify the physician and explain the defect or defects and shall notify the declarant or proxy and EMS agencies likely to respond to the declarant.

R426-100-6. Transferable Physician Order for Life Sustaining Treatment.

(1) EMS personnel shall honor a patient's desires for life-sustaining treatment as expressed through the treating physician's ~~[standing]~~written orders. EMS personnel shall comply with treating physician orders for life-sustaining treatment as expressed on Transferable Physician Order for Life-sustaining Treatment Forms, including a physician order not to resuscitate a patient that does not meet the formalities on the EMS/DNR form established in this rule. A patient shall always be provided respect, comfort, and hygienic care.

(2) A health care facility may present a completed Transferable Physician Order for Life-sustaining Treatment Form in lieu of an EMS/DNR directive or bracelet.

KEY: emergency medical services, do not resuscitate

Date of Enactment or Last Substantive Amendment: ~~March 14, 2003~~2006

Notice of Continuation: October 1, 2004

Authorizing, and Implemented or Interpreted Law: 75-2-1105.5



Insurance, Administration **R590-230** Senior Protection in Annuity Transactions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28799

FILED: 06/13/2006, 08:14

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to broaden the protections offered in the rule beyond senior consumers only, as requested by the life insurance industry.

SUMMARY OF THE RULE OR CHANGE: The definition of "Senior consumer" is eliminated from the rule as well as all references to seniors. The "Enforcement Date" is being changed to "45 days from the rule's effective date."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201 and 31A-22-425

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The changes to this rule will have no fiscal impact on the department. The rule will not require form or rate filings to be made to the department and so will not require the hiring of additional employees nor will it affect revenues to the department and the general fund.

❖ LOCAL GOVERNMENTS: This rule will have no effect on local governments since it only relates to insurance companies selling annuities and the regulations of the Utah Insurance Department.

❖ OTHER PERSONS: Life insurance companies have already established suitability requirements in their forms in accordance with the current version of the rule, and so any additional expense will be just to establish that program to all. This may mean the printing of more forms. These forms will not have to be filed with the department. The fiscal impact will only come from the printing of additional forms, which will be a minimal cost and will probably not be passed onto the consumer.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Life insurance companies have already established suitability requirements in their forms in accordance with the current version of the rule, and so any additional expense will be just to establish that program to all. This may mean the printing of more forms. These forms will not have to be filed with the department. The fiscal impact will only come from the printing of additional forms, which will be a minimal cost and will probably not be passed onto the consumer.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have minimal, if any fiscal impact on businesses in Utah. The benefits far outweigh any costs to the consumer who receives protections under the rule. D. Kent Michie, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2006

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.**R590-230. [Senior Protection] Suitability in Annuity Transactions.****R590-230-2. Purpose.**

(1) The purpose of this rule is to set forth standards and procedures for recommendations to [senior]consumers that result in a transaction involving annuity products so that the insurance needs and financial objectives of [senior]consumers at the time of the transaction are appropriately addressed.

(2) Nothing herein shall be construed to create or imply a private cause of action for a violation of this rule.

R590-230-3. Scope.

(1) This rule shall apply to any recommendation to purchase or exchange an annuity made to a [senior]consumer by an insurance producer, or an insurer where no producer is involved, that results in the recommended purchase or exchange.

(2) Unless otherwise specifically included, this rule shall not apply to recommendations involving:

(a) direct response solicitations where there is no recommendation based on information collected from the [senior]consumer pursuant to this rule; and

(b) contracts used to fund:

(i) an employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);

(ii) a plan described by Internal Revenue Code (IRC) Sections 401(a), 401(k), 403(b), 408(k) or 408(p), as amended, if established or maintained by an employer;

(iii) a government or church plan defined in IRC Section 414, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under IRC Section 457;

(iv) a nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

(v) settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

(vi) formal prepaid funeral contracts.

R590-230-4. Definitions.

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

(1) "Annuity" means:

(a) an annuity as defined in Section 31A-1-301; and

(b) a fixed annuity or variable annuity that is individually solicited, whether the product is classified as an individual or group annuity.

(2) "Recommendation" means advice provided by an insurance producer, or an insurer where no producer is involved, to an individual [senior]consumer that results in a purchase or exchange of an annuity in accordance with that advice.

(3) "Senior consumer" means a person 65 years of age or older. In the event of a joint purchase by more than one party, the purchaser will be considered to be a senior consumer if any of the parties is age 65 or older.

R590-230-5. Duties of Insurers and of Insurance Producers.

(1) In recommending to a [senior]consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the insurance producer, or the insurer where no producer is involved, shall have reasonable grounds for believing that the recommendation is suitable for the [senior]consumer on the basis of the facts disclosed by the [senior]

]consumer as to his or her investments and other insurance products and as to his or her financial situation and needs.

(2) Prior to the execution of a purchase or exchange of an annuity resulting from a recommendation, an insurance producer, or an insurer where no producer is involved, shall make reasonable efforts to obtain information concerning:

- (a) the [senior]-consumer's financial status;
- (b) the [senior]-consumer's tax status;
- (c) the [senior]-consumer's investment objectives; and
- (d) such other information used or considered to be reasonable by the insurance producer, or the insurer where no producer is involved, in making recommendations to the [senior]-consumer.

(3)(a) Except as provided under Subsection (3)(b), neither an insurance producer, nor an insurer where no producer is involved, shall have any obligation to a [senior]-consumer under Subsection (1) related to any recommendation if a consumer:

- (i) refuses to provide relevant information requested by the insurer or insurance producer;
- (ii) decides to enter into an insurance transaction that is not based on a recommendation of the insurer or insurance producer; or
- (iii) fails to provide complete or accurate information.

(b) An insurer or insurance producer's recommendation subject to Subsection (3)(a) shall be reasonable under all the circumstances actually known to the insurer or insurance producer at the time of the recommendation.

(4)(a) An insurer either shall assure that a system to supervise recommendations that is reasonably designed to achieve compliance with this rule is established and maintained by complying with Subsections (4)(c) to (4)(e) or shall establish and maintain such a system, including:

- (i) maintaining written procedures; and
- (ii) conducting periodic reviews of its records that are reasonably designed to assist in detecting and preventing violations of this rule.

(b) A general agent and independent agency either shall adopt a system established by an insurer to supervise recommendations of its insurance producers that is reasonably designed to achieve compliance with this rule, or shall establish and maintain such a system, including:

- (i) maintaining written procedures; and
- (ii) conducting periodic reviews of records that are reasonably designed to assist in detecting and preventing violations of this rule.

(c) An insurer may contract with a third party, including a general agent or independent agency, to establish and maintain a system of supervision as required by Subsection (4)(a) with respect to insurance producers under contract with or employed by the third party.

(d) An insurer shall make reasonable inquiry to assure that the third party contracting under Subsection (4)(c) is performing the functions required under Subsection (4)(a) and shall take such action as is reasonable under the circumstances to enforce the contractual obligation to perform the functions. An insurer may comply with its obligation to make reasonable inquiry by doing all of the following:

- (i) the insurer annually obtains from a third party's senior manager, who has responsibility for the delegated functions, a certification that the manager has a reasonable basis to represent, and does represent, that the third party is performing the required functions; and
- (ii) the insurer, based on reasonable selection criteria, periodically selects third parties contracting under Subsection (4)(c) for a review to determine whether the third parties are performing the required functions. The insurer shall perform those procedures to conduct the review that are reasonable under the circumstances.

(e) An insurer that contracts with a third party pursuant to Subsection (4)(c) and that complies with the requirements to supervise in Subsection (4)(d) of this subsection shall have fulfilled its responsibilities under Subsection (4)(a).

(f) An insurer, general agent or independent agency is not required by Subsection (4)(a) or (4)(b) to:

- (i) review, or provide for review of all insurance producer solicited transactions; or
- (ii) include in its system of supervision an insurance producer's recommendations to [senior]-consumers of products other than the annuities offered by the insurer, general agent or independent agency.

(g) A general agent or independent agency contracting with an insurer pursuant to Subsection (4)(c), shall promptly, when requested by the insurer pursuant to Subsection (4)(d), give a certification as described in Subsection (4)(d) or give a clear statement that the third party is unable to meet the certification criteria.

(h) No person may provide a certification under Subsection (4)(d)(i) unless:

- (i) the person is a senior manager with responsibility for the delegated functions; and
- (ii) the person has a reasonable basis for making the certification.

(5) Compliance with the National Association of Securities Dealers (NASD) Conduct Rules pertaining to suitability shall satisfy the requirements under this section for the recommendation of variable annuities. However, nothing in this subsection shall limit the commissioner's ability to enforce the provisions of this rule.

R590-230-6. Mitigation of Responsibility.

(1) The commissioner may order:

(a) an insurer to take reasonably appropriate corrective action for any [senior]-consumer harmed by the insurer's, or by its insurance producer's, violation of this rule;

(b) an insurance producer to take reasonably appropriate corrective action for any [senior]-consumer harmed by the insurance producer's violation of this rule; and

(c) a general agency or independent agency that employs or contracts with an insurance producer to sell, or solicit the sale, of annuities to [senior]-consumers, to take reasonably appropriate corrective action for any [senior]-consumer harmed by the insurance producer's violation of this rule.

(2) Any applicable penalty under 31A-2-308 for a violation of Subsection R590-230-5.(1), (2), or (3)(b) may be reduced or eliminated if corrective action for the [senior]-consumer was taken promptly after a violation was discovered.

R590-230-7. Records.

Insurers, general agents, independent agencies and insurance producers shall maintain or be able to make available to the commissioner records of the information collected from the [senior]-consumer and other information used in making the recommendations that were the basis for insurance transactions for the current calendar year plus three years after the insurance transaction is completed by the insurer. An insurer is permitted, but shall not be required, to maintain documentation on behalf of an insurance producer.

R590-230-8. Enforcement Date.

The commissioner will begin enforcing the provisions of this rule [October 1, 2004] 45 days from the rule's effective date.

KEY: insurance, ~~senior protection, annuities~~ annuity suitability
Date of Enactment or Last Substantive Amendment: ~~June 3, 2004~~ 2006
Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-22-425

◆ ————— ◆

Insurance, Administration R590-237

Access to Health Care Providers in Rural Counties

NOTICE OF PROPOSED RULE

(New Rule)
 DAR FILE NO.: 28800
 FILED: 06/14/2006, 16:05

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: S.B. 29 passed by the 2004 Utah Legislature, requires this rule to be written. The purpose of this rule is to identify the counties with a population density of less than 100 people per square mile. It identifies the independent hospitals and the federally-qualified health centers in Utah. It describes how a health maintenance organization shall notify subscribers of these facilities. (DAR NOTE: S.B. 29 (2004) is found at Chapter 229, Laws of Utah 2004, and was effective 05/03/2004.)

SUMMARY OF THE RULE OR CHANGE: This rule identifies the counties with a population density of less than 100 people per square mile. It identifies the independent hospitals and the federally-qualified health centers in Utah. It describes how a health maintenance organization shall notify subscribers of these facilities.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201 and 31A-8-501

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** This rule will require no change in the filings made to the department nor its revenues or the revenues of the state. The rule is simply to list counties with a certain population density and the medical facilities in those counties that insurance subscribers of health maintenance organizations can use.
- ❖ **LOCAL GOVERNMENTS:** This rule will have no effect on local governments since it only deals with the relationship between the department and its licensees.
- ❖ **OTHER PERSONS:** The rule clarifies which hospitals and medical facilities fall under Section 31A-8-501 relating to rural health coverage. This will be information health insurers will be required to provide their insureds. This rule will have no fiscal impact on the insurer. Consumers of insurers may save a little time and money knowing which facilities are available to them under the new law.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The rule clarifies which hospitals and medical facilities fall under Section 31A-8-

501 relating to rural health coverage. This will be information health insurers will be required to provide their insureds. This rule will have no fiscal impact on the insurer. Consumers of insurers may save a little time and money knowing which facilities are available to them under the new law.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/18/2006 at 9:00 AM, State Office Building (behind the Capitol), Room 5112, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2006

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance Administration.

R590-237. Access to Health Care Providers in Rural Counties.

R590-237-1. Authority.

This rule is promulgated pursuant to Subsections 31A-2-201(2), 31A-2-201(3)(a), and 31A-8-501(7)(c) wherein the commissioner is empowered to administer and enforce Title 31A and make administrative rules to implement Section 31A-8-501.

R590-237-2. Purpose.

The purpose of this rule is to

(1) identify the counties with a population density of less than 100 people per square mile;

(2) identify independent hospitals;

(3) identify federally qualified health centers in Utah; and

(4) describe how a health maintenance organization (HMO) shall:

(a) use the information identifying the counties, independent hospitals and federally qualified health centers described in (1), (2), and (3) above; and

(b) notify the subscribers, independent hospitals and federally qualified health centers; and

(c) ensure an HMO provides the notice required by Subsection 31A-8-501(7)(d)(ii).

R590-237-3. Applicability and Scope.

This rule applies to all licensed health maintenance organizations as defined in Subsection 31A-8-101(8).

R590-237-4. Definitions.

In addition to the definitions in Sections 31A-1-301 and 31A-8-101, the following definitions apply to this rule:

(1) "Board of Directors," for the purpose of this rule, means the local board of directors for the independent hospital that is directly responsible for the daily policy and financial decisions. board of directors does not include a corporate board of directors for the entity that owns the independent hospital.

(2) "Credentialed staff member" means a health care provider with active staff privileges at an independent hospital or a federally qualified health center. A credentialed staff member is not required to be an employee of the independent hospital or federally qualified health center.

(3) "Federally Qualified Health Center," as defined in the Social Security Act 42 U.S.C., Sec. 1395x, means an entity which:

(a)(i) is receiving a grant under Section 330, other than Subsection (h) of the Public Health Service Act 42 U.S.C. 254b; or

(ii)(A) is receiving funding from a grant under a contract with the recipient of such a grant; and

(B) meets the requirements to receive a grant under Section 330, other than Subsection (h) of the Public Health Service Act 42 U.S.C. 254b;

(b) based on the recommendation of the Health Resources and Services Administration within the Public Health Service is determined by the Secretary of Health and Human Services to meet the requirements for receiving such a grant;

(c) was treated by the Secretary of Health and Human Services as a comprehensive Federally funded health center as of January 1, 1990; or

(d) is an outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act, 25 U.S.C. 450f, or by an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act, 25 U.S.C. 1651.

(4) "Local practice location" means the provider's office where services are rendered which is:

(a) permanently located within a county with a population density of less than 100 people per square mile; and

(b) is within 30 miles of paved roads of:

(i) the place where the enrollee lives or resides; or

(ii) the location of the independent hospital or federally qualified health center at which the enrollee may receive covered benefits pursuant to Subsection 31A-8-501(2) or (3).

(5) "Policy and financial decisions" means the day-to-day decisions made by the local Board of directors with regard to hospital policy and financial solvency.

(6) "Provider" means any person who:

(a) furnishes health care directly to the enrollee; and

(b) is licensed or otherwise authorized to furnish the health care in this state.

(7) "Referral" means:

(a) the request by a health care provider for an item, service, test, or procedure to be performed by another health care provider;

(b) the request by a physician for a consultation with another physician; or

(c) the request or establishment of a plan of care by a physician.

(8) "Rural County" means a county as described in Subsection 31A-8-501(2)(b).

R590-237-5. Rural Counties.

(1) For the purposes of Subsection 31A-8-501(2)(b), rural counties where independent hospitals built prior to December 31, 2000 include all Utah counties except Davis, Salt Lake, Utah and Weber.

(2) For the purposes of Subsection 31A-8-501(2)(b), rural counties where independent hospitals built after December 31, 2000 include all Utah counties except Cache, Davis, Salt Lake, Utah, Washington and Weber.

(3) For purposes of Subsection 31A-8-501(5)(b)(i), non-contracting provider referrals to non-contracting providers are allowed in all counties except: Cache, Davis, Salt Lake, Utah, Washington, and Weber counties.

R590-237-6. Independent Hospitals.

The following are the independent hospitals that fall under Section 31A-8-501:

(1) Allen Memorial Hospital, Moab, Grand County, Utah

(2) Ashley Valley Medical Center, Vernal, Uintah County, Utah

(3) Beaver Valley Hospital, Beaver, Beaver County, Utah

(4) Brigham City Community Hospital, Brigham City, Box Elder County, Utah

(5) Cache Specialty Hospital, Logan, Cache County, Utah (Subject to the provisions of Subsection 31A-8-501(2)).

(6) Central Valley Medical Center, Nephi, Utah

(7) Garfield Memorial Hospital, Panguitch, Utah

(8) Gunnison Valley Hospital, Gunnison, Sanpete County, Utah

(9) Kane County Hospital, Kanab, Kane County, Utah

(10) Milford Valley Memorial Hospital, Milford, Beaver County, Utah

(11) Mountain West Medical Center, Tooele, Tooele County, Utah

(12) San Juan Hospital, Monticello, San Juan County, Utah

(13) Uintah Basin Medical Center, Roosevelt, Duchesne County, Utah

R590-237-7. Federally Qualified Health Centers.

The following are the federally qualified health centers that fall under Section 31A-8-501:

(1) Beaver Medical Clinic, Beaver, Beaver County, Utah

(2) Blanding Family Practice/Blanding Medical Center, Blanding, Utah

(3) Bryce Valley Clinic, Cannonville, Utah

(4) Carbon Medical Services, Carbon, Carbon County, Utah

(5) Circleview Clinic, Circleview, Piute County, Utah

(6) Duchesne Valley Medical Clinic, Duchesne, Duchesne County, Utah

(7) Emery Medical Center, Castledale, Emery County, Utah

(8) Enterprise Valley Medical Clinic, Enterprise, Washington County, Utah

(9) Garfield Memorial Clinic, Panguitch, Garfield County, Utah

- (10) Green Valley/River Clinic, Green River, Emery/Grand Counties, Utah
- (11) Halchita Clinic, San Juan County, Utah
- (12) Hurricane Family Practice Clinic, Hurricane, Washington County, Utah
- (13) Kamas Health Center, Kamas, Summit County, Utah
- (14) Kazan Memorial Clinic, Escalante, Garfield County, Utah
- (15) Long Valley Medical, Kane County, Utah
- (16) Milford Valley Clinic, Milford, Beaver County, Utah
- (17) Montezuma Creek Health Center, Montezuma Creek, San Juan County, Utah
- (18) Monument Valley Health Center, Monument Valley, Utah
- (19) Navajo Mountain Health Center, San Juan County, Utah
- (20) Wayne County Medical Clinic, Bicknell, Wayne County, Utah

R590-237-8. Rural Health Notification.

(1) An HMO shall provide its subscribers with the notice required by Subsection 31A-8-501(7)(d)(ii) no later than the time of enrollment or the time the group or individual contract and evidence of coverage are issued and upon request thereafter. This information must be included and easily accessible on the HMO's website. When rural counties, independent hospitals, or federally qualified health centers change, the HMO shall provide an updated notice to its affected subscribers within 30 days.

(2) An HMO shall provide to the independent hospitals and federally qualified health centers in the HMO service area the notice required by Subsection 31A-8-501(7)(d)(ii) within 30 days.

R590-237-9. Penalties.

An HMO found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

R590-237-10. Enforcement Date.

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

R590-237-11. Severability.

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

KEY: health care providers

Date of Enactment or Last Substantive Amendment: 2006

Authorizing, and Implemented or Interpreted Law: 31A-2-201, 31A-8-501



Natural Resources, Wildlife Resources
R657-6-21
 Closed Areas

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 28801

FILED: 06/14/2006, 17:31

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council meetings and the Wildlife Board meeting conducted for taking public input and reviewing the upland game program as approved by the Wildlife Board.

SUMMARY OF THE RULE OR CHANGE: Section R657-6-21 is being amended to include Syracuse City as an incorporated municipality posted closed to hunting. Syracuse City made this request, which was approved, at the Wildlife Board meeting on 06/08/2006.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18 and 23-14-19

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--This amendment adds Syracuse City as an area posted closed to hunting. The proposed change to the rule does not create a cost or savings impact to the state budget or the Division of Wildlife Resources budget.

❖ LOCAL GOVERNMENTS: None--This amendment adds Syracuse City as an area posted closed to hunting. The proposed change does not create any direct cost or savings impact to local governments because they are not directly affected by the rule.

❖ OTHER PERSONS: None--This amendment adds Syracuse City as an area posted closed to hunting. This small change does not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment adds Syracuse City as an area posted closed to hunting. The proposed change to the rule does not create additional compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses. Michael R. Styler, Executive Director

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

NATURAL RESOURCES
 WILDLIFE RESOURCES
 1594 W NORTH TEMPLE
 SALT LAKE CITY UT 84116-3154, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Robin Thomas at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at robinthomas@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 07/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2006

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.**R657-6. Taking Upland Game.****R657-6-21. Closed Areas.**

A person may not hunt upland game in any area posted closed by the Division or any of the following areas:

(1) Salt Lake International Airport boundaries as posted.

(2) Incorporated municipalities: Most of the incorporated areas of Alta, a portion of Davis County, Garland City, Layton, Logan, Pleasant View City, South Ogden City, Syracuse City, West Jordan, and West Valley City are closed to the discharge of firearms. Check with the respective city officials for specific boundaries. Other municipalities may have additional firearm restrictions.

(3) Wildlife Management Areas:

(a) Waterfowl management areas and federal refuges are open for hunting upland game only during designated waterfowl hunting seasons, including: Bear River National Wildlife Refuge, Bicknell Bottoms, Blue Lake, Brown's Park, Clear Lake, Desert Lake, Farmington Bay, Harold S. Crane, Howard Slough, Locomotive Springs, Mills Meadows, Ogden Bay, Ouray National Wildlife Refuge, Powell Slough, Public Shooting Grounds, Salt Creek, Stewart Lake, and Timpie Springs.

(b) Fish Springs National Wildlife Refuge is closed to upland game hunting.

(c) Goshen Warm Springs is closed to upland game hunting.

(4) Military installations, including Camp Williams, are closed to hunting and trespassing unless otherwise authorized.

KEY: wildlife, birds, rabbits, game laws

Date of Enactment or Last Substantive Amendment:
[September 6, 2005]2006

Notice of Continuation: July 8, 2005

Authorizing, and Implemented or Interpreted Law: 23-14-18;
23-14-19



Natural Resources, Wildlife Resources

R657-24

Compensation for Mountain Lion and Bear Damage

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28796

FILED: 06/08/2006, 17:41

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended as per as statue change made during the last session of the Utah Legislature. The purpose of this rule is to establish the procedures and standards for allowing livestock owners to obtain compensation for damages to livestock by wildlife.

SUMMARY OF THE RULE OR CHANGE: The changes to this rule: 1) amend the rule to be in compliance with H.B. 287 that was recently passed by the Legislature and signed by the Governor; 2) add eagle to the title of the rule; 3) add eagle to the list of species individuals may be receive compensation for damages to livestock from; 4) define eagle; 5) clarify that payments for damages causes to livestock by eagles are not made until mountain lion and bear claims for a fiscal year have first been paid; and 6) make technical corrections.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-24-1 and 4-23-7

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None--These amendments do not create a cost or savings impact to the state budget or the Division of Wildlife Resources' budget. The budget of the Division of Wildlife Resources for damage compensation payments is determined by the Legislature and varies from year to year.

❖ **LOCAL GOVERNMENTS:** None--This filing does not create any direct cost or saving impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ **OTHER PERSONS:** None--The amendments do not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The amendments to not create any compliance costs for affected persons. There are no costs because the amendment simply indicates eagles as another species category under which livestock owners may claim compensation.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses. Michael R. Styler, Executive Director

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Robin Thomas at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at robinthomas@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 07/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2006

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.**R657-24. Compensation for Mountain Lion~~[-and]~~, Bear or Eagle Damage.****R657-24-1. Purpose and Authority.**

Under authority of Section 23-24-1, this rule provides the procedures, standards, requirements and limits for obtaining compensation for damages to livestock by mountain lion~~[-and]~~, black bear or an eagle.

R657-24-2. Definitions.

(1) Terms used in this rule are defined in Sections 23-13-2 and 23-24-1(1).

(2) In addition:

(a) "Black bear" means *Ursus americanus*.

(b) "Fair market value" means the average commercial livestock prices from July 1 through June 30, as determined by the Utah Livestock and Auction Reporting Service.

(c) "Injury" means an act by a mountain lion or bear that results in the death of livestock within 30 days of the act or a permanent injury to livestock.

(d) "Livestock" means cattle, sheep, goats, or turkeys.

(e) "Mountain lion" means *Felis concolor*.

(f) "Eagle" means *Haliaeetus leucocephalus* (bald eagle) and *Aquila chrysaetos* (golden eagle).

R657-24-3. Notification of Damage -- Payment of Damage Claims.

(1) When livestock are damaged by a ~~bear or~~ mountain lion, bear or an eagle, the owner may receive compensation in accordance with Section 23-24-1(2).

(2)(a) Notification must be made in writing to one of the regional division offices within four working days of discovering the damage. A Proof of Loss form must then be submitted within 30 days after the original notification.

(b) Notification may be made orally to expedite field investigations, but it~~and~~ must be followed in writing within four working days after the damage is discovered. A Proof of Loss form must then be submitted within 30 days after the original written notification.

(3)(a) Claims for damage payments received from July 1 through June 30 are assessed and accepted or denied based on information reported on the livestock damage form.

(b) Claims accepted for damage payments are held until all damage claims for the July 1 through June 30 period have been collected.

(c) If the total amount of the damage claims exceed the appropriated funds for this purpose, damage payments will be prorated for all eligible claims.

(d) Payments for eagle damage claims shall not be made until all accepted mountain lion and bear claims for a fiscal year have first been paid.

(4) Damage payments will be paid only for confirmed losses.

(5)(a) The division or animal damage control specialists will document on approved livestock damage forms the type and magnitude of livestock losses experienced by livestock producers.

(b) Where agreement with the type or magnitude of losses is not achieved by animal damage control specialists, a division representative shall follow up with an additional field investigation to assess damage claims.

KEY: wildlife, damages, livestock

Date of Enactment or Last Substantive Amendment: [~~March 6,~~ 2006

Notice of Continuation: October 7, 2005

Authorizing, and Implemented or Interpreted Law: 23-24-1; 4-23-7



Natural Resources, Wildlife Resources R657-41 Conservation and Sportsman Permits

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28798

FILED: 06/12/2006, 17:28

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to concerns by the Attorney General's Office and public input taken at the Wildlife Regional Advisory Council and Wildlife Board meetings.

SUMMARY OF THE RULE OR CHANGE: The proposed revisions to this rule: 1) define Conservation Permit Species; 2) define Multi-Year Conservation Permit; 3) define Single Year Conservation Permit; 4) address concerns over allocation of conservation permits to improve compliance to state bidding laws; 5) address concerns over conservation permits being distributed in a raffle or lottery; 6) create a section to define eligibility requirements that must be met by conservation organizations in order to market and sell, or use conservation permits as aids in wildlife-related fund raising activities; 7) make a distinction between single year and multi-year conservation permits and separately define how each type is allocated; 8) clarify the list of eligible projects conservation organization may allocate revenue generated from conservation permits to; 9) remove sandhill crane from the list of available sportsman permits; 10) allow individuals to obtain more than one conservation permit for turkey per year; 11) address repercussions conservation organization face if they fail to comply with the rule; and 12) make technical corrections.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18 and 23-14-19

AUTHORIZED BY: James F Karpowitz, Director

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division of Wildlife Resources (DWR) determined that these amendments do not create a cost or savings impact to the state budget or DWR's budget. Administering multi-year conservation permits will not add significantly to DWR's workload and can be accommodated within the existing budget.

❖ LOCAL GOVERNMENTS: None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ OTHER PERSONS: This amendment clarifies the standards and procedures for issuing conservation permits, therefore, the amendments do not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons. Conservation organization participating in the program and fail to meet program requirements may be suspended from future participation in accordance with Section R657-41-12. If this occurs, the conservation organization in question loses their potential to generate funds for their organization.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These amendments clarify procedures for issuing conservation permits and address concerns of the Attorney General's Office. There are no additional compliance costs associated with this amendment for affected persons. Conservation organization participating in the program and fail to meet program requirements may be suspended from future participation in accordance with Section R657-41-12. If this occurs, the conservation organization in question loses their potential to generate funds for their organization.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses. Michael R. Styler, Executive Director

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Robin Thomas at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at robinthomas@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 07/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2006

R657. Natural Resources, Wildlife Resources.
R657-41. Conservation and Sportsman Permits.
R657-41-1. Purpose and Authority.

(1) Under the authority of Section 23-14-18 and 23-14-19, this rule provides the standards and procedures for issuing:

(a) conservation permits to conservation organizations for sale at an auction, or for use as an aid to wildlife related fund raising activities; and

(b) sportsman permits.

(2) The division and conservation organizations shall use all revenue derived from conservation permits under Subsections R657-41-~~5(4)~~9(4) and R657-41-~~5(5)(b)~~9(5)(b) for the benefit of the species for which the permit is issued, unless the division and conservation organization mutually agree in writing that there is a higher priority use for other species of protected wildlife.

R657-41-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Area Conservation Permit" means a permit issued for a specific unit or hunt area for a ~~specific~~ conservation permit species, and may include an extended season, or legal weapon choice, or both, beyond the ~~general season~~ season except turkey permits are valid during any season option.

(i) Area Conservation permits issued for limited entry units are not valid on cooperative wildlife management units ~~and Area Conservation permits issued for general season hunt areas are not valid on cooperative wildlife management units or limited entry units~~.

(b) "Conservation Organization" means a nonprofit chartered institution, foundation, or association founded for the purpose of promoting wildlife conservation and has established tax exempt status under Internal Revenue Code, Section 501C-3 as amended.

(c) "Conservation Permit" means any harvest permit authorized by the Wildlife Board and issued by the division for purposes identified in Section R657-41-1~~(2)~~.

(d) "Conservation Permit Species" means the species for which conservation permits may be issued and includes deer, elk, pronghorn, moose, bison, Rocky Mountain goat, Rocky Mountain bighorn sheep, desert bighorn sheep, wild turkey, cougar, and black bear.

(e) "Multi-Year Conservation Permit" means a conservation permit awarded to an eligible conservation organization pursuant to R657-41-7 for three consecutive years to sell, market or otherwise use as an aid in wildlife related fund raising activities.

(f) "Retained Revenue" means 60% of the revenue raised by a conservation organizations from the sale of conservation permits that the organization retains for eligible projects, excluding interest earned thereon.

~~(g)(4)~~ (g) "Sportsman Permit" means a permit which allows a permittee to hunt during the applicable season dates specified in Subsection ~~(e)~~(g), and which is authorized by the Wildlife Board and issued by the division in a general drawing, requiring all applicants to pay an application fee and the successful applicant the cost of the permit.

(h) "Single Year Conservation Permit" means a conservation permit awarded to an eligible conservation organization pursuant to R657-41-6 for one year to sell, market or otherwise use as an aid in wildlife related fund raising activities.

~~(i)(e)~~ "Statewide Conservation Permit" means a permit ~~which~~ issued for a conservation permit species that allows a permittee to hunt:

(i) big game species on any open unit with archery equipment during the general archery season published in the big game proclamation for the unit beginning before September 1, and with any weapon from September 1 through December 31, except pronghorn and moose from September 1 through November 15 and deer and elk from September 1 through January 15;

(ii) one Merriam and one Rio Grand turkey on any open unit from April 1 through May 31;

~~(iii) any other small game species on any open unit during the season authorized by the Wildlife Board;~~

~~(iv)~~(iii) bear on any open unit during the season authorized by the Wildlife Board for that unit;

~~(v)~~(iv) cougar on any open unit during the season authorized by the Wildlife Board for that unit and during the season dates authorized by the Wildlife Board on any harvest objective unit that has been closed by meeting its objective; and

~~(vi)~~(v) Antelope Island is not an open unit for hunting any species of wildlife authorized by a conservation or sportsman permit.

R657-41-3. ~~[Method for]~~ Determining the Number of Conservation and Sportsman Permits.

(1) The number of conservation permits authorized by the Wildlife Board shall be based on:

(a) the species population trend, size, and distribution to protect the long-term health of the population;

(b) the hunting and viewing opportunity for the general public, both short and long term; and

(c) the potential revenue that will support protection and enhancement of the species.

(2) One statewide conservation permit may be authorized for each ~~[species for which limited permits are available, except that a second statewide conservation permit for a species may be authorized for a special event or fund raising activity]~~ conservation permit species.

(3) A limited number of area conservation permits may be authorized ~~[with]~~ as follows:

(a) a maximum of 10% of the total permits, assigned to a hunt area or combination of hunt areas, for Rocky Mountain bighorn sheep and desert bighorn sheep;

(b) a maximum of 5% of the permits or eight permits, whichever is less, for any unit or hunt area ~~[unless a higher number is specifically authorized by the Wildlife Board.]~~ for the remaining conservation permit species.

(4) The number of conservation and sportsman permits available for use ~~[during the following year]~~ will be determined by the Wildlife Board ~~[annually]~~.

(5) Area ~~[Conservation]~~ conservation permits shall be deducted from the number of public drawing permits.

(6) One sportsman permit ~~[may]~~ shall be authorized for each statewide conservation permit authorized.

(7) All area conservation permits are eligible as multi-year permits except that the division may designate some area

conservation permits as single year permits based on the applications received for single year permits.

(8) All statewide permits will be multi-year permits except for a second statewide permit issued for a special event.

R657-41-4. Eligibility for ~~[Obtaining]~~ Conservation Permits.

(1) Statewide and area conservation permits may be awarded to eligible conservation organizations to market and sell, or to use as an aid in wildlife related fund raising activities.

~~(2)(a)~~ To be eligible for multi-year conservation permits, a conservation organization must have generated in conservation permit sales during the previous three year period at least one percent of the total revenue generated by all conservation organizations in conservation permit sales during the same period. Conservation organizations eligible for multi-year permits may not apply for single year permits, and conservation organizations ineligible for multi-year permits may only apply for single year permits.

(3) Conservation organizations applying for single year permits may not:

(a) bid for or obtain conservation permits if any employee, officer, or board of director member of the conservation organization is an employee, officer, or board of director member of any other conservation organization that is submitting a bid for single year conservation permits; or

(b) enter into any pre-bidding discussions, understandings or agreements with any other conservation organization submitting a bid for conservation permits regarding:

(i) which permits will be sought by a bidder;

(ii) what amounts will be bid for any permits; or

(iii) trading, exchanging, or transferring any permits after permits are awarded.

R657-41-5. Applying for Conservation Permits.

(1)(a) Conservation organizations may apply for conservation permits by sending an application to the division [for each permit requested].

(b) Only one application per conservation organization may be submitted. Multiple chapters of the same conservation organization may not apply individually.

(c) Conservation organizations may apply for single year conservation permits or multi-year conservation permits. They may not apply for both types of conservation permits.

(2)(3) The application must be submitted to the division by September 1 to be considered for the following year's conservation permits. Each application must include:

(a) the name, address and telephone number of the conservation organization;

(b) a copy of the conservation organization's mission statement;

(c) verification of the conservation organization's tax exempt status under Internal Revenue Code, Section 501C-3 as amended; and

(d) the name of the president or other individual responsible for the administrative operations of the conservation organization;

(3) If applying for single year conservation permits, a conservation organization must also include in its application:

(a) the proposed bid amount for each permit requested. The proposed bid amount is the revenue the organization anticipates to be raised from a permit through auction or other lawful fund raising activity.

~~(b) certification that there are no conflicts of interest or collusion in submitting bids as prohibited in R657-41-4(3);~~

~~(c) acknowledgement that the conservation organization recognizes that falsely certifying the absence of collusion may result in cancellation of permits, disqualification from bidding for five years or more, and the filing of criminal charges;~~

~~(d) evidence that the application and bid has been reviewed and approved by the board of directors of the bidding conservation.~~

(e) the type of permit, and the species for which the permit is requested; and

(f) any requested variances for an extended season or legal weapon choice for area conservation permits.

~~(4) An application that~~(a) Conservation organizations must further include in their applications the proposed bid amount for each permit. The proposed bid amount is the revenue the organization anticipates to be raised from a permit through auction or other lawful fund raising activity. The recommended minimum permit bid amount is listed in Table 1.

~~(b) The basis for the bid amount must include the conservation organization's experience in similar activities, and details of the marketing plan.~~

TABLE 1
RECOMMENDED MINIMUM PERMIT BID AMOUNT

Species	Statewide	Area
Rocky Mountain Bighorn (Ram)	\$30,000	\$20,000
Desert Bighorn (Ram)	30,000	20,000
Buck Deer	10,000	2,000
Bull Elk	10,000	4,000
Bull Moose	10,000	3,000
Bison (Hunter's Choice)	5,000	5,000
Rocky Mountain Goat (Hunter's Choice)	5,000	3,000
Buck Pronghorn	2,000	1,000
Black Bear	2,000	1,000
Cougar	2,000	500
Turkey	350	250

~~(5) An application which~~ is incomplete or completed incorrectly may be rejected.

~~(6)~~(5) The application of a conservation organization for conservation permits may be denied for:

(a) failing to fully report on the preceding year's conservation permits;

(b) violating any provision of this rule, Title 23 of the Utah Code, Title R657 of the Utah Administrative Code, a division proclamation, or an order of the Wildlife Board; or

(c) violating any other law that bears a reasonable relationship to the applicant's ability to responsibly and lawfully handle conservation permits pursuant to this rule.].

~~(7) Conservation permits shall be awarded for one year, except as provided in Subsection (8).]~~

R657-41-6. Awarding Single Year Conservation Permits.

~~(8) Conservation organizations may apply for specific area conservation permits, which may be awarded for up to five consecutive years, provided the conservation organization meets the requirements provided in Subsection (a) for a multi year permit.~~

~~(a)(i) the conservation organization must submit a bid for each multi year area conservation permit requested and submit a specific project proposal for which the funds will be utilized;~~

~~(ii) the project must require more than one year of funding to complete;~~

~~(iii) the conservation organization must show the increased benefit to the division by the conservation organization carrying out the project;~~

~~(iv) the conservation organization must maintain each year a minimum performance standard, raising no less than 80% of the funds bid for each multi year permit; and~~

~~(v) the conservation organization must report annually on the funds raised and expended, and the project activities accomplished.~~

~~(b) Conservation organizations failing to satisfy the performance standards in any given year during the multi year period or reporting requirements shall lose the multi year area conservation permit for the balance of the multi year award period.~~

~~(c) Conservation organizations must submit a separate bid for each multi year area conservation permit.~~

~~(d) Bids for multi year area conservation permits shall be evaluated based on:~~

~~(i) an average annual benefit when compared to annual bids for permits; and~~

~~(ii) the requirements as provided in Subsection (9).~~

~~(e) Conservation organizations receiving multi year permits shall handle permit revenue consistent with the requirements provided in Section R657 41 5(4) and (5).~~

~~(9)~~(1) The division shall recommend the conservation organization to receive each [of the]single year conservation [permits]permit based on:

(a) ~~first,~~the bid amount pledged to the species, adjusted by:

(i) the performance of the organization over the previous two years in meeting proposed bids;

(ii) 90% of the bid amount;

(iii) the organizations maintaining a minimum two-year average performance of 70% to be eligible for consideration of permits. Performance of the organization is the proportion of the total revenue generated from permit sales, divided by 90% of the bid amount for all permits, calculated annually and averaged for the last two years.

(b) ~~second,~~if two or more conservation organizations are tied using the criteria in Subsection (a), the closeness of the organization's purpose to the species of the permit; and

(c) ~~third,~~if two or more conservation organizations are tied using the criteria in Subsection (a) and (b), the geographic closeness of the organization to the location of the permit.

~~(40)(a)~~(2)(a) Between the time the division recommends that a conservation permit be awarded to a conservation organization and the time the Wildlife Board approves that recommendation, a conservation organization may withdraw its application for any given permit or exchange its application with another conservation organization without penalty, provided the bid amount upon which the permit application was evaluated is not changed.

(b) If a conservation organization withdraws its bid and the bid is awarded to another organization at a lower amount, then the difference between the two bids will be subtracted from the organization making the higher bid for purposes of evaluating organization performance.

~~(41)~~(3) The Wildlife Board shall make the final assignment of conservation permits at a meeting prior to December 1 annually.

~~(42)~~(4) The Wildlife Board may authorize a conservation permit to a conservation organization, other than the conservation organization recommended by the division, after considering the:

(a) division recommendation;

(b) benefit to the species;

(c) historical contribution of the organization to the conservation of wildlife in Utah;

(d) previous performance of the conservation organization; and

(e) overall viability and integrity of the conservation permit program.

~~[(43)]~~(5) The total of all bids for permits awarded to any one organization shall not exceed \$20,000 the first year an organization receives permits.

~~[(44)]~~(6) The number of permits awarded to any one organization shall not increase by more than 100% from the previous year.

~~[(45)]~~(7) If the Wildlife Board authorizes a second statewide conservation permit for a species, the conservation organization receiving the permit must meet the ~~[high]~~ division designated bid for that permit.

~~[(46)]~~

R657-41-7. Awarding Multi-Year Conservation Permits.

(1) Distribution of multi-year conservation permits will be based on a sequential selection process where each eligible conservation organization is assigned a position or positions in the selection order among the other participating organizations and awarded credits with which to purchase multi-year permits at an assigned value. The selection process and other associated details are as follows.

(2) Multi-year permits will be awarded to eligible conservation organizations for no more than three years.

(3) The division will determine the number of permits available as multi-year permits after subtracting the proposed number of single year permits.

(a) Season types for multi-year area conservation permits for elk on any given hunt unit will be designated and assigned in the following order:

(i) first permit -- premium;

(ii) second permit -- any-weapon;

(iii) third permit -- any-weapon;

(iv) fourth permit -- archery;

(v) fifth permit -- muzzleloader;

(vi) sixth permit -- premium;

(vii) seventh permit -- any-weapon; and

(viii) eighth permit -- any-weapon.

(b) Season types for multi-year area conservation permits for deer on any given hunt unit will be designated and assigned in the following order:

(i) first permit -- hunter choice of season;

(ii) second permit -- hunter choice of season;

(iii) third permit -- muzzleloader;

(iv) fourth permit -- archery;

(v) fifth permit -- any-weapon;

(vi) sixth permit -- any-weapon;

(vii) seventh permit -- muzzleloader; and

(viii) eighth permit -- archery.

(4) The division will assign a monetary value to each multi-year permit based on the average return for the permit during the previous three year period. If a history is not available, the value will be estimated.

(5) The division will determine the total annual value of all multi-year permits.

(6)(a) The division will calculate a market share for each eligible conservation organization applying for multi-year permits.

(b) Market share will be calculated and determined based on:

(i) the conservation organization's previous three years performance;

(ii) all conservation permits (single and multi-year) issued to a conservation organization except for special permits allocated by the Wildlife Board outside the normal allocation process.

(iii) the percent of conservation permit revenue raised by a conservation organization during the three year period relative to all conservation permit revenue raised during the same period by all conservation organizations applying for multi-year permits.

(7) The division will determine the credits available to spend by each group in the selection process based on their market share multiplied by the total annual value of all multi-year permits.

(8) The division will establish a selection order for the participating conservation organizations based on the relative value of each groups market share as follows:

(a) groups will be ordered based on their percent of market share;

(b) each selection position will cost a group 10% of the total market share except the last selection by a group will cost whatever percent a group has remaining;

(c) no group can have more than three positions in the selection order; and

(d) the selection order will be established as follows:

(i) the group with the highest market share will be assigned the first position and ten percent will be subtracted from their total market share;

(ii) the group with the highest remaining market share will be assigned the second position and ten percent will be subtracted from their market share; and

(iii) this procedure will continue until all groups have three positions or their market share is exhausted.

(9) At least two weeks prior to the multi-year permit selection meeting, the division will provide each conservation organization applying for multi-year permits the following items:

(a) a list of multi-year permits available with assigned value;

(b) documentation of the calculation of market share;

(c) credits available to each conservation group to use in the selection process;

(d) the selection order; and

(e) date, time and location of the selection meeting.

(10) Between the establishing of the selection order and the selection meeting, groups may trade or assign draw positions, but once the selection meeting begins draw order cannot be changed.

(11) At the selection meeting, conservation organizations will select permits from the available pool according to their respective positions in the selection order. For each permit selected, the value of that permit will be deducted from the conservation organization's available credits. The selection order will repeat itself until all available credits are used or all available permits are selected.

(12) Conservation organizations may continue to select a single permit each time their turn comes up in the selection order until all available credits are used or all available permits are selected.

(13) A conservation organization may not exceed its available credits except a group may select their last permit for up to 10% of the permit value above their remaining credits.

(14) Upon completion of the selection process, but prior to the Wildlife Board meeting where final assignment of permits are made, conservation organizations may trade or assign permits to other conservation organizations eligible to receive multi-year permits. The group receiving a permit retains the permit for the purposes of

marketing and determination of market share for the entire multi-year period.

(15) Variances for an extended season or legal weapon choice may be obtained only on area conservation permits and must be presented to the Wildlife Board prior to the final assignment of the permit to the conservation organization.

(16) Conservation organizations may not trade or transfer multi-year permits to other organizations once assigned by the Wildlife Board.

(17) Conservation organizations failing to comply with the reporting requirements in any given year during the multi-year period shall lose the multi-year conservation permits for the balance of the multi-year award period.

(18) If a conservation organization is unable to complete the terms of marketing the assigned permits, the permits will be returned to the regular public drawing process for the duration of the multi-year allocation period.

R657-41-8. Distributing Conservation Permits.

(1) The division and conservation organization receiving [the] permits shall enter into a contract.

[(47)(a)](2)(a) The conservation organization receiving permits must insure that the permits are marketed and distributed by lawful means. Conservation permits may not be distributed in a raffle except where the following conditions are met:

(i) the conservation organization obtains and provides the division with a written opinion from a licensed attorney or a written confirmation by the local district or county attorney that the raffle scheme is in compliance with state and local gambling laws;

(ii) except as otherwise provided in R657-41-8(5), the conservation organization does not repurchase, directly or indirectly, the right to any permit it distributes through the raffle;

(iii) the conservation organization prominently discloses in any advertisement for the raffle and at the location of the raffle that no purchase is necessary to participate; and

(iv) the conservation organization provides the division with a full accounting of any funds raised in the conservation permit raffle, and otherwise accounts for and handles the funds consistent with the requirement in Utah Admin. Code R657-41-9.

(3)[(b)] The conservation organization must:

(i) obtain the name of the proposed permit recipient at the event where the permit recipient is selected; and

(ii) notify the division of the proposed permit recipient within 10 days of the recipient selection or the permit may be forfeited.

[(e)](4) If a person is selected by a qualified organization to receive a conservation permit and is also successful in obtaining a permit for the same species in the same year through the ~~[Bucks, Bulls and Once In A Lifetime Drawing]~~ a division drawing, that person may designate another person to receive the conservation permit, provided the conservation permit has not been issued by the division to the first selected person.

[(d)](5) If a person is selected by a qualified organization to receive a conservation permit, but is unable to use the permit, the conservation organization may designate another person to receive the permit provided:

[(+)](a) the conservation organization selects the new recipient of the permit;

[(+)](b) the amount of money received by the division for the permit is not decreased;

[(+)](c) the conservation organization relinquishes to the division and otherwise uses all proceeds generated from the

~~[redesignated]~~re-designated permit, pursuant to the requirements provided in Section R657-41-[5] 9;

~~[(iv)](d) the conservation organization and the initial designated recipient of the permit, [must] sign an affidavit indicating the initial designated recipient is not profiting from transferring the right to the permit; and~~

~~[(+)](e) the permit has not been issued by the division to the first designated person.~~

~~[(e)](6) Except as otherwise provided under [Subsection (e)]Subsections (4) and [(d)](5), a person designated by a conservation organization as a recipient of a conservation permit, may not sell or transfer the rights to that designation to any other person. This does not preclude a person from bidding or otherwise lawfully acquiring a permit from a conservation organization on behalf of another person who will be identified as the original designated recipient.~~

(7) A person cannot obtain more than one conservation permit for a single conservation permit species per year, except for:

(a) elk, provided no more than two permits are obtained where one or both are antlerless permits; and

(b) turkey.

R657-41-9[R657-41-5]. Conservation Permit Funds and Reporting.

(1) All permits must be marketed by September 1, annually.

(2) Within 30 days of the last event, but no later than September 1 annually, the conservation organization must submit to the division:

(a) a final report on the distribution of permits;

(b) the total funds raised on each permit;

(c) the funds due to the division; and

[(e)](d) a report on the status of each project funded in whole or in part with retained conservation permit revenue.

(3)(a) Permits shall not be issued until the permit fees are paid to the division.

(b) If the conservation organization is paying the permit fees for the permit recipient, the fees must be paid from the 10% retained by the conservation organization as provided in Subsection (5)(a).

(4)(a) Conservation organizations shall remit to the division by September 1 of each year 30% of the total revenue generated by conservation permit sales in that year.

(b) The permit revenue payable to the division under Subsection (4)(a), excluding accrued interest, is the property of the division and may not be used by conservation organizations for projects or any other purpose.

(c) The permit revenue must be placed in a federally insured account promptly upon receipt and remain in the account until remitted to the division on or before September 1 of each year.

(d) The permit revenue payable to the division under this subsection shall not be used by the conservation organization as collateral or commingled in the same account with the organization's operation and administration funds, so that the separate identity of the permit revenue is not lost.

(e) Failure to remit 30% of the total permit revenue to the Division by the September 1 deadline may result in criminal prosecution under Title 76, Chapter 6, Part 4 of the Utah Code, and may further disqualify the conservation organization from ~~[bidding or]~~ obtaining any future conservation permits.

(5) A conservation organization may retain 70% of the revenue generated from the sale of conservation permits as follows:

(a) 10% of the revenue may be ~~retained~~ withheld and used by the conservation organization for administrative expenses.

(b) 60% of the revenue may be retained and used by the conservation organization only for eligible projects as provided in subsections (i) through ~~(x)~~ (ix).

~~(i) "Retained revenue" means 60% of the revenue raised by a conservation organization from the sale of conservation permits which the organization retains for eligible projects under this subsection, excluding interest earned thereon.~~

~~(ii) Eligible~~ (i) eligible projects include habitat improvement, habitat acquisition, transplants, targeted education efforts and other projects providing a substantial benefit to species of wildlife for which conservation permits are issued.

~~(iii) Retained~~ (ii) retained revenue shall not be committed to or expended on any eligible project without first obtaining the division director's written concurrence.

~~(iv) Retained~~ (iii) retained revenue shall not be used on any project that does not provide a substantial and direct benefit to conservation permit species located in Utah.

~~(v) Cash~~ (iv) cash donations to the Wildlife Habitat Account created under Section 23-19-43, ~~division~~ Division Species Enhancement Funds, or the Conservation Permit Fund shall be considered an eligible project and do not require the division director's approval, provided the donation is made with instructions that it be used for species of wildlife for which conservation permits are issued.

~~(vi) Retained~~ (v) retained revenue shall not be used on any project that is inconsistent with ~~Division~~ division policy, including feeding programs, depredation management, or predator control.

~~(vii) Any revenue~~ (vi) retained revenue under this subsection must be placed in a federally insured account. All interest revenue earned thereon may be retained and used by the conservation organization for administrative expenses.

~~(viii) Retained~~ (vii) retained revenue shall not be used by the conservation organization as collateral or commingled in the same account with the organization's operation and administration funds, so that the separate identity of the retained revenue is not lost.

~~(ix) Retained~~ (viii) retained revenue must be completely expended on or committed to approved eligible projects by September 1, two years following the year in which the relevant conservation permits are awarded to the conservation organization by the Wildlife Board. Failure to commit or expend the retained revenue by the September 1 deadline will disqualify the conservation organization from ~~bidding on~~ obtaining any future conservation permits until the unspent retained revenue is committed to an approved eligible project.

~~(x) All~~ (ix) all records and receipts for projects under this subsection must be retained by the conservation organization for a period not less than five years, and shall be produced to the division for inspection upon request.

(6)(a) Conservation organizations accepting permits shall be subject to annual audits on project expenditures and conservation permit accounts.

(b) The division shall ~~perform~~ perform annual audits on project expenditures and conservation permit accounts.

R657-41-[6]10. Obtaining Sportsman Permits.

(1) One sportsman permit is offered to residents through a drawing for each of the following species:

- (a) desert bighorn (ram);

(b) bison (hunter's choice);

(c) buck deer;

(d) bull elk;

(e) Rocky Mountain bighorn (ram)

(f) Rocky Mountain goat (hunter's choice)

(g) bull moose;

(h) buck pronghorn;

(i) black bear;

(j) cougar; and

~~(k) sandhill crane; and~~

~~(4)~~ (k) wild turkey.

(2) The following information on sportsman permits is provided in the ~~proclamation~~ proclamations of the Wildlife Board for taking ~~big game~~ protected wildlife:

(a) hunt dates;

(b) open units or hunt areas;

(c) application procedures;

(d) fees; and

(e) deadlines.

R657-41-[7]11. Using a Conservation or Sportsman Permit.

(1)(a) A conservation or sportsman permit allows the recipient to take only one individual of the species for which the permit is issued, except a statewide turkey conservation or sportsman permit allows the holder to take one Merriam's and one Rio Grand turkey.

(b) The species that may be taken shall be printed on the permit.

(c) The species may be taken in the area and during the season specified on the permit.

(d) The species may be taken only with the weapon specified on the permit.

(2) The recipient of a conservation or sportsman permit is subject to all of the provisions of Title 23, Wildlife Resources Code, and the rules and proclamations of the Wildlife Board for taking and pursuing wildlife.

(3) Bonus points shall not be awarded or utilized:

(a) when applying for conservation or sportsman permits; or

(b) in obtaining conservation or sportsman permits.

(4) Any person who has obtained a conservation or sportsman permit is subject to all waiting periods as provided in Rules R657-5, R657-6, R657-10 and R657-33.

R657-41-12. Failure to Comply.

Any conservation organization administratively or criminally found in violation of this rule or the Wildlife Resources Code may be suspended from participation in the conservation permit program and required to surrender all conservation permit vouchers.

KEY: wildlife, wildlife permits

Date of Enactment or Last Substantive Amendment: [January 5, 2004] 2006

Notice of Continuation: November 21, 2005

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19



Natural Resources, Wildlife Resources
R657-48
 Implementation of the Wildlife Species
 of Concern and Habitat Designation
 Advisory Committee

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28797

FILED: 06/08/2006, 19:06

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended to address the creation of the Utah Public Lands Policy Coordination Office and clarify the process by which wildlife species of concern are handled.

SUMMARY OF THE RULE OR CHANGE: The changes to this rule: 1) define the Utah Sensitive Species List; 2) give the Division direction for maintaining the Utah Sensitive Species List; 3) remove approval of habitat designation by replacing references to the Resource Development Coordinating Committee; 4) add the Director of the Utah Public Lands Policy Coordination Office to the Wildlife Species and Habitat Designation Advisory Committee; 5) shorten the title; and 6) make technical corrections.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-14-19 and Subsection 63-34-5(2)(a)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--These amendments do not create a cost or savings impact to the state budget or the Division of Wildlife Resources' budget. The rule amendment simply adds definitions and makes technical changes that clarify the scope of the rule.
- ❖ LOCAL GOVERNMENTS: None--These amendments do not create any direct cost or saving impact to local governments. The rule amendment simply adds definitions and makes technical changes that clarify the scope of the rule.
- ❖ OTHER PERSONS: None--The amendments do not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons. The rule amendment simply adds definitions and makes technical changes that clarify the scope of the rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The amendments do not create any compliance costs for affected persons. The rule amendment simply adds definitions and makes technical changes that clarify the scope of the rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses. Michael R. Styler, Executive Director

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

NATURAL RESOURCES
 WILDLIFE RESOURCES
 1594 W NORTH TEMPLE
 SALT LAKE CITY UT 84116-3154, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Robin Thomas at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at robinthomas@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 07/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2006

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.
R657-48. [Implementation of the] Wildlife Species of Concern and Habitat Designation Advisory Committee.

R657-48-1. Authority and Purpose.

(1) Pursuant to Sections 23-14-19 and 63-34-5(2)(a) of the Utah Code, this rule:

(a) establishes the Wildlife Species of Concern and Habitat Designation Advisory Committee;

(b) defines its purpose and relationship to local, state and federal governments, the public, business, and industry functions of the state; ~~and~~

(c) defines the Utah Sensitive Species List; and

~~(e)~~ (d) defines the procedure for:

(i) the designation of wildlife species of concern as part of a process to preclude listing under the ESA; and

(ii) review, identification and analysis of wildlife habitat designation and management recommendations relating to significant land use development projects.

R657-48-2. Definitions.

(1) The terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Committee" means the Wildlife Species of Concern and Habitat Designation Advisory Committee.

(b) "Conservation species" means wildlife species or subspecies that ~~have been identified as a species of concern and that~~ are currently receiving special management under a conservation agreement developed or implemented by the state to preclude the need for listing under the ESA.

(c) "Department" means the Department of Natural Resources.

(d) "Division" means the Division of Wildlife Resources within the Department.

(e) "ESA" means the federal Endangered Species Act.

(f) "Executive Director" means Executive Director of the Department.

(g) "Habitat identification material" means maps, data, or documents prepared by the Division in the process of specifying wildlife habitat.

(h) "Management recommendations" means determinations of, amount of, level of intensity, timing of, any restrictions, conditions, mitigation, or allowances for activities proposed for a project area pursuant to this rule.

(i) "NEPA" means the National Environmental Policy Act as defined in 42 U.S.C. Section 4321-4347.

(j) "Interested Person" means an individual, firm, association, corporation, limited liability company, partnership, commercial or trade entity, any agency of the United States Government, the State of Utah, its departments, agencies and political subdivisions.

(k) "Project area" means the geographical area covered by a significant land use development.

(l) "Proposed wildlife habitat designation" means identified habitat in a project area undergoing review pursuant to this rule.

(m) [~~"RDCC" means the Resource Development Coordinating Committee as provided in Section 63-28a-1.~~

~~(n) "Significant land use development" means [an RDCC review item] any project or development identified as such [by the State Planning Coordinator, any projects or developments identified] by the Executive Director, or as approved through petition as described in Section R657-48-5.~~

~~(o) "Wildlife habitat designation document" means the written decision of the [RDCC] Executive Director after following the provisions of this rule for wildlife habitat designation and management recommendations for a project area.~~

~~(p) "State sensitive species" means:~~

~~(i) wildlife species or subspecies listed under the ESA, and now or previously present in Utah;~~

~~(ii) [candidate] wildlife species or subspecies de-listed under the ESA [now or] during the past six months that are now or were previously present in Utah;~~

~~(iii) [a state] wildlife species or subspecies now or previously present in Utah that are currently proposed by the U.S. Fish and Wildlife Service for listing under ESA;~~

~~(iv) candidate wildlife species or subspecies under the ESA now or previously present in Utah;~~

~~(v) wildlife species or subspecies removed from the ESA candidate list during the past six months that are now or were previously present in Utah;~~

~~(vi) conservation species; or~~

~~(iv) a state (vii) wildlife species of concern.~~

~~(q) "Wildlife habitat designation" means the wildlife habitat identification within a project area issued pursuant to this rule.~~

~~(r) "Wildlife habitat identification" means the description, classification and assignment by the Division of any area of land or bodies of water as the habitat, range or area of use, seasonally, historically, currently, or prospectively of or by any species of game or non-game wildlife in the State of Utah.~~

~~(s) "Wildlife species of concern" means a wildlife [group] species or subspecies within the state of Utah for which there is credible scientific evidence to substantiate a threat to continued population viability.~~

~~(t) "Wildlife species of concern designation" means the decision to bestow wildlife species of concern status on a wildlife species or subspecies, or remove wildlife species of concern status from a wildlife species or subspecies, pursuant to this rule.~~

~~(t) "Utah Sensitive Species List" means the list of all current state sensitive species.~~

R657-48-3. Department Responsibilities.

(1) There is established a Wildlife Species of Concern and Habitat Designation Advisory Committee within the Department of Natural Resources.

(2) The Department shall provide staff support, arrange meetings, keep minutes, and prepare and distribute final recommendations.

R657-48-4. Committee Membership and Procedure.

(1) Committee membership shall consist of:

(a) the Executive Director of the Department;

~~(b) the Director of the Utah Public Lands Policy Coordinating Office or a designee;~~

~~(c) the Director of the Division or a designee;~~

~~(d) the Director of the Division of Oil, Gas and Mining or a designee;~~

~~(e) the Director of the Division of Water Resources or a designee; and~~

~~(f) any other Department Division heads or designees as determined by the Executive Director of the Department.~~

(2) The Executive Director shall serve as chair.

(3) Three members, consisting of the Executive Director, the ~~Division Director [of the Division of Wildlife Resources]~~ and the Director of the Division of Oil, Gas and Mining, shall constitute a quorum for meetings of the Committee.

(4) The Committee shall meet as specified by the Executive Director.

(5) The following procedure shall be used for submitting review items to the Executive Director for inclusion on the Committee agenda:

(a) the Division Director shall submit for committee review all proposed ~~[designations or re-designations of each]~~ wildlife species of concern ~~designations~~; and

(b) the Division Director shall submit for committee review any proposed or existing wildlife habitat ~~[designation]~~ ~~designations~~ and corresponding management recommendations within a project area.

(i) The Division shall support its proposals for wildlife species of concern designations, wildlife habitat ~~[designation]~~ ~~designations~~ and management recommendations with:

(A) studies, investigations and research supporting the need for the ~~[designation]~~ ~~designations~~ and the potential impacts of each proposal;

(B) field survey and observation data; and

(C) federal, state, local and academic information on habitat, historical distribution, and other data or information collected in accordance with generally accepted scientific techniques and practices.

~~(6) [Species at the edge of their range or with limited distribution may be included for evaluation.~~

~~(7) The Department will provide an analysis of potential impacts of the proposed designations and the existing social and economic needs of the affected communities and interests.~~

R657-48-5. Public Participation and Setting of Meeting Agenda.

(1) An interested person may petition the Executive Director for a hearing before the Committee to designate a project as a significant land use development for purposes of this rule.

(2) The Executive Director shall act to approve or disapprove a petition or extension request within 14 calendar days.

(3)(a) The agenda shall consist of items determined by the Executive Director, and copies shall be sent to Committee members and other interested persons as requested.

(b) The agenda shall be distributed at least 28 calendar days prior to the meeting.

(c) Requests to receive notices and agendas must be submitted in writing to the Executive Director's Office as provided in Subsection R657-48-9(1).

(4) Any interested person may:

(a) submit comments on proposed wildlife species of concern and wildlife habitat designations;

(i) [submissions]comments must be submitted in writing to the Executive Director for review and must be submitted at least seven calendar days prior to the meeting;

(b) request an extension of up to 30 calendar days to review a proposed Committee action; or

(c) request to make an oral presentation before the Committee.

(i) An interested person seeking to make a presentation before the Committee concerning any matter under review, must submit a written request and supporting documentation to the Executive Director at least 14 calendar days prior to the meeting.

R657-48-6. Committee Review Actions.

(1) In conducting a review of issues, the Committee may:

(a) require additional information from the Division, the Department or interested persons;

(b) require the Division or interested persons to make presentations before the Committee or provide additional documentation in support or opposition of the recommendation;

(c) schedule additional meetings where public interest or agency concern merits additional discussion;

(d) undertake additional review functions as needed; or

(e) consider the need for involvement of other persons or agencies, or whether other action may be needed.

(2) Following the Committee's review and recommendation, the Executive Director shall:

(a) make a final determination and, if warranted, recommend the approval of any or all proposed wildlife species of concern designations to the Wildlife Board; or

(b) in the case of proposed wildlife habitat [designation, recommend wildlife habitat designations and proposed management recommendations to the RDCC]designations, make a final determination.

(3) The Executive Director's decision will be announced at that meeting, or the next formal meeting, on the proposed wildlife species of concern designations or habitat [designation]designations, unless an alternative time is required by federal or state law, or rule.

R657-48-7. Wildlife Species of Concern Designation Process.

(1) A wildlife species of concern designation shall be made only after the Executive Director, following consideration of the Committee's recommendations, has made a formal written recommendation to the Wildlife Board, and after that Board has considered:

(a) the Executive Director's recommendation, and all comments on such recommendation; and

(b) all data, testimony and other documentation presented to the Committee and the Wildlife Board pertaining to such proposed designation.

(2) All wildlife species of concern designations shall be made:

(a) pursuant to the procedures specified in this rule; and

(b) as an independent public rulemaking pursuant to the Administrative Rulemaking Act, Title 63, Chapter 46(a) of the Utah Code.

(3) With ~~the~~each proposed ~~rule and any amendments for a~~ wildlife species of concern designation, the accompanying analysis shall include either a species status or habitat assessment statement, a statement of the habitat needs and threats for the species, the anticipated costs and savings to land owners, businesses, and affected counties, and the inclusion of the rationale for the proposed designation.

(4) The Wildlife Board may approve, deny or remand the proposed wildlife species of concern designation to the Executive Director.

(5) Until a ~~rule designating a~~proposed wildlife species of concern designation is finalized, the proposed ~~rule~~designation may not be used or relied upon by any governmental agency, interested person, or entity as an official or unofficial statement of the state of Utah.

(6) The Division shall maintain all data collected and other information relied upon in developing proposed wildlife species of concern designations as part of the administrative record and make such information available, subject to the Government Records Access and Management Act as defined in Section 62-2-101, for public review and copying upon request.

(7) The Division shall maintain the Utah Sensitive Species List and update the list as necessary to maintain consistency with Subsection R657-48-2(2)(o) as the statuses of sensitive species change due to one or more of the following:

(a) wildlife species of concern or other wildlife species are listed under ESA;

(b) wildlife species are de-listed under ESA;

(c) wildlife species' names change due to taxonomic revisions;

(d) new wildlife species of concern are designated pursuant to this rule;

(e) wildlife species of concern status is removed from species pursuant to this rule;

(f) conservation agreements are developed and implemented for species;

(g) conservation agreements become invalid;

(h) species become candidates for listing under ESA;

(i) species lose candidate status under ESA;

(j) species are formally proposed for listing under ESA by the U.S. Fish and Wildlife Service; or

(k) species lose proposed status under ESA.

(8) If a species designated as a wildlife species of concern is listed under ESA, is proposed for listing under ESA, becomes a candidate for listing under ESA, or becomes a conservation species, the changed species status will be reflected in the Utah Sensitive Species List. If the species subsequently loses its ESA status or the conservation agreement becomes invalid, the species will revert to wildlife species of concern status.

R657-48-8. Wildlife Habitat Designations and Management Recommendations.

(1) Wildlife habitat designations and management recommendations for project areas will be made pursuant to the procedures specified by this rule.

(2) Any Department or Division map, identification of habitat, document or other material that is provided or released to, or used by any persons, including federal agencies, which includes wildlife habitat designations that have been adopted under this rule will so indicate.

(3) A proposed wildlife habitat designation and management recommendation shall be adopted by ~~[RDCC]~~the Executive Director only after the Executive Director, following consideration of the Committee's recommendations, has ~~considered~~made a formal written recommendation to RDCC and the RDCC has considered: ~~—(a) the Executive Director's recommendation and all comments on such recommendation; and (b)]~~ all data, testimony and other documentation presented to the Committee pertaining to such proposed designation.

~~[(4) RDCC shall act on the proposal pursuant to its rules. —(5) If rejected or remanded for modification to the Executive Director by RDCC, the Executive Director may make the recommended modifications, conduct a further review of the proposed wildlife habitat designation, or withdraw the proposed wildlife habitat designation from further consideration.~~

~~—(6)](4) Until a final determination on a proposed wildlife habitat and management recommendation has been made by the Executive Director[and adopted by RDCC], the proposed wildlife habitat or management recommendations may not be used or relied upon by any other governmental agency, interested person, or entity as an official or unofficial statement of the state of Utah.~~

~~[(7)](5) A Wildlife Habitat Designation document developed for the purpose of this rule, having been completed by the [RDCC process]Executive Director, shall be attached to the wildlife habitat identification materials and made available for public review or copying upon request.~~

~~[(8)](6) The Division shall maintain all data collected and other information relied upon in developing proposed wildlife habitat designations and management recommendations as part of the administrative record, and make this information available in accordance with the Government Records Access and Management Act as defined in Section 62-2-101, for public review and copying upon request.~~

R657-48-9. Distribution.

(1) The Division shall send by mail or electronic means a copy of a proposed wildlife species of concern designation or wildlife habitat and management determination established under this rule to the following:

(a) any person who has requested in writing that the ~~[division]~~Division provide notice of any proposed wildlife species of concern designations or proposed wildlife habitat and management recommendations under this rule; and

(b) county commissions and tribal governments, which have jurisdiction over lands that are covered by a proposed wildlife habitat designation and management recommendation and of lands inhabited by a species proposed to be designated as a wildlife species of concern under this rule.

(2) ~~[Species]~~Wildlife species of concern designations, wildlife habitat designations or management recommendations may not be used by governmental entities as a basis to involuntarily restrict the private property rights of landowners and their lessees or permittees.

KEY: species of concern[§], habitat designation[§]

Date of Enactment or Last Substantive Amendment: [June 13, 2001]2006

Notice of Continuation: May 24, 2006

Authorizing, and Implemented or Interpreted Law: 23-14-19; 63-34-5(2)(a)

Public Safety, Driver License **R708-26** Temporary Learner Permit Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28782

FILED: 06/07/2006, 13:13

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule change is to allow 15-year olds to apply for a new learner permit that will allow them to practice driving with a driver education instructor, parent, or legal guardian. This rule is in response to H.B. 363, which was passed in the 2006 General Session of the Utah Legislature. (DAR NOTE: H.B. 363 (2006) is found at Chapter 201, Laws of Utah 2006, and will be effective 08/01/2006.)

SUMMARY OF THE RULE OR CHANGE: The statute was changed to allow 15-year olds to apply and get a learner permit good for 12 months. This permit allows them to practice driving with a driver education instructor, a parent, or a legal guardian. They still have to be 16 years of age, and complete driver education before they can get a permanent Utah Driver license. Because this is a new change in the law, the title Temporary Learner Permit Rule was changed to Learner Permit Rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53-3-104(1)(b)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** It will cost the division approximately \$495,000 to fund an additional 8 employees to operate the new program of allowing 15-year olds to get a learner permit. This cost will be offset by charging \$15 per applicant. It is anticipated there will be from 30,000 to 80,000 applicants this first year, which will offset the cost.

❖ **LOCAL GOVERNMENTS:** There will be no cost to local governments because issuing a learner permit to drive is exclusively a state responsibility.

❖ **OTHER PERSONS:** There will be a new \$15 fee for those who are 15 and older in order to get a learner permit. The licensing fees to get a driver license will not change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no extra cost to high school driver education programs because of the additional responsibilities of the Driver License Division to operate the new program.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses due to this rule change. Robert Flowers, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 PUBLIC SAFETY
 DRIVER LICENSE
 CALVIN L RAMPTON COMPLEX
 4501 S 2700 W 3RD FL
 SALT LAKE CITY UT 84119-5595, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Vinn Roos at the above address, by phone at 801-965-4456, by FAX at 801-964-4482, or by Internet E-mail at vroos@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 07/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2006

AUTHORIZED BY: Nannette Rolfe, Director

R708. Public Safety, Driver License.

R708-26. ~~[Temporary]~~Learner Permit Rule.

R708-26-1. Purpose.

The purpose of the rule is to set forth the restrictions to be imposed on a person driving a motor vehicle with a ~~[temporary]~~ learner's permit.

R708-26-2. Authority.

This rule is authorized by Subsection 53-3-104(1)(b).

R708-26-3. Definitions.

~~["Learner" a person who has been issued a temporary learner permit.~~

~~"Adult Spouse" means any married person who is at least 18 years old.~~

~~"Temporary learner permit" means a temporary permit issued by the Driver License Division to a qualified person to drive on public roads as per the restrictions of this rule.~~

~~]"Learner permit" means a temporary restricted driving permit issued by the Driver License Division to a qualified person who has not completed all the requirements to obtain a full driving privilege.~~

R708-26-4. Restrictions.

~~[The restrictions in connection with a temporary learner permit are:~~

~~—(1) A person who has completed a driver license education program and who qualifies for a driver license, except for passing the skills test, may obtain a temporary learner permit. The permit will allow the learner to drive a vehicle provided a parent, legal guardian, adult spouse, or anyone else who is at least 21 years of age, and who has a valid driver license, is riding in the vehicle with the learner. The person riding with the learner shall be there to~~

~~coach and assess the driving skills of the learner prior to the time the learner receives full driving privileges;~~

~~—(2) The permit must be in the learner's possession while the learner is learning to drive; and~~

~~—(3) The permit is valid for 6 months;]~~The restrictions set forth in Section 53-3-210.5 for a driver holding a learner permit shall be printed on the permit along with any other restrictions deemed necessary by the Driver license Division.

R708-26-5. Motorcycle Learner Permit.

A person who has been issued a motorcycle learner permit may drive a motorcycle only during daylight hours and only without passengers.

KEY: learner permit

Date of Enactment or Last Substantive Amendment:
~~[November 16, 1999]~~**2006**

Notice of Continuation: August 25, 2004

Authorizing, and Implemented or Interpreted Law: 53-3-210



Public Safety, Driver License
R708-27
 Certification of Driver Education
 Teachers in the Public Schools to
 Administer Knowledge and Driving
 Skills Tests

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28783

FILED: 06/07/2006, 14:14

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule change is to require driver education instructors to use two new computer-generated forms. The rule specifies what information the division needs on the forms.

SUMMARY OF THE RULE OR CHANGE: In the past, driver education instructors did not need to submit specific forms recording knowledge and road testing information. To better track information needed by the division, and for more consistency, the division has created two separate forms requiring specific information. The division will assist the instructors in updating their computer forms. The information that is needed has been outlined in the rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53a-13-208

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The only cost to the state is some programming cost for developing the forms and upgrading the instructors' computer forms. The cost for this programming has not been determined.

❖ LOCAL GOVERNMENTS: There will be no cost to local governments because developing new computer-generated forms for driver education instructors is exclusively a state responsibility.

❖ OTHER PERSONS: There is no extra cost to individuals because of the division using new forms.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no cost to driver education schools because of the division using new forms.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses because of this rule change. Robert Flowers, Commissioner

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

PUBLIC SAFETY
DRIVER LICENSE
CALVIN L RAMPTON COMPLEX
4501 S 2700 W 3RD FL
SALT LAKE CITY UT 84119-5595, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Vinn Roos at the above address, by phone at 801-965-4456, by FAX at 801-964-4482, or by Internet E-mail at vroos@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 07/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2006

AUTHORIZED BY: Nannette Rolfe, Director

R708. Public Safety, Driver License.

R708-27. Certification of Driver Education Teachers in the Public Schools to Administer Knowledge and Driving Skills Tests.

R708-27-1. Authority and Purpose.

This rule establishes standards and procedures to certify teachers of driver education classes in the public schools to administer knowledge and driving skills tests as required by Section 53A-13-208[~~Utah Code Annotated~~].

R708-27-3. Standards and Procedures.

[A-](1) A teacher shall become certified by making application and by meeting the requirements of this rule. Application shall be made on a form furnished by the division and shall include the following information:

[+](a) The name of the teacher who is applying for certification[-];

[2-](b) The addresses of locations where the teacher will be conducting driver education tests[-]; and

[3-](c) A verification that the teacher has completed division approved training for knowledge and driving skills testing.

[B-](2) The division will offer training to teachers concerning minimum standards which must be met in the administration and scoring of tests.

[C-](3) The division may authorize and train personnel within the public schools to provide the above training to teachers desiring to be certified to administer driver license knowledge and driving skills tests.

[D-](4) When testing students for driver licenses, certified teachers shall use only such driver training tests which are developed and used as a standard by the division for first time driver license applicants.

[E-](5) Knowledge test questions shall be kept in a secure place and shall be accessible only to school officials and to the division. Copies of the tests shall not be retained by students.

[F-](6) The driving skills test shall be conducted on streets, highways and off-road courses only. No simulator testing shall be substituted as part of the final test.

[G-](7) The test results will be valid for driver licensing purposes only if administered in conjunction with approved public driver education courses and by teachers meeting the requirements of these rules.

[H-](8) Records of all student test results shall be retained by the school for a four year period. The records shall be accessible to the division upon request during normal school hours.

[I-](9) Investigations and resolution of complaints relating to testing under this program shall be the responsibility of the USOE.

[J-](10) The USOE shall provide annually, on or before September 30, to the division, a list of all active certified driver education teachers.

R708-27-4. Submittal of Evidence of Student Test Completion.

(1) The following procedures shall be followed by the teacher and the student in submitting evidence of satisfactory completion of knowledge and driving skills testing[-];

~~1. The school shall furnish a certificate of test completion to the student. The certificate shall be a form approved by the division and shall contain the results of tests taken, the signature of the certified teacher who administered the tests, and the date the tests were completed.]~~

(2) As evidence of satisfactory completion of knowledge testing, the school shall furnish a certificate of knowledge test completion to the student. The certificate shall be a form approved by the division and shall contain:

(a) the student's full legal name;

(b) the student's date of birth;

(c) the name of the school district;

(d) the name of the school;

(e) the school ID number;

(f) results of the knowledge test;

(g) the date the test was passed; and

(h) the signature of the certified teacher who administered the test.

(3) To apply for a Class D learner permit, a student must successfully pass the written knowledge test given by the division, or submit the certificate of knowledge test completion given him by the school.

(4) As evidence of satisfactory completion of driving skills testing and course completion, the school shall furnish a certificate to the student. The certificate shall be a form approved by the division and shall contain the following:

(a) the student's name as it appears on the Utah Lerner permit;

- (b) the student date of birth;
(c) the student's date of birth;
(d) original issue date of completion certificate;
(e) results of the driving skills test;
(f) the signature of the certified teacher who administered the test;
(g) the date the test was completed;
(h) the date the driver education course was completed;
(i) the school ID number;
(j) the name of the school district; and
(k) the name of the school.

~~[2-](5)~~ To apply for a Class D driver license, a student may submit the completed certificate of testing and the certificate of completion of driver training course, as issued to him/her by the school, to a division testing station.

~~[3-](6)~~ When a student applies for a Class D driver license, the Division may waive it's normally administered knowledge and driving skills tests for students presenting valid certificates of testing.

R708-27-5. Refusal to Certify, Grounds for Cancellation and Suspension of Certification.

~~[1-](1)~~ The division may refuse to certify teacher applicants who do not meet the standards for training or who submit an application that contains false or incomplete information.

~~[2-](2)~~ The certification of a teacher shall be effective until cancelled or suspended by the division. The USOE may initiate suspension or cancellation of a certification by providing the division with a written request.

~~[3-](3)~~ Certification once granted may be cancelled or suspended for non-compliance with these rules.

~~[4-](4)~~ When the division determines that a need exists to cancel or suspend a teacher's certification, it shall determine an appropriate course of action from the following options:

~~[a-](a)~~ suspension, pending a plan for remediation leading to reinstatement, or

~~[b-](b)~~ cancellation of certification.

~~[5-](5)~~ Reinstatement following cancellation of certification shall consist of completing an approved training plan following cancellation of certification and making application for a new certification.

~~[6-](6)~~ Certification shall be cancelled when teachers no longer are employed as licensed public school teachers. Teachers who discontinue employment with the USOE and then return to teach driver education must make a new application with the division for a new certification and complete approved training following cancellation of certification.

KEY: driver education, teacher certification

Date of Enactment or Last Substantive Amendment:
~~November 24, 1995~~ **2006**

Notice of Continuation: November 25, 2002

Authorizing, and Implemented or Interpreted Law: 53A-13-208



Public Safety, Driver License

R708-32-4

Access

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 28787

FILED: 06/07/2006, 14:33

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to include new language to allow financial institutions to access the uninsured motorist database for the purpose of protecting their bona fide security interest in a motor vehicle.

SUMMARY OF THE RULE OR CHANGE: Sections 41-12a-803 and 41-12a-805 were changed to allow authorized financial institutions to receive insurance status information from the uninsured motorist database. A sentence was added to Section R708-32-4 that allows the division to protect a bona fide security interest in a motor vehicle.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 41-12a-803(7)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There will be no cost to the state because transactions will be processed through Insure-Rite the state's designated vendor.

❖ **LOCAL GOVERNMENTS:** There will be no cost to local governments because the uninsured motorist database is exclusively a state responsibility.

❖ **OTHER PERSONS:** There may be an undetermined fee to qualified financial institutions to receive this information.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be an undetermined fee to qualified financial institutions to receive this information.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Requesters will be charged a reasonable fee for the service, which fee is yet to be determined. It is anticipated requesters may save money as a result of the information they receive for this service. Robert Flowers, Commissioner

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

PUBLIC SAFETY
 DRIVER LICENSE
 CALVIN L RAMPTON COMPLEX
 4501 S 2700 W 3RD FL
 SALT LAKE CITY UT 84119-5595, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Vinn Roos at the above address, by phone at 801-965-4456, by FAX at 801-964-4482, or by Internet E-mail at vrooms@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 07/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2006

AUTHORIZED BY: Nannette Rolfe, Director

R708. Public Safety, Driver License.

R708-32. Uninsured Motorist Database.

R708-32-4. Access.

(1) In accordance with Section 41-12a-803, insurance "status" information will be provided only to authorized personnel of federal, state and local governmental agencies who have access through dispatchers to the Driver License and Motor Vehicle Division's computer information screens (1027 and 1028) and to financial institutions, as defined in Section 7-1-103, for the purpose of protecting a bona fide security interest in a motor vehicle.

(2) Authorized personnel seeking information from this database will be limited to receiving the following responses:

- (a) YES = Strong indication of mandatory insurance in force;
- (b) NO = Strong indication mandatory insurance is not in force;
- (c) EXEMPT = Vehicle is exempt from mandatory auto insurance, such as farm vehicles;
- (d) NOT FOUND = Vehicle not part of insurance database; and
- (e) NOT AVAILABLE = Communications with computer interrupted.

(3) Access to additional information other than "YES", "NO", "EXEMPT", "NOT FOUND," or "NOT AVAILABLE", shall be limited to the following persons who shall sign a Certificate of Understanding:

- (a) Financial Responsibility Section Manager and employees;
 - (b) Driver License Division Director, Deputy Director, and Bureau Chiefs; and
 - (c) Other employees authorized by the Driver License Division Director, Deputy Director or Bureau Chiefs.
- (4) Additional information, if available, may include:
- (a) the vehicle owner's name and address;
 - (b) date of birth;
 - (c) driver license number;
 - (d) license plate number;
 - (e) vehicle identification number;
 - (f) insurance company name;
 - (g) policy number; and
 - (h) issue and expiration dates of the owner's vehicle insurance policy.

KEY: uninsured motorist database

Date of Enactment or Last Substantive Amendment: ~~April 16, 1996~~ **2006**

Notice of Continuation: May 10, 2005

Authorizing, and Implemented or Interpreted Law: 41-12a-803(7)

◆ ————— ◆

Public Safety, Driver License
R708-42
Driver Address Record

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE No.: 28784

FILED: 06/07/2006, 14:20

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to define the procedures, requirements, and format for requesting and disclosing a Driver Address Record in accordance with Subsection 53-3-109(1)(c)(ii). This rule is in response to H.B. 169, which was passed in the 2006 General Session of the Utah Legislature. (DAR NOTE: H.B. 169 (2006) is found at Chapter 298, Laws of Utah 2006, and was effective 05/01/2006.)

SUMMARY OF THE RULE OR CHANGE: A qualified requester may request a Driver Address Record (DAR) from the division or its designated provider. A DAR includes the driver's name and Utah driver license, or driving privilege card number for all drivers in the division's database whose current address is the same as the driver requested. A requester must be qualified in accordance with the Federal Driver Privacy Protection Act of 1994 and Title 63, Chapter 2. A requester may only request a DAR for a person for whom the requester provides motor vehicle insurance.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53-3-109(7)(f)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There will be a cost to the state of Utah to research and provide information from the Driver License Division database files. The fee for a DAR (which has not been determined) will offset the costs to the state of Utah.
- ❖ LOCAL GOVERNMENTS: There will be no cost to local governments because issuing DAR information is exclusively a state responsibility.
- ❖ OTHER PERSONS: There will be a cost to the designated provider to provide this service. The designated provider will charge all requesters a fee. The fee is yet to be determined.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Utah Interactive, the designated provider under contract with the state of Utah, will charge the requester a fee for the Internet services they provide. Each qualified requester will be charged one fee per record. The fee will include the cost to the state of Utah and the cost to Utah Interactive to provide the Internet services. The fee has not yet been determined.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Requesters will be charged a reasonable fee for each DAR they request. It is anticipated requesters will save money as a result of the information they receive on a DAR. Robert Flowers, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PUBLIC SAFETY
DRIVER LICENSE
CALVIN L RAMPTON COMPLEX
4501 S 2700 W 3RD FL

SALT LAKE CITY UT 84119-5595, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Vinn Roos at the above address, by phone at 801-965-4456,
by FAX at 801-964-4482, or by Internet E-mail at
vroos@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 07/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2006

AUTHORIZED BY: Nannette Rolfe, Director

R708. Public Safety, Driver License.

R708-42. Driver Address Record.

R708-42-1. Purpose.

The purpose of this rule is to define the procedures, requirements and format for requesting and disclosing a Driver Address Record in accordance with Subsection 53-3-109(1)(c)(ii).

R708-42-2. Authority.

This rule is authorized by Subsection 53-3-109(7)(f).

R708-42-3. Definitions.

(1) "Driver Address Record" (DAR), means a computer generated compilation of particular elements contained in the Driver License Division electronic database, consisting of:

(a) driver's name;

(b) driver's license or driving privilege card number;

(c) driver's current residential address; and

(d) name and driver license or driving privilege card number of a person with a driver license residential address that is the same as the driver requested.

R708-42-4. Procedures.

(1) Upon receipt of a request for a DAR pursuant to Subsection 53-3-109(1)(c)(ii), the division will search its driver license files to compile and furnish a DAR on any person licensed in the state of Utah. A qualified requester may only obtain a DAR for a person who has obtained motor vehicle insurance, from the qualified requester pursuant to Title 31A Chapter 22 Part 3.

(2) DAR's shall only be released to qualified requesters in accordance with the Federal Driver Privacy Protection Act of 1994 (DPPA), Subsection 53-3-109(1)(c)(ii), and Title 63, Chapter 2.

R708-42-5. Requirements.

(1) In order to receive a DAR, the requester must:

(a) provide acceptable proof of identification that they are a qualified requester under Subsection 53-3-109(1)(c)(ii);

(b) enter into a contract with the division or its designated provider to obtain a DAR;

(c) provide the driver's name, Utah driver license or driving privilege card number and address;

(d) pay required fees as established by the division;

(e) agree to comply with state and federal laws regulating the use and further disclosure of information on an DAR; and

(f) comply with auditing processes and procedures as required by the division or its designated provider.

R708-42-6. Electronic Transactions.

Requests for DARs will be transacted electronically as approved by the division.

KEY: driver address record

Date of Enactment or Last Substantive Amendment: 2006

Authorizing, and Implemented or Interpreted Law: 53-3-109(1)(c)

Public Safety, Driver License

R708-43

Yes or No Notification

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 28785

FILED: 06/07/2006, 14:24

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to define the procedures, requirements, and format for verifying personal identifying information in accordance with Subsection 53-3-109(1)(c)(iii). This rule is in response to H.B. 169, which was passed in the 2006 General Session of the Utah Legislature. (DAR NOTE: H.B. 169 (2006) is found at Chapter 298, Laws of Utah 2006, and was effective 05/01/2006.)

SUMMARY OF THE RULE OR CHANGE: A depository institution as defined in Section 7-1-103, may request a Yes or No Verification (YON) from the division or its designated provider.

The yes response indicates the information submitted on an individual matches the information contained in the Driver License Division database. The no response indicates the information submitted on an individual does not match the information contained in the Driver License Division database.

A YES Verification including photo (YIP) indicates the information submitted on an individual matches the information contained in the Driver License Division database and includes a digitized photo.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53-3-109(7)(f)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be a cost to the state of Utah to research and provide information from the Driver License Division database files. The fee for a YON/YIP (which has not been determined) will offset the costs to the state of Utah.

❖ LOCAL GOVERNMENTS: There will be no cost to local governments because verifying information on the Driver License Database is exclusively a state responsibility.

❖ OTHER PERSONS: There will be a cost to the designated provider to provide this service. The designated provider will charge all requesters a fee. The fee is yet to be determined.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Utah Interactive, the designated provider under contract with the state of Utah, will charge the requester a fee for the Internet services they provide. Each qualified requester will be charged one fee per record. The fee will include the cost to the state of Utah and the cost to Utah Interactive to provide the Internet services. The fee has not yet been determined.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Requesters will be charged a reasonable fee for each YON/YIP they request. It is anticipated requesters will save money as a result of the information they receive on a YON/YIP. Robert Flowers, Commissioner

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

PUBLIC SAFETY
DRIVER LICENSE
CALVIN L RAMPTON COMPLEX
4501 S 2700 W 3RD FL
SALT LAKE CITY UT 84119-5595, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Vinn Roos at the above address, by phone at 801-965-4456, by FAX at 801-964-4482, or by Internet E-mail at vroos@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 07/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2006

AUTHORIZED BY: Nannette Rolfe, Director

R708. Public Safety, Driver License.

R708-43. YES or NO Notification.

R708-43-1. Purpose.

The purpose of this rule is to define the procedures, requirements and format for verifying personal identifying information in accordance with Subsection 53-3-109(1)(c)(iii).

R708-43-2. Authority.

This rule is authorized by Subsection 53-3-109(7)(f).

R708-43-3. Definitions.

(1) "Yes or No Verification (YON)" means an electronic notification that information submitted by a requester matches the information on the driver license division database. For this purpose Yes verifies a match of (a) through (c), and No indicates one or more items do not match the database information, including:

(a) name;

(b) driver license, driving privilege card or identification card number; and

(c) date of birth.

(2) "Yes or No Verification including a digitized photo (YIP)" means an electronic notification that information submitted by a

requester matches the information on the driver license division database and includes the most recent digitized photo.

R708-43-4. Procedures.

(1) Upon receipt of a request for verification pursuant to Subsection 53-3-109(1)(c)(iii), the division will search the driver license division database and furnish a YON or YIP on any person who has a driver license, driving privilege card or identification card in the state.

(2) The YON or YIP contains certain personal identifying information and is protected from public disclosure for privacy reasons in accordance with the federal Driver Privacy Protection Act of 1994 (DPPA), Subsection 53-3-109, and Title 63, Chapter 2.

R708-43-5. Requirements.

(1) YONs or YIPs shall only be released to qualified requesters in accordance with the DPPA and Subsection 53-3-109(1)(c)(iii).

(2) In order to receive a YON or YIP, the requester must:

(a) provide acceptable proof that they are a depository institution as defined in Section 7-1-103;

(b) enter into a contract with the division or its designated provider to obtain a YON or YIP;

(c) provide the name, Utah driver license number, driving privilege number or identification card number and date of birth of the person who is the subject of the request;

(d) pay required fees as established by the division;

(e) agree to comply with state and federal laws regulating the use and further disclosure of information provided; and

(f) comply with auditing processes and procedures required by the division or its designated provider.

R708-43-6. Electronic Transactions.

Requests for YONs and YIPs will be transacted electronically as approved by the division.

KEY: driver license verification

Date of Enactment or Last Substantive Amendment: 2006

Authorizing, and Implemented or Interpreted Law: 53-3-109(1)(c)



Public Safety, Driver License

R708-44

Citation Monitoring Service

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 28786

FILED: 06/07/2006, 14:28

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to define the procedures, requirements, and format for providing a Citation Monitoring Service in accordance with Subsection 53-3-109(3). This rule is in response to S.B. 88, which was passed in the 2006 General Session of the Utah Legislature. (DAR NOTE: S.B. 88 (2006) is found at Chapter 230, Laws of Utah 2006, and was effective 05/01/2006.)

SUMMARY OF THE RULE OR CHANGE: A qualified requester may request the Citation Monitoring Service from the division or its designated provider. The requester will receive a yes or no response, which indicates a reportable moving violation within the month prior to the date of the request has been entered on the driver's record. This service contains personal identification information and is protected from public disclosure in accordance with the Federal Driver Privacy Protection Act of 1994. In order to receive this service, requesters must meet the requirements listed in this rule and Subsection 53-3-109(3).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53-3-109(7)(g)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There will be a cost to the state of Utah to research and provide information from the Driver License Division database files. The fee for this service (which has not been determined) will offset the costs to the state of Utah.
- ❖ LOCAL GOVERNMENTS: There will be no cost to local governments because verifying information on the Driver License Database is exclusively a state responsibility.
- ❖ OTHER PERSONS: There will be a cost to the designated provider to provide this service because they have to interact with various companies and the division to transmit this information. The designated provider will charge all requesters a fee. The fee is yet to be determined.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Utah Interactive, the designated provider under contract with the state of Utah, will charge the requester a fee for the Internet services they provide. Each qualified requester will be charged a monthly fee per record. The fee will include the cost to the state of Utah and the cost to Utah Interactive to provide the Internet services. The fee has not yet been determined.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Requesters will be charged a reasonable fee for the service, which fee is yet to be determined. It is anticipated requesters will save money as a result of the information they receive from this service. Robert Flowers, Commissioner

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

PUBLIC SAFETY
DRIVER LICENSE
CALVIN L RAMPTON COMPLEX
4501 S 2700 W 3RD FL
SALT LAKE CITY UT 84119-5595, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Vinn Roos at the above address, by phone at 801-965-4456, by FAX at 801-964-4482, or by Internet E-mail at vroos@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 07/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2006

AUTHORIZED BY: Nannette Rolfe, Director

R708. Public Safety, Driver License.
R708-44. Citation Monitoring Service.
R708-44-1. Purpose.

The purpose of this rule is to define the procedures, requirements and format for disclosing personal identifying information in accordance with Section 53-3-109(3).

R708-44-2. Authority.

This rule is authorized by Section 53-3-109(7)(f).

R708-44-3. Definitions as Used in This Chapter.

"Citation Monitoring Service (CMS)" means an electronic service whereby the Driver License Division database is monitored on a regular basis to determine if a reportable moving violation has been entered on a specific driving record within the month prior to the date of the request. The requestor will receive a "YES or NO" response that indicates whether a reportable moving violation has been entered on the driver's record during the previous month. If the information submitted by the requestor does not match a driver's record on the database, the requestor will receive an unable to locate (UTL) response.

R708-44-4. Procedures.

(1) Upon receipt of a request for a notification pursuant to Section 53-3-109(3), the division will provide this monitoring service on any person who has a Utah driver license or driving privilege card.

(2) The Driver License Division database contains certain personal identifying information and is protected from public disclosure for privacy reasons in accordance with the federal Driver Privacy Protection Act of 1994 (DPPA), Section 53-3-109 and Title 63, Chapter 2 (Government Records Access and Management Act).

R708-44-5. Requirements.

(1) CMS is only available to qualified requesters in accordance with the DPPA and Section 53-3-109(3).

(2) In order to be eligible for the CMS, the requester must:

(a) provide acceptable proof that they are an insurer as defined under Section 31A-1-301, or a designee of an insurer as defined under Section 31A-1-301;

(b) enter into a contract with the division or its designated provider to obtain this service;

(c) provide the name, date of birth, and Utah driver license or driving privilege number for the person for which they are seeking monitoring and notification;

(d) pay required fees as established by the division;

(e) agree to comply with state and federal laws regulating the use and further disclosure of information on the Driver License Division database; and

(f) comply with auditing processes and procedures required by the division or its designated provider.

R708-44-6. Electronic Transactions.

The Citation Monitoring Service will be transacted electronically, as approved by the division.

KEY: driver license, motor vehicle record, citation monitoring service

Date of Enactment or Last Substantive Amendment: 2006

Authorizing, and Implemented or Interpreted Law: 53-3-109(3)

◆ ————— ◆

**Public Service Commission,
Administration
R746-345
Pole Attachments**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28803

FILED: 06/15/2006, 10:05

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Comments submitted in May 2006 in another rule amendment proceeding established that industry practice is that individual owners of facilities involved with pole attachments perform make-ready work for their own facilities and this work is coordinated by the pole owner. A new definition is proposed to be added to the rule to reflect this industry practice. The other proposed change to the rule seeks to follow this industry practice and clarifies that each facility owner may continue to perform the make-ready work or may reach other agreements on how such make-ready work is performed by others. The rule is also clarified to ensure that where a self-build option is available, necessary cost information is made available to the new attaching entity in order to make an informed selection of a self-build option. An additional provision is added clarifying that an applicant may reject a make-ready estimate or make-ready construction time-line if the applicant believes that they are not prepared in good faith, are not reasonable, or otherwise not in the public interest. The Commission will resolve these disputes.

SUMMARY OF THE RULE OR CHANGE: A new definition for "make-ready work" is added to the definitions and the definitions are rearranged alphabetically. Provisions of Section R746-345-3 dealing with information regarding make-ready work costs and construction periods are amended to clarify that information will be provided for each facility owner's make-ready work, as well as information on the availability of and conditions for a self-build option, if available.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 54-3-1, 54-3-13, and 54-4-1; and 47 U.S.C. 224(c)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--The changes will cause no change in state agencies' activities. While the rule clarifies that disputes concerning make-ready work may be brought to the Commission, the Commission already deals with similar disputes and will accommodate these disputes within its existing operations.

❖ LOCAL GOVERNMENTS: None--The proposed rule changes will have no effect on local government's activities under the rule beyond providing them with more detailed information on the self-build options that may be available.

❖ OTHER PERSONS: None--The rule attempts to follow industry practice and as such, no changes are anticipated in their activities as a result of the proposed changes. The proposed changes make available more detailed information on the self-build options that may be available.

COMPLIANCE COSTS FOR AFFECTED PERSONS: As the rule follows industry practice, the Commission does not anticipate that there will be any compliance costs with the rule. The changes simply provide greater clarity on how the existing rule's requirement for the dissemination of information is to be done.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Comments received from the last rule change proposal provided information regarding industry practice on how make-ready work is preformed and coordinated. The Commission anticipates that there will be no fiscal impact on businesses as the rule follows current industry practices. Ric Campbell, Chairman

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

PUBLIC SERVICE COMMISSION
ADMINISTRATION
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:

Barbara Stroud or Sandy Mooy at the above address, by phone at 801-530-6714 or 801-530-6708, by FAX at 801-530-6796 or 801-530-6796, or by Internet E-mail at bstroud@utah.gov or smooy@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 08/01/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 08/09/2006

AUTHORIZED BY: Sandy Mooy, Legal Counsel

R746. Public Service Commission, Administration.

R746-345. Pole Attachments.

R746-345-2. General Definitions.

A. "Attaching Entity" -- A public utility, wireless provider, cable television company, communications company, or other entity that provides information or telecommunications services that attaches to a pole owned or controlled by a public utility.

B. [~~"Distribution Pole" -- A utility pole, excluding towers, used by a pole owner to support mainly overhead distribution wires or cables.~~] "Attachment Space" -- The amount of usable space on a pole occupied by a pole attachment as provided for in Subsection R746-345-5(B)(3)(d).

C. ["Pole Attachment" — All equipment, and the devices used to attach the equipment, of an attaching entity within that attaching entity's allocated attachment space. A new or existing service wire drop pole attachment that is attached to the same pole as an existing attachment of the attaching entity is considered a component of the existing attachment for purposes of this rule. Additional equipment that is placed within an attaching entity's existing attachment space, and equipment placed in the unuseable space which is used in conjunction with the attachments, is not an additional pole attachment for rental rate purposes. All equipment and devices shall meet applicable code and contractual requirements. Pole attachments do not include items used for decorations, signage, barriers, lighting, sports equipment, or cameras.]"Distribution Pole" -- A utility pole, excluding towers, used by a pole owner to support mainly overhead distribution wires or cables.

D. ["Attachment Space" — The amount of usable space on a pole occupied by a pole attachment as provided for in Subsection R746-345-5(B)(3)(d).]"Make-Ready Work" -- The changes to be made to a pole owner's poles, its own pole attachments, the existing pole attachments of other attaching entities, or the existing additional equipment associated with such attachments, which changes may be needed to accommodate a proposed additional pole attachment. Such make-ready work is coordinated by the pole owner and is performed by the owners of the poles or owners of the pole attachments and additional equipment or as otherwise agreed to by these owners.

E. ["Pole Owner" — A public utility having ownership or control of poles used, in whole or in part, for any electric or telecommunications services.]"Pole Attachment" -- All equipment, and the devices used to attach the equipment, of an attaching entity within that attaching entity's allocated attachment space. A new or existing service wire drop pole attachment that is attached to the same pole as an existing attachment of the attaching entity is considered a component of the existing attachment for purposes of this rule. Additional equipment that is placed within an attaching entity's existing attachment space, and equipment placed in the unuseable space which is used in conjunction with the attachments, is not an additional pole attachment for rental rate purposes. All equipment and devices shall meet applicable code and contractual requirements. Pole attachments do not include items used for decorations, signage, barriers, lighting, sports equipment, or cameras.

[F. "Secondary Pole" — A pole used solely to provide service wire drops, the aerial wires or cables connecting to a customer premise.]"Pole Owner" -- A public utility having ownership or control of poles used, in whole or in part, for any electric or telecommunications services.

G. ["Secondary Pole Attachment" — A pole attachment to a secondary pole.]"Secondary Pole" -- A pole used solely to provide service wire drops, the aerial wires or cables connecting to a customer premise.

H. ["Wireless Provider" — A corporation, partnership, or firm that provides cellular, Personal Communications Systems (PCS), or other commercial mobile radio service as defined in 47 U.S.C. 332 that has been issued a covering license by the Federal Communications Commission.]"Secondary Pole Attachment" -- A pole attachment to a secondary pole.

I. "Wireless Provider" -- A corporation, partnership, or firm that provides cellular, Personal Communications Systems (PCS), or other commercial mobile radio service as defined in 47 U.S.C. 332 that has been issued a covering license by the Federal Communications Commission.

R746-345-3. Tariffs and Contracts.

A. Tariff Filings and Standard Contracts -- A pole owner shall submit a tariff and standard contract, or a Statement of Generally Available Terms (SGAT), specifying the rates, terms and conditions for any pole attachment, to the Commission for approval.

1. A pole owner must petition the Commission for any changes or modifications to the rates, terms, or conditions of its tariff, standard contract or SGAT. A petition for change or modification must include a showing why the rate, term or condition is no longer just and reasonable. A change in rates, terms or conditions of an approved tariff, standard contract or SGAT will not become effective unless and until it has been approved by the Commission.

2. The tariff, standard contract or SGAT shall identify all rates, fees, and charges applicable to any pole attachment. The tariff, standard contract, and SGAT shall also include:

a. a description of the permitting process, the inspection process, the joint audit process, including shared scheduling and costs, and any non-recurring fee or charge applicable thereto;

b. emergency access provisions; and

c. any back rent recovery or unauthorized pole attachment fee and any applicable procedures for determining the liability of an attaching entity to pay back rent or any non-recurring fee or charge applicable thereto.

B. Establishing the Pole Attachment Relationship -- The pole attachment relationship shall be established when the pole owner and the attaching entity have executed the approved standard contract, or SGAT, or other Commission-approved contract.

1. Exception -- The pole owner and attaching entity may voluntarily negotiate an alternative contract incorporating some, all, or none of the terms of the standard contract or SGAT. The parties shall submit the negotiated contract to the Commission for approval. In situations in which the pole owner and attaching entity are unable to agree following good faith negotiations, the pole owner or attaching entity may petition the Commission for resolution as provided in Section R746-345-6. Pending resolution by the Commission, the parties shall use the standard contract or SGAT.

C. Make-Ready Work, Timeline and Cost Methodology -- As a part of the application process, the pole owner shall provide the applicant with an estimate of the cost of the make-ready work required and the expected time to complete the make-ready work as provided for in this sub-section. All applications by a potential attachor within a given calendar month shall be counted as a single application for the purposes of calculating the response time to complete the make-ready estimate for the pole owner. The due date for a response to all applications within the calendar month shall be calculated from the date of the last application during that month. As an alternative to all of the time periods allowed for construction below, a pole owner may provide the applicant with an estimated time by which the work could be completed that is different than the standard time periods contained in this rule with an explanation for the anticipated delay. Pole owners must provide this alternative estimate within the estimate timelines provided below. Applicants that wish to consider self-building shall inform the pole owner at the time of application that they are considering the self-build option, if available, and they would like a two-alternative make-ready bid. The pole owner and each existing attaching entity are responsible to determine what portion, if any, of the make-ready work their facilities require which may be performed through a self-build option and what conditions, if any, are associated with such self-build option. In the first alternative, the pole owner and

attaching entities would be responsible for all necessary make-ready work. For the second alternative, the pole owner and attaching entities will identify what make-ready work they will perform, if any, with an associated cost estimate, and also identify what make-ready work, if any, the owner is agreeable to have performed through a self-build option and the conditions, if any, for such self-build option.

1. For applications up to 20 poles, the pole owner shall respond with either an approval or a rejection within 45 days. At the same time as an approval is given, a completed make-ready estimate must be provided to the applicant explaining what make-ready work must be done, the cost of that work, and the time by which the work would be finished, that is no later than 120 days from receiving an initial deposit payment for the make-ready work.

2. For applications that represent greater than 20 poles, but equal to or less than .5% of the pole owner's poles in Utah, or 300 poles, whichever is lower, the time for the pole owner's approval and make-ready estimate shall be extended to 60 days, and the time for construction will remain at a maximum of 120 days.

3. For applications that represent greater than the number of poles calculated in section 3(2)(C)(2) above, but equal to or less than 5% of the pole owner's poles in Utah, or 3,000 poles, whichever is lower, the time for the approval and make-ready estimate shall be extended to 90 days, and the time for construction will be extended to 180 days.

4. For applications that represent greater than 5% of the pole owner's poles in Utah, or 3,000 poles, whichever is lower, the times for the above activities will be negotiated in good faith. The pole owner shall, within 20 days of the application, inform the applicant of the date by which the pole owner will have the make-ready estimate and make-ready construction time lines prepared for the applicant. If the applicant believes the pole owner is not acting in good faith, it may appeal to the Commission to either resolve the issue of when the make-ready estimate and construction period information should be delivered or to arbitrate the negotiations.

5. If the pole owner rejects any application, the pole owner must state the specific reasons for doing so. Applicants may appeal to the Commission if they do not agree that the pole owner's stated reasons are sufficient grounds for rejection.

6. For all approved applications, the applicant will either accept or reject the make-ready estimate. If it accepts the make-ready estimate and make-ready construction time line, the work must be done ~~by the pole owner~~ on schedule and for the estimated make-ready amount, or less, and the applicant will be billed for actual charges up to the bid amount.

7. Applicants must pay 50% of the make-ready estimate in advance of construction, and pay the remainder in two subsequent installment payments: an additional 25 percent payment when half of the work is done and the balance after the work is completed. Applicants may elect to pay the entire amount up front.

8. ~~[If the applicant rejects the make-ready estimate for an approved application for whatever reason, the]~~ An applicant may, at its own ~~[expense, use approved contractors to]~~ discretion, exercise any of the self-build options given for the required make-ready work subject to the ~~[pole owner's inspection]~~ conditions made.

9. An applicant may reject a make-ready estimate if it wishes to contest, before the Commission, that the make-ready estimate or make-ready construction time line is not prepared in good-faith, or is unreasonable or not in the public interest.

D. Pole Attachment Placement -- All new copper cable attachments shall be placed at the lowest level permitted by applicable safety codes. In cases where an existing copper attachment has been

placed in a location higher than the minimum height the safety codes require, the pole owner shall determine if the proposed attachment may be safely attached either above or below the existing copper attachment taking account of midspan clearances and potential crossovers. If these attachment locations, above or below the copper cable, comply with the applicable safety code, the attacher may attach to the pole without paying to move the copper cable. The owner of the copper cable may elect to pay the costs of having the cable moved to the lowest position as part of the attachment process, or it may elect to move the cable themselves prior to the attaching entity's attachment. If the copper cable must be moved in order for the attacher to be able to safely make its attachment, the attacher shall pay the costs associated with moving the existing copper cable.

KEY: public utilities, rules and procedures, telecommunications, telephone utility regulation

Date of Enactment or Last Substantive Amendment: ~~February 8, 2006~~

Notice of Continuation: August 8, 2003

Authorizing, and Implemented or Interpreted Law: 54-4-13



Tax Commission, Administration R861-1A-20

Time of Appeal Pursuant to Utah Code
Ann. Sections 59-1-301, 59-1-501, 59-
2-1007, 59-7-517, 59-10-532, 59-10-
533, 59-10-535, 59-12-114, 59-13-210,
63-46b-3, and 63-46b-14

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE No.: 28804

FILED: 06/15/2006, 10:07

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment reinstates language that clarifies the time period for filing tax appeals.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment reinstates language indicating that, unless otherwise provided, a petition for redetermination must be received in the commission offices no later than 30 days from the date of a notice that creates the right to appeal.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-1-301, 59-1-501, 59-2-1007, 59-7-517, 59-10-532, 59-10-533, 59-10-535, 59-12-114, 59-13-210, 63-46b-3, and 63-46b-14

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--The proposed amendment clarifies that there is a 30-day filing period for filing a petition for redetermination, except as provided otherwise by statute.

- ❖ LOCAL GOVERNMENTS: None--The proposed amendment clarifies that there is a 30-day filing period for filing a petition for redetermination, except as provided otherwise by statute.
- ❖ OTHER PERSONS: None--The proposed amendment clarifies that there is a 30-day filing period for filing a petition for redetermination, except as provided otherwise by statute.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The proposed language clarifies the 30-day filing period for filing a petition for redetermination, unless otherwise provided by statute. This is a reinstatement of language that was previously repealed in error.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal on businesses. This is simply clarifying language that is being reinstated. Pam Hendrickson, Commission Chair

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

TAX COMMISSION
ADMINISTRATION
210 N 1950 W
SALT LAKE CITY UT 84134-0002, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clec@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 07/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2006

AUTHORIZED BY: Pam Hendrickson, Commission Chair

R861. Tax Commission, Administration.

R861-1A. Administrative Procedures.

R861-1A-20. Time of Appeal Pursuant to Utah Code Ann. Sections 59-1-301, 59-1-501, 59-2-1007, 59-7-517, 59-10-532, 59-10-533, 59-10-535, 59-12-114, 59-13-210, 63-46b-3, and 63-46b-14.

~~[A-](1)~~ A request for a hearing to correct a property tax assessment pursuant to Section 59-2-1007 must be in writing. The request is deemed to be timely if:

~~[1-](a)~~ it is received in the ~~[Tax Commission]~~commission offices on or before the close of business of the last day of the time frame provided by statute; or

~~[2-](b)~~ the date of the postmark on the envelope or cover indicates that the request was mailed on or before June 1.

~~[B-](2)~~ ~~[A]~~Except as provided in Subsection (3), a petition for redetermination must be received in the commission offices no later than 30 days from the date of a notice that creates the right to appeal. The petition is deemed to be timely if:

~~[1-](a)~~ the petition is received in the ~~[Tax Commission]~~commission offices on or before the close of business of the last day of the ~~[time frame provided by statute]~~30-day period; or

~~[2-](b)~~ the date of the postmark on the envelope or cover indicates that the request was mailed on or before the last day of the ~~[time frame provided by statute]~~30-day period.

(3) A petition for redetermination filed in accordance with Sections 59-10-532 or 59-10-533 is deemed to be timely if:

(a) the petition is received in the commission offices on or before the close of business of the last day of the time frame provided by statute; or

(b) the date of the postmark on the envelope or cover indicates that the request was mailed on or before the last day of the time frame provided by statute.

~~[C-](4)~~ Any party adversely affected by an order of the ~~[Commission]~~commission may seek judicial review within the time frame provided by statute. Copies of the appeal shall be served upon the ~~[Commission]~~commission and upon the Office of the Attorney General.

KEY: developmentally disabled, grievance procedures, taxation, disclosure requirements

Date of Enactment or Last Substantive Amendment: ~~[March 6,]~~2006

Notice of Continuation: April 22, 2002

Authorizing, and Implemented or Interpreted Law: 59-1-301; 59-1-501; 59-2-1007; 59-7-517; 59-10-532; 59-10-533; 59-10-535; 59-12-114; 59-13-210; 63-46b-3; 63-46b-14



Tax Commission, Motor Vehicle **R873-22M-34** Rule for Denial of Personalized Plate Requests Pursuant to Utah Code Ann. Sections 41-1a-104 and 41-1a-411

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28806

FILED: 06/15/2006, 11:03

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the proposed amendment is to clarify when certain requests for personalized license plates will be permitted or denied.

SUMMARY OF THE RULE OR CHANGE: Proposed amendment clarifies that the term "illicit" in Subsection R873-22M-34(2)(c) applies only to drugs; clarifies in Subsection R873-22M-34(2)(b) when a "69" format plate may be issued.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 41-1a-104 and 41-1a-411

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--Proposed amendment clarifies standards for the issuance of certain personalized plates.
- ❖ LOCAL GOVERNMENTS: None--Personalized plate fees are not distributed by local government.
- ❖ OTHER PERSONS: None--Proposed amendment clarifies standards for the issuance of certain personalized license plates.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The proposed amendment clarifies certain requests for personalized license plates that may be allowed or prohibited.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses. Pam Hendrickson, Commission Chair

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

TAX COMMISSION
MOTOR VEHICLE
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2006

AUTHORIZED BY: Pam Hendrickson, Commission Chair

R873. Tax Commission, Motor Vehicle.**R873-22M. Motor Vehicle.****R873-22M-34. Rule for Denial of Personalized Plate Requests Pursuant to Utah Code Ann. Sections 41-1a-104 and 41-1a-411.**

(1) The personalized plate is a non-public forum. Nothing in the issuance of a personalized plate creates a designated or limited public forum. The presence of a personalized plate on a vehicle does not make the plate a traditional public forum.

(2) Pursuant to Section 41-1a-411(2), the division may not issue personalized license plates in the following formats:

(a) Combination of letters, words, or numbers with any connotation that is vulgar, derogatory, profane, or obscene.

(b) Combinations of letters, words, or numbers that connote breasts, genitalia, pubic area, buttocks, or relate to sexual and eliminatory functions. Additionally, "69" formats are prohibited unless used in a combination with the vehicle make, model, style, type, or commonly used or readily understood abbreviations of those terms, for example, "69 CHEV."

(c) Combinations of letters, words, or numbers that connote the substance, paraphernalia, sale, user, purveyor of, or physiological state produced by any ~~illicit drug,~~ narcotic, ~~or~~ intoxicant, or illicit drug.

(d) Combinations of letters, words, or numbers that express contempt, ridicule, or superiority of a race, religion, deity, ethnic heritage, gender, or political affiliation.

(e)(i) Combinations of letters, words, or numbers that express affiliations or actions that may be construed to suggest endangerment to the public welfare.

(ii) Examples of letters, words, or numbers described in Subsection (2)(e)(i) include words, signs, or symbols that represent:

(A) illegal activity;

(B) organized crime associations; or

(C) gang or gang terminology.

(iii) The division shall consult with local, state, and national law enforcement agencies to establish criteria to determine whether a combination of letters, words, or numbers express affiliations or actions that may be construed to suggest endangerment to the public welfare.

(3) If the division denies a requested combination, the applicant may request a review of the denial, in writing, within 15 days from the date of notification. The request must be directed to the Director of the Motor Vehicle Division and should include a detailed statement of the reasons why the applicant believes the requested license plates are not offensive or misleading.

(4) The director shall review the format for connotations that may reasonably be detected through linguistic, numerical, or phonetic modes of communication. The review may include:

(a) translation from foreign languages;

(b) an upside down or reverse reading of the requested format; and

(c) the use of references such as dictionaries or glossaries of slang, foreign language, or drug terms.

(5) The director shall consider the applicant's declared definition of the format, if provided.

(6) If the requested format is rejected by the director, the division shall notify the applicant in writing of the right to appeal the decision through the appeals process outlined in Tax Commission rule R861-1A-22.

(7) If, after issuance of a personalized license plate, the commission becomes aware through written complaint that the format may be prohibited under Subsection R873-22M-34(1), the division shall again review the format.

(8) If the division determines pursuant to Subsection R873-22M-34~~(1)~~(2) that the issued format is prohibited, the holder of the plates shall be notified in writing and directed to surrender the plates. This determination is subject to the review and appeal procedures outlined in Subsections ~~R873-22M-34(2)~~(3) through ~~(5)~~(7).

(9) A holder required to surrender license plates shall be issued a refund for the amount of the personalized license plate application fee and for the prorated amount of the personalized license plate annual renewal fee, or shall be allowed to apply for replacement personalized license plates at no additional cost.

(10) If the holder of plates found to be prohibited fails to voluntarily surrender the plates within 30 days after the mailing of the notice of the division's final decision that the format is prohibited, the division shall cancel the personalized license plates and suspend the vehicle registration.

KEY: taxation, motor vehicles, aircraft, license plates
Date of Enactment or Last Substantive Amendment: [~~October 31,~~
~~2005~~2006
Notice of Continuation: April 5, 2002

Authorizing, and Implemented or Interpreted Law: 41-1a-104; 41-
1a-411



End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive public comment that requires the PROPOSED RULE to be altered before it goes into effect. A CHANGE IN PROPOSED RULE allows an agency to respond to comments it receives.

As with a PROPOSED RULE, a CHANGE IN PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the CHANGE IN PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the CHANGE IN PROPOSED RULE is usually printed. The text shows only those changes made since the PROPOSED RULE was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [example]). A row of dots in the text (.) indicates that unaffected text was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends July 31, 2006. At its option, the agency may hold public hearings.

From the end of the waiting period through October 29, 2006, the agency may notify the Division of Administrative Rules that it wants to make the CHANGE IN PROPOSED RULE effective. When an agency submits a NOTICE OF EFFECTIVE DATE for a CHANGE IN PROPOSED RULE, the PROPOSED RULE as amended by the CHANGE IN PROPOSED RULE becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by *Utah Code* Section 63-46a-6 (2001); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

The Changes in Proposed Rules Begin on the Following Page.

Insurance, Administration
R590-226
Submission of Life Insurance Filings

NOTICE OF CHANGE IN PROPOSED RULE
(Second)

DAR File No.: 28488
 Filed: 06/08/2006, 07:32

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes to this rule are a result of input received during the comment period.

SUMMARY OF THE RULE OR CHANGE: The changes to Sections R590-226-4 and R590-226-6 are being made to comply with national rate and form filing requirements that will soon be required. These changes will affect electronic and paper filings. In Section R590-226-4, the definition of "Alternate Information" is being replaced with "Filing Status Information."

This is a change in the definition title only. The changes to Section R590-226-6 are being made to comply with the definitional changes in Section R590-226-4 as they relate to domiciled states. The change in Section R590-226-16 changes the date of enforcement. (DAR NOTE: This is the second change in proposed rule (CPR) for Rule R590-226. The original proposed amendment upon which the first CPR was based was published in the February 15, 2006, issue of the Utah State Bulletin, on page 5. The first CPR upon which this second CPR is based was published in the April 15, 2006, issue of the Utah State Bulletin, on page 54. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the first CPR, the second CPR, and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The changes to this rule will have no effect on the state's budget. It will not change the workload of the Insurance Department nor change its revenues.
- ❖ LOCAL GOVERNMENTS: This rule has no impact on local governments. It only relates to the relationship between the department and its licensees.
- ❖ OTHER PERSONS: The changes to this rule clarify definitions and procedures for the filing of life policy forms with the department. They will have no effect on life insurers nor their consumers. No special filings will need to be made beyond those already being filed and no additional expense will be created.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The changes to this rule clarify definitions and procedures for the filing of life policy forms with the department. They will have no effect on life insurers nor their consumers. No special filings will

need to be made beyond those already being filed and no additional expense will be created.

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

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

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

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/14/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2006

AUTHORIZED BY: Jilene Whitby, Information Specialist

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

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R590-226-4. Definitions.

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

- (1) [~~"Alternate information" means:~~
 - ~~(a) a list of the states to which the filing was submitted, with any state actions;~~
 - ~~(b) the reason for not submitting the filing to the domicile state; and~~
 - ~~(c) identifying any points of conflict between the filing and domicile state laws or rules.~~
- ~~(2)~~ "Certification" means a statement that the filing being submitted is in compliance with Utah laws and rules.
- ~~(3)~~ "Data page" means the page or pages in a policy or certificate that provide the specific data for the insured detailing the coverage provided and may be titled by the insurer as policy specifications, policy schedule, policy information, etc.
- ~~(4)~~ "Discretionary group" means a group that has been specifically authorized by the commissioner under Section 31A-22-509.
- ~~(5)~~ "Eligible group" means a group that meets the definitions in Sections 31A-22-502 through 31A-22-508.
- ~~(6)~~ "Endorsement" means a written agreement attached to a life insurance policy that alters a provision of the policy, for example, a

ear exclusion endorsement, a name change endorsement and a tax qualification endorsement.

(7) "File and Use" means a filing can be used, sold, or offered for sale after it has been filed with the department.

(8) "Filer" means a person or entity that submits a filing.

(9) "Filing," when used as a noun, means an item required to be filed with the department including:

- (a) a policy;
- (b) a form;
- (c) a document;
- (d) an application;
- (e) a report;
- (f) a certificate;
- (g) an endorsement;
- (h) a rider;
- (i) a life insurance illustration;
- (j) a statement of policy cost and benefit information; and
- (k) an actuarial memorandum, demonstration, and certification.

(9) "Filing status information" means a list of the states to which the filing was submitted, the date submitted, and the states' actions, including their responses.

(10) "Issue Ages" means the range of minimum and maximum ages for which a policy or certificate will be issued.

(11) "Letter of Authorization" means a letter signed by an officer of the insurer on whose behalf the filing is submitted that designates filing authority to the filer.

(12) "Market type" means the type of policy that indicates the targeted market such as individual or group.

(13) "Order to Prohibit Use" means an order issued by the commissioner that forbids the use of a filing.

(14) "Rejected" means a filing is:

- (a) not submitted in accordance with applicable laws or rules;
- (b) returned to the filer by the department with the reasons for rejection; and

(c) not considered filed with the department.

(15) "Rider" means a written agreement attached to a life insurance policy or certificate that adds a benefit, for example, a waiver of premium rider, an accidental death benefit rider and a term insurance rider.

(16) "Type of insurance" means a specific life insurance product including, but not limited to, term, universal, variable, or whole life. Refer to the NAIC Coding Matrix.

R590-226-5. General Filing Information.

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

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

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

(4) A ~~[P]~~ prior filing ~~[s]~~ will not be researched to determine the purpose of the current filing.

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

(a) Filings may be reviewed:

- (i) when submitted;
- (ii) as a result of a complaint;

(iii) during a regulatory examination or investigation; or

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

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

(6) Filing ~~[e]~~ Correction ~~[=]~~.

(a) No filing transmittal is required when making a correction ~~[s]~~ to a misspelled word ~~[s]~~ and punctuation in a filing. The filing will be considered an informational filing.

(b) No transmittal is required when a clerical correction ~~[s are]~~ is made to a previous filing if submitted within 30 days of the date filed with the department. The filer must reference the original filing or include a copy of the original ~~[cover letter]~~ transmittal.

(c) A new filing is required if ~~[the]~~ a clerical correction ~~[s are]~~ is made more than 30 days after the date filed with the department. The filer must reference the original filing or include a copy of the original ~~[cover letter]~~ transmittal.

~~(7) [Revised forms. A form that is revised from a previously filed form is considered a new form and must be filed. The filer will need to reference the original filing and explain the changes to the form.]~~

~~(8) Filing withdrawal. A filer must notify the department when withdrawing a previously filed form, rate, or supplementary information.~~

R590-226-6. Filing Submission Requirements.

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

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

(a) COMPLETE THE TRANSMITTAL BY USING THE FOLLOWING:

(i) "NAIC Coding Matrix"

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

(ii) "NAIC" Instruction Sheet"

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

(iii) "Life Content Standards"

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

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

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

(i) ~~[Domicile]~~ Domiciliary Approval and Filing Status Information. Foreign insurers and filers must first submit filings to their domicile state. All filings must include domicile and filing status information.

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

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

(I) a list of the states to which the filing was submitted;
(II) the date submitted;
(III) the states' actions and their responses.
(C) If the filing is specific to Utah and only filed in Utah, then Section 14 of the transmittal must be completed stating, "UTAH SPECIFIC - NOT SUBMITTED TO ANY OTHER STATE."

(ii) Marketing Facts.
 (A) List the issue ages.
 (B) List the minimum death benefit.
 (C) Identify and describe the type of group.
 (D) Identify the intended market for the filing, such as senior citizens, nonprofit organizations, association members, corporate owned, bank owned, etc.
 (E) Describe the marketing and advertising in detail, i.e. through a marketing association, mass solicitation, electronic media, financial institutions, Internet, telemarketing, or individually through licensed producers.

(iii) Description of Filing.
 (A) Provide a detailed description of the purpose of the filing.
 (B) Describe the benefits and features of each form in the filing including specific features and options, including nonforfeiture options.
 (C) Identify any new, unusual, or controversial provisions.
 (D) Identify any unresolved previously prohibited provisions and explain why the provisions are included in the filing.
 (E) Explain any changes in benefits, charges, terms, premiums, or other provisions that may occur while the policy is in force.
 (F) If the filing is replacing or modifying a previous submission, provide information that identifies the filing being replaced or modified, the Utah filed date, and a detailed description of the changes and highlight the changed provisions.
 (G) If the filing includes forms for informational purposes, provide the dates the forms were filed. If filing an application, rider, or endorsement, and the filing does not contain a policy, identify the affected policy form number, the Utah filed date, and describe the effect of the submitted forms on the base policy.

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

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

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

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

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

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

(7) Life Insurance Illustration Materials. If the life insurance form is identified as illustrated, the filing must include a sample:
 (a) basic illustration completed with data in John Doe fashion;
 (b) current illustration actuary's certification;
 (c) company officer certification; and
 (d) sample annual report.

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

(9) Actuarial Memorandum, Demonstration, and Certification of Compliance. An actuarial memorandum, demonstration of compliance, and a certification of compliance are required in individual and group life insurance filings. The memorandum must be currently dated and signed by the actuary. The memorandum must include:
 (a) description of the coverage in detail;
 (b) demonstration of compliance with applicable nonforfeiture and valuation laws; and
 (c) a certification of compliance with Utah law.

(10) Return Notification Materials.
 (a) Return notification materials are limited to:
 (i) a copy of the transmittal; and
 (ii) a self-addressed, stamped envelope.
 (b) Notice of filing will not be provided unless return notification materials are submitted.

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R590-226-16. Enforcement Date.

The commissioner will begin enforcing the revised provisions of this rule [~~June 1, 2006~~] upon the effective date of this rule.

KEY: life insurance filings
Date of Enactment or Last Substantive Amendment: 2006
Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-2-201.1; 31A-2-202



Insurance, Administration
R590-227
 Submission of Annuity Filings

NOTICE OF CHANGE IN PROPOSED RULE
(Second)

DAR File No.: 28487
 Filed: 06/08/2006, 07:22

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes to this rule are a result of input received during the last comment period.

SUMMARY OF THE RULE OR CHANGE: The changes to Sections R590-227-4 and R590-227-6 are being made to comply with national rate and form filing requirements that the state adopted in 2004 in S.B. 162. Now that the required number of states have adopted this regulation it will be implemented. These changes will affect electronic and paper filings. In Section R590-227-4, the definition of "Alternate Information" is being replaced with "Filing Status Information." This is a change in the title only. The changes to Section R590-227-6 are being made to comply with the definitional changes in Section R590-227-4 as they relate to domiciled states. Section R590-227-6 is changed to make the rule enforceable when the rule changes are put into effect. (DAR NOTES: S.B. 162 (2004) is found at Chapter 242, Laws of Utah 2004, and was effective 05/03/2004. (DAR NOTE: This is the second change in proposed rule (CPR) for Rule R590-227. The original proposed amendment upon which the first CPR was based was published in the February 15, 2006, issue of the Utah State Bulletin, on page 8. The first CPR upon which this second CPR is based was published in the April 15, 2006, issue of the Utah State Bulletin, on page 55. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the first CPR, the second CPR, and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The changes to this rule will have no effect on the state's budget. It will not change the workload of the Insurance Department nor change its revenues.
- ❖ LOCAL GOVERNMENTS: This rule has no impact on local governments. It only relates to the relationship between the department and its licensees.
- ❖ OTHER PERSONS: The changes to this rule clarify definitions and procedures for the filing of annuity policy forms with the department. It will not change the number of filings an insurer will make with the department. Since it will have no fiscal impact on insurers, it will have no impact on their consumers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The changes to this rule clarify definitions and procedures for the filing of annuity policy forms with the department. It will not change the number of filings an insurer will make with the department. Since it will have no fiscal impact on insurers, it will have no impact on their consumers.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/14/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2006

AUTHORIZED BY: Jilene Whitby, Information Specialist

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

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R590-227-4. Definitions.

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

- (1) [~~Alternate information~~] means:
- (a) a list of the states to which the forms have been filed, with any state actions;
 - (b) the reason for not submitting the form to the domicile state; and
 - (c) identifying any points of conflict between the form and domicile state laws or rules.
- (2) "Certification" means a statement that the filing being submitted is in compliance with Utah laws and rules.
- (3) "Contract" means the annuity policy including attached endorsements and riders;
- (4) "Data page" means the page or pages in a contract or certificate that provide the specific data for the annuitant detailing the coverage provided and may be titled by the insurer as contract data page, specifications page, contract schedule, etc.
- (5) "Discretionary group" means a group that has been specifically authorized by the commissioner under Section 31A-22-509.
- (6) "Eligible group" means a group that meets the definitions in Sections 31A-22-502 through 31A-22-508.
- (7) "Endorsement" means a written agreement attached to an annuity contract that alters a provision of the contract, for example, a name change endorsement and a tax qualification endorsement.

~~(8)7~~ "File and Use" means a filing can be used, sold, or offered for sale after it has been filed with the department.

~~(9)8~~ "Filer" means a person or entity that submits a filing.

~~(10)9~~ "Filing," when used as a noun, means an item required to be filed with the department including:

- (a) a contract;
- (b) a form;
- (c) a document;
- (d) an application;
- (e) a report;
- (f) a certificate;
- (g) an endorsement;
- (h) a rider; and
- (i) an actuarial memorandum, demonstration, and certification.

(10) "Filing status information" means a list of the states to which the filing was submitted, the date submitted, and the states' actions, including their responses.

(11) "Issue Ages" means the range of minimum and maximum ages for which a contract or certificate will be issued.

(12) "Letter of Authorization" means a letter signed by an officer of the insurer on whose behalf the filing is submitted that designates filing authority to the filer.

(13) "Market type" means the type of contract that indicates the targeted market such as individual or group.

(14) "Order to Prohibit Use" means an order issued by the commissioner that forbids the use of a filing.

(15) "Rejected" means a filing is:

- (a) not submitted in accordance with applicable laws or rules;
- (b) returned to the insurer by the department with the reasons for rejection; and
- (c) not considered filed with the department.

(16) "Rider" means a written agreement attached to an annuity contract or certificate that adds a benefit, for example, a waiver of surrender charge, a guaranteed minimum withdrawal benefit and a guaranteed minimum income benefit.

(17) "Type of insurance" means a specific type of annuity including, but not limited to, equity indexed annuity, single premium immediate annuity, modified guaranteed annuity, deferred annuity, or variable annuity. Refer to the NAIC Coding Matrix.

R590-227-5. General Filing Information.

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

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

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

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

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

(a) Filings may be reviewed:

- (i) when submitted;
- (ii) as a result of a complaint;
- (iii) during a regulatory examination or investigation; or
- (iv) at any other time the department deems necessary.

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

(6) Filing Correction.

(a) No filing transmittal is required when making a correction[s] to a misspelled word[s] and punctuation in a filing. The filing will be considered an informational filing.

(b) No transmittal is required when a clerical correction[s] are made to a previous filing if submitted within 30 days of the date filed with the department. The filer must reference the original filing or include a copy of the original ~~cover letter~~ transmittal.

(c) A new filing is required if ~~the~~ a clerical correction[s] are made more than 30 days after the date filed with the department. The filer must reference the original filing or include a copy of the original ~~cover letter~~ transmittal.

~~(7) [Revised forms. A form that is revised from a previously filed form is considered a new form and must be filed. The filer will need to reference the original filing and explain the changes to the form.]~~

~~(8) Filing withdrawal. A filer must notify the department when withdrawing a previously filed form, rate, or supplementary information.~~

R590-227-6. Filing Submission Requirements.

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

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

(a) COMPLETE THE TRANSMITTAL BY USING THE FOLLOWING:

- (i) "NAIC Coding Matrix"
www.insurance.utah.gov/LifeA&H_Matrix.pdf,
- (ii) "NAIC" Instruction Sheet
www.insurance.utah.gov/LH_Trans_Inst.pdf,
- (iii) "Life Content Standards"
www.insurance.utah.gov/Life_STM.html.

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

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

(i) Domiciliary Approval and Filing Status Information. Foreign insurers and filers must first submit filings to their domicile state. All filings must include domicile and filing status information.

(A) If a filing was submitted to the domicile state, provide a stamped copy of the approval letter from the domicile state for the exact same filing; and[-]

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

(I) a list of the states to which the filing was submitted;
(II) the date submitted;
(III) the states' actions and their responses.
(C) If the filing is specific to Utah and only filed in Utah, then Section 14 of the transmittal must be completed stating, "UTAH SPECIFIC - NOT SUBMITTED TO ANY OTHER STATE."

(ii) Marketing Facts.

(A) List the issue ages.

(B) List the minimum initial premium.

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

(D) Describe the marketing and advertising in detail, i.e. individually solicited through licensed producers, marketed through a marketing association, financial institutions, Internet, or telemarketing.

(iii) Description of Filing.

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

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

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

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

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

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

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

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

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

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

(3) Group Questionnaire or Discretionary Group Authorization Letter. All group filings must identify each type of group, and include either a completed "Utah Life and Annuity Group

Questionnaire", or copy of the "Utah Life and Annuity Discretionary Group Authorization letter".

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

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

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

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

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

(a) description of the coverage in detail;

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

(c) a certification of compliance with Utah law.

(9) Return Notification Materials.

(a) Return notification materials are limited to:

(i) a copy of the transmittal; and

(ii) a self-addressed, stamped envelope.

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

.....

R590-227-14. Enforcement Date.

The commissioner will begin enforcing the revised provisions of this rule ~~[June 1, 2006]~~ upon the effective date of this.

KEY: annuity insurance filings

**Date of Enactment or Last Substantive Amendment: 2006
 Authorizing, and Implemented or Interpreted Law: 31A-2-201;
 31A-2-201.1; 31A-2-202**

◆ ————— ◆

End of the Notices of Changes in Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1998).

Administrative Services, Information Technology Services **R29-1**

Division of Information Technology Services Adjudicative Proceedings

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 28788
FILED: 06/08/2006, 15:32

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is adopted pursuant to the rulewriting authority granted to this agency under Section 63F-1-206 and pursuant to the Utah Administrative Procedures Act, Subsection 63-46b-1(6), which provides that agencies may enact rules affecting or governing their adjudicative proceedings.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule must be continued because it establishes the procedures that the agency will follow in all adjudicative proceedings.

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

ADMINISTRATIVE SERVICES
INFORMATION TECHNOLOGY SERVICES
Room 6000 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

William Shiflett at the above address, by phone at 801-538-3548, by FAX at 801-538-9787, or by Internet E-mail at williams@utah.gov

AUTHORIZED BY: J Stephen Fletcher, CIO and Executive Director

EFFECTIVE: 06/08/2006



Human Services, Aging and Adult Services **R510-1**

Authority and Purpose

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 28778
FILED: 06/02/2006, 14:19

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule simply cites the State and Federal legislation which authorizes the Division to conduct its business, Sections 62A-3-101 through 62A-3-312 and 42 USC 3001.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments either supporting or opposing the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule shows the legislative authorization for the Division of Aging and Adult Services (DAAS) to serve adults and the aged. Since the rule was last authorized, no substantive changes in legislation

have taken place and the need for the services provided by DAAS continues to exist. As such, the rule should be continued in its current form for another five years.

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

HUMAN SERVICES
AGING AND ADULT SERVICES
Room 325
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Nels Holmgren at the above address, by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at NHOLMGREN@utah.gov

AUTHORIZED BY: Alan Ormsby, Director

EFFECTIVE: 06/02/2006



End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal and Reenact

REP = Repeal

Environmental Quality

Air Quality

No. 28601 (AMD): R307-210-1. Standards of Performance for New Stationary Sources (NSPS).

Published: May 1, 2006

Effective: June 15, 2006

Commerce

Administration

No. 28664 (AMD): R151-1-2. Electronic Meetings.

Published: May 15, 2006

Effective: June 15, 2006

Insurance

Administration

No. 28585 (NEW): R590-235. Medicare Prescription Drug Plan.

Published: April 15, 2006

Effective: June 7, 2006

End of the Notices of Rule Effective Dates Section

RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2006, including notices of effective date received through June 15, 2006, the effective dates of which are no later than July 1, 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	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Administrative Services					
<u>Administrative Rules</u>					
R15-4	Administrative Rulemaking Procedures	28586	EMR	04/15/2006	2006-8/57
<u>Facilities Construction and Management</u>					
R23-1	Procurement of Construction	28608	AMD	06/01/2006	2006-9/10
R23-1	Procurement of Construction	28609	AMD	06/01/2006	2006-9/3
R23-2	Procurement of Architect-Engineer Services	28607	AMD	06/01/2006	2006-9/12
<u>Finance</u>					
R25-5	Payment of Per Diem to Boards	28384	AMD	01/25/2006	2005-24/2
<u>Fleet Operations</u>					
R27-1	Definitions	28474	5YR	01/30/2006	2006-4/33
R27-1	Definitions (5YR EXTENSION)	28279	NSC	01/30/2006	Not Printed
R27-1-2	Definitions	28368	NSC	01/01/2006	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R27-2	Fleet Operations Adjudicative Proceedings	28475	5YR	01/30/2006	2006-4/33
R27-3	Vehicle Use Standards	28477	5YR	01/30/2006	2006-4/34
R27-3	Vehicle Use Standards (5YR EXTENSION)	28280	NSC	01/30/2006	Not Printed
R27-7	Safety and Loss Prevention of State Vehicles	28469	5YR	01/20/2006	2006-4/34
<u>Fleet Operations, Surplus Property</u>					
R28-2	Surplus Firearms	28496	5YR	02/07/2006	2006-5/47
<u>Information Technology Services</u>					
R29-1	Division of Information Technology Services Adjudicative Proceedings	28788	5YR	06/08/2006	2006-13/61
R29-1	Technology Services Adjudicative Proceedings	28828	NSC	06/22/2006	Not Printed
R29-2	Telecommunications Services and Requirements	28794	NSC	06/22/2006	Not Printed
<u>Purchasing and General Services</u>					
R33-1	Utah State Procurement Rules Definitions	28436	NSC	02/22/2006	Not Printed
R33-1-1	Definitions	28445	AMD	02/21/2006	2006-2/3
R33-2-101	Delegation of Authority of the Chief Procurement Officer	28437	NSC	02/22/2006	Not Printed
R33-3	Source Selection and Contract Formation	28447	AMD	02/21/2006	2006-2/5
R33-4	Specifications	28438	NSC	02/22/2006	Not Printed
R33-5	Construction and Architect-Engineer Selection	28448	NSC	02/22/2006	Not Printed
R33-7	Cost Principles	28439	NSC	02/22/2006	Not Printed
R33-8	Property Management	28440	NSC	02/22/2006	Not Printed
<u>Records Committee</u>					
R35-1	State Records Committee Appeal Hearing Procedures	28462	AMD	03/14/2006	2006-3/3
<u>Risk Management</u>					
R37-1	Risk Management General Rules	28413	AMD	03/31/2006	2006-1/4
R37-4	Adjusted Utah Governmental Immunity Limitations on Judgments	28667	R&R	07/01/2006	2006-10/5
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<u>Administration</u>					
R51-3	Government Records Access and Management Act	28552	5YR	03/16/2006	2006-8/69
R51-4	ADA Complaint Procedure	28553	5YR	03/16/2006	2006-8/69
<u>Animal Industry</u>					
R58-10	Meat and Poultry Inspection	28506	AMD	04/03/2006	2006-5/2
<u>Marketing and Development</u>					
R65-8	Management of the Junior Livestock Show Appropriation	28558	5YR	03/16/2006	2006-8/70
<u>Plant Industry</u>					
R68-4	Standardization, Marketing, and Phytosanitary Inspection of Fresh Fruits, Vegetables, and Other Plant and Plant Products	28504	5YR	02/10/2006	2006-5/47
R68-7	Utah Pesticide Control Act	28554	5YR	03/16/2006	2006-8/70
R68-8	Utah Seed Law	28452	5YR	01/09/2006	2006-3/38
R68-18	Quarantine Pertaining to Karnal Bunt	28505	5YR	02/10/2006	2006-5/48
<u>Regulatory Services</u>					
R70-101	Bedding, Upholstered Furniture and Quilted Clothing	28503	AMD	04/03/2006	2006-5/3
R70-330	Raw Milk for Retail	28555	5YR	03/16/2006	2006-8/71

RULES INDEX

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R70-370	Butter	28556	5YR	03/16/2006	2006-8/71
R70-380	Grade A Condensed and Dry Milk Products and Condensed and Dry Whey	28557	5YR	03/16/2006	2006-8/72
R70-410	Grading and Inspection of Shell Eggs With Standard Grade and Weight Classes	28471	5YR	01/24/2006	2006-4/35
R70-410-1	Authority	28485	AMD	03/20/2006	2006-4/4
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<u>Administration</u>					
R81-10A-7	Draft Beer Sales/Minors on Premises	28431	NSC	01/01/2006	Not Printed
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<u>Administration</u>					
R131-4	Procurement of Construction	28727	5YR	05/12/2006	2006-11/92
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<u>Administration</u>					
R151-1-2	Electronic Meetings	28664	AMD	06/15/2006	2006-10/7
R151-14	New Automobile Franchise Act Rule	28542	AMD	05/02/2006	2006-7/2
R151-35	Powersport Vehicle Franchise Act Rule	28543	AMD	05/02/2006	2006-7/3
R151-46b	Department of Commerce Administrative Procedures Act Rules	28709	5YR	05/03/2006	2006-11/92
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R152-1	Utah Division of Consumer Protection: "Buyer Beware List"	28574	AMD	05/16/2006	2006-8/7
R152-22-3	Application for Charitable Organization Permit	28573	AMD	05/16/2006	2006-8/9
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R156-1	General Rules of the Division of Occupational and Professional Licensing	28621	AMD	06/19/2006	2006-10/8
R156-3a	Architect Licensing Act Rules	28429	CPR	04/03/2006	2006-5/44
R156-3a	Architect Licensing Act Rules	28429	AMD	04/03/2006	2006-2/15
R156-3a	Architect Licensing Act Rules	28604	5YR	04/10/2006	2006-9/39
R156-3a-501	Administrative Penalties - Unlawful Conduct	28671	NSC	05/10/2006	Not Printed
R156-9a	Uniform Athlete Agent Act Rules	28830	5YR	06/22/2006	Not Printed
R156-17b	Pharmacy Practice Act Rules	28530	AMD	04/17/2006	2006-6/2
R156-17b	Pharmacy Practice Act Rules	28620	NSC	05/15/2006	Not Printed
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rules	28444	AMD	04/03/2006	2006-2/17
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rules	28444	CPR	04/03/2006	2006-5/45
R156-31b	Nurse Practice Act Rules	28365	AMD	01/23/2006	2005-24/3
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R156-37	Utah Controlled Substances Act Rules	28310	CPR	02/16/2006	2006-2/35
R156-40	Recreational Therapy Practice Act Rules	28674	AMD	06/22/2006	2006-10/11
R156-44a	Nurse Midwife Practice Act Rules	28352	AMD	01/05/2006	2005-23/4
R156-46b	Division Utah Administrative Procedures Act Rules	28673	5YR	04/25/2006	2006-10/86
R156-47b	Massage Therapy Practice Act Rules	28478	5YR	01/31/2006	2006-4/35
R156-50	Private Probation Provider Licensing Act Rules	28550	5YR	03/13/2006	2006-7/33
R156-55b	Electricians Licensing Rules	28611	AMD	06/01/2006	2006-9/15
R156-55b	Electricians Licensing Rules	28772	NSC	06/12/2006	Not Printed
R156-56	Utah Uniform Building Standard Act Rules	28286	AMD	01/01/2006	2005-21/6

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R156-56-711	Statewide Amendments to the IRC	28427	NSC	02/23/2006	Not Printed
R156-60b	Marriage and Family Therapist Licensing Act Rules	28672	AMD	06/19/2006	2006-10/14
R156-60c-502	Unprofessional Conduct	28603	AMD	06/01/2006	2006-9/17
R156-60d	Substance Abuse Counselor Act Rules	28605	5YR	04/10/2006	2006-9/39
R156-63-503	Administrative Penalties	28345	AMD	01/10/2006	2005-23/5
R156-67	Utah Medical Practice Act Rules	28837	5YR	06/26/2006	Not Printed
R156-69	Dentist and Dental Hygienist Practice Act Rules	28823	5YR	06/19/2006	Not Printed
R156-73	Chiropractic Physician Practice Act Rules	28824	5YR	06/19/2006	Not Printed
R156-74	Certified Shorthand Reporters Licensing Act Rules	28428	AMD	02/16/2006	2006-2/24
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R162-8-8	Administrative Proceedings	28597	AMD	06/21/2006	2006-9/18
R162-10	Administrative Procedures	28668	AMD	06/21/2006	2006-10/17
R162-10-1	Formal Adjudicative Proceedings	28494	AMD	04/19/2006	2006-5/7
R162-102-3	Renewal	28665	AMD	06/28/2006	2006-10/19
R162-105-1	Scope of Authority	28666	AMD	06/28/2006	2006-10/21
R162-202-10	Principal Lending Manager Experience Requirement	28499	AMD	04/05/2006	2006-5/7
R162-203	Status Changes	28450	AMD	03/09/2006	2006-3/4
R162-204	Residential Mortgage Record Keeping Requirements	28497	AMD	04/05/2006	2006-5/8
R162-205	Residential Mortgage Unprofessional Conduct	28498	AMD	04/05/2006	2006-5/9
R162-207-3	Renewal Process	28451	AMD	03/09/2006	2006-3/5
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Community and Economic Development					
Administration					
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Community Development					
R199-8	Permanent Community Impact Fund Board Review and Approval of Applications for Funding Assistance	28347	NSC	01/01/2006	Not Printed
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R651-217	Fire Extinguishers	28653	NSC	05/10/2006	Not Printed
R651-218	Carburetor Backfire Flame Control	28636	5YR	04/18/2006	2006-10/96
R651-218	Carburetor Backfire Flame Control	28654	NSC	05/10/2006	Not Printed
R651-219	Additional Safety Equipment	28637	5YR	04/18/2006	2006-10/96
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R651-220	Registration and Numbering Exemptions	28655	NSC	05/10/2006	Not Printed
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R651-221	Boat Livery Agreements	28656	NSC	05/10/2006	Not Printed
R651-222	Muffling Requirements	28511	5YR	02/13/2006	2006-5/49
R651-224	Towed Devices	28512	5YR	02/13/2006	2006-5/50
R651-226	Regattas and Races	28640	5YR	04/18/2006	2006-10/98
R651-226	Regattas and Races	28657	NSC	05/10/2006	Not Printed
R651-401	Off-Highway Vehicle and Registration Stickers	28642	5YR	04/18/2006	2006-10/98
R651-405	Off-Highway Implement of Husbandry Sticker Fee	28641	5YR	04/18/2006	2006-10/99
R651-405	Off-Highway Implement of Husbandry Sticker Fee	28658	NSC	05/10/2006	Not Printed
R651-406	Off-Highway Vehicle Registration Fees	28643	5YR	04/18/2006	2006-10/99
R651-406	Off-Highway Vehicle Registration Fees	28659	NSC	05/10/2006	Not Printed
R651-611	Fee Schedule	28169	AMD	01/01/2006	2005-18/46
R651-611	Fee Schedule	28513	5YR	02/13/2006	2006-5/50
R651-801	Swimming Prohibited	28645	5YR	04/18/2006	2006-10/100
R651-801	Swimming Prohibited	28660	NSC	05/10/2006	Not Printed
R651-802	Scuba Diving	28646	5YR	04/18/2006	2006-10/100
R651-802	Scuba Diving	28661	NSC	05/10/2006	Not Printed
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R652-9	Consistency Review	28850	5YR	06/28/2006	Not Printed
R652-41	Right of Entry	28853	5YR	06/28/2006	Not Printed
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R655-12	Requirements for Operational Dams	28712	5YR	05/03/2006	2006-11/97
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R657-13	Taking Fish and Crayfish	28303	AMD	01/18/2006	2005-22/41
R657-17	Lifetime Hunting and Fishing License	28382	AMD	01/18/2006	2005-24/17
R657-19	Taking Nongame Mammals	28454	AMD	03/06/2006	2006-3/22
R657-23	Utah Hunter Education Program	28377	AMD	01/18/2006	2005-24/19
R657-24	Compensation for Mountain Lion and Bear Damage	28455	AMD	03/06/2006	2006-3/24
R657-33	Taking Bear	28457	AMD	03/06/2006	2006-3/25
R657-38	Dedicated Hunter Program	28371	AMD	01/18/2006	2005-24/22
R657-39	Regional Advisory Councils	28453	5YR	01/09/2006	2006-3/39
R657-40	Wildlife Rehabilitation	28456	5YR	01/10/2006	2006-3/40
R657-42	Fees, Exchanges, Surrenders, Refunds and Reallocation of Wildlife Documents	28376	AMD	01/18/2006	2005-24/27
R657-48	Implementation of the Wildlife Species of Concern and Habitat Designation Advisory Committee	28751	5YR	05/24/2006	2006-12/88
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<u>Administration</u>					
R694-1	Archeological Permits	28697	NEW	06/23/2006	2006-10/75
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<u>Driver License</u>					
R708-6	Renewal By Mail	28569	5YR	03/23/2006	2006-8/74
R708-14-5	Authority for Conducting Adjudicative Proceedings	28580	NSC	04/12/2006	Not Printed
R708-16	Pedestrian Vehicle Rule	28568	5YR	03/23/2006	2006-8/74
R708-18	Regulatory and Administrative Fees	28565	5YR	03/20/2006	2006-8/75
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<u>Criminal Investigations and Technical Services, Criminal Identification</u>					
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R912-8	Minimum Tire, Axle and Suspension Ratings for Heavy Vehicles and the Use of Retractable or Variable Load Suspension Axles in Utah	28703	NEW	06/22/2006	2006-10/79
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R986-300-305	Failure to Comply with an Employment Plan	28425	AMD	03/01/2006	2006-1/31
R986-400	General Assistance and Working Toward Employment	28693	AMD	06/22/2006	2006-10/82
R986-600-604	Adults, Youth, and Dislocated Workers	28400	NSC	01/01/2006	Not Printed
R986-700-705	Eligible Providers and Provider Settings	28561	NSC	04/17/2006	Not Printed
R986-700-709	Employment Support (ES) CC	28481	AMD	04/12/2006	2006-4/31
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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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<u>access</u> Environmental Quality, Drinking Water	28421	R309-545-7	AMD	03/08/2006	2006-1/19
<u>accident prevention</u> Public Safety, Driver License	28567	R708-20	5YR	03/21/2006	2006-8/76
<u>accidents</u> Administrative Services, Fleet Operations	28469	R27-7	5YR	01/20/2006	2006-4/34
<u>accounts</u> Money Management Council, Administration	28533	R628-4-2	NSC	03/07/2006	Not Printed
<u>accreditation</u> Education, Administration	28463	R277-410	AMD	03/06/2006	2006-3/7
<u>adjudicative procedures</u> Community and Economic Development, Community Development, Library	28343	R223-1	NSC	01/01/2006	Not Printed
<u>adjudicative proceedings</u> Commerce, Administration	28709	R151-46b	5YR	05/03/2006	2006-11/92
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Natural Resources, Forestry, Fire and State Lands	28852	R652-8	5YR	06/28/2006	Not Printed
Public Safety, Driver License	28580	R708-14-5	NSC	04/12/2006	Not Printed
<u>administrative law</u> Administrative Services, Administrative Rules	28586	R15-4	EMR	04/15/2006	2006-8/57
Human Services, Recovery Services	28670	R527-200	5YR	04/24/2006	2006-10/88
<u>administrative procedure</u> Natural Resources, Forestry, Fire and State Lands	28850	R652-9	5YR	06/28/2006	Not Printed
	28854	R652-80	5YR	06/28/2006	Not Printed
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	28406	R212-3	NSC	01/01/2006	Not Printed
	28407	R212-4	NSC	01/01/2006	Not Printed
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	28418	R309-405-4	AMD	03/08/2006	2006-1/14
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	28853	R652-41	5YR	06/28/2006	Not Printed

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	28563	R850-5-200	AMD	05/16/2006	2006-8/49
	28482	R850-21-900	AMD	03/20/2006	2006-4/14
	28483	R850-22-900	AMD	03/20/2006	2006-4/15
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	28402	R235-1	NEW	03/01/2006	2006-1/9
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	28545	R307-101-2	AMD	06/16/2006	2006-7/5
	28822	R307-110	5YR	06/16/2006	Not Printed
	28320	R307-110-9	AMD	06/16/2006	2005-23/12
	28320	R307-110-9	CPR	06/16/2006	2006-7/24
	28226	R307-170	AMD	01/05/2006	2005-19/6
	28820	R307-210	5YR	06/16/2006	Not Printed
	28601	R307-210-1	AMD	06/15/2006	2006-9/19
	28821	R307-223	5YR	06/16/2006	Not Printed
	28544	R307-325	AMD	06/16/2006	2006-7/8
	28325	R307-401	R&R	06/16/2006	2005-23/14
	28325	R307-401	CPR	06/16/2006	2006-7/25
	28819	R307-401	5YR	06/16/2006	Not Printed
	28322	R307-405	R&R	06/16/2006	2005-23/22
	28816	R307-405	5YR	06/16/2006	Not Printed
	28322	R307-405	CPR	06/16/2006	2006-7/28
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	28818	R307-410	5YR	06/16/2006	Not Printed
	28323	R307-410	CPR	06/16/2006	2006-7/30
	28549	R307-415-7d	NSC	03/28/2006	Not Printed
	28502	R307-801	AMD	06/16/2006	2006-5/22
	28817	R307-801	5YR	06/16/2006	Not Printed
	28468	R307-801-5	NSC	02/22/2006	Not Printed
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<u>alcoholic beverages</u> Alcoholic Beverage Control, Administration	28431	R81-10A-7	NSC	01/01/2006	Not Printed
<u>alternative language services</u> Education, Administration	28522	R277-716	NEW	04/03/2006	2006-5/10
<u>alternative licensing</u> Education, Administration	28590	R277-503	AMD	05/16/2006	2006-8/10
<u>alternative onsite wastewater systems</u> Environmental Quality, Water Quality	28596	R317-4	AMD	05/19/2006	2006-8/14
<u>anatomical gift</u> Public Safety, Driver License	28566	R708-38	5YR	03/20/2006	2006-8/77
<u>annuity replacement</u> Insurance, Administration	28527	R590-93-6	NSC	03/06/2006	Not Printed
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<u>appeal process</u> Natural Resources, Forestry, Fire and State Lands	28850	R652-9	5YR	06/28/2006	Not Printed
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	28828	R29-1	NSC	06/22/2006	Not Printed
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	28819	R307-401	5YR	06/16/2006	Not Printed
<u>ARC</u> Administrative Services, Fleet Operations	28469	R27-7	5YR	01/20/2006	2006-4/34
<u>archaeology</u> Community and Economic Development, Community Development, History	28407	R212-4	NSC	01/01/2006	Not Printed
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	28429	R156-3a	CPR	04/03/2006	2006-5/44
	28671	R156-3a-501	NSC	05/10/2006	Not Printed
<u>art donations</u> Community and Economic Development, Community Development, Fine Arts	28362	R207-2	NSC	01/01/2006	Not Printed
<u>art financing</u> Community and Economic Development, Community Development, Fine Arts	28361	R207-1	NSC	01/01/2006	Not Printed
<u>art in public places</u> Community and Economic Development, Community Development, Fine Arts	28361	R207-1	NSC	01/01/2006	Not Printed
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<u>art loans</u> Community and Economic Development, Community Development, Fine Arts	28362	R207-2	NSC	01/01/2006	Not Printed
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<u>asbestos</u> Environmental Quality, Air Quality	28502	R307-801	AMD	06/16/2006	2006-5/22
	28817	R307-801	5YR	06/16/2006	Not Printed
	28468	R307-801-5	NSC	02/22/2006	Not Printed
<u>asbestos hazard emergency response</u> Environmental Quality, Air Quality	28502	R307-801	AMD	06/16/2006	2006-5/22
	28817	R307-801	5YR	06/16/2006	Not Printed
	28468	R307-801-5	NSC	02/22/2006	Not Printed
<u>assisted living facilities</u> Public Safety, Fire Marshal	28578	R710-3-3	AMD	05/16/2006	2006-8/43
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<u>banking law</u> Money Management Council, Administration	28606	R628-10	5YR	04/11/2006	2006-9/42
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	28600	R628-12	NSC	05/10/2006	Not Printed
<u>barrier</u> Transportation, Preconstruction	28677	R930-3	AMD	06/22/2006	2006-10/80

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	28390	R202-207	NSC	01/01/2006	Not Printed
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<u>boards</u> Administrative Services, Finance	28384	R25-5	AMD	01/25/2006	2005-24/2
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	28623	R651-202	5YR	04/18/2006	2006-10/89
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<u>municipal waste incinerator</u>					
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	28673	R156-46b	5YR	04/25/2006	2006-10/86
	28611	R156-55b	AMD	06/01/2006	2006-9/15
	28772	R156-55b	NSC	06/12/2006	Not Printed
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<u>oil shale</u> School and Institutional Trust Lands, Administration	28483	R850-22-900	AMD	03/20/2006	2006-4/15
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<u>Olene Walker Housing Loan Fund</u> Community and Culture, Olene Walker Housing Trust Fund	28492	R235-1	NSC	03/01/2006	Not Printed
	28402	R235-1	NEW	03/01/2006	2006-1/9
<u>ombudsman</u> Human Services, Child Protection Ombudsman (Office of)	28401	R515-1	NEW	02/01/2006	2006-1/26
<u>onsite wastewater systems</u> Environmental Quality, Water Quality	28596	R317-4	AMD	05/19/2006	2006-8/14
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<u>operating permit</u> Environmental Quality, Air Quality	28549	R307-415-7d	NSC	03/28/2006	Not Printed
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	28546	R307-413	REP	06/16/2006	2006-7/9
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	28518	R311-207-5	AMD	05/15/2006	2006-5/31
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