

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/>

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Division of Administrative Rules, Salt Lake City 84114

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SPECIAL NOTICES

Governor's Executive Order 2006-0008: 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 September 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 September 2006.

(State Seal)

Jon M. Huntsman, Jr.
Governor

ATTEST:

Gary R. Herbert
Lieutenant Governor

2006/0008

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 August 16, 2006, 12:00 a.m., and September 1, 2006, 11:59 p.m. are included in this, the September 15, 2006, issue of the *Utah State Bulletin*.

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

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 Rules being repealed are completely struck out.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

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least October 16, 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 January 13, 2007, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than 31 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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

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

The Proposed Rules Begin on the Following Page.

**Commerce, Occupational and
Professional Licensing
R156-71
Naturopathic Physician Practice Act
Rules**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28937

FILED: 08/21/2006, 11:58

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division has been evaluating the need for each profession's law/rule examination and has determined that the law/rule examination for applicants for licensure as a naturopathic physician can be deleted with no negative impact on the profession.

SUMMARY OF THE RULE OR CHANGE: In Section R156-71-103, updated statutory citation. In Section R156-71-302, deleted reference to Utah Naturopathic Physician Practice Act Law and Rule Examination.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-71-101 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.

❖ **LOCAL GOVERNMENTS:** Proposed amendments do not apply to local governments; therefore, no costs or savings are anticipated. Proposed amendments only apply to applicants for licensure as a naturopathic physician.

❖ **OTHER PERSONS:** Proposed amendments only apply to applicants for licensure as a naturopathic physician. Those applicants for licensure will see a savings of \$75 in that they will no longer be required to take the Utah Naturopathic Physician Practice Act Law and Rule Examination. The Division estimates approximately three new naturopathic physicians are licensed on a yearly basis, thus resulting in an aggregate savings of \$225. It should be noted however that any testing agency which the Division has contracted with to give the law/rule examination will see a decrease in the examination fees noted above.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Proposed amendments only apply to applicants for licensure as a naturopathic physician. Those applicants for licensure will see a savings of \$75 in that they will no longer be required to take the Utah Naturopathic Physician Practice Act Law and Rule Examination. It should be noted however that any testing agency which the Division has contracted with to give the law/rule examination will see a decrease in the examination fees noted above.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The regulated industry will experience a cost-savings as a result of the elimination of the Utah Law and Rule Examination. No further 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:

Daniel T. Jones at the above address, by phone at 801-530-6767, by FAX at 801-530-6511, or by Internet E-mail at dantjones@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 10/16/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2006

AUTHORIZED BY: J. Craig Jackson, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-71. Naturopathic Physician Practice Act Rules.
R156-71-103. Authority - Purpose.**

These rules are adopted by the division under the authority of Subsection 58-1-106(1)(a) to enable the division to administer Title 58, Chapter 71.

R156-71-302. Qualifications for Licensure - Examination Requirements.

In accordance with Subsections 58-71-302(1)(f) and 58-71-302(2)(c), the licensing examination sequence required for licensure is as follows:

- (1) NPLEX Basic Science Series, the State of Washington Basic Science Series or the State of Oregon Basic Science Series;
- (2) NPLEX Clinical Series;
- (3) NPLEX Homeopathy; and
- (4) NPLEX Minor Surgery; and
- ~~(5) the Utah Naturopathic Physician Practice Act Law and Rule Examination].~~

KEY: licensing, naturopaths, naturopathic physician
Date of Enactment or Last Substantive Amendment: [January 4, 2005]2006
Notice of Continuation: February 7, 2002
Authorizing, and Implemented or Interpreted Law: 58-71-101; 58-1-106(1)(a); 58-1-202(1)(a)

Commerce, Real Estate
R162-3
License Status Change

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE No.: 28980
 FILED: 08/30/2006, 09:00

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is amended to: 1) clarify the number of hours of continuing education that are required to activate an inactive license at the time of license renewal; and 2) provide for a "New Agent Course," with the content to be specified by the Utah Real Estate Commission.

SUMMARY OF THE RULE OR CHANGE: The rule is changed to: 1) clarify that if a licensee last renewed on inactive status (and therefore did not have to complete continuing education to renew), and the licensee wants to activate the license at the time of next license renewal, that person need only take the 12 hours of continuing education that is required to renew on active status; and 2) provide for a special continuing education course for new licensees, with the content of the course to be specified by the Utah Real Estate Commission.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 61-2-5.5(1)(a)(i) and (ii)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None--State government agencies do not act as licensed real estate agents or brokers and therefore the rules for continuing education for real estate agents and brokers do not affect state government agencies. For this reason, there is no anticipated cost or savings to the state budget.

❖ **LOCAL GOVERNMENTS:** None--Local governments do not act as licensed real estate agents or brokers and therefore the rules for continuing education for real estate agents and brokers do not affect local governments. For this reason, there is no anticipated cost or savings to the state budget.

❖ **OTHER PERSONS:** The only other persons who are affected by the continuing education rules for real estate agents and brokers are real estate agents and brokers and the parties who provide their continuing education. These rules should neither cost nor save real estate agents and brokers. It is not anticipated that these rules will save education providers any money. Providers of continuing education will not be required to offer the "New Agent Course." Those providers who do choose to offer the "New Agent Course" will incur costs to develop the course, but those costs should be no more than the cost to develop any new course offering that a provider chooses to offer, and the course development costs will be recouped from the agents who take the course.

COMPLIANCE COSTS FOR AFFECTED PERSONS: As indicated above, those providers of continuing education who choose to offer the "New Agent Course" will incur costs to develop the

course, but those costs should be no more than the cost to develop any new course offering that a provider chooses to offer, and the course development costs will be recouped from the agents who take the course.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing clarifies continuing education requirements. No fiscal impact to businesses is anticipated beyond those indicated in the rule summary. Francine A. Gian, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/16/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2006

AUTHORIZED BY: Derek Miller, Director

R162. Commerce, Real Estate.
R162-3. License Status Change.
R162-3-5. Activation.

3.5. All licensees changing to active status must submit to the Division the applicable non-refundable activation fee, a request for activation in the form required by the Division, and, if the license was on inactive status at the time of last license renewal, proof of completion of the examination within six months prior to applying to activate or proof of completion of the 12 hours of continuing education that the licensee would have been required to complete in order to renew on [##]active status. If a licensee last renewed on inactive status and applies to activate the license at the time of license renewal, the licensee shall be required to complete the 12 hours of continuing education required to renew but shall not be required to complete additional continuing education in order to activate the license.

3.5.1 Continuing Education for Activation. Courses that have been approved by the Division for continuing education purposes in the following topics will be acceptable toward the continuing education required for activation: agency, contract law, the Real Estate Purchase Contract and other state-approved forms, ethics, Utah law, and closing/settlement.

3.5.1.1 To qualify as continuing education for activation, all courses submitted must have been completed within one year before activation.

3.5.1.2 Continuing education that was submitted to activate a license may not be used again toward the continuing education required on the licensee's next renewal.

R162-3-6. Renewal and Reinstatement.

3.6.1 A license renewal notice shall be sent by the Division to the licensee at the mailing address shown on the division records. The renewal notice shall specify the requirements for renewal and shall require that the licensee document or certify that the requirements have been met. The licensee must apply to renew and pay all applicable fees on or before the expiration shown on the notice. Renewal of an active Principal Broker license requires certification in the form required by the division that the business name under which the licensee is operating is still current and in good standing with the Division of Corporations and that all real estate trust accounts are current.

3.6.1.1 Continuing education requirement. All licensees with active licenses who are applying to renew shall have completed the 12 hours of approved continuing education required by Section 61-2-9 prior to submitting their applications for renewal.

3.6.1.1.1 Continuing education requirement for new licensees. During a licensee's first license term, the licensee's 12-hour continuing education requirement shall consist of the Division's 3-hour "Core Course" and a 9-hour live "New Agent Course." The Commission shall approve a standard course outline for the "New Agent Course."

3.6.1.2 Applications filed by mail. The division will consider a properly completed application that has been postmarked on or before the expiration date shown on the renewal notice to have been timely filed.

3.6.1.3 Documentation of continuing education. Any licensee who renews on-line on the division's web site and certifies that the required continuing education has been completed shall maintain the original course completion certificates supporting that certification for three years following renewal. The licensee shall produce those certificates for audit upon request by the division.

3.6.1.4 Misrepresentation on application. Any misrepresentation in an application for renewal will be considered a separate violation of these rules and separate grounds for disciplinary action against the licensee, regardless of whether the application is filed with the division by mail or in person, or made on-line.

3.6.2. A license expires if it is not renewed on or before its expiration date. When an active license expires, the licensee's affiliation with a principal brokerage automatically terminates.

3.6.3 The license may be renewed for a period of thirty days after the expiration date by meeting all of the conditions for renewal and, in addition, paying a non-refundable late fee, and, if the licensee will be actively licensed, submitting the forms required by the Division to activate a license.

3.6.4. After this 30-day period and until six months after the expiration date the license may be reinstated by meeting all of the conditions for renewal and, in addition: a) paying a non-refundable late fee and a non-refundable reinstatement fee; b) submitting proof of the 12 hours of continuing education that is required to renew a license and the 12 additional hours of continuing education required by Section 61-2-9(2)(c)(ii); and c) if the licensee will be actively licensed, submitting the forms required by the Division to activate a license.

3.6.4.1 Additional Continuing Education Hours for Reinstatement. Courses that have been approved by the Division for continuing education purposes in the following topics will be acceptable toward the additional 12 hours of continuing education required for reinstatement by Section 61-2-9(2)(c)(ii): agency, contract

law, the Real Estate Purchase Contract and other state-approved forms, ethics, Utah law, and closing/settlement.

3.6.4.1.1 Continuing education hours that are submitted to reinstate a license may not be the same continuing education hours that were submitted toward a licensee's prior renewal. Continuing education hours that are submitted to reinstate a license may not be used again toward the continuing education required on the licensee's next renewal.

3.6.5. If the licenses of licensees affiliated with a principal broker are inactivated because of the principal broker's failure to renew his license when due, the failure to renew the license in a timely manner shall be separate grounds for disciplinary action against the principal broker.

3.6.6. If the Division has received a licensee's application for renewal in a timely manner but the information is incomplete, the division may grant the licensee a 15-day grace period to complete the application, during which time the division shall extend the license.

3.6.7. Education credit will be given for a course taken in another state provided the course has been certified for continuing education purposes in another state. These courses shall meet the Utah requirement of protection of the public, except that credit will not be given for education where the subject matter pertains to another state's license laws.

3.6.7.1. Prior approval must be obtained from the division before credit will be granted. Evidence must be provided to the Division that the course was certified by another licensing jurisdiction at the time the course was taken.

KEY: real estate business

Date of Enactment or Last Substantive Amendment: ~~May 20, 2004~~ **2006**

Notice of Continuation: June 3, 2002

Authorizing, Implemented, or Interpreted Law: 61-2-5.5

◆ ————— ◆

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

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 28979

FILED: 08/30/2006, 08:40

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: A 2005 statutory amendment (S.B. 172) was overlooked, resulting in an administrative rule that was in conflict with the statute. (DAR NOTE: S.B. 172 (2005) is found at Chapter 199, Laws of Utah 2005, and was effective 05/02/2005.)

SUMMARY OF THE RULE OR CHANGE: The time period during which a person who has been the subject of disciplinary action or license denial cannot act as a trainee is changed from five years after the date of the action to four years after the date of the action.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2b-6(1)(l) and Section 61-2b-30.5

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--It is not anticipated that correcting a rule to harmonize the rule with a statutory time period will neither cost nor save the state any money.
- ❖ LOCAL GOVERNMENTS: None--Correction of an administrative rule regulating appraisers should neither cost nor save local governments any money.
- ❖ OTHER PERSONS: None--Correction of an administrative rule that conflicts with statute neither costs nor saves other persons any money.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Any persons who are affected by the rule are already bound by the time period in the statutory provision (Section 61-2b-30.5). Therefore, correcting the rule to harmonize with the statute does not result in any compliance costs for persons who are already required to comply with the statutory provision.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule corrects a conflict between the rules and the authorizing statute. No fiscal impact to businesses is anticipated as a result of this filing. Francine A. Giani, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/16/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2006

AUTHORIZED BY: Derek Miller, Director

R162. Commerce, Real Estate.

R162-105. Scope of Authority.

R162-105-1. Scope of Authority.

105.1 Transaction value. "Transaction value" means:

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

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

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

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

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

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

105.3 Trainees.

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

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

105.3.2.1 A trainee may not solicit an assignment or accept an assignment on behalf of anyone other than the trainee's supervisor or the supervisor's appraisal firm. All engagement letters shall be addressed to the supervisor or the supervisor's appraisal firm, not to the trainee. In all appraisal assignments, the supervisor shall delegate only such duties as are appropriate to the trainee and shall directly supervise the trainee in the performance of those duties.

105.3.3 In order to become a trainee, the person must have successfully completed 75 classroom hours of State-approved education in subjects related to real estate appraisal, including the Uniform Standards of Professional Appraisal Practice (USPAP), must have passed the final examination in the USPAP course, and must file a notification with the Division as provided in Subsection 105.3.3.1. The education required by this Subsection must have been completed within the 5 years preceding the filing of the notification required by Subsection 105.3.3.1.

105.3.3.1 Trainee Notification. Prior to performing any of the appraisal-related activities for which points will be claimed toward licensure, a trainee must file with the Division a notification in the form required by the Division. In addition to any identifying information about the trainee required by the Division, the notification shall contain

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

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

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

105.3.4 Supervising Appraisers. A trainee may have more than one supervising appraiser. Effective January 1, 2008, a supervising appraiser may supervise a maximum of three trainees at one time.

105.3.5 Residential Property Inspections. A trainee, including a trainee who was previously a state-registered appraiser, must be accompanied by a supervising State-Licensed Appraiser, State-Certified Residential Appraiser, or State-Certified General Appraiser on all inspections of residential property until the trainee has performed 100 inspections of residential properties in which both the interior and the exterior of the properties are inspected. All reports in appraisals in which a trainee participated in the inspection of the subject property shall comply with the requirements of Section 106.9.

105.3.6 Non-Residential Property Inspections. A trainee, including a trainee who was previously a state-registered appraiser, must be accompanied by a supervising State-Certified General Appraiser on all inspections of non-residential property until the trainee has performed 20 inspections of non-residential properties in which both the interior and the exterior of the properties are inspected. All reports in appraisals in which a trainee participated in the inspection of the subject property shall comply with the requirements of Section 106.9.

105.3.7 Points for Licensure. A trainee may accumulate experience points for each duty listed below at the rate of 33.3% of the total points awarded from the Appraisal Experience Points Schedule under Section 104-18.1 or 104-18.2, not to exceed the maximum number of points awarded for each property. Trainee experience must be earned in at least three of the following categories. No more than one-third of the experience points submitted toward licensure may come from any one of the following categories:

(a) participation in selecting comparables for an appraisal assignment - 33.3% of total points
 (b) participation in making adjustments to comparables - 33.3% of total points

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

(d) as provided in Sections 105.3.5 and 105.3.6, inspecting a property that is the subject of an appraisal or that may be used as a comparable in an appraisal, and measuring the property - 33.3% of total points as long as both an interior and exterior inspection of the property is performed. No points will be granted for inspections that do not include both an interior and an exterior inspection.

105.3.8 Credit will be given for appraisal experience earned only within five years immediately preceding the licensure or certification application. Applicants who believe the Experience Points Schedules do not adequately reflect their experience may refer to Section 104-17.

105.3.9 All trainees are prohibited from signing an appraisal report or discussing an appraisal assignment with anyone other than the appraiser responsible for the assignment, state enforcement agencies and such third parties as may be authorized by due process of law, or a duly authorized professional peer review committee.

105.3.10 A state-licensed or state-certified appraiser who supervises a trainee shall be responsible for the training and direct supervision of the trainee.

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

105.3.11 A supervising appraiser shall require the trainee to maintain a log in a form satisfactory to the Board which shall contain, at a minimum, the following information for each appraisal.

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

105.3.12 The trainee shall maintain a separate appraisal log for each supervising appraiser.

105.4. Trainee Status after Revocation, Surrender, Denial, or Suspension of License or Certification.

105.4.1 Trainee Status after Revocation, Surrender, or Denial of License or Certification. Unless otherwise ordered by the Board, an appraiser whose appraiser certification or license has been revoked by the Board, whose application for renewal of a certification or license has been denied by the Board, or who has surrendered a certification or license as a result of an investigation by the Division, may not serve as a trainee for a period of ~~five~~ four years after the date of the revocation, denial, or surrender, nor may a licensed or certified appraiser employ or supervise the former appraiser in the performance of the activities permitted trainees for that same period of time.

105.4.2 Trainee Status while License or Certification is Suspended. Unless otherwise ordered by the Board, any appraiser whose appraiser license or certificate has been suspended by the Board as a result of an investigation by the Division may not serve as a trainee during the period of suspension. While an appraiser is suspended, a licensed or certified appraiser may not employ or supervise the suspended appraiser in the performance of the activities permitted trainees.

KEY: real estate appraisals

Date of Enactment or Last Substantive Amendment: ~~June 28, 2006~~

Notice of Continuation: January 13, 2004

Authorizing, and Implemented or Interpreted Law: 61-2b-6(1)(I)

◆ ————— ◆

Commerce, Real Estate
R162-208-7
Course Completion Certificate

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE No.: 28981
 FILED: 08/30/2006, 09:12

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to add an additional means of proving continuing education credit. In addition to issuing to the student a paper course completion certificate, the course provider will upload course completion data electronically to the Division of Real Estate's database.

SUMMARY OF THE RULE OR CHANGE: The continuing education providers will be required to upload course completion data to the Division's database, provided the student gives the course provider the information that is necessary for the course provider to accomplish the upload of information for that student.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2c-103(6)(b)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** It is anticipated that this rule change will save the Division of Real Estate money in two ways: 1) on most license renewals, its licensing personnel will no longer have to assemble and examine the paper course completion certificates that are currently submitted with a licensee's renewal form. The information will be available electronically in the Division's database; 2) it will be easier for the Division to conduct spot-checks of licensee's continuing education, and therefore the Division will save investigative costs. However, the amount of any savings cannot be accurately estimated.

❖ **LOCAL GOVERNMENTS:** The only potential impact on local governments would be on those governmental entities that might offer courses that qualify as continuing education for mortgage licensees. The Division of Real Estate estimates that the cost to any local government entities who provide continuing education courses for mortgage licensees should be minimal.

❖ **OTHER PERSONS:** The only other persons who would be affected by this rule change would be other providers of continuing education and their students. The Division of Real Estate estimates that the cost of uploading course completion data should be minimal. A small savings to students is anticipated since they will save postage costs because they will no longer be required to mail course completion certificates to the Division.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only persons who would potentially incur compliance costs would be the providers of continuing education courses. However, the Division believes that the cost of uploading the course completion data will be minimal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing changes a continuing education provider's reporting duties from paper only to add electronic filing of course completion information. Other than the cost analysis reported in the rule summary, no fiscal impact to businesses is anticipated as a result of these amendments. Francine A. Giani, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/16/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2006

AUTHORIZED BY: Derek Miller, Director

R162. Commerce, Real Estate.

R162-208. Continuing Education.

R162-208-7. Course Completion Certificate and Continuing Education Banking.

208.7.1 The course provider shall issue a course completion certificate in the form required by the Division to all licensees who successfully complete a course in a topic that is approved for continuing education purposes. The course completion certificate shall indicate the number of credit hours successfully completed by the student and must be signed by the student and the instructor who taught the course. The course completion certificate must include the course title, date of the course, course certificate number, and course certificate expiration date.

208.7.2 For the purposes of this rule, "continuing education banking" is defined as the upload by a course provider of such information as specified by the Division to the Division's data base concerning the students who have successfully completed a continuing education course, including the name of the course, the certificate number assigned to the course by the Division, the date the course was taught, and the names and license numbers of all students who successfully completed the course.

208.7.3 In addition to complying with the requirements of Subsection 208.7.1 and except as provided in Subsection 208.7.4, all course providers shall bank continuing education for all students who successfully completed a course within ten days after the course was taught.

208.7.4 A student must provide an accurate license number and the full name the student has registered with the Division to the course provider within 7 days after course attendance.

208.7.5 If a course provider is unable to bank a student's continuing education credit because the student has failed to properly and accurately comply with the requirements of Subsection 208.7.4, the course provider shall not be disciplined by the Division for failure to bank the student's continuing education credit.

KEY: residential mortgage loan origination

Date of Enactment or Last Substantive Amendment: [August 3, 2005]2006

Authorizing, Implemented, or Interpreted Law: 61-2c-103(3); 61-2c-104(7)(d)(ii)



Corrections, Administration
R251-113
Distribution of Reimbursement for the
Felony Probation Inmate Costs
Reimbursement Program/Fund

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28975

FILED: 08/29/2006, 11:22

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Jail funding amendments (S.B. 50) were made by Utah State Legislature during 2006 General Session. (DAR NOTE: S.B. 50 (2006) is found at Chapter 29, Laws of Utah 2006, and was effective 07/01/2006.)

SUMMARY OF THE RULE OR CHANGE: The Legislature changed the way the reimbursement rates were computed by adding capital infrastructure depreciation and other conditions.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 64-13c-301 et seq., and Subsection 64-13c-303(1)(b) and 64-13c-101(1)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be no aggregate cost or savings to the State budget because all monies in the program are appropriated by the Legislature. These rule changes pertain only to their disbursement to contracting counties, and do not affect the appropriation amount.

❖ LOCAL GOVERNMENTS: The aggregate cost or savings to the counties which contract with the state will depend on their individual accounting methods used to compile the jail housing costs submitted for reimbursement. The counties were already submitting costs prior to these rule changes, but additional factors are now applicable, and may require additional expense to compute.

❖ OTHER PERSONS: There is no cost or savings to other persons or businesses. The appropriated monies reimburse counties for housing state prisoners in county facilities. Only the Department of Corrections and the contracting counties are involved.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The aggregate cost or savings to the counties which contract with the state will depend on their individual accounting methods used to compile the jail housing costs submitted for reimbursement. The counties were already submitting costs prior to these rule changes, but additional factors are now applicable, and may require additional expense to compute.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule amendment will not have a direct fiscal impact on businesses. Scott V. Carver, Executive Director

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

CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER UT 84020-9549, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Ogilvie at the above address, by phone at 801-545-5514, by FAX at 801-545-5523, or by Internet E-mail at gogilvie@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 10/16/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 10/23/2006

AUTHORIZED BY: Scott V. Carver, Executive Director

R251. Corrections, Administration.

R251-113. Distribution of Reimbursement for the Felony Probation Inmate Costs Reimbursement Program/Fund.

R251-113-1. Authority and Purpose.

(1) This rule is provided in accordance with Section 64-13c-301, et seq.

(2) As required by Subsection 64-13c-303(1)(b), the purpose of this rule is to establish procedures for the distribution of appropriated monies received from the Utah State legislature for the Jail Reimbursement Program. ~~reimbursement from the program.~~

(3) As required by legislative intent language from the General Session 2004, Senate Bill SB-1, Jail Reimbursement, lines 322-334 and from the General Session 2006, SB-50, Jail Funding Amendments.

R251-113-2. Definitions.

In addition to terms defined in Section 64-13c-101,

(1) "Contract State Inmate" means an inmate who has been sentenced to the Utah Department of Corrections and at the pleasure of the Division of Institutional Operations (DIO) is selected to complete all, or a portion of, their court ordered incarceration in a county correctional facility under contract with the ~~UDC~~ Department.

(2) "Core inmate incarceration costs (Core Rate)" means the county correctional facility's ~~jails~~ direct costs of incarcerating an inmate, including housing, feeding, clothing, ~~and~~ programming, and may include capital infrastructure depreciation.

(a) ~~[This]~~Core Rate is also the "single-reimbursement-rate" as provided in Section 64-13c-302.

(b) ~~[This]~~Core Rate does not include costs of inmate transportation services or medical care; nor programming for felony probationers.

(3) "Credit for Time Served" means time served in jail prior to judgement, sentence, and commitment.

(4) "Current expenses" means the actual costs of jail salaries, benefits, food, clothing, maintenance, ~~[and]~~ utilities, education, miscellaneous inmate expenses, and may include capital infrastructure depreciation expended during the most recent budget year.

(5) "Fund" means the monies allocated by the legislature for the Felony Probation Inmate costs (Inmate Costs Reimbursement Program) for the current fiscal year.

(6) "Felony Probation Inmate" means a person who may serve a period of time, not to exceed one year in a county jail designated by the department, after considering any recommendation by the court as to which jail the court finds most appropriate, as provided in 77-18-1(8)(v) Felony Probationer.

(7) "Transportation cost" means mileage rate, salary and benefit costs of the transporting officer(s) expended, which are not included under core rate costs during the most recent budget year.

(8) "Capital Infrastructure Depreciation" means building costs in excess of \$5,000 including: roofing, paving, HVAC systems, plumbing, structural repairs, and any repairs that are depreciated. It does not include: vehicles, mowers, washers and dryers, ovens and microwaves, dishwashers, landscaping, computers, furniture, bedding, nor any capital expenditure under \$5,000 per item.

R251-113-3. Reimbursement Rates - General.

Pursuant to Section 64-13c-302:

(1) the procedures for setting the rate will be followed as written in the statute ~~[-the meeting of the committee]~~ and will take place prior to July 1 of each year ~~[and]~~ after the information is gathered from each of the contracting counties.

(2) the Rate Setting Committee ~~[as outlined in 64-13c-302]~~ shall negotiate a single reimbursement rate, applicable to all counties, which shall consist of daily core inmate incarceration costs and shall be called the "Core Rate";

(3) each county shall negotiate directly with the Department to establish appropriate ~~[-reimbursement]~~ rates for the ~~[-providing of]~~ transportation services and medical care for inmates housed ~~[-under Section 64-13c-201]~~, including Felony Probationers committed to a county jail, but shall not be reimbursed for said costs per SB50, Jail Funding Amendments, General Session 2006;

(4) the three parts of the setting reimbursement rate are:

- (a) the core rate;
- (b) county medical costs; and
- (c) county transportation costs.

R251-113-4. County Information Requirement.

(1) On or before ~~[the first Friday in March]~~ April 15, each county shall provide the Department with the following budget expenditure information covering the most recent full County Fiscal Year ending on December 31st ~~[-of each year]~~:

(a) the full costs and expenses required to operate the jail for the current year;

(b) the cost of medical care provided to all inmates housed in the jail for the current year;

(c) the cost of transportation services provided during the current year; and

(d) the ~~[number of inmates and]~~ number of "inmate-days" for:

(i) ~~[the number of]~~ state-contract inmates;

(ii) ~~[the]~~ felony condition-of-probation inmates;

(iii) ~~[the number of]~~ all other county inmates, including all other inmates within the facility not already listed;

(iv) ~~[the number of]~~ federal inmates;

(v) ~~[the number of]~~ electronically monitored inmates; and

(vi) the number of total inmate[s] days.

(2) The Department may audit the information received ~~[by]~~ from each county ~~[-as necessary]~~.

R251-113-5. Computation of Reimbursement Rates.

(1) A single core rate shall be used as the basis for all counties as the rate for cost-recovery of housing state inmates.

(a) It will be computed by taking a list of the total information received from all counties, categorized as total inmate days and total current expenses; and then taking

(b) total current expenses, which shall then be divided by the total inmate days, resulting in a computed core rate.

(c) This computed core rate shall be used as the single reimbursement rate for all counties housing contract state prison inmates during the year whether the inmate is a Contract State Inmate or Felony Probation Inmate.

(2) In addition, a separate county rate shall be calculated to reflect medical and transportation expenses incurred by each county. This rate is required by Section 64-13c-101, but shall not be reimbursed pursuant to SB50, General Session 2006. This separate county rate will be computed by:

(a) taking the total medical costs for each county and dividing that total by the inmate days of each county, minus any contract prisoner; and

(b) taking the total transportation cost for each county and dividing that total by the inmate days for each county minus any contract prisoners.

R251-113-6. Payment for Condition of Probation Inmates.

(1) The fund may reimburse each county at seventy percent of the core reimbursement rate established by the Rate Setting Committee and approved by the Legislature.

(2) ~~[If funds permit it is the intent of the Legislature for the Department to reimburse county rates related to transportation and/or medical care of felony probation inmates sentenced to a county jail from the fund up to the rate of seventy percent. The medical and transportation rate for each county may be calculated and reimbursed at different rates.]~~ Fund reimbursement is limited by the following conditions:

~~[(3)]~~(a) "Credit for Time Served" ~~[is not eligible for]~~ reimbursement ~~[-Reimbursement]~~ can only be made beginning on the first day of incarceration after sentencing, less any credit for time served awarded by the Courts, pursuant to 77-18-1(11a).

~~[(b)]~~(b) "Probation Terminated Unsuccessful" is not eligible for reimbursement because there is no probation currently in place pursuant to 77-18-1(10).

~~[(c)]~~(c) "Plea in Abeyance" is not eligible for reimbursement as the conviction and sentencing have been suspended pursuant to 77-18-1(2).

~~[(d)]~~(d) "Electronic Monitoring" is not eligible for reimbursement pursuant to 77-18-1(16).

~~[(e)]~~(e) "3-Day Holds" are not eligible for reimbursement because the felon is being incarcerated on a probation violation, but no sentence has yet been rendered on the Order to Show Cause.

(f) "Parole Violations" are not eligible for reimbursement because the felon is being incarcerated on a parole violation through the Board of Pardons.

(g) "Immigration and Customs Enforcement Holds" are not eligible for reimbursement beyond the number of days sentenced by the Courts, even if the probation is still in effect.

(h) "Juvenile court Orders to Show Cause" are not eligible for reimbursement even if the juvenile serves in a correctional institution on probation because juveniles are sentenced under Title 78, not Title 77.

([4]i) Counties shall not be eligible for reimbursement for housing felony probation inmates who have been ordered by the court to reimburse the county for the cost associated with their incarceration whether ordered to pay a portion or the full costs of incarceration.

(3) The fund may provide reimbursement for the following situations:

(a) "Orders to Show Cause" may be reimbursed only when sentenced by the courts to a county correctional facility, as a condition of probation. If the probation has been revoked, it must be reinstated.

(b) Consecutive sentences may be reimbursed as ordered by the courts, within the same court case or in different court cases, as long as all criterion are met.

(c) "Drug Court" or "Mental Health Court" cases may be reimbursed, once the case formerly listed as Plea in Abeyance, has been formally sentenced to a county correctional center as a condition of probation.

(d) "Probation" required in a condition of probation court case may include formal or informal probation, such as: Adult Parole and Probation, Court/Bench Probation, or Contract Probation provided by an private entity per Subsection 77-18-1(2)(a).

(e) Back billings or late billings, when new felons have been found, may be reimbursed only within the same fiscal year period.

(f) All inmate days will be reimbursed beginning on the first day of incarceration after sentencing, but never the last day. All inmates must be in their beds at 11:59 p.m. to be eligible for reimbursement.

(g) All monthly billings require the following inmate information:

(i) name,

(ii) court case number,

(iii) sentencing date,

(iv) incarceration date,

(v) release date, and

(vi) total inmate days for the month.

R251-113-7. Notice of Fund Shortfall.

(1) Projections for the jail reimbursement fund shall be done monthly.

(2) Should it be projected that the appropriated fund will be spent prior to the end of the fiscal year, the Department shall notify the Legislative Fiscal Analyst Office in writing. The report will explain the factors used to determine the shortfall.

([2]3) The Department shall also notify each participating county jail that the fund will be short.

([3]4) At the point the Department realizes[4] the fund shall fall[s] short, [of being able to cover the core rate-]the department shall collect all billings against the fund and hold them until the end of the current fiscal year. At [that time]the end of the current fiscal year, the remaining funds shall be dispersed at an equal percentage across all participating counties.

KEY: county jails, reimbursement

Date of Enactment or Last Substantive Amendment: [~~November 9, 2004~~]2006

Notice of Continuation: July 13, 2005

Authorizing, and Implemented or Interpreted Law: 64-13-303

◆ ————— ◆

Crime Victim Reparations, Administration **R270-1-24** Rent Awards

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28984

FILED: 08/30/2006, 16:55

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule provides criteria for receiving rent assistance. The additional criteria help ensure that rent awards are providing long-term benefits, as well as short-term benefits by requiring that recipients have a self-sufficiency plan and a safety plan.

SUMMARY OF THE RULE OR CHANGE: The amendments require victims to submit self-sufficiency plans and safety plans prior in order to receive a rent award. The amendments also clarify that all rent awards be directly related to the crime upon which the claim is based. Finally, the amendments clarify that a victim can receive up to a maximum of \$1,800 in rent benefits and that no person may receive rent benefits more than one time.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63-25a-406(c)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** Crime Victim Reparations (CVR) derives its funding from surcharges. No state general fund monies are appropriated. Although the changes implement additional steps to be completed by the victims, the change should not impact the amount of funds being expended for rent benefits. The purpose of the amendment is not to decrease the amount of money currently spent on rent benefits but to bring the rule and current practice into conformity.

❖ **LOCAL GOVERNMENTS:** This rule change addresses the requirement for victims of crime to receive rent benefits. Local governments are not directly impacted because benefits are provided to individual victims or on their behalf. Local governments do not apply for benefits or receive benefits. However, employees in law enforcement offices and prosecutor offices do provide assistance to victims in completing applications. The additional requirements should not impact the amount of time the local government employees spend on the applications because the new requirements, though not in rule, are currently part of the application process.

❖ OTHER PERSONS: These additional requirements should not impact victims because the requirements have been informally enforced for some time. Thus, victims should not notice a change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The CVR office does not have any compliance costs because the program does not impose fees on victims of crime for services provided. These additional requirements should not impact victims because the requirements have been informally enforced for some time. Thus, victims should not notice a change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There would not be a fiscal impact on businesses since the funding comes from the existing CVR Trust Fund. The amount of money paid to landlords on behalf of victims is expected to remain constant. Ron Gordon, Director

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

CRIME VICTIM REPARATIONS
ADMINISTRATION
Room 200
350 E 500 S
SALT LAKE CITY UT 84111-3347, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Connie Wettlaufer at the above address, by phone at 801-238-2371, by FAX at 801-533-4127, or by Internet E-mail at cwettlaufer@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 10/16/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 10/23/2006

AUTHORIZED BY: Ronald B Gordon, Director

R270. Crime Victim Reparations, Administration.

R270-1. Award and Reparation Standards.

R270-1-24. Rent Awards.

A. Pursuant to Subsection 63-25a-411(4)(a), victims of domestic violence or child abuse may be awarded ~~[a one time only rental award for actual rent expenses of \$1800]~~ for up to [a maximum of] three months, not to exceed a maximum rent award of \$1800, if the following conditions apply:

1. The perpetrator was living with the victim at the time of the crime or the rent assistance appears directly related to the victim's ability to distance herself/himself from the perpetrator.

2. It appears reasonable that the perpetrator was assisting or was solely responsible for rent.

3. The victim agrees that the perpetrator is not allowed on the premises.

4. The victim submits a safety plan to CVR and the plan is approved by CVR.

5. The victim submits a self-sufficiency plan to CVR and the plan is approved by CVR.

6. The need for rent assistance is directly related to and caused by the crime upon which the claim is based.

B. No victim shall receive more than one rent award in their lifetime.

KEY: victim compensation, victims of crimes

Date of Enactment or Last Substantive Amendment: ~~January 4, 2006~~

Notice of Continuation: July 3, 2006

Authorizing, and Implemented or Interpreted Law: 63-25a-401 et seq.



Education, Administration

R277-470

Charter Schools

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 28987

FILED: 09/01/2006, 14:11

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is repealed and reenacted because of significant changes in the law over the past several years. The reenacted rule satisfies statutory directives and provides new sections. The reenacted rule also clarifies timelines for charter school approval for schools to qualify for state funding.

SUMMARY OF THE RULE OR CHANGE: The reenacted rule provides new and necessary definitions and the following new sections: Charter School Orientation and Training, Remedying Charter School Financial Deficiencies, Charter School Financial Practices and Training, Procedures and Timelines for Schools Chartered by Local Boards to Convert to Board-Chartered Schools, Charter Schools and NCLB Funds, Charter School Parental Involvement, Charter School Oversight and Monitoring, Expansion for Approved Charter Schools, and Appeal Process to State Board of Education and Miscellaneous Provisions.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-1a-513 and Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no additional cost to state budget (the State Charter School Board staff has responsibility for monitoring; and the Utah State Office of Education provides financial training to all schools). There could be significant savings if state monitoring prevents loss of state funds in loosely-run charter schools.

❖ LOCAL GOVERNMENTS: There is no anticipated cost to local government. The rule should help charter schools save money. School financial training from the State Office of Education is excellent.

❖ OTHER PERSONS: There are no anticipated cost or savings for other persons. The standards and procedures apply specifically to charter school operation and not to individuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The standards and procedures apply specifically to charter school operation and not to 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 10/16/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2006

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

R277. Education, Administration.

~~R277-470. Charter Schools.~~

~~R277-470-1. Definitions.~~

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

~~— B. "Charter schools" means schools acknowledged as charter schools by local boards of education under Section 53A-1a-515 and this rule or by the Board under Section 53A-1a-505.~~

~~— C. "Charter school application" means the official chartering document by which a prospective charter school seeks recognition and funding under Section 53A-1a-505. The application includes the basic elements of the charter with the charter school and the chartering board consistent with R277-470-4.~~

~~— D. "Founding member" means an individual who has had a significant role in the development of the charter school application.~~

~~— E. "Local education agency (LEA)" means a local board of education, combination of school districts, other legally constituted local school authority having administrative control and direction of free public education within the state, or other entities as designated by the Board, and includes any entity with state-wide responsibility for directly operating and maintaining facilities for providing free public education.~~

~~— F. "On-going funds" means funds that are appropriated annually with the expectation that the funds shall continue to be appropriated annually.~~

~~— G. "USOE" means the Utah State Office of Education.~~

~~— H. "Weighted Pupil Unit (WPU)" means the unit of measure that is computed in accordance with the Minimum School Program Act for the purpose of distributing revenue on a uniform basis for each pupil.~~

~~R277-470-2. Authority and Purpose.~~

~~— A. This rule is authorized under Utah Constitution, Article X, Section 3 which vests general control and supervision over public education in the Board, Section 53A-1a-513 which directs the Board to adopt rules for charter school funding and fund distribution, Section 53A-1a-502 which directs the Board to provide a timeline allowing prospective charter schools to seek sponsorship first from local boards and then from the Board, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, and 20 U.S.C., Section 8063(3) which directs the Board to submit specific information before charter schools are eligible to receive federal funds.~~

~~— B. The purpose of this rule is to establish procedures for authorizing and funding charter schools, and to establish a timeline for the application process.~~

~~R277-470-3. Charter School Approval Timeline.~~

~~— A. Applicants desiring to be recognized as charter schools under Section 53A-1a-502 et seq. shall first apply to the local school board of the district in which the charter school shall be located for approval.~~

~~— B. New Century High Schools as defined under Section 53A-1a-502(1)(a)(ii) shall not be required to apply to a local board of education prior to applying to the Board. New Century High Schools shall only be subject to Board application deadlines.~~

~~— C. Prospective charter schools may make application to the local school board.~~

~~— D. Upon receiving a completed application from a prospective charter school, a local board shall have 45 calendar days to provide written acceptance or rejection of the charter school application. A prospective charter school may submit a revised application consistent with Section 53A-1a-515(5)(b) and (c). Charter schools may open only at the beginning of a traditional school year no less than ten months from the date that the charter is granted but no sooner than the following July.~~

~~— E. If a local board rejects the application of a prospective charter school and the charter school desires Board approval, the prospective charter school shall make written application to the Board by July 15.~~

~~— F. The Board shall accept or reject the charter school application in writing as soon as possible after receipt of the application, but no later than the Board's regularly scheduled September meeting for applications submitted by the July 15 deadline.~~

~~— G. It is the intent of the Board that charter schools seek the support of local boards in the chartering process.~~

~~R277-470-4. Applications.~~

~~— A. The charter school application form shall be approved and provided by the Board.~~

— B. The charter school application shall designate the type of charter granted and the anticipated LEA status of the charter school.

— C. A charter school application shall include the following:

— (1) a description of the criteria or contributions or both used by the applicants to designate parents as founding members and a certified list of founding members;

— (2) a description of the methods the applicants shall use to comply with its obligations as an LEA;

— (3) a description of the methods the applicants shall use to notify all eligible students that the charter school is open for enrollment;

— (a) A charter school shall provide notice that the school is open for enrollment to parents of potential students for a minimum of 30 days from the date the charter is granted by the Board or for a minimum of 30 days before the first day the school opens for classes.

— (b) The charter school shall provide for written notice of rejection or acceptance of a student's application within 30 days after the notice period closes.

— (c) The charter school shall follow additional requirements and timelines for student enrollment options consistent with Sections 53A-2-207 and 53A-2-208.

— (4) All other information required under 20 U.S.C., Section 8063(3), Section 53A-1a-508(3), and the application, complete with Assurances, submitted to the Board.

R277-470-5. Funding.

— A. State Funds: State funding for charter school students shall be paid by the USOE directly to charter schools.

— (1) A public school that becomes a charter school shall receive funding on the same basis as it did prior to its conversion to a charter school.

— (2) A charter school, chartered by a district, operating in a facility owned by a district, and not paying reasonable rent to that district shall, for funding purposes, be treated as a public school that has converted to a charter school.

— (3) Charter schools are not eligible for Necessarily Existent Small Schools funding.

— (4) Charter schools shall be considered collectively as a single school district when state program funding is distributed as a base amount to districts. The base amount for charter schools shall then be distributed among the charter schools on a per-pupil or per-WPU basis, depending on the formula.

— B. Federal Funds: Charter schools are eligible for federal funding if they meet all applicable federal requirements and comply with relevant federal regulations.

— C. One-Time Funds:

— One-time funds appropriated by the Legislature or received from the federal government shall be distributed to charter schools consistent with state and federal law.

— D. Ongoing Funds:

— (1) Ongoing funds shall be distributed based on data submitted by charter schools consistent with the format and deadlines required of school districts.

— (2) For its first school year, a charter school's state funding shall begin two months prior to the opening date specified in its contract or, funding shall begin in July if its opening date is prior to September 1. No charter school shall receive more than two months of funding prior to opening.

— (a) Funding for the first two months of operation shall be based upon projected enrollment figures provided in the charter school's contract.

— (b) Following the first two months of operations, funding for schools opening on or prior to September 1 shall be based on enrollment as of October 1. For schools opening after September 1, funding shall be based on actual enrollment as of the first school day of the month following the first full month of operation.

— (c) Allocations for the first operating year shall be adjusted for the difference in funding generated by projected and actual enrollments.

— (3) For its second and subsequent years of operation, charter schools shall be funded in the same manner as districts (prior year average daily membership plus growth.)

— E. Transportation Funds:

— (1) Charter schools are not eligible for to and from school transportation funds.

— (2) A charter school that provides transportation to students shall comply with Utah law under Section 41-6-115.

— (3) A school district may provide transportation for charter school students on a space available basis on approved routes.

— (a) Districts may not incur increased costs or displace eligible students to transport charter school students.

— (b) A charter school student shall board and leave the bus only at existing designated stops on approved bus routes or at identified destination schools.

— (c) A charter school student shall board and leave the bus at the same stop each day.

R277-470-6. Calculation of State Funding for Charter Schools.

— A. The per pupil amount of state funding allocated to substitute for local property tax revenue shall be calculated as follows:

— (1) Using data found in the most recent State Superintendent's Annual Report, calculate the sum of:

— (a) school districts' maintenance and operations revenues derived from local property taxes, subtracting revenues from imposing a minimum basic tax rate;

— (b) school districts' capital projects revenues derived from local property taxes; and

— (c) school districts' expenditures for interest on debt service.

— (2) Divide the sum derived from R277-470-6A(1) by the total actual average daily membership of all district schools. If the total state appropriation designated to charter schools to replace local funding is less than the amount determined in R277-470-6A(2), the amount paid to charter schools shall be adjusted on a percentage basis.]

R277-470. Charter Schools.

R277-470-1. Definitions.

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

— B. "Charter schools" means schools acknowledged as charter schools by local boards of education under Section 53A-1a-515 and this rule or by the Board under Section 53A-1a-505.

— C. "Charter school application" means the official chartering document by which a prospective charter school seeks recognition and funding under Section 53A-1a-505. The application includes the basic elements of the charter between the charter school and the chartering board.

— D. "Charter school deficiencies" means the following information:

(1) a charter school is not satisfying financial obligations as required by Section 53A-1a-505 in the charter school's written contractual agreement;

(2) a charter school is not providing required documentation following reasonable warning;

(3) compelling evidence of fraud or misuse of funds by charter board members or employees.

E. "Days" means calendar days, unless specifically designated.

F. "Expansion" means a proposed increase of students or grade level(s) in an operating charter school at a single location.

G. "Founding member" means an individual who has had a significant role in the development of the charter school application.

H. "Local education agency (LEA)" means a local board of education, combination of school districts, other legally constituted local school authority having administrative control and direction of free public education within the state, or other entities as designated by the Board, and includes any entity with state-wide responsibility for directly operating and maintaining facilities for providing free public education.

I. "No Child Left Behind (NCLB)" means the federal law under the Elementary and Secondary Education Act, Title IX, Part A, 20 U.S.C. 7801.

J. "On-going funds" means funds that are appropriated annually by the Legislature with the expectation that the funds shall continue to be appropriated annually.

K. "State Charter School Board" means the board designated in Section 53A-1a-501.5.

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

M. "Weighted Pupil Unit (WPU)" means the unit of measure that is computed in accordance with the Minimum School Program Act for the purpose of distributing revenue on a uniform basis for each pupil.

R277-470-2. Authority and Purpose.

A. This rule is authorized under Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board, Section 53A-1a-513 which directs the Board to adopt rules for charter school funding and fund distribution, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, and 20 U.S.C., Section 8063(3) which directs the Board to submit specific information prior to charter schools' receipt of federal funds.

B. The purpose of this rule is to establish procedures for authorizing, funding, and monitoring charter schools and for repealing charter school authorizations. The rule also establishes timelines as required by law to provide for adequate training for beginning charter schools and to ensure parent involvement on charter school boards.

R277-470-3. Charter School Orientation and Training.

A. Beginning with the 2006-2007 school year, all charter school applicants shall attend orientation/training sessions designated by the State Charter School Board.

B. Orientation meetings shall be scheduled at least quarterly and be held regionally or be available electronically, as determined by the State Charter School Board.

C. Charter schools and applicants that attend orientation/training sessions shall be eligible for additional funds, upon approval, in an amount to be determined by the State Charter School Board provided through federal charter school funds or a General Fund appropriation to the extent of funds available. Charter

school applicants that attend training and orientation sessions may receive priority for approval from the State Charter School Board and the Board.

D. Orientation/training sessions shall provide information including:

(1) charter school implementation requirements;

(2) charter school statutory and Board requirements;

(3) charter school financial and data management requirements;

(4) charter school legal requirements;

(5) federal requirements for charter school funding; and

(6) other items as determined by the State Charter School Board.

R277-470-4. Timelines.

A. Charter school starting date:

(1) The State Charter School Board shall accept a proposed starting date from a charter school applicant; or

(2) The State Charter School Board shall negotiate and recommend a starting date prior to recommending final charter approval to the Board.

(3) A local or state-chartered school shall be approved by September 30 of the school year prior to the school year it intends to serve students in order to be eligible for state funds.

(4) If students are not enrolled and attending classes by October 1, a charter school shall not receive funding from the state.

(5) Despite a charter school meeting starting dates, a charter school shall be required to satisfy R277-419 requirements of 180 days and 990 hours of instruction time, unless otherwise exempted by the Board under 53A-1a-511.

(6) The Board may, following review of information, approve the recommended starting date or determine a different charter school starting date after giving consideration to the State Charter School Board recommendation.

R277-470-5. Remedying Charter School Financial Deficiencies.

A. Upon receiving credible information of charter school financial deficiencies, the State Charter School Board shall immediately direct a review or audit through the board of the charter school, by State Charter School Board staff, by the Board auditor, or by an independent auditor.

B. The State Charter School Board or the Board through the State Charter School Board may direct a local charter board to take reasonable action to protect state or federal funds consistent with Section 53A-1a-510.

C. The State Charter School Board or the Board in absence of the State Charter School Board action may:

(1) allow a local charter school board to hold a hearing to determine financial responsibility and assist the local charter school board with the hearing process;

(2) immediately terminate the flow of state funds; or

(3) recommend cessation of federal funding to the school; or

(4) any combination of the foregoing (1), (2), and (3).

D. The recommendation by the State Charter School Board shall be made within 20 school days of receipt of complaint of deficiency(ies).

E. The State Charter School Board may have flexibility exercised for good cause in making recommendation(s) regarding deficiency(ies).

F. The Board shall consider the State Charter School Board recommendation for remedying a charter school's financial

deficiency(ies) within 60 days of receipt of information from the State Charter School Board.

G. In addition to remedies provided for in Section 53A-1a-509, the State Charter School Board may provide for a remediation team to work with the school.

R277-470-6. Charter School Financial Practices and Training.

A. Charter school directors and business administrators and finance staff may attend all available USOE sponsored financial and statistical training sessions and meetings that are applicable to charter schools.

B. Local charter school board members and directors shall be invited to all applicable Board-sponsored training, meetings, and sessions for traditional school district financial personnel/staff if charter schools supply current staff information and addresses and indicate the desire to attend.

C. The Board shall work with other education agencies to encourage their inclusion of charter school representatives at training and professional development sessions.

D. A charter school shall appoint a business administrator consistent with Sections 53A-1-302 and 303. The business administrator shall be responsible for the submission of all financial and statistical information required by the Board.

E. The Board may interrupt disbursements to charter schools for failure to comply with financial and statistical information required by law or Board rules.

F. Charter school business and financial staff shall attend USOE business meetings for charter schools.

G. Charter schools are not eligible for necessarily existent small schools funding under Section 53A-17a-109(2) and R277-445.

H. Charter schools shall comply with R277-471, Oversight of School Inspections.

R277-470-7. Procedures and Timeslines for Schools Chartered by Local Boards to Convert to Board-Chartered Schools.

A. A charter school chartered initially by a local board of education shall notify the local board that it will seek Board approval for its charter with adequate notice for the local board to make staffing decisions.

B. A locally chartered school shall operate successfully for at least nine months prior to applying for conversion to a Board chartered school, consistent with R277-470-4A(3).

C. A charter school shall submit an application to convert from a locally chartered school to a Board chartered school to the State Charter School Board; the State Charter School Board shall provide an application for schools seeking to convert.

D. The application may require some or all of the following, depending upon the school's longevity, successful operation and existing documentation at the USOE:

- (1) current board members and founding members;
- (2) audit and financial records:
 - (a) record of state payments received;
 - (b) record of contributions received by the school from inception to date;
 - (c) test scores, including calendar of testing;
 - (d) current employees: identifying assignments and licensing status, if applicable;
 - (e) student lists, including home addresses or uniform student identifiers for current students;
 - (f) school calendar for previous school year and prospective school year;

(g) course offerings, if applicable;

(h) affidavits, signed by all board members providing or certifying (documentation may be required);

(i) the school's nondiscrimination toward students and employees;

(ii) the school's compliance with all state and federal laws;

(iii) that all information on application provided is complete and accurate;

(iv) that school meets/complies with all health and safety codes/laws;

(v) that the school is current with all required policies (personnel, salaries, and fees), including board minutes for the most recent three months;

(vi) that the school is operating consistent with the school's charter;

(vii) the school's Annual Yearly Progress status under No Child Left Behind;

(viii) that there are no outstanding lawsuits or judgments or identifying outstanding lawsuits filed or judgments against the school;

(ix) that the previous local board of education supports or does not support conversion;

E. Applications for conversion from locally chartered to Board chartered shall be considered by the State Charter School Board within 60 days of submission of complete applications, including all required documentation.

F. Following approval by the State Charter School Board, proposals of charter schools seeking conversion approval shall be submitted to the Board for review.

G. If an applicant is not accepted for conversion, the State Charter School Board shall provide adequate information for the charter school to review and revise its proposal and reapply no sooner than nine months from the previous conversion application.

H. The Board shall consider the conversion application within 45 days of State Charter School Board approval, or next possible monthly Board meeting, whichever is sooner.

I. Final approval or denial of conversion is final administrative action by the Board.

R277-470-8. Charter Schools and NCLB Funds.

A. Charter schools that desire to receive NCLB funds shall comply with the requirements of R277-470-8.

B. To obtain its allocation of NCLB formula funds, a charter school shall submit a completed Charter School Economically Disadvantaged Report to the USOE by November 15 of the fiscal year for which funding for NCLB funds are sought.

C. The Charter School Economically Disadvantaged Report shall:

(1) state the number of economically disadvantaged students enrolled in the school as of the last operating day of the immediately preceding October by the students' district of residence; and

(2) be signed by the charter school business administrator.

D. If the school operates a federal school lunch program, the total number of students on the Charter School Economically Disadvantaged Report shall match the total number of free and reduced priced lunch students reported by the same deadline to the USOE through the Free and Reduced Price Lunch Enrollment Survey.

E. If the school does not operate a federal school lunch program, the school:

(1) shall determine the economically disadvantaged status for its students on the basis of criteria no less stringent than those established by the U.S. Department of Agriculture for identifying students who qualify for reduced price lunch for the fiscal year in question; or

(2) may use the Charter School Declaration of Household Income form provided by the USOE for this purpose.

F. A school which does not use the form shall maintain equivalent documentation in its records, which may be subject to audit.

R277-470-9. Charter School Parental Involvement.

A. Charter schools shall encourage and maintain active involvement of parents of current charter school students.

B. Beginning with the 2007-2008 school year, all charter schools shall have at least one elected parent representative chosen by and from parents of students currently attending the charter school to serve on a rotating basis as a voting member on the charter school's governing board with additional parents of students currently attending the charter school totaling a minimum of twenty-five percent of the governing board.

C. A charter school's charter shall provide the election process and selection process for selecting the required parent representative(s) for the governing board and the rotating terms for elected and identified parents.

D. Charter schools that apply for School LAND Trust funds shall have a majority of parents elected from parents of students currently attending the charter school on the committee designated to make decisions about School LAND Trust funds consistent with R277-477-3D.

R277-470-10. Charter School Oversight and Monitoring.

A. The State Charter School Board shall provide direct oversight to the state's charter schools, including:

(1) annual review of student achievement indicators for all schools, disaggregated for various student subgroups;

(2) quarterly review of summary financial records and disbursements;

(3) annual review conducted through site visits or random audits of personnel matters such as employee licensure and evaluations; and

(4) regular review of other matters specific to effective charter school operations as determined by the USOE charter school staff.

B. The Board retains the right to review or repeal charter school authorization based upon factors that may include:

(1) financial deficiencies or irregularities; or

(2) persistently low student achievement inconsistent with comparable schools; or

(3) failure of the charter school to comply with state law, Board rules, or directives.

R277-470-11. Expansion for Approved Charter Schools.

A. The following shall apply to requests for expansion for approved and operating charter schools:

(1) The school satisfies all requirements of state law and Board rule.

(2) The approved Charter Agreement shall provide for an expansion consistent with the request; or

(3) The charter school governing board has submitted a formal amendment request to the State Charter School Board that provides documentation that:

(a) the school district in which the charter school is located has been notified of the proposed expansion in the same manner as required in Section 53A-1s-505(1);

(b) the school can accommodate the expansion within existing facilities or that necessary structures will be completed, meeting all requirements of law and Board rule, by the proposed date of operation.

(c) the school currently satisfies all requirements of state law and Board rule including adequate insurance, adequate parental involvement, compliance with all fiscal requirements, and adequate services for all special education students at the school;

(d) students at the school are performing on standardized assessments at least consistent with comparable students at comparable schools.

(e) adequate qualified administrators or staff or both shall be available to meet the needs of the increased number of students at the time the expansion is implemented.

B. The charter school governing board shall file a request with the State Charter School Board for an expansion no fewer than nine months prior to the date of the proposed implementation of the expansion.

R277-470-12. Transportation.

A. Charter schools are not eligible for to-and-from school transportation funds.

B. A charter school that provides transportation to students shall comply with Utah law Section 53-8-211.

C. A school district may provide transportation for charter school students on a space-available basis on approved routes.

(1) School districts may not incur increased costs or displace eligible students to transport charter school students.

(2) A charter school student shall board and leave the bus only at existing designated stops on approved bus routes or at identified destination schools.

(3) A charter school student shall board and leave the bus at the same stop each day.

(4) Charter school students and their parents who participate in transportation by the school district as guests shall receive notice of applicable district transportation policies and may forfeit with no recourse the privilege of transportation for violation of the policies.

R277-470-13. Appeal Process to State Board of Education and Miscellaneous Provisions.

A. Charter schools denied a charter by the State Charter School Board may appeal to the Board under Section 53A-1a-505(1)(e)(ii).

B. Appeals shall be made within 20 days of the State Charter School Board's final administrative recommendation.

C. Appeals shall only be made in writing and shall be considered by the Board or a committee of Board members designated by the Board within 45 days of receipt by the Board.

D. Only final administrative charter decisions, including approval and proposals for expansion, may be appealed. State Charter School Board directives, requests for additional information, or preliminary decisions about charter school applications shall not be considered by the Board.

E. The Board's decision shall be made in writing to the State Charter School Board and the appellant as soon as possible but no more than 5 days following consideration by the full Board.

F. The Board's action is the final administrative action.

G. The State Charter School Board and the Board may, in the recommendation and approval process, consider and give priority to

charter school applications that target underserved student populations, among traditional public schools and operating charter schools.

(1) Underserved student populations may include low income students, students with disabilities, students who need English Language Learners (ELL) services, or students in remote areas of the state who have limited access to the full range of academic courses;

(2) Priority may also be given to charter school applicants for proposed schools that do not have other charter schools within a 50 mile radius; and

(3) To be given priority, the charter school application and proposed employee and site information shall support the school's designated focus.

KEY: education, charter schools

Date of Enactment or Last Substantive Amendment: ~~October 22, 2003~~ **2006**

Notice of Continuation: October 31, 2003

Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53A-1a-513; 53A-1a-515; 53A-1a-502; 53A-1a-505; 53A-1-401(3); 53A-1a-510; 53A-1a-509; 41-6-115

Education, Administration

R277-700

The Elementary and Secondary School Core Curriculum

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28988

FILED: 09/01/2006, 14:12

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to increase the state minimum required units of credit for high school graduation in language arts, mathematics, and science.

SUMMARY OF THE RULE OR CHANGE: The amendments provide new definitions, make technical and terminology changes, and increase minimum high school graduation requirements while also expanding definitions of requirements. The requirements will first apply to the 2011 graduating class.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 53A-1-402(1)(b) and (c), and Section 53A-1-402.6

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There are no anticipated cost or savings to state budget. There is no cost to the state for increasing the state graduation requirements.

❖ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local government. School districts and charter schools should have adequate resources to increase or broaden course offerings to be prepared for 2011.

❖ **OTHER PERSONS:** There are no anticipated cost or savings to other persons. The amendments to this rule do not require costs from individuals to meet increased graduation requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The amendments to this rule do not require costs from individuals to meet increased graduation requirements.

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 10/16/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2006

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

R277. Education, Administration.

R277-700. The Elementary and Secondary School Core Curriculum.

R277-700-1. Definitions.

A. "Accredited" means evaluated and approved under the Standards for Accreditation of the Northwest Association of Schools and Colleges or the accreditation standards of the Board, available from the USOE Accreditation Specialist.

B. "Applied courses" means public school courses or classes that apply the concepts of Core subjects. Courses may be offered through Career and Technical Education or other areas of the curriculum.

C. "Basic skills course" means a subject which requires mastery of specific functions, including skills that prepare students for the future, and was identified as a course to be assessed under Section 53A-1-602.

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

[B]E. "[Applied technology]Career and Technical [e]Education [(ATE)](CTE)" means organized educational programs or courses which directly or indirectly prepare students for employment, or for additional preparation leading to employment, in occupations, where

entry requirements generally do not require a baccalaureate or advanced degree.

[E]E. "Core Curriculum content standard" means a broad statement of what students enrolled in public schools are expected to know and be able to do at specific grade levels or following completion of identified courses.

[E]G. "Core Curriculum criterion-referenced test (CRTs)" means a test to measure performance against a specific standard. The meaning of the scores is not tied to the performance of other students.

[G]H. "Core Curriculum objective" means a focused description of what students enrolled in public schools are expected to know and do at the completion of instruction.

I. "Core subjects" means courses for which there is a declared set of Core curriculum objectives as approved by the Board.

[H]J. "Demonstrated competence" means subject mastery as determined by school district standards and review. School district review may include such methods and documentation as: tests, interviews, peer evaluations, writing samples, reports or portfolios.

[H]K. "Elementary school" for purposes of this rule means grades K-6 in whatever kind of school the grade levels exist.

[J]L. "High school" for purposes of this rule means grades 9-12 in whatever kind of school the grade levels exist.

[K]M. "Individualized Education Program (IEP)" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Utah Special Education Rules and Part B of the Individuals with Disabilities Education Act (IDEA).

N. "Life Skills document" means a companion document to the Core curriculum that describes the knowledge, skills, and dispositions essential for all students; the life skills training helps students transfer academic learning into a comprehensive education.

[E]O. "Middle school" for purposes of this rule means grades 7-8 in whatever kind of school the grade levels exist.

[M]P. "Norm-referenced test" means a test where the scores are based on comparisons with a nationally representative group of students in the same grade. The meaning of the scores is tied specifically to student performance relative to the performance of the students in the norm group under very specific testing conditions.

Q. "SEOP" means student education occupation plan. An SEOP shall include:

(1) a student's education occupation plans (grades 7-12) including job placement when appropriate;

(2) all Board and local board graduation requirements;

(3) evidence of parent, student, and school representative involvement annually;

(4) attainment of approved workplace skill competencies; and

(5) identification of post secondary goals and approved sequence of courses.

[N]R. "State Core Curriculum (Core Curriculum)" means those standards of learning that are essential for all Utah students, as well as the ideas, concepts, and skills that provide a foundation on which subsequent learning may be built, as established by the Board.

S. "Supplemental courses" means public school courses that provide students with the skills to succeed in Core subject areas.

[O]T. "USOE" means the Utah State Office of Education.

[P]U. "Utah Basic Skills Competency Test (UBSCT)" means a test to be administered to Utah students beginning in the tenth grade to include, at a minimum, components on English, language arts, reading and mathematics. Utah students shall satisfy the

requirements of the UBSCT in addition to school or district graduation requirements prior to receiving a basic high school diploma.

R277-700-3. Core Curriculum Standards and Objectives.

A. The Board establishes minimum course description standards and objectives for each course in the required general core, which is commonly referred to as the Core Curriculum.

B. Course descriptions for required and elective courses shall be developed cooperatively by school districts and the USOE with opportunity for public and parental participation in the development process.

C. The descriptions shall contain mastery criteria for the courses, ~~and~~ shall stress mastery of the course material and Core objectives ~~and~~, standards and life skills consistent with the Core Curriculum and Life Skills document. Mastery shall be stressed rather than completion of predetermined time allotments for courses.

D. Implementation of the Core Curriculum and student assessment procedures are the responsibility of local boards of education consistent with state law.

E. This rule shall apply to students in the 2007-2008 graduating class.

R277-700-5. Middle School Education Requirements.

A. The Board shall establish a Core Curriculum for middle school education.

B. Students in grades 7-8 shall earn a minimum of 12 units of credit to be properly prepared for instruction in grades 9-12.

C. Local boards may require additional units of credit.

D. Grades 7-8 Core Curriculum Requirements and units of credit:

(1) General Core (10.5 units of credit):

(a) Language Arts (2.0 units of credit);

(b) Mathematics (2.0 units of credit);

(c) Science (1.5 units of credit);

(d) Social Studies (1.5 units of credit);

(e) The Arts (1.0 units of credit):

(i) Visual Arts;

(ii) Music;

(iii) Dance;

(iv) Theatre.

(f) Physical Education (1.0 units of credit);

(g) Health Education (0.5 units of credit);

(h) ~~[Applied Technology Education Technology]~~ Career and

Technical Education, Life, and Careers (1.0 units of credit);

(i) Educational Technology (credit optional);

(j) Library Media (integrated into subject areas).

E. Board-approved CRT's shall be used to assess student mastery of the following:

(1) reading;

(2) language arts;

(3) mathematics; and

(4) science in grades 7 and 8.

F. Norm-referenced tests shall be given to all middle school students in grade 8.

R277-700-6. High School Requirements (Effective for Students Graduating Through the 2009-2010 School Year).

A. The Board shall establish a Core Curriculum for students in grades 9-12.

B. Students in grades 9-12 shall earn a minimum of 15 Board-specified units of credit through course completion or through competency assessment consistent with R277-705.

C. Grades 9-12 Core Curriculum as specified:

(1) Language Arts (3.0 units of credit);

(2) Mathematics (2.0 units of credit):

(a) minimally, Elementary Algebra or Applied Mathematics I; and

(b) Geometry or Applied Mathematics II; or

(c) any Advanced Mathematics courses in sequence beyond (a) and (b);

(d) high school mathematics credit may not be earned for courses in sequence below (a).

(3) Science (2.0 units of credit from two of the four science areas):

(a) Earth Systems Science (1.0 units of credit);

(b) Biological Science (1.0 units of credit);

(c) Chemistry (1.0 units of credit);

(d) Physics (1.0 units of credit).

(4) Social Studies (2.5 units of credit):

(a) Geography for Life (0.5 units of credit);

(b) World Civilizations (0.5 units of credit);

(c) U.S. History (1.0 units of credit);

(d) U.S. Government and Citizenship (0.5 units of credit).

(5) The Arts (1.5 units of credit from any of the following performance areas):

(a) Visual Arts;

(b) Music;

(c) Dance;

(d) Theatre;

(6) Physical and Health Education (2.0 units of credit):

(a) Health (0.5 units of credit);

(b) Participation Skills (0.5 units of credit);

(c) Fitness for Life (0.5 units of credit);

(d) Individualized Lifetime Activities (0.5 units of credit) or team sport/athletic participation (maximum of 0.5 units of credit with school approval).

(7) ~~[Applied Technology]~~Career and Technical Education (1.0 units of credit);

(a) Agriculture;

(b) Business;

(c) Family and Consumer Sciences;

(d) Health Science and Technology;

(e) Information Technology;

(f) Marketing;

(g) Technology and Engineering Education;

(h) Trade and Technical Education.

(8) Educational Technology:

(a) Computer Technology (0.5 units of credit for the class by this specific name only); or

(b) successful completion of ~~[state]~~Board-approved competency examination (credit may be awarded at the discretion of the school or school district).

(9) General Financial Literacy (0.5 units of credit).

(10) Library Media Skills (integrated into the subject areas).

(11) Board-approved CRT's shall be used to assess student mastery of the following subjects:

(a) reading;

(b) language arts through grade 11;

(c) mathematics as defined under R277-700-6D(2);

(d) science as defined under R277-700-6D(3); and

(e) effectiveness of written expression in grade 9.

D. Local boards shall ~~[offer]~~require students to earn ~~[at least]~~a minimum of 24 units of credit in grades 9-12 for high school graduation.

(1) If a local board requires students to register for more than 24 units in grades 9-12, one-third of those credits above 24 shall be in one or more of the academic areas of math, language arts, world languages, science, or social studies, as determined by the local board.

(2) Local boards may require students to earn credits for graduation that exceed [state] minimum Board requirements.

~~—E. Utah public school students shall participate in the Utah Basic Skills Competency Test, as defined under R277-700-1P.]~~

~~[F]E.~~ Students with disabilities served by special education programs may have changes made to graduation requirements through individual IEPs to meet unique educational needs. A student's IEP shall document the nature and extent of modifications, substitutions or exemptions made to accommodate a student with disabilities.

R277-700-7. High School Requirements (Effective for Graduating Students Beginning with the 2010-2011 School Year).

A. The Board shall establish a Core Curriculum for students in grades 9-12.

B. Beginning with the graduating class of 2011, students in grades 9-12 shall earn a minimum of 18 Board-specified units of credit through course completion or through competency assessment consistent with R277-705.

C. Grades 9-12 Core Curriculum, as specified:

(1) Language Arts (4.0 units of credit):

(a) Ninth grade level (1.0 unit of credit);

(b) Tenth grade level (1.0 unit of credit);

(c) Eleventh grade level (1.0 unit of credit); and

(d) Applied or advanced language arts credit (1.0 unit of credit) from the list of courses, determined by the local board and approved by USOE, using the following criteria and consistent with the student's SEOP:

(i) courses are within the field/discipline of language arts with a significant portion of instruction aligned to language arts content, principles, knowledge, and skills; and

(ii) courses provide instruction that leads to student understanding of the nature and disposition of language arts; and

(iii) courses apply the fundamental concepts and skills of language arts; and

(iv) courses provide developmentally appropriate content; and

(v) courses develop skills in reading, writing, listening, speaking, and presentation;

(2) Mathematics (3.0 units of credit) met minimally through successful completion of three units of credit of mathematics including Elementary Algebra or Applied Mathematics I and Geometry or Applied Mathematics II; and mathematics in grades 9-12 selected from the Core courses or applied or supplemental courses from the list of courses determined by the local board and approved by USOE using the following criteria and consistent with the student's SEOP:

(i) courses are within the field/discipline of mathematics with a significant portion of instruction aligned to mathematics content, principles, knowledge, and skills; and

(ii) courses provide instruction that leads to student understanding of the nature and disposition of mathematics; and

(iii) courses apply the fundamental concepts and skills of mathematics; and

(iv) courses provide developmentally appropriate content; and

(v) courses include the five process skills of mathematics: problem solving, reasoning, communication, connections, and representation.

(3) Science (3.0 units of credit):

(a) at a minimum, two courses from the four science foundation areas:

(i) Earth Systems Science (1.0 units of credit);

(ii) Biological Science (1.0 units of credit);

(iii) Chemistry (1.0 units of credit);

(iv) Physics (1.0 units of credit); and

(b) one additional unit of credit from the foundation courses or the applied or advanced science list determined by the local board and approved by USOE using the following criteria and consistent with the student's SEOP:

(i) courses are within the field/discipline of science with a significant portion of instruction aligned to science content, principles, knowledge, and skills; and

(ii) courses provide instruction that leads to student understanding of the nature and disposition of science; and

(iii) courses apply the fundamental concepts and skills of science; and

(iv) courses provide developmentally appropriate content; and

(v) courses include the areas of physical, natural, or applied sciences; and

(vi) courses develop students' skills in scientific inquiry.

(4) Social Studies (2.5 units of credit):

(a) Geography for Life (0.5 units of credit);

(b) World Civilizations (0.5 units of credit);

(c) U.S. History (1.0 units of credit);

(d) U.S. Government and Citizenship (0.5 units of credit).

(5) The Arts (1.5 units of credit from any of the following performance areas):

(a) Visual Arts;

(b) Music;

(c) Dance;

(d) Theatre;

(6) Physical and Health Education (2.0 units of credit):

(a) Health (0.5 units of credit);

(b) Participation Skills (0.5 units of credit);

(c) Fitness for Life (0.5 units of credit);

(d) Individualized Lifetime Activities (0.5 units of credit) or team sport/athletic participation (maximum of 0.5 units of credit with school approval).

(7) Career and Technical Education (1.0 units of credit):

(a) Agriculture;

(b) Business;

(c) Family and Consumer Sciences;

(d) Health Science and Technology;

(e) Information Technology;

(f) Marketing;

(g) Technology and Engineering Education;

(h) Trade and Technical Education.

(8) Educational Technology (0.5 units of credit):

(a) Computer Technology (0.5 units of credit for the class by this specific name only); or

(b) successful completion of Board-approved competency examination (credit may be awarded at the discretion of the school or school district).

(9) General Financial Literacy (0.5 units of credit).

(10) Library Media Skills (integrated into the subject areas).

D. Board-approved CRT's shall be used to assess student mastery of the following subjects:

(1) reading;

(2) language arts through grade 11;

(3) mathematics as defined under R277-700-6D(2);

(4) science as defined under R277-700-6D(3); and

(5) effectiveness of written expression in grade 9.

E. Local boards shall require students to earn a minimum of 24 units of credit in grades 9-12 for high school graduation.

F. Local boards may require students to earn credits for graduation that exceed minimum Board requirements.

G. Elective courses offerings may be established and offered at the discretion of the local board.

H. Students with disabilities served by special education programs may have changes made to graduation requirements through individual IEPs to meet unique educational needs. A student's IEP shall document the nature and extent of modifications, substitutions or exemptions made to accommodate a student with disabilities.

I. The Board and USOE may review local boards' lists of approved courses for compliance with this rule.

J. Graduation requirements may be modified for individual students to achieve an appropriate route to student success when such modifications:

(1) are consistent with the student's IEP or SEOP or both;

(2) are maintained in the student's file and include the parent's/guardian's signature; and

(3) maintain the integrity and rigor expected for high school graduation, as determined by the Board.

R277-700-[7]8. Student Mastery and Assessment of Core Curriculum Standards and Objectives.

A. Student mastery of the Core Curriculum at all levels is the responsibility of local boards of education.

B. Provisions for remediation of secondary students who do not achieve mastery is the responsibility of local boards of education under Section 53A-13-104.

C. Students who are found to be deficient in basic skills through U-PASS shall receive remedial assistance according to provisions of Section 53A-1-606(1).

D. If parents object to portions of courses or courses in their entirety under provisions of law (Section 53A-13-101.2) and rule (R277-105), students and parents shall be responsible for the mastery of Core objectives to the satisfaction of the school prior to promotion to the next course or grade level.

E. Students with Disabilities:

(1) All students with disabilities served by special education programs shall demonstrate mastery of the Core Curriculum.

(2) If a student's disabling condition precludes the successful demonstration of mastery, the student's IEP team, on a case-by-case basis, may provide accommodations for or modify the mastery demonstration to accommodate the student's disability.

F. Students may demonstrate competency to satisfy course requirements consistent with R277-705-3.

G. All Utah public school students shall participate in state-mandated assessments, as required by law.

H. Utah public school students shall participate in the Utah Basic Skills Competency Test, as defined under R277-700-1T.

I. School and school districts are ultimately responsible for and shall submit all required student assessments irrespective of allegations of intentional or unintentional violations of testing security or protocol.

KEY: curricula

Date of Enactment or Last Substantive Amendment: ~~March 3, 2004~~ **2006**

Notice of Continuation: January 14, 2003

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-402(1)(b); 53A-1-402.6; 53A-1-401(3)



Human Services, Aging and Adult
Services
R510-200-1
Purpose

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28967

FILED: 08/29/2006, 09:57

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to employ Regional Ombudsmen to assist the State Long-Term Care Ombudsman (LTCO) in meeting program regulations and responsibilities, providing assistance, and advocacy to residents of long-term care facilities.

SUMMARY OF THE RULE OR CHANGE: The rule change provides for the addition of Regional Ombudsmen to assist with monitoring, oversight, assistance, and leadership to local ombudsmen and volunteers, within specific regions, to improve consistency and quality of ombudsman services.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-3-106.5

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There is no anticipated cost or savings to the state. Existing funds will be used for these positions by transferring some funds from Adult Protective Services, and using other available funds already existing within the budget.
- ❖ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. All costs will be borne by the state with existing funds.
- ❖ **OTHER PERSONS:** There is no anticipated cost or savings of other persons or external entities, public or private organizations, as the state has the funds set aside to cover costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance costs for any persons at an individual level. The state will cover any associated costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule may have a positive fiscal impact on skilled nursing and other long-term care facilities, in that the Ombudsman program will have additional resources to provide training and mediation services to these facilities. Lisa-Michele Church, Executive Director

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:

Kathleen Bailey at the above address, by phone at 801-538-3924, by FAX at 801-538-4395, or by Internet E-mail at kfbaily@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 10/16/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 10/23/2006

AUTHORIZED BY: Alan Ormsby, Director

R510. Human Services, Aging and Adult Services.
R510-200. Long-Term Care Ombudsman Program Policy.
R510-200-1. Purpose.

A. The Long-term Care Ombudsman (LTCO) Program is created for the purpose of promoting, advocating, and ensuring the adequacy of care received, and the quality of life experienced by elderly residents of long-term care facilities within the State.

B. Operation of the LTCO Program is a joint responsibility of the Division and local AAAs. Authority to administer the LTCO Program is derived from the Older Americans Act (OAA) Title VII: Allotments for Vulnerable Elder Rights Protection Activities and Section 62a-3-201 et seq.

- C. The Division will establish a State Office of LTCO.
- D. The State LTCO is responsible for:
 - (1) oversight of the statewide LTCO program;
 - (2) providing training to local LTCO staff and volunteers;
 - (3) provision of public information regarding the LTCO program;
 - (4) working with federal agencies, the State Legislature, other units of state government and other agencies to obtain funding and other resources;
 - (5) developing cooperative relationships among agencies involved in long-term care;
 - (6) resolving conflicts among agencies regarding long-term care;
 - (7) assuring consistent, statewide reporting of LTCO program activities:
 - (8) monitoring local LTCO programs;
 - (9) providing technical assistance to local LTCO programs;
 - (10) maintaining close communication and cooperation in the LTCO statewide network;

(11) recommending rules governing implementation of the LTCO program; and

(12) providing overall leadership for the Utah LTCO program.

E. The Division may employ Regional Ombudsmen to assist the State LTCO in meeting his or her responsibilities. In addition to assisting the State LTCO, Regional Ombudsmen are responsible to:

(1) Spend a majority of their time providing ombudsman services, including but not limited to, investigating and resolving complaints when local ombudsmen transfer a case, providing services to assist residents of long-term care facilities, informing and educating residents about their rights, providing administrative and technical assistance to local ombudsmen and volunteers, providing systemic advocacy, providing training to long-term care facilities, and assisting in the development of family and resident councils;

(2) Provide monitoring, oversight, assistance and leadership to local ombudsmen and volunteers in their region;

(3) Ensure that all ombudsmen in their region adhere to established policy and procedure; and

(4) Improve consistency and quality of Ombudsmen services in their region.

[E]E. AAAs are responsible for daily operation of the program, either directly or by contract, as defined in these rules.

[F]G. The Division, State LTCO and AAAs must work together to protect elderly residents, promote quality care in residential facilities, and promote the LTCO program.

KEY: elderly, ombudsman, LTCO

Date of Enactment or Last Substantive Amendment: [1994]2006

Notice of Continuation: November 1, 2002

Authorizing, and Implemented or Interpreted Law: 62A-3-201 to 8; 62A-3-104



Human Services, Aging and Adult Services
R510-200-2
Definitions

NOTICE OF PROPOSED RULE

(Amendment)

DAR File No.: 28968

FILED: 08/29/2006, 09:59

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to avoid duplication of service between Ombudsman Program and Adult Protective Services.

SUMMARY OF THE RULE OR CHANGE: The rule change designates whether Adult Protective Services or the Ombudsman Program is the responsible agency to investigate or provide services on a particular case.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-3-106.5

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no anticipated cost or savings to the state. Existing funds will be used.

❖ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government. All costs will be borne by the state using existing funds.

❖ OTHER PERSONS: There is no anticipated cost or savings to other persons or external entities, public or private organizations, as the state has the funds set aside to cover costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance costs for any persons at an individual level. The state will cover any costs with existing funds.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule may have a positive fiscal impact on skilled nursing, and other long-term care facilities in that the Ombudsman program will have additional resources to provide training and mediation services to those facilities. Lisa-Michele Church, Executive Director

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:

Kathleen Bailey at the above address, by phone at 801-538-3924, by FAX at 801-538-4395, or by Internet E-mail at kbailey@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 10/16/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 10/23/2006

AUTHORIZED BY: Alan Ormsby, Director

**R510. Human Services, Aging and Adult Services.
R510-200. Long-Term Care Ombudsman Program Policy.
R510-200-2. Definitions.**

A. "AAA" means area agency on aging as designated by the Division of Aging and Adult Services.

B. "APS" means adult protective services.

C. The Division means the Division of Aging and Adult Services within the Utah Department of Human Services.

D. "Elderly resident" means an adult 60 years of age or older who resides in a long-term care facility.

E. Long-term ombudsman is a person, operating within the guidelines of the Older American Act and the policies of the Division, who advocates for residents of long-term care facilities to ensure the quality and adequacy of care received.

F. "Local LTCO" means the local program and personnel designated by the Division, through each AAA, to implement the (LTCO) Program within a defined geographic area.

G. "Responsible Agency" means the agency responsible to investigate or provide services on a particular case.

[G]H. "State LTCO" means long-term care ombudsman personnel within the Division.

[H]I. "Long-Term Care Facility" means any skilled nursing facility intermediate care facility, nursing home, residential care facility, adult foster care home, or any living arrangement in the community through which room and personal care services are provided for elderly residents.

KEY: elderly, ombudsman, LTCO

Date of Enactment or Last Substantive Amendment: [1994]2006

Notice of Continuation: November 1, 2002

Authorizing, and Implemented or Interpreted Law: 62A-3-201 to 8; 62A-3-104



Human Services, Aging and Adult Services

R510-200-9

Determination of the Responsible Agency for Investigating Particular Cases in Long-Term Care Facilities

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE No.: 28969
FILED: 08/29/2006, 09:59

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the amendment is to establish procedures to determine whether Adult Protective Services or the Long-Term Care Ombudsman (LTCO) Program will be responsible to investigate or provide services in a particular case.

SUMMARY OF THE RULE OR CHANGE: The LTCO Program will be the responsible agency in responding to a report of alleged abuse, neglect, or exploitation of an elderly vulnerable adult who resides in a long term care facility, other than cases that allege sexual abuse or sexual exploitation.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-3-106.5

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no anticipated cost or savings to the state. Existing funds will be used for these positions by moving some required funds from Adult Protective Services, and using other available funds already existing within the budget.

❖ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government. All costs will be borne by the state.

❖ OTHER PERSONS: There is no anticipated cost or savings of other persons or external entities, public or private organizations, as the state has the funds set aside to cover costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance costs for any persons at an individual level. The state will cover any costs with existing funds.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule may have a positive fiscal impact on skilled nursing and other long-term care facilities, in that the Ombudsman program will have additional resources to provide training and mediation services to these facilities. Lisa-Michele Church, Executive Director

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

HUMAN SERVICES
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120 N 200 W
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DIRECT QUESTIONS REGARDING THIS RULE TO:

Kathleen Bailey at the above address, by phone at 801-538-3924, by FAX at 801-538-4395, or by Internet E-mail at kfb Bailey@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 10/16/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 10/23/2006

AUTHORIZED BY: Alan Ormsby, Director

**R510. Human Services, Aging and Adult Services.
R510-200. Long-Term Care Ombudsman Program Policy.
R510-200-9. Determination of the Responsible Agency for Investigating Particular Cases in Long-Term Care Facilities.**

A. Pursuant to Utah Code Section 62A-3-106.5, to avoid duplication in responding to a report of alleged abuse, neglect, or financial exploitation in a long-term care facility, the Division hereby establishes procedures to determine whether Adult Protective Services or the Long-Term Care Ombudsman Program will be responsible to investigate or provide services in a particular case and determine whether, and under what circumstances, the agency that is not the responsible agency will provide assistance to the responsible agency in a particular case.

B. The Long-Term Care Ombudsman Program will be the responsible agency in responding to a report of alleged abuse, neglect, or exploitation of a vulnerable adult who resides in a long-term care facility in the following cases:

(1) When an allegation of abuse, neglect or exploitation occurs, the Long-Term Care Ombudsman will be the responsible agency in cases other than cases that allege sexual abuse or sexual exploitation;

(2) When a resident of a long-term care facility has allegedly abused, neglected, or financially exploited another resident;

(3) When an employee of a long-term care facility has allegedly abused, neglected, or financially exploited a resident and the facility has terminated the employee;

(4) When the police or local law enforcement have initiated an investigation of alleged abuse, neglect, or financial exploitation.

C. Adult Protective Services will be the responsible agency in responding to a report of alleged abuse, neglect, or exploitation of a vulnerable adult who resides in a long-term care facility in the following cases:

(1) When an allegation of sexual abuse or sexual exploitation of a vulnerable adult is received.

D. The agency that is not the responsible agency will provide assistance to the responsible agency in the following circumstances:

(1) When the responsible agency requests the assistance of the non-responsible agency; or

(2) When the responsible agency is the LTCO and there is evidence that the resident's protective need has not been met.

KEY: elderly, ombudsman, LTCO

**Date of Enactment or Last Substantive Amendment: [1994]2006
Notice of Continuation: November 1, 2002**

Authorizing, and Implemented or Interpreted Law: 62A-3-201 to 8; 62A-3-104



Insurance, Title and Escrow Commission **R592-5**

Fiduciary and Other Responsibilities of a Title Insurance Producer Providing Escrow Service

NOTICE OF PROPOSED RULE (New Rule)

DAR FILE NO.: 28986
FILED: 09/01/2006, 12:41

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this proposed new rule is to define the fiduciary and other responsibilities of title insurance producers when engaging in the escrow business under the authority of Section 31A-23a-406 and to identify those practices which the Commission finds are harmful to the public interest.

SUMMARY OF THE RULE OR CHANGE: The rule defines "escrow agent" and "escrow services." Only one escrow agent is to be designated by written agreement by the parties to the transaction. The rule sets the fiduciary and escrow responsibilities of the escrow to all parties to the transaction. Enforcement of the rule will begin 45 days after the rule goes into effect.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-404 and 31A-23a-406

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** This rule will have no fiscal impact on the department. The rule will not impact the revenues or expenditures of the department. There will be no change in the filings required or the fees to be paid by the industry to the department.

❖ **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:** In a real estate transaction the rule will make one fiduciary agent responsible for all the documents and funds to close the escrow. Frequently in the past one agent has acted for the buyer and one agent for the seller. The latter practice causes a delay in the disbursing of funds which costs the seller additional interest. The way the practice is now, the potential for fraud and the violation of the Expedited Funds Availability Act increased. It is doubtful that there will be any fiscal impact on the consumer. The impact on consumers may only be the closure of loopholes for potential fraud in a real estate transaction.

COMPLIANCE COSTS FOR AFFECTED PERSONS: In a real estate transaction the rule will make one fiduciary agent responsible for all the documents and funds to close the escrow. Frequently in the past, one agent has acted for the buyer and one agent for the seller. The latter practice causes a delay in the disbursing of funds which costs the seller additional interest. The way the practice is now, the potential for fraud and the violation of the Expedited Funds Availability Act increased. It is doubtful that there will be any fiscal impact on the consumer. The impact on consumers may only be the closure of loopholes for potential fraud in a real estate transaction.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule may cause a positive impact on the net profitability for title agencies that previously participated in split closing. As a result of the rule, title agencies will be doing the same amount of work for the full escrow charge. Kent D. Michie, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/16/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 10/11/2006 at 11:00 AM, State Office Building (behind the Capitol), Room 4112, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/23/2006

AUTHORIZED BY: Jilene Whitby, Information Specialist

R592. Insurance, Title and Escrow Commission.

R592-5. Fiduciary and Other Responsibilities of a Title Insurance Producer Providing Escrow Service.

R592-5-1. Authority.

This rule is promulgated by the Title and Escrow Commission pursuant to Section 31A-2-404(2), which authorizes the Commission to make rules related to standards of conduct for a title licensee, and pursuant to the specific authority granted in Subsection 31A-23a-406(7), which authorizes the Commission to establish rules that govern escrows.

R592-5-2. Purpose and Scope.

(1) The purpose of this rule is to define the fiduciary and other responsibilities of title insurance producers when engaging in the escrow business under the authority granted in Section 31A-23a-406 and to identify those practices, which the commissioner finds are harmful to the public interest.

(2) This Rule applies to title insurers, title insurance agencies, title insurance producers and their employees, representatives and any other party working for or on behalf of said entities whether as a full time or part time employee or as an independent contractor doing the business of escrow in Utah.

R592-5-3. Definitions.

For the purpose of this rule the Commission adopts the definitions as set forth in Section 31A-1-301 and the following:

(1) "Escrow Agent" means any person who provides or offers to provide escrow services to the public and who acts as an independent and neutral third party for a particular escrow.

(2) "Escrow Services" are those services specifically provided in conducting an escrow as defined in Section 31A-1-301.

R592-5-4. Title Insurance Producers Acting as an Escrow Agent.

(1) The Commission finds the following:

(a) When conducting an escrow, an escrow agent assumes a fiduciary role to all parties to the escrow and is held to a high standard of care in dealing with all parties to the escrow; and

(b) An escrow agent's failure to fulfill the fiduciary and other duties outlined below constitute a danger to the legitimate interests of their customers and the public.

(2) Each transaction shall have no more than one escrow agent. All portions of an escrow, including any loan(s), that are dependent upon the completion of another portion of that escrow to fulfill the terms of that escrow are considered to be part of a single escrow and must be conducted by the designated escrow agent.

(3) When the terms of the escrow require that the parties deliver or entrust to an escrow agent, money, certificate of deposit, security, negotiable instrument, deed or other property or asset, those items must be delivered to and be held by the designated escrow agent prior to recordation and disbursement.

(4) In conducting an escrow, and escrow agent, must:

(a) be designated as the escrow agent for the specific escrow by a written agreement, executed by the parties, and must retain a copy of that agreement;

(b) issue a title insurance policy to the owner, or the lender, or both;

(c) act as a neutral and independent third party;

(d) exercise proper fiduciary responsibility to all of the parties to the escrow;

(e) act as the escrow depository; and

(f) maintain the transaction file.

(5) The designated escrow agent has the duty to ensure that all conditions of the escrow have been met prior to recordation and disbursement.

(6) When the terms of the escrow require the preparation of documents by an escrow agent, the preparation of the documents must be done by the designated escrow agent.

(7) The designated escrow agent must follow all applicable federal and state laws.

(8) All funds deposited into the escrow shall be sent to, and received directly by, the designated escrow agent.

(9) All necessary items to settle the escrow must be in the possession of the designated escrow agent prior to recordation and disbursement.

R592-5-5. Enforcement Date.

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

R592-5-6. Severability.

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

KEY: title, escrow fiduciary

Date of Enactment or Last Substantive Amendment: 2006

Authorizing, and Implemented or Interpreted Law: 31A-2-404, 31A-23a-406



Natural Resources, Wildlife Resources

R657-9-7

Return of Swan Harvest and Hunt Information

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28945

FILED: 08/23/2006, 14:34

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the division's waterfowl program.

SUMMARY OF THE RULE OR CHANGE: Under Section R657-9-7 the number of days a swan hunter has to submit his harvest information was increased from 10 days to 30.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This amendment only increases the number of days swan hunters have to submit their harvest information. Since the changes will not increase workload and can be done within existing budget, the amendment will not create a cost or savings impact to the state 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 amendment. Nor are local governments indirectly impacted because the amendment does not create a situation requiring services from local governments.

❖ OTHER PERSONS: The amendment only gives swan hunters more days to submit their harvest information, and therefore, does 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 amendment simply gives swan hunters more time to submit harvest data, so there are no additional compliance costs associated.

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 10/16/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2006

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-9. Taking Waterfowl, Common Snipe and Coot.

R657-9-7. Return of Swan Harvest and Hunt Information.

(1) Swan permit holders who do not hunt or are unsuccessful in taking a swan must respond to the swan questionnaire through the division's Internet address, or by telephone, within ~~ten~~30 calendar days of the conclusion of the prescribed swan hunting season.

(2) Within three days of harvest, swan permit holders successful in taking a swan must personally present the swan or its head for measurement to the division or the Bear River Migratory Bird Refuge and further provide all harvest information requested by the division or Refuge.

(3) Hunters who fail to comply with the requirements of Subsections (1) or (2) shall be ineligible to:

(a) obtain a swan permit the following season; and

(b) obtain a swan permit after the first season of ineligibility until the swan orientation course is retaken.

KEY: wildlife, birds, migratory birds, waterfowl

Date of Enactment or Last Substantive Amendment: ~~October 25, 2005~~2006

Notice of Continuation: August 21, 2006

Authorizing, and Implemented or Interpreted Law: 23-14-19; 23-14-18; 50 CFR part 20



Natural Resources, Wildlife Resources

R657-10

Taking Cougar

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28943

FILED: 08/23/2006, 11:48

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the division's cougar program.

SUMMARY OF THE RULE OR CHANGE: The proposed revisions to this rule: 1) add a definition for split unit; 2) make limited entry permits on split units valid for use as harvest objective tags after the split unit transitions to a harvest objective unit; 3) amend the time that updates on harvest objective units are available on the phone and online; 4) amend the time harvest objective unit updates become effective; 5) create a poaching-reported reward permit program; and 6) other provisions amend for clarity and consistency.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This amendment clarifies existing requirements. Therefore, the Division of Wildlife Resources (DWR) determines that these amendments do not create a cost or savings impact to the state budget or DWR's budget, since it will not increase workload and can be done with 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 amendment. Nor are local governments indirectly impacted because the amendment does not create a situation requiring services from local governments.

❖ OTHER PERSONS: This amendment clarifies existing requirements, therefore, 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: These amendments clarify existing requirements in Rule R657-10. Therefore, the Division of Wildlife Resources determines that there are no additional compliance costs associated with this amendment.

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 10/16/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2006

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.**R657-10. Taking Cougar.****R657-10-2. Definitions.**

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

(2) In addition:

(a) "Canned hunt" means that a cougar is treed, cornered, held at bay or its ability to escape is otherwise restricted for the purpose of allowing a person who was not a member of the initial hunting party to arrive and take the cougar.

(b) "Cougar" means Puma concolor, commonly known as mountain lion, lion, puma, panther or catamount.

(c) "Cougar pursuit permit" means a permit that authorizes a person to pursue cougar during designated seasons.

(d) "Evidence of sex" means the sex organs of a cougar, including a penis, scrotum or vulva.

(e) "Green pelt" means the untanned hide or skin of any cougar.

(f) "Kitten" means a cougar less than one year of age.

(g) "Limited entry hunt" means any hunt listed in the hunt tables of the proclamation of the Wildlife Board for taking cougar, which is identified as limited entry and does not include harvest objective hunts.

(h) "Limited entry permit" means any permit obtained for a limited entry hunt by any means, including conservation permits and sportsman permits.

(i) "Pursue" means to chase, tree, corner or hold a cougar at bay.

(j) "Split unit" means a cougar hunting unit that begins as a limited entry unit then transitions into a harvest objective unit.

(k) "Waiting period" means a specified period of time that a person who has obtained a cougar permit must wait before applying for any other cougar permit.

R657-10-22. [Questionnaire]Survey.

Each permittee who ~~receives a questionnaire should return the questionnaire to the division~~ is contacted for a survey about their cougar hunting experience should participate in the survey regardless of success. ~~Returning the questionnaire~~ Participation in the survey helps the division evaluate population trends, harvest success and collect other valuable information.

R657-10-23. Taking Cougar.

(1)(a) A person may take only one cougar during the season and from the area specified on the permit.

(b) Limited entry permits may be obtained by following the application procedures provided in this rule and the proclamation of the Wildlife Board for taking cougar.

(c) Harvest objective permits may be purchased on a first-come, first-served basis as provided in proclamation of the Wildlife Board for taking cougar.

(2) A person may not:

(a) take or pursue a female cougar with kittens or kittens with spots; or

(b) repeatedly pursue, chase, tree, corner, or hold at bay, the same cougar during the same day after the cougar has been released.

(3) Any cougar may be taken during the prescribed seasons, except a kitten with spots, or any cougar accompanied by kittens, or any cougar accompanied by an adult.

(4) A person may not take a cougar wearing a radio collar from any areas that are published in the proclamation of the Wildlife Board for taking cougar.

(5) The division may authorize hunters who have obtained a limited entry cougar permit to take cougar in a specified area of the state in the interest of protecting wildlife from depredation.

(6) Season dates, closed areas, harvest objective permit areas and limited entry permit areas are published in the proclamation of the Wildlife Board for taking cougar.

(7)(a) A person who obtains a limited entry cougar permit on a split unit may hunt on all harvest objective units after the date split units transition into harvest objective units. The split unit transition

date is provided in the proclamation of the Wildlife Board for taking cougar.

(b) A person who obtains a limited entry cougar permit on a split unit and chooses to hunt on any harvest objective unit after the transition date is subject to all harvest objective unit closure requirements provided in Sections R657-10-34 and 657-10-35.

R657-10-27. Waiting Period.

(1) Any person who obtained a limited entry permit valid for the current season may not apply for a permit for a period of three ~~years~~ seasons.

(2) Any person who draws a limited entry permit for the current season may not apply for a permit for a period of three ~~years~~ seasons.

(3) Waiting periods are not incurred as a result of purchasing harvest objective permits.

R657-10-34. Harvest Objective Unit Closures.

(1) To hunt in a harvest objective unit, a hunter must call 1-888-668-LION or visit the division's website to verify that the cougar management unit is still open. The phone line and website will be updated each day by ~~8 p.m.~~ 12 noon. Updates become effective the following day thirty minutes before official sunrise.

(2) Harvest objective units are open to hunting until:

(a) the cougar harvest objective for that unit is met; or

(b) the end of the hunting season as provided in the proclamation of the Wildlife Board for taking cougar.

(3) Upon closure of a harvest objective unit, a hunter may not take or pursue cougar except as provided in Section R657-10-25.

R657-10-37. Poaching-Reported Reward Permits.

(1) For purposes of this section, "successful prosecution" means the screening and filing of charges for the poaching incident.

(2) Any person who provides information leading to another person's arrest and successful prosecution for wanton destruction of a cougar on a limited entry cougar unit, under Section 23-20-4, may receive a permit from the division to hunt cougar on the same limited-entry cougar unit where the reported violation occurred, as provided in Subsection (3).

(3)(a) The division may issue poaching-reported reward permits only in limited-entry cougar units that have more than 10 total permits allocated.

(b) The division may issue only one poaching-reported reward permit per limited-entry cougar unit per year.

(4)(a) The division may issue only one poaching-reported reward permit for any one animal illegally taken.

(b) No more than one poaching-reported reward permit shall be issued to any one person per successful prosecution.

(c) No more than one cougar poaching-reported reward permit shall be issued to any one person in any one cougar season.

(5)(a) Poaching-reported reward permits may only be issued to the person who provides the most pertinent information leading to a successful prosecution. Permits are not transferrable.

(b) If information is received from more than one person, the director of the division shall make a determination based on the facts of the case, as to which person provided the most pertinent information leading to the successful prosecution in the case.

(c) The person providing the most pertinent information shall qualify for the poaching-reported reward permit.

(6) Any person who receives a poaching-reported reward permit must be eligible to hunt and obtain cougar permits as provided in all rules and regulations of the Wildlife Board and the Wildlife Resources Code.

KEY: wildlife, cougar, game laws

Date of Enactment or Last Substantive Amendment: ~~October 25, 2005~~ 2006

Notice of Continuation: August 21, 2006

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



Natural Resources, Wildlife Resources

R657-11

Taking Furbearers

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28944

FILED: 08/23/2006, 13:06

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted for taking public input and reviewing the division's furbearer program.

SUMMARY OF THE RULE OR CHANGE: Section R657-11-2 is being amended to clarify the definition of bait and exposed bait, as well as, add a definition for artificial cubby set. The Logan Hatchery is removed as a location where permanent tags may be obtained in Section R657-11-9. Specific trap requirements were removed in Section R657-11-10 for smaller sized traps. Throughout the rule small editing changes were made to add clarity and consistency for better readability.

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

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The amendments clarify existing requirements. Therefore, the Division of Wildlife Resources (DWR) determines that these amendments do not create a cost or savings impact to the state budget or DWR's budget, since the changes will not increase workload and can be done with exiting 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 amendment. Nor are local governments indirectly impacted because the amendment does not create a situation requiring services from local governments.

❖ **OTHER PERSONS:** This amendment clarifies existing requirements, therefore, 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: This amendment clarifies existing requirements. Therefore, the Division of Wildlife Resources determines that there are no additional compliance costs associated with the amendments.

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 10/16/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2006

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-11. Taking Furbearers.

R657-11-2. Definitions.

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

(2) In addition:

(a) "Artificial cubby set" means any artificially manufactured container with an opening on one end that houses a trapping device. Bait must be placed inside the artificial cubby set at least eight inches from the opening. Artificial cubby sets must be placed with the opening perpendicular or below perpendicular to the ground so that the bait is not visible from above.

(b) "Bait" means any lure containing animal parts larger than one cubic inch, or eight cubic inches if used in an artificial cubby set, with the exception of white-bleached bones with no hide or flesh attached.

(c) "Exposed bait" means bait which is visible from any angle, except when used in an artificial cubby set.

(d) "Fur dealer" means any individual engaged in, wholly or in part, the business of buying, selling, or trading skins or pelts of furbearers within Utah.

(e) "Fur dealer's agent" means any person who is employed by a resident or nonresident fur dealer as a buyer.

(f) "Green pelt" means the untanned hide or skin of any furbearer.

(g) "Pursue" means to chase, tree, corner, or hold a furbearer at bay.

(h) "Scent" means any lure composed of material of less than one cubic inch.

R657-11-3. License, Permit and Tag Requirements.

(1) A person who has a valid, current [year] furbearer license may take furbearers during the established furbearer seasons published in the proclamation of the Wildlife Board for taking furbearers.

(2) A person who has a valid, current [year] furbearer license and valid temporary bobcat possession tags may take bobcat during the established bobcat season published in the proclamation of the Wildlife Board for taking furbearers.

(3) A person who has a valid, current [year] furbearer license and valid marten trapping permit may take marten during the established marten season published in the proclamation of the Wildlife Board for taking furbearers.

(4) Any license, permit, or tag that is mutilated or otherwise made illegible is invalid and may not be used for taking or possessing furbearers.

R657-11-4. Temporary Possession Tags for Bobcat.

(1) Temporary bobcat possession tags are only valid with a valid, current furbearer license.

(2) A person may obtain up to six temporary bobcat possession tags.

(3) Temporary bobcat possession tags will be available during the dates published in the proclamation of the Wildlife Board for taking furbearers and may be obtained by submitting an application to any division office or through the division's Internet address.

(4) Temporary bobcat possession tags are valid for the entire bobcat season.

R657-11-6. Marten Permits.

(1) A person may not trap marten or have marten in possession without having a valid, current [year] furbearer license and a marten trapping permit in possession.

(2) Marten trapping permits are available free of charge from any division office.

(3)(a) Applications for marten permits must contain the applicant's full name, mailing address, phone number, and valid, current [year] furbearer license number.

(b) Permit applications are accepted by mail or in person at any regional division office.

R657-11-7. Permanent Possession Tags for Bobcat and Marten.

(1) A person may not:

(a) possess a green pelt or unskinned carcass from a bobcat or marten that does not have a permanent tag affixed after the Saturday following the close of the bobcat trapping season and marten seasons;

(b) possess a green pelt or the unskinned carcass of a bobcat with an affixed temporary bobcat possession tag issued to another person, except as provided in Subsections (5) and (6); or

(b) buy, sell, trade, or barter a green pelt from a bobcat or marten that does not have a permanent tag affixed.

(2) Bobcat and marten pelts must be delivered to a division representative to have a permanent tag affixed and to surrender the lower jaw.

(3) Bobcat and marten pelts may be delivered to the following division offices, by appointment only, during the dates published in the proclamation of the Wildlife Board for taking furbearers:

(a) Cedar City - Regional Office;

(b) Logan Hatchery;

(c) Ogden - Regional Office;

- [(d)](c) Price - Regional Office;
 [(e)](d) Salt Lake City - Salt Lake Office;
 [(f)](e) Springville - Regional Office; and
 [(g)](f) Vernal - Regional Office.

(4) There is no fee for permanent tags.

(5) Bobcat and marten which have been legally taken may be transported from an individual's place of residence by an individual other than the fur harvester to have the permanent tag affixed; bobcats must be tagged with a temporary possession tag and accompanied by a valid furbearer license belonging to the fur harvester.

(6) Any individual transporting a bobcat or marten for another person must have written authorization stating the following:

- (a) date of kill;
- (b) location of kill;
- (c) species and sex of animal being transported;
- (d) origin and destination of such transportation;
- (e) the signature and furbearer license number of the fur harvester;
- (f) the name of the individual transporting the bobcat or marten; and
- (g) the fur harvester's marten permit number if marten is being transported.

(7) Green pelts of bobcats and marten legally taken from outside the state may not be possessed, bought, sold, traded, or bartered in Utah unless a permanent tag has been affixed or the pelts are accompanied by a shipping permit issued by the wildlife agency of the state where the animal was taken.

(8)(a) Fur harvesters taking marten are requested to present the entire skinned carcass intact, including the lower jaw, to the division in good condition when the pelt is presented for tagging.

(b) "Good condition" means the carcass is fresh or frozen and securely wrapped to prevent decomposition so that the tissue remains suitable for lab analysis.

R657-11-9. Trap Identification Numbers.

(1) For the purposes of this section, "owner" means the person who has been issued a trap registration number, which is permanently marked or affixed to the trapping device.

(2) Each trapping device used to take furbearers must be permanently marked or tagged with the trap registered number of the owner.

(3) No more than one trap registration number may be on a trapping device.

(4) [~~Registration~~]Trap registration numbers must be legible.

(5) [~~Registration~~]Trap registration numbers are permanent and may be obtained by mail or in person from any division office.

(6) Applicants must include their full name, including middle initial, and complete home address.

(7) A registration fee of \$5 must accompany the request. This fee is payable only once.

(8) Each individual is issued only one trap registration number.

(9) Any person who has obtained a trap registration number must notify the division within 30 days of any change in address or the theft of traps.

R657-11-10. Traps.

(1) All long spring, jump, or coil spring traps, except rubber-padded jaw traps and traps with jaw spreads less than 4.25 inches, that are not completely submerged under water when set must have

spacers on the jaws which leave an opening of at least 3/16 of an inch when the jaws are closed.

(2) On the Green River, between Flaming Gorge Dam and the Utah Colorado state line; and the Colorado River, between the Utah Colorado state line and Lake Powell; and the Escalante River, between Escalante and Lake Powell, trapping within 100 yards of either side of these rivers or their tributaries, up to 1/2 mile from their confluences, is restricted to the following devices:

(a) Nonlethal-set leg hold traps with a jaw spread less than 5 1/8 inches, and nonlethal-set padded leg hold traps. Drowning sets with these traps are prohibited.

(b) Body-gripping, killing-type traps with body-gripping area less than 30 square inches (i.e., 110 Conibear).

(c) Nonlethal dry land snares equipped with a stop-lock device that prevents it from closing to less than a six-inch diameter.

(d) Size 330, body-gripping, killing-type traps (i.e. Conibear) modified by replacing the standard V-trigger assembly with one top side parallel trigger assembly, with the trigger placed within one inch of the side, or butted against the vertical turn in the Canadian bend.

(3) A person may not disturb or remove any trapping device, except:

(a) a person who possesses a valid, current [~~year~~]furbearer license, the appropriate permits or tags, and who has been issued a trapper registration number, which is permanently marked or affixed to the trapping device; or

(b) peace officers in the performance of their duties; or

(c) as provided in Subsection (6).

(4) A person may not kill or remove wildlife caught in any trapping device, except:

(a) a person who possesses a valid, current [~~year~~]furbearer license, the appropriate permits or tags, and who has been issued a trapper registration number, which is permanently marked or affixed to the trapping device; or

(b) as provided in Subsection (6).

(5) For the purposes of this section, "owner" means the person who has been issued a trap registration number, which is permanently marked or affixed to the trapping device.

(6) A person, other than the owner, may possess, disturb or remove a trapping device; or possess, kill or remove wildlife caught in a trapping device provided:

(a) the person possesses a valid, current [~~year~~]furbearer license, the appropriate permits or tags; and

(b) has obtained written authorization from the owner of the trapping device stating the following:

(i) date written authorization was obtained;

(ii) name and address of the owner;

(iii) owner's trap registration number;

(iv) the name of the individual being given authorization;

(v) signature of owner.

(7) The owner of any trapping device, providing written authorization to another person under Subsection (6), shall be strictly liable for any violations of this proclamation resulting from the use of the trapping device by the authorized person.

(8) The owner of any trapping device, providing written authorization to another person under Subsection (6), must keep a record of all persons obtaining written authorization and furnish a copy of the record upon request from a conservation officer.

(9)(a) A person may not set any trap or trapping device on posted private property without the landowner's permission.

(b) Any trap or trapping device set on posted property without the owner's permission may be sprung by the landowner.

(c) Wildlife officers should be informed as soon as possible of any illegally set traps or trapping devices.

(10) Peace officers in the performance of their duties may seize all traps, trapping devices, and wildlife used or held in violation of this rule.

(11) A person may not possess any trapping device that is not permanently marked or tagged with that person's registered trap number while engaged in taking wildlife.

(12) All traps and trapping devices must be visited and checked at least once every 48 hours, except killing traps striking dorso-ventrally; drowning sets; and lethal snares that are set to capture on the neck, that have a non relaxing lock, without a stop, and are anchored to an immoveable object; which must be visited every 96 hours.

(13) A person may not transport or possess live protected wildlife. Any animal found in a trap or trapping device must be killed or released immediately by the trapper.

R657-11-12. Accidental Trapping.

(1)(a) Any bear, bobcat, cougar, fisher, marten, otter, wolverine, any furbearer trapped out of season, or other protected wildlife accidentally caught in a trap must be released unharmed.

(b) Written permission must be obtained from a division representative to remove the carcass of any of these species from a trap.

(c) The carcass remains the property of the state and must be turned over to the division.

(2) All incidents of accidental trapping of any of these animals must be reported to ~~a~~the division ~~representative~~within 48 hours.

(3) Black-footed ferret, lynx and wolf are protected species under the Endangered Species Act. Accidental trapping or capture of these species must be reported to the division within 48 hours.

R657-11-15. Use of Dogs.

(1) Dogs may be used to take furbearers only during the prescribed open seasons.

(2) The owner and handler of dogs used to take or pursue a furbearer must have a valid, current furbearer license in possession while engaged in taking furbearers.

(3) When dogs are used in the pursuit of furbearers, the licensed hunter intending to take the furbearer must be present when the dogs are released and must continuously participate in the hunt thereafter until the hunt is completed.

R657-11-24. ~~Questionnaire~~Survey.

Each permittee who ~~receives a questionnaire should return the questionnaire to the division~~is contacted for a survey about their furbearer harvesting experience should participate in the survey regardless of success. ~~Returning the questionnaire~~Participation in the survey helps the division evaluate population trends, harvest success~~],~~ and collect other valuable information.

R657-11-25. Prohibited Species.

(1)(a) A person may not take black-footed ferret, fisher, lynx, otter, wolf, or wolverine.

~~(2)(b)~~Accidental trapping or capture of any of these species must be reported to the division within 48 hours.~~[a division representative.~~

~~—(3) Accidental trapping or capture of black-footed ferret, lynx and wolf must be reported to the division.]~~

KEY: wildlife, furbearers, game laws, wildlife law

Date of Enactment or Last Substantive Amendment: ~~[October 25, 2005]~~2006

Notice of Continuation: August 24, 2005

Authorizing, and Implementing or Interpreted Law: 23-14-18; 23-14-19; 23-13-17



Natural Resources, Wildlife Resources **R657-26**

Adjudicative Proceedings for a License, Permit, or Certificate of Registration

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28942

FILED: 08/22/2006, 17:48

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended to clarify the time frames and manner in which correspondence regarding adjudicative procedures regarding suspension of privileges to harvest protected wildlife in the state of Utah are conducted.

SUMMARY OF THE RULE OR CHANGE: Subsection R657-26-5(1)(b) is being amended to clarify the time frame in which a respondent has to respond to a Notice of Agency Action and request a hearing regarding the possible suspension of the respondent's privilege to harvest protected wildlife, and specify that the request must be made in writing and received, not simply mailed, by the deadline. Subsection R657-26-8(2) is being amended to clarify the time frame in which a respondent has to appeal the Decision and Order of the hearing officer to the Wildlife Board, and specify that the request be received, not simply mailed, by the deadline. Subsection R657-8(8)(a) is being amended to clarify the process by which the Wildlife Board issues decisions on suspension appeals.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 23-19-9(15)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** This rule is being amended to clarify the time frame and manner in which correspondence regarding adjudicative procedures regarding suspension of privileges to harvest protected wildlife in the state of Utah. The Division of Wildlife Resources (DWR) determines that this amendment will not create any cost or savings impact to the state budget or DWR's budget, since it will not increase workload and can be done with 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: None—These amendments do not impose any requirements on persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These amendments simply clarify the time frame and manner in which correspondence regarding adjudicative procedures regarding suspension of privileges to harvest protected wildlife in the state of Utah. Therefore, this rule does not impose any cost requirements for affected persons.

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 10/16/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2006

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-26. Adjudicative Proceedings for a License, Permit, or Certificate of Registration.

R657-26-5. Hearings.

(1)(a) The presiding officer shall provide the respondent with an opportunity for a hearing.

(b) A hearing shall be held if the ~~respondent requests a hearing within 20~~ division receives a written request for a hearing from the respondent within 20 calendar days after the date the notice of agency action is issued.

(2) The respondent, or a person designated by the respondent to appear on the respondent's behalf, may testify at the hearing and present any relevant information or evidence.

(3) Hearings shall be open to the public.

(4) After reviewing all the information provided by the parties, the presiding officer shall suspend the respondent's license, permit or certificate of registration privileges in accordance with Section 23-19-9.

(5)(a) The type of license, permit or certificate of registration privilege suspension imposed shall be within the following categories:

- (i) all fishing licenses and permits;
- (ii) all furbearer and bobcat licenses and permits;
- (iii) all big game licenses and permits;
- (iv) all small game licenses and permits, and wild turkey permits;
- (v) all permits to take and pursue cougar and bear;
- (vi) all falconry permits and falconry certificates of registration;
- (vii) certificates of registration of a type specified; or
- (viii) all hunting licenses, permits and certificates of registration;
- (ix) all licenses, permits and certificates of registration issued by the division.

(b) The presiding officer may suspend the license, permit or certificate of registration privileges most closely associated with the activity for which the person was participating in when the violation occurred.

(c) The presiding officer may suspend the license, permit or certificate of registration privileges most closely associated with the activity that involved the unlawful taking of terrestrial wildlife for which no season has been established.

(d) If the violation involves acts that occurred while participating in an activity regulated by Title 23, which include more than one of the types of license or permit privileges as provided in Subsection (a), the presiding officer may suspend the license, permit or certificate of registration privileges for all categories that apply.

(e) The presiding officer may impose a suspension of all privileges to hunt protected wildlife or all privileges to take protected wildlife if the violations are found by the hearing officer to be conspicuously bad or offensive, and may include, but are not restricted to, the violations described in Subsection (e)(i) through Subsection (e)(viii).

(i) Any violation which could result in suspension that involves taking, in a single criminal episode, four times the legal bag limit of any protected fish species.

(ii) Any violation which could result in suspension that involves taking, in a single criminal episode, three times the legal bag limit of any small game species or waterfowl.

(iii) Any violation which could result in suspension that involves a once-in-a-lifetime species.

(iv) Any violation which could result in suspension that occurs out of season or in a closed area for the species illegally taken and involves a trophy animal.

(v) Three or more felony or class A misdemeanor violations under Section 23-20-4 in a seven-year period, regardless of suspension periods previously imposed.

(vi) Any violation which could result in suspension that involves the illegal taking, in a single criminal episode, of two or more big game animals not classified as once-in-a-lifetime.

(vii) Any violation which could result in suspension that involves the illegal taking, in a single criminal episode, of two or more cougar or bear.

(viii) Any violation subject to Section 23-19-9 that further violates an existing order of revocation or suspension recognized by the Utah Division of Wildlife Resources.

(6) The director shall appoint a qualified person as a hearing officer in accordance with Section 23-19-9(9).

(7)(a) The courts may suspend, in criminal sentencing, a person's privilege to apply for, purchase, or exercise the benefits conferred by a license, permit, or certificate of registration in accordance with Section 23-19-9(10).

(8) The division shall suspend and reinstate all hunting, fishing, trapping, and falconry privileges consistent with Title 23, Chapter 25, Wildlife Violator Compact.

R657-26-8. Wildlife Board Review - Procedure.

(1)(a) A person may file an appeal of a presiding officer's decision with the Wildlife Board.

(b) The appeal must be in writing and the respondent shall send a copy of the appeal by mail to the chair of the Wildlife Board and each of the parties.

(2) The appeal must be ~~filed~~ received within 30 calendar days after the issuance of the presiding officer's decision and order.

(3) The appeal shall:

(a) be signed by the respondent or the respondent's legal counsel;

(b) state the grounds for appeal and the relief requested; and

(c) state the date upon which it was mailed.

(4)(a) Within ~~15~~ 30 calendar days after the mailing date of the appeal, any party may file a written response with the Wildlife Board.

(b) A copy of the response shall be sent by mail to the chair of the Wildlife Board and each of the parties.

(5) The Wildlife Board may hold a de novo formal hearing in accordance with the provisions of Section 63-46b-6 through Section 63-46b-10. The Wildlife Board may convert the hearing to an informal hearing anytime before a final order is issued if:

(a) conversion of the proceeding is in the public interest; and

(b) conversion of the proceeding does not unfairly prejudice the rights of any party.

(6) At the conclusion of the hearing, the Wildlife Board may:

(a) affirm the decision;

(b) vacate or remand the decision;

(c) amend the type of suspension ordered by the presiding officer; or

(d) amend the suspension period.

(7) The Wildlife Board chair may vote in an adjudicative proceedings decision, and any Wildlife Board decision shall be supported by a majority of the voting members present.

(8)(a) ~~[If the Wildlife Board takes any action to vacate or remand the decision or amend the type of suspension]~~ Within a reasonable time after the close of the formal hearing, the chair of the Wildlife Board shall ~~[, within a reasonable time,]~~ issue a written order ~~[on review]~~ that affirms, vacates or remands the decision or amends the type of suspension ordered by the hearing officer.

(b) The order on review shall be signed by the chair of the Wildlife Board and mailed to each party.

(c) The order on review shall contain:

(i) a designation of the statute permitting review;

(ii) a statement of the issues reviewed;

(iii) findings of fact as to each of the issues reviewed;

(iv) conclusions of law as to each of the issues reviewed;

(v) whether the decision of the presiding officer is to be affirmed, reversed, modified, and whether all or any portion of the adjudicative proceeding is to be remanded;

(vi) a notice of any right of further administrative reconsideration or judicial review; and

(vii) the time limits applicable to any appeal or review.

KEY: wildlife, suspensions, violations

Date of Enactment of Last Substantive Change: ~~December 2, 2004~~ 2006

Notice of Continuation: August 21, 2006

Authorizing, and Implemented or Interpreted Law: 23-13-2; 23-14-1; 23-14-19; 23-19-9; 23-20-14; 63-46b-13; 63-46b-5



Workforce Services, Employment Development

R986-100-104

Definitions of Terms Used in These Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28991

FILED: 09/01/2006, 15:42

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to change the definition of "review or recertification" to include exceptions.

SUMMARY OF THE RULE OR CHANGE: A separate proposed amendment filed today would allow the Department to grant exceptions to the time limits for up to six months when warranted. A review would be required so this change to the definition of review is needed. (DAR NOTE: The other proposed amendment dealing with time limits is to Rule R986-200 that is under DAR No. 28990 is this issue.)

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

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** This is a federally-funded program so there are no costs or savings to the state budget.

❖ **LOCAL GOVERNMENTS:** This proposed change only affects a federally-funded program so there are no costs or savings to local government.

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

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

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business. Tani Downing, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/16/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/01/2006

AUTHORIZED BY: Tani Downing, Executive Director

R986. Workforce Services, Employment Development.

R986-100. Employment Support Programs.

R986-100-104. Definitions of Terms Used in These Rules.

In addition to the definitions of terms found in 35A Chapter 3, the following definitions apply to programs listed in R986-100-102:

(1) "Applicant" means any person requesting assistance under any program in Section 102 above.

(2) "Assistance" means "public assistance."

(3) "Certification period" is the period of time for which public assistance is presumptively approved. At the end of the certification period, the client must cooperate with the Department in providing any additional information needed to continue assistance for another certification period. The length of the certification period may vary between clients and programs depending on circumstances.

(4) "Client" means an applicant for, or recipient of, public assistance services or payments, administered by the Department.

(5) "Confidential information" means information that has limited access as provided under the provisions of UCA 63-2-201 or 7 CFR 272.1. The name of a person who has disclosed information about the household without the household's knowledge is confidential and cannot be released. If the person disclosing the information states in writing that his or her name and the information may be disclosed, it is no longer considered confidential.

(6) "Department" means the Department of Workforce Services.

(7) "Education or training" means:

(a) basic remedial education;

(b) adult education;

(c) high school education;

(d) education to obtain the equivalent of a high school diploma;

(e) education to learn English as a second language;

(f) applied technology training;

(g) employment skills training;

(h) WSL; or

(i) post high school education.

(8) "Employment plan" consists of two parts, a participation agreement and an employment plan. Together they constitute a written agreement between the Department and a client that describes the requirements for continued eligibility and the result if an obligation is not fulfilled.

(9) "Executive Director" means the Executive Director of the Department of Workforce Services.

(10) "Financial assistance" means payments, other than for food stamps, child care or medical care, to an eligible individual or household under FEP, FEPTP, RRP, GA, or WTE and which is intended to provide for the individual's or household's basic needs.

(11) "Full-time education or training" means education or training attended on a full-time basis as defined by the institution attended.

(12) "Group Home." The Department uses the definition of group home as defined by the state Department of Human Services.

(13) "Household assistance unit" means a group of individuals who are living together or who are considered to be living together, and for whom assistance is requested or issued. For all programs except food stamps and CC, the individuals included in the household assistance unit must be related to each other as described in R986-200-205.

(14) "Income match" means accessing information about an applicant's or client's income from a source authorized by law. This includes state and federal sources.

(15) "Local office" means the Employment Center which serves the geographical area in which the client resides.

(16) "Material change" means anything that might affect household eligibility, participation levels or the level of any assistance payment including a change in household composition, eligibility, assets and/or income.

(17) "Minor child" is a child under the age of 18, or under 19 years of age and in school full time and expected to complete his or her educational program prior to turning 19, and who has not been emancipated either by a lawful marriage or court order.

(18) "Parent" means all natural, adoptive, and stepparents.

(19) "Public assistance" means:

(a) services or benefits provided under UCA 35A Chapter 3, Employment Support Act;

(b) medical assistance provided under Title 26, Chapter 18, Medical Assistance Act;

(c) foster care maintenance payments provided with the General Fund or under Title IV-E of the Social Security Act;

(d) food stamps; and

(e) any other public funds expended for the benefit of a person in need of financial, medical, food, housing, or related assistance.

(20) "Recipient" means any individual receiving assistance under any of the programs listed in Section 102.

(21) Review or recertification. Client's who are found eligible for assistance or certain exceptions under R986-200-218 are given a date for review or recertification at which point continuing eligibility is determined.

(22) "Standard needs budget" is determined by the Department based on a survey of basic living expenses.

(23) "Work Site Learning" or "WSL" means work experience or training program.

KEY: employment support procedures

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

Notice of Continuation: September 13, 2005

Authorizing, and Implemented or Interpreted Law: 35A-3-101 et seq.; 35A-3-301 et seq.; 35A-3-401 et seq.

◆ ————— ◆

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

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28990

FILED: 09/01/2006, 15:34

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to comply with federal requirements and address other problems with administering the program.

SUMMARY OF THE RULE OR CHANGE: Some of these proposed changes are needed to ensure that the Department is able to comply with the new federally-mandated participation requirements. The Department will now require that new applicants attend an orientation meeting so the applicant will know what will be expected. The language regarding Social Security applications is also clarified and the requirement that clients cooperate in obtaining benefits from other sources. This proposed amendment also adds an exception to the time limit for the Family Employment Program for individuals who have been receiving benefits under a hardship exception and need time to find employment. The exception can only be granted for one month and if this exception jeopardizes the Department's federal funding, it will not be granted. Finally, this proposed amendment will allow the Department to grant exceptions to the time limit for periods of no longer than six months. Currently, exceptions are granted on a month-by-month basis. Many exceptions are granted to customers whose condition is not expected to change. Reviewing the case monthly is administratively burdensome with no purpose. The month-by-month standard will still apply, as required by statute, for employment exceptions.

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

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** This is a federally-funded program so there are no costs or savings to the state budget.

❖ **LOCAL GOVERNMENTS:** This is a federally-funded program so there are no costs or savings to local government.

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

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

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business. Tani Downing, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/16/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/01/2006

AUTHORIZED BY: Tani Downing, Executive Director

R986. Workforce Services, Employment Development.

R986-200. Family Employment Program.

R986-200-204. Eligibility Requirements.

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

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

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

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

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

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

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

(4) All clients who are required to complete a negotiated employment plan as provided in R986-200-206 must attend a FEP orientation meeting within 30 days of submitting his or her application for assistance. Attendance at the orientation meeting can only be excused for reasonable cause as defined in R986-200-212(8). The application for assistance will not be complete until the client has attended the meeting.

R986-200-206. Participation Requirements.

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

- (a) assessment and evaluation;
- (b) the completion of a negotiated employment plan; and
- (c) assisting ORS in good faith to:
 - (i) establish the paternity of all minor children; and
 - (ii) establish and enforce child support obligations.

(d) obtaining any and all other sources of income. If any household member is or appears to be eligible for unemployment, SSA, Workers Compensation, VA, or any other benefits or forms of assistance, the Department will refer the individual to the appropriate agency and the individual must apply for and pursue obtaining those benefits. If an individual refuses to apply for and pursue these benefits or assistance, the individual is ineligible for financial assistance. Pursuing these benefits includes cooperating fully and providing all the necessary documentation to insure receipt of benefits. If the individual is already receiving assistance from the Department and it is found he or she is not cooperating fully to obtain benefits from another source, the individual will be considered to not be participating in his or her employment plan. If the individual is otherwise eligible for FEP or FEPTP, financial assistance will be provided until eligibility for other benefits or assistance has been determined. If an individual's application for SSA benefits is denied, the individual must fully cooperate in prosecuting an appeal of that SSA denial at least to the Social Security ALJ level.

(2) Parents who have been determined to be ineligible to be included in the financial assistance payment are still required to participate.

(3) Children at least 16 years old but under 18 years old, unless they are in school full-time or in school part-time and working less than 100 hours per month are required to participate.

R986-200-210. Requirements of an Employment Plan.

(1) Within 15 business days of completion of the assessment, the following individuals in the household assistance unit are required to sign and make a good faith effort to participate to the maximum extent possible in a negotiated employment plan:

(a) All parents, including parents whose income and assets are included in determining eligibility of the household but have been determined to be ineligible or disqualified from being included in the financial assistance payment.

(b) Dependent minor children who are at least 16 years old, who are not parents, unless they are full-time students or are employed an average of 30 hours a week or more.

(2) The goal of the employment plan is obtaining marketable employment and it must contain the soonest possible target date for entry into employment consistent with the employability of the individual.

(3) An employment plan consists of activities designed to help an individual become employed. For each activity there will be:

- (a) an expected outcome;
- (b) an anticipated completion date;
- (c) the number of participation hours agreed upon per week;

and

(d) a definition of what will constitute satisfactory progress for the activity.

(4) Each activity must be directed toward the goal of increasing the household's income.

(5) Activities may require that the client:

(a) obtain immediate employment. If so, the parent client shall:

(i) promptly register for work and commence a search for employment for a specified number of hours each week; and

(ii) regularly submit a report to the Department on:

(A) how much time was spent in job search activities;

(B) the number of job applications completed;

(C) the interviews attended;

(D) the offers of employment extended; and

(E) other related information required by the Department.

(b) participate in an educational program to obtain a high school diploma or its equivalent, if the parent client does not have a high school diploma;

(c) obtain education or training necessary to obtain employment;

(d) obtain medical, mental health, or substance abuse treatment;

(e) resolve transportation and child care needs;

(f) relocate from a rural area which would require a round trip commute in excess of two hours in order to find employment;

(g) resolve any other barriers identified as preventing or limiting the ability of the client to obtain employment, and/or

(h) participate in rehabilitative services as prescribed by the State Office of Rehabilitation.

(6) The client must meet the performance expectations of, and provide verification for, each eligible activity in the employment plan in order to stay eligible for financial assistance. A list of what will be considered acceptable documentation is available at each employment center.

(7) The client must cooperate with the Department's efforts to monitor and evaluate the client's activities and progress under the employment plan, which includes providing the Department with a release of information, if necessary to facilitate the Department's monitoring of compliance.

(8) Where available, supportive services will be provided as needed for each activity.

(9) The client agrees, as part of the employment plan, to cooperate with other agencies, or with individuals or companies under contract with the Department, as outlined in the employment plan.

(10) An employment plan may, at the discretion of the Department, be amended to reflect new information or changed circumstances.

(11) The number of hours of participation in subsection (3)(c) of this section will not be lower than 3[4]0 hours per week. All 3[4]0 hours must be in eligible activities. 2[4]0 of those 3[4]0 hours must

be in priority activities. A list of approved priority and eligible activities is available at each employment center.

(12) In the event a client has barriers which prevent the client from 3[4]0 hours of participation per week, or 2[4]0 hours in priority activities, a lower number of hours of participation can be approved if:

(a) the Department identifies and documents the barriers which prevent the client from full participation; and

(b) the client agrees to participate to the maximum extent possible to resolve the barriers which prevent the client from participating.

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

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

(a) 24 months which need not be continuous; or

(b) the completion of the education and training requirements of the employment plan.

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

(a) The client can demonstrate that the education or training would substantially increase the income level that the client would be able to achieve without the education and training, and would offset the loss of income the household incurs while the education or training is being completed.

(b) The client does not already have a degree or skills training certificate in a currently marketable occupation.

(c) An assessment specific to the client's education and training aptitude has been completed showing the client has the ability to be successful in the education or training.

(d) The mental and physical health of the client indicates the education or training could be completed successfully and the client could perform the job once the schooling is completed.

(e) The specific employment goal that requires the education or training is marketable in the area where the client resides or the client has agreed to relocate for the purpose of employment once the education/training is completed.

(f) The client, when determined appropriate, is willing to complete the education/training as quickly as possible, such as attending school full time which may include attending school during the summer.

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

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

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

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

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

(4) A parent client with a high school diploma or equivalent who has received 24 months of education or training while receiving financial assistance must participate a minimum of 3[4]0 hours per

week in eligible activities. Twenty ~~four~~ of those 3[4]0 hours must be in priority activities. A list of approved priority and eligible activities is available at each employment center.

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

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

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

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

(3) Both parents must participate in eligible activities for a combined total of 60 hours per week, as defined in the employment plan. At least 5[5]0 of those hours must be in priority activities. A list of approved priority and eligible activities is available at each employment center.

(4) Both parents are required to participate every week as defined in the employment plan, unless the parent can establish reasonable cause for not participating. Reasonable cause is defined in rule R986-200-212(8).

(5) Payment is made twice per month and only after proof of participation. Payment is based on the number of hours of participation by both parents. The amount of assistance is equal to the FEP payment for the household size prorated based on the number of hours which the parents participated up to a maximum of 60 hours of participation per week. In no event can the financial assistance payment per month for a FEPTP household be more than for the same size household participating in FEP.

(6) If it is determined by the employment counselor that either one of the parents has failed to participate to the maximum extent possible assistance for the entire household unit will terminate immediately.

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

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

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

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

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

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

(i) receipt of disability benefits from SSA;

(ii) receipt of VA Disability benefits based on the parent being 100% disabled;

(iii) placement on the Division of Services to People with Disabilities' waiting list. Being on the waiting list indicates the parent has met the criteria for a disability; or

(iv) is currently receiving Temporary Total or Permanent Total disability Workers' Compensation benefits;

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

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

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

(c) is currently engaged in an approved full-time job preparation, educational or training activity which the parent was expected to complete within the 36 month time limit but completion within the 36 months was not possible through no fault of the parent.

Additionally, if the parent has previously received, beginning with the month of January 1997, 24 months of financial assistance while attending educational or training activities, good cause for additional months must be shown and approved;

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

(e) moved to Utah after exhausting 36 months of assistance in another state or states and the parent did not receive supportive services in that state or states as required under the provisions of PRWORA. To be eligible for an extension under this section, the failure to receive supportive services must have occurred through no fault of the parent and must contribute to the parent's inability to work. An extension under this section can never be for longer than the delay in services;

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

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

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

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

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

(iv) whether the parent is required to be in the home full-time or part-time[-]; or

(h) is currently receiving assistance under one of the exceptions in this section and needs additional time to obtain employment. A client can only receive assistance for one month under this subparagraph. If the Department determines that granting an exception under this subparagraph adversely impacts its federally mandated participation rate requirements or might otherwise jeopardize its funding, the one month exception will not be granted.

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

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

(b) sexual abuse;

(c) sexual activity involving a dependent child;

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

(e) mental abuse which includes stalking and harassment; or

(f) neglect or deprivation of medical care.

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

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

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

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

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

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

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

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

(8) Exceptions granted for reasons listed under paragraphs (1) or (2) of this subsection are subject to a review at least once every six months. Exceptions granted under paragraph (3) of this subsection can only be granted on a month by month basis and eligibility must be determined monthly.

R986-200-240. Additional Payments Available Under Certain Circumstances.

(1) Each parent eligible for financial assistance in the FEP or FEPTP programs who takes part in at least one enhanced participation activity may be eligible to receive \$40 each month in addition to the standard financial assistance payment. Enhanced participation activities are limited to:

- (a) work experience sites of at least 2[4]0 hours a week and other eligible activities that together total 3[4]0 hours per week;
- (b) full-time attendance in an education or employment training program; or
- (c) employment of 2[4]0 hours or more a week and other eligible activities that together total 3[4]0 hours per week.

(2) An additional payment of \$15 per month for a pregnant woman in the third month prior to the expected month of delivery. Eligibility for the allowance begins in the month the woman provides medical proof that she is in the third month prior to the expected month of delivery. The pregnancy allowance ends at the end of the month the pregnancy ends.

(3) A limited number of funds are available to individuals for work and training expenses. The funds can only be used to alleviate circumstances which impede the individual's ability to begin or continue employment, job search, training, or education. The payment of these funds is completely discretionary by the Department. The individual does not need to meet any eligibility requirements to request or receive these funds.

(4) Limited funds are available, up to a maximum of \$300, to pay for burial costs if the individual is not entitled to a burial paid for by the county.

(5) A Department Regional Director or designee may approve assistance, as funding allows, for the emergency needs of a non-resident who is transient, temporarily stranded in Utah, and who does not intend to stay in Utah.

KEY: family employment program

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

Notice of Continuation: September 14, 2005

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



**Workforce Services, Employment
Development
R986-400
General Assistance and Working
Toward Employment**

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 28992
FILED: 09/01/2006, 16:00

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to include Social Security

Disability Insurance (SSDI) in the participation requirements and change "onset" to "application".

SUMMARY OF THE RULE OR CHANGE: These proposed changes are to add SSDI to the section which requires clients pursue Supplemental Security Income (SSI) benefits and change the requirement that the disability be expected to last 30 days from the date of application instead of from the date of onset. It is not anticipated this will result in a change in the number of individuals receiving assistance and the changes are mostly nonsubstantive.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 and Subsection 35A-1-104(4)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There are no anticipated costs of savings to the state budget as these proposed changes are nonsubstantive in nature and will not affect current funding levels.
- ❖ LOCAL GOVERNMENTS: These changes are nonsubstantive in nature and the program is state funded so there will be no costs or savings to local government.
- ❖ OTHER PERSONS: These proposed changes reflect current rule and Department practice and are nonsubstantive in nature so there will be no costs or savings to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as these changes are nonsubstantive in nature and there are no costs for complying.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business. Tani Downing, Executive Director

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

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

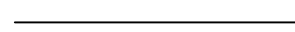
DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/16/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/01/2006

AUTHORIZED BY: Tani Downing, Executive Director



R986. Workforce Services, Employment Development.**R986-400. General Assistance and Working Toward Employment.****R986-400-403. Proof of Unemployability.**

(1) An applicant must provide current medical evidence that he or she is not capable of working and earning \$500 per month due to a physical or mental health condition and that the condition is expected to last at least 30 days from the date of application~~[onset]~~. Evidence consists of a statement from a medical doctor, a doctor of osteopathy, a licensed Advanced Practice Registered Nurse, a licensed Physician's Assistant, a licensed Mental Health Therapist as defined in UCA 58-60-102.

(2) An applicant must cooperate in the obtaining of a second opinion if requested by the Department. Only the costs associated with a second opinion requested by the Department will be paid for by the Department. The Department will not pay the costs associated with obtaining a second opinion if the client requests the second opinion.

(3) If the illness or incapacity is expected to last longer than 12 months, the client must apply for SSDI/SSI benefits.

(4) Full-time or part-time participation in post-high school education or training is considered evidence of employability rendering the client ineligible for GA financial assistance. If the Department believes work readiness or occupational skills enhancement opportunities will lead to employability, those services can be offered for a maximum of three months if the client is otherwise eligible.

R986-400-405. Interim Aid for SSI Applicants.

(1) A client who has applied for SSI or SSDI benefits may be provided with GA financial assistance pending a determination on the application for SSI or SSDI. ~~If the client is applying for SSI, [To be eligible under this paragraph, the client]~~ he or she must sign an "Agreement to Repay Interim Assistance" form and agree to reimburse, or allow SSA to reimburse, the Department for any and all GA financial assistance advanced pending a determination from SSA.

(2) Financial assistance will be immediately terminated without advance notice when SSA issues a payment or if the client fails to cooperate to the maximum extent possible in pursuing the application which includes cooperating fully with SSA and providing all necessary documentation to insure receipt of SSI or SSDI benefits.

(3) A client must fully cooperate in prosecuting an appeal of an SSI or SSDI denial at least to the Social Security ALJ level. If the ALJ issues an unfavorable decision, the client is not eligible for financial assistance unless an unrelated physical or mental health condition develops and is verified.

KEY: general assistance, working toward employment

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

Notice of Continuation: September 14, 2005

Authorizing, and Implemented or Interpreted Law: 35A-3-401; 35A-3-402



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 October 16, 2006. At its option, the agency may hold public hearings.

From the end of the waiting period through January 13, 2007, 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
R590-236
HIPAA Eligibility Following Receipt of a Certificate of Insurability or Denial by an Individual Carrier

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 28768
 Filed: 08/30/2006, 15:50

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During the comment period, it was discovered that further changes needed to be made to the rule to make it comply with the Utah law.

SUMMARY OF THE RULE OR CHANGE: Additional clarification is made that the rule applies to Health Insurance Portability and Accountability Act (HIPAA)-eligible persons. The reference "individual" is changed to "HIPAA eligible" for consistency throughout the rule. The term "PEC" is changed to "Preexisting Condition" since the term is only used once. The effective date provision in Section R590-236-4 has been removed since effective dates are already addressed in Sections R590-236-5, R590-236-6, and R590-236-7 of the rule. It has been clarified that HIPAA eligible persons choose their effective dates in certain circumstances. The reference to an individual being denied coverage by HIPUtah (Utah Comprehensive Health Insurance Pool) has been clarified to read denial for failure to meet "health underwriting criteria." Subsections of code references have been removed to avoid the need to change the rule because of a change in the numbering of a subsection. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed new rule that was published in the June 15, 2006, issue of the Utah State Bulletin, on page 32. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-29-106, and 31A-30-104

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The changes to this rule will have no fiscal impact on the department. Fees will not be impacted and the work load will not be changed.
- ❖ LOCAL GOVERNMENTS: This rule deals with the relationship between the Department and their licensees and will have no fiscal impact on local governments.
- ❖ OTHER PERSONS: The changes to this rule basically clarify terminology and eliminate the subsections in code references. None of the changes will create a fiscal impact on insurers or consumers who need the services of the HIPUtah pool. The

changes to the rule improve consistency and clarification in the use of terminology.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The changes to this rule basically clarify terminology and eliminate the subsections in code references. None of the changes will create a fiscal impact on insurers or consumers who need the services of the HIPUtah pool.

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 businesses in Utah. Kent D. 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 10/16/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 10/23/2006

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-236. HIPAA Eligibility Following Receipt of a Certificate of Insurability or Denial by an Individual Carrier.

R590-236-1. Authority.

This rule is promulgated and adopted pursuant to Subsections 31A-2-201(3), 31A-29-106(1)(f), and 31A-30-104(7).

R590-236-2. Purpose and Scope.

(1) The purpose of this rule is to provide interpretation of the interplay between federal and state statutes that affect the protections provided by the federal Health Insurance Portability and Accountability Act (HIPAA), Pub.L. 104-191, 110 Stat. 1962, to applicants that apply for coverage with HIPUtah and receive a certificate of insurability from HIPUtah, [~~or denial of eligibility from HIPUtah~~] or [~~are denied~~]denial of coverage by an individual carrier [~~in the Utah insurance market~~].

(2) The rule addresses the effective dates of coverage for HIPAA eligible applicants applying for coverage with an individual carrier or [~~and~~]HIPUtah [~~coverage that are HIPAA eligible applicants~~].

(3) The rule provides guidance for actual and potential interplay between HIPAA, ~~and~~ Sections 31A-22-605.1, ~~Section~~ 31A-30-108, and ~~Section~~ 31A-29-111 to:

- (i) individual carriers,
- (ii) the HIPUtah pool administrator; and
- (iii) HIPUtah applicants.

R590-236-3. Definitions.

As used in this rule:

(1) "Certificate of insurability" means a certificate issued by HIPUtah pursuant to Subsection 31A-29-111~~(5)(e)~~.

(2) "HIPAA" means the federal Health Insurance Portability and Accountability Act, Pub.L. 104-191, 110 Stat. 1962.

(3) "HIPAA eligible" means an applicant~~individual~~ who is eligible for coverage under the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1962.

(4) "HIPAA eligibility" means the eligibility required by the federal Health Insurance Portability and Accountability Act, Pub. L. 104-191, 110 Stat. 1962.

(5) "HIPUtah" means the Utah Comprehensive Health Insurance Pool established by Section 31A-29-104.

(6) "Individual carrier" has the same meaning as defined in Subsection 31A-30-103~~(45)~~.

(7) ~~["PEC"]~~ "Preexisting condition" means preexisting condition as defined in Subsection 31A-1-301~~(427)~~.

(8) "Waiting period" means the period of time beginning on the date the ~~individual~~ HIPAA eligible submits a substantially complete application for coverage and ends on the date:

- (a) coverage is effective;
- (b) the application is denied by the insurer; or
- (c) which the offer of coverage lapses without being accepted by the HIPAA eligible~~individual~~.

R590-236-4. HIPAA and Subsection 31A-22-605.1, Eligibility and Creditable Coverage.

(1) ~~[To qualify as]~~ A HIPAA eligible~~under HIPUtah or an individual carrier, an otherwise eligible individual~~ must submit a substantially complete application no later than 63 consecutive days, excluding waiting periods, following termination of any preceding HIPAA qualified coverage, to preserve HIPAA rights.

(2) A HIPAA eligible cannot have a break in qualifying coverage of 63 or more consecutive days, except for applicable waiting periods to preserve HIPAA rights.

~~(3) [The effective date of coverage will be the first day of the month following receipt of a substantially completed application.~~

~~(4) Applicants~~ HIPAA eligibles applying within the time period in R590-236-4(1) will receive creditable coverage toward a ~~PEC~~ preexisting condition waiting period.

~~(5)(4)~~ A~~[n affiliation or]~~ waiting period does not count in determining whether a break in qualifying coverage occurred.

R590-236-5. HIPAA and Subsection 31A-29-111(4)(a), 30-Day Provision.

(1) This section applies to a HIPAA eligible that has been denied by an individual carrier and is approved by HIPUtah.

(2) When a HIPAA eligible submits a substantially completed application to an individual carrier within the HIPAA 63-day time period and is denied coverage, to preserve HIPAA rights, the HIPAA eligible must make application to HIPUtah no later than:

(a) the remainder of the 63 consecutive day time period under HIPAA; or

(b) 30 consecutive days after denial by the individual carrier.

(3) Effective Dates.

(a) A HIPAA eligible applying within the time period in R590-236-5(2)(a), shall have an effective date with HIPUtah on the first day of the month following the submission of a substantially completed application, if the required premium is paid.

(b) A HIPAA eligible applying within the time period in R590-236-5(2)(b), shall have an effective date with HIPUtah on the first day of the month following the date of submission of a substantially completed application to the individual carrier who denied coverage immediately prior to the application to HIPUtah, if the required premium is paid.

(c) When a HIPAA eligible applies within both time periods in R590-236-5(2)(a) and (b), the HIPAA eligible shall choose the effective date provided in R590-236-5(3)(a) or (b)~~the effective date with HIPUtah is the date most beneficial to the HIPAA eligible~~.

R590-236-6. HIPAA and Subsection 31A-30-108(3)(e)(i), 30-Day Provision.

(1) This section applies to a HIPAA eligible who does not meet the HIPUtah~~is denied by HIPUtah for not meeting its~~ health underwriting criteria, after denial~~having been denied~~ by an individual carrier, and is issued a certificate of insurability under Section 31A-29-111~~(5)(e)~~.

(2)(a) A HIPAA eligible must reapply with the individual carrier who denied coverage immediately prior to HIPUtah's issuance of a certificate of insurability to preserve HIPAA rights, no later than:

(i) the remainder of the 63 consecutive day time period under HIPAA; or

(ii) 30 consecutive days after the date of issuance of a certificate of insurability.

(b) R590-236-6(2)(a) applies only to a HIPAA eligible that has:

(i) submitted a substantially completed application to an individual carrier within the HIPAA 63-day time period;

(ii) is denied coverage; and

(iii) makes application to HIPUtah no later than:

(I) the remainder of the 63 consecutive day time period under HIPAA; or

(II) 30 consecutive days after denial by the individual carrier.

(3) Effective Dates.

(a) A HIPAA eligible applying within the time period in R590-236-6(2)(a)(i), shall have an effective date with the individual carrier on the first day of the month following the submission of a substantially completed application, if the required premium is paid.

(b) A HIPAA eligible applying within the time period in R590-236-6(2)(a)(ii), shall have an effective date with the individual carrier on the first day of the month following the original submission of a substantially completed application to the individual carrier who denied coverage immediately prior to the application to HIPUtah, if the required premium is paid.

(c) When a HIPAA eligible applies within both time periods in R590-236-6(2)(a)(i) and (ii), the HIPAA eligible shall choose the effective date provided in R590-236-6(3)(a) or (b)~~the effective date with the individual carrier is the date most beneficial to the HIPAA eligible~~.

R590-236-7. HIPAA and Subsection 31A-30-108(3)(e)(ii)(B), 45-Day Provision.

(1) This section applies to a HIPAA eligible who applies first with HIPUtah [~~first~~] and does not meet HIPUtah's [~~is denied for not meeting its~~] health underwriting criteria and is issued a certificate of insurability under Section 31A-29-111 [~~(5)(e)~~].

(2) When a HIPAA eligible submits a substantially completed application to HIPUtah within the HIPAA 63-day time period and is issued a certificate of insurability [~~denied coverage~~], to preserve HIPAA rights, the HIPAA eligible must make application to an individual carrier no later than:

(a) the remainder of the 63 consecutive day time period under HIPAA; or

(b) 45 consecutive days after the date of issuance of a certificate of insurability by HIPUtah.

(3) Effective Dates.

(a) A HIPAA eligible qualifying under option R590-236-7(2)(a) shall have an effective date of the first of the month following the submission of the substantially completed application to an individual carrier, if the required premium is paid.

(b) A HIPAA eligible qualifying under R590-236-7(2)(b) shall have an effective date of the day following the submission of the

substantially completed application to HIPUtah, if the required premium is paid.

(c) When a HIPAA eligible applies within both time periods in R590-236-7(2)(a) and (b), the HIPAA eligible shall choose the effective date provided in R590-236-7(3)(a) or (b) [~~the effective date is the date most beneficial to the HIPAA eligible~~].

R590-236-8. Severability.

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

R590-236-9. Enforcement Date.

The commissioner will begin enforcing the provisions of this rule immediately upon the effective date of the rule.

KEY: HIPAA eligibility

Date of Enactment or Last Substantive Amendment: 2006

Authorizing, and Implemented or Interpreted Law: 31A-29-106, 31A-30-104, 31A-2-201



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).

Agriculture and Food, Animal Industry **R58-14** Holding Live Raccoons or Coyotes in Captivity

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 28971
FILED: 08/29/2006, 10:20

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 4-2-2(1)(j) gives the authority to make investigations, subpoena witnesses and records, conduct hearings, issue orders, and make recommendations concerning all matters related to agriculture. Section 4-23-11 states the penalty for the holding of raccoons or coyotes in captivity except as provided by the rules of the Agricultural and Wildlife Damage Prevention Board.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is the intent of this rule to protect the health and safety of individuals by prohibiting the holding of a raccoon or coyotes in captivity. Protecting public health is an important function. These animals have the potential of carrying diseases that can be transmitted to humans, and therefore need to be regulated, and therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kathleen Mathews or Kyle Stephens at the above address, by phone at 801-538-7103 or 801-538-7102, by FAX at 801-538-7126 or 801-538-7126, or by Internet E-mail at kmathews@utah.gov or kylestephens@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 08/29/2006



Agriculture and Food, Marketing and Development **R65-7** Horse Racing

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 28970
FILED: 08/29/2006, 10:11

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 4-38-4 authorizes the Horse Racing Commission the powers and duties to regulate this rule. It also authorizes the Commission to make and enforce the rule.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The horse industry in Utah continues to be a large segment of our agriculture industry. Particularly those involved with recreational use of horses. The horse racing industry plays an important role in Utah's rural economy, and therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Kathleen Mathews or Kyle Stephens at the above address, by phone at 801-538-7103 or 801-538-7102, by FAX at 801-538-7126 or 801-538-7126, or by Internet E-mail at kmathews@utah.gov or kylestephens@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 08/29/2006



**Agriculture and Food, Regulatory
 Services
 R70-920
 Packaging and Labeling of
 Commodities**

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 28976
 FILED: 08/29/2006, 11:22

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 4-9-2 authorizes the department to make and enforce such rules as in its judgment are necessary to administer and enforce Chapter 9.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to establish standards that apply to packaging and labeling of food and nonfood commodities. It promotes uniformity in the marketplace. It provides accurate and adequate information on packages as to the identity and quantity of contents so that purchasers can make price and quantity comparisons. It prohibits misleading and deceptive labeling. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Kathleen Mathews or Brett Gurney at the above address, by phone at 801-538-7103 or 801-538-7158, by FAX at 801-538-7126 or 801-538-7126, or by Internet E-mail at kmathews@utah.gov or bgurney@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 08/29/2006



**Agriculture and Food, Regulatory
 Services
 R70-930
 Method of Sale of Commodities**

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 28974
 FILED: 08/29/2006, 11:12

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 4-9-2 authorizes the department to make and enforce such rules as in its judgment are necessary to administer and enforce Chapter 9.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to establish the method of sale standards that apply to food and

nonfood commodities within the State of Utah. It contributes to uniformity and helps maintain a fair marketplace. It also helps maintain accurate and adequate information about commodities so that purchasers can make price and quantity comparisons, and therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kathleen Mathews or Brett Gurney at the above address, by phone at 801-538-7103 or 801-538-7158, by FAX at 801-538-7126 or 801-538-7126, or by Internet E-mail at kmathews@utah.gov or bgurney@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 08/29/2006

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Agriculture and Food, Regulatory Services

R70-940

Standards and Testing of Motor Fuel

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 28978
FILED: 08/29/2006, 11:33

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 4-33-4 authorizes the department to make and enforce rules. Subsection 4-2-2(1)(j) authorizes the department to make investigations, subpoena witnesses and records, conduct hearings, issue orders and make recommendations concerning all matters related to agriculture.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to establish standards that apply to all motor fuels sold within the state of Utah to maintain uniformity and promote customer/industry satisfaction. It also maintains a fair marketplace, and therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kathleen Mathews or Brett Gurney at the above address, by phone at 801-538-7103 or 801-538-7158, by FAX at 801-538-7126 or 801-538-7126, or by Internet E-mail at kmathews@utah.gov or bgurney@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 08/29/2006

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Alcoholic Beverage Control, Administration

R81-1

Scope, Definitions, and General Provisions

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 28985
FILED: 08/31/2006, 14:51

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 32A-1-107 authorizes the Alcoholic Beverage Control (ABC) Commission to adopt and issue rules; to set policy by rule that establishes criteria and procedures for granting, denying, suspending, or revoking licenses and permits; and to prescribe the conduct, management, and equipment of any premises where alcohol is sold, served, consumed, or stored.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Several sections in this rule have been amended in the past five years. Of them, only two have received public comment. One was for an amendment made to the advertising section in February of 2003. In that amendment, the Commission no longer prohibited private clubs from advertising the availability of club memberships. Public comments were mixed. Opposition to the rule amendment came in the form of petitions signed by citizens who were concerned that the loosening of any alcoholic beverage advertising laws could be potentially dangerous to young people in the state. Many private clubs commented that the rule amendment was necessary for them to do business in a competitive market. The second rule

amendment that drew public comment dealt with a new requirement that all licensees must submit (to the Department) and implement a responsible alcohol service plan. Most of the comments came from licensees who felt the alcohol service plan was redundant since they and their employees are already required to complete an alcohol education program every three years. After considering the comments, the Commission revised the rule amendment to require the alcohol service plan only of licensees who have been found to be guilty of violations involving the sale of alcohol to minors or to intoxicated persons.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule regulates the sale and service of alcoholic beverages within the state of Utah, and therefore, this rule should be continued. It defines the terms used within all of Title R81; establishes policies for payment of liquor; states that the department is an equal opportunity employer; establishes standards for providing notice of public hearings and meetings; addresses procedures for the department's handling of liquor law violations by licensees including disciplinary hearings and consent calendar guidelines; establishes requirements for liquor and wine dispensing; regulates multiple-licensed facilities; sets standards and record requirements for attendance of alcohol education seminars by licensees and their employees; and sets guidelines for compliance with the Government Records Access and Management Act (GRAMA) and the Americans with Disabilities Act (ADA). The rule also sets guidelines for Commission declaratory orders; establishes definitions and standards for disqualifying individuals with certain criminal backgrounds from being involved in the sale and service of alcoholic beverages; clarifies advertising prohibitions; sets guidelines for emergency and electronic meetings; establishes rules for beer advertising at event venues; establishes guidelines for diplomatic embassy shipments and purchases; sets rules for the department's sale of limited-availability items; and requires designated licenses to submit and implement a responsible alcohol service plan. As to the earlier-referenced opposition to rule amendments, the Commission adopted the amendment that allows private clubs to advertise the availability of club memberships to comply with a previous Tenth Circuit Court of Appeals ruling (44 Liquormart, Inc. v. Rhode Island, 517 U.S. 484 (1996)) which essentially states it is legal for any business to advertise legal products and/or activities. The second amendment was made effective with revisions agreed to after considering the public comments that were received.

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

ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY UT 84104-1630, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at smackay@utah.gov

AUTHORIZED BY: Kenneth F. Wynn, Director

EFFECTIVE: 08/31/2006



Alcoholic Beverage Control,
Administration
R81-6
Special Use Permits

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 28946
FILED: 08/23/2006, 15:29

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 32A-1-107 authorizes the Alcoholic Beverage Control (ABC) Commission to adopt and issue rules; set policy by rule that establishes criteria and procedures for granting, denying, suspending, or revoking licenses and permits; and prescribe the conduct, management, and equipment of any premises where alcohol is sold, served, consumed, or stored.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule regulates operations of those holding a special use permit. It underscores the fact that a special use permit applicant must present the department with a completed application before the ABC Commission may consider granting the permit; requires that a public service permittee must post a warning sign in its hospitality room; allows industrial, manufacturing, scientific, educational, or health care permit holders to purchase alcohol directly from alcohol manufacturers; sets operational guidelines for public service permittees including provisions for making alcohol purchases and keeping records; sets operational restrictions for educational wine judging seminars; and establishes provisions by which those holding religious wine permits may purchase wine for religious ceremonies. All of the regulations set forth in this rule remain important and applicable to the operations of a special use permittee, and therefore, this rule should be continued.

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

ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY UT 84104-1630, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at smackay@utah.gov

AUTHORIZED BY: Kenneth F. Wynn, Director

EFFECTIVE: 08/23/2006

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

ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY UT 84104-1630, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at smackay@utah.gov

AUTHORIZED BY: Kenneth F. Wynn, Director

EFFECTIVE: 08/24/2006

Alcoholic Beverage Control,
Administration

R81-7

Single Event Permits

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 28961
FILED: 08/24/2006, 14:15

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 32A-1-107 authorizes the Alcoholic Beverage Control (ABC) Commission to adopt and issue rules; to set policy by rule that establishes criteria and procedures for granting, denying, suspending, or revoking licenses and permits; and to prescribe the conduct, management, and equipment of any premises where alcohol is sold, served, consumed, or stored.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule regulates the alcoholic beverage operations of individuals and groups holding single event permits. It establishes application requirements; it establishes guidelines and restrictions for alcoholic beverage sales and service at outdoor or large-scale events; and it sets requirements for printed alcoholic beverage price lists. All of the regulations set forth in this rule remain important and applicable to the operations of a single event permittee, and therefore, this rule should be continued.

Alcoholic Beverage Control,
Administration

R81-8

Manufacturers (Distillery, Winery,
Brewery)

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 28962
FILED: 08/24/2006, 14:51

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 32A-1-107 authorizes the Alcoholic Beverage Control (ABC) Commission to adopt and issue rules; to set policy by rule that establishes criteria and procedures for granting, denying, suspending, or revoking licenses and permits; and to prescribe the conduct, management, and equipment of any premises where alcohol is sold, served, consumed, or stored.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule regulates operations of manufacturers who produce spirituous liquors, wines, and beers within the state of Utah. It underscores the need for those desiring a manufacturing license to bring a completed application before the ABC Commission for approval; requires brewers located outside the state of Utah to obtain a certificate of approval from the department before selling or delivering beer to licensed wholesalers or retailers in the state; and regulates the operations of wine tasting facilities

on the premises of licensed wineries. All of the regulations set forth in this rule remain important and applicable to the operations of alcoholic beverages manufacturers located within the state of Utah, and therefore, this rule should be continued.

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

ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY UT 84104-1630, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at smackay@utah.gov

AUTHORIZED BY: Kenneth F. Wynn, Director

EFFECTIVE: 08/24/2006



Alcoholic Beverage Control,
Administration
R81-9
Liquor Warehousing License

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 28963
FILED: 08/24/2006, 15:38

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 32A-1-107 authorizes the ABC Commission to adopt and issue rules; to set policy by rule that establishes criteria and procedures for granting, denying, suspending, or revoking licenses and permits; and to prescribe the conduct, management, and equipment of any premises where alcohol is sold, served, consumed, or stored.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule regulates operations of liquor warehouses within the state of Utah. It underscores the requirement for persons who want to store liquor in warehouses in the state to file a completed application for the ABC Commission's consideration; regulates

the transporting of liquor and beer to the Department of Alcoholic Beverage Control and federal military installations within the state; sets requirements and standards for maintaining shipping records; and mandates that liquor warehouse licensees permit audits and inspections by authorized DABC personnel. All of the regulations set forth in this rule remain important and applicable to the operations of liquor warehouses, and therefore, this rule should be continued.

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

ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY UT 84104-1630, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at smackay@utah.gov

AUTHORIZED BY: Kenneth F. Wynn, Director

EFFECTIVE: 08/24/2006



Alcoholic Beverage Control,
Administration
R81-11
Beer Wholesalers

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 28964
FILED: 08/24/2006, 15:59

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 32A-1-107 authorizes the Alcoholic Beverage Control (ABC) Commission to adopt and issue rules; to set policy by rule that establishes criteria and procedures for granting, denying, suspending, or revoking licenses and permits; and to prescribe the conduct, management, and equipment of any premises where alcohol is sold, served, consumed, or stored.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule regulates

operations of licensed beer wholesalers located in the state of Utah. It underscores the need for a license applicant to submit a completed application for ABC Commission approval; regulates the transfer of a license to another person; requires ABC Commission approval for a change of trade name; and establishes guidelines for transferring the license in the event of the death of a partner when the license is held by a partnership. All of the regulations set forth in this rule remain important and applicable to the operations of a beer wholesaler, and therefore, this rule should be continued.

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

ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY UT 84104-1630, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at smackay@utah.gov

AUTHORIZED BY: Kenneth F. Wynn, Director

EFFECTIVE: 08/24/2006



Alcoholic Beverage Control,
Administration

R81-12

Manufacturer Representative (Distillery,
Winery, Brewery)

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 28965
FILED: 08/24/2006, 16:19

**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: Section 32A-1-107 authorizes the Alcoholic Beverage Control (ABC) Commission to adopt and issue rules; to set policy by rule that establishes criteria and procedures for granting, denying, suspending, or revoking licenses and permits; and to prescribe the conduct, management, and equipment of any premises where alcohol is sold, served, consumed, or stored.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule regulates persons licensed to represent manufacturers of spirituous liquors, wines, and beers within the state of Utah. It underscores the need for the applicant to file a completed application for ABC Commission approval; and regulates the activities of manufacturer representatives who choose to participate in educational seminars involving alcoholic beverage products. All of the regulations set forth in this rule remain important and applicable to the operations of manufacturer representatives, and therefore, this rule should be continued.

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

ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY UT 84104-1630, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at smackay@utah.gov

AUTHORIZED BY: Kenneth F. Wynn, Director

EFFECTIVE: 08/24/2006



Corrections, Administration

R251-113

Distribution of Reimbursement for the
Felony Probation Inmate Costs
Reimbursement Program/Fund

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 28982
FILED: 08/30/2006, 15:34

**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 provided in accordance with Section 64-13c-301, et seq.; and as required by Subsection 64-13c-303(1)(b). The purpose of this rule is to establish procedures for the distribution of appropriated monies received from the Utah State legislature for the Jail Reimbursement Program (S.B. 50, 2006 General Session). (DAR NOTE: S.B. 50 (2006) is found at Chapter 29, Laws of Utah 2006, and was effective 07/01/2006.)

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received, however a legislative audit was conducted in 2005 which recommended some amendments (which have been submitted under DAR No. 28975 in this issue), and in the 2006 General Session, amendments were also made to the funding policies (S.B. 50).

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: These policies are necessary to determine how the appropriated funds will be distributed to the county jails, the reimbursement computation rates, and eligible items, and therefore, this rule should be continued.

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

CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER UT 84020-9549, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Ogilvie at the above address, by phone at 801-545-5514, by FAX at 801-545-5523, or by Internet E-mail at gogilvie@utah.gov

AUTHORIZED BY: Scott V. Carver, Executive Director

EFFECTIVE: 08/30/2006

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Environmental Quality, Solid and Hazardous Waste

R315-1

Utah Hazardous Waste Definitions and References

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 28947
FILED: 08/24/2006, 07:34

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 19-6-104 requires the Solid and Hazardous Waste Control Board to meet the appropriate requirements associated with assuming primacy of the hazardous waste program from the federal government (U.S. Environmental Protection Agency (EPA)). Also, Section 19-6-105 allows the Board to set minimum standards for the

protection of human health and the environment, for the storage, collection, transport, recovery, treatment, and disposal of hazardous waste. Section 3006 of the federal Resource Conservation and Recovery Act (RCRA) allows a state to receive primacy and requires that authorized state programs be "equivalent" to the Federal program. Therefore, rules adopted by the Board are to be equivalent to the corresponding federal hazardous waste regulations in order to receive primacy from EPA.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary for Utah to maintain its equivalency with EPA regulations for program authorization (primacy) and to provide definitions for terms used in the hazardous waste rules. EPA authorization allows the Division of Solid and Hazardous Waste to administer the hazardous program in lieu of EPA as allowed by Section 3006 of RCRA (42 USC 6926), and therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 08/24/2006

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Environmental Quality, Solid and Hazardous Waste

R315-2

General Requirements - Identification and Listing of Hazardous Waste

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 28953
FILED: 08/24/2006, 07:44

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 19-6-104 requires the Solid and Hazardous Waste Control Board to meet the appropriate requirements associated with assuming primacy of the hazardous waste program from the federal government (U.S. Environmental Protection Agency (EPA)). Also, Section 19-6-105 allows the Board to set minimum standards for the protection of human health and the environment, for the storage, collection, transport, recovery, treatment, and disposal of hazardous waste. Section 3006 of the federal Resource Conservation and Recovery Act (RCRA) allows a state to receive primacy and requires that authorized state programs be "equivalent" to the Federal program. Therefore, rules adopted by the Board are to be equivalent to the corresponding federal hazardous waste regulations in order to receive primacy from EPA.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary for Utah to maintain its equivalency with EPA regulations for program authorization (primacy) and to specify the general requirements of hazardous waste management. EPA authorization allows the Division of Solid and Hazardous Waste to administer the hazardous program in lieu of EPA as allowed by Section 3006 of RCRA (42 USC 6926), and therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 08/24/2006



Environmental Quality, Solid and
Hazardous Waste

R315-3

**Application and Permit Procedures for
Hazardous Waste Treatment, Storage,
and Disposal Facilities**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 28954

FILED: 08/24/2006, 07:45

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 19-6-104 requires the Solid and Hazardous Waste Control Board to meet the appropriate requirements associated with assuming primacy of the hazardous waste program from the federal government (U.S. Environmental Protection Agency (EPA)). Also, Section 19-6-105 allows the Board to set minimum standards for the protection of human health and the environment, for the storage, collection, transport, recovery, treatment, and disposal of hazardous waste. Section 3006 of the federal Resource Conservation and Recovery Act (RCRA) allows a state to receive primacy and requires that authorized state programs be "equivalent" to the Federal program. Therefore, rules adopted by the Board are to be equivalent to the corresponding federal hazardous waste regulations in order to receive primacy from EPA.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary for Utah to maintain its equivalency with EPA regulations for program authorization (primacy) and to provide permitting requirements for hazardous waste facilities. EPA authorization allows the Division of Solid and Hazardous Waste to administer the hazardous program in lieu of EPA as allowed by section 3006 of RCRA (42 USC 6926), and therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 08/24/2006

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Environmental Quality, Solid and Hazardous Waste

R315-4

Procedures for Decisionmaking

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 28955
FILED: 08/24/2006, 07:46

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 19-6-104 requires the Solid and Hazardous Waste Control Board to meet the appropriate requirements associated with assuming primacy of the hazardous waste program from the federal government (U.S. Environmental Protection Agency (EPA)). Also, Section 19-6-105 allows the Board to set minimum standards for the protection of human health and the environment, for the storage, collection, transport, recovery, treatment, and disposal of hazardous waste. Section 3006 of the federal Resource Conservation and Recovery Act (RCRA) allows a state to receive primacy and requires that authorized state programs be "equivalent" to the Federal program. Therefore, rules adopted by the Board are to be equivalent to the corresponding federal hazardous waste regulations in order to receive primacy from EPA.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary for Utah to maintain its equivalency with EPA regulations for program authorization (primacy) and to provide standards for decisionmaking in the permitting process. EPA authorization allows the Division of Solid and Hazardous Waste to administer the hazardous program in lieu of EPA as allowed by Section 3006 of RCRA (42 USC 6926), and therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 08/24/2006

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Environmental Quality, Solid and Hazardous Waste

R315-5

Hazardous Waste Generator Requirements

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 28956
FILED: 08/24/2006, 07:47

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 19-6-104 requires the Solid and Hazardous Waste Control Board to meet the appropriate requirements associated with assuming primacy of the hazardous waste program from the federal government (U.S. Environmental Protection Agency (EPA)). Also, Section 19-6-105 allows the Board to set minimum standards for the protection of human health and the environment, for the storage, collection, transport, recovery, treatment, and disposal of hazardous waste. Section 3006 of the federal Resource Conservation and Recovery Act (RCRA) allows a state to receive primacy and requires that authorized state programs be "equivalent" to the Federal program. Therefore, rules adopted by the Board are to be equivalent to the corresponding federal hazardous waste regulations in order to receive primacy from EPA.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary for Utah to maintain its equivalency with EPA regulations for program authorization (primacy) and to specify the requirements for generators of hazardous waste. EPA authorization allows the Division of Solid and Hazardous Waste to administer the hazardous program in lieu of EPA as allowed by Section 3006 of RCRA (42 USC 6926), and therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 08/24/2006

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Environmental Quality, Solid and Hazardous Waste **R315-6** Hazardous Waste Transporter Requirements

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 28957
FILED: 08/24/2006, 07:48

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 19-6-104 requires the Solid and Hazardous Waste Control Board to meet the appropriate requirements associated with assuming primacy of the hazardous waste program from the federal government (U.S. Environmental Protection Agency (EPA)). Also, Section 19-6-105 allows the Board to set minimum standards for the protection of human health and the environment, for the storage, collection, transport, recovery, treatment, and disposal of hazardous waste. Section 3006 of the federal Resource Conservation and Recovery Act (RCRA) allows a state to receive primacy and requires that authorized state programs be "equivalent" to the Federal program. Therefore, rules adopted by the Board are to be equivalent to the

corresponding federal hazardous waste regulations in order to receive primacy from EPA.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary for Utah to maintain its equivalency with EPA regulations for program authorization (primacy) and to specify the requirements for transporters of hazardous waste. EPA authorization allows the Division of Solid and Hazardous Waste to administer the hazardous program in lieu of EPA as allowed by Section 3006 of RCRA (42 USC 6926), and therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 08/24/2006

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Environmental Quality, Solid and Hazardous Waste **R315-7** Interim Status Requirements for Hazardous Waste Treatment, Storage, and Disposal Facilities

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 28958
FILED: 08/24/2006, 07:49

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 19-6-104 requires the Solid and Hazardous Waste Control Board to meet the appropriate requirements associated with assuming primacy of the hazardous waste program from the federal government

(U.S. Environmental Protection Agency (EPA)). Also, Section 19-6-105 allows the Board to set minimum standards for the protection of human health and the environment, for the storage, collection, transport, recovery, treatment, and disposal of hazardous waste. Section 3006 of the federal Resource Conservation and Recovery Act (RCRA) allows a state to receive primacy and requires that authorized state programs be "equivalent" to the Federal program. Therefore, rules adopted by the Board are to be equivalent to the corresponding federal hazardous waste regulations in order to receive primacy from EPA.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary for Utah to maintain its equivalency with EPA regulations for program authorization (primacy) and to provide interim status standards for facilities that treat, store, or dispose of hazardous wastes. EPA authorization allows the Division of Solid and Hazardous Waste to administer the hazardous program in lieu of EPA as allowed by Section 3006 of RCRA (42 USC 6926), and therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 08/24/2006



**Environmental Quality, Solid and
Hazardous Waste**

R315-8

**Hazardous Waste Treatment, Storage,
and Disposal Facility Requirements**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 28959
FILED: 08/24/2006, 07:50

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 19-6-104 requires the Solid and Hazardous Waste Control Board to meet the appropriate requirements associated with assuming primacy of the hazardous waste program from the federal government (U.S. Environmental Protection Agency (EPA)). Also, Section 19-6-105 allows the Board to set minimum standards for the protection of human health and the environment, for the storage, collection, transport, recovery, treatment, and disposal of hazardous waste. Section 3006 of the federal Resource Conservation and Recovery Act (RCRA) allows a state to receive primacy and requires that authorized state programs be "equivalent" to the Federal program. Therefore, rules adopted by the Board are to be equivalent to the corresponding federal hazardous waste regulations in order to receive primacy from EPA.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary for Utah to maintain its equivalency with EPA regulations for program authorization (primacy) and to provide standards for facilities that treat, store, or dispose of hazardous waste. EPA authorization allows the Division of Solid and Hazardous Waste to administer the hazardous program in lieu of EPA as allowed by Section 3006 of RCRA (42 USC 6926), and therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 08/24/2006



**Environmental Quality, Solid and
Hazardous Waste**

R315-9

Emergency Controls

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 28960
FILED: 08/24/2006, 07:51

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 19-6-104 requires the Solid and Hazardous Waste Control Board to meet the appropriate requirements associated with assuming primacy of the hazardous waste program from the federal government (U.S. Environmental Protection Agency (EPA)). Also, Section 19-6-105 allows the Board to set minimum standards for the protection of human health and the environment, for the storage, collection, transport, recovery, treatment, and disposal of hazardous waste. Section 3006 of the federal Resource Conservation and Recovery Act (RCRA) allows a state to receive primacy and requires that authorized state programs be "equivalent" to the Federal program. Therefore, rules adopted by the Board are to be equivalent to the corresponding federal hazardous waste regulations in order to receive primacy from EPA.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary because it requires anyone who spills a certain quantity of hazardous waste or material which when spilled, becomes hazardous waste, to report the spill to the proper authorities. The rule also requires that any size spill be remediated. This rule is easier to implement than the Federal requirement for spill reporting. The rule also includes specific wastes that are not covered by the federal rules such as P999, nerve, military, and chemical agents. EPA authorization allows the Division of Solid and Hazardous Waste to administer the hazardous program in lieu of EPA as allowed by Section 3006 of RCRA (42 USC 6926), and therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 08/24/2006

**Environmental Quality, Solid and
Hazardous Waste**

R315-12

Administrative Procedures

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 28952
FILED: 08/24/2006, 07:42

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63-46b-1 requires this rule for all state agencies that determine legal interests of persons including all actions related to an authority, right, or license, and the judicial review of all such actions.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary for the Division of Solid and Hazardous Waste to set forth administrative procedures for persons seeking administrative review of an agency action on orders, notices of violation, and other administrative decisions, and therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 08/24/2006

**Environmental Quality, Solid and
Hazardous Waste**

R315-13

Land Disposal Restrictions

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 28948

FILED: 08/24/2006, 07:37

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 19-6-104 requires the Solid and Hazardous Waste Control Board to meet the appropriate requirements associated with assuming primacy of the hazardous waste program from the federal government (U.S. Environmental Protection Agency (EPA)). Also, Section 19-6-105 allows the Board to set minimum standards for the protection of human health and the environment, for the storage, collection, transport, recovery, treatment, and disposal of hazardous waste. Section 3006 of the federal Resource Conservation and Recovery Act (RCRA) allows a state to receive primacy and requires that authorized state programs be "equivalent" to the Federal program. Therefore, rules adopted by the Board are to be equivalent to the corresponding federal hazardous waste regulations in order to receive primacy from EPA.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary for Utah to maintain its equivalency with EPA regulations for program authorization (primacy) and to provide standards for land disposal restrictions for hazardous waste. EPA authorization allows the Division of Solid and Hazardous Waste to administer the hazardous program in lieu of EPA as allowed by Section 3006 of RCRA (42 USC 6926), and therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 08/24/2006

**Environmental Quality, Solid and
Hazardous Waste**

R315-14

**Standards for the Management of
Specific Hazardous Wastes and
Specific Types of Hazardous Waste
Management Facilities**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 28950

FILED: 08/24/2006, 07:40

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 19-6-104 requires the Solid and Hazardous Waste Control Board to meet the appropriate requirements associated with assuming primacy of the hazardous waste program from the federal government (U.S. Environmental Protection Agency (EPA)). Also, Section 19-6-105 allows the Board to set minimum standards for the protection of human health and the environment, for the storage, collection, transport, recovery, treatment, and disposal of hazardous waste. Section 3006 of the federal Resource Conservation and Recovery Act (RCRA) allows a state to receive primacy and requires that authorized state programs be "equivalent" to the Federal program. Therefore, rules adopted by the Board are to be equivalent to the corresponding federal hazardous waste regulations in order to receive primacy from EPA.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary for Utah to maintain its equivalency with EPA regulations for program authorization (primacy) and to provide standards for specific types of hazardous wastes and specific types hazardous waste facilities. EPA authorization allows the Division of Solid and Hazardous Waste to administer the hazardous program in lieu of EPA as allowed by Section 3006 of RCRA (42 USC 6926), and therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
 SOLID AND HAZARDOUS WASTE
 288 N 1460 W
 SALT LAKE CITY UT 84116-3231, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 08/24/2006



**Environmental Quality, Solid and
 Hazardous Waste
 R315-50
 Appendices**

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE NO.: 28949
 FILED: 08/24/2006, 07:38

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 19-6-104 requires the Solid and Hazardous Waste Control Board to meet the appropriate requirements associated with assuming primacy of the hazardous waste program from the federal government (U.S. Environmental Protection Agency (EPA)). Also, Section 19-6-105 allows the Board to set minimum standards for the protection of human health and the environment, for the storage, collection, transport, recovery, treatment, and disposal of hazardous waste. Section 3006 of the federal Resource Conservation and Recovery Act (RCRA) allows a state to receive primacy and requires that authorized state programs be "equivalent" to the Federal program. Therefore, rules adopted by the Board are to be equivalent to the corresponding federal hazardous waste regulations in order to receive primacy from EPA.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary for Utah to maintain its equivalency with EPA regulations for program authorization (primacy) and to provide appendices

that are part of the hazardous waste rules. EPA authorization allows the Division of Solid and Hazardous Waste to administer the hazardous program in lieu of EPA as allowed by Section 3006 of RCRA (42) USC 6926), and therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
 SOLID AND HAZARDOUS WASTE
 288 N 1460 W
 SALT LAKE CITY UT 84116-3231, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 08/24/2006



**Environmental Quality, Solid and
 Hazardous Waste
 R315-101
 Cleanup Action and Risk-Based
 Closure Standards**

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE NO.: 28951
 FILED: 08/24/2006, 07:41

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 19-6-105 allows the Board to set minimum standards for protection of human health and the environment, for the storage, collection, transport, recovery, treatment, and disposal of solid waste.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to establish information requirements to support risk-based cleanup and closure standards at sites for which remediation or removal of hazardous constituents to background levels will not be achieved. Therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 08/24/2006

Health, Center for Health Data, Vital
Records and Statistics

R436-5

New Birth Certificates After
Legitimation, Court Determination of
Paternity, or Adoption

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 28966
FILED: 08/28/2006, 08:51

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The rule is authorized by Section 26-2-10. The statute permits certain persons whose parentage has changed to request that the state registrar register a new, supplementary certificate of birth. The statute provides that the applicant submit identification and proof of parentage under department rule.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Many hundreds of people each year apply for supplementary certificates of birth under Section 26-2-10. The provisions of Rule R436-5 continue to be important tools for the state registrar to administer orderly procedures for the accurate documentation of identity and parentage for people born in Utah. Therefore, this rule should be continued.

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

HEALTH
CENTER FOR HEALTH DATA,
VITAL RECORDS AND STATISTICS
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:

Barry Nangle at the above address, by phone at 801-538-6907, by FAX at 801-538-7012, or by Internet E-mail at bnangle@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 08/28/2006

Human Services, Administration

R495-876

Provider Code of Conduct

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 28941
FILED: 08/22/2006, 10:45

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-1-111 provides the Department of Human Services with authority to adopt rules necessary or desirable for providing social services to the people of the state. The provider code of conduct sets out basic standards and requirements for providers of social services. This general statement of principles is necessary to provide notice to providers and the public of what citizens of the state can expect from DHS supported programs.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received regarding this rule since the last notice of continuation.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The administrators of the Department of Human Services believe this rule is both necessary and desirable. The Department of Human Services (DHS) adopted this rule originally to: 1) protect its clients from abuse, neglect, maltreatment and exploitation; and 2) clarify the expectation of conduct for DHS providers and their

employees and volunteers who interact in any way with DHS clients, DHS staff, and the public. The original purpose remains relevant and therefore, justifies continuing the rule. There is a continuing need for a clear statement of expectations and standards upon which more detailed rules might be constructed.

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

HUMAN SERVICES
ADMINISTRATION
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Adam F Trupp at the above address, by phone at 801-538-4462, by FAX at 801-538-4016, or by Internet E-mail at AFTRUPP@utah.gov

AUTHORIZED BY: Lisa-Michele Church, Executive Director

EFFECTIVE: 08/22/2006

Insurance, Administration

R590-207

Health Agent Commissions for Small Employer Groups

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 28989
FILED: 09/01/2006, 15:23

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(3) gives the commissioner the authority to write rules to implement the provisions of Title 31A. This rule implements the provisions of Subsection 31A-30-104(6) by establishing guidelines relating to commission structure for a small group health insurance agent in a small employer group market that affects access to health insurance coverage for a small employer group. Section R590-207-5 of the rule requires that commission schedules not be set up by insurers to restrict or hinder agents from selling to small business owners.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has not received written comments in the past five years regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is important because it eliminates the pressure from insurers on agents from selling guarantee issue or renewal policies to small business owners. This way small employers are guaranteed health insurance coverage, and therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 09/01/2006

Natural Resources, Wildlife Resources

R657-9

Taking Waterfowl, Common Snipe and Coot

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 28938
FILED: 08/21/2006, 15:45

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Sections 23-14-18 and 23-14-19, the Wildlife Board is authorized and required to provide rules to regulate and prescribe the means by which protected wildlife may be taken.

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 were received during or since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-9 provides the procedures and standards necessary to manage the

waterfowl, common snipe, and coot program for the Division of Wildlife Resources. The provisions adopted in this rule are effective in administering the state's waterfowl management program and the continuation of this rule is necessary for its future success.

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

AUTHORIZED BY: James F Karpowitz, Director

EFFECTIVE: 08/21/2006



Natural Resources, Wildlife Resources **R657-10** Taking Cougar

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 28940
FILED: 08/21/2006, 16:32

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: Under Sections 23-14-18 and 23-14-19, the Wildlife Board is authorized and required to provide rules to regulate and prescribe the means by which protected wildlife may be taken.

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 were received since the last five-year review. The most recent amendment to the rule was made in August 2005 when it was amended to define limited entry hunt and limited entry permit, make harvest objective cougar permits statewide permits, and remove the female cougar subquota provision. Any general comments received are addressed using existing policies and procedures or the issue is placed on the Regional Advisory Council and Wildlife Board agendas for review and discussion during the process for taking public input. The public is welcome to view the Regional Advisory Council and Wildlife Board minutes for this rule by contacting any Division of Wildlife Resources office.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-10 provides the procedures and standards for taking and pursuing cougar. The provisions adopted in this rule are effective in administering the state's cougar management program and the continuation of this rule is necessary for its future success.

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

AUTHORIZED BY: James F Karpowitz, Director

EFFECTIVE: 08/21/2006



Natural Resources, Wildlife Resources **R657-26** Adjudicative Proceedings for a License, Permit, or Certificate of Registration

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 28939
FILED: 08/21/2006, 16:12

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: Under Subsection 23-19-9(15), the Wildlife Board is authorized and required to provide rules to regulate the suspension of a person's privilege of applying for, purchasing, and exercising the benefits conferred by a license, permit, or certificate of registration.

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 were received during or since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-26 provides the procedures and standards for the suspension of a person's privileges of applying for, purchasing, and exercising the benefits conferred by a license, permit, or certificate of registration. Suspension of a person's license, permit, or

certificate of registration privileges is appropriate in certain situations because violating wildlife laws harms the agency's ability to manage wildlife; hunting and fishing are privileges granted by the state to those who are willing to obey the laws established to protect wildlife and implement wildlife management programs; violating wildlife laws harms other sportsmen and members of the public who share the resource; and preventing certain individuals having a license, permit, or certificate of registration for a period of time redresses the harm they caused. Furthermore, the provisions adopted in this rule are necessary for the agency to fulfill the statutory requirements outlined in Sections 23-19-9 and 23-19.1 and therefore, this rule should be continued.

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

AUTHORIZED BY: James F Karpowitz, Director

EFFECTIVE: 08/21/2006



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

Alcoholic Beverage Control

Administration

No. 28708 (AMD): R81-1-7. Disciplinary Hearings.
Published: June 1, 2006
Effective: August 25, 2006

Commerce

Occupational and Professional Licensing

No. 28848 (AMD): R156-38b. State Construction Registry Rules.
Published: July 15, 2006
Effective: August 22, 2006

No. 28829 (AMD): R156-69. Dentist and Dental Hygienist Practice Act Rules.
Published: July 15, 2006
Effective: August 22, 2006

Real Estate

No. 28849 (AMD): R162-209. Administrative Proceedings.
Published: July 15, 2006
Effective: August 29, 2006

Environmental Quality

Water Quality

No. 28859 (AMD): R317-7. Underground Injection Control (UIC) Program.
Published: July 15, 2006
Effective: August 25, 2006

Health

Health Systems Improvement, Emergency Medical Services

No. 28725 (AMD): R426-5-8. Data Requirements for an Inclusive Trauma System.
Published: June 1, 2006
Effective: August 30, 2006

Human Services

Substance Abuse and Mental Health

No. 28842 (NEW): R523-24. Off-Premise Retailer (Clerk, Licensee and Manager) Alcohol Training and Education Seminar Rules of Administration.
Published: July 15, 2006
Effective: August 22, 2006

Services for People with Disabilities

No. 28845 (AMD): R539-1-8. Non-Waiver Services for People with Brain Injury.
Published: July 15, 2006
Effective: August 22, 2006

No. 28844 (NEW): R539-9. Supported Employment Pilot Program.

Published: July 15, 2006
Effective: August 22, 2006

Insurance

Administration

No. 28843 (AMD): R590-102. Insurance Department Fee Payment Rule.
Published: July 15, 2006
Effective: August 29, 2006

No. 28799 (AMD): R590-230. Senior Protection in Annuity Transactions.

Published: July 1, 2006
Effective: August 29, 2006

Natural Resources

Parks and Recreation

No. 28826 (AMD): R651-224. Towed Devices.
Published: July 15, 2006
Effective: August 22, 2006

No. 28669 (AMD): R651-406. Off-Highway Vehicle Registration Fees.

Published: May 15, 2006
Effective: August 18, 2006

No. 28827 (AMD): R651-601-12. Commercial Activity.

Published: July 15, 2006
Effective: August 22, 2006

No. 28857 (AMD): R651-606-10. Quiet Hours.

Published: July 15, 2006
Effective: August 21, 2006

NOTICES OF RULE EFFECTIVE DATES

No. 28856 (AMD): R651-633-2. Special Closures or Restrictions.
Published: July 15, 2006
Effective: August 21, 2006

Forestry, Fire and State Lands

No. 28770 (NEW): R652-123. Exemptions to Wildland Fire Suppression Fund.
Published: June 15, 2006
Effective: August 28, 2006

Public Service Commission

Administration

No. 28803 (AMD): R746-345. Pole Attachments.
Published: July 1, 2006
Effective: August 29, 2006

Workforce Services

Unemployment Insurance

No. 28861 (AMD): R994-403-202. Qualifying Elements for Approval of Training.
Published: July 15, 2006
Effective: August 22, 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 September 1, 2006, the effective dates of which are no later than September 15, 2006. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: The index may contain inaccurate page number references. Also the index is incomplete in the sense that index entries for Changes in Proposed Rules (CPRs) are not preceded by entries for their parent Proposed Rules. Bulletin issue information and effective date information presented in the index are, to the best of our knowledge, complete and accurate. If you have any questions regarding the index and the information it contains, please contact Nancy Lancaster (801 538-3218), Mike Broschinsky (801 538-3003), or Kenneth A. Hansen (801 538-3777).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

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
R23-25	Administrative Rules Adjudicative Proceedings	28993	5YR	09/06/2006	Not Printed
<u>Finance</u>					
R25-5	Payment of Per Diem to Boards	28384	AMD	01/25/2006	2005-24/2
R25-7	Travel-Related Reimbursements for State Employees	28702	AMD	07/01/2006	2006-10/2
<u>Fleet Operations</u>					
R27-1	Definitions	28474	5YR	01/30/2006	2006-4/33

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R27-1	Definitions (5YR EXTENSION)	28279	NSC	01/30/2006	Not Printed
R27-1-2	Definitions	28368	NSC	01/01/2006	Not Printed
R27-2	Fleet Operations Adjudicative Proceedings	28475	5YR	01/30/2006	2006-4/33
R27-3	Vehicle Use Standards	28477	5YR	01/30/2006	2006-4/34
R27-3	Vehicle Use Standards (5YR EXTENSION)	28280	NSC	01/30/2006	Not Printed
R27-7	Safety and Loss Prevention of State Vehicles	28469	5YR	01/20/2006	2006-4/34
<u>Fleet Operations, Surplus Property</u>					
R28-1	State Surplus Property Disposal	28766	AMD	08/02/2006	2006-12/3
R28-2	Surplus Firearms	28496	5YR	02/07/2006	2006-5/47
<u>Information Technology Services</u>					
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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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