

UTAH STATE BULLETIN

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

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

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

Division of Administrative Rules, Salt Lake City 84114

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SPECIAL NOTICES

Governor's Executive Order 2007-0002: Creating the Utah State Interoperability Executive Committee

EXECUTIVE ORDER

Creating the Utah State Interoperability Executive Committee

WHEREAS, it is in the interest of the state to provide voice and data technology resources and services that facilitate interoperability among state and other agencies delivering public safety, homeland security, and other vital services to citizens;

WHEREAS, the agencies that serve the interests of public safety, homeland security, and other vital services are operating on multiple technologies provided by multiple agencies and vendors that are often not interoperable;

WHEREAS, it is in the interest of the state to leverage existing infrastructure with emerging technologies to create an interoperable voice and data network that supports the delivery of public safety, homeland security, and other vital services;

WHEREAS, the development of interoperable services and related technologies requires a high level of coordination and communication among entities providing such services;

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

1. There is created the Utah State Interoperability Executive Committee (SIEC) Board.
2. The board shall:
 - a. Promote wireless technology information and interoperability among local, state, federal, and other agencies.
 - b. Provide a mechanism for coordinating and resolving wireless communication issues among local, state, federal, and other agencies.
 - c. Coordinate statewide efforts for implementation of interoperable statewide voice and data networks.
 - d. Improve data and information sharing and coordination of multi-jurisdictional responses using the Utah SIEC.
 - e. Leverage existing state resources and develop a network that will provide seamless, coordinated, and integrated communication for local, state, federal, and other agencies.
 - f. Identify opportunities to consolidate infrastructures and technologies.
 - g. Evaluate current technologies and determine if they are meeting the needs of agency personnel in their respective service areas.
 - h. Develop and recommend short and long-term proposals for future communication needs.
 - i. Serve as Utah's State Interoperability Executive Committee (SIEC) as outlined and governed by the Federal Communications Commission.
 - i. Form Memorandums of Understanding (MOU) between agencies in support of proactive planning efforts.
 - ii. Create and maintain procedures for requesting interoperability channels.
 - iii. Administer interoperability spectrum.
 - iv. Develop and maintain a statewide interoperability plan.

3. Members of the board shall be a single appointment, made by their agency's Executive Director (or equivalent). The following agencies will be represented:

- a. Utah National Guard
- b. Utah Department of Transportation
- c. Utah League of Cities and Towns
- d. Utah Department of Public Safety
- e. Utah Association of Counties
- f. Utah Department of Natural Resources
- g. Utah Commission on Criminal and Juvenile Justice
- h. Utah Department of Health
- i. Utah Department of Corrections
- j. Utah Fire Chiefs Association
- k. Utah Chiefs of Police
- l. Utah Education Network
- m. Utah Communications Agency Network
- n. Utah Sheriff's Association
- o. Utah Department of Technology Services
- p. Utah Department of Community and Culture, Division of Indian Affairs
- q. Ad-hoc local government representative of rural Utah

4. Members of the board shall serve without per diem or expenses.

5. Terms of officials serving on the board shall correspond to their terms of service in the relevant assignment within their agency.

6. The board's executive committee will consist of five members, one each from the Department of Public Safety, Department of Technology Services, Department of Health, the Utah Communication Agency Network, and a member representing rural local government.

- a. The executive committee shall plan agendas and call meetings of the board.
- b. The executive committee may meet as often as necessary, at the call of the chair.

7. The State's Chief Information Officer (CIO) will serve as the Chair of the Governance Board and the Executive Committee. The CIO may temporarily delegate this responsibility to another member of the Governance Board.

8. The Department of Technology Services shall provide staff support, with further support welcome from all participating agencies.

9. A majority of the board constitutes a quorum for voting purposes, and all actions shall be by majority vote of the quorum in attendance.

10. The board may meet as often as necessary to perform its duties, and shall meet at least quarterly.

11. The board may establish subcommittees and working groups to address wireless technology coordination and communication issues between agencies providing vital services to citizens.
12. The board shall prepare a brief annual report for the governor.
13. The board does not have the authority to require expenditure of public funds.
14. This order supplants Governor Walker's Executive Order creating the Utah Wireless Integrated Network (UWIN) on November 7, 2003.
15. This order shall remain in effect until revoked or supplanted by executive order.

IN WITNESS, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 8th day of March, 2007.

(State Seal)

Jon M. Huntsman, Jr.
Governor

ATTEST:

Gary R. Herbert
Lieutenant Governor

2007/0002

End of the Special Notices Section

NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between February 16, 2007, 12:00 a.m., and March 1, 2007, 11:59 p.m. are included in this, the March 15, 2007, 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 between paragraphs (· · · · ·) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not printed. If a PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of each rule that is too long to print is available from the filing agency or from the Division of Administrative Rules.

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least April 16, 2007. 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 requires that a hearing request be received "in writing not more than 15 days after the publication date of the PROPOSED RULE."

From the end of the public comment period through July 13, 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 seven calendar days after the close of the public comment period 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 Section 63-46a-4; and Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page.

**Administrative Services, Administrative
Rules
R15-3-5
Statutory Provisions that Require
Rulemaking Pursuant to Subsection 63-
46a-4(11)**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 29554

FILED: 02/26/2007, 12:51

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment clarifies the meaning of the phrase "statutory provision that requires the rulemaking" which was added at Subsection 63-46a-4(11) by H.B. 327 (2007). Subsection 63-46a-4(11) requires an agency to "initiate rulemaking proceedings no later than 180 days after the effective date of the statutory provision that requires the rulemaking." If the agency is unable to file the rule by the deadline, it is required to "appear before the legislative Administrative Rules Review Committee and provide the reasons for the delay." Therefore, H.B. 327 has created a procedure that an agency must follow. Failure to follow this procedure potentially opens an administrative rule to challenge in court under the provisions of Section 63-46a-12.1. Therefore, the Division is promulgating this rule so that agencies clearly understand when rulemaking is required for the purposes of Subsection 63-46a-4(11). Section 63-46a-3 describes instances when rulemaking is required to include an agency action that "authorizes, requires, or prohibits an action; ... provides or prohibits and material benefit; ... applies to a class of persons or another agency; and ... is explicitly or implicitly authorized by statute." In practical terms, an agency may not know that a bill implicitly requires rulemaking until events transpire that make that clear. The Legislature recognizes this; the principle is embodied in Subsections 63-46a-3(2)(a) through (d) and Section 63-46a-3(3). Subsection 63-46a-3(2) applies to explicit direction to engage in rulemaking. Then, Subsections 63-46a-3(2)(a) through (d) and Section 63-46a-3 clearly address instances when an agency's future action will demonstrate the need for a rule. Reasonably, H.B. 327 can be understood to apply only to explicit, clearly identifiable, affirmative obligations (i.e., "shall make rules") to engage in rulemaking. The purpose of requiring an agency to promulgate rules when agency action implicitly requires rulemaking is to direct the agency to engage in rulemaking if it discovers at some point in time after a law is enacted that its provisions require the agency to take certain actions. An agency cannot logically foretell every instance in which a statute may require rulemaking as the statute goes into effect. On the other hand, an agency can identify an explicit mandate to make rules within statute, and can respond by filing a rule or scheduling an appearance before the Administrative Rules Review Committee. The Administrative

Rules Review Committee raised this very question when it heard the bill on January 31, 2007. The committee was told that H.B. 327 was not intended to apply to permissive grants of rulemaking. As a practical matter, any other interpretation than that established by this proposed amendment is problematic. If the phrase "statutory provision that requires the rulemaking" were interpreted broadly to include permissive grants, any agency affected by any piece of legislation would need to schedule an appointment with the Administrative Rules Review Committee to meet the procedural requirement imposed by H.B. 327.

SUMMARY OF THE RULE OR CHANGE: This amendment clarifies that "statutory provision that requires the rulemaking" means a state statutory provision that explicitly mandates rulemaking.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 63-46a-10, 63-46a-3, and 63-46a-4

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** This proposed amendment imposes no costs nor accrues any savings to the state budget. The proposed amendment clarifies the meaning of statutory language.
- ❖ **LOCAL GOVERNMENTS:** The Division does not regulate local government. Therefore, there are no costs or savings to local government.
- ❖ **OTHER PERSONS:** This proposed amendment imposes no costs nor accrues any savings to other persons. The proposed amendment clarifies the meaning of statutory language.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule directly affects state agencies. No persons, as defined by the Rulemaking Act, are directly affected.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed amendment clarifies statutory language passed during the 2007 General Session. It does not have any fiscal impact on business. Kimberly K. Hood, Executive Director

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

ADMINISTRATIVE SERVICES
ADMINISTRATIVE RULES
Room 4120 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kenneth A. Hansen at the above address, by phone at 801-538-3777, by FAX at 801-538-1773, or by Internet E-mail at khansen@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 04/23/2007

AUTHORIZED BY: Kenneth A. Hansen, Director

R15. Administrative Services, Administrative Rules.
R15-3. Definitional Clarification of Administrative Rule.
R15-3-5. Statutory Provisions that Require Rulemaking Pursuant to Subsection 63-46a-4(11).

For the purposes of Subsection 63-46a-4(11), the phrase "statutory provision that requires the rulemaking" means a state statutory provision that explicitly mandates rulemaking.

KEY: administrative law
Date of Enactment or Last Substantive Amendment: ~~June 1, 1996~~ 2007
Notice of Continuation: September 29, 2005
Authorizing, and Implemented or Interpreted Law: 63-46a-10; 63-46a-3, 63-46a-4



Commerce, Real Estate
R162-106-5
Failure to Respond to Investigation

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 29546
 FILED: 02/23/2007, 09:38

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division of Real Estate does not only send notices of "Complaint" to licensees. It also sends notices of inquiries and other notices. It is therefore necessary to change the rule to correspond with current practice.

SUMMARY OF THE RULE OR CHANGE: The rule is changed to be phrased in terms of the Division notifying a licensee that information is needed from the individual instead of notifying a licensee of a complaint. It is also changed to allow a response from the licensee to be in the manner specified by the Division instead of always requiring that the response from the licensee must be in writing.

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

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None--This rule would allow the Division to obtain information from its licensees by notifying them that it is needed instead of having only the more formal process of serving a records subpoena on the licensee. There would be some slight cost savings to the Division if it is able to obtain information from its licensees in a less formal process, but the anticipated savings to the state budget cannot be calculated since the savings would vary according to how many complaints the Division received in which this less formal process could be employed.

❖ **LOCAL GOVERNMENTS:** None--While local governments do employ licensed and certified appraisers, no cost or savings to local governments is anticipated as a result of the Division of Real Estate having the option of using a less formal process to address complaints and inquiries concerning the activities of those appraisers.

❖ **OTHER PERSONS:** None--The only other persons who would be affected by this rule change are the appraisers licensed and certified by the Division of Real Estate. This rule change would not cost them any additional funds since they are already required to respond to an investigation by the Division of Real Estate of a complaint filed against them. The rule change may save these appraisers a small amount of funds since there would be flexibility in the method of their response to the Division. The response would not always have to be in writing, but could be an oral response in some instances.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only persons affected by this rule change would be licensed or certified appraisers who are subject to requests for information from the Division of Real Estate. It would not cost these persons any money if there is more flexibility in the manner of the Division's inquiry into complaints, and may actually save appraisers money since a written response would not necessarily be required in any particular inquiry.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There appears to be no fiscal impact to businesses beyond the cost savings discussed in the rule filing. Francine A. Gian, Executive Director

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

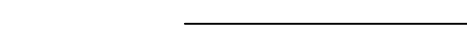
COMMERCE
REAL ESTATE
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Shelley Wismer at the above address, by phone at 801-366-0145, by FAX at 801-366-0315, 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 04/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 04/24/2007

AUTHORIZED BY: Derek Miller, Director



R162. Commerce, Real Estate.
R162-106. Professional Conduct.
R162-106-5. Failure to Respond to ~~Investigation~~ Notice.
 106.5. When the Division notifies an appraiser or registered expert witness of a complaint, or when the Division notifies an appraiser or registered expert witness that information is needed from

the individual, the notified individual must respond to the [complaint] notice in the manner specified in the notice [in writing] within ten business days of receipt of the notice from the Division. Failure to respond within the required time period to a notice [of complaint, a subpoena,] or any written request for information from the Division shall be considered a violation of these rules and separate grounds for disciplinary action against the appraiser or registered expert witness.

KEY: real estate appraisals, conduct

Date of Enactment or Last Substantive Amendment: [September 25, 2005] 2007

Notice of Continuation: February 15, 2007

Authorizing, and Implemented or Interpreted Law: 61-2b-2[7]2

◆ ————— ◆

Commerce, Real Estate R162-202-5 Determining Fitness for Licensure

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29545

FILED: 02/23/2007, 09:29

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for this rule change is to set forth the qualifications for mortgage officer licenses related to past criminal conduct by the applicants, and to turn into rule a policy of the Utah Residential Mortgage Regulatory Commission and the Utah Division of Real Estate. This rule will give notice to potential applicants of the types of recent criminal convictions that will prevent them from receiving a license from the Utah Residential Mortgage Regulatory Commission and the Division of Real Estate.

SUMMARY OF THE RULE OR CHANGE: The rule change provides that a first-time applicant for a license may not have had a felony conviction in the five years preceding application, and may not have had a misdemeanor conviction or plea in a case involving theft or dishonesty in the three years preceding application.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2c-103(3)(a)(i)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** This rule change will eliminate an unknown number of the license application hearings before the Utah Residential Mortgage Regulatory Commission since it will deter applications from applicants who would only be turned down after a hearing because of the Commission's and the Division's policy concerning licensing applicants with recent criminal convictions. Fewer applications will result in fewer license application hearings before the Commission,

resulting in fewer or shorter Commission meetings. This will result in a savings to the State budget in the per diem payments to Commissioners. It is difficult to calculate how many meetings will be avoided and how many meetings will be shortened from a full-day meeting to a half-day meeting, and therefore, the anticipated cost savings cannot be calculated.

❖ **LOCAL GOVERNMENTS:** None--Local governments do not act as licensed mortgage loan officers, nor do they license mortgage loan officers. Therefore, local governments are not affected by the qualification requirements to obtain mortgage officer licenses.

❖ **OTHER PERSONS:** The only persons who are affected by the qualification requirements for mortgage licensure are the applicants for those licenses. By explicitly stating the types of crimes and the time periods that will disqualify an applicant from receiving a license, this rule will give notice to potential applicants if their criminal history will disqualify them and therefore will save them from spending money on prelicensing education and examinations for a license that they will not receive.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The only persons affected by this rule are license applicants with recent criminal convictions that will disqualify them from licensure if they apply for a license. It will not cost these persons any money to comply with this rule, and it will actually save them from spending money since the rule will give them clear notice that they will not receive a license if they apply for a license too soon after their convictions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There appears to be no fiscal impact to businesses beyond the cost savings discussed in the rule 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 801-366-0145, by FAX at 801-366-0315, 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 04/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 04/24/2007

AUTHORIZED BY: Derek Miller, Director

R162. Commerce, Real Estate.**R162-202. Initial Application.****R162-202-5. Determining Fitness for Licensure.**

202.5.1 Qualifications of Applicants. All mortgage officer and principal lending manager applicants, and all directors, executive officers, and managing partners of any entity applicant, and anyone who occupies a position or performs functions similar to a director, executive officer, manager or managing partner of an entity applicant, shall meet the following qualifications. None of these persons may have:

(a) been convicted of, entered a plea in abeyance to, or completed any sentence of confinement on account of, any felony within five years preceding the application; or

(b) been convicted of, entered a plea in abeyance to, or completed any sentence of confinement on account of, any misdemeanor involving fraud, misrepresentation, theft, or dishonesty within three years preceding the application.

202.5.2 [Good Moral Character.] In determining whether an individual who has not been disqualified by Subsection 202.5.1 [The Commission and the Division will consider information necessary to determine whether an applicant for a license or a director, executive officer, manager, or a managing partner of an entity that has applied for a license, or anyone who occupies a position or performs functions similar to a director, executive officer, manager or managing partner of an entity that has applied for a license,] meets the requirements of good moral character, honesty, integrity, and truthfulness, the Commission and the Division will consider information which may include the following in addition to whether the individual has been convicted of a felony or misdemeanor involving moral turpitude in the ten years preceding the application:

(a) The circumstances that led to any criminal convictions considered by the Commission and the Division;

(b) The amount of time that has passed since the individual's last criminal conviction;

(c) Any character testimony presented at the hearing and any character references submitted by the individual;

(d) Past acts related to honesty or moral character involving the business of residential mortgage loans;

(e) Whether the individual has been guilty of dishonest conduct in the five years preceding the application that would have been grounds under Utah law for revocation or suspension of a registration or license had the individual then been registered or licensed;

(f) Whether a civil judgment based on fraud, misrepresentation, or deceit has been entered against the individual, or whether a finding of fraud, misrepresentation or deceit by the individual has been made in a civil suit, regardless of whether related to the residential mortgage loan business, and whether any money judgment has been fully satisfied;

(g) Whether fines and restitution ordered by a court in a criminal proceeding have been fully satisfied, and whether the individual has complied with court orders in the criminal proceeding;

(h) Whether a probation agreement, plea in abeyance, or diversion agreement entered into in a criminal proceeding in the ten years preceding the application has been successfully completed;

(i) Whether any tax and child support arrearages have been paid; and

(j) Whether there has been good conduct on the part of the individual subsequent to the individual's offenses.

202.5.[2]3 Competency to Transact the Business of Residential Mortgage Loans. The Commission and the Division will consider information necessary to determine whether an applicant for a license

or director, executive officer, manager, or a managing partner of an entity that has applied for a license, or anyone who occupies a position or performs functions similar to a director, executive officer, manager or managing partner of an entity that has applied for a license, meets the requirement of competency to transact the business of residential mortgage loans, which shall include the following:

(a) Past acts related to competency to transact the business of residential mortgage loans;

(b) Whether a civil judgment involving the business of mortgage loans has been entered against the individual, and whether the judgment has been fully satisfied, unless the judgment has been discharged in bankruptcy;

(c) The failure of any previous mortgage loan business in which the individual engaged, and the reasons for any failure;

(d) The individual's management and employment practices in any previous mortgage loan business, including whether or not employees were paid the amounts owed to them;

(e) The individual's training and education in mortgage lending, if any was available to the applicant;

(f) The individual's training, education, and experience in the mortgage loan business or in management of a mortgage loan business, if any was available to the individual;

(g) A lack of knowledge of the Utah Residential Mortgage Practices Act on the part of the individual;

(h) A history of disregard for licensing laws;

(i) A prior history of drug or alcohol dependency within the last five years, and any subsequent period of sobriety; and

(j) Whether the individual has demonstrated competency in business subsequent to any past incompetence by the individual in the mortgage loan business.

202.5.[3]4 Age. All mortgage officer and principal lending manager applicants shall be at least 18 years old.

KEY: residential mortgage loan origination

Date of Enactment or Last Substantive Amendment: [January 24, 2007

Notice of Continuation: December 13, 2006

Authorizing, and Implemented or Interpreted Law: 61-2c-103(3)



Commerce, Real Estate

R162-207-6

Determining Fitness for Renewal

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29544

FILED: 02/23/2007, 09:19

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for this rule change is to set forth the qualifications for renewal of mortgage officer and principal lending manager licenses related to criminal convictions and to turn a policy of the Utah Residential Mortgage Regulatory Commission and the Utah Real Estate Division into rule. This will give notice to licensees of the types of criminal convictions that will prevent them from receiving approval to renew their licenses.

SUMMARY OF THE RULE OR CHANGE: Applicants for license renewal may not have had a felony conviction or entered a plea in abeyance to a felony during the term of their previous license.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2c-103(3)(a)(i)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** This rule change will eliminate an unknown number of the license application hearings before the Utah Residential Mortgage Regulatory Commission since it will deter applications to renew from applicants who would only be turned down after a hearing before the Commission because of the Commission's and the Division's policy concerning applicants for renewal with recent felony convictions. Fewer applications from convicted felons will result in fewer renewal hearings before the Commission, resulting in fewer or shorter Commission meetings. This will result in a savings to the state budget in the per diem payments to Commissioners. It is difficult to calculate how many meetings will be avoided, and how many meetings will be shortened from a full-day meeting to a half-day meeting, and therefore, the anticipated cost savings cannot be calculated.

❖ **LOCAL GOVERNMENTS:** None--Local governments do not act as licensed mortgage loan officers, nor do they license mortgage loan officers. Therefore, local governments are not affected by the qualification requirements to obtain mortgage officer licenses.

❖ **OTHER PERSONS:** The only persons who are affected by the qualification requirements for mortgage licensure are the applicants for renewal of those licenses. By explicitly stating the types of crimes and the time periods that will disqualify an applicant from receiving a license, this rule will give notice to licensees if their criminal histories will disqualify them and therefore will save them from spending money on continuing education and application fees for licenses that they will not receive.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The only persons affected by this rule are licensees with recent criminal convictions that will disqualify them from renewal if they apply for a license renewal. It will not cost these persons any money to comply with this rule, and it will actually save them from spending money since the rule will give them clear notice that they will not receive a license if they apply for a renewed license too soon after their convictions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There appears to be no fiscal impact to businesses beyond the cost savings discussed in the rule filing. 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 801-366-0145, by FAX at 801-366-0315, 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 04/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 04/24/2007

AUTHORIZED BY: Derek Miller, Director

R162. Commerce, Real Estate.

R162-207. License Renewal.

R162-207-6. Determining Fitness for Renewal.

207.6 Qualifications for Renewal. In order to qualify for renewal, all mortgage officer and principal lending manager applicants, and all directors, executive officers, and managing partners of any entity applicant, and anyone who occupies a position or performs functions similar to a director, executive officer, manager, or managing partner of any entity applicant, shall meet the following qualifications. None of these persons may have, during the term of the last license or during the period between license expiration and application to reinstate an expired license, been convicted of, or entered a plea in abeyance to, a felony.

207.6.1 Determining fitness for renewal. In determining whether an applicant who has not been disqualified by Subsection 207.6 meets the requirements of good moral character, honesty, integrity, and truthfulness, [F]the commission and the division shall determine fitness for renewal in accordance with Section 202.5.2 above.

KEY: residential mortgage loan origination

Date of Enactment or Last Substantive Amendment: 2007

Authorizing, and Implemented or Interpreted Law: 61-2c-103(3); 61-2c-202(4)(a)(ii)

◆ ————— ◆

Corrections, Administration **R251-106-3** Standards and Procedures

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 29531

FILED: 02/21/2007, 09:48

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to define the Utah Department of Corrections (UDC) policy under which persons representing the news media shall be allowed access to correctional

institutions, inmates, and other supervised offenders, and define UDC actions when a need exists for the safeguarding of information.

SUMMARY OF THE RULE OR CHANGE: The rule changes are limited to adding the positions of Warden and Associate Warden to those listed in the rule which have the authority to interact with the news media.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 63-46a-3, 63-13-17, 63-2-102, and 77-19-11

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There are no costs or savings associated with the rule amendment as the change simply adds two more individuals to the list of individuals authorized to interact with the media.

❖ **LOCAL GOVERNMENTS:** There are no costs or savings associated with the rule amendment as the change simply adds two more individuals to the list of individuals authorized to interact with the media.

❖ **OTHER PERSONS:** There are no costs or savings associated with the rule amendment as the change simply adds two more individuals to the list of individuals authorized to interact with the media.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The rule amendments will not result in a compliance cost to any affected persons because the amendment does not mandate any compliance. The amendment simply makes it easier to interact with the media.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact from the amendments to this rule. Thomas Patterson, 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 04/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 04/23/2007

AUTHORIZED BY: Thomas E. Patterson, Executive Director

R251. Corrections, Administration.

R251-106. Media Relations.

R251-106-3. Standards and Procedures.

(1) It is the policy of the UDC to permit press access to facilities, inmates, supervised offenders and information. Access shall be:

(a) consistent with the requirements of the constitutions and laws of the United States and State of Utah;

(b) at a level no more restrictive than that allowed the general public.

(2) Access by news media members shall be restricted:

(a) when the UDC finds it necessary to further its legitimate governmental interests, or to maintain safety, security, order, discipline and program goals;

(b) to conform with statutory and constitutional privacy requirements as interpreted by binding case precedent;

(c) when information or access would be contrary to state interests on matters under litigation; or

(d) to safeguard the privacy interests of those under the supervision of the UDC.

(3) The UDC shall make all reasonable efforts to see that the public is kept informed concerning its operations by:

(a) participating and cooperating with the news media to communicate the UDC's mission, goals, policy, procedures, operation, and activities;

(b) providing information in a timely manner, while avoiding disruption or compromise of the UDC's legitimate interests; and

(c) releasing information in accordance with the policy, procedures and requirements of law to provide the public with knowledge about:

(i) UDC philosophy, operations and activities; and

(ii) significant issues and problems facing the UDC.

(4) Inmates shall not be denied the opportunity to communicate with the news media. However, the UDC reserves the right to regulate the manner in which the communication may occur, including:

(a) defining the channels of communication and the circumstances of their use; and

(b) temporarily suspending communication during exigent circumstances including:

(i) riots;

(ii) hostage situations;

(iii) fires or other disasters;

(iv) other inmate disorders; or

(v) emergency lock-down conditions.

(5) Because the UDC faces special management problems with the prison's operation from face-to-face interviews between inmates and the news media:

(a) news media members' requests for face-to-face interviews shall be reviewed on a case-by-case basis by considering the mental competence of the inmate, pending appeals, safety, security, and management issues of the institution;

(b) requests for face-to-face interviews shall be submitted to the Director of Public Information; and

(c) interviews which the UDC determines will jeopardize its legitimate interests, or those of a prison facility, shall not be approved.

(6) Access to executions by the news media shall be consistent with the requirements of Section 77-19-11.

(7) News media members shall obtain UDC-issued media identification or shall receive special permission for access to prison property or other UDC Facilities. Special permission may be granted only by the Institutional Operations Associate Warden, Warden, or

Division Director, Director of Public Information, Deputy Director, or Executive Director.

(8) No equipment shall be taken inside the facility unless specifically approved by the Institutional Operations Associate Warden, Warden, or Division Director, Director of Public Information, Deputy Director, or Executive Director. Filming or other recording visits are separate issues and involve individual consideration and decisions.

(9) Ground rules for each opportunity for facility access, filming or recording shall be determined prior to entry.

(10) Access may be terminated at any time without warning, if:

(a) the conditions, ground rules, or other regulations are violated by news media members involved in the access opportunity;

(b) an inmate disorder or other disruption develops;

(c) staff members detect problems created by the media visit which threaten security, safety or order in the facility; or

(d) other reasons related to the legitimate interests of the UDC are present.

(11) Deliberate violation of regulations or other serious misconduct during a facility visit:

(a) shall result in the temporary loss of UDC-issued media identification; and

(b) may result in the permanent loss of UDC-issued media identification.

KEY: corrections, press, prisons

Date of Enactment or Last Substantive Amendment: ~~[1993]~~2007

Notice of Continuation: September 19, 2006

Authorizing, and Implemented or Interpreted Law: 63-2-102; 63-46a-3; 64-13-10; 64-13-17; 77-19-11



Corrections, Administration **R251-107** Executions

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 29533
FILED: 02/21/2007, 10:24

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The five-year review of this rule provides the opportunity to make changes in the manner executions are conducted, the authority to determine access, and in conducting searches.

SUMMARY OF THE RULE OR CHANGE: The changes involve three areas: 1) the number of people involved in lethal injections was changed from three to two, an alternate executioner was eliminated, and several references to the Deputy Director/designee were changed to the Warden; 2) the procedures of escorting any witnesses, except executioners, off property who decline consent to a search, was added; and 3) Utah County newspapers were added to the list of media members who may be selected to witness the execution.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 77-19-10 and 77-19-11

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: These rule changes do not have an anticipated cost or savings to the state budget because they are minor in nature, and do not involve the financial aspects of executions.

❖ LOCAL GOVERNMENTS: These rule changes do not have an anticipated cost or savings to local government because they do not deal with any responsibility which local government would assume or participate in during an execution.

❖ OTHER PERSONS: These rule changes do not have an anticipated cost or savings to other persons because they do not deal with any financial aspect of any position or responsibility other persons might assume in an execution.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These rule changes do not have an anticipated costs because they do not deal with any financial aspect of any position or responsibility other persons might assume in an execution.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact from the amendments to this rule. Thomas Patterson, 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 04/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 04/23/2007

AUTHORIZED BY: Thomas E. Patterson, Executive Director

R251. Corrections, Administration.

R251-107. Executions.

R251-107-4. Selection of Executioners.

(1) The Executive Director/designee shall ensure that the method of judgment of death specified in the warrant is carried out at a secure correctional facility operated by the Department in accordance with Section 77-19-10.

(2) If the judgment of death is to be carried out by lethal injection, at least ~~three~~two persons, including one alternate who is trained to administer intravenous injections, shall be selected.

(a) Two shall be selected to administer a continuous intravenous injection; one of which shall be a lethal quantity of sodium thiopental or other equally or more effective substance sufficient to cause death. [

~~(b) One additional executioner who shall be an alternate, shall be selected to provide back-up for the primary team.]~~

([e]b) The [Executive Director, DIO Director, and] Warden shall be responsible for selecting the executioners.

(i) Executioners may be selected from within or outside of the state of Utah.

(ii) Selection [to the teams] as an executioner shall require knowledge and training in the accepted medical practices to administer intravenous injections.

([e]c) The Warden, DIO Director, and Executive Director shall review the qualifications and other relevant information concerning applicants who claim appropriate training and skills in administering intravenous injections.

([e]d) Following the examination and evaluation of candidates, the Warden, with the concurrence of the Executive Director and DIO Director, shall select the executioners.

([f]e) The [Deputy Director/designee] Warden shall contact those chosen for the primary and back-up execution teams to notify them of their selection and to verify their willingness and availability to perform the duties of execution by injection.

([g]f) If any person rescinds his original offer to participate, the Warden, DIO Director, and Executive Director will select a replacement.

(3) If the judgment of death is to be carried out by shooting, the Executive Director/designee shall select a five-person firing squad of peace officers.

(a) A five-person execution team, plus one alternate and a team leader, shall be chosen for the firing squad.

(b) The alternate shall be selected to replace any member of the firing squad who is unable to discharge his required functions.

(c) Persons selected for the firing squad shall be POST certified peace officers.

(d) The Executive Director and Warden shall be responsible for the selection process.

(e) The final choice of firing squad members shall be the responsibility of the Warden with the concurrence of the Executive Director/designee.

(f) The [Deputy Director/designee] Warden shall contact those chosen for the firing squad, alternates and team leader to notify them of their selection and to verify their willingness and availability to perform the execution duties.

(g) If any person rescinds his original offer to participate, the selection team shall select a replacement.

R251-107-5. Demonstration and Public Access.

(1) Parking or standing during the execution event from the designated start time in the authorized security plan until [two]four hours after the execution is prohibited:

(a) on Pony Express Road between 13800 South and 14600 South;

(b) on Minuteman Drive between 14400 South and 14600 South;

(c) on 14600 South from the Utah Roses to Minuteman Drive;

(d) on the I-15 freeway or its ramps;

(e) on 13800 South from Pony Express Road to the railroad tracks; and

(f) in any other location posted for "no parking" or restricted parking.

(2) Parking on Pony Express Road between 13800 South and 14600 South is posted and prohibited 24 hours a day.

(3) The Executive Director [~~designee~~] and Warden may permit limited access to a designated portion of prison property on Minuteman Drive at or near the Fred House Academy for the public to gather to observe the prison or demonstrate during an execution event.

(4) The demonstration/public staging area located north of the 14800 South road block on East Frontage Road shall be the location for demonstrators and the general public.

(5) If more people gather at the demonstration/public staging area than can be accommodated, an overflow area shall be made available in the park-and-ride parking area west of the south-bound on-ramp on the Bluffdale interchange.

(6) Access shall be limited to the designated start time in the authorized security plan the day prior to the scheduled execution date and last up to six hours following the execution or any stay, unless permission is earlier withdrawn.

(7) Security shall be provided at the public area to try to prevent physical confrontations between observers/demonstrators with differing points of view.

(8) To avoid the possibility of any group raising First Amendment issues based on the Department favoring one group over another, demonstrators shall not be separated according to their views regarding capital punishment.

(9) Motor vehicles are not permitted at the designated location. Persons at the location or en route to or from the site are subject to all applicable state and federal laws, rules and regulations and local ordinances including, without limitations, those relating to traffic control, pedestrian traffic, parking, noise, and parade permits.

(10) No person may block, obstruct, or interfere with prison traffic or communication.

(11) No person may damage, destroy or take public property, nor may any person build or erect any structure nor leave behind any object, substance or material.

(12) No person may violate the intent of clearly marked signs, fences, doors or other indicant relative to prohibitions against entering any prison property or facility for which permission to enter may not be marked.

(13) The Department neither recognizes, nor is bound by, the policies, allowances or arrangements which may have occurred at prior executions, events or on prior occasions, and by this rule any arrangement provided for public access at previous executions or demonstrations is invalidated.

(14) The Executive Director or Warden may at any time withdraw permission without notice in the event of riot, disturbance, or other factors that in the opinion of the Warden/designee or Executive Director/designee jeopardizes the security, peace, order or any function of the prison.

R251-107-8. Personal Searches.

(1) News media representatives and inmate-invited witnesses shall be searched at the staging area prior to being allowed into the escort vehicles.

(a) The search shall include a search by metal detector and rub search.

(b) News media representatives and witnesses shall be asked to remove all personal items from their clothing and persons.

(i) Unauthorized items shall be taken by the witness to his/her vehicle or left at the staging area until the witness returns from the execution.

(ii) Witnesses shall be responsible for locking their vehicle.

(2) Government officials, the physician, and the State Medical Examiner shall be searched by metal detector, but shall not be searched unless there is suspicion that an official is carrying contraband.

(3) Strip search of witnesses shall be permitted only if there is a reasonable suspicion that the witness is concealing contraband or anything which would jeopardize safety or security or violate Section 77-19-11, and may only be authorized by the Executive Director, DIO Director, or the Warden. If the witness does not consent to a search, they will be escorted off property.

(4) Cameras and recording devices shall not be allowed at the execution site except for two pool cameras, which may be carried to the execution site waiting room, to be used after the execution has taken place.

(5) Department members may be searched upon a reasonable suspicion that a member is carrying contraband.

(6) Executioners shall not be searched or identified upon entry.

R251-107-9. News Media.

(1) The Department shall permit press access to the execution and information concerning the execution consistent with the requirements of the constitutions and laws of the United States and State of Utah.

(2) The Department and the Utah Code recognize the need for the public to be informed concerning executions.

(a) The Department will participate and cooperate with the news media to inform the public concerning the execution; and

(b) information should be provided in a timely manner.

(3) If the condemned person is willing, the Department may allow an opportunity for the condemned to speak with the news media.

(4) The Executive Director shall be responsible for selecting the members of the news media who will be permitted to witness the execution.

(a) After the court sets a date for the execution of the death penalty, news directors may request permission for a member of their organization to witness the execution by directing the request, in writing, to the attention of the Executive Director at least 21 days prior to the execution.

(b) When administrative convenience or fairness to the news media dictates, the Department, in its discretion, may extend the request deadline.

(c) Requests for consideration may be granted by the Executive Director provided they contain the following:

(i) a statement setting forth facts showing that the requesting individual falls within the definition of member of the "press" and "broadcast news media" as set forth in this rule;

(ii) an agreement to act as a pool representative for other news gathering agencies desiring information on the execution;

(iii) an agreement that the media member will abide by all of the conditions, rules and regulations while in attendance at the execution; and

(iv) agreement that they will conduct themselves consistent with existing press standards.

(d) Upon receipt of media member's request for permission to attend the execution, the Executive Director may take the steps necessary to verify the statements made in the request. After verifying the information in the request, selection of witnesses shall be made by the Executive Director.

(e) The Executive Director shall identify the media members who have been selected to witness the execution. Media members shall be selected on a rotating basis from the following organizations:

(i) Salt Lake City and Utah County daily newspapers;

(ii) television stations licensed and broadcasting daily in the State of Utah;

(iii) one newspaper of general circulation in the county in which the crime occurred;

(iv) one radio station licensed and broadcasting in the State of Utah; and

(v) the remainder from a pool of broadcast, print, and wire services news media organizations operating in Utah.

(f) In the event that the Executive Director is unable to name a media member from each of the above-described organizations, he shall name other qualifying media members to attend.

(g) No media members other than those named to attend the execution as described in this rule shall be permitted to witness the execution.

(h) Additional members of the press and broadcast news media who request and receive permission from the Executive Director shall be permitted on prison property during the execution at a location designated by the Executive Director.

(i) The Department shall arrange for pre-execution briefings, distribution of media briefing packages, briefings throughout the execution event, and post-execution briefings by the news media who witnessed the execution.

(j) No special access nor briefings will be provided to members of the press who are not selected as witnesses nor selected for the alternate site.

(k) Two photographers shall be appointed as pool photographers to film the execution site following clean up.

(l) One photographer shall provide for the needs of the electronic media and the other shall take photos for the print media.

(m) The pool photographers should be selected from agencies other than those represented among the nine witnessing the execution.

(n) If any attempt is made to photograph in any area or at any time other than that specifically authorized, the photographer shall be expelled, film confiscated and criminal charges, if appropriate, filed.

(5) The Warden shall permit the members of the press and broadcast news media, selected by the Executive Director, to witness the execution.

(6) Each media member attending the execution shall be carefully searched prior to admittance to the execution chamber.

(a) No strip search of any media member shall be conducted unless and until the Warden has reasonable suspicion to believe the media member is concealing weapons, drugs, audio or visual recording devices, or any other item not expressly authorized.

(i) Electronic or mechanical recording devices include still, moving picture or videotape cameras, tape recorders or similar devices, broadcasting devices, or artistic paraphernalia, including notebooks, and drawing pencils or pens.

(ii) Only a small notebook and a pen or pencil issued by the Department shall be permitted.

(b) In the event of a strip search, the search shall be conducted in private, away from the execution area.

(i) If the media members are found not to be concealing any of the items described, they will be permitted to return to the execution site and attend the execution.

(ii) Any media member found to possess prohibited items shall be escorted from the execution area, from prison property and shall be subject to criminal charges, if appropriate.

(c) Persons representing the news media witnessing the execution shall be required to sign a statement or release absolving the institution or any of its staff from any legal recourse resulting from the exercise of search requirements or other provisions of the witness agreement.

(d) The Warden shall not exclude any media member duly selected from attendance at the execution except as described in these policies, nor may the Warden cause a selected media member to be removed from the execution chamber unless the media member:

(i) refuses to submit to a reasonable search as permitted in these policies;

(ii) faints, becomes ill or requests to be allowed to leave during the execution;

(iii) causes a disturbance within the execution chamber that disrupts the conduct of the execution; or

(iv) refuses or fails to abide by the conditions and policies set forth by the Department.

(e) The execution chamber shall be arranged so as to provide space for the attending media members and the space arranged shall have a view of the execution site, with the exception of:

(i) a view of the members of the firing squad, if employed; or

(ii) if lethal injection is chosen, those directly administering the method of execution, who shall be concealed from the view of the media members so that their identities will remain unknown.

(f) The selected media members shall be transported as a group to the execution location prior to the execution and shall be allowed to remain there throughout the proceeding.

(g) The Department shall designate a representative or representatives to remain with the media members throughout the execution proceedings for the purpose of supervising and answering questions related to the execution.

(h) Media members shall be admitted to the execution area on the date set for the execution only after:

(i) proof of identification has been presented to the Public Affairs Director/designee at the staging area;

(ii) being issued special identification credentials;

(iii) receiving an orientation by the Public Affairs Director/designee; and

(iv) signing an agreement to abide by conditions required of media witnesses to the execution.

(i) After the execution has been completed and the site has been restored to an orderly condition, news media members may be permitted to return to the execution chamber for purposes of filming, photographing and recording the site.

(i) Re-entry to the site shall be permitted only after the site has been restored to an orderly condition, including:

(A) removal of the body of the condemned;

(B) evacuation of those involved in administering the execution; and

(C) clean up of the execution site.

(ii) Restoring the site to an "orderly condition" prior to the filming opportunity shall not unnecessarily disturb the physical arrangements for the execution.

(iii) Media members permitted to return to the execution chamber for the filming and recording of the site shall include:

(A) the news media members who were selected to witness the execution;

(B) one pool television photographer; and

(C) one pool newsprint photographer.

(iv) The film/videotape shall not be used in any news or other broadcast until made available to all agencies participating in the pool. All agencies receiving the film/videotape will be permitted to use them in news coverage and to retain the film/videotape for file footage.

(j) News media representatives shall, after being returned from the execution to the staging area, act as pool representatives for other media representatives covering the event.

(i) The pool representatives shall meet at the designated media center and provide an account of the execution and shall freely answer all questions put to them by other media members and shall not be permitted to report their coverage of the execution back to their respective news organizations until after the non-attending media members have had the benefit of the pool representatives' account of the execution.

(A) News media members attending the post-execution briefing shall agree to remain in the briefing room and not leave nor communicate with persons outside the briefing room until the briefing is over.

(B) The briefing shall end when the attending news media members are through asking questions or after ~~90~~60 minutes, whichever comes first.

(ii) The media witnesses shall be transported as a group between the staging area and the execution chamber in Department transportation. Media members arriving late and missing the shuttle shall not be permitted to attend the execution.

(k) The Department may alter these policies to impose additional conditions, restrictions and limitations on media coverage of the execution when requirements become necessary for the preservation of prison security, personal safety or other legitimate interests which may be in jeopardy.

(l) If extraordinary circumstances develop, additional conditions and restrictions shall be no more restrictive than required to meet the exigent circumstances.

KEY: corrections, executions[[±]], prisons

Date of Enactment or Last Substantive Amendment: ~~April 18, 2002~~2007

Notice of Continuation: September 19, 2006

Authorizing, and Implemented or Interpreted Law: 77-19-10; 77-19-11



Health, Administration

R380-200

Patient Safety Sentinel Event Reporting

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29538

FILED: 02/22/2007, 08:45

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: After five years of implementation, an intrafacility users group has recommended that the Sentinel event rule be expanded in order to be compliant with national standards for the surveillance and monitoring of "never events". These reference standards include the Center for Medicare/Medicaid Services (CMS), Joint Commission Accreditation of Healthcare Association (JCAHO), and National Quality Forum (NQF). This rule allows the state to oversee what is happening specifically in the state of Utah. The ability for the state to monitor this activity at the local level provides the opportunity to design locally implemented solutions. It was additionally recommended that the reporting format be more

quantitative in order to conduct better surveillance analysis. Current feedback has indicated that there is confusion regarding the differences between the state requirements and national standards. Additionally, because of the differences, differing surveillance systems have needed to be in place. Examples of where the differences between JCAHO standards and the state in terms of reporting include bed sores, environmental related events, and emergency room events resulting in death or permanent major loss or harm. JCAHO accredited facilities may already be collecting this information but has not to date notified the state. Non-accredited facilities may now need to pay attention to these types of events and report them to the state. The goal is to design state-based solutions. One such example is with the correct site surgery initiative. As data began to collect, wrong site surgeries were happening everywhere. Rather than simply adopting the national standard, the user's group conducted a survey to compare policies. It was determined that almost every facility had a policy in place, but implemented it differently resulting in 12 differing methods for markings some of which were directly opposed to each other. As surgeons, nurses, operating room technicians, and anesthesiologists move from facility to facility, system noise, and confusion abounded. The users group decided on a single standard and that was promoted throughout the state regardless of accreditation status. This type of cooperative and collaborative activity brings the quality of care up across the board for every Utah citizen regardless of where they may be receiving their care. This should be especially true in what are determined to be never events - events that NO ONE should have to experience at the hands of the healthcare system.

SUMMARY OF THE RULE OR CHANGE: The recommended rule changes add more specificity to the types of events reported, expand the list to be compliant with national standards, and integrate three separate reporting standards into one reporting mechanism. The rule also formalizes an interdisciplinary advisory group (users group) to continue advising the department on the direction of this surveillance and monitoring function. This rule was crafted by industry representatives and has their support.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 26-1-30(2)(a), (b), (e), and (g), and Section 26-3-8

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: JCAHO - "Root Cause Analysis Matrix, Minimum Scope of Root Cause Analysis for Specific Types of Sentinel Events – October 2005"
http://www.jointcommission.org/NR/rdonlyres/3CB064AC-2CEB-4CBF-85B8-CFC9E7837323/0/se_root_cause_analysis_matrix.pdf, last viewed on February 22, 2007

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** Anticipated one-time costs of \$7,500 to \$10,000 will be incurred from existing budget resources for the development of a WEB reporting tool. This will allow facility

reporters to submit their report on line, allowing them to track their reports, and allowing the Department of Health staff to conduct data analysis.

❖ **LOCAL GOVERNMENTS:** If a local government owns a healthcare facility, this may have an indirect impact on the subsidy it is providing to that facility. Currently, there are only a few that fall in this category and are rural. The incidence of these types of events in rural facilities tends to be low, due to the low number of hospital days. The impact will be negligible especially after the WEB reporting system is put into place and the process has been streamlined.

❖ **OTHER PERSONS:** There will be a limited financial impact. Using a best case scenario in which reporting would go from an average of 40 a year to what is estimated to be 400 a year, aggregate costs for reporting at 30 minutes per event would result in about 200 hours per year spread across approximately 50 hospitals. Depending on size of hospital and numbers of hospitalizations, the actual costs will vary. The additional 200 hours at \$50 per hour would result in \$10,000 per year for reporting. As events are better identified and root causes revealed and corrected, overall costs to the consumer and facilities should improve with improved process for prevention of hospital errors. This rule has been reviewed by the Utah Hospital Association and it has determined that there will be minimal impact on existing accredited facilities. With the expansion of the rule into the emergency room and intensive care units, non-accredited facilities may have some impact but they tend to be rural where there is also limited number of hospitalizations. Non-accredited facilities make up a small proportion of the overall industry patient hospital days in Utah. It is estimated that costs accrued to this sector would result in about one-fourth of the total costs or about \$2,500 per year.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A facility that is JCAHO accredited already provides essentially the same reports to JCAHO, so the additional cost to provide the information is approximately \$25 per event. Hospitals in Utah that are not JCAHO accredited are rural hospitals. Rural Utah hospitals owned by major corporations already gather this information. There are only six rural Utah hospitals that are not owned by major corporations. For those six hospitals, the estimated cost under this rule is \$150 per event, but because there are so few reportable incidents for all non-accredited hospitals, it is not possible to estimate the total cost for any one non-accredited facility.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Improvements in patient care justify the very small fiscal impact this rule will have on business. David N. Sundwall MD, Executive Director

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

HEALTH
 ADMINISTRATION
 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:

Iona Thraen at the above address, by phone at 801-538-6471, by FAX at 801-538-7053, or by Internet E-mail at ithraen@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 04/23/2007

AUTHORIZED BY: David N. Sundwall, Executive Director

R380. Health, Administration.**R380-200. Patient Safety Sentinel Event Reporting.****R380-200-2. Definitions.**

"Contaminated" means contamination that can be seen with the naked eye, or with use of detection mechanisms in general use, as they become reported or known to the health care facility.

"Facility" means a general acute hospital, critical access hospital, ambulatory surgical center, psychiatric hospital, orthopedic hospital, rehabilitation hospital, chemical dependency/substance abuse hospital or [chronic disease]long-term acute care hospital as those terms are defined in Title 26, Chapter 21.

"Incident facility" means a facility where the patient safety sentinel event occurred.

"Medication Error" means medication administration:

- (a) of a drug other than as prescribed or indicated;
- (b) of a dose other than as prescribed or indicated;
- (c) to a patient who was not prescribed the drug;
- (d) at a time other than prescribed or indicated;
- (e) at a rate other than as prescribed or indicated;
- (f) of a improperly prepared drug;
- (g) by a means other than as prescribed or indicated; and
- (h) administration of a medication to which the patient has a known allergy or drug interaction to the prescribed medication.

"Major permanent loss of function" means sensory, motor, physiologic, or intellectual impairment not present on admission requiring continued treatment or life-style change. When major loss of function cannot be immediately determined, applicability of the policy is not established until either the patient is discharged with continued major loss of function, or two weeks have elapsed with persistent major loss of function, whichever occurs first.

"Patient safety sentinel event" means [an event that must be reported under section 3 of this rule]an event which has resulted in an unanticipated death or major permanent loss of function, not related to the natural course of the patient's illness or underlying condition or is an unexpected occurrence involving death or serious physical or psychological injury, or the risk thereof. Serious injury specifically includes loss of limb or function. The phrase "or the risk thereof" includes any process variation for which a recurrence would carry a significant chance of adverse outcome. Such events are called "sentinel" because they signal the need for immediate investigation and response.

"Root cause analysis" means a process for identifying the basic or causal factor(s) that underlie variation in performance, resulting in the occurrence or possible occurrence of a patient safety sentinel event.

R380-200-3. Reporting of Patient Safety Sentinel Events.

(1) Each facility shall report to the Department all patient safety sentinel events within seventy-two hours of the facility's determination that a patient safety event may have occurred, but in no event later than four hours prior to convening a formal root cause analysis.

(2) Patient safety sentinel events include:

(a) [all deaths that occur at the facility and that are directly related to any clinical service or process provided to a patient for which the patient at the time of death:

- (i) was not subject to a "do not resuscitate" order;
- (ii) was not in a critical care unit, except where the patient is transferred to a critical care unit as a consequence of a patient safety sentinel event that occurs elsewhere in the facility;
- (iii) was not in the emergency room or operating room having presented in the last 24 hours with a Glasgow score of 9 or lower;
- (b) events that occur in the facility and that are directly related to any clinical service or process provided to a patient and which result in:

- (i) surgery on the wrong patient or wrong body part;
- (ii) suicide of a patient; or
- (iii) major loss of physical or mental function not related to the natural course of the patient's illness or underlying condition; and
- (c) events that occur in the facility and that are not directly related to clinical services provided to a patient and which result in an alleged:

- (i) patient abduction;
- (ii) discharge of an infant to the wrong family;
- (iii) rape of a patient;
- (iv) intentional injury to a patient, whether by staff or others;

or

- (v) suicide of a patient.]Surgical Events:
- (i) Surgery performed on the wrong body part;
- (ii) Surgery performed on the wrong patient;
- (iii) Incorrect surgical procedure performed on a patient;
- (iv) Retention of a foreign object in a patient after surgery or other procedure, except for:

(A) objects intentionally implanted as a part of a planned intervention;

(B) objects present prior to surgery that were intentionally left in place, and

(C) broken microneedles; and

(v) Intraoperative or immediately post-operative death of a patient who the facility classified prior to surgery as Anesthesia Surgical Assessment Class I. "Intraoperative" means literally during surgery. "Immediately post-operative" means within 24 hours after surgery, or other invasive procedure was completed, or after induction of anesthesia if surgery not completed.

(b) Product or Device Events.

(i) Patient death or disability arising from the use of contaminated drugs, devices, or biologics provided by the facility.

(ii) Patient death or disability associated with the use or function of a device in patient care in which the device is used for an off-label use, except where the off-label use is pursuant to informed consent.

(iii) Patient death or disability associated with intravascular air embolism that occurs while being cared for in the facility, except for intravascular air emboli associated with neurosurgical procedures.

(c) Patient Protection Events.

(i) Infant discharged to the wrong person;

(ii) Patient death or disability arising from a patient elopement or the disappearance of other than competent adults;

(iii) Patient suicide while in the facility or within 72 hours of discharge.

(d) Care management Events.

(i) Patient death or major permanent loss of function arising from a medication error;

(ii) Patient death or major permanent loss of function arising from a hemolytic reaction due to the administration of ABO/HLA incompatible blood or blood products;

(iii) Maternal death or major permanent loss of function in a low-risk pregnancy arising from labor or delivery while being cared for in a facility, except deaths from pulmonary or amniotic fluid embolism, acute fatty liver of pregnancy or cardiomyopathy. "Low Risk Pregnancy" refers to a woman aged 18-39, with no previous diagnosis of essential hypertension, renal disease, collagen-vascular disease, liver disease, cardiovascular disease, placenta previa, multiple gestation, intrauterine growth retardation, smoking, pregnancy-induced hypertension, premature rupture of membranes, or other previously documented condition that poses a high risk of poor pregnancy outcome.

(iv) Unanticipated death of a full-term newborn;

(v) Patient death or major permanent loss of function arising from hypoglycemia, the onset of hypoglycemia which occurs while the patient is being cared for in the facility;

(vi) Kernicterus associated with failure to identify and treat hyperbilirubinemia, bilirubin greater than 30 milligrams per deciliter, in neonates.

(vii) Stage 3 or 4 pressure ulcers acquired after admission to the facility, except for pressure ulcers that progress from stage 2 to stage 3, if the stage 2 ulcer was documented upon admission.

(viii) Patient death or major permanent loss of function due to spinal manipulative therapy; and

(ix) Prolonged fluoroscopy with cumulative dose greater than 1500 rads to a single field;

(x) Radiotherapy to the wrong body region;

(xi) Radiotherapy greater than 25% above the prescribed radiotherapy dose; and

(xii) Death or major permanent loss of function related to a health care acquired infection.

(e) Environmental Events.

(i) Patient death or major permanent loss of function arising from an electric shock while being cared for at a health care facility, excluding emergency defibrillation in ventricular fibrillation and electroconvulsive therapies;

(ii) Any incident in which a line designated for oxygen or other gas to be delivered to a patient contains the wrong gas or is contaminated by a toxic substance;

(iii) Patient death or major permanent loss of function arising from a burn incurred from any source while being cared for in a facility;

(iv) Patient death or major permanent loss of function associated with the use of restraints or bedrails while being cared for in a facility; and

(v) Patient death or major permanent loss of function arising from a fall while being cared for in a health care facility, including fractures and intracranial hemorrhage.

(f) Criminal Events.

(i) Any care ordered by or provided by someone impersonating a physician, nurse, pharmacist, or other licensed or certified health care provider;

(ii) Abduction of a patient of any age;

(iii) Non-consensual sexual contact on a patient, staff member, or visitor by another patient, staff member or unknown perpetrator while on the premises of the facility; or

(iv) Patient death or major permanent loss of function resulting from a criminal assault or battery that occurs on the premises of the health care facility.

(3) If a facility suspects that a patient safety sentinel event may have occurred to a patient who was transferred from another facility, the receiving facility shall report the suspected patient safety sentinel event to the facility that initiated the transfer.

~~— (3) The incident facility shall report the patient safety sentinel event to the Department within seventy-two hours of the facility's determination, but in no event later than four hours prior to convening a formal root cause analysis.~~

(4) The report shall be submitted in a Department-approved paper or electronic format and shall include at a minimum:

~~(a) the specific unit within the facility where the patient safety sentinel event occurred;~~

~~(b) the patient's age and gender;~~

~~(c) the patient's admitting diagnosis;~~

~~(d) each of the patient's current or discharge diagnoses;~~

~~(e) a short narrative description of the patient safety sentinel event; and~~

~~(f) the name and phone number of the facility lead individual who will lead the facility's root cause analysis for the reported event.]~~

(b) patient information;

(c) event information

(d) type of occurrence;

(e) analysis;

(f) corrective action.

R380-200-4. Root Cause Analysis.

(1) The incident facility shall establish a root cause analysis process and designate a responsible individual to be the facility lead for each patient safety sentinel event.

(2) The Department representative may participate in the facility's root cause analysis in a consultative role with the facility lead to enhance the credibility and thoroughness of the root cause analysis. The Department shall notify the facility lead within 72 hours of receiving the report of the patient safety sentinel event if it intends to participate in the facility's root cause analysis. The Department representative shall not be present at the facility's internal root cause analysis meetings unless invited by the facility lead.

(3) Participation in the facility's root cause analysis by the Department representative shall not be construed to imply Department endorsement of the facility's final findings or action plan.

(4) The incident facility and the Department shall each make reasonable accommodations when necessary to allow for the Department representative's participation in the root cause analysis.

(5) If, during the review process, the Department representative discovers problems with the facility's processes that limit either the thoroughness or credibility of the findings or recommendations, the representative shall report these to the designated responsible individual orally within 24 hours of discovery and in writing within 72 hours.

(6) The facility shall conduct a root cause analysis which is timely, thorough and credible to determine whether [a-]reasonable

system changes would likely prevent a patient safety sentinel event in similar circumstances.

(7) The root cause analysis shall:

(a) focus primarily on systems and processes, not individual performance;

(b) progress from specific, direct causes in clinical processes to contributing causes in organizational processes;

(c) seek to determine related and underlying causes for identified causes; and

(d) identify changes which could be made in systems and processes, either through redesign or development of new systems or processes, that would reduce the risk of such events occurring in the future.

(8) The Department shall determine the root cause analysis to be thorough if it:

(a) involves a complete review of the patient safety sentinel event including interviews with all readily identifiable witnesses and participants and a review of all related documentation;

(b) identifies the human and other factors in the chain of events leading to the final patient safety sentinel event, and the process and system limitations related to their occurrence;

(c) searches readily retrievable records to analyze the underlying systems and processes to determine where redesign might reduce risk;

(d) inquires into all areas appropriate to the specific type of event as described in the Joint Commission for the Accreditation of Healthcare Organizations' "Root Cause Analysis Matrix, Minimum Scope of Root Cause Analysis for Specific Types of Sentinel Events - October 2005" found at <http://www.jcaho.org/sentinel/reamatrix.html>, last viewed on June 1, 2004 ~~http://www.jointcommission.org/NR/rdonlyres/3CB064AC-2CEB-4CBF-85B8-CFC9E7837323/0/se_root_cause_analysis_matrix.pdf~~, last viewed on February 22, 2007, which is incorporated by reference.

(e) makes reasonable attempts to identify and analyze trends of similar events which have occurred at the facility in the past;

(f) identifying risk points and their potential contributions to this type of event; and

(g) determines potential improvement in processes or systems that would tend to decrease the likelihood of such events in the future, or determining, after analysis, that no such improvement opportunities exist.

(9) The Department shall determine the root cause analysis to be credible if it:

(a) is led by someone with training in root cause analysis processes and who was not involved in the patient safety sentinel event;

(b) involves, if necessary, consultation with either internal or external experts in the processes in question who were not involved in the patient safety sentinel event;

(c) includes participation by the leadership of the organization and by the individuals most closely involved in the processes and systems under review;

(d) is internally consistent, i.e., not contradicting itself or leaving obvious questions unanswered;

(e) provides an explanation for all findings of "not applicable" or "no problem;" and

(f) includes consideration of relevant, available literature.

R380-200-5. Reports and Action Plan.

(1) Within ~~45~~60 calendar days of determination of the patient safety sentinel event, the incident facility shall ~~develop~~submit a final report with an action plan that:

(a) identifies changes that can be implemented to reduce risk, or formulates a rationale for not implementing changes; and

(b) where improvement actions are planned, identifies who is responsible for implementation, when the action will be implemented (including any pilot testing), and how the effectiveness of the actions will be evaluated.

(2) ~~Within 14 days of the development of the action plan,~~ The incident facility shall provide a final report to the facility's administration and the Department in a Department-approved paper or electronic format that includes:

(a) ~~a one sentence description of the patient safety sentinel event;~~

~~(b) a brief summary of each of the findings of the root cause analysis; and~~

~~(c) a brief summary of each of the action plan steps; type of harm;~~

~~(b) contributing factors;~~

~~(c) actions taken.~~

~~(4)3~~ If the Department representative identifies problems with the processes that limit the thoroughness or credibility of the findings and recommendations and that have not been corrected after reporting them to the designated responsible individual, the representative may submit a separate written dissenting report to the administrator of the incident facility, and the Department.

~~(5)4~~ The incident facility may seek review of the dissenting report by filing a request for agency as allowed by the Utah Administrative Procedures Act and Department rule. If a dissenting report is not challenged or is upheld on review:

(a) the facility shall include it in the facility's records of the root cause analysis; and

(b) the Department may forward it, together with the facility's report, to the appropriate state agencies responsible for licensing the facility.

R380-280-8. Advisory Panel.

The department shall establish a multi-disciplinary advisory panel to assist it in carrying out its responsibilities under this rule. Representatives from facilities that are required to report under this rule shall be included as members of the advisory panel.

R380-200-~~8~~9. Penalties.

As required by Section 63-46a-3(5): An entity that violates any provision of this rule may be assessed a civil money penalty not to exceed the sum of \$5,000 or be punished for violation of a class B misdemeanor for the first violation and for any subsequent similar violation within two years for violation of a class A misdemeanor as provided in Section 26-23-6.

KEY: hospital, ~~injury prevention~~sentinel event, quality improvement, patient safety

Date of Enactment or Last Substantive Amendment: ~~October 15, 2004~~2007

Notice of Continuation: October 10, 2006

Authorizing, and Implemented or Interpreted Law: 26-1-30(2)(a); 26-1-30(2)(b); 26-1-30(2)(d); 26-1-30(2)(e); 26-1-30(2)(g); 26-3-8

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**Health, Community and Family Health
Services, Immunization
R396-100
Immunization Rule for Students**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 29547

FILED: 02/26/2007, 10:07

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change is necessary to align current immunization requirements with national recommendations for the Tetanus/Diphtheria/acellular Pertussis (Tdap) requirement for 7th grade entry and for two doses of Measles/Mumps/Rubella (MMR) vaccine for school entry. Current national recommendations by the national Advisory Committee on Immunization Practices (ACIP) recommend Tdap vaccine for adolescents and two doses of MMR for children and adolescents. Current Utah requirements include only Tetanus/Diphtheria for 7th grade entry and two doses of measles for kindergarten through grade twelve. This rule change would clarify requirements and meet national recommendations for these two vaccinations. The rule change would allow either Tdap or Td to satisfy the requirement and allow previous receipt of two doses of measles to be accepted.

SUMMARY OF THE RULE OR CHANGE: The changes require Tdap or Td vaccine for 7th grade entry instead of only Td and require two doses of MMR vaccine for entry into kindergarten through grade twelve instead of 1 MMR and 1 dose of measles. The amendments also update the incorporated materials to current national standards.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 53A-11-303 and 53A-11-306

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: General Recommendations on Immunization: December 1, 2006/Vol.55/No. RR-15; Preventing Tetanus, Diphtheria, and Pertussis Among Adolescents: Use of Tetanus Toxoid, Reduced Diphtheria Toxoid and Acellular Pertussis Vaccines: March 24, 2006/ Vol. 55/No. RR-3; A Comprehensive Strategy to Eliminate Transmission of Hepatitis B Virus Infection in the United States: December 23, 2005/Vol. 54/No. RR-6; Updated Recommendations of the Advisory Committee on Immunization Practices (ACIP) for the Control and Elimination of Mumps: June 9, 2006/Vol. 55/No. 22; and Prevention of Hepatitis A Through Active or Passive Immunization: May 29, 2006/Vol. 55/No. RR-7

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** Tetanus/Diphtheria (Td) or Tetanus/Diphtheria/Acellular Pertussis (Tdap) -Tetanus/Diphtheria booster is already required for 7th grade entry. Td or Tdap would be acceptable, so it is difficult to estimate the amount of students who would receive Tdap instead of Td. Measles, Mumps, Rubella (MMR) - Two doses of measles have been required kindergarten through grade twelve since 1999. Most children already receive two doses of MMR vaccine as single antigen because measles vaccine is not routinely administered without the mumps and rubella antigens. As such, the impact to state budget would be negligible.

❖ **LOCAL GOVERNMENTS:** Publicly funded vaccines are currently provided to local health departments at no cost to the local health departments through the federal Vaccines For Children program to cover children on Medicaid, CHIP, without insurance, who are American Indian/Alaskan Native and those who are underinsured. Local health departments choosing to serve children with private health insurance with vaccines as a covered service would have to purchase vaccine and be reimbursed by contracts with insurance providers. As a public entity, they may purchase at a lower Center for Disease Control contract price.

❖ **OTHER PERSONS:** Approximately 52% of children receive immunizations outside of public clinics. Their immunizations are paid for by insurance plans, Medicaid, and CHIP. All children who are not covered by insurance for these vaccines qualify to receive them at no charge under the federal Vaccines For Children program. Td and MMR have been a standard immunization for many years and have been covered by insurance providers in the state. Tdap has been the ACIP/national standard for almost two years and is covered by insurance. The Department of Health knows of no insurance plan that does not cover required childhood immunizations, so this change will not be imposing an additional cost to them.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Except for the change from the Td vaccine to the Tdap vaccine, the updates to the incorporated materials do not impose additional costs. Inasmuch as children's vaccinations are covered by either insurance or are available under the Vaccine For Children program, there is no cost to any individuals. Insurance payors that cover vaccinations are already following the ACIP guidelines that prescribe Tdap instead of Td, so this rulemaking will impose no additional burden.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Protecting Utah children from preventable diseases through this immunization requirement update is consistent with national standards. The small fiscal impact is justified. David N. Sundwall, MD, Executive Director

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

HEALTH
COMMUNITY AND FAMILY HEALTH SERVICES,
IMMUNIZATION
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:

Linda Abel at the above address, by phone at 801-538-9450, by FAX at 801-538-9440, or by Internet E-mail at label@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 04/23/2007

AUTHORIZED BY: David N. Sundwall, Executive Director

R396. Health, Community and Family Health Services, Immunization.

R396-100. Immunization Rule for Students.

R396-100-3. Required Immunizations.

(1) A student born before July 1, 1993 must meet the minimum immunization requirements of the ACIP prior to school entry for the following antigens: Diphtheria, Tetanus, Pertussis, Polio, Measles, Mumps, and Rubella.

(2) A student born after July 1, 1993 must meet the minimum immunization requirements of the ACIP prior to school entry for the following antigens: Diphtheria, Tetanus, Pertussis, Polio, Measles, Mumps, Rubella, and Hepatitis B.

(3) ~~[Commencing July 1, 2006, a]~~ A student born after July 1, 1993, must also meet the minimum immunization requirements of the ACIP prior to entry into the seventh grade for the following antigens: ~~[Adult]~~ Tetanus, ~~[/]~~ Diphtheria, Pertussis and Varicella.

(4) A student born after July 1, 1996 must meet the minimum immunization requirements of the ACIP prior to school entry for the following antigens: Diphtheria, Tetanus, Pertussis, Polio, Measles, Mumps, Rubella, Hepatitis B, Hepatitis A, and Varicella.

(5) To attend a Utah early childhood program, a student must meet the minimum immunization requirements of the ACIP for the following antigens: Diphtheria, Tetanus, Pertussis, Polio, Measles, Mumps, Rubella, and Haemophilus Influenza Type b prior to school entry.

(6) The vaccinations must be administered according to the recommendations of the United States Public Health Service's Advisory Committee on Immunization Practices (ACIP) as listed below which are incorporated by reference into this rule:

(a) General Recommendations on Immunization: ~~[February 8, 2002/Vol. 51/No. RR-2]~~ December 1, 2006/Vol. 55/No. RR-15;

(b) Immunization of Adolescents: November 22, 1996/Vol. 45/No. RR-13;

(c) Combination Vaccines for Childhood Immunization: May 14, 1999/Vol. 48/No. RR-5;

(d) Diphtheria, Tetanus, and Pertussis: Recommendations for Vaccine Use and Other Preventive Measures: August 8, 1991/Vol. 40/No. RR-10;

(e) Pertussis Vaccination: Use of Acellular Pertussis Vaccines Among Infants and Children: March 28, 1997/Vol. 46/No. RR-7;

(f) Use of Diphtheria Toxoid-Tetanus Toxoid-Acellular Pertussis Vaccine as a Five-Dose Series: Supplemental

Recommendations of the Advisory Committee on Immunization Practices: November 17, 2000/Vol. 49/No. RR-13;

(g) ~~[Protection Against Viral Hepatitis: February 9, 1990/Vol. 39/No. RR-2;]~~ Preventing Tetanus, Diphtheria, and Pertussis Among Adolescents: Use of Tetanus Toxoid, Reduced Diphtheria Toxoid and Acellular Pertussis Vaccines: March 24, 2006/Vol. 55/No. RR-3;

(h) ~~[Hepatitis B:—]~~ A Comprehensive Strategy ~~[for—]~~ to Eliminate ~~[Eliminating]~~ Transmission of Hepatitis B Virus Infection in the United States ~~[Through Universal Childhood Vaccination: November 22, 1991/Vol. 40/No. RR-13]~~ December 23, 2005/Vol. 54/No. RR-6;

(i) Haemophilus b Conjugate Vaccines for Prevention of Haemophilus influenzae Type b Disease Among Infants and Children Two Months of Age and Older: January 11, 1991/Vol. 40/No. RR-1;

(j) Recommendations for Use of Haemophilus b Conjugate Vaccines and a Combined Diphtheria, Tetanus, and Pertussis, and Haemophilus b Vaccine: September 17, 1993/Vol. 42/No. RR-13;

(k) Measles, Mumps, and Rubella-Vaccine Use and Strategies for Elimination of Measles, Rubella, and Congenital Rubella Syndrome and Control of Mumps: May 22, 1998/Vol. 47/No. RR-8;

(l) Updated Recommendations of the Advisory Committee on Immunization Practices (ACIP for the Control and Elimination of Mumps: June 9, 2006/Vol. 55/No. 22;

(m) Poliomyelitis Prevention in the United States: May 19, 2000/Vol. 49/No. RR-5;

~~[(m)]~~(n) Prevention of Varicella: July 12, 1996/Vol. 45/No. RR-11;

~~[(n)]~~(o) Prevention of Varicella: Updated Recommendations of the Advisory Committee on Immunization Practices: May 28, 1999/Vol. 48/No. RR-6; and

~~[(o)]~~(p) Prevention of Hepatitis A Through Active or Passive Immunization: ~~[October 1, 1999/Vol. 48/No. RR-12]~~ May 29, 2006/Vol. 55/No. RR-7.

R396-100-6. Reporting Requirements.

(1) Each school and early childhood program shall report the following to the Department in the form or format prescribed by the Department:

(a) by November 30 of each year, a statistical report of the immunization status of students enrolled in a licensed day care center, Head Start program, and kindergartens;

(b) by November 30 of each year, a statistical report of the two-dose measles, mumps, and rubella immunization status of all kindergarten through twelfth grade students;

(c) by November 30 of each year, a statistical report of tetanus, diphtheria, ~~[tetanus,]~~ pertussis, hepatitis B, varicella, and the two-dose measles, mumps, and rubella immunization status of all seventh grade students; and

(d) by June 15 of each year, a statistical follow-up report of those students not appropriately immunized from the November 30 report in all public schools, kindergarten through twelfth grade.

(2) The information that the Department requires in the reports shall be in accordance with the Centers for Disease Control and Prevention guidelines.

KEY: immunization, rules and procedures

Date of Enactment or Last Substantive Amendment: ~~[July 21, 2005]~~ 2007

Notice of Continuation: April 24, 2003
Authorizing, and Implemented or Interpreted Law: 53A-11-303; 53A-11-306

◆ ————— ◆

**Health, Health Care Financing,
 Coverage and Reimbursement Policy**
R414-70
**Medical Supplies, Durable Medical
 Equipment, and Prosthetic Devices**

NOTICE OF PROPOSED RULE

(New Rule)
 DAR FILE No.: 29535
 FILED: 02/21/2007, 11:19

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Subsection 26-18-3(2) requires the Department to implement Medicaid policy into rule. This rule implements Medicaid policy regarding disposable medical equipment and disposable medical supplies.

SUMMARY OF THE RULE OR CHANGE: This is a new rule that outlines eligibility and program access requirements for durable medical equipment and disposable medical supplies. It also outlines service coverage for these items and specifies coverage in long term care facilities. In addition, the rule lists noncovered items and specifies reimbursement methodology.

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There is no budget impact because the program was previously implemented by policy and is now implemented by rule.
- ❖ LOCAL GOVERNMENTS: There is no budget impact because the program was previously implemented by policy and is now implemented by rule.
- ❖ OTHER PERSONS: There is no budget impact because the program was previously implemented by policy and is now implemented by rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because the program was previously implemented by policy and is now implemented by rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rule adoption should be continued to curb unnecessary expenditures in the Medicaid program for durable medical equipment that is not medically necessary. No change in current Medicaid policies. David N. Sundwall, MD, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Don Hawley or Craig Devashrayee at the above address, by phone at 801-538-6483 or 801-538-6641, by FAX at 801-538-6099 or 801-538-6099, or by Internet E-mail at dhawley@utah.gov or cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 04/24/2007

AUTHORIZED BY: David N. Sundwall, Executive Director

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

R414-70. Medical Supplies, Durable Medical Equipment, and Prosthetic Devices.

R414-70-1. Introduction and Authority.

(1) Medically necessary medical supplies, including disposable medical supplies, durable medical equipment, and prosthetic devices are available to recipients who are living at home.

(2) This rule is authorized by Sections 26-18-3 and 26-1-5, Utah Code Annotated.

(3) The authority for this program is found in 42 CFR 440.120(c), 440.130(d), 441.15(a)(3), and 440.70(b)(3).

R414-70-2. Definitions.

(1) Medical supplies means items for medical use that are disposable or semi-disposable and are non-reusable.

(2) "Durable medical equipment" (DME) is equipment that:

(a) can withstand repeated use;

(b) is primarily and customarily used to serve a medical purpose;

(c) generally is not useful to a person in the absence of an illness or injury; and

(d) is appropriate for use in the home.

(3) "Prosthetic device" means replacement, corrective, or supportive devices such as braces, orthoses or prosthetic limbs, but not wheelchairs and standers, prescribed by physician or other licensed practitioner of the healing arts within the scope of his practice as defined by state law to:

(a) artificially replace a missing portion of the body;

(b) prevent or correct physical deformities or malfunction; or support a weak or deformed portion of the body, see 42 CFR 440.120.

(4) "Standard wheelchair" is a wheelchair that generally satisfies the needs of an average-sized patient, is fabricated to withstand normal usage and body weight, and has brakes and armrests. A standard wheelchair includes any stock frame and stock components or attachments assembled to fit the patient needs which can be reused and reconfigured for another patient.

(5) "Customized wheelchair" is a wheelchair that is uniquely constructed or substantially modified, such as with a customized frame, for a specific recipient. A stock wheelchair with additional stock components, attachments, or specially configured options or accessories is not a customized wheelchair.

R414-70-3. Recipient Eligibility Requirements.

Disposable medical supplies, DME, and prosthetic devices are available to categorically and medically needy eligible individuals.

R414-70-4. Program Access Requirements.

(1) Supplies, DME, and prosthetics are covered benefits for recipients who reside at home through medical suppliers and specialty prosthetic vendors. Recipients residing in long term care facilities will receive supplies, DME and prosthetics as described in Section R414-70-9. (2) All supplies, DME, and prosthetics require a physician's order, must be documented in the plan of care, and must be medically necessary. A physician must review and verify the continuing need for the items at least annually and more frequently as needed for prior authorization.

(3) Supplies, DME, and prosthetics are for use by a recipients who reside at home and for use in the home. They may be used in conjunction with home health agency nursing if necessary.

R414-70-5. Disposable Medical Supplies.

(1) Supplies are limited to the quantity determined by Medicaid to be medically necessary for average medical use for one month. Additional supplies may be provided if the recipient demonstrates medical necessity to the Department.

(2) Disposable supplies include:

(a) surgical stockings, limited to replacement once every six months;

(b) ostomy supplies;

(c) first aid supplies, limited to those supplies used for post surgical need, decubitus treatment, and long term dressings.

(d) urinary Catheters;

(e) syringes;

(f) diapers and briefs, limited to coverage for disabled children and adults only and are not covered for adult incontinence not associated with a disability nor for normal infant use and hygiene;

(g) sterile water, limited to recipients in the technology dependent waiver only; and

(h) miscellaneous disposable supplies, such as diabetic supplies, lancets, and blood pressure cuffs.

(3) Oxygen and related respiratory equipment are covered.

(a) Oxygen is a benefit for a recipient who resides at home or in a long term care facility. For recipients residing in a long term care facility, all oxygen equipment is the responsibility of the facility, except for oxygen concentrators.

(b) The Department may require an oxygen system to be replaced by a concentrator if it is more economical or more appropriate for the recipient's needs. Portable gaseous or liquid oxygen and oxygen systems are provided based on medical need which can not be provided by a concentrator.

R414-70-6. Durable Medical Equipment.

(1) Medically necessary durable medical equipment, such as manual and power wheelchairs, commodes, bathing aids, oxygen concentrators, hospital beds, ventilators, CPAP machines, BiPAP machines, and ambulatory aids, such as canes and crutches, are benefits for recipients residing at home. All special adaptations and design of DME is limited to utilization in the home.

(2) Medicaid covers repairs to DME.

(3) The Department will pay for a particular DME item once every five years from the original purchase date. Additional replacement DME may be provided if the recipient demonstrates medical necessity to the Department.

(4) The Department may purchase or rent DME at its option.

(5) Wheelchairs for use in the home are a benefit if the recipient's condition is of such severity that without the use of a wheelchair, the recipient would be confined to bed or chair at least 19 hours or more each day without functional ambulation.

(a) Medicaid will pay for one wheelchair for a recipient.

(b) If Medicaid has supplied a wheelchair, Medicaid will not repair or service an alternate, patient-owned wheelchair.

(c) A standard wheelchair with attachments, components or accessories; a customized, manual wheelchair; or a motorized wheelchair may be provided if the recipient demonstrates medical necessity to the Department and the wheel chair is designed for use in the home. Special attachments, accessories and modifications for use outside the home are not covered.

(d) The recipient or primary care giver must be capable of routine wheelchair care and management.

(e) Wheelchair repairs

(i) Medicaid covers repairs for only one wheelchair. The provider must obtain authorization from the Department before making any repairs.

(ii) Repairs do not include routine maintenance, such as changing tires, inspecting the chair, changing batteries, grease, and oil.

(iii) Repairs to a rental chair are not a benefit.

(iv) Re-upholstery is a benefit if the warranty has expired, the original upholstery is beyond repair, not the result of abuse and neglect, and is medically necessary.

(f) A recipient who requires a wheelchair for employment, vocational development, or educational purposes must seek this benefit through the appropriate funded state agency. Medicaid coverage is limited to use in the home and not for employment, educational, or recreational needs.

R414-70-7. Prosthetic Devices and Appliances.

(1) Prosthetic devices, hearing aids, special orthopedic appliances, braces, and orthoses are covered. DME devices including wheelchairs and standers are not prosthetic devices under this rule.

(2) Repairs and parts for artificial limbs are a benefit if medically necessary.

(3) Attachments and modifications to artificial limbs are a benefit.

(4) Duplicative appliances such as an artificial leg plus a wheelchair are not a benefit unless there is documentation that it is medically necessary to have both devices.

(5) The Department will pay for a particular item once every five years from the original purchase date. A replacement prosthetic device may be provided more often but only if the recipient demonstrates medical necessity to the Department.

R414-70-8. Medical Supplies, DME and Prosthetics in Long Term Care Facilities.

All medical supplies, DME, and prosthetics for recipients in a long term care facility are provided by the facility under the per diem, except:

- (1) oxygen concentrators;
- (2) customized or power wheelchairs;
- (3) repairs to customized or power wheelchairs;
- (4) medically necessary braces and prosthetic devices;
- (5) specialized wound care and decubitus supplies and equipment, including special mattresses and overlays;
- (6) oxygen. Oxygen is limited to the gas product itself. All oxygen equipment or systems to deliver or administer the oxygen is covered under the per diem.

R414-70-9. Non Covered Items.

The following are not benefits:

- (1) Items used primarily for hygiene, education, exercise, convenience, cosmetic purposes, social interaction, or comfort of the recipient.
- (2) Modifications of DME or supplies for reasons of convenience, cosmetics, or comfort.
- (3) DME for use outside the home, including wheelchair, wheelchair attachments, accessories and modifications for use outside the home.
- (4) Equipment permanently attached or mounted to a building or a vehicle such as ramps, lifts, and bathroom rails.
- (5) Routine maintenance such as cleaning, greasing and oiling of purchased equipment.
- (6) Repairs to DME or prosthetic devices if:
 - (a) the recipient does not own the device or use the device in his home;
 - (b) the repair or part is for equipment which is not a benefit;
 - (c) the repair is covered by a warranty; or
 - (d) the damage is the result of abuse or neglect.
- (7) First aid supplies not referenced in Section 5(2)(c).
- (8) Non-medical supplies, devices, or products that are not primarily and customarily used to serve a medical purpose or generally are not useful to an individual in the absence of an illness or injury
- (9) Lifts in furniture to aid a patient to a standing position;
- (10) Specialized or non-standard tires or wheels on wheelchairs are not a benefit unless medically necessary for use in the patient's home.
- (11) Cervical pillows;
- (12) Shoes not attached to a brace;
- (13) Shoe repair;
- (14) Non-prescription braces and supports;
- (15) Reflux boards;
- (16) Items purchased by the patient through mail order;
- (17) A second oxygen system; and
- (18) Glucose monitors.

R414-70-10. Reimbursement.

Medical supplies, DME and prosthetic devices are reimbursed using the established fee schedule as established in the Utah Medicaid State Plan and incorporated by reference in R414-1-5.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: 2007

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3



Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-303-17
Personal Assistance Waiver for Adults
with Physical Disabilities

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29543

FILED: 02/22/2007, 12:50

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment is necessary to change the way a spenddown is determined for individuals eligible for the Physical Disabilities Waiver to meet requirements set by the Centers for Medicare and Medicaid Services. It changes the calculation to match the way spenddown is calculated for non-waiver clients.

SUMMARY OF THE RULE OR CHANGE: In order to match the level of spenddown for non-waiver clients, this rule changes the level of spenddown for individuals eligible for the Physical Disabilities Waiver. This allows a Physical Disabilities Waiver client to retain income equal to the 100% federal poverty rate for one person instead of spending down to the basic maintenance standard. It also adds language to comply with the provisions of the Deficit Reduction Act of 2005, Pub. L. No. 109-171, that restrict waiver services when a person has over \$500,000 in home equity.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 42 CFR 435.726, 435.832 and 435.217, 2006 ed.; Section 1915(c) of the Social Security Act, January 1, 2005

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There is no cost at this time because there are no waiver clients who pay a spenddown. Nevertheless, increasing the spenddown income limit could reduce the amount of spenddown the state may collect. There have never been more than two individuals who have had to spenddown to meet eligibility. Assuming that two individuals would spenddown under the amendments, the state would collect \$10,440 less per year, which is split between federal and state funds. The reduction is the difference between the federal poverty rate and the basic

maintenance standard, which is a difference of \$435 a month per individual. The Department has no experience to estimate the impact of the \$500,000 home equity limit as no client has had home equity at that level.

❖ LOCAL GOVERNMENTS: There is no budget impact because local governments do not determine Medicaid eligibility and are not affected by the spenddown changes.

❖ OTHER PERSONS: Other persons will experience no savings because at this time there are no individuals who pay a spenddown on the Physical Disabilities Waiver. Nevertheless, the formula for aggregate savings is the difference between the 100% federal poverty rate and the basic maintenance standard times the number of individuals on the Physical Disabilities Waiver who must pay a spenddown. There have never been more than two individuals who have had to spenddown to meet eligibility. Assuming that two individuals would spenddown under the amendments, the individuals would collectively save \$10,440 less per year. The reduction is the difference between the federal poverty rate and the basic maintenance standard, which is a difference of \$435 a month per individual. The Department has no experience to estimate the impact of the \$500,000 home equity limit as no client has had home equity at that level.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because there are only savings for an individual who pays a spenddown on the Physical Disabilities Waiver.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change is required by changes in federal policy. Fiscal impact should be minimal. David N. Sundwall, MD, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gayle M. Six or Craig Devashrayee at the above address, by phone at 801-538-6895 or 801-538-6641, by FAX at 801-538-6952 or 801-538-6099, or by Internet E-mail at gaylesix@utah.gov or cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 04/24/2007

AUTHORIZED BY: David N. Sundwall, Executive Director

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

R414-303. Coverage Groups.

R414-303-17. ~~Personal Assistance~~Physical Disabilities Waiver for Adults with Physical Disabilities].

(1) The Department adopts 42 CFR 435.726, 435.832 and 435.217, ~~2001~~2006 ed., which are incorporated by reference. The Department adopts Title XIX of the Social Security Act, Section 1915(c) in effect January 1, ~~2004~~2005, which is incorporated by reference.

(2) The Department operates this program statewide with a limited number of slots, and eligibility for this waiver is limited to individuals 18 years of age and over.

(3) The individual must meet non-financial criteria for Aged, Blind, or Disabled Medicaid.

(4) A client must qualify for a nursing home level of care. Eligibility is limited to those referred by the Division of Services to People with Disabilities and determined medically eligible by the Bureau of Medicare/Medicaid Program Certification and Resident Assessment.

(5) A client's resources must be equal to or less than \$2000. The spousal impoverishment resource provisions for married, institutionalized clients in R414-305-3 apply to this rule.

(6) Countable income is determined using income rules of Aged, Blind, or Disabled Institutional Medicaid. All income is counted, unless excluded under other federal laws that exclude certain income from being counted to determine eligibility for federally-funded, needs-based medical assistance. After determining countable income, eligibility is determined counting only the gross income of the client.

(7) The client's income can not exceed three times the SSI benefit amount payable under Section 1611(b)(1) of the Social Security Act, except that individuals with income over this amount can spenddown to ~~the Medicaid Basic Maintenance Standard for a household of one.~~become eligible. To determine the spenddown amount, the income rules for non-institutionalized aged, blind or disabled individuals in R414-304 apply except that income is not deemed from the client's spouse.

(8) Transfer of resource provisions described in R414-305-6 apply to this rule.

(9) The Department does not pay for waiver services when an individual has home equity that exceeds the limit set forth by the Deficit Reduction Act of 2005, Pub. L. 109-171.

(a) That limit is the minimum level allowed under the Deficit Reduction Act of 2005, Pub. L. 109-171.

(b) An individual who has excess home equity and meets eligibility criteria under a community Medicaid eligibility group is not disqualified from receiving Medicaid for services other than home and community-based waiver or nursing home services.

KEY: income, coverage groups, independent foster care adolescent

Date of Enactment or Last Substantive Amendment: ~~July 1, 2006~~2007

Notice of Continuation: January 31, 2003

Authorizing, and Implemented or Interpreted Law: 26-18-3; 26-1-5

◆ ————— ◆

Labor Commission, Safety
R616-2-3
Safety Codes and Rules for Boilers and
Pressure Vessels

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 29581
 FILED: 02/27/2007, 15:33

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule change is to adopt the most current edition of the American Petroleum Institute (API) in-service inspection and rating, repair, and alteration code. The Utah Labor Commission's intent is to maintain uniformity between its practices and national standards.

SUMMARY OF THE RULE OR CHANGE: The code adopted by the proposed rule is a new edition of a previously adopted code. The new edition makes relatively minor technical and editorial changes, such as: inspector qualifications; testing; inspection; and administrative dialog. Certain specified sections of the new edition are not being adopted in order to avoid conflict with existing codes and standards.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-7-101 et seq.

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: American Petroleum Institute in-service inspection and, rating, repair, and alteration code ninth edition, 2006 addenda issued June 1, 2006

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** The relatively minor changes incorporated in the new edition will not result in net costs or savings. As for the purchase of the code books, the API code, and addenda are provided by the API to jurisdictions at no cost.
- ❖ **LOCAL GOVERNMENTS:** This change does not affect local governments. The Labor Commission is the only entity that has jurisdiction over pressure vessels in refineries and chemical plants which are the only areas affected by this rule change.
- ❖ **OTHER PERSONS:** The relatively minor changes incorporated in the new edition will not result in net costs or savings since the industry has already incorporated the changes in their standard operating practices. The API code costs \$134 and includes the addenda.

COMPLIANCE COSTS FOR AFFECTED PERSONS: On balance, the proposed rule will not result in significant expense or savings to affected persons. The relatively minor changes incorporated in the new edition will not result in net costs or savings since the industry has already incorporated the changes in their standard operating practices. The API code costs \$134 and includes the addenda.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The technical changes required by this code will have no net fiscal impact on business; however, businesses enjoy competitive benefits by maintaining conformity between Utah and national standards. Sherrie Hayashi, Commissioner

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

LABOR COMMISSION
SAFETY
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:

Pete Hackford at the above address, by phone at 801-530-7605, by FAX at 801-530-6390, or by Internet E-mail at phackford@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 04/24/2007

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R616. Labor Commission, Boiler and Elevator Safety.

R616-2. Boiler and Pressure Vessel Rules.

R616-2-3. Safety Codes and Rules for Boilers and Pressure Vessels.

The following safety codes and rules shall apply to all boilers and pressure vessels in Utah, except those exempted pursuant to Section 34A-7-101, and are incorporated herein by this reference in this rule.

- A. ASME Boiler and Pressure Vessel Code (2004).
 1. Section I Rules for Construction of Power Boilers published July 1, 2004, the 2005 Addenda published July 1, 2005, and the 2006 Addenda published July 1, 2006.
 2. Section IV Rules for Construction of Heating Boilers published July 1, 2004, the 2005 Addenda published July 1, 2005, and the 2006 Addenda published July 1, 2006.
 3. Section VIII Rules for Construction of Pressure Vessels published July 1, 2004, the 2005 Addenda published July 1, 2005, and the 2006 Addenda published July 1, 2006.
 - B. Power Piping ASME B31.1 (2004), issued August 16, 2004.
 - C. Controls and Safety Devices for Automatically Fired Boilers ASME CSD-1-1998; the ASME CSD-1a-1999 addenda, issued March 10, 2000; and the ASME CSD-1b (2001) addenda, issued November 30, 2001.
 - D. National Board Inspection Code ANSI/NB-23 (2004) issued December 31, 2004, and the 2005 Addendum issued December 31, 2005.
 - E. NFPA 85 Boiler and Combustion Systems Hazard Code 2004 Edition.
 - F. Recommended Administrative Boiler and Pressure Vessel Safety Rules and Regulations NB-132 Rev. 4.

G. Pressure Vessel Inspection Code: Maintenance Inspection, Rating, Repair and Alteration API 510 [(1997); the 1998 Addenda, published December 1998, and Addendum 2, published December 2000] Ninth Edition, June 2006. Except:

1. Section-8, and
2. Appendix-A.

KEY: boilers, certification, safety

Date of Enactment or Last Substantive Amendment: ~~May 17, 2006~~ **2007**

Notice of Continuation: November 30, 2006

Authorizing, and Implemented or Interpreted Law: 34A-7-101 et seq.



Labor Commission, Safety

R616-2-3

Safety Codes and Rules for Boilers and Pressure Vessels

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29527

FILED: 02/20/2007, 11:17

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule change is to adopt the most current addenda of the National Board Inspection Code (NBIC). The Utah Labor Commission's intent is to maintain uniformity between its practices and national standards.

SUMMARY OF THE RULE OR CHANGE: The addenda adopted by the proposed rule make a large number of relatively minor technical and editorial changes, such as: material specifications; testing; inspection; and administrative dialog.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-7-101

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: National Board Inspection Code ANSI/NB-23, 2004 edition, 2006 addenda issued December 31, 2006

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** Although the addenda addresses a large number of relatively minor changes, these changes taken as a whole will not result in net costs or savings. As for the purchase of the code books, the NBIC is purchased every three years and the addenda are included in the original purchase price.

❖ **LOCAL GOVERNMENTS:** Although the addenda addresses a large number of relatively minor changes, these changes taken as a whole will not result in net costs or savings. As for the purchase of the code books, the NBIC is purchased every three years and the addenda are included in the original purchase price.

❖ **OTHER PERSONS:** Although the addenda addresses a large number of relatively minor changes, these changes taken as a whole will not result in net costs or savings. As for the purchase of the code books, the NBIC is purchased every three years and the addenda are included in the original purchase price.

COMPLIANCE COSTS FOR AFFECTED PERSONS: On balance, the proposed rule will not result in significant expense or savings to affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The technical changes required by these addenda will have no net fiscal impact on business; however, businesses enjoy competitive benefits by maintaining conformity between Utah and national standards. Sherrie Hayashi, Commissioner

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

LABOR COMMISSION
SAFETY
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:

Pete Hackford at the above address, by phone at 801-530-7605, by FAX at 801-530-6390, or by Internet E-mail at phackford@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 04/24/2007

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R616. Labor Commission, Boiler and Elevator Safety.

R616-2. Boiler and Pressure Vessel Rules.

R616-2-3. Safety Codes and Rules for Boilers and Pressure Vessels.

The following safety codes and rules shall apply to all boilers and pressure vessels in Utah, except those exempted pursuant to Section 34A-7-101, and are incorporated herein by this reference in this rule.

A. ASME Boiler and Pressure Vessel Code (2004).

1. Section I Rules for Construction of Power Boilers published July 1, 2004, the 2005 Addenda published July 1, 2005, and the 2006 Addenda published July 1, 2006.

2. Section IV Rules for Construction of Heating Boilers published July 1, 2004, the 2005 Addenda published July 1, 2005, and the 2006 Addenda published July 1, 2006.

3. Section VIII Rules for Construction of Pressure Vessels published July 1, 2004, the 2005 Addenda published July 1, 2005, and the 2006 Addenda published July 1, 2006.

B. Power Piping ASME B31.1 (2004), issued August 16, 2004.

C. Controls and Safety Devices for Automatically Fired Boilers ASME CSD-1-1998; the ASME CSD-1a-1999 addenda, issued March 10, 2000; and the ASME CSD-1b (2001) addenda, issued November 30, 2001.

D. National Board Inspection Code ANSI/NB-23 (2004) issued December 31, 2004, ~~and~~ the 2005 Addendum issued December 31, 2005, ~~and the 2006 Addendum issued December 31, 2006.~~

E. NFPA 85 Boiler and Combustion Systems Hazard Code 2004 Edition.

F. Recommended Administrative Boiler and Pressure Vessel Safety Rules and Regulations NB-132 Rev. 4.

G. Pressure Vessel Inspection Code: Maintenance Inspection, Rating, Repair and Alteration API 510 (1997); the 1998 Addenda, published December 1998, and Addendum 2, published December 2000.

KEY: boilers, certification, safety

Date of Enactment or Last Substantive Amendment: ~~February 8, 2007~~

Notice of Continuation: November 30, 2006

Authorizing, and Implemented or Interpreted Law: 34A-7-101 et seq.



Natural Resources, Wildlife Resources

R657-51

Youth Permits

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 29530

FILED: 02/21/2007, 07:50

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule was established to allow The Utah Division of Wildlife Resources (DWR) to issue one series of youth permits for the 2002 and 2003 hunting seasons through conservation organizations. The time frame for this rule is passed and the division wishes to repeal it.

SUMMARY OF THE RULE OR CHANGE: DWR wishes to repeal Rule R657-51. This rule was created to allow DWR to issue one series of youth permits for the 2002 and 2003 hunting seasons through conservation organizations. Because the season has been completed, the administrative rule is not necessary at this time. This rule is repealed in its entirety.

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 rule has served this purpose and is no longer needed. DWR determines that there are no cost or savings impacts to the state budget or DWR's budget associated with repealing this rule.

❖ LOCAL GOVERNMENTS: The repealing of this rule does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ OTHER PERSONS: This rule was established to allow DWR to issue one series of youth permits for the 2002 and 2003 hunting seasons through conservation organizations. The rule has served this purpose and is no longer needed, resulting in the repeal of this rule. The repealing of this rule does not impose any requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule was established to allow DWR to issue one series of youth permits for the 2002 and 2003 hunting seasons through conservation organizations. The rule has served this purpose and is no longer needed, resulting in the repeal of this rule. DWR determines that there are no compliance costs associated with repealing this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This filing does not create a fiscal 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:

Staci Coons at the above address, by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 04/23/2007

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

~~R657-51. Youth Permits.~~

~~R657-51-1. Purpose and Authority.~~

~~— (1) Under the authority of Sections 23-14-18 and 23-14-19 of the Utah Code, this rule provides the standards and requirements for issuing youth permits.~~

~~— (2) Youth permits are authorized by the Wildlife Board and issued by the division through conservation organizations for purposes of introducing and promoting hunting recreation among youth.~~

~~—(3) This rule is intended as authorization to issue one series of youth permits for the 2002 and 2003 hunting season through conservation organizations.~~

R657-51-2. Definitions.

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

~~—(2) In addition:~~

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

~~—(b) "Conservation organization group" means a collective of conservation organizations cooperatively working together under agreement to promote youth participation in hunting recreation and responsible for distributing opportunities to obtain youth permits.~~

~~—(c) "Youth" means a person that is eligible to hunt and that person is between the ages of 14 and 19, inclusive as of August 1, 2002.~~

~~—(d) "Youth Permit" means a permit, which allows a youth to hunt:~~

~~—(i) a specified big game species on a specified unit during the established season for each species as authorized by the Wildlife Board;~~

~~—(ii) a cougar, bear or turkey on a specified unit during the established season for each species as authorized by the Wildlife Board.~~

~~—(e) "Youth Permit series" means a package of permits comprised of big game, cougar, bear or turkey as authorized by the Wildlife Board.~~

R657-51-3. Youth Permit Authorization.

~~—(1) Youth permits may be authorized by the Wildlife Board only for:~~

~~—(a) buck deer;~~

~~—(b) bull elk;~~

~~—(c) buck pronghorn;~~

~~—(d) bear;~~

~~—(e) cougar; and~~

~~—(f) wild turkey.~~

~~—(2) Youth permits for each species authorized by the Wildlife Board shall be issued to the successful youth applicants selected by the conservation organization group.~~

~~—(3) A youth permit shall not be issued for any particular species or on any particular unit where so doing will harm the long-term health and viability of the species population on that unit or in the state as a whole.~~

R657-51-4. Application Process.

~~—(1) Youth permit series are available for distribution through conservation organization groups collectively operating for the purpose of promoting youth participation in hunting recreation.~~

~~—(2) Conservation organization groups may apply to distribute the opportunity for youth to obtain youth permits by sending an application to the division by February 15.~~

~~—(3) The application must be submitted to the division to be considered for the year 2002 permits. Each application must include:~~

~~—(a) the name, address and telephone number of the conservation organization group's representative;~~

~~—(b) the name of each conservation organization participating in the conservation organization group;~~

~~—(c) verification of each participating conservation organization's tax exempt status under Internal Revenue Code, Section 501(c)(3), as amended; and~~

~~—(d) a copy of the agreement between the participating conservation organizations designating the conservation organization group's representative, and defining its mission statement and applicant selection process;~~

~~—(e) the number of youth permits requested, broken down by species and hunting unit; and~~

~~—(f) the number and type of youth permits that will be reserved exclusively for Utah residents.~~

~~—(4) An application which is incomplete or completed incorrectly may be rejected.~~

~~—(5) The Wildlife Board shall determine the number of youth permits, including the species, season length and hunting unit for each authorized youth permit.~~

R657-51-5. Allocation of Youth Permits.

~~—(1) The conservation organization group selected to distribute the opportunity to receive youth permits:~~

~~—(a) shall accept and process applications from youth desiring to obtain a youth permit;~~

~~—(b) may collect from each person applying for a youth permit a reasonable application fee that does not exceed the direct per capita cost of administering the application process, and in no event shall the fee exceed five dollars;~~

~~—(c) shall not assess or require any form of financial remuneration, other than the application fee described in Subsection (1)(b), as a prerequisite to submitting an application for a youth permit;~~

~~—(d) shall accept no more than one youth permit application per youth;~~

~~—(e) shall establish and administer an equitable and fair process for selecting applicants to receive youth permits;~~

~~—(f) shall ensure that Utah resident applicants are eligible to receive any of the youth permits, and reserve at least 25% of the youth permits exclusively for Utah resident applicants. (g) shall submit a written certification to the Division no later than July 15th:~~

~~—(i) identifying a successful applicant for each youth permit authorized by the Wildlife Board, including each applicant's social security number or hunter identification number, name, address, phone number, date of birth, height, weight, hair color, eye color, gender, proof of hunter education, and drivers license number (if applicable);~~

~~—(ii) signed by the conservation organization group's representative and each constituent conservation organization in the group verifying that each is satisfied with the selection process used to designate the youth permit recipients, and with the youth identified in the certification to receive youth permits; and~~

~~—(h) accept applications and conduct the application selection process in accordance with all applicable state, federal and local laws.~~

~~—(2) Upon receipt of the certification and collection of the appropriate permit fees for each successful applicant, the Division will issue the youth permits to each youth designated in the certification, provided each youth is eligible under Utah law to hunt the species of animal identified on the permit.~~

~~—(3)(a) Youth permit fees shall be required consistent with the regular fee schedules established by the Wildlife Board and the Division for an equivalent permit had it been obtained outside the youth permit process.~~

~~— (b) Nonresident permit fees shall be required of each successful applicant that is not a resident of Utah as defined in Section 23-13-2.~~

~~R657-51-6. Surrender or Transfer of Youth Permit Designation.~~

~~— (1) If a successful applicant designated by the conservation organization group to receive a youth permit already possesses a Utah permit for the same species of animal that year, or is otherwise unable to participate in the hunt and utilize the youth permit, the conservation organization group may designate another youth from the pool of applicants to receive the youth permit, provided the youth permit has not been issued by the division to the first selected person, except as provided in Rule R657-42.~~

~~— (2) If the youth already possess a Utah permit for the same species, the youth must surrender one of the permits in accordance with Rule R657-42.~~

~~— (3) Except as otherwise provided in Subsection (1), a person designated by a conservation organization group as the recipient of a youth permit, may not sell or transfer the rights to that designation to any other person.~~

~~R657-51-7. Using a Youth Permit.~~

~~— (1) A youth permit allows the recipient to:~~

~~— (a) take only the species and sex printed on the permit; and~~

~~— (b) take the species only in the area and during the season specified on the permit.~~

~~— (2) The recipient of a youth permit is subject to all of the provisions of Title 23, Wildlife Resources Code, and the rules and proclamations of the Wildlife Board for taking and pursuing wildlife.~~

~~— (3) Bonus points shall not be awarded or utilized when applying for or obtaining youth permits.~~

~~— (4) Any youth who obtains a youth permit is not subject to the waiting periods set forth in Rules R657-5, R657-6, R657-10 and R657-33.~~

~~KEY: wildlife, wildlife permits~~

~~Date of Enactment or Last Substantive Amendment: October 2, 2002~~

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



Public Safety, Driver License
R708-7-10
Use of the Functional Ability Profile

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 29582

FILED: 02/28/2007, 09:04

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being changed as a result of discussion that took place at an Administrative Rules Review Committee meeting. There was concern expressed regarding the part of the process currently

in place that results in an individual's privilege to drive being denied based on a medical report profiled by a physician at a level 8. The Committee felt that this aspect of the process needed to be outlined in the rule as it results in the immediate denial of the driving privilege without further review by the division. The remainder of the process dealing with medical category profile levels currently in use is applied as a guideline and coupled with other tools including personal review and testing in order to determine whether or not a driving privilege is denied.

SUMMARY OF THE RULE OR CHANGE: The rule change specifies the fact that if the division receives a medical report for a driver that is profiled at a level 10 for vision and 8 for all other medical categories, which indicates that the physician recommends no driving, the driver will have his or her driving privilege denied. It also outlines due process entitlements when action is taken. In addition, the version of the guidelines that is incorporated by reference has been updated to reflect the November 2006 edition.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 53-3-224, 53-3-303, and 53-3-304; and 49 CFR 391.43

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Functional Ability in Driving: Guidelines and Standards for Health Care Professionals, November 2006 ed.

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There is no cost to the division because there are no procedural changes.
- ❖ LOCAL GOVERNMENTS: There is no cost to local government because they are not involved in issuing driver licenses.
- ❖ OTHER PERSONS: There is no cost to other persons because there are no procedural changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance cost to individuals because there are no procedure changes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses because of this rule change. Scott T. Duncan, Commissioner

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

PUBLIC SAFETY
DRIVER LICENSE
CALVIN L RAMPTON COMPLEX
4501 S 2700 W 3RD FL
SALT LAKE CITY UT 84119-5595, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Vinn Roos at the above address, by phone at 801-965-4456, by FAX at 801-964-4482, or by Internet E-mail at vvroos@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 04/23/2007

AUTHORIZED BY: Nannette Rolfe, Director

R708. Public Safety, Driver License.

R708-7. Functional Ability in Driving: Guidelines for Physicians.

R708-7-10. Use of the Functional Ability Profile.

(1) Health care professionals who evaluate their patients' health status for purposes of the patient obtaining a Utah driver license, shall report functional ability profiles on forms provided by the division.

(2) In assessing patient health and completing these report forms, health care professionals shall apply the standards and related information contained in the following lists, charts, and tables, which standards and guidelines are adopted and incorporated within this rule by reference, and are referred to in a booklet entitled, "Functional Ability in Driving: Guidelines And Standards for Health Care Professionals", (~~August 9, 2000 ed.~~ November 2006 ed.). Specific categories are:

- (a) "Category A" - diabetes and other metabolic conditions; narrative listing and table;
- (b) "Category B" - cardiovascular; narrative listing and table;
- (c) "Category C" - pulmonary; narrative listing and table;
- (d) "Category D" - neurologic; narrative listing and table;
- (e) "Category E" - epilepsy and other episodic conditions; narrative listing and table;
- (f) "Category F" - learning, memory and communications; narrative listing and table;
- (g) "Category G" - psychiatric or emotional conditions; narrative listing and table;
- (h) "Category H" - alcohol and other drugs; narrative listing and table;
- (i) "Category I" - visual acuity; narrative listing and table;
- (j) "Category J" - musculoskeletal abnormality or chronic medical debility; narrative listing and table;
- (k) "Category K" - alertness or sleep disorders; narrative listing and table; and
- (L) "Category L" - hearing and balance; narrative listing and table.

(3) Copies of these guidelines are printed in a booklet and distributed by the division. These booklets may be obtained at no cost for health care professionals or \$5 per booklet for all other individuals. Copies may be obtained in person or by written request to the Driver License Division Medical Section at P.O. Box 30560, Salt Lake City, Utah 84130-0560.

(4) Report forms completed by a health care professional and received by the division are to be used as a screening tool in assessing an individual's ability to safely operate a motor vehicle.

(a) Some profile levels as identified in the "Functional Ability in Driving: Guidelines And Standards for Health Care Professionals", may result in the division requesting an individual to complete a driving skills test in order to demonstrate the ability to safely operate a motor vehicle before determining whether the individual will maintain the privilege to drive. In some cases when a

privilege to drive is granted, driving restrictions may be required in order to ensure public safety.

(b) A health care professional may also request that the division evaluate an individual's driving skill level at the health care professional's discretion.

(5) The division shall notify an individual that their privilege to drive is denied upon receipt of the following:

(a) a medical report that is completed in the categories A, B, C, D, E, F, G, H, J, K, or L, that is profiled at a level "8" in accordance with the "Functional Ability in Driving: Guidelines And Standards for Health Care Professionals", or other documentation which indicates that the health care professional recommends that the individual does not drive; or

(b) a medical report that is completed in the category I that is profiled at a level "10" in accordance with the "Functional Ability in Driving: Guidelines And Standards for Health Care Professionals", or other documentation which indicates that the health care professional recommends that the individual does not drive.

(6) Upon receipt of a notice of denial of the privilege to drive, an individual may request a review of the division's decision by a panel of board members. All of the actions of the director and board are subject to judicial review.

KEY: administrative procedures, health care professionals, physicians

Date of Enactment or Last Substantive Amendment: ~~August 20, 2002~~ 2007

Notice of Continuation: November 25, 2002

Authorizing, and Implemented or Interpreted Law: 53-3-224; 53-3-303; 53-3-304; 49 CFR 391.43

◆ ————— ◆

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

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29587

FILED: 03/01/2007, 16:38

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for this amendment is to reflect recent changes in state law and federal regulation.

SUMMARY OF THE RULE OR CHANGE: This proposed amendment reflects changes made to the Family Employment Program (FEP) by S.B. 14, passed during the 2007 General Session. The changes include a provision that months of transitional cash assistance do not count toward the 36-month time limit and changes to the work extension. Additionally, Congress changed the work requirements for participants in the Family Employment Program (FEP) when it reauthorized Temporary Aid to Needy Family last year. The Department of Labor has determined that the Fair Labor Standards Act applies to FEP participants including the minimum wage law. The FEP grant

does not meet minimum wage requirements unless the food stamp allotment is included so the Department has opted to operate a Mini Simplified Food Stamp Program which allows the Department to use the amount paid in food stamps in calculating minimum wage for FEP participants. Previously, FEP customers were exempt from food stamp employment and training requirements. Under the Mini Simplified plan, those customers will no longer be exempt and will be subject to the food stamp sanctions for nonparticipation. The Department has also increased the enhanced participation payment from \$40 to \$60. Recipients of Transitional Support living in two-parent household will no longer be able to share the 60 hour per week work requirement but will each have to work a minimum of 30 hours per week.

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. Changes are being made within current funding levels.
- ❖ 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 04/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 04/24/2007

AUTHORIZED BY: Tani Downing, Executive Director

R986. Workforce Services, Employment Development.

R986-200. Family Employment Program.

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

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

(1) The employment counselor will attempt to discuss compliance with the client and explore solutions. If compliance is not resolved the counselor will move to the second phase.

(2) In the second phase, the employment counselor will request a meeting with the client, the employment counselor, the counselor's supervisor and any other Department or allied entity representatives, if appropriate, who might assist in encouraging participation. If the client does not attend the meeting, the meeting will be held in the client's absence. A formal meeting with the client is not required for a third or subsequent occurrence. If a resolution cannot be reached, one of the following will occur:

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

(b) for the second occurrence, the client's financial assistance payment will be terminated and the client will be ineligible for financial assistance for one month. If the client re-applies during the one month termination period, the new application will be denied for non-participation. If the client re-applies after the one month termination period, the client must successfully complete a two week trial participation period before financial assistance will be approved.

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

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

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

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

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

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

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

(9) If a client is also receiving food stamps and the client's is disqualified for non-participation under this section, the client will also be subject to the food stamp sanctions found in 7CFR 273.7(f)(2) unless the client meets an exemption under food stamp regulations.

R986-200-217. Time Limits.

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

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

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

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

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

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

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

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

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

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

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

criteria in R986-200-218 in addition to all other eligibility criteria of diversion assistance; or[-]

(f) months when a parent client received transitional assistance.

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

Exceptions to the time limit may be allowed 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 person 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;

(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 two months, the parent client was employed for no less than [§]20 hours per week. 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.]~~

([e]b) 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 \$[4]60 each month in addition to the standard financial assistance payment. Enhanced participation activities are limited to:

- (a) work experience sites of at least 20 hours a week and other eligible activities that together total 30 hours per week;
- (b) full-time attendance in an education or employment training program; or
- (c) employment of 20 hours or more a week and other eligible activities that together total 30 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.

R986-200-246. Transitional Cash Assistance.

(1) Transitional Cash Assistance, (TCA) is offered to help FEP and FEPTP customers stabilize employment and reduce recidivism.

(2) To be eligible for TCA a client must;

- (a) have been eligible for and have received FEP or FEPTP during the month immediately preceding the month during which TCA is requested or granted. The FEP or FEPTP assistance must have been terminated due to earned or unearned income and not for nonparticipation under R986-200-212. If the immediately preceding month was during a diversion period, the client is not eligible for TCA, and

(b) be employed an average of 30 hours per week for FEP households. ~~[The parents in a FEPTP household must be employed a combined average of 60]~~ The parents in a FEPTP household cannot combine hours for TCA. Each parent must be employed 30 hours per week.

(3) TCA is only available if the customer verifies employment averaging the minimum required in subparagraph (2)(b) of this section.

- (4) TCA is available for a maximum of three months.
- (a) The assistance payment for the first two months of TCA is based on household size. All household income, earned and unearned, is disregarded.
- (b) Payment for the third month is one half of the payment available in (4)(a) of this section.
- (5) If initial verification is provided and a client is paid one month of TCA but the client is unable to provide documentation to support that initial verification, no further payments will be made under TCA but the one month payment will not result in an overpayment.
- (6) A client can only receive TCA once in any 24 month period. This time limit applies regardless of how many months of TCA a client received.
- (7) TCA does not count[s] toward the 36 month time limit found in R986-200-217.

KEY: family employment program
Date of Enactment or Last Substantive Amendment: [February 1, 2007]
Notice of Continuation: September 14, 2005
Authorizing, and Implemented or Interpreted Law: 35A-3-301 et seq.



**Workforce Services, Employment
 Development
 R986-900-902
 Options and Waivers**

**NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 29588
 FILED: 03/01/2007, 16:45**

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to allow the Mini Simplified Food Stamp option.

SUMMARY OF THE RULE OR CHANGE: Congress changed the work requirements for participants in the Family Employment Program (FEP) when it reauthorized Temporary Aid to Needy Family last year. The Department of Labor has determined that the Fair Labor Standards Act applies to FEP participants including the minimum wage law. The FEP grant does not meet minimum wage requirements unless the food stamp allotment is included so the Department has opted to operate a Mini Simplified Food Stamp Program which allows the Department to use the amount paid in food stamps in calculating minimum wage for FEP participants. Previously, FEP customers were exempt from food stamp employment and training requirements. Under the Mini Simplified plan, those customers will no longer be exempt and will be subject to the food stamp sanctions for nonparticipation unless they meet another exemption.

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:** 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

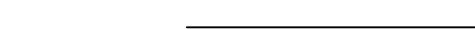
THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 WORKFORCE SERVICES
 EMPLOYMENT DEVELOPMENT
 140 E 300 S
 SALT LAKE CITY UT 84111-2333, or
 at the Division of Administrative Rules.

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 04/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 04/24/2007

AUTHORIZED BY: Tani Downing, Executive Director



**R986. Workforce Services, Employment Development.
 R986-900. Food Stamps.
 R986-900-902. Options and Waivers.**

The Department administers the Food Stamp Program in compliance with federal law with the following exceptions or clarifications:

- (1) The following options not otherwise found in R986-100 have been adopted by the Department where allowed by the applicable federal law or regulation:
 - (a) The Department has opted to hold hearings at the state level and not at the local level.
 - (b) The Department does not offer a workfare program for ABAWDs (Able Bodied Adults Without Dependents).
 - (c) An applicant is required to apply at the local office which serves the area in which they reside.

(d) The Department has opted to use the Simplified Standard Utility Allowance found in 7 USC 2014(e)(7)(C)(iii) as amended by 2002 H.R. 2646 known as Section 4104 of the Farm Bill. The Department has a mandatory standard utility allowance. This means the customer is eligible for an appropriate utility allowance at the time of application and eligibility for the appropriate allowance is re-determined at recertification or if the household moves to a different place of residence. The customer does not have the choice of using "actual" utility expenses. The Department has three utility standards that are updated annually and are available upon request. This Farm Bill option allows households in subsidized housing and households in shared living arrangements to receive the full appropriate utility allowance.

(e) The Department does not use photo ID cards. ID cards are available upon request to homeless, disabled, and elderly clients so that the client is able to use food stamp benefits at a participating restaurant.

(f) The state has opted to provide food stamp benefits through the use of an electronic benefit transfer system known as the Horizon Card.

(g) The Department counts diversion payments in the food stamp allotment calculation.

(h) The Department has opted to exempt individuals from mandatory participation in Food Stamp Employment and Training activities in counties that have been designated as Labor Surplus Areas by the Department of Labor. These counties change each year based on Department of Labor statistics and a list of counties is available from the Department. They are the same counties as referenced in subsection (2)(a) below.

(i) The Department has opted to use Utah's TANF vehicle allowance rules in conjunction with the Food Stamp Program vehicle allowance regulations at 7 CFR 273.8, as authorized by Pub. L. No. 106-387 of the Agriculture Appropriations Act 2001, Food Stamp Act of 1977, 7 USC 2014.

(j) The Department has opted to count all of an ineligible alien's resources and all but a pro rata share of the ineligible alien's income and deductible expenses as provided in 7 CFR 273.11(c)(3)(ii)(A).

(k) A client may waive his or her right to an administrative disqualification hearing.

(l) A client may deduct actual, allowable expenses from self employment, or may opt to deduct 40% of the gross income from self employment to determine net income.

(m) The Department has opted to align food stamps with FEP in determining how to count educational assistance income. That income is counted for food stamps as provided in R986-200-235(3)(q).

(n) The Department has opted to do simplified reporting as provided in 7 CFR 273.12(a)(1)(vii).

(o) The Department has opted to operate a Mini Simplified Food Stamp Program under 7 CFR 273.25. Under this option, a client receiving food stamps and FEP or FEPT, must participate as required in R986-200-210. A client found ineligible due to non-compliance under R986-200-212 will also be subject to the food stamp sanctions found in 7CFR 273.7(f)(2) unless the client meets an exemption under food stamp regulations.

(2) The Department has been granted the following applicable waivers from the Food and Nutrition Service:

(a) Certain Utah counties have been granted a waiver which exempts ABAWDs from the work requirements of Section 824 of PRWORA. The counties granted this waiver change each year based on Department of Labor statistics. A list of counties granted this waiver is available from the Department.

(b) The Department requires that a household need only report changes in earned income if there is a change in source, the hourly rate or salary, or if there is a change in full-time or part-time status. A client is required to report any change in unearned income over \$25 or a change in the source of unearned income.

(c) The Department uses a combined Notice of Expiration and Shortened Recertification Form. Notice of Expiration is required in 7 CFR 273.14(b)(1)(i). The Recertification Form is found under 7 CFR 273.14(b)(2)(i).

(d) The Department conducts the Family Nutrition Education Program for individuals even if they are otherwise ineligible for food stamps.

(e) The Department may deduct overpayments that resulted from an IPV from a household's monthly entitlement.

(f) If the application was received before the 15th of the month and the client has earned income, the certification period can be no longer than six months. The initial certification period may be as long as seven months if the application was received after the 15th of the month.

(g) A household which had its food stamps terminated can be reinstated during the calendar month following the month assistance was terminated without completing a new application if the reason for the termination is fully resolved. The reason for the termination does not matter. Assistance will be prorated to the date on which the client reported that the disqualifying condition was resolved if verification is received within ten days of the report. Assistance is reinstated for the remaining months of the certification period and the certification period must not be changed.

(h) If the Department is unable to obtain proper documentary evidence from an employer, the Department may use Utah quarterly wage data as the primary verification of income when calculating overpayments.

(i) The Department will hold disqualification hearings by telephone.

(j) All households certified for 12 months or less would have their recertification interviews conducted by telephone, rather than in person, unless the household requests an in-person interview or the Department determines that an in-person interview is necessary to resolve issues that would be better facilitated face-to-face.

KEY: food stamps, public assistance

Date of Enactment or Last Substantive Amendment: ~~August 1, 2006~~ 2007

Notice of Continuation: September 14, 2005

Authorizing, and Implemented or Interpreted Law: 35A-3-103



FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1998).

Administrative Services, Fleet Operations **R27-8** State Vehicle Maintenance Program

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29534
FILED: 02/21/2007, 11:02

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is established pursuant to Subsections 63A-9-401(1)(c)(i) and (iv), which require the Department of Administrative Services, Division of Fleet Operations (DFO) to establish rules governing maintenance operations for state vehicles and preventative maintenance programs.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule requires vehicle preventive maintenance as defined by the Preventive Maintenance Program Coupon Book, and annual vehicle safety and emission inspections, and repair procedures for all full service leased vehicles. It also outlines documentation for repair and parts inventory for capital only lease vehicles. This rule is required in fleet statute, and therefore, this rule should be continued.

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

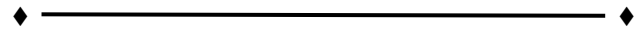
ADMINISTRATIVE SERVICES
FLEET OPERATIONS
Room 4120 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Margaret Chambers at the above address, by phone at 801-538-9675, by FAX at 801-538-1773, or by Internet E-mail at margareтчambers@utah.gov

AUTHORIZED BY: Margaret Chambers, Director

EFFECTIVE: 02/21/2007



Administrative Services, Fleet Operations, Surplus Property **R28-1** State Surplus Property Disposal

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29550
FILED: 02/26/2007, 11:27

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 63A-9-801(2)(a) states that the division shall make rules establishing a state surplus property program that meets the requirements of this

chapter by following the procedures and requirements of Title 63, Chapter 46a, Utah Administrative Rulemaking Act. Subsection 63A-9-801(2)(b) "Those rules shall include: (i) a requirement prohibiting the transfer of surplus property from one agency to another agency without written approval from the division; (ii) procedures and requirements governing division administration requirements that an agency must follow; (iii) requirements governing purchase priorities; (iv) requirements governing accounting, reimbursement, and payment procedures; (v) procedures for collecting bad debts; (vi) requirements and procedures for disposing of firearms; (vii) the elements of the rates or other charges assessed by the division for services and handling; (viii) procedures governing the timing and location of public sales of inventory property; and (ix) procedures governing the transfer of information technology equipment by state agencies directly to public schools. (c) The division shall report all transfers of information technology equipment by state agencies to public schools to the Utah Technology Commission and to the Legislative Interim Education Committee at the end of each fiscal year."

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule defines governance and procedures for: agencies to declare state-owned personal property is no longer needed by the agency; sale of hand-held electronic devices to state employees; information technology equipment donated to schools or disabled persons; transfer of property between state agencies; trade in equipment; priority to purchase given to government agencies for 30 days; accounting and reimbursement; bad debt collection; and public sales. Therefore, this rule should be continued.

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

ADMINISTRATIVE SERVICES
FLEET OPERATIONS, SURPLUS PROPERTY
Room 4120 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Margaret Chambers at the above address, by phone at 801-538-9675, by FAX at 801-538-1773, or by Internet E-mail at margaretechambers@utah.gov

AUTHORIZED BY: Margaret Chambers, Director

EFFECTIVE: 02/26/2007



Commerce, Occupational and Professional Licensing **R156-1** General Rules of the Division of Occupational and Professional Licensing

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 29586
FILED: 03/01/2007, 13:04

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 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-1-308(1)(a) provides that the Division will establish a rule with respect to the renewal cycle of occupations and professions regulated by the Division. This rule was enacted to clarify the provisions of Title 58, Chapter 1, with respect to all occupations and professions regulated by the Division.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in May 2002, it has been amended several times. The Division received no written comments with respect to a proposed rule filing made with respect to this rule in October 2002. The Division received a 09/11/2003 e-mail from Kent Bishop in which he suggested some nonsubstantive changes to the rule. The Division filed a nonsubstantive rule filing as a result of Mr. Bishop's comments on 10/02/2003. The Division received no written comments with respect to two proposed rule filings made with respect to this rule in November 2003 and January 2004. In September 2004, the Division received the the following written comments with respect to the addition of Section R156-1-601 which established protocols for medical online assessment, diagnosis, and prescribing: a 09/08/2004 letter from Divonne S. Moyer on behalf of Pfizer opposing the proposed addition of Section R156-1-601; a 09/15/2004 letter from James N. Thompson, MD, Federation of State Medical Boards opposing the proposed addition of Section R156-1-601; a 09/16/2004 letter from George H. Cannon, MD, Richard J. Sperry, MD, and Joseph G. Kramer, MD, opposing the proposed addition of Section R156-1-601; a 09/15/2004 letter from Senator Peter Knudson opposing the proposed addition of Section R156-1-601; an 10/04/2004 letter from George J. Van Komen, MD, opposing the proposed addition of Section R156-1-601; an 10/15/2004 letter from John A. Adams, on behalf of Pfizer, opposing the proposed addition of Section R156-1-601; an 10/14/2004 letter from Kevin Marino, representing PCM Venture I LLC, in favor of the proposed addition of Section R156-1-601; an 10/15/2004 letter from the National Association of Chain Drug Stores opposing the proposed addition of Section R156-1-601; and

an 10/18/2004 e-mail from the Utah Medical Association opposing the proposed addition of Section R156-1-601. The Division considered all of these written comments and made the proposed amendments effective on 10/18/2004 with no further changes. The Division also received an 10/07/2004 e-mail from Kent Bishop in which he suggested some nonsubstantive changes to the rule. The Division filed a nonsubstantive rule filing as a result of Mr. Bishop's comments on 10/18/2004. The Division received no written comments with respect to three proposed rule filings made with respect to this rule in January 2005, November 2005, and June 2006. The Division also received a 02/22/2007 e-mail from Lenore Epstein, Assistant Attorney General, in which she suggested one nonsubstantive change be made to a definition in Section R156-1-102 of the rule. As a result of her comments, the Division filed a nonsubstantive rule filing on 02/26/2007.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it provides a mechanism to inform potential licensees of the general rules of the Division, as allowed under statutory authority provided in Title 58, Chapter 1, applicable to all occupations and professions regulated by the Division. The rule should also be continued as it provides information to ensure applicants for licensure are knowledgeable about general rules of the Division with respect to items that are not covered separately in each occupational/professional rule.

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:
 W. Ray Walker at the above address, by phone at 801-530-6256, by FAX at 801-530-6511, or by Internet E-mail at raywalker@utah.gov

AUTHORIZED BY: F. David Stanley, Director

EFFECTIVE: 03/01/2007



**Commerce, Occupational and
 Professional Licensing
 R156-70a
 Physician Assistant Practice Act Rules**

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 29564
 FILED: 02/27/2007, 09:40

**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: Title 58, Chapter 70a, provides for the licensure of physician assistants. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-70a-201(3) provides that the Physician Assistant Licensing Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the division director. This rule was enacted to clarify the provisions of Title 58, Chapter 70a, with respect to physician assistants.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was last reviewed in May 2002, the Division has received no written comments with respect to the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 70a, with respect to physician assistants. The rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Diana Baker at the above address, by phone at 801-530-6179, by FAX at 801-530-6511, or by Internet E-mail at dbaker@utah.gov

AUTHORIZED BY: F. David Stanley, Director

EFFECTIVE: 02/27/2007



Health, Epidemiology and Laboratory
Services, Laboratory Improvement

R444-14

Rule for the Certification of
Environmental Laboratories

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 29549
FILED: 02/26/2007, 11:03

**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 26-1-30(2)(m) charges the Department of Health to set and enforce standards for laboratory services

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: This rule has been through rulemaking three times since the last notice of continuation. There were two comments received during this time from the same individual recommending a parallel certification process for small laboratories.

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 the basis of the environmental laboratory certification program for Utah. This certification must continue for Utah to maintain its primacy status with the United States Environmental Protection Agency (EPA). Historically, this certification program had a two-tiered certification process for labs based on scope and complexity of work. The differences were found in the personnel requirements only. The National Environmental Protection Agency (NELAC) standards also allow for varying personnel requirements based on scope and complexity of testing. All facilities are held to the same standard for all other Quality Systems requirements. The "smaller" laboratories have been able to stay in compliance with the standard. Therefore, this rule should be continued.

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

HEALTH
EPIDEMIOLOGY AND LABORATORY SERVICES,
LABORATORY IMPROVEMENT
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:
David Mendenhall at the above address, by phone at 801-584-8470, by FAX at 801-584-8501, or by Internet E-mail at davidmendenhall@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 02/26/2007

Insurance, Administration

R590-116

Valuation of Assets

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 29583
FILED: 02/28/2007, 16:51

**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: Subsection 31A-2-201 authorizes the commissioner to write rules to implement the provisions of the insurance code. Subsection 31A-17-401(3)(a)(ii) allows the commissioner to write a rule to determine the present value of future income derived from securities owned by an insurer. Subsection 31A-17-401(4) requires the commissioner to adopt rules to implement the provisions of Section 31A-17-401. Section R590-116-4 of the rule sets standards for the valuation of an insurer's assets and securities.

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 any written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule sets a standard for all insurers doing business in Utah to use in determining the value of their assets. The rule helps the department to assess the financial health of each licensed insurer in their effort to protect the financial security of their insureds. 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: 02/28/2007

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 02/28/2007

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Insurance, Administration
R590-117
Valuation of Liabilities

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 29584
FILED: 02/28/2007, 16:54

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) authorizes rules to implement the Insurance Code. Section 31A-17-402 requires the commissioner to adopt a rule specifying which liabilities shall be reported by insurers and the methods for evaluating these assets. Section R590-117-4 of the rule states the liabilities that are to be listed on the insurer's financial statement and also the methods by which these liabilities are to be valued.

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 any written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule standardizes those liabilities that should be listed on an insurer's annual statement, as well as how they are to be valued. It is important that the liabilities of all licensed insurers in Utah be evaluated by the same standard for fairness. Knowing the true value of an insurer's liabilities is one way the department has in determining the insurer's financial health. 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

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**Public Safety, Peace Officer Standards
and Training**
R728-101

Public Petitions For Declaratory Rulings

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 29551
FILED: 02/26/2007, 11:56

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 authority for this rule is authorized under Section 63-46b-21 which describes how interested parties may petition an agency to issue a declaratory order determining the applicability of a statute rule or order within the jurisdiction of Peace Officer Standards and Training.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments in opposition or support of this rule in the past five years.

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 address the rulemaking process. It also defines how to petition the agency regarding the rules process. Therefore, this rule should be continued.

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

**PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING**
410 W 9800 S
SANDY UT 84070, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve Winward at the above address, by phone at 801-256-2326, by FAX at 801-256-0600, or by Internet E-mail at swinward@utah.gov

AUTHORIZED BY: Scott T Duncan, Commissioner

EFFECTIVE: 02/26/2007

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Public Safety, Peace Officer Standards
and Training
R728-401

Requirements For Approval and
Certification of Peace Officer Basic
Training Programs and Applicants

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 29552
FILED: 02/26/2007, 12:07

**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 authorized by Section 53-6-105 which gives the power to the Director of Peace Officers Standards and Training (POST) to promulgate standards for the certification of peace officer training academies.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments supporting or opposing this rule in the last five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule outline important guidelines required to accept an academy and or applicant for POST basic training. It outlines procedures needed to seek certification of a program through POST. In the past few years, several agencies have sought certification status for their POST equivalent program through POST. This rule has been instrumental in ensuring proper procedures are followed. Therefore, this rule should be continued.

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

PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
410 W 9800 S
SANDY UT 84070, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve Winward at the above address, by phone at 801-256-2326, by FAX at 801-256-0600, or by Internet E-mail at swinward@utah.gov

AUTHORIZED BY: Scott T Duncan, Commissioner

EFFECTIVE: 02/26/2007



Public Safety, Peace Officer Standards
and Training
R728-402

Application Procedures to Attend a
Basic Peace Officer Training Program

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 29553
FILED: 02/26/2007, 12:22

**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: This rule is authorized by Section 53-6-105 which gives the power to the Director of Peace Officers Standards and Training (POST) to promulgate standards for the certification of peace officer training academies.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments in favor or opposing 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 outlines the proper procedure for applicants to apply to any basic training academy in the state. The applications need to be submitted to POST for proper screening and approval. Therefore, this rule should be continued.

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

PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
410 W 9800 S
SANDY UT 84070, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve Winward at the above address, by phone at 801-256-2326, by FAX at 801-256-0600, or by Internet E-mail at swinward@utah.gov

AUTHORIZED BY: Scott T Duncan, Commissioner

EFFECTIVE: 02/26/2007



Public Safety, Peace Officer Standards and Training
R728-403

Qualifications For Admission To Certified Peace Officer Training Academies

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29557
FILED: 02/26/2007, 14:44

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Subsection 53-6-105(k). This subsection describes the duties of the director of the Police Academy. This gives the Director the authority to make administrative rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments in support or opposing this rule in the last five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule defines the basic minimum requirement that allow individuals to make application to Peace Office Standards and Training (POST). These minimum requirements set a standard for who can and cannot be accepted into a POST basic training course. Therefore, this rule should be continued.

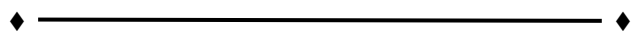
THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
410 W 9800 S
SANDY UT 84070, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve Winward at the above address, by phone at 801-256-2326, by FAX at 801-256-0600, or by Internet E-mail at swinward@utah.gov

AUTHORIZED BY: Scott T Duncan, Commissioner

EFFECTIVE: 02/26/2007



Public Safety, Peace Officer Standards and Training
R728-404

Basic Training Basic Academy Rules

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29558
FILED: 02/26/2007, 14:56

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 authorized by Subsection 53-6-105(k). This subsection describes the duties of the director of the Police Academy. This gives the Director the authority to make administrative rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments received in supporting or opposing 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 outlines the rules that are required to uphold for a basic Peace Officer Standards and Training (POST) trainee to observe while attending a POST class. It also outlines the basic requirements needed to graduate from a POST sponsored training program. It also outlines the rules and the consequences for breaking the rules. Therefore, this rule should be continued.

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

PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
410 W 9800 S
SANDY UT 84070, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve Winward at the above address, by phone at 801-256-2326, by FAX at 801-256-0600, or by Internet E-mail at swinward@utah.gov

AUTHORIZED BY: Scott T Duncan, Commissioner

EFFECTIVE: 02/26/2007



Public Safety, Peace Officer Standards and Training
R728-405

Drug Testing Requirement

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 29559
FILED: 02/26/2007, 15:06

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 authorized by Subsection 53-6-105(k). This subsection describes the duties of the director of the Police Academy. This gives the Director the authority to make administrative rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments on this rule either in support or opposition.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule allows Peace Officer Standards and Training (POST) to screen potential law enforcement officers of drug use or abuse prior to admittance into a basic training program. This is important in order to protect the citizens of the State of Utah, to preserve public trust and confidence in a fit and drug free peace officer profession, and to maintain the credibility of peace officer training academies. Therefore, this rule should be continued.

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

PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
410 W 9800 S
SANDY UT 84070, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve Winward at the above address, by phone at 801-256-2326, by FAX at 801-256-0600, or by Internet E-mail at swinward@utah.gov

AUTHORIZED BY: Scott T Duncan, Commissioner

EFFECTIVE: 02/26/2007



Public Safety, Peace Officer Standards and Training
R728-406

Requirements For Approval and Certification of Basic Correctional, Reserve and Special Function Training Programs and Applicants

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 29560
FILED: 02/26/2007, 15:40

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: This rule is authorized by Section 53-6-105 which gives the power to the Director of Peace Officers Standards and Training (POST) to promulgate standards for the certification of Correctional, Reserve, and Special Function Officer Training Programs and applicants.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments supporting or opposing 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 sets forth the standards and expectations of an agency requesting to do its own corrections, special function, or reserve officer program. It also sets forth minimum requirements for an applicant to successfully complete the program. Therefore, this rule should be continued.

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

PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
410 W 9800 S
SANDY UT 84070, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve Winward at the above address, by phone at 801-256-2326, by FAX at 801-256-0600, or by Internet E-mail at swinward@utah.gov

AUTHORIZED BY: Scott T Duncan, Commissioner

EFFECTIVE: 02/26/2007



Public Safety, Peace Officer Standards and Training
R728-407

Waiver/Reactivation Process

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29561
FILED: 02/26/2007, 15:52

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 authorized by Subsection 53-6-105(k). This subsection describes the duties of the director of the Police Academy. This gives the Director the authority to make administrative rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Peace Officer Standards and Training (POST) has not received any comments in support or opposing this administrative 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 outlines the necessary requirements for an individual who requests to reactivate or waive the POST basic training test in order to become certifiable in the State of Utah. It also gives rules and guidelines for officers whose certification has become lapsed or inactive. Therefore, this rule should be continued.

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

PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
410 W 9800 S
SANDY UT 84070, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve Winward at the above address, by phone at 801-256-2326, by FAX at 801-256-0600, or by Internet E-mail at swinward@utah.gov

AUTHORIZED BY: Scott T Duncan, Commissioner

EFFECTIVE: 02/26/2007



Public Safety, Peace Officer Standards and Training
R728-409

Refusal, Suspension, or Revocation of Peace Officer Certification

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29562
FILED: 02/27/2007, 09:09

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 authority for the refusal, suspension, or revocation of peace officer certification is authorized under Sections 53-6-202, 53-6-203, 53-6-205, 53-6-206, and 53-6-211.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments sent to Peace Officer Standards and Training (POST) in support or opposition of this administrative 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 outlines the proper procedures and guidelines for initiating and conducting a peace officer certification investigation. It also gives guidelines on the proper procedure to conduct an investigation. It gives POST the authority to decertify officers for violations of Section 53-6-211. Therefore, this rule should be continued.

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

PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
410 W 9800 S
SANDY UT 84070, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve Winward at the above address, by phone at 801-256-2326, by FAX at 801-256-0600, or by Internet E-mail at swinward@utah.gov

AUTHORIZED BY: Scott T Duncan, Commissioner

EFFECTIVE: 02/27/2007



Public Safety, Peace Officer Standards
and Training
R728-410
Guidelines Regarding Failure To Obtain
Annual Statutory Training

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 29563
FILED: 02/27/2007, 09:36

**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 authorized by Subsection 53-6-105(k). This subsection describes the duties of the director of the Police Academy. This gives the Director the authority to make administrative rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments submitted to Peace Officer Standards and Training (POST) in support or opposing this administrative 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 outlines the guidelines necessary to take away an officers police authority for being deficient in the officer's training hours. Each officer is statutorily required to have 40 hours annually. This rule sets forth that requirement and actions that can be taken for not completing this requirement. Therefore, this rule should be continued.

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

PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
410 W 9800 S
SANDY UT 84070, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Steve Winward at the above address, by phone at 801-256-2326, by FAX at 801-256-0600, or by Internet E-mail at swinward@utah.gov

AUTHORIZED BY: Scott T Duncan, Commissioner

EFFECTIVE: 02/27/2007



Public Safety, Peace Officer Standards
and Training
R728-500

Utah Peace Officer Standards and
Training In-Service Training
Certification Procedures

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 29565
FILED: 02/27/2007, 09:44

**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: This rule is authorized by Subsection 53-6-105(k). This subsection describes the duties of the director of the Police Academy. This gives the Director the authority to make administrative rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments submitted to Peace Officer Standards and Training (POST) in support or opposing this administrative 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 outlines the responsibilities the Chief Administrating officer has in approving training hours for POST in-service credit. It is a guide for administrators to see what hours POST would consider for in-service training hours. The rule also reminds the agencies of the 40 hours of required training annually. Therefore, this rule should be continued.

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

PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
410 W 9800 S
SANDY UT 84070, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Steve Winward at the above address, by phone at 801-256-2326, by FAX at 801-256-0600, or by Internet E-mail at swinward@utah.gov

AUTHORIZED BY: Scott T Duncan, Commissioner

EFFECTIVE: 02/27/2007



Regents (Board Of), University of Utah,
Parking and Transportation Services

R810-2

Parking Meters

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 29532
FILED: 02/21/2007, 10:13

**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 53B-3-103 gives the board the authority to enact regulations governing the conduct of university students, faculty, and employees. Section 53B-3-107 regulates what are and how to deal with traffic violations.

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 University of Utah parking is self-funded. Faculty, staff, and students must purchase permits to park on campus. Parking meters allow visitors to park on campus without having to purchase a permit. Therefore, this rule should be continued. There have been no comments in opposition to the rule.

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

REGENTS (BOARD OF)
UNIVERSITY OF UTAH,
PARKING AND TRANSPORTATION SERVICES
Room 101
1910 E SOUTH CAMPUS DR
SALT LAKE CITY UT 84112-9350, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
John Crawford at the above address, by phone at 801-585-6941, by FAX at 801-581-4056, or by Internet E-mail at john@parking.utah.edu

AUTHORIZED BY: John Crawford, Office Operations Manager

EFFECTIVE: 02/21/2007



Regents (Board Of), University of Utah,
Parking and Transportation Services

R810-5

**Permit Types, Eligibility, and
Designated Parking Areas**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 29539
FILED: 02/22/2007, 08:47

**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 53B-3-103 gives the board authority to enact regulations governing the conduct of university students, faculty, and employees. Section 53B-3-107 regulates what are and how to deal with traffic violations.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments supporting or opposing the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Parking at the University of Utah is self-funded. The sale of permits allows the University to obtain funds to build and maintain parking lots and to provide a way of controlling parking assets on campus. Therefore, this rule should be continued.

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

REGENTS (BOARD OF)
UNIVERSITY OF UTAH,
PARKING AND TRANSPORTATION SERVICES
Room 101
1910 E SOUTH CAMPUS DR
SALT LAKE CITY UT 84112-9350, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
John Crawford at the above address, by phone at 801-585-6941, by FAX at 801-581-4056, or by Internet E-mail at john@parking.utah.edu

AUTHORIZED BY: John Crawford, Office Operations Manager

EFFECTIVE: 02/22/2007



Regents (Board Of), University of Utah,
Parking and Transportation Services

R810-6

Permit Prices and Refunds

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29537
FILED: 02/21/2007, 15:01

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53B-3-103 gives the board authority to enact regulations governing the conduct of university students, faculty, and employees. Section 53B-3-107 regulates what are and how to deal with traffic violations.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments supporting or opposing the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: University of Utah parking is self-funded. This rule outlines who approves permit prices and how permits are handled, i.e. expirations, prorations, and refunds. Therefore, this rule should be continued.

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

REGENTS (BOARD OF)
UNIVERSITY OF UTAH,
PARKING AND TRANSPORTATION SERVICES
Room 101
1910 E SOUTH CAMPUS DR
SALT LAKE CITY UT 84112-9350, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
John Crawford at the above address, by phone at 801-585-6941, by FAX at 801-581-4056, or by Internet E-mail at john@parking.utah.edu

AUTHORIZED BY: John Crawford, Office Operations Manager

EFFECTIVE: 02/21/2007



Regents (Board Of), University of Utah,
Parking and Transportation Services

R810-9

Contractors and Their Employees

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29540
FILED: 02/22/2007, 09:07

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 53B-3-103 gives the board authority to enact regulations governing the conduct of university students, faculty, and employees. Section 53B-3-107 regulates what are and how to deal with traffic violations.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments either opposing or supporting 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 establishes procedures for contractors working at the University of Utah to park vehicles in areas set aside specifically for them while working on their projects. Therefore, this rule should be continued.

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

REGENTS (BOARD OF)
UNIVERSITY OF UTAH,
PARKING AND TRANSPORTATION SERVICES
Room 101
1910 E SOUTH CAMPUS DR
SALT LAKE CITY UT 84112-9350, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
John Crawford at the above address, by phone at 801-585-6941, by FAX at 801-581-4056, or by Internet E-mail at john@parking.utah.edu

AUTHORIZED BY: John Crawford, Office Operations Manager

EFFECTIVE: 02/22/2007



Regents (Board Of), University of Utah,
Parking and Transportation Services

R810-10

Enforcement System

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29541
FILED: 02/22/2007, 09:15

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 53B-3-103 gives the board authority to enact regulations governing the conduct of university students, faculty, and employees. Section 53B-3-107 regulates what are and how to deal with traffic violations.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments either supporting or opposing this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Parking at the University of Utah is self-funded. Payment of user fees are collected in order to support the parking system. Enforcement is necessary to ensure that those parking on campus have paid the proper user fee. Therefore, this rule should be continued.

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

REGENTS (BOARD OF)
UNIVERSITY OF UTAH,
PARKING AND TRANSPORTATION SERVICES
Room 101
1910 E SOUTH CAMPUS DR
SALT LAKE CITY UT 84112-9350, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
John Crawford at the above address, by phone at 801-585-6941, by FAX at 801-581-4056, or by Internet E-mail at john@parking.utah.edu

AUTHORIZED BY: John Crawford, Office Operations Manager

EFFECTIVE: 02/22/2007



**Regents (Board Of), University of Utah,
Parking and Transportation Services
R810-11
Appeals System**

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29542
FILED: 02/22/2007, 09:22

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 53B-3-103 gives the board authority to enact regulations governing the conduct of

university students, faculty, and employees. Section 53B-3-107 regulates what are and how to deal with traffic violations.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments supporting or opposing this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The appeals system gives individuals a way to appeal parking tickets received on campus. Therefore, this rule should be continued.

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

REGENTS (BOARD OF)
UNIVERSITY OF UTAH,
PARKING AND TRANSPORTATION SERVICES
Room 101
1910 E SOUTH CAMPUS DR
SALT LAKE CITY UT 84112-9350, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
John Crawford at the above address, by phone at 801-585-6941, by FAX at 801-581-4056, or by Internet E-mail at john@parking.utah.edu

AUTHORIZED BY: John Crawford, Office Operations Manager

EFFECTIVE: 02/22/2007



**Tax Commission, Auditing
R865-4D
Special Fuel Tax**

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29556
FILED: 02/26/2007, 14:04

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 59-13-102 provides definitions relating to the motor and special fuel taxes. Section 59-13-301 imposes a tax on special fuels and provides for exemptions to the tax. Section 59-13-302 requires users of special fuel to obtain a license, and provides guidelines for obtaining and maintaining the license. Section 59-13-303 requires special fuel users to obtain a special fuel permit. The section also allows a user to obtain a 96-hour special fuel trip permit, in place of the special fuel permit. Section 59-13-304 provides for a user of clean fuel to obtain a special fuel tax exemption certificate and sets fees for

obtaining the certificate. Section 59-13-305 requires the user to file a report with the Tax Commission showing the fuel purchased and used in the state. Section 59-13-307 requires the supplier to file a report with the Tax Commission showing fuel delivered to or removed from the state. Section 59-13-312 requires users and user-dealers to keep records, in a form prescribed by the commission, of all purchases, receipts and sales. Section 59-13-501 allows the commission to enter into cooperative agreements with other states for the exchange of information and auditing of fuels used by fleets of interstate vehicles.

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: Section R865-4D-1 defines "motor vehicle" and "user" for purposes of imposing the special fuels tax. Section R865-4D-2 provides guidance on when the fee for the special fuel tax exemption certificate shall be paid; clarifies when the special fuel tax exemption applies; and outlines the formula for calculating fuel use. Section R865-4D-3 provides procedures for purchase and use of special fuel user-dealer's license. Section R865-4D-5 provides guidance on the use of a special fuel tax entrance permit. Section R865-4D-6 sets forth the record-keeping requirements for special fuel user-dealers. Section R865-4D-18 sets forth the record-keeping requirements for special fuel users. Section R865-4D-19 outlines how a government entity is to obtain a refund for special fuel taxes paid and indicates records needed to support the refund. Section R865-4D-20 indicates the conditions under which the exemption or refund

for exported undyed diesel fuel shall apply. Section R865-4D-21 defines "gross gallon" and "net gallon;" requires suppliers to calculate tax liability on a consistent gross gallon or net gallon basis; and specifies that both gross and net amounts must be on all invoices, bills of lading, and special fuel tax returns. Section R865-4D-22 provides procedures for administering the reduction of special fuel tax on fuel that is subject to a tax imposed by the Navajo Nation. Section R865-4D-23 indicates that the commission entered into the International Fuel Tax Agreement effective 01/01/1990. Section R865-4D-24 defines "off-highway" for purposes of determining whether undyed diesel fuel is exempt from fuel tax as fuel used for off-highway purposes. Therefore, this rule should be continued.

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

TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

AUTHORIZED BY: D'Arcy Dixon, Commissioner

EFFECTIVE: 02/26/2007

◆ ————— ◆

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (*Utah Code* Section 63-46a-9 (1996)). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file an extension with the Division of Administrative Rules. The extension permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed extensions for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date. The five-year review extension is governed by *Utah Code* Subsection 63-46a-9(4) and (5) (1996).

Environmental Quality

Environmental Response and Remediation

No. 29567: R311-200. Underground Storage Tanks: Definitions.

ENACTED OR LAST REVIEWED: 03/06/2002 (No. 24548, 5YR, filed 03/06/2002 at 2:01 p.m., published 04/01/2002).

EXTENDED DUE DATE: 07/04/2007

No. 29568: R311-201. Underground Storage Tanks: Certification Programs.

ENACTED OR LAST REVIEWED: 03/06/2002 (No. 24549, 5YR, filed 03/06/2002 at 2:03 p.m., published 04/01/2002).

EXTENDED DUE DATE: 07/04/2007

No. 29569: R311-202. Underground Storage Tank Technical Standards.

ENACTED OR LAST REVIEWED: 03/06/2002 (No. 24550, 5YR, filed 03/06/2002 at 2:04 p.m., published 04/01/2002).

EXTENDED DUE DATE: 07/04/2007

No. 29570: R311-203. Underground Storage Tanks: Notification, New Installations, Registration Fees, and Testing Requirements.

ENACTED OR LAST REVIEWED: 03/06/2002 (No. 24551, 5YR, filed 03/06/2002 at 2:05 p.m., published 04/01/2002).

EXTENDED DUE DATE: 07/04/2007

No. 29571: R311-204. Underground Storage Tanks: Closure and Remediation.

ENACTED OR LAST REVIEWED: 03/06/2002 (No. 24552, 5YR, filed 03/06/2002 at 2:06 p.m., published 04/01/2002).

EXTENDED DUE DATE: 07/04/2007

No. 29572: R311-205. Underground Storage Tanks: Site Assessment Protocol.

ENACTED OR LAST REVIEWED: 03/06/2002 (No. 24553, 5YR, filed 03/06/2002 at 2:07 p.m., published 04/01/2002).

EXTENDED DUE DATE: 07/04/2007

No. 29573: R311-206. Underground Storage Tanks: Financial Assurance Mechanisms.

ENACTED OR LAST REVIEWED: 03/06/2002 (No. 24554, 5YR, filed 03/06/2002 at 2:08 p.m., published 04/01/2002).

EXTENDED DUE DATE: 07/04/2007

No. 29574: R311-207. Accessing the Petroleum Storage Tank Trust Fund for Leaking Petroleum Storage Tanks.

ENACTED OR LAST REVIEWED: 03/06/2002 (No. 24555, 5YR, filed 03/06/2002 at 2:09 p.m., published 04/01/2002).

EXTENDED DUE DATE: 07/04/2007

No. 29575: R311-208. Underground Storage Tank Penalty Guidance.
ENACTED OR LAST REVIEWED: 03/06/2002 (No. 24556, 5YR, filed 03/06/2002 at 2:10 p.m., published 04/01/2002).
EXTENDED DUE DATE: 07/04/2007

No. 29576: R311-209. Petroleum Storage Tank Cleanup Fund and State Cleanup Appropriation.
ENACTED OR LAST REVIEWED: 03/06/2002 (No. 24557, 5YR, filed 03/06/2002 at 2:12 p.m., published 04/01/2002).
EXTENDED DUE DATE: 07/04/2007

No. 29577: R311-210. Administrative Procedures for Underground Storage Tank Act Adjudicative Proceedings.
ENACTED OR LAST REVIEWED: 03/06/2002 (No. 24558, 5YR, filed 03/06/2002 at 2:13 p.m., published 04/01/2002).
EXTENDED DUE DATE: 07/04/2007

No. 29578: R311-211. Corrective Action Cleanup Standards Policy - UST and CERCLA Sites.
ENACTED OR LAST REVIEWED: 03/06/2002 (No. 24559, 5YR, filed 03/06/2002 at 2:14 p.m., published 04/01/2002).
EXTENDED DUE DATE: 07/04/2007

No. 29579: R311-212. Administration of the Petroleum Storage Tank Loan Fund.
ENACTED OR LAST REVIEWED: 03/06/2002 (No. 24560, 5YR, filed 03/06/2002 at 2:14 p.m., published 04/01/2002).
EXTENDED DUE DATE: 07/04/2007

Natural Resources

Wildlife Resources

No. 29580: R657-43. Landowner Permits.
ENACTED OR LAST REVIEWED: 03/01/2002 (No. 24535, 5YR, filed 03/01/2002 at 2:05 p.m., published 03/15/2002).
EXTENDED DUE DATE: 06/29/2007

No. 29536: R657-51. Youth Permits.
ENACTED OR LAST REVIEWED: 02/26/2002 (No. 24343, NEW, filed 12/27/2001 at 11:06 a.m., published 01/15/2002).
EXTENDED DUE DATE: 06/26/2007

End of the Notices of Five-Year Review Extensions Section

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. Statute permits an agency to make a rule effective "on any date specified by the agency that is no fewer than seven calendar days after the close of the public comment period . . . , nor more than 120 days after the publication date." Subsection 63-46a-4(9).

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Agriculture and Food

Animal Industry

No. 29342 (NEW): R58-23. Equine Viral Arteritis (EVA).
Published: January 1, 2007
Effective: February 28, 2007

Plant Industry

No. 29347 (AMD): R68-20. Utah Organic Standards.
Published: January 1, 2007
Effective: February 28, 2007

Commerce

Consumer Protection

No. 29379 (AMD): R152-26. Telephone Fraud Prevention Act.
Published: January 15, 2007
Effective: February 23, 2007

Occupational and Professional Licensing

No. 29355 (AMD): R156-22. Professional Engineers and Professional Land Surveyors Licensing Act Rules.
Published: January 15, 2007
Effective: February 22, 2007

No. 29353 (NEW): R156-40a. Athletic Trainer Licensing Act Rule.
Published: January 15, 2007
Effective: February 22, 2007

No. 29356 (AMD): R156-42a. Occupational Therapy Practice Act Rules.

Published: January 15, 2007
Effective: February 22, 2007

No. 29354 (AMD): R156-57. Respiratory Care Practices Act Rules.

Published: January 15, 2007
Effective: February 22, 2007

Human Services

Substance Abuse and Mental Health

No. 29381 (AMD): R523-1-2. State and Local Relationships.

Published: January 15, 2007
Effective: February 26, 2007

No. 29382 (AMD): R523-1-11. Policies and Procedures Relating to Referrals, Admissions, and Transfers of Mental Health Consumers to the Utah State Hospital and Between Mental Health Center Catchment Areas.

Published: January 15, 2007
Effective: February 26, 2007

Transportation

Program Development

No. 29358 (AMD): R926-6. Transportation Corridor Preservation Revolving Loan Fund.

Published: January 15, 2007
Effective: February 22, 2007

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, 2007, including notices of effective date received through March 1, 2007, the effective dates of which are no later than March 15, 2007. 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>Finance</u>					
R25-14	Payment of Attorneys Fees in Death Penalty Cases	29424	5YR	01/17/2007	2007-4/54
<u>Fleet Operations</u>					
R27-5	Fleet Tracking	29457	5YR	01/29/2007	2007-4/54
R27-6	Fuel Dispensing Program	29515	5YR	02/14/2007	2007-5/19
R27-8	State Vehicle Maintenance Program	29534	5YR	02/21/2007	2007-6/37
<u>Fleet Operations, Surplus Property</u>					
R28-1	State Surplus Property Disposal	29550	5YR	02/26/2007	2007-6/37
<u>Records Committee</u>					
R35-2-2	Declining Requests for Hearings	29081	AMD	01/05/2007	2006-20/2

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Agriculture and Food					
<u>Administration</u>					
R51-2	Administration Procedures for Informal Proceedings Before the Utah Department of Agriculture and Food	29405	5YR	01/11/2007	2007-3/56
<u>Animal Industry</u>					
R58-1	Admission and Inspection of Livestock, Poultry, and Other Animals	29506	5YR	02/08/2007	2007-5/19
R58-6	Poultry	29504	5YR	02/08/2007	2007-5/20
R58-18	Elk Farming	29505	5YR	02/08/2007	2007-5/20
R58-22	Equine Infectious Anemia (EIA)	29503	5YR	02/08/2007	2007-5/21
R58-23	Equine Viral Arteritis (EVA)	29342	NEW	02/28/2007	2007-1/5
<u>Plant Industry</u>					
R68-19	Compliance Procedures	29453	5YR	01/29/2007	2007-4/55
R68-20	Utah Organic Standards	29347	AMD	02/28/2007	2007-1/6
<u>Regulatory Services</u>					
R70-201	Compliance Procedures	29492	5YR	02/02/2007	2007-5/21
R70-320	Minimum Standards for Milk for Manufacturing Purposes, its Production and Processing	29507	5YR	02/08/2007	2007-5/22
R70-350	Ice Cream and Frozen Dairy Foods Standards	29499	5YR	02/05/2007	2007-5/22
R70-360	Procedure for Obtaining a License to Test Milk for Payment	29500	5YR	02/05/2007	2007-5/23
Commerce					
<u>Administration</u>					
R151-2	Government Records Access and Management Act Rules	29524	5YR	02/15/2007	2007-5/23
<u>Consumer Protection</u>					
R152-11	Utah Consumer Sales Practices Act	29470	5YR	02/01/2007	2007-4/55
R152-23	Utah Health Spa Services	29238	AMD	01/23/2007	2006-24/3
R152-26	Telephone Fraud Prevention Act	29379	AMD	02/23/2007	2007-2/3
R152-26	Telephone Fraud Prevention Act.	29594	5YR	03/05/2007	Not Printed
<u>Occupational and Professional Licensing</u>					
R156-1	General Rules of the Division of Occupational and Professional Licensing	29586	5YR	03/01/2007	2007-6/38
R156-1-102	Definitions	29555	NSC	03/09/2007	Not Printed
R156-11a	Cosmetologist/Barber, Esthetician, Electrologist and Nail Technician Licensing Act Rules	29013	AMD	01/11/2007	2006-19/5
R156-11a	Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rules	29013	CPR	01/11/2007	2006-23/87
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rules	29355	AMD	02/22/2007	2007-2/3
R156-24a	Physical Therapist Practice Act Rules	29459	5YR	01/30/2007	2007-4/56
R156-26a	Certified Public Accountant Licensing Act Rules	29473	5YR	02/01/2007	2007-4/56
R156-28	Veterinary Practice Act Rules	29472	5YR	02/01/2007	2007-4/57
R156-40a	Athletic Trainer Licensing Act Rule	29353	NEW	02/22/2007	2007-2/9
R156-41	Speech-Language Pathology and Audiology Licensing Act Rules	29471	5YR	02/01/2007	2007-4/57
R156-42a	Occupational Therapy Practice Act Rules	29356	AMD	02/22/2007	2007-2/11
R156-54	Radiology Technologist and Radiology Practical Technician Licensing Act Rules	29396	5YR	01/09/2007	2007-3/56

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R156-56	Utah Uniform Building Standard Act Rules	29120	AMD	01/01/2007	2006-21/5
R156-56	Utah Uniform Building Standard Act Rules	29122	AMD	01/01/2007	2006-21/33
R156-56	Utah Uniform Building Standard Act Rules	29357	NSC	01/01/2007	Not Printed
R156-56-711	Statewide Amendments to the IRC	29075	AMD	01/01/2007	2006-20/13
R156-57	Respiratory Care Practices Act Rules	29354	AMD	02/22/2007	2007-2/12
R156-70a	Physician Assistant Practice Act Rules	29564	5YR	02/27/2007	2007-6/39
R156-71	Naturopathic Physician Practice Act Rules	29394	5YR	01/08/2007	2007-3/57
R156-72	Acupuncture Licensing Act Rules	29395	5YR	01/09/2007	2007-3/57
R156-75	Genetic Counselor Licensing Act Rules	29397	5YR	01/09/2007	2007-3/58
<u>Real Estate</u>					
R162-9	Continuing Education	29224	AMD	01/17/2007	2006-23/3
R162-102	Application Procedures	29523	5YR	02/15/2007	2007-5/24
R162-104	Experience Requirement	29522	5YR	02/15/2007	2007-5/24
R162-106	Professional Conduct	29521	5YR	02/15/2007	2007-5/25
R162-202	Initial Application	29237	AMD	01/24/2007	2006-24/4
R162-210-6	Instructor Certification and Renewal	29429	NSC	02/12/2007	Not Printed
Community and Culture					
<u>Fine Arts</u>					
R207-1	Utah Arts Council General Program Rules	29528	NSC	03/08/2007	Not Printed
R207-2	Policy for Commissions, Purchases, and Donations to, and Loans from, the Utah State Art Collections	29529	NSC	03/08/2007	Not Printed
Corrections					
<u>Administration</u>					
R251-305	Visiting at Community Correctional Centers	29462	5YR	01/31/2007	2007-4/58
R251-306	Sponsors in Community Correctional Centers	29463	5YR	01/31/2007	2007-4/58
R251-707	Legal Access	29464	5YR	01/31/2007	2007-4/59
R251-710	Search	29465	5YR	01/31/2007	2007-4/59
Crime Victim Reparations					
<u>Administration</u>					
R270-1-26	Victim Services	29220	AMD	01/10/2007	2006-23/6
Education					
<u>Administration</u>					
R277-511	Highly Qualified Teacher Grants	29305	NEW	01/23/2007	2006-24/7
R277-512	Online Licensure	29306	NEW	01/23/2007	2006-24/9
R277-617	Authorization of Student Clubs and Organizations	29494	5YR	02/02/2007	2007-5/25
R277-705	Secondary School Completion and Diplomas	29495	5YR	02/02/2007	2007-5/26
R277-915	Work-based Learning Programs for Interns	29496	5YR	02/02/2007	2007-5/26
Environmental Quality					
<u>Air Quality</u>					
R307-101-2	Definitions	29000	CPR	03/09/2007	2007-3/39
R307-101-2	Definitions	29000	AMD	03/09/2007	2006-19/27
R307-110-13	Section IX, Control Measures for Area and Point Sources, Part D, Ozone	29001	CPR	03/09/2007	2007-3/40

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R865-9I-32	Confidentiality of Return Information, Penalties, and Exchange of Information With the Internal Revenue Service or Governmental Units Pursuant to Utah Code Ann. Section 59-10-545	29320	AMD	02/12/2007	2007-1/42
R865-9I-49	Higher Education Savings Incentive Program Tax Deduction Pursuant to Utah Code Ann. Sections 53B-8a-112 and 59-10-114	29315	AMD	02/12/2007	2007-1/43
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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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