

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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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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Governor's Executive Order 2007-0004: Calling a Statewide Special Election for November 6, 2007, and Directing that the Referendum Challenging House Bill 148--Education Vouchers be Submitted to the Voters at that Special Election

EXECUTIVE ORDER

Calling a statewide special election for November 6, 2007, and directing that the referendum challenging House Bill 148--Education Vouchers be submitted to the voters at that special election

WHEREAS, the Constitution of Utah reserves to the people of the State of Utah the power to require that any law passed by the legislature, except those passed by a two-thirds vote of the members elected to each house of the legislature, be submitted to the voters, as provided by statute, before the law may take effect (Article VI, Section 1);

WHEREAS, the Utah Code specifies the requirements for circulating, certifying, and qualifying referendum petitions (Title 20A, Chapter 7, Part 3);

WHEREAS, on April 30, 2007, Lieutenant Governor Gary R. Herbert declared the petition challenging House Bill 148--Education Vouchers "sufficient" with more than the statutorily required number of signatures; and,

WHEREAS, the Utah Code authorizes the governor to call statewide special elections on the first Tuesday after the first Monday in November (Sections 20A-1-203 and 204);

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

1. A statewide special election shall be conducted, in the manner provided by law, on November 6, 2007.
2. The purpose of the statewide special election is to consider the referendum challenging House Bill 148--Education Vouchers.
3. The election officials of this state shall submit the referendum challenging House Bill 148--Education Vouchers to the voters at that statewide special election.

IN WITNESS, WHEREOF, I have hereunto set my hand and cause to be affixed the Great Seal of the State of Utah. Done at the State Capitol Complex in Salt Lake City, Utah, this 9th day of May 2007.

(State Seal)

Jon M. Huntsman, Jr.
Governor

Attest:

Gary R. Herbert
Lieutenant Governor

2007/0004

Governor's Executive Order 2007-0003: Wildland Fire Management

EXECUTIVE ORDER

Wildland Fire Management

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

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

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

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

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

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

It is found, determined and declared that a "State of Emergency" exists statewide due to the threat to public safety, property, natural resources and the environment for thirty days, effective as of May 10, 2007, requiring aid, assistance and relief available pursuant to the provisions of state statutes, and the State Emergency Operations Plan, which is hereby activated.

IN WITNESS, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, this 10th day of May 2007.

(State Seal)

Jon M. Huntsman, Jr.
Governor

ATTEST:

Gary R. Herbert
Lieutenant Governor

2007/0003

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 May 2, 2007, 12:00 a.m., and May 15, 2007, 11:59 p.m. are included in this, the June 1, 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 July 2, 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 September 29, 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.

Agriculture and Food, Animal Industry
R58-1
**Admission and Inspection of Livestock,
Poultry, and Other Animals**

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 29912
FILED: 05/02/2007, 16:55

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: A five-year review of the rule revealed portions of the rule that were not consistent with current industry and government practices. Some portions of the rule were drafted years ago when practices and standards were different. Changes in code through the years necessitated that the administrative rule be updated.

SUMMARY OF THE RULE OR CHANGE: The rule changes include the addition of several definitions to more clearly explain language used in the rule. Some definitions were removed because they were no longer useful. Current contact information was included for the benefit of individuals seeking to obtain import permits. Changes in various disease testing requirements were made to reflect current national standards in disease program methods and rules.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 4, Chapter 31; and Subsections 4-2-2(1)(c)(i) and 4-2-2(1)(j)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** The rule only updates definitions and therefore, does not have any impact on state budgets.
- ❖ **LOCAL GOVERNMENTS:** The proposed rule changes will not have any impact on local government because the change only updates the definitions.
- ❖ **OTHER PERSONS:** The proposed rule changes will not have any impact on other persons because the changes only updates the definitions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs will not be different than the currently experienced by affected person. The rule changes simply reflect current practices.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule change will not have any fiscal impact on associated business. Leonard M. Blackham, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Terry Menlove, Kathleen Mathews, or Earl Rogers at the above address, by phone at 801-538-7166, 801-538-7103, or 801-538-7162, by FAX at 801-538-7169, 801-538-7126, or 801-538-7169, or by Internet E-mail at tmenlove@utah.gov, kmathews@utah.gov, or erogers@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/09/2007

AUTHORIZED BY: Leonard M. Blackham, Commissioner

R58. Agriculture and Food, Animal Industry.

R58-1. Admission and Inspection of Livestock, Poultry, and Other Animals.

R58-1-1. Authority.

A. Promulgated under the authority of Title 4, Chapter 31 and Subsections 4-2-2(1)(c)(i), 4-2-2(1)(j).

B. Intent: It is the intent of these rules to eliminate or reduce the spread of diseases among livestock by providing standards to be met in the movement of livestock within the State of Utah, INTRASTATE, and Import movements, INTERSTATE, of livestock, poultry and other animals.

R58-1-2. Definitions.

A. "Accredited Veterinarian" - A veterinarian approved by the Deputy Administrator of Veterinary Services (VS), Animal and Plant Health Inspection Services (APHIS), United States Department of Agriculture (USDA), in accordance with the provisions of 9 CFR 161 to perform functions required by cooperative State-Federal disease control and eradication programs.

~~A.]B. "Approved Livestock Market" - A livestock market which meets the requirements as outlined in 9 CFR 78, [January 1, 2002 edition] which is incorporated by reference, Title 4, Chapter 30, Utah Code Unannotated; and R58-7, Utah Administrative Code.~~

~~—B. "Livestock Market Veterinarian" - A Utah licensed and accredited veterinarian appointed by the Department of Agriculture and Food to work in livestock markets in livestock health and movement matters.~~

] C. "Brand Inspection Certificate" - An official form, issued by a government agency or other agency responsible for animal identification in the state of origin, used to transfer title of livestock; listing the identification marks of the animals(s) as well as the consignor and consignee contact information.

D. "Camelidae" - A term referring to members of the family of animals which for the purposes of these rules includes camels, llamas, alpacas, guanacos, and vicunas.

E. "Direct Movement" - Movement in which the animals are not unloaded enroute to their final destination and not commingled with another producer's animals.

[H]E. "Exposed Animal", "Reactor", "Suspect", as defined in the United States Department of Agriculture; Animal and Plant Health Inspection Service and Veterinary Services Brucellosis Eradication Uniform Methods and Rules, and 9 CFR 78.

G. "Farm of Origin" - For the purposes of this rule, means the farm where the animal was born.

H. "Livestock Market Veterinarian" - A Utah licensed and USDA accredited veterinarian appointed by the Utah Department of Agriculture and Food to work in livestock markets in livestock health and movement matters.

~~[C. "Official Random Sample Test, 95/10" - A sampling procedure utilizing official pseudorabies serologic tests which provides a 95 percent probability of detecting infection in a herd in which at least 10 percent of the swine are seropositive for pseudorabies. Each segregated group of swine on an individual premises must be considered a separate herd and sampled as follows:~~

~~— Less than 100 head — Test 25
— 100 - 200 head — Test 27
— 201 - 999 head — Test 28
— 1,000 and over — Test 29~~

~~D. "Official Random Sample Test, 95/5" - A sampling procedure utilizing official pseudorabies serologic tests which provides a 95 percent probability of detecting infection in a herd in which at least five percent of the swine are seropositive for pseudorabies. Each segregated group of swine on an individual premises must be considered a separate herd and sampled as follows:~~

~~— Less than 100 head — Test 45
— 100 - 200 head — Test 51
— 201 - 999 head — Test 57
— 1,000 and over — Test 59~~

~~] [H.]L. "Official Calftooth Vaccinate" - Female bison or cattle of a dairy breed or beef breed vaccinated by a USDA Veterinary Services representative, State certified technician, or accredited Veterinarian with an approved dose of RB51 Vaccine or other USDA approved agent while from 4 to 12 months of age in accordance with its labeling.~~

~~These cattle must be properly identified by official tattoos and ear tag or registration tattoo and be reported on an official vaccination certificate (VS Form 4-24) within 30 days to the State Veterinarian.~~

~~[E.]J. "Qualified Feedlot" - A feedlot approved by the Utah Department of Agriculture and Food to handle [INTRASTATE] heifers, cows or bulls which are either official calftooth vaccinated, or brucellosis unvaccinated animals [originate from Utah herds. These animals shall be] confined to a drylot area which is used to upgrade or finish feeding animals going only to slaughter or another qualified feedlot. All such animals must be kept separate from other animals not destined for slaughter. No Grazing is allowed except, bulls and heifers which have been castrated or spayed upon arrival may be allowed to go for outside grazing prior to return for finish feeding and subsequent slaughter. Spayed heifers must be officially identified with a brand reserved by the state for such animals prior to leaving the feedlot for grazing.~~

~~K. "Quarantine" - A verbal or written restriction of movement of animals into or out of an area or premise, issued by a representative of the Utah Department of Agriculture and Food under authority of the Commissioner of Agriculture.~~

~~[F.]L. "Reportable Disease List" - A list of diseases and conditions developed by the state veterinarian that may affect the health and welfare of the animal industry of the state, reportable to the state veterinarian.~~

~~[G.]M. "Test Eligible Cattle and Bison" - All cattle or bison six months of age or older, except:~~

- ~~1. Steers, spayed heifers;~~
- ~~2. Official calftooth vaccinates of dairy breeds under 20 months of age and beef breeds under 24 months of age which are not parturient, springers, or post parturient;~~
- ~~3. Official calftooth vaccinates, dairy or beef breeds of any age, which are Utah Native origin.~~

4. Utah Native Bulls from non-infected herds.

R58-1-3. Intrastate Cattle Movement - Rules - Brucellosis.

A. The State Veterinarian may require brucellosis testing of cattle, bison, and elk, moving intrastate as necessary to protect against potential disease threat or outbreak.

B. Utah Department of Agriculture and Food Livestock Inspectors will help regulate Intrastate movement of cattle according to Brucellosis rules at the time of change of ownership inspection.

R58-1-4. Interstate Importation Standards.

A. No animal, poultry or bird of any species or other animal including wildlife, that is known to be affected with or has been exposed to a contagious, infectious or communicable disease, or that originates from a quarantined area, shall be shipped, transported or moved into the State of Utah until written permission for such entry is first obtained from Veterinary Services Division, United States Department of Agriculture, Animal and Plant Health Inspection Service, and Utah Department of Agriculture and Food, State Veterinarian or Commissioner of Agriculture and Food.

B. Certificate of Veterinary Inspection. An official Certificate of Veterinary Inspection issued by an accredited veterinarian is required for importation of all animals and poultry. A copy of the certificate shall be immediately forwarded to the Utah Department of Agriculture and Food by the issuing veterinarian or the livestock sanitary official of the state of origin.

C. Import Permits. Livestock, poultry and other animal import permits may be issued by telephone to the consignor, a consignee or to an accredited veterinarian responsible for issuing a Certificate of Veterinary Inspection, and may be obtained from the Utah Department of Agriculture and Food, 350 North Redwood Road, PO Box 146500, Salt Lake City, Utah 84114-6500, Phone (801)538-7164[;]. Import permits may be obtained after hours and weekends ~~[-(435)882-0217; (801)773-5656.]~~ by calling current telephone numbers listed online at <http://ag.utah.gov/animind/ahealth.html>, or at 1-800-545-USDA(8732).

R58-1-5. Cattle and Bison.

A. Import Permit and Certificate of Veterinary Inspection.

1. No cattle or bison may be imported into Utah without an import permit issued by the Department of Agriculture and Food. A Certificate of Veterinary Inspection and an import permit must accompany all cattle and bison imported into the state. All cattle and bison, except steers and spayed heifers, must carry some form of individual identification, 1) a brand registered with an official brand agency, or 2) an Electronic ID, ear tag or 3) a registration tattoo. Identification must be listed on the Certificate of Veterinary Inspection.

Official individual identification used for testing purposes must be shown on the Certificate of Veterinary Inspection. The import permit number must be listed on the Certificate of Veterinary Inspection. This includes exhibition cattle. Commuter cattle are exempt as outlined in Subsection R58-1-5(B). Import permits may be obtained after hours and weekends by calling current telephone numbers listed online at: <http://ag.utah.gov/animind/ahealth.html>, or at 1-800-545-USDA(8732).

2. The following cattle are exempted from (1) above:

- a. Cattle consigned directly to slaughter at a state or federally inspected slaughter house; and
- b. Cattle consigned directly to a State or Federal approved Auction Market.
- c. Movements under Subsections R58-1-5(A)(2)(a), and R58-1-5(A)(2)(b) must be in compliance with state and federal laws and regulations and must be accompanied by a weighbill, brand certificate,

or similar document showing some form of positive identification, signed by the owner or shipper stating the origin, destination, number and description of animals and purpose of movement.

3. A brand inspection certificate or proof of ownership, which indicates the intended destination, is required for cattle entering the state under these provisions.

B. Commuter Cattle. Commuter, temporary grazing, cattle may enter Utah or return to Utah after grazing if the following conditions are met.

1. ~~[A Certificate of Veterinary Inspection or a]~~A, commuter permit approved by the import state and the State of Utah must be obtained prior to movement into Utah. This will allow movements for grazing for current season if the following conditions are met:

a. All cattle shall meet testing requirements as to State classification for interstate movements as outlined in 9 CFR 1-78, which is incorporated by reference; USDA, Animal and Plant Health Inspection Services, Brucellosis Eradication, Uniform Methods and Rules, October 1, 2003, and approved by cooperating States.

b. Commuter cattle shall not be mixed with quarantined, exposed, or suspect cattle nor change ownership during the grazing period.

c. All bulls used in the commuter herd must be tested annually for trichomoniasis as required by the state of Utah.

2. No quarantined, exposed or reactor cattle shall enter Utah.

C. Brucellosis. Prior to importation of cattle or bison into Utah the following health restrictions must be met.

1. Bison and beef breed heifers of vaccination age between four and 12 months must be officially calthood vaccinated for brucellosis prior to entering Utah. All female bison and beef breed cattle imported to Utah [after July 1, 1984,] must have a legible brucellosis calthood vaccination tattoo to be imported or sold ~~[with]~~into the State of Utah, unless going directly to slaughter, or qualified feedlot to be sold for slaughter, or to an approved livestock market to be sold for slaughter or for vaccination.

a. Bison and beef breed heifers of vaccination age may be vaccinated upon arrival by special permit from the state veterinarian.

2. Test eligible cattle imported from states designated as brucellosis free, that are acquired directly from the farm of origin and moving directly to the farm of destination are not required to be tested for brucellosis prior to movement.

3. Test eligible cattle imported from states designated as brucellosis free, that are acquired through "trading channels", or any "non-farm of origin source" must be tested negative for brucellosis within 30 days prior to entry.

4. All test eligible cattle imported from states that have not been designated as brucellosis free must test negative for brucellosis within 30 days before movement into Utah.

5. Exceptions to the above testing requirements include Test Eligible Cattle imported to Utah and moving directly to:

- a. an approved livestock market, or
- b. to a "qualified feedlot", or
- c. for immediate slaughter to a slaughtering establishment where federal or state inspection is maintained.

A brand inspection certificate, or proof of ownership, which indicates the intended destination is required for cattle entering the state under these provisions.

6. No reactor cattle, or cattle from herds under quarantine for brucellosis will be allowed to enter the state except when consigned to a slaughtering establishment where recognized state or federal meat inspection is maintained. An import permit and a Veterinary Services Form 1-27 prior to shipment are also required.

7. Entry of cattle which have been retattooed is not permitted

unless they are moved for immediate slaughter to a slaughtering establishment where state or federal inspection is maintained or to not more than one state or federal approved market for sale to a qualified feedlot or slaughtering establishment.

8. Entry of cattle which have been adult vaccinated is not permitted unless they are for immediate slaughter where state or federal inspection is maintained.

D. Tuberculosis.

A negative test is required within 60 days prior to shipment for all dairy cattle 2 months of age and older and bison 6 months of age and older, breeding cattle originating within a quarantined area or from reactor or exposed herds. Exhibition cattle, and all cattle from an area which is not classified as Tuberculosis Free according to 9 CFR. 77 are required to be tested for tuberculosis within 60 days prior to entry to Utah. Rodeo bulls and roping steers must be tested annually during the calendar year for tuberculosis prior to entry to Utah.

E. Scabies.

No cattle affected with, or exposed to scabies shall be trailed, driven, shipped or otherwise moved into Utah. Cattle from a county where scabies have been diagnosed during the past 12 months must be officially treated within 10 days prior to shipment into Utah. The date of treating and products used must be shown on the Certificate of Veterinary Inspection; also the approved vat number and location, if used.

F. Splenic or Tick Fever. No cattle infested with ticks, ~~[Margaropus annulatus,]~~ or exposed to tick infestations shall be shipped, trailed, or driven, or otherwise imported into the State of Utah for any purpose.

G. Exhibitions, Fairs, and Shows.

1. Dairy cattle and cattle for breeding purposes imported for exhibition or show purposes only to be returned to state of origin may enter provided:

a. The cattle are accompanied by the proper Certificate of Veterinary Inspection and import permit.

b. The cattle must have negative tuberculosis T.B. test within 60 days prior to entry.

c. The cattle must have a negative brucellosis test within 30 days prior to entrance. Official Calthood Vaccinates under test eligible age are acceptable.

H. Trichomoniasis.

All bulls imported to Utah shall be in compliance with R58-21-3(A), which requires testing of all bulls over nine months of age for Trichomoniasis prior to entry, with some exceptions which are for slaughter, rodeo, exhibition, and dairy bulls kept in confinement.

R58-1-6. Horses, Mules, and Asses.

Horses, mules and asses may be imported into the State of Utah when accompanied by an official Certificate of Veterinary Inspection. ~~[The certificate must state that the equine animals described were examined on the date indicated and found free from symptoms of any infectious or communicable disease such as CEM, Contagious Equine Metritis, and EIA, Equine Infectious Anemia.]~~ The Certificate of Veterinary Inspection must show a negative coggins test within one year previous to the time the certificate was issued. Utah horses returning to Utah as part of a commuter livestock shipment are exempted from the Certificate of Veterinary Inspection requirements; however, a valid Utah horse travel permit as outlined under Sections 4-24-22 or 4-24-23 and Section R58-9-4 is required for re-entering Utah. Breeding stallions and semen infected with Equine Arteritis Virus must obtain a prior import permit and be handled only on an Approved Facility as required by R58-23. Import permits may be obtained after

hours and weekends by calling current telephone numbers listed online at: <http://ag.utah.gov/animind/ahealth.html>, or at 1-800-545-USDA (8732).

R58-1-7. Swine.

A. Stocking, Feeding, and Breeding swine. Swine for stocking, breeding, feeding or exhibition may be shipped into the state if the following requirements are met:

1. Import Permit and Certificate of Veterinary Inspection - All swine must be accompanied by an approved Certificate of Veterinary Inspection stating they ~~[are clinically free from infectious or contagious disease or exposure and]~~ have not been fed raw garbage. The Certificate of Veterinary Inspection must show individual identification, ear tags, tattoos, registration numbers, micro chips or other permanent means. An import permit issued by the Department of Agriculture and Food must accompany all hogs, including feeder hogs imported into the state. Import permits may be obtained after hours and weekends by calling current telephone numbers listed online at: <http://ag.utah.gov/animind/ahealth.html>, or at 1-800-545-USDA (8743).

2. Test Status. The Certificate of Veterinary Inspection must list the brucellosis, and pseudorabies test status of the animals.

3. Quarantine - All swine shipped into the state for feeding or breeding purposes are subject to an 18 day quarantine beginning with the date of arrival at destination. The department shall be notified by the owner of date of arrival. Release from quarantine shall be given by the department only when satisfied that health conditions are satisfactory.

4. Brucellosis - All breeding and exhibition swine over the age of three months shipped into Utah must pass a negative test for brucellosis within 30 days prior to movement into the state or originate from a validated brucellosis free herd or brucellosis free state. A validated brucellosis free herd number and date of last test is required to be listed on the Certificate of Veterinary Inspection.

5. Pseudorabies - All breeding, feeding and exhibition swine must pass a negative pseudorabies test within ~~[the last]~~ thirty days unless they originate from a recognized qualified pseudorabies free herd or pseudorabies Stage V state. ~~[However, feeder swine may come into the state from a herd of origin in a Stage III, IV, or V state as classified by the Official Pseudorabies Eradication Uniform Methods and Rules. A 30 day retest is required on all breeding and exhibition swine brought into the state.]~~ Swine which are infected or exposed to pseudorabies may not enter the state, except swine consigned to a slaughterhouse for immediate slaughter and must be moved in compliance with 9 CFR 1-71, which is incorporated by reference.

6. Erysipelas - ~~[Purebred and]~~ B[b]reeding and exhibition swine shall be immunized with erysipelas bacterin ~~[not less than 15 days]~~ prior to importation.

7. Leptospirosis - All breeding and exhibition swine over four months of age shall ~~[have passed a negative leptospirosis test within 30 days of entry, or be part of an entire negative herd test within the previous 12 months or]~~ be vaccinated for leptospirosis ~~[at least 15 days]~~ prior to entry. Herd and vaccination status must be stated on the Certificate of Veterinary Inspection.

8. PRRS -- All breeding and exhibition swine 2 months of age and over must be tested negative for Porcine Reproductive and Respiratory Syndrome (PRRS) virus within 30 days prior to entry to Utah or come from a PRRS monitored herd.

B. Immediate Slaughter

1. Swine shipped into Utah for immediate slaughter must not have been fed raw garbage, must be shipped in for immediate slaughter with no diversions, and must be free from any infectious or contagious

disease in compliance with 9 CFR 71, which is incorporated by reference.

2. Exhibition swine that have attended livestock shows in Utah shall not be returned to Utah farms but shall go directly to slaughter.

C. Prohibition of Non-domestic and Non-native Suidae and Tayassuidae. Javelina or Peccary, and feral or wild hogs such as Eurasian or Russian wild hogs (*Sus scrofa*) are considered invasive species in Utah, capable of establishing wild reservoirs of disease such as brucellosis and pseudorabies. They are prohibited from entry to Utah except when approved by special application only for purposes of exhibition and after meeting the above vaccination and testing requirements. Swine from states with known populations of feral or wild hogs may be required to be tested for Brucellosis, Pseudorabies, and PRRS prior to entry to Utah.

R58-1-8. Sheep.

A. All sheep imported must be accompanied by a Certificate of Veterinary Inspection and a prior import permit ~~[certifying the sheep are free of communicable diseases or exposure.]~~

1. Blue Tongue. No sheep exhibiting clinical signs of ~~[infected with or exposed to]~~ blue tongue may enter Utah. ~~[No sheep from an area under quarantine because of blue tongue may be transported into Utah without obtaining an import permit and a Certificate of Veterinary Inspection certifying that the sheep have originated from a flock free of blue tongue and have been vaccinated against blue tongue at least 30 days prior to entry.]~~

2. Foot Rot. Sheep must be thoroughly examined for evidence of foot rot ~~[The Certificate of Veterinary Inspection must certify that the sheep were examined]~~ and verified that they are free from foot rot.

3. A prior entry permit must be obtained by calling the Utah Department of Agriculture and Food, (801)538-7164. Import permits may be obtained after hours and weekends by calling current telephone numbers listed online at: <http://ag.utah.gov/animind/ahealth.html>, or at 1-800-545-USDA (8732).

4. Scrapie. Sheep entering Utah must comply with federal Scrapie identification requirements as listed in 9 CFR 79, ~~[January 1, 2002 edition,]~~ which is incorporated by reference. Sheep from Scrapie infected, exposed, quarantined or source flocks may not be permitted to enter the state unless a flock eradication and control plan, approved by the State Veterinarian in Utah, has been implemented.

R58-1-9. Poultry.

All poultry imported into the state shall comply with Title 4, Chapter 29 and R58-6 governing poultry which requires a prior permit from the Department of Agriculture and Food. This number can be called for information concerning permits: (801)538-7164. Import permits may be obtained after hours and weekends by calling current telephone numbers listed online at: <http://ag.utah.gov/animind/ahealth.html>, or at 1-800-545-USDA (8732).

R58-1-10. Goats and Camelids.

A. Goats being imported into Utah must meet the following requirements:

1. Dairy goats must have a import permit from the Department of Agriculture and Food (phone 801-538-7164) and, an official Certificate of Veterinary Inspection showing a negative tuberculosis test within 60 days, and a negative brucellosis test within 30 days prior to entry or be from a certified brucellosis free herd and accredited tuberculosis free ~~[area]~~ herd. ~~[They must be free of communicable diseases or exposure]~~ ~~[T]hereto~~; there must be no evidence of Caseous Lymphadenitis (abscesses). Import permits may be obtained after hours and weekends

by calling current telephone numbers listed online at: <http://ag.utah.gov/animind/ahealth.html>, or at 1-800-545-USDA(8732).

2. Meat type goats must have a Certificate of Veterinary Inspection indicating they are free from any communicable diseases or exposure and that there is no evidence of caseous lymphadenitis (abscesses).

3. Exemption - Goats for slaughter may be shipped into Utah directly to a state or federally inspected slaughtering establishment or to a state and federally approved auction market for sale to such slaughtering establishment. ~~However, they must be accompanied by a Certificate of Veterinary Inspection indicating they are free from any communicable diseases or exposure and that there is no evidence of caseous lymphadenitis, abscesses.~~

B. Camelids being imported into Utah must meet the following requirements ~~shall be accompanied by~~:

1. ~~A~~[a] Certificate of Veterinary Inspection;
2. Negative tuberculosis ~~[TB]~~ test within 60 days;
3. Negative ~~[B]~~brucellosis within 30 days.
4. Test eligible age for both brucellosis and tuberculosis shall be 6 months of age or older.

R58-1-11. Psittacine and Passerine Birds and Raptors.

No ~~[P]~~psittacine or passerine birds raptors offered for sale shall be shipped into the State of Utah unless an import permit is obtained from the Department prior to importation. Request for a import permit must be made by an accredited veterinarian certifying that the birds are free from any symptoms of any infectious, contagious or communicable disease. The request must also state the number and kinds of birds to be shipped into Utah, their origin, date to be shipped and destination, all listed on the Certificate of Veterinary Inspection. Import permits may be obtained after hours and weekends by calling current telephone numbers listed online at: <http://ag.utah.gov/animind/ahealth.html>, or at 1-800-545-USDA(8732).

R58-1-12. Dogs and Cats.

All dogs, cats and ferrets over ~~[four]~~three months of age shall be accompanied by an official Certificate of Veterinary Inspection, showing vaccination against rabies ~~[within 12 months]~~. The date of vaccination, name of product used, and expiration date must be given.

R58-1-13. Game and Fur-Bearing Animals.

A. ~~[Contagious or Communicable Disease.]~~No game or fur bearing animals will be imported into Utah without a prior import permit being obtained from the Department. Each shipment shall be accompanied by an official Certificate of Veterinary Inspection ~~[certifying they are free from all contagious and communicable diseases and exposure thereto]~~. Import permits may be obtained after hours and weekends by calling current telephone numbers listed online at: <http://ag.utah.gov/animind/ahealth.html>, or at 1-800-545-USDA(8732).

B. ~~[Mink.]~~All mink entering Utah shall have originated on ranches or herds where virus enteritis has not been diagnosed within the past three years.

C. Elk brought into the state under regulations governing elk farming and hunting shall meet the importation requirements of R58-18-11 and 12.

R58-1-14. Zoo Animals.

The entry of common zoo animals, as monkeys, apes, baboons, rhinoceros, giraffes, zebras, elephants, to be kept in zoos, or shown at exhibitions is authorized when a import permit, subject to requirements

established by the state veterinarian, has been obtained from the Department. Movement of these animals must also be in compliance with the Federal Animal Welfare Act, 7 USC 2131-2156. Import permits may be obtained after hours and weekends by calling current telephone numbers listed online at: <http://ag.utah.gov/animind/ahealth.html>, or 1-800-545-USDA(8732).

R58-1-15. Wildlife.

It is unlawful for any person to import into the State of Utah any species of live native or exotic wildlife except as provided in Title 23, Chapter 13. ~~[Fish and Wildlife Services, 1596 West North Temple, Salt Lake City, Utah 84116, (801)538-4887.]~~ All wildlife imports shall meet the same Department requirements as the domestic animals.

R58-1-16. Duties of Carriers.

Owners and operators of railroads, trucks, airplanes, and other conveyances are forbidden to move any livestock, poultry, or other animals into or within the State of Utah or through the State except in compliance with the provisions set forth in these rules.

A. Sanitation. All railway cars, trucks, airplanes, and other conveyances used in the transportation of livestock, poultry or other animals shall be maintained in a clean, sanitary condition.

B. Movement of Infected Animals. Owners and operators of railway cars, trucks, airplanes, and other conveyances that have been used for movement of any livestock, poultry, or other animals infected with or exposed to any infectious, contagious, or communicable disease as determined by the Department, shall be required to have cars, trucks, airplanes, and other conveyances thoroughly cleaned and disinfected under official supervision before further use is permissible for the transportation of livestock, poultry or other animals.

C. Compliance with Laws and Rules. Owners and operators of railroad, trucks, airplanes, or other conveyances used for the transportation of livestock, poultry, or other animals are responsible to see that each consignment is prepared for shipment in keeping with the State and Federal laws and regulations. Certificate of Veterinary Inspection, brand certificates, and permits should be attached to the waybill accompanying attendant in charge of the animals.

KEY: disease control, import requirements

Date of Enactment or Last Substantive Amendment: ~~[March 18, 2005]~~2007

Notice of Continuation: February 8, 2007

Authorizing, and Implemented or Interpreted Law: 4-31; 4-2-2(1)(j)



Commerce, Occupational and Professional Licensing

R156-63

Security Personnel Licensing Act Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29915

FILED: 05/03/2007, 10:35

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Security Personnel Licensing Board have reviewed the rule and want to propose amendments to further define basic education and training programs and continuing education requirements for armed and unarmed private security officers and to clarify requirements with respect to a training instructor.

SUMMARY OF THE RULE OR CHANGE: Throughout the rule, amendments are being proposed to change the rule from plural to singular. Also, throughout the rule, several statutory citations have been updated. In Subsections R156-63-304(2) and (3), amendments are being proposed to clarify that armed and unarmed private security officers are required to complete 16 hours of continuing education every 2 years consisting of formal classroom education and armed private security officers shall complete not less than 16 additional hours of continuing firearms education and training every 2 years. The additional 16 hours of firearms education required of armed private security officers is to be completed in four hour blocks every six months. The proposed amendments in this section do not add or change the continuing education requirements; but they have been rewritten to be easier to understand what is required. Subsection R156-63-304(5) has been added to define the outcome of additional continuing education hours required should a licensed armed private security officer fail to complete the required four hours of continuing firearms education within the appropriate six-month time period. Subsection R156-63-307(e) has been added as an additional exemption from licensure which allows an applicant for licensure to engage in practice as an unarmed or armed private security officer while meeting the additional 16 hours of basic education and training as defined in Section R156-63-603. Section R156-63-602 is being amended to further clarify the requirements to be a basic education instructor and to allow the instructor to receive continuing education credit for the preparation of a security training program. In Section R156-63-603, amendments are proposed to add and define an additional 16 hours of basic education and training to be completed in the classroom, while on the job or a combination thereof, within 30 days of the date of the application for armed and unarmed private security officers. The increased training hours required by this proposed amendment are intended to bring the required basic education requirement for armed and unarmed private security officers in line with the recommended minimum education standards of the American Society of Industrial Security (ASIS).

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

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$75 to reprint the rule once the proposed changes are made effective. Any costs incurred will be absorbed in the Division's current budget.

❖ **LOCAL GOVERNMENTS:** The proposed amendments do not apply to local governments; therefore, no costs or savings are anticipated. The proposed amendments only apply to

licensees and applicants for licensure as either an armed or unarmed private security officer.

❖ **OTHER PERSONS:** The proposed amendment requiring an additional 16 hours of on-the-job training for new applicants for licensure as either an armed or unarmed private security officer will impact contract security companies at an estimated cost of approximately \$9 additional per hour of training per applicant for licensure (\$9 x 16 hours = \$144 per applicant). However, the overall monetary impact is considered to be minimal since most contract security companies are currently requiring additional training for their officers when they begin to work for the company. There will also be an additional cost to an armed private security officer who fails to comply with the continuing education requirement with respect to four hours of firearms training to be completed every six months since the proposed amendment would require the licensee to complete additional hours of firearms training as a penalty for failing to be properly trained on a regular basis. The Division is unable to determine how many armed private security officer licensees may not complete their required firearms training within the specific time period or the costs that may be associated with obtaining the penalty hours that may be required.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendment requiring an additional 16 hours of on-the-job training for new applicants for licensure as either an armed or unarmed private security officer will impact contract security companies at an estimated cost of approximately \$9 additional per hour of training per applicant for licensure (\$9 x 16 hours = \$144 per applicant). However, the overall monetary impact is considered to be minimal since most contract security companies are currently requiring additional training for their officers when they begin to work for the company. There will also be an additional cost to an armed private security officer who fails to comply with the continuing education requirement with respect to four hours of firearms training to be completed every six months since the proposed amendment would require the licensee to complete additional hours of firearms training as a penalty for failing to be properly trained on a regular basis. The Division is unable to determine how many armed private security officer licensees may not complete their required firearms training within the specific time period or the costs that may be associated with obtaining the penalty hours that may be required.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing requires contract security companies to provide an additional 16 hours of classroom and/or on-the-job training to private security officers and penalizes armed private security officers who fail to comply with the minimum continuing education requirement by requiring additional training hours. Thus, there will be a fiscal impact to the industry as discussed in the rule filing. These substantive changes are intended to bring the rules in line with national standards. The rule filing makes additional clarifying and technical amendments, such as correcting outdated statutory references and defining the types of courses necessary to meet the continuing education requirements. None of these technical and clarifying amendments are

expected to create any fiscal impact to businesses. Francine A. Giani, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Clyde Ormond at the above address, by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at cormond@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/02/2007

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 6/14/2007 at 9:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/10/2007

AUTHORIZED BY: F. David Stanley, Director

R156. Commerce, Occupational and Professional Licensing.

R156-63. Security Personnel Licensing Act Rule[s].

R156-63-101. Title.

Th[ese] rule[s] are known as the "Security Personnel Licensing Act Rule[s]."

R156-63-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 63, as used in Title 58, Chapters 1 and 63 or th[ese] rule[s]:

(1) "Approved basic education and training programs" as used in th[ese] rule[s] means basic education and training that meets the standards set forth in Sections R156-63-602 and R156-63-603 and that is approved by the division.

(2) "Approved basic firearms education and training program", as used in th[ese] rule[s] means basic firearms education and training that meets the standards set forth in Section R156-63-604 and that is approved by the Division.

(3) "Authorized emergency vehicle" is as defined in Subsection [41-6-1(3)]41-6a-102(3).

(4) "Contract security company" includes:

(a) a peace officer who engages in providing security or guard services when acting in a capacity other than as an employee of the law enforcement agency by whom he is employed, or for other than the regular salary, whether at regular pay or overtime pay, from the law enforcement agency by whom he is employed; but does not include:

(b) a company which hires as employees, individuals to provide security or guard services for the purpose of protecting tangible personal property, real property, or the life and well being

of personnel employed by, or animals owned by or under the responsibility of the that company, as long as the security or guard services provided by the company do not benefit any person other than the employing company.

(5) "Employee" means an individual providing services in the security guard industry for compensation when the amount of compensation is based directly upon the security guard services provided and upon which the employer is required under law to withhold federal and state taxes, and for whom the employer is required under law to provide worker's compensation insurance coverage and pay unemployment insurance.

(6) "Immediate supervision" means the supervisor is available for immediate voice communication and can be available for in-person consultation within a reasonable period of time with an on-the-job trainee.

(7) "Officer" as used in Subsections 58-63-201(1)(a) and R156-63-302a(1)(b) means a manager, director, or administrator of a contract security company.

(8) "Practical experience" means experience as an unarmed or armed private security officer obtained under the immediate supervision of a supervisor who has been assigned to train and develop the unarmed or armed private security officer.

(9) "Qualified continuing education" as used in th[ese] rule[s] means continuing education that meets the standards set forth in Subsection R156-63-304.

(10) "Qualifying agent" means an individual who is an officer, director, partner, proprietor or manager of a contract security company who exercises material authority in the conduct of the contract security company's business by making substantive technical and administrative decisions relating to the work performed for which a license is required under this chapter and who is not involved in any other employment or activity which conflicts with his duties and responsibilities to ensure the licensee's performance of work regulated under this chapter does not jeopardize the public health, safety, and welfare.

(11) "Soft uniform" means a business suit or a polo-type shirt with appropriate slacks. The coat or shirt has an embroidered badge or contract security company logo that clips on to or is placed over the front pocket.

(12) "Supervised on-the-job training" means training of an armed or unarmed private security officer under the immediate supervision of a licensed private security officer who has been assigned to train and develop the on-the-job trainee.

(13) "Unprofessional conduct," as defined in Title 58, Chapters 1 and 63, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-63-502.

R156-63-103. Authority - Purpose.

Th[ese] rule[s] are adopted by the division under the authority of Subsection 58-1-106(1)(a) to enable the division to administer Title 58, Chapter 63.

R156-63-304. Continuing Education for Armed and Unarmed Private Security Officers as a Condition of Renewal.

(1) In accordance with Subsections 58-1-203(1)(g) and 58-1-308(3)(b), there is created a continuing education requirement as a condition of renewal or reinstatement of licenses issued under Title 58, Chapter 63 in the classifications of armed private security officer and unarmed private security officer.

(2) [Qualified continuing education for armed private security officers and unarmed private security officers shall consist of not

~~less than 16 hours of formal classroom education or practical experience every two years.]~~ Armed and unarmed private security officers shall complete 16 hours of continuing education every two years consisting of formal classroom education.

(3) ~~[Continuing firearms education and training for armed private security officers shall consist of a minimum of four hours of firearms training every six months.]~~ In addition to the required 16 hours of continuing education, armed private security officers shall complete not less than 16 additional hours of continuing firearms education and training every two years. The continuing firearms education and training shall be completed in four-hour blocks every six months and shall not include any hours for the continuing education requirement in Subsection R156-63-304(2). The continuing firearms education and training shall include as a minimum:

(a) live classroom instruction concerning the restrictions in the use of deadly force and firearms safety on duty, at home and on the range; and

(b) a recognized practical pistol recertification course on which the licensee achieves a minimum score of 80% using regular or low light conditions.

(4) Firearms education and training shall comply with the provisions of Public Law 103-54, the Armored Car Industry Reciprocity Act of 1993.

(5) An individual holding a current armed private security officer license in Utah who fails to complete the required four hours of continuing firearms education within the appropriate six month period will be required to complete one and one half times the number of continuing firearms education hours the licensee was deficient for the reporting period (this requirement is hereafter referred to as penalty hours). The penalty hours shall not be considered to satisfy in whole or in part any of the continuing firearms education hours required for subsequent renewal of the license.

~~(4)~~ 6 If a renewal period is shortened or lengthened to effect a change of renewal cycle, the continuing education hours required for that renewal period shall be increased or decreased accordingly as a pro rata amount of the requirements of a two-year period.

~~(5)~~ 7 Continuing education to qualify under the provisions of Subsection (2) shall include:

- (a) company operational procedures manual;
- (b) applicable state laws and rules;
- (c) legal powers and limitations of private security officers;
- (d) observation and reporting techniques;
- (e) ethics; and
- (f) emergency techniques.

R156-63-305. Demonstration of Clear Criminal History for Licensees as Renewal Requirement.

(1) In accordance with Subsections 58-1-203(~~7~~1)(~~g~~) and 58-1-308(3)(b), there is created a demonstration of a clear criminal history as a condition of renewal or reinstatement of licenses issued under Title 58, Chapter 63 in the classifications of armed private security officer, unarmed private security officer, and for the qualifying agent for a contract security company.

(2) Each application for renewal or reinstatement of the license of a contract security company shall be conditioned upon the licensee having obtained within 120 days prior to submission of the application for renewal or reinstatement, a clear criminal history certification from the Bureau of Criminal Identification, Utah Department of Public Safety, for the licensee's qualifying agent.

(3) Each application for renewal or reinstatement of the license of an armed private security officer, or unarmed private security officer shall be conditioned upon the licensee having obtained within 120 days prior to submission of the application for renewal or reinstatement, a clear criminal history certification from the Bureau of Criminal Identification, Utah Department of Public Safety.

R156-63-307. Exemptions from Licensure.

(1) In accordance with Subsection 58-1-307(1)(c), an applicant who has applied for licensure as an unarmed or armed private security officer is exempt from licensure and may engage in practice as an unarmed or armed private security officer in a supervised on-the-job training capacity, for a period of time not to exceed the earlier of 30 days or action by the division upon the application.

(2) Upon receipt of an ~~complete~~ application for licensure as an unarmed private security officer or as an armed private security officer, an on-the-job training letter may be issued to the applicant, if the applicant meets the following criteria:

(a) the applicant has not been licensed as an unarmed or as an armed private security officer in the state of Utah at least two years prior to applying for licensure;

(b) the applicant submits with his application an official criminal history report from the Bureau of Criminal Identification showing "No Criminal Record Found";

(c) the applicant has not answered "yes" to any question on the qualifying questionnaire section of the application; ~~and~~

(d) the applicant has not had a license to practice an occupation or profession denied, revoked, suspended, restricted or placed on probation; and

(e) the applicant has submitted all information required with the exception of the 16 hours of classroom or on-the-job education and training in accordance with Subsection R156-63-603(2).

R156-63-502. Unprofessional Conduct.

"Unprofessional conduct" includes the following:

(1) making any statement that would reasonably cause another person to believe that a private security officer functions as a law enforcement officer or other official of this state or any of its political subdivisions or any agency of the federal government;

(2) employment of an unarmed or armed private security officer by a contract security company, as an on-the-job trainee pursuant to Section R156-63-307, who has been convicted of a felony or a misdemeanor crime of moral turpitude;

(3) employment of an unarmed or armed private security officer by a contract security company who fails to meet the requirements of Section R156-63-307; and

(4) a judgment on, or a judicial or prosecutorial agreement concerning a felony, or a misdemeanor involving moral turpitude, entered against an individual by a federal, state or local court, regardless of whether the court has made a finding of guilt, accepted a plea of guilty or nolo contendere by an individual, or an individual has entered into participation in a first offender, deferred adjudication or other program or arrangement where judgment of conviction is withheld.

(5) utilizing a vehicle whose markings, lighting, and/or signal devices imply or suggest that the vehicle is an authorized emergency vehicle as defined in Subsection ~~[41-6-1(3)]~~41-6a-102(3) and Section ~~[41-6-1.5]~~41-6a-310 and in Title R722, Chapter 340;

(6) utilizing a vehicle with an emergency lighting system which violates the requirements of Section ~~[41-6-140]~~41-6a-1616 of the Utah Motor Vehicle Code;

(7) wearing a uniform, insignia, or badge that would lead a reasonable person to believe that the unarmed or armed private security officer is connected with a federal, state, or municipal law enforcement agency;

(8) incompetence or negligence by an unarmed private security officer, an armed private security officer or by a contract security company that results in injury to a person or that creates an unreasonable risk that a person may be harmed;

(9) failure by the contract security company or its officers, directors, partners, proprietors or responsible management personnel to adequately supervise employees to the extent that the public health and safety are at risk;

(10) failing to immediately notify the division of the cancellation of the contract security company's insurance policy

(11) failure of the contract security company or an armed or unarmed private security officer to report a criminal offense pursuant to Section R156-63-613.

R156-63-602. Operating Standards - Approved Basic Education and Training Program for Armed and Unarmed Private Security Officers.

To be designated by the division as an approved basic education and training program for armed private security officers and unarmed private security officers, the following standards shall be met.

(1) There shall be a written education and training manual which includes performance objectives.

(2) The program for armed private security officers shall provide content as established in Sections R156-63-603 and R156-63-604 of th[ese]is rule[s].

(3) The program for unarmed private security officers shall provide content as established in Section R156-63-603 of th[ese]is rule[s].

(4) An instructor is a person who directly facilitates learning through means of live in-class lecture, group participation, practical exercise, or other means, where there is a direct student-teacher relationship. All instructors providing the basic classroom instruction shall have at least three years of training and experience reasonably related to providing of security guard services.

(5) All instructors providing firearms training shall have the following qualifications:

(a) current Peace Officers Standards and Training firearms instructors certification; or

(b) current certification as a firearms instructor by the National Rifle Association, a Utah law enforcement agency, a Federal law enforcement agency, a branch of the United States military, or other qualification or certification found by the director to be equivalent.

(6) All approved basic education and training programs shall maintain training records on each individual trained including the dates of attendance at training, a copy of the instruction given, and the location of the training. These records shall be maintained in the files of the education and training program for at least three years.

(7) In the event an approved provider of basic education and training ceases to engage in business, the provider shall establish a method approved by the division by which the records of the education and training shall continue to be available for a period of at least three years after the education and training is provided.

(8) Instructors, who present continuing education hours and are licensed armed or unarmed private security officers, shall receive credit for actual preparation time for up to two times the number of hours to which participants would be entitled. For example, for

learning activities in which participants receive four continuing education hours, instructors may receive up to eight continuing education hours (four hours for preparation plus four hours for presentation).

R156-63-603. Operating Standards - Content of Approved Basic Education and Training Program for Armed and Unarmed Private Security Officers.

An approved basic education and training program for armed and unarmed private security officers shall have the following components:

(1) at least eight hours of basic classroom instruction to include the following:

(a) the nature and role of private security, including the limits of, scope of authority and the civil liability of a private security officer and the private security officer's role in today's society;

(b) state laws and rules applicable to private security;

(c) legal responsibilities of private security, including constitutional law, search and seizure and other such topics;

(d) situational response evaluations, including protecting and securing crime or accident scenes, notification of intern and external agencies, and controlling information;

(e) ethics;

(f) use of force, emphasizing the de-escalation of force and alternatives to using force;

(g) report writing, including taking witness statements, log maintenance, the control of information, taking field notes, report preparation and basic writing skills;

(h) patrol techniques, including mobile vs. fixed post, accident prevention, responding to calls and alarms, security breeches, and monitoring potential safety hazards;

(i) police and community relations, including fundamental duties and personal appearance of security officers;

(j) sexual harassment in the work place; and

(k) a final examination which competently examines the student ~~[#]~~on the subjects included in the eight hours of basic classroom instruction in the approved program of education and training and which the student passes with a minimum score of 80%.

(2) an additional 16 hours of basic education and training in the classroom, on-the-job or a combination thereof to include the following:

(a) for unarmed and armed private security officers:

(i) two hours concerning the legal responsibilities of private security, including constitutional law, search and seizure and other such topics;

(ii) two hours of situational response evaluations, including protecting and securing crime or accident scenes, notification of internal and external agencies, and controlling information;

(iii) three hours covering the use of force, emphasizing the de-escalation of force and alternatives to using force;

(iv) two hours of report writing, including taking witness statements, log maintenance, the control of information, taking field notes, report preparation and basic writing skills;

(v) four hours of patrol techniques, including mobile vs. fixed post, accident prevention, responding to calls and alarms, security breeches, homeland security and monitoring potential safety hazards;

(vi) two hours of police and community relations, including fundamental duties and personal appearance of security officers; and

(vii) one hour regarding sexual harassment in the work place;

or

- (b) for unarmed and armed private security officers who work in the armored car service:
 - (i) eight hours of driving policies and procedures, driver training and vehicle orientation;
 - (ii) four hours of emergency situation response including terminal security, traffic accidents, robbery situations, homeland security and reducing risk potential through street procedures and tactics, securing robbery scenes, dealing with the media, etc.;
 - (iii) three hours of armored operations, including proper paperwork, street control procedures, vehicle transfers, vault procedures, and other proper branch procedures; and
 - (iv) one hour regarding sexual harassment in the work place; and
 - (c) a final examination approved by the Division, which competently examines the applicant on the subjects included in the additional 16 hour program of basic education and training and which the student passes with a minimum score of 80%.

R156-63-610. Operating Standards - Vehicles.

- (1) No contract security company or its personnel shall utilize a vehicle whose markings, lighting, or signal devices imply that the vehicle is an authorized emergency vehicle pursuant to Subsection ~~[41-6-1(3)]~~41-6a-102(3).
- (2) The word "Security", either alone or in conjunction with the company name, shall appear on each side and the rear of the company vehicle in letters no less than 4 inches in height and in a color contrasting with the color of the contract security company vehicle.
- (3) Contract security companies shall have six months from the effective date of this rule to ensure that all vehicles comply with the requirements of this section.
- (4) Subsection R156-63-610(2) does not apply to armored cars as defined in the Armored Car Industry Reciprocity Act of 1993.

KEY: licensing, security guards, private security officers
Date of Enactment or Last Substantive Amendment: ~~August 15, 2006~~2007
Notice of Continuation: September 1, 2005
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-63-101



Commerce, Real Estate
R162-204-1
Residential Mortgage Record Keeping Requirements

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 29945
 FILED: 05/15/2007, 14:47

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to include additional records in the list of records that must be maintained in a mortgage loan file and to specify who is required to maintain the records of a defunct entity.

SUMMARY OF THE RULE OR CHANGE: Notices of adverse action, copies of the mortgage officer's license, and a licensee disclosure form required by a proposed change to Rule R162-205 are added to the list of records that mortgage licensees are required to maintain in loan files. A new provision is also added specifying that it is the owners and directors of a defunct entity who are required to maintain the entity files and make them available to the Division of Real Estate instead of the Principal Lending Manager for the entity.

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--Specifying additional forms that must be placed in a loan file by a licensed mortgage officer neither costs nor saves the state any money. It neither saves nor costs the state any money if it is the owners and directors of a defunct entity who are responsible to maintain loan files instead of the person who was principal lending manager for the entity when it was in operation.
- ❖ LOCAL GOVERNMENTS: None--Local governments do not act as mortgage brokers or mortgage loan officers. Therefore, the rules governing what is to be maintained in loan files and who is supposed to maintain the files have no impact on local government.
- ❖ OTHER PERSONS: The only persons who are affected by the mortgage record keeping requirements are the mortgage licensees themselves. No costs or savings to mortgage licensees is expected as a result of requiring notices of adverse action to be kept in the mortgage loan file as opposed to somewhere else. Mortgage licensees will incur a negligible extra expense because they will be required to place a copy of their licenses and a licensee disclosure document in each loan file. This slight additional cost of extra copies cannot be estimated. The rule change on who keeps records of a defunct entity should result in a savings to principal lending managers because they will not be required to maintain the mortgage loan files of a defunct entity once the entity has gone out of business and they are no longer its principal lending manager. The Division does not know how many defunct entities and their former principal lending managers will be affected by this rule and therefore cannot estimate the cost savings to the principal lending managers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Mortgage licensees will be required to keep in the loan file any notice of adverse action from the loan underwriter instead of keeping it in a separate place. There will be no additional cost incurred in connection with this requirement. Licensees will also be required to keep a copy of their license and a licensee disclosure form in each loan file. The cost of keeping one or two extra sheets of paper in a file is negligible. The change in who keeps the records of a defunct entity will not cost the entity's former principal lending manager, and actually will save the principal lending manager money. When a licensed entity goes out of business, the loan files generally stay in the possession of the entity, so there is no increased cost for entities predicted.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing adds to the list of records that must be maintained in loan files, and it clarifies that with respect to a defunct entity, the owners and directors of the entity are responsible to maintain the entity files and make them available to the Division of Real Estate. No fiscal impact to businesses is anticipated beyond those discussed in the rule summary. 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 07/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/10/2007

AUTHORIZED BY: Derek Miller, Director

R162. Commerce, Real Estate.

R162-204. Residential Mortgage Record Keeping Requirements.

R162-204-1. Residential Mortgage Record Keeping Requirements.

204.1.1 Entity Requirements. An entity licensed under the Utah Residential Mortgage Practices Act must maintain for the period set forth in Utah Code Section 61-2c-302 the following records:

- (a) Application forms;
- (b) Disclosure forms;
- (c) Truth-in-Lending forms;
- (d) Credit reports and the explanations therefor;
- (e) Conversation logs;
- (f) Verifications of employment, paycheck stubs, and tax returns;
- (g) Proof of legal residency, if applicable;
- (h) Appraisals, appraisal addenda, and records of communications between the appraiser and the registrant or lender;
- (i) Underwriter denials;
- (j) Notices of adverse action;
- (k) Loan approval;
- (l) The written disclosure required by Section 205.2.1;
- (m) A copy of the mortgage officer's license; and
- ~~(k)~~(n) All other records required by underwriters involved with the transaction.

204.1.2. Principal Lending Manager Requirements. Except as provided in Subsection 204.1.2.1, [F]the principal lending manager of an entity shall be responsible to make the records set forth in Section 204.1.1 available to the Division as provided in Section 61-2c-302(3).

204.1.2.1. Defunct entity. If a licensed entity ceases doing business in Utah, the owners and directors of the entity are responsible

to make the records set forth in Section 204.1.1 available to the Division instead of the principal lending manager(s) who were affiliated with the entity during the period of time for which the records are sought.

KEY: residential mortgage loan origination

Date of Enactment or Last Substantive Amendment: ~~April 5, 2006~~2007

Notice of Continuation: December 13, 2006

Authorizing, and Implemented or Interpreted Law: 61-2c-302

Education, Administration

R277-416

Experimental and Developmental Programs

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE No.: 29935

FILED: 05/14/2007, 12:42

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being repealed because the state law and funding for the program no longer exist.

SUMMARY OF THE RULE OR CHANGE: The rule is repealed in its entirety.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. State law and funding for this program no longer exist so the program has been discontinued.

❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. State law and funding for this program no longer exist so the program has been discontinued.

❖ OTHER PERSONS: There are no anticipated costs or savings to other persons. State law and funding for this program no longer exist so the program has been discontinued.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. State law and funding for this program no longer exist so the program has been discontinued.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/09/2007

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

R277. Education, Administration.

~~R277-416. Experimental and Developmental Programs.~~

~~R277-416-1. Definitions.~~

- ~~— A. "Board" means the Utah State Board of Education.~~
- ~~— B. "USOE" means the Utah State Office of Education.~~
- ~~— C. "Developmental" means to bring an idea, concept, thought, principle, strategy, system, or structure into activity or reality.~~
- ~~— D. "Experimental" means to research, test, or both, an idea, concept, thought, principle, strategy, system, or structure to determine its effectiveness, workability, or validity within an educational setting.~~
- ~~— E. "Evaluation" means a review conducted by a person or group which assesses procedures, results and products.~~
- ~~— F. "Superintendent" means the State Superintendent of Public Instruction.~~
- ~~— G. "Statewide projects" means programs or activities that satisfy the definitions of developmental and experimental, above, and have potential to benefit education, as determined by the Superintendent.~~

~~R277-416-2. Authority and Purpose.~~

- ~~— A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and authority over public education in the State Board of Education, by Section 53A-1-401(4) which directs the Board to adopt rules mandating school productivity and cost efficient measures, Section 53A-17a-132 which directs the Board to distribute state funds for the Experimental/Developmental Program and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.~~
- ~~— B. The purpose of this rule is to establish standards and procedures required for Experimental and Developmental funding.~~

~~R277-416-3. Types of Funds; Distribution.~~

- ~~— State Experimental and Developmental funds are provided to districts in two categories— formula grants and grants for statewide projects.~~
- ~~— A. Formula grants— seventy five percent of the legislative appropriation of Experimental/Developmental funds shall be distributed among school districts under 53A-17a-132(1)(a) and (b).~~

~~— B. Statewide projects— twenty five percent of the legislative appropriation of Experimental/Developmental funds shall be distributed among school districts for statewide projects.~~

~~R277-416-4. Limitations on Funds.~~

- ~~— A. Funds shall be used exclusively for purposes set forth in 53A-17a-132.~~
- ~~— B. Statewide project funds shall be expended according to approved budget line items.~~
- ~~— C. Transfer of funds between line items or the extension of completion dates for statewide projects may be made only with prior written approval of the USOE Finance Committee.~~
- ~~— D. A new experimental or developmental program may only be funded under 53A-17a-132 for a maximum of three consecutive years.~~
- ~~— E. Funds received may not be used to supplant either local district funds or funds available from other state and local sources.~~

~~R277-416-5. Evaluation and Reports.~~

- ~~— A. A district that accepts Experimental/Developmental funds shall provide the USOE with a year end evaluation report.~~
- ~~— B. The year end report shall include:

 - ~~— (1) an expenditure report;~~
 - ~~— (2) a narrative description of all activities funded; and~~
 - ~~— (3) copies of any and all products developed.~~~~
- ~~— C. The USOE may require additional evaluation or audit procedures from the grant recipient to demonstrate use of funds consistent with the law and Board rules.~~

~~R277-416-6. Waiver.~~

~~— The Superintendent may grant a written request for a waiver of a requirement or deadline which a district finds unduly limiting. The waiver shall be consistent with the Utah Public Education Strategic Plan, January 1992, pages 17 and 21, or with the express purpose of this rule.~~

~~**KEY: educational research, educational planning, educational reform**~~

~~**Date of Enactment or Last Substantive Amendment: 1993**~~

~~**Notice of Continuation: March 29, 2007**~~

~~**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-17a-132; 53A-1-401(3); 53A-1-401(4)**~~



Education, Administration **R277-464** Highly Impacted Schools

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 29931

FILED: 05/14/2007, 12:40

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to include procedures for public schools in the event of a school closure during the three-year funding cycle. The amendments also shift data collection from a self-report to a

report generated from the Utah State Office of Education end-of-year data warehouse information and U.S. Census.

SUMMARY OF THE RULE OR CHANGE: The changes provide for new and amended definitions and changes to the applications and distribution of funds section.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 53A-17a-121(2), 53A-15-701(3), and 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There are no anticipated cost or savings to state budget. Procedural changes that are the responsibility of the Utah State Office of Education will continue to be administered by the Utah State Office of Education within current budget constraints.
- ❖ LOCAL GOVERNMENTS: There are no anticipated cost or savings to local government. Any new requirements of schools/school districts will continue to be administered by schools/school districts within current budget constraints.
- ❖ OTHER PERSONS: There are no anticipated cost or savings to other persons. The procedural changes are the responsibility of the Utah State Office of Education and/or schools/school districts.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Administration of the procedural changes will be handled within current budget constraints.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/09/2007

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

R277. Education, Administration.

R277-464. Highly Impacted Schools.

R277-464-1. Definitions.

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

~~B. "Data Clearinghouse" means the electronic data collection system used by the USOE to collect information required by law from LEAs about individual students at certain points throughout the school year to support the allocation of funds and accountability reporting.~~

~~[B]C. "School" means a public school, other than a special purpose school, primarily intended to serve students from a specific geographical area in any of grades K through 12.~~

~~[E]D. "Special purpose school" means a school primarily intended to serve a special population of students such as students at risk, students with disabilities, or other special designation.~~

E. The "student mobility" factor means the proportion of students who move and have a change in school assignment during a school year. It is a percent, calculated as follows:

(1) stable students (SS), those who ~~[stay]are reported as enrolled in the same school for the entire school year[~~from beginning to end and leave only for excused reasons and return to the same school~~]~~; divided by

(2) unduplicated cumulative enrollment (CE) in a school over a given school year; subtracted from

(3) 1, and multiplied by 100; or $(1 - (SS/CE))100$.

F. The "students who are eligible for free school lunch" factor means ~~the total number of students [so determined] in [the] a school reported as economically disadvantaged using federal child nutrition income eligibility guidelines.~~

~~[H]G. The "[limited English proficient students (LEP)]English Language Learner (ELL)" factor means the total number of [LEP]ELL students in a school reported as having proficiency in the English language at or below the level of intermediate on the basis of the Utah Academic Language Proficiency Assessment (UALPA)[on March 1 as determined below:~~

~~— (1) individuals whose native language is other than English;~~
~~— (2) individuals who come from environments where a language other than English is dominant; or~~
~~— (3) individuals who are American Indian and Alaskan natives;~~

~~and~~

~~— (4) who come from environments where a language other than English has had a significant impact on their level of English language proficiency; and who, by reason thereof, have sufficient difficulty speaking, reading, writing, or understanding the English language to deny such individuals the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in our society].~~

~~[G]H. The "ethnic minority students" factor means the total number of [ethnic minority]students in a school [on March 1 as determined below]reported as:~~

~~(1) American Indian or Alaskan native;~~

~~(2) Hispanic;~~

~~(3) Asian;~~

~~(4) Pacific Islander; or~~

~~(5) Black, [not of Hispanic origin]using federal guidelines.~~

I. The "students from single parent families" factor means the total number of students in a school who live in a household headed by a male without a wife present or by a female without a husband present~~[~~computed on March 1~~] derived from data on persons age 5 through 17 in a geographic area approximating the service area of the school who live in a household with a similar composition.~~

~~[D]~~J. "USOE" means the Utah State Office of Education.

R277-464-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of the public education system in the Board, Section 53A-15-701(3) which directs the State Superintendent of Public Instruction and the Board to develop a formula, administer the program, distribute the appropriation and monitor the effectiveness of highly impacted school programs, Section 53A-17a-121(2) which directs the Board to develop rules to implement programs for at risk students and distribute funds for at risk programs, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to establish criteria and procedures for distributing funds to highly impacted schools. The intent of this appropriation is to provide students with increased educational contact with qualified staff.

R277-464-3. ~~[Distribution of]~~Applications and Distribution of Funds.

A. Awards shall be made to individual schools and funds allocated to school districts or charter schools shall be fully distributed to designated schools.

B. Applications shall be provided ~~by~~through the USOE.

C. Schools shall be selected for funding based on an analysis of the eligibility factors designated in Section 53A-15-701(2)(a). Those factors shall be equally weighted.

~~(1) Beginning with the FY 2009 funding cycle, statistics for school eligibility determination and allocations shall be based on the latest available data from the Year End upload of the Data Clearinghouse consistent with the funding schedule, except for the single parent status statistic, which shall be derived from Census Bureau data sources.~~

~~(2) Schools may use funds for learning programs identified by the school, if the school provides:~~

~~(a) goals;~~

~~(b) activities; and~~

~~(c) outcomes, consistent with the proposed activities that are directly tied to the school's plan to increase student achievement.~~

~~[D]~~(2) Each school selected for funding shall receive a base allocation.

~~[E]~~D. Based on available funds, schools shall be ~~guaranteed three years of funding~~funded on a three-year funding cycle, beginning in FY 2009.

~~E. In the event of closure of a school funded under this rule, the school district to which the school belongs may designate another school within the school district as highly impacted.~~

~~(1) In designating a new or different highly impacted school within the school district, the school district cannot exceed its total original number of highly impacted schools.~~

~~(2) The school district shall provide a rationale for designating the new school as highly impacted using the criteria under Section 53A-15-701(2).~~

~~(3) The at-risk factors in the newly designated school shall be comparable to the risk factors in the closed school.~~

~~(4) A school district may not divert funds from operating highly impacted schools within the school district to fund a newly designated highly impacted school.~~

F. ~~[The formula for distribution of funds shall take into consideration the total of all students enrolled in the school and shall~~

~~equally weight the five factors, student mobility, students eligible for free school lunch, students of ethnic minorities, students of limited English proficiency, and students from single parent families, designated in Section 53A-15-701(2)(a). Schools shall provide data required for funding using the five factors defined under Section 53A-15-701(2)(a).]~~The school district shall provide an application for reallocating highly impacted funds from a closed school to a different school within the school district prior to the school district distributing the funds to the newly designated school. Failure to properly apply to the USOE in a timely manner for reallocation of highly impacted funding from a closed school to a newly designated school within the school district may result in recapture of funds from the school district or the newly designated school by the USOE.

G. Schools receiving funding shall be notified by June 30.

R277-464-4. Evaluation and Reports.

Each school selected for funding shall be required to submit an annual evaluation report to the USOE consistent with Section 53A-15-701(6)(a).

KEY: students at risk

Date of Enactment or Last Substantive Amendment: ~~[July 16, 1996]~~2007

Notice of Continuation: July 6, 2005

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-17a-121(2); 53A-1-401(3); 53A-15-701(3); 53A-15-701(2)(a)



Education, Administration
R277-488
Critical Languages Pilot Program

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 29932

FILED: 05/14/2007, 12:41

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The 2007 Legislature passed S.B. 80 which requires the development and implementation of courses of study in the critical languages of Chinese, Arabic, Russian, Farsi, Hindi, and Korean and requires the Utah State Board of Education to make rules for the implementation of critical language courses in the public schools. (DAR NOTE: S.B. 80 (2007) is found at Chapter 221, Laws of Utah 2007, and will be effective 07/01/2007.)

SUMMARY OF THE RULE OR CHANGE: The new rule provides for definitions, critical language program requirements, Utah State Office of Education responsibilities, and provisions for funding, evaluation, and reports.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-15-104 and Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. Specific funds have been appropriated by the 2007 Legislature to provide for this program.
- ❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. Specific funds have been appropriated by the 2007 Legislature to provide for this program.
- ❖ OTHER PERSONS: There are no anticipated costs or savings to other persons. Specific funds have been appropriated by the 2007 Legislature to provide for this program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Specific funds have been appropriated by the 2007 Legislature to provide for this program.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/09/2007

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

R277. Education, Administration.**R277-488. Critical Languages Pilot Program.****R277-488-1. Definitions.**

A. "ACTFL OPI" means the American Council of Teachers of Foreign Language Oral Proficiency Interview which is a test, both written and verbal, offered at most Utah colleges and universities.

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

C. "Critical language" means those languages described under Section 53A-15-104(1).

D. "Critical language program" means the enhanced EDNET program and the international teacher exchange program as defined and funded under Section 53A-15-104.

E. "EDNET" means the state's two-way interactive system for video and audio, delivered and available to students in the state's public education system, as defined under Section 53A-15-104(2).

F. "Electronic High School" means the state's electronic high school program explained in Section 53A-17a-131.15 and R277-725.

G. "Foreign exchange student" means a student sponsored by an agency approved by the school district's local school board or charter school's governing board, subject to the limitations of Section 53A-2-206(2).

H. "Language facilitator" means a paraprofessional or licensed educator who is fluent in the critical language being taught by EDNET and who is designated to participate in the Critical Languages Pilot Program established under Section 53A-15-104.

I. "Credentialed international teacher" means a teacher sponsored under a separate Memoranda of Understanding between the USOE and China, Spain or Mexico. The Memoranda of Understanding are hereby incorporated by reference. Sponsored teachers shall satisfy all conditions of the Memoranda of Understanding prior to working with Utah students.

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

R277-488-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, by Section 53A-15-104 which directs the State Superintendent of Public Instruction and the Board to establish, administer, and track a Critical Languages Pilot Program and authorizes a pilot program, and by Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to establish criteria and procedures for distributing funds to high schools participating in the Critical Languages Pilot Program. The intent of this appropriation is to increase the number of students who reach proficiency in a critical language as well as build overall foreign language capacity in the state of Utah.

R277-488-3. Critical Language Program Requirements.

A. A high school that desires to participate in the Critical Languages Pilot Program (enhanced EDNET or international teacher exchange program) shall submit an application, provided by the USOE and available each April 15 to the USOE by May 15.

B. The application shall provide:

(1) an identified, available classroom within the school district or charter school where EDNET can be accessed or an identified credentialed international teacher teaching under a USOE/foreign country Memorandum of Understanding;

(2) a plan and procedure in place to notify students and parents of the availability of at least one critical language course identified in Section 53A-15-104(1);

(3) for schools using enhanced EDNET delivery, a qualified language facilitator hired and available to students who:

(a) is fluent in the critical language being taught;

(b) has established his fluency by receiving a score of intermediate high or higher on an ACTFL OPI test or USOE-approved equivalent;

(c) is qualified as a paraprofessional under R277-524; or

(d) is a Utah licensed educator; and

(e) has completed a criminal background check including review of identified offenses by the school district or charter school.

(4) requirements for the international teacher exchange program:

(a) programs shall operate under a Memorandum of Understanding;

(b) international teacher expenses shall be paid as provided by the designated Memorandum of Understanding;

(c) all other conditions provided by individual Memoranda of Understanding shall be satisfied.

C. Schools applying for both the enhanced EDNET and the international teacher program shall provide identified materials, including texts and consumables, purchased with funds appropriated by the Legislature.

R277-488-4. USOE Responsibilities and Funds.

A. Applications shall be provided by the USOE.

B. High schools shall be selected for funding based on an evaluation of applications by a USOE-designated committee which shall include statewide experts.

C. Awards shall be made to individual high schools and funds allocated to school districts and charter schools to be fully distributed to designated high schools.

D. Each high school selected for funding shall receive a base allocation per critical language offered at the high school, designated in Section 53A-15-104(6)(a).

E. Each high school selected for funding shall receive a supplemental allocation designated in Section 53A-15-104(6)(b).

(1) School districts and charter schools approved for participation under this rule shall receive funds for students who complete a critical language course with a grade of C or better by June 15;

(2) High schools shall receive additional funding for foreign exchange students enrolled in a high school who complete a critical language course, as designated in Section 53A-15-104(6)(c) and consistent with R277-612.

F. Based on available funds, high schools shall receive six years of ongoing funding.

G. Schools eligible for funding shall be notified by the USOE by June 1, 2007.

R277-488-5. Evaluation and Reports.

Each high school selected for funding shall be required to submit an annual evaluation report to the USOE consistent with Section 53A-15-104 and, if applicable, the requirements of the international teacher exchange program covered by the Memorandum of Understanding. The USOE may request additional data from high schools that receive funding.

KEY: critical languages

Date of Enactment or Last Substantive Amendment: 2007 Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-15-104; 53A-1-401(3)

◆ ————— ◆

Education, Administration
R277-489
Optional Extended-Day Kindergarten -
Responsibilities, Timelines, and
Funding

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 29933

FILED: 05/14/2007, 12:41

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The 2007 Legislature passed S.B. 49 establishing a program under which school districts and charter schools may provide voluntary extended-day kindergarten and requires the Utah State Board of Education to make rules establishing application and reporting procedures necessary to administer the program. (DAR NOTE: S.B. 49 (2007) is found at Chapter 386, Laws of Utah 2007, and will be effective 07/01/2007.)

SUMMARY OF THE RULE OR CHANGE: The new rule provides definitions, provides school district responsibilities, charter school responsibilities, procedures for funding, and procedures for assessment, accountability, and reporting.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-1a-802 and Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. Specific funds have been appropriated by the 2007 Legislature to provide for this program.

❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. Specific funds have been appropriated by the 2007 Legislature to provide for this program.

❖ OTHER PERSONS: There are no anticipated costs or savings to other persons. Specific funds have been appropriated by the 2007 Legislature to provide for this program. There will be no charges or fees for individual students.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Specific funds have been appropriated by the 2007 Legislature to provide for this program.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/09/2007

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

R277. Education, Administration.

R277-489. Optional Extended-Day Kindergarten - Responsibilities, Timelines, and Funding.

R277-489-1. Definitions.

- A. "Board" means the Utah State Board of Education.
- B. "Enrollment" means class enrollment of not more than the student enrollment of other kindergarten classes within the school.
- C. "Kindergarten readiness assessment" means an assessment based on research and data that determines a child's readiness to begin kindergarten, as determined by the school district or charter school.
- D. "Optional Extended Day Kindergarten" means a program that provides additional instruction to kindergarten age students as either an extension of the half day program or extended time before or after school, on Saturdays or during the summer.
- E. "Required instructional hours" means at least the same number of instructional hours, per school year, as first grade consistent with R277-419-1, Pupil Accounting.
- F. "USOE" means the Utah State Office of Education.

R277-489-2. Authority and Purpose.

- A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, by Section 53A-1a-802 which directs the Board to make rules establishing application and reporting procedures to administer the optional extended-day kindergarten program, and by Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities.
- B. The purpose of this rule is to establish criteria and procedures for application and reporting procedures to administer the optional extended-day kindergarten program.

R277-489-3. School District Responsibilities.

- A. School districts intending to participate in the optional extended-day kindergarten program shall submit a letter of intent to the USOE by May 1, 2007 and by application every succeeding year.

B. School districts shall submit applications available from the USOE by July 2, 2007 and by August 10 for each year thereafter providing:

- (1) the school(s) within the district that will participate in the optional extended-day program;
- (2) the approximate number of classes of optional extended-day kindergarten that will be offered at each school in the district;
- (3) the approximate number of Title I schools identified by the school district, and which Title I schools will participate in the optional extended-day kindergarten program;
- (4) the approximate number of students in the school district who were eligible to receive free school lunch under USDA regulations in the previous school year; and
- (5) all other assurances, information and documentation required by the USOE on the application.

R277-489-4. Charter School Responsibilities.

- A. Charter schools shall be in, at least, their second year of successful operation to participate in the optional extended-day kindergarten program.
- B. Charter schools that intend to participate in the optional extended-day kindergarten program shall submit a letter of intent to the USOE by July 2, 2007 and by August 10 each year thereafter providing:
- (1) that the school intends to participate in the optional extended-day kindergarten program;
- (2) the approximate number of classes of optional extended-day kindergarten that will be offered at the school;
- (3) if the charter school is designated as a Title I school;
- (4) the approximate number of students in the school who were eligible to receive free school lunch under USDA regulations in the previous school year; and
- (5) all other assurances, information and documentation required by the USOE on the application.

R277-489-5. Funding.

- A. Optional extended-day kindergarten program funds shall be distributed to charter schools and school districts consistent with Section 53A-1a-803(3) and (4) respectively.
- B. The Board shall modify the distribution of funds to provide sufficient funding for each Title I school, including neighborhood and charter schools, to participate in the optional extended-day kindergarten program.
- C. Funding modifications for Title I schools shall be made separately for school districts and charter schools.
- D. \$7,500,000 of the \$30,000,000 appropriated for the optional extended-day kindergarten program shall be distributed annually in 2007, 2008, 2009 and 2010 to participating school districts and charter schools, consistent with Section 53A-1a-803.

R277-489-6. Assessment, Accountability and Reporting.

- A. Both school districts and charter schools shall use a self-selected kindergarten readiness assessment with all kindergarten students.
- (1) The days used for assessment shall be consistent with R-277-419-8, Pupil Accounting.
- (2) The USOE may provide a model kindergarten assessment from a list of appropriate assessments.
- (3) Post assessments shall be completed by school districts and charter schools prior to the ending of the school year and reported to the Board.

(4) Post assessments results for all kindergarten students shall provide evidence of student learning matched to the program's pre-assessment used for program placement.

B. The USOE shall require and school districts and charter schools shall provide annual reports to the USOE consistent with Section 53A-1a-802(4)(a).

C. School districts and charter schools that fail to provide complete, accurate and timely reports shall not receive funding in subsequent years.

KEY: kindergarten, extended-day

Date of Enactment or Last Substantive Amendment: 2007

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1a-802; 53A-1-401(3)



Education, Administration
R277-603
 Basic Skills Education Program

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29934

FILED: 05/14/2007, 12:42

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The 2007 Legislature passed H.B. 155 changing the date at which a stipend for basic skills education remediation is available to a student. Additionally, during the first year of implementation of the Basic Skills Education Program, improved implementation procedures have evolved. The amended rule provides the necessary changes to comply with the amended law and provides additional procedural changes to assist in data collection and streamlining of the student enrollment process.

The amendments attempt to improve and simplify the process for all involved. (DAR NOTE: H.B. 155 (2007) is found at Chapter 244, Laws of Utah 2007, and was effective 04/30/2007.)

SUMMARY OF THE RULE OR CHANGE: The changes provide for new and amended definitions, changes to the Utah State Board of Education responsibilities, changes to school districts and charter school responsibilities, changes to accredited public and private and other provider responsibilities, and changes to parent and student responsibilities.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-1-612 and Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. Procedural changes that are the responsibility of the Utah State Office of Education will continue to be administered by the Utah State Office of Education within current budget constraints.

❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. Procedural changes that are the

responsibility of school districts and charter schools will continue to be administered by school districts and charter schools within current budget constraints.

❖ OTHER PERSONS: There are no anticipated costs or savings to other persons. Any changes involving parent/student responsibilities for participation in the program will not involve money.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Procedural changes do not affect public and private providers monetarily.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/09/2007

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

R277. Education, Administration.
R277- 603. Basic Skills Education Program.
R277-603-1. Definitions.

A. "Accredited public or private educational institution" means an institution accredited by the Northwest Association of Accredited Schools or a regional accrediting association as a high school, a K-12 school, a special purpose school, a supplementary education school, or a distance education school.

B. "Basic Skills Education Program (BSEP)" means a program created to provide students who have not passed the UBSCT, with supplemental instruction in the skills and knowledge necessary to pass the test.

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

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

E. "Disclosure to parents" means the express acknowledgments and acceptance required for parents or legal guardians under Sections 53A-1-612(10)(b)(ii) and 53A-1-612(12)(c) and this rule.

F. "Distance basic skills education provider" means a Utah-based on-line or correspondence program provided by a public school/school district, the USOE, or an institution of higher education that satisfies the requirements of R277-603-1H.

G. "Enrolled full time" means the student is registered and attending the number of courses a school or school district requires for full-time enrollment for funding purposes. Notwithstanding school district/school policies, a student shall be enrolled in a minimum of five courses for credit to be enrolled full time.

H. "Other basic skills provider" means an education program that:

- (1) has a current business license;
- (2) meets the requirements of Section 53A-3-410 regarding criminal background checks; and
- (3) agrees not to discriminate against stipend recipients on the basis of race, color, national origin, gender, economic status, language proficiency or disability;

(4) submits evidence of expertise and capacity to provide basic skills education which may include most employees providing education services have educator licenses, employees have more than three years of teaching experience in public or private schools, evidence of specific skills or training, accreditation by Northwest or a regional accrediting association, and evidence of curriculum materials aligned to the Core and the UBSCT; and

(5) agrees, if the basic skills provider is an individual employed by a school district or charter school, to abide by all rules pertaining to conflict of interest of educators working in their own fields, consistent with Section 53A-1-402.5 and R277-107, Educational Services Outside of Educator's Regular Employment.

I. "Passing UBSCT results" means a scaled score that is in the sufficient or substantial range that is obtained by a stipend recipient student in ~~[either October or February administration of the UBSCT of the student's senior year]~~ any subsequent administration of the UBSCT.

J. "Qualified basic skills education provider" means a school district, a charter school, an accredited public or private educational program, or other entity that has met the following criteria:

(1) The program has a physical location in Utah where students and stipend recipients attend classes and have direct contact with the program's teachers;

(2) the program has applied for eligibility to and been approved by the USOE to enroll BSEP stipend recipients;

(3) the program has provided an affidavit to the USOE affirming its willingness and intention to comply with the requirements and rules of the BSEP; and

(4) satisfies all other requirements of the law and this rule.

K. "Qualifying UBSCT result" means ~~[a scaled score]~~ the student's highest previous scaled score on the UBSCT when submitting the voucher that falls into one of the following ranges:

(1) below the midpoint of the partial mastery range but above the minimal mastery range;

(2) below the partial mastery range but above or at the midpoint of the minimal master range; or

(3) below the midpoint of the minimal mastery range.

L. "School district" means a Utah public school district.

~~[M. "Spring of the junior year" means the point in time when the student's class has had three attempts to pass the UBSCT, and the results have been reported to those students who attempted the UBSCT on the third administration.~~

~~N]~~ M. "Stipend" means the amount that a student's parent/guardian may receive to be applied to charges for basic skills

education from a qualified provider. A stipend has no value unless assigned to a basic skills education provider, and is only ~~[collectible]~~ payable upon the submission of a ~~[claim for payment]~~ voucher by a provider and Board verification of a passing UBSCT result pursuant to the provisions of Section 53A-1-612, and R277-603-4 and 5.

O. "Stipend recipient" means a student who:

(1) meets the qualifications of Section 53A-1-612(4); and

(2) has ~~[participated in a minimum of two UBSCT attempts or as many attempts as possible while enrolled in a Utah public school]~~ submitted a voucher to a qualified provider.

O. "Utah Basic Skills Competency Test (UBSCT)" means a test to be administered to Utah students beginning in the tenth grade to include components in English, language arts, reading and mathematics. Utah students shall satisfy the requirements of the UBSCT in addition to state and school district/charter school graduation requirements prior to receiving a high school diploma indicating a passing score on all UBSCT subtests.

P. "Voucher" means ~~[a copy of a student's UBSCT results and a statement signed by the student's parent/legal guardian assigning the student's stipend to a BSEP provider. The [statement to accompany UBSCT results that assigns the stipend to a BSEP provider shall be provided by the Board and shall contain the]~~ following information shall be provided on the Board-designated form:

(1) student name;

(2) student birthdate;

(3) parent/guardian name ~~[, address, phone number, and other contact information];~~

(4) ~~[student social security number or student identification]~~ State Student Identification Number (SSID);

~~[—(5) UBSCT results for each failed UBSCT attempt;~~
(5) ~~required parent and student acknowledgments under Section 53A-1-612 and this rule; and~~

(7) parent/guardian and student signatures.

R277-603-3. State Board of Education Responsibilities.

A. The Board shall provide school districts and charter schools with a copy of this rule, required forms, templates, and model procedures.

B. The Board shall provide applications annually to Basic Skills Education providers no later than May 1 prior to the year in which eligibility to serve BSEP stipend recipients is sought (June 1 for the 2006-2007 school year).

C. The Board shall provide a determination that an applicant meets the requirements of R277-603 and Section 53A-1-612(1)(b) to be a BSEP provider as soon as possible but no more than 30 days after the applicant submits the required application and materials. The Board may:

(1) provide reasonable timelines for satisfaction of eligibility requirements;

(2) issue letters of warning, require a provider to take corrective action within a time frame set by the Board, suspend a provider from BSEP participation or eligibility, or impose such other penalties as the Board determines appropriate under the circumstances;

(3) make available acknowledgment forms required under Section 53A-1-612(12)(c);

(4) establish appropriate consequences or penalties for providers that:

(a) fail to provide services to eligible students;

(b) fails to act in accordance with provisions of the law and this rule.

D. The Board shall ~~make~~maintain a list of qualified providers updated ~~[annually and available no later than May 30 of each year (June 30 for the 2006-2007 school year)]~~continuously as provider applications are received and approved.

E. For vouchers submitted to the Board prior to September 30 of the student's junior or senior year, the Board shall:

(1) verify student information and qualification for the stipend; and

(2) check results of all successive administrations of the UBSCT, starting with the October administration of that year, for passing UBSCT results; and

(3) within 60 days of final posting of UBSCT results to the data warehouse stipend payments shall be sent directly to qualified providers upon verification of a passing UBSCT result for voucher recipients registered with that provider.

F. For vouchers submitted to the Board after September 30 of the student's junior or senior year but prior to January 31 of the same year, the Board shall:

(1) verify student information and qualification for the stipend; and

(2) check results of all successive administrations of the UBSCT, starting with the February administration of that year, for passing UBSCT results; and

(3) within 60 days of final posting of UBSCT results to the data warehouse stipend payments shall be sent directly to qualified providers upon verification of a passing UBSCT result for voucher recipients registered with that provider.

~~[E]G.~~ The Board shall honor only ~~[requests for payments made]~~vouchers submitted with all necessary documentation received consistent with R277-603-~~[4]3E and R277-603-3E.~~

~~[F.~~ The Board shall mail stipend payments directly to qualified providers upon their timely submission to the Board of payment request that complete the requirements of Section 53A-1-612(9) and R277-603-4D and R277-603-5C.

~~—G]H.~~ If an annual appropriation is inadequate to cover all stipend payments~~[submitted from qualified providers]~~, the Board shall pay stipends on a first submitted/first paid basis or on a proportional basis as circumstances dictate.

~~[H]I.~~ The Board ~~[may]~~shall verify student UBSCT results and other program information as necessary or warranted with reasonable notice to assure compliance by a stipend recipient/BSEP provider with the provisions of Section 53A-1-602 and this rule.

R277-603-4. School Districts and Charter School Responsibilities.

A. School districts and charter schools shall provide students who have qualifying UBSCT results~~[after the spring of their junior year]~~ with voucher applications and information about how to access a list of approved public and private providers for BSEP stipends~~[-]~~:

(1) after the students' first UBSCT attempt;

(2) to students new to the school district; and

(3) to students who change providers under R277-603-6E.

B. School districts and charter schools that intend to be qualified providers shall notify the Board of their intention and provide the Board with the following information:

(1) a brief description of the BSEP that shall be available to stipend recipients.

(2) a description of amounts, if any, that stipend recipients will be charged in addition to the amount paid by the Board.

(3) a statement of additional charges will be accompanied by an explanation to parents/students of~~[f] the school district's policies~~ consistent with Section 53A-13-104.

(4) a statement that all those who provide BSEP instruction shall be employees of the school district or charter school.

C. School districts and charter schools may not make any charge or refund of a charge contingent upon a student's passing or failing a test. Charges relative to the BSEP are subject to the provisions of Section 53A-12-103(1)(b), and it is presumed that the student will be responsible for any fees associated with a remediation program with exceptions provided for in Section 53A-13-104.

~~[D.~~ School districts and charter schools shall submit request for payment of vouchers in the amount of the stipend, if, on a subsequent administration of the UBSCT, the stipend recipient passes the subtest corresponding to the basic skills education provided by the school district or charter school.

~~—E.~~ Request for payment shall be submitted after the October administration for students who have passed the UBSCT by no later than January 15, and after the February administration for students who have passed no later than April 15.

~~—F.~~ Requests for payments shall only be made for students who were stipend recipients and who received basic skills education from the school district or charter school.

~~—G]D.~~ School districts and charter schools shall provide to the Board a list of all school district or charter school students who are qualified for stipends.

~~[H]E.~~ School districts~~[and]~~ charter schools shall ~~[provide to the Board a list of those students who have assigned their stipends to the school district in such form/format as the Board may determine]~~submit vouchers for all students who have chosen to receive BSEP services from the school district/charter school consistent with R277-603-3E and R277-603-3E.

F. If a student stops receiving basic skills education from the provider, for any reason, the school district or charter school shall notify the Board within 15 days.

R277-603-5. Accredited Public and Private Providers and Other Provider Responsibilities.

A. Accredited public and private providers and other providers that intend to participate in the BSEP shall notify the Board of their intention and provide the following information/materials to the Board to be used to determine eligibility:

(1) a brief description of the BSEP services that will be provided to stipend recipients by the provider;

(2) a description of amounts (if any) that stipend recipients shall be charged in addition to amounts paid by the Board;

(3) a statement that private providers shall not make any charge or refund contingent on a student passing or failing a test; and

(4) a statement that all employees of a BSEP who will be providing remediation services to public school students have had criminal background checks and results have been reviewed and approved by the applicant BSEP.

B. Upon a stipend recipient's presentation to the provider of a voucher, the provider shall ~~[notify]~~submit the voucher to the Board ~~[within 10 days of the commencement of service of its possession of the voucher]~~consistent with R277-603-3E and R277-603-3F. This ~~[notification]~~voucher shall be submitted to the Board in such ~~[form]~~format as the Board may determine.

~~C. Accredited public and private providers and other providers shall submit request for payment of vouchers in the amount of the stipend, if, on a subsequent administration of the UBSCT, the stipend recipient passes the subtest corresponding to the basic skills education provided by the school district or charter school.~~

~~D. Request for payment shall be submitted after the October administration for students who have passed the UBSCT, by no later than January 15, and after the February administration for students who have passed, no later than April 15.~~

~~E]C. [Requests for payments shall] Accredited public and private providers and other providers shall submit vouchers only [be made] for students who [were] are stipend recipients and who [received] are qualified to receive basic skills education from [accredited public and private providers and other providers] the provider.~~

D. If a student stops receiving basic skills education from the provider, for any reason, the provider shall notify the Board within 15 days.

R277-603-6. Parent and Student Responsibilities.

A. Students with UBSCT results in the ranges identified in Section 53A-1-612(5) shall qualify for stipends upon a parent/guardian signing [a statement assigning the BSEP stipend to a qualified BSEP provider and giving the provider] the voucher application provided by the school district or charter school and then presenting that voucher application to the chosen provider. If the chosen provider is not the student's school district or charter school, a copy of the student's UBSCT results for every UBSCT attempt made by the student shall be included with the voucher application. The [statement] voucher application and UBSCT results, if applicable, constitute a BSEP voucher.

B. A parent may not give a voucher to more than one BSEP provider. Violation of this part may result in invalidation of the voucher and disqualification from further BSEP participation.

C. Parents are entirely responsible for the choice of a BSEP provider from among those listed as qualified by the Board.

D. Parents are responsible for payment of any amounts providers may charge stipend recipients in addition to that paid by the Board.

~~E. [Stipend recipients shall attempt the UBSCT at every available administration after presentation of a voucher to a BSEP provider.] Stipend applicants may choose to change providers at the end of the student's junior year if the student's best UBSCT result on one or more subtest(s) is in the qualifying range defined in Section 53A-1-612(5). This change shall require a new voucher to be submitted to the Board.~~

R277-603-7. Miscellaneous Provisions.

Educators who are employed by Utah public and charter schools may qualify as BSEP providers consistent with Section 53A-1-402.5 and R277-107.

KEY: basic skills competency, stipends

Date of Enactment or Last Substantive Amendment: [July 11, 2006] 2007

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-612(12); 53A-1-401(3)

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Education, Administration **R277-611**

Medical Recommendations by School Personnel to Parents

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 29936

FILED: 05/14/2007, 12:43

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being repealed because the 2007 Legislature enacted H.B. 202, Medical Recommendations for Children, that specifically describes the process, making the rule unnecessary and confusing for educators. (DAR NOTE: H.B. 202 (2007) is found at Chapter 111, Laws of Utah 2007, and was effective 04/30/2007.)

SUMMARY OF THE RULE OR CHANGE: The rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 53A-1-401(3) and 53A-1-402(1)(b)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. State law now provides similar language that makes the rule unnecessary.

❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. State law now provides similar language that makes the rule unnecessary.

❖ OTHER PERSONS: There are no anticipated costs or savings to other persons. State law now provides similar language that makes the rule unnecessary.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. State law now provides similar language that makes the rule unnecessary.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/09/2007

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

R277. Education, Administration.

~~**[R277-611. Medical Recommendations by School Personnel to Parents.**~~

~~**R277-611-1. Definitions.**~~

- ~~— A. "Board" means the Utah State Board of Education.~~
- ~~— B. "Health care professional" means a physician, physician assistant, nurse, dentist, or mental health therapist.~~
- ~~— C. "Medication" means any medicine, whether over the counter or prescription.~~
- ~~— D. "Parent" means a parent or guardian having legal custody of a minor child.~~
- ~~— E. "School personnel" means any school district employee, including licensed, part time, contract and non-licensed employees.~~

~~**R277-611-2. Authority and Purpose.**~~

- ~~— A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities, and Section 53A-1-402(1)(b) which directs the Board to adopt rules for student health and safety.~~
- ~~— B. The purpose of this rule is to clarify for school personnel, parents and guardians the recommendations or directions that school personnel may make or give to parents or guardians about specific medications for their children.~~

~~**R277-611-3. Appropriate Observations and Reporting by School Personnel to Parents/Guardians.**~~

- ~~— A. School personnel may provide information and observations to parents or guardians about their children. Such information or reports may include observations and concerns in the following areas:

 - ~~— (1) progress;~~
 - ~~— (2) health and wellness;~~
 - ~~— (3) social interactions;~~
 - ~~— (4) behavior;~~
 - ~~— (5) topics consistent with the Utah Family Educational Rights and Privacy Act, Section 53A-13-302(6).~~~~
- ~~— B. School district employees may refer students to other appropriate school district personnel and agents, consistent with local board policy.~~
- ~~— C. School personnel may consult or use appropriate health care professionals in the event of an emergency while the student is at school consistent with student emergency information provided at student enrollment.~~
- ~~— D. School personnel shall report suspected child abuse consistent with Section 62A-4a-403.~~
- ~~— E. School personnel shall comply with all applicable state and local Health Department laws, rules, and policies.~~

~~**R277-611-4. Inappropriate Medical Recommendations by School Personnel.**~~

- ~~— A. School personnel shall not require that a student take or continue to take a specific medication as a condition for attending school.~~
- ~~— B. School personnel shall not recommend a single specific health care professional or provider but may provide to a parent or guardian a list of two or more health care professionals or providers.~~

~~**R277-611-5. Local School Board Policy.**~~

- ~~— A. Local school boards shall have a policy providing for training of appropriate school personnel on the provisions of this rule.~~
- ~~— B. The policy shall also provide procedures for discipline of non-licensed school personnel consistent with local board policy, and licensed personnel consistent with local board policy and R686-103, Professional Practices and Conduct for Utah Educators, for school personnel who intentionally violate state law or this rule.~~

~~**KEY: students, medical recommendations**~~
~~**Date of Enactment or Last Substantive Amendment: January 3, 2003**~~
~~**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-1-402(1)(b)**~~



Education, Administration
R277-617
 Authorization of Student Clubs and Organizations

NOTICE OF PROPOSED RULE
 (Repeal)
 DAR File No.: 29937
 FILED: 05/14/2007, 12:44

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being repealed because the 2007 Legislature enacted H.B. 236, Student Clubs Amendments, making the rule no longer necessary. (DAR NOTE: H.B. 236 (2007) is found at Chapter 114, Laws of Utah 2007, and was effective 04/30/2007.)

SUMMARY OF THE RULE OR CHANGE: The rule is repealed in its entirety.

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. State law now provides specific language on authorization and criteria of student clubs making the rule unnecessary.
- ❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. State law now provides specific language on authorization and criteria of student clubs making the rule unnecessary.

❖ OTHER PERSONS: There are no anticipated costs or savings to other persons. State law now provides specific language on authorization and criteria of student clubs making the rule unnecessary.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. State law now provides specific language on authorization and criteria of student clubs making the rule unnecessary.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/09/2007

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

R277. Education, Administration.

[R277-617. Authorization of Student Clubs and Organizations.

R277-617-1. Definitions.

- A. "Board" means Utah State Board of Education.
- B. "Club" means an organization for students that meets outside of regular classroom hours in a school.
- C. "School club" means a club organized and directed by school sponsors.
- D. "Supervised student club" means a club organized and operated by students with the permission of school authorities, and operated by students under the close supervision of a faculty supervisor.
- E. "Monitored student club" means a club organized and operated by students with the permission of school authorities; a faculty monitor is assigned to the club to provide support as necessary and to monitor activities to ensure compliance with applicable school policies.

R277-617-2. Authority and Purpose.

- A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board; provides direction to local boards under

Section 53A-3-419; and reflects principles set forth by the United States Supreme Court in addressing the authority and responsibilities of public school officials:

— (1) "The undoubted freedom to advocate unpopular and controversial views in schools and classrooms must be balanced against the society's countervailing interest in teaching students the boundaries of socially appropriate behavior." *Bethel v. Fraser*, 478 U.S. 675 (1986)

— (2) "A school need not tolerate student speech that is inconsistent with its 'basic educational mission,' even though the government could not censor similar speech outside the school." *Hazelwood School Dist. v. Kuhlmeier*, 484 U.S. 260 (1988)

— (3) "We have also recognized an interest in protecting minors from exposure to vulgar and offensive spoken language. . . . [v]ulgar speech and lewd conduct is [sic] wholly inconsistent with the fundamental values of public education." *Bethel v. Fraser*, 478 U.S. 675 (1986)

— (4) "[The Equal Access Act] does not limit a school's authority to prohibit meetings that would materially and substantially interfere with the orderly conduct of educational activities within the school" . . . [and] also preserves 'the authority of the school, its agents or employees, to maintain order and discipline on school premises, to protect the well-being of students and faculty, and to assure that attendance of students at meetings is voluntary.'" *Board of Education v. Mergens*, 496 U.S. 226 (1990)

— B. The purpose of this rule is to provide guidance to local school boards regarding:

- (1) authorization of clubs;
- (2) protecting the physical, emotional, psychological, and moral well-being of students;
- (3) maintaining order and discipline on school premises; and
- (4) preventing material and substantial interference with the orderly conduct of a school's educational activities.

R277-617-3. Authorization of Clubs.

— A. A local school board may authorize the following types of clubs by grade level:

- (1) Grades K-6: only school clubs may be authorized in any of grades K-6.
- (2) Grades 7-9: both school clubs and supervised student clubs are permissible in grades 7-9, except as provided in R277-617-3C.
- (3) Grades 10-12: school clubs, supervised student clubs, and monitored student clubs are permissible in grades 10-12.

— B. Each local school board shall adopt policies governing the establishment of clubs in the schools of the district. The policies shall include the following:

- (1) Students or school staff seeking authorization to establish a club shall prepare a club charter setting forth the name and purposes of the club, describing the types of activities in which club members may be engaged, and establishing limitations upon club activities. Those limitations shall include prohibitions against:
- (a) Action or advocacy of imminent action which violates the law or administrative rule; this prohibition shall not apply to appropriate discussions concerning the changing of laws or rules, or actions taken through appropriate channels or procedures to effectuate such changes.
- (b) Advocacy or approval of sexual activity outside of marriage, or presentations in violation of laws or regulations governing sex education or privacy rights of families or individuals.
- (c) Action or advocacy of imminent action involving the harassment or the denigration of any person.

—(d) Action or advocacy of imminent action with the intent to cause a person to fear to freely exercise or enjoy any right secured by the Constitution or laws of the United States or the state of Utah.

—(2) Authorization to establish a club may not be granted unless the authorizing authority has made a specific finding that the club, if approved, would be in compliance with Section 53A-3-419.

—(3) Selection and appointment of club sponsors, supervisors, and monitors shall be the responsibility of the school principal unless another person is designated in the board policy.

—C. Religious clubs may be permitted for students in grades 7-12. Such clubs shall be authorized as monitored clubs.

—D. Clubs shall not engage in or conduct mental health therapy, counseling or psychological services for which a license would be required under Title 58, Chapters 60 or 61.

—E. A local board may permit administrative review and approval of club applications, but shall provide for an appeal by a student directly affected by an administrative decision.

—F. A local board may delegate to schools the authority to decide the following, provided that all clubs of a given type (i.e. supervised or monitored student clubs) are given equal access:

—(1) the time and place that a club may meet; and

—(2) club access to the school newspaper, yearbook, bulletin boards, public address system, or any combination of the foregoing.

—G. A local board may require informed, written parental consent prior to a student's attending or joining a club, provided that any such rule shall apply to all clubs of the grade level and type (school, supervised, monitored) in question.

—H. A local board policy may provide for approval of a club name in an action separate from that relating to the approval of the club itself. The board may require:

—(1) that a club name reasonably reflect the nature, purposes and activities of the club; and

—(2) that the club name be such that it would not result in undue disruption of school operations, subject students to harassment or persecution, imply that the club would operate in violation of Section 53A-3-419 or other law or rule, or imply inappropriate association with outside organizations or groups.

—I. A local board may limit access to clubs by persons who are not part of the school, including prohibiting outside persons from directing, conducting, controlling, or regularly attending club meetings.

—J. A local board may adopt additional policies governing clubs in accordance with the board's obligation to teach students the boundaries of socially appropriate behavior and to restrict activities which are harmful or contrary to the basic educational mission of the school. A board may also adopt additional policies which it finds to be necessary to protect the rights of parents and students; to protect the well-being of students and faculty; to maintain order and discipline on school premises; or to prevent material and substantial interference with the orderly conduct of a school's educational activities.

—K. A local board which permits the formation of non-curricular related clubs may not adopt a policy prohibiting the formation of such a club simply on the basis of the controversial nature of the proposed club if the activities and assurances set forth in the charter and application are consistent with applicable laws and rules.

—L. Local boards shall provide for oversight of club programs and activities to ensure compliance with the approved club charter and applicable laws and rules. Board policies shall set forth procedures and penalties applicable to cases of noncompliance.

~~R277-617-4. Limiting Authorization to Curriculum Related Clubs.~~

—A. A local board may limit, or permit a secondary school to limit, clubs to those which are curriculum related.

—B. A curriculum related club is defined as follows:

—(1) The subject matter of the club is actually taught or soon will be taught in a regular course;

—(2) The subject matter of the club concerns the body of courses as a whole;

—(3) Participation in the club is required for a particular course; or

—(4) Academic credit is given for participation in the club.

~~KEY: extracurricular activities~~

~~Date of Enactment or Last Substantive Amendment: February 19, 1997~~

~~Notice of Continuation: February 2, 2007~~

~~Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-3-419]~~

Health, Epidemiology and Laboratory Services; HIV/AIDS, Tuberculosis Control/Refugee Health

R388-804

Special Measures for the Control of Tuberculosis

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29911

FILED: 05/02/2007, 10:17

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The incorporated references in this rule have been updated by the bodies that established them, which necessitates an update to the incorporated materials. New testing methodology for identifying latent tuberculosis (TB) infection; a need to clearly define objectives related to the epidemiologic investigation; and new requirements for directly observed therapy (DOT) also necessitate an update to the rule.

SUMMARY OF THE RULE OR CHANGE: Updated incorporated materials provide the most recent TB control guidelines as set forth by the Centers for Disease Control and Prevention and the American Thoracic Society. The rule amendment recognizes any Federal Food and Drug Administration method for testing for latent TB infection. The amendment more clearly defines steps to be taken during the epidemiologic investigation and requires the administration of medications through use of directly observed therapy in all active TB cases.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-6-4, 26-6-6, 26-6-7, 26-6-8, and 26-6-9; and Title 26, Chapter 6b

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Treatment of Tuberculosis, MMWR 2003; Controlling Tuberculosis in the United States: recommendations from the American Thoracic Society; CDC, and the Infectious Diseases Society of America, MMWR 2005; and Targeted Tuberculin Testing and Treatment of Latent Tuberculosis Infection, MMWR 2000

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The use of an approved in vitro serological test will not impact the state budget as Federal Refugee Medical assistance funding is being used for its implementation and its use is voluntary. Once implemented, in vitro serologic testing should also yield cost savings in terms of medical staff time and the elimination of common false positive results. In vitro serological testing precludes the need for a second patient visit for test interpretation, repeat testing, and testing compliance. In a recent study (Lambert et al. Infect Control Hosp Epidemiol. 24:814-820, 2003) researchers found that the cost of implementing a skin testing program ranged from \$41 to \$362 per employee, with the skin test supplies representing less than 1.5% of the total cost of the program. Incorporating the updated references will not have a budgetary impact because they describe the standard of care which has been provided through local health department contracts for many years. The Department has required for many years, through contractual agreements with local health departments, that every person diagnosed with active TB disease receive DOT, which has been the international standard of care for many years. As such, there will be no additional funding provided by the state for this activity. The Department is required to submit information to the Centers for Disease Control and Prevention regarding contact investigations of persons with active TB disease. The amendment defines these steps more clearly and will not have a monetary impact because the activities represent the standard of care that has been funded through local health department contracts for many years. The addition of the term "isolation" will have no budgetary impact as quarantine was previously used incorrectly to describe the isolation process.

❖ **LOCAL GOVERNMENTS:** Local health departments may choose to implement an in vitro serologic testing method but its use will be voluntary and no additional state funding will be made available if they choose to do so. If implemented, however, in vitro serologic testing should yield cost savings in terms of medical staff time and the elimination of common false positive results. In vitro serological testing precludes the need for a second patient visit for test interpretation, repeat testing, and testing compliance. In a recent study (Lambert et al. Infect Control Hosp Epidemiol. 24:814-820, 2003) researchers found that the cost of implementing a skin testing program ranged from \$41 to \$362 per employee, with the skin test supplies representing less than 1.5% of the total cost of the program. Incorporating the updated references will not have a budgetary impact because they describe the standard of care which has been provided through local health department contracts for many years. For many years, the local health departments have been required, by contractual agreement, to provide DOT to all individuals with active TB disease. Because local health departments are already

required, by contract, to provide this service, there will be no increased cost associated with the change to the rule and no additional state or federal funding will be provided. For many years, the TB Control Program has provided funding to local health departments, by contractual agreement, to conduct a contact investigation of persons with active TB disease. The amendment will not impose increased costs because the local health departments are already receiving funding to provide these services. The addition of the term "isolation" will have no budgetary impact as quarantine was previously used incorrectly to describe the isolation process.

❖ **OTHER PERSONS:** The decision to use a particular testing method will, ultimately, be a voluntary decision each health care provider will have to make after considering cost/benefit and laboratory limitations. If implemented, however, in vitro serologic testing should yield cost savings in terms of medical staff time and the elimination of common false positive results.

In vitro serological testing precludes the need for a second patient visit for test interpretation, repeat testing and testing compliance. In a recent study (Lambert et al. Infect Control Hosp Epidemiol. 24:814-820, 2003) researchers found that the cost of implementing a skin testing program ranged from \$41 to \$362 per employee, with the skin test supplies representing less than 1.5% of the total cost of the program. Incorporating the updated references will not have a budgetary impact because they describe the standard of care which has been provided through local health department contracts for many years. There will be no budgetary impact for DOT since it is currently conducted at the local health department level and funded at the State health department level. There will be no impact for contact investigation activities as it is currently conducted by the local health departments and not private health care providers. The addition of the term "isolation" will have no budgetary impact as quarantine was previously used incorrectly to describe the isolation process.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance costs for the use of an in vitro serologic test since it is voluntary. There will be no compliance costs associated with DOT since it is conducted at the local health department level and funded through contractual agreement. There will be no compliance costs associated with contact investigation activities since the local health departments already receive funding to provide these services through contractual agreement. There will be not compliance costs for using the appropriate term "isolation" instead of the inappropriate term "quarantine".

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Control of TB remains one of the core tasks of public health. This rule update is necessary to support those control efforts. The fiscal impact on businesses appears to be small and justified. David N. Sundwall, MD, Executive Director

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

HEALTH
EPIDEMIOLOGY AND LABORATORY SERVICES;
HIV/AIDS, TUBERCULOSIS CONTROL/

REFUGEE HEALTH
 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:
 Cristie Chesler at the above address, by phone at 801-538-9465, by FAX at 801-538-9913, or by Internet E-mail at cchesler@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY
 SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER
 THAN 5:00 PM on 07/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/09/2007

AUTHORIZED BY: David N. Sundwall, Executive Director

**R388. Health, Epidemiology and Laboratory Services;
 HIV/AIDS, Tuberculosis Control/Refugee Health.**

R388-804. Special Measures for the Control of Tuberculosis.

R388-804-2. Definitions.

(1) The definitions described in Section 26-6b apply to this rule, and in addition:

(a) Tuberculosis. A disease caused by Mycobacterium tuberculosis complex, i.e., Mycobacterium tuberculosis, Mycobacterium bovis, or Mycobacterium africanum.

(b) Acid-fast bacilli (AFB). Denotes bacteria that are not decolorized by acid-alcohol after having been stained with dyes such as basic fuchsin; e.g., the mycobacteria and nocardiae.

(c) Case of tuberculosis. An episode of tuberculosis disease meeting the clinical or laboratory criteria for tuberculosis as defined in the document entitled "Case Definitions for Infectious Conditions Under Public Health Surveillance." The Department incorporates by reference the Centers for Disease Control and Prevention "Case Definitions for Infectious Conditions under Public Health Surveillance," MMWR; 46 (no. RR-10): 40-41, 1997.

(d) Tuberculosis infection. The presence of M. tuberculosis in the body but the absence of clinical or radiographic evidence of active disease as documented by a significant tuberculin skin test, a negative chest radiograph and the absence of clinical signs and symptoms.

(e) Tuberculosis disease. A state of infectious or communicable tuberculosis, pulmonary or extra-pulmonary, as determined by a chest radiograph, the bacteriologic examination of body tissues or secretions, other diagnostic procedures or physician diagnosis.

(f) Directly observed therapy. A method of treatment in which health-care providers or other designated individuals physically observe the individual ingesting anti-tuberculosis medications.

(g) Drug resistant tuberculosis. Tuberculosis bacteria which is resistant to one or more anti-tuberculosis drug.

(h) Multi-drug resistant tuberculosis. Tuberculosis bacteria which is resistant to at least isoniazid and rifampin.

(i) Suspect case. An individual who is suspected to have tuberculosis disease, e.g., a known contact to an active tuberculosis

case or a person with signs and symptoms consistent with tuberculosis.

(j) Program. Utah Department of Health: Bureau of HIV/AIDS, Tuberculosis Control and Refugee Health; Tuberculosis Control/Refugee Health Program.

(k) Department. Utah Department of Health.

R388-804-4. Screening Priorities and Procedures.

(1) Private physicians and local health departments shall screen individuals considered to be at high risk for tuberculosis disease and infection before screening is conducted in the general population. Priorities shall be established based on those at greatest risk for disease and in consideration of the resources available.

(2) Individuals considered at high risk for tuberculosis include the following:

(a) Close contacts of those with infectious tuberculosis;

(b) Persons infected with human immunodeficiency virus;

(c) Individuals who inject illicit drugs;

(d) Inmates of adult and youth correctional facilities;

(e) Residents of nursing homes, mental institutions, other long term residential facilities and homeless shelters;

(f) Recently arrived foreign-born individuals, within five years, from countries that have a high tuberculosis incidence or prevalence;

(g) Low income or traditionally under-served groups with poor access to health care, e.g., migrant farm workers and homeless persons;

(h) Individuals who are substance abusers and members of traditionally under-served groups;

(i) Individuals with certain medical conditions that may predispose them to tuberculosis infection and disease, e.g., diabetes, cancer, silicosis, and immune-suppressive disorders;

(j) Individuals who have traveled for extended periods of time in countries that have a high tuberculosis incidence or prevalence;

(k) Other groups may be identified by order of the Department, as needed to protect public health.

(3) Employers who are required to follow Occupational Safety and Health Administration guidelines for the prevention of tuberculosis transmission disease shall develop and implement an employee screening program.

(4) Tuberculosis screening ~~by skin test~~ shall be completed using either the Mantoux tuberculin skin test method or an FDA approved in-vitro serologic test.

(a) Screening for tuberculosis with chest radiographs or sputum smears to identify individuals with tuberculosis disease is acceptable in places where the risk of transmission is high and the time required to give the skin test makes the method impractical.

(b) If the skin test yields results indicating tuberculosis exposure, the individual shall be referred for further medical evaluation.

R388-804-6. Treatment and Control.

(1) The Department incorporates by reference the ATS/CDC treatment standards as described in the segment entitled "~~Treatment of Tuberculosis and Tuberculosis Infection in Adults and Children,~~" as published in the American Journal of Respiratory and Critical Care Medicine, Vol 149, pp. 1359-1374, 1994 and "Targeted Tuberculin Testing and Treatment of Latent Tuberculosis Infection," American Journal of Respiratory and Critical Care Medicine, Vol. 161, pp. S221-S247, 2000 Centers for Disease Control and Prevention. Treatment of Tuberculosis. American Thoracic Society, CDC, and Infectious Diseases Society of America. MMWR

2003;52 (No. RR-11), Centers for Disease Control and Prevention, Controlling Tuberculosis in the United States: Recommendations from the American Thoracic Society, CDC, and the Infectious Diseases Society of America, MMWR 2005; 54 (No. RR-12)" and "Centers for Disease Control and Prevention, Targeted Tuberculin Testing and Treatment of Latent Tuberculosis Infection, MMWR 2000; 49 (No. RR-6)." In treating tuberculosis, health care providers ~~shall be expected to~~ must adhere to the standards listed in this document.

(2) A health-care provider who treats an individual with tuberculosis disease shall use the ATS/CDC treatment standards as a reference for the development of a comprehensive treatment and follow-up plan for each individual. The plan shall be developed in cooperation with the individual and approved by the local health department or the Program. Health-care providers shall routinely document an individuals' adherence to prescribed therapy for tuberculosis infection and disease. If isolation is indicated, the plan for isolation shall be approved by the local health department or the Program.

(3) A health-care provider who treats an individual with tuberculosis disease shall provide for directly observed therapy for individuals diagnosed with active tuberculosis disease ~~[who do not adhere to self-administered therapy, have drug-resistant tuberculosis or have multi-drug-resistant tuberculosis.]~~

(4) Individuals with infectious tuberculosis disease shall wear a mask approved by the local health department or the Program when outside the isolation area.

R388-804-7. Epidemiologic Investigations.

(1) The local health department shall conduct a contact investigation immediately upon report of an AFB smear positive suspected or confirmed case of tuberculosis disease.

(2) The contact investigation shall include interviewing, counseling, educating, examining and obtaining comprehensive information about those who have been in contact with individuals who have infectious tuberculosis.

(a) The investigation shall begin within three days of notification of an AFB smear positive suspected or confirmed case and the initial evaluation shall be completed within fourteen days of notification.

(b) Investigations of contacts to persons with active TB disease shall include the evaluation of contacts and the treatment of infected contacts.

(c) The local health department shall submit demographic data to the Department at 30 days and at 120 days after initiation of the contact investigation, and following the completion of prophylactic.

R388-804-8. Payment for Isolation and Quarantine.

(1) Individuals who are isolated or quarantined at the expense of the Department shall provide the Department with information to determine if any other payment source for the costs associated with isolation or quarantine is ~~are~~ available.

R388-804-9. Penalty for Violation.

(1) Any person who violates any provision of this rule may be assessed a civil money penalty not to exceed the sum of \$5000 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: tuberculosis, screening, communicable disease

Date of Enactment or Last Substantive Amendment: ~~February 2, 2004~~ **2007**

Notice of Continuation: August 20, 2002

Authorizing, and Implemented or Interpreted Law: 26-6-4; 26-6-6; 26-6-7; 26-6-8; 26-6-9; 26-6b



Health, Health Systems Improvement, Emergency Medical Services

R426-12

Emergency Medical Services Training and Certification Standards

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29944

FILED: 05/15/2007, 14:02

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: A number of changes were passed through the Training Subcommittee and the Emergency Medical Services (EMS) Committee. These changes were needed to update the rules with current practices. Also, the rule changes help to make the rules more uniform between levels of certification.

SUMMARY OF THE RULE OR CHANGE: The amendments: 1) change the 90-day period to 120 days for EMS personnel to complete all certification requirements after completion of training; 2) change the FBI background investigation requirements to require all persons who have not resided in Utah for the prior five years must have an FBI background investigation; 3) clarify that the Department may not lengthen the four-year certification; 4) change the number of times a person may take an EMS certification or recertification exam to three times; 5) clarify that if a person retakes the course because of a failure to pass the examinations, the individual must pass both the practical and written test after completion of the new course; 6) clarify when the new expiration date of a lapsed EMS person will be; 7) clarify that if an individual's certification has lapsed, the individual is not authorized to provide care; 8) eliminate the ability to request a review upon failing a third test; 9) clarify that an advanced level EMT must recertify before the EMT can be certified at a higher level; 10) clarify that an individual who fails an examination at a higher level, may request in writing that he be allowed to apply for a lower level; 11) standardize the rule language among the different EMT certification levels; 12) increase Training Officer and Course Coordinator certification from one year to two years; and 13) provide that if an individual's EMS certification lapses, the training officer, course coordinator and instructor certification automatically lapses.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-8a-302

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Bureau will collect approximately \$3,200 a year less because of the change to two-year certification for training officers and course coordinators. This amount comes from 160 people that attend the courses per year, which will drop to approximately 80 per year. The cost is \$40 per course. This fee pays for the course location, instructors, and travel. The Bureau may collect approximately an additional \$2,625 by allowing EMS personnel who fail certification tests twice to take an additional test. This amount is approximately 55 people who will re-take the written test a third time, multiplied by \$15 per written test and 60 who will re-take some portion of the practical test, at a charge of \$30. The Bureau will collect an additional \$40 for people who have previously been exempt from FBI checks. At the present time, these people (returned missionaries and military personnel), only have to have a criminal background name check which is \$10. The additional \$40 will come into the Bureau, but is a pass through to the Bureau of Criminal Identification, Department of Public Safety. This will probably bring in an additional \$3,200, which is 80 people.

❖ **LOCAL GOVERNMENTS:** There will be extra charges to local government for additional employees who will be subject to FBI checks. This may affect approximately 50 people per year and cost \$40 per set of fingerprints, which is \$2,000. Local agencies will save approximately \$2,000 per year due to the two-year training officer/course coordinator certification cycle. This would be 50 people at \$40 per year. Local agencies will have to pay for the additional third tests. About 25 of the 75 people who take a third written test would likely work for local government, so this would be a cost to them of \$375. Recertifications do not take practical tests from the state, so if approximately 10 people who work for local government have to take the certification practical a third time, it would cost local government \$300.

❖ **OTHER PERSONS:** There will be extra charges to people who must now submit to FBI checks. This may affect approximately 50 people, at an extra cost of \$40 each, which is \$2,000. Anyone who is training officer/course coordinator certified will save \$40 every two years because they only have to recertify every two years instead of every year. Others would be allowed to take third tests and this would be approximately 30 people who would re-take the written or an additional cost of \$450 and approximately 50 who will re-take the practical test at a charge of \$30 for an additional cost of \$1,500.

COMPLIANCE COSTS FOR AFFECTED PERSONS: If a person chooses to take a third test, he/she would pay an extra \$15 for a written or \$30 for the failed portion of a practical. It will cost a person (or his hiring agency) who was previously exempt from fingerprint checks an extra \$40.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These rule changes are supported by the EMS Committee and will bring consistency to the rules across the categories of certification. Applicants are given an additional opportunity to pass the required exam. Fiscal impact appears to be modest and justified. David N. Sundwall, MD, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Leslie Johnson at the above address, by phone at 801-538-6292, by FAX at 801-538-6808, or by Internet E-mail at lesliejohnson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/09/2007

AUTHORIZED BY: David N. Sundwall, Executive Director

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

R426-12. Emergency Medical Services Training and Certification Standards.

R426-12-100. Authority and Purpose.

This rule is established under Title 26, Chapter 8a to provide uniform minimum standards to be met by those providing emergency medical services in the State of Utah; and for the training, certification, and recertification of individuals who provide emergency medical service and for those providing instructions and training to pre-hospital emergency medical care providers.

R426-12-101. Written and Practical Test Requirements.

- (1) The Department shall:
 - (a) develop written and practical tests for each certification; and
 - (b) establish the passing score for certification and recertification written and practical tests.
- (2) The Department may administer the tests or delegate the administration of any test to another entity.
- (3) The Department may release only to the individual who took the test and to persons who have a signed release from the individual who took the test:
 - (a) whether the individual passed or failed a written or practical test; and
 - (b) the subject areas where items were missed on a written or practical test.

R426-12-102. Emergency Medical Care During Clinical Training.

A student enrolled in a Department[-]-approved training program may, under the direct supervision of the course coordinator, an instructor in the course, or a preceptor for the course, perform activities delineated within the training curriculum that otherwise require certification to perform.

R426-12-103. Certification at a Lower Level.

(1) An individual who has taken an Emergency Medical Technician-Intermediate Advanced (EMT-IA) course, but has not been recommended for certification, may request to become certified at the Emergency Medical Technician-Intermediate (EMT-I) level if:

(a) the EMT-IA course coordinator submits to the Department a favorable letter of recommendation stating that the individual has successfully obtained the knowledge and skills of the EMT-I level as required by R426-12-300(2); and

(b) the individual successfully completes all requirements of R426-12-301, except for R426-12-301(2)(a).

(2) An individual who has taken a Paramedic course, but has not been recommended for certification, may request to become certified at the EMT-IA or EMT-I levels if:

(a) the paramedic course coordinator submits to the Department a favorable letter of recommendation stating that the individual has successfully obtained the knowledge and skills of the EMT-I level as required by R426-12-300(2) or the EMT-IA level as required by R426-12-400(2), as appropriate; and

(b) the individual successfully completes all requirements of:

(i) R426-12-301, except for R426-12-301(2)(a) for EMT-I; or

(ii) R426-12-401, except for R426-12-401(2)(a) for EMT-IA respectively.

~~—(3) If an individual fails either the written or practical examinations and re-examinations for:~~

~~—(a) certification at the EMT-IA level, the individual may request to be certified at the EMT-I level if all requirements of R426-12-103(1) are met; and~~

~~—(b) certification at the Paramedic level, the individual may request to be certified at the EMT-IA or EMT-I level if all requirements of R426-12-103(2) are met.~~

~~—(4) An individual certified at the EMT-IA level may request in writing to the Department to recertify at the EMT-I or EMT-B level at the time of the individual's EMT-IA recertification. The individual must complete all requirements for recertification of EMT-I as required by R426-12-303 or EMT-B as required by R426-12-202.~~

~~—(5) An individual certified at the Paramedic level may request in writing to the Department to recertify at the EMT-IA, EMT-I, or Emergency Medical Technician-Basic (EMT-B) level at the time of the individual's recertification. The individual must complete all requirements of R426-12-403, R426-12-303, or R426-12-202 as appropriate.~~

]

R426-12-200. Emergency Medical Technician-Basic (EMT-B) in Requirements and Scope of Practice.

(1) The Department may certify as an EMT-B an individual who meets the initial certification requirements in R426-12-201.

(2) The Committee adopts as the standard for EMT-Basic training and competency in the state, the following affective, cognitive and psychomotor objectives for patient care and treatment from the 1994 United States Department of Transportation's "EMT-Basic Training Program: National Standard Curriculum" (EMT-B Curriculum), which is incorporated by reference, with the exceptions of Module 8: Advanced Airway and Appendices C, D, J, and K.

(3) An EMT-B may perform the skills as described in the EMT-B Curriculum, as adopted in this section.

R426-12-201. EMT-B Initial Certification.

(1) The Department may certify an EMT-B for a four year period.

(2) An individual who wishes to become certified as an EMT-B must:

(a) successfully complete a Department-approved EMT-B course as described in R426-12-200(2);

(b) be able to perform the functions listed in the objectives of the EMT-B Curriculum adopted in R426-12-200(2) as verified by personal attestation and successful accomplishment during the course of all cognitive, affective, and psychomotor skills and objectives listed in the adopted EMT-B Curriculum;

(c) achieve a favorable recommendation from the course coordinator and course medical director stating technical competence during field and clinical training and successful completion of all training requirements for EMT-B certification;

(d) be 18 years of age or older;

(e) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(f) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah~~[not a Utah resident]~~ for the past consecutive five years;~~[however a Utah resident whose reason for being out of state was due to being a foreign exchange student, serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to an FBI background investigation;]~~

(g) maintain and submit documentation of having completed within the prior two years a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;

(h) submit to the Department a statement from a physician, confirming the applicant's results of a TB examination conducted within one year prior to completing the EMT-B course;

(i) within ~~[90]~~120 days after the official course end date the applicant must~~[completing the EMT-B course,]~~ successfully complete the Department written and practical EMT-B examinations, or reexaminations, if necessary.

(3) The Department may extend the time limit in Subsection (2)(i) for an individual who demonstrates that the inability to meet the requirements within the ~~[90]~~120 days was due to circumstances beyond the applicant's control, such as for documented medical circumstances that prevent completion of testing, military deployment out of the state, extreme illness in the immediate family, or the like.

R426-12-202. EMT-B Certification Challenges.

(1) The Department may certify as an EMT-B, a registered nurse licensed in Utah, a physician assistant licensed in Utah, or a physician licensed in Utah who:

(a) is able to demonstrate knowledge, proficiency and competency to perform all the functions listed in the EMT-B Curriculum as verified by personal attestation and successful demonstration to a currently certified course coordinator and an off-line medical director of all cognitive, affective, and psychomotor skills and objectives listed in the EMT-B Curriculum;

(b) has a knowledge of:

(i) medical control protocols;

(ii) state and local protocols; and

(iii) the role and responsibilities of an EMT-B;

(c) maintains and submits documentation of having completed within the prior two years, a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart

Association or a course that the applicant can demonstrate to the Department to be equivalent or greater; and

(d) is 18 years of age or older.

(2) To become certified, the applicant must:

(a) submit three letters of recommendation from health care providers attesting to the applicant's patient care skills and abilities;

(b) submit a favorable recommendation from a currently certified course coordinator attesting to competency of all knowledge and skills contained within the EMT-B Curriculum.

(c) submit ~~an~~ the applicable fees and a completed application, including social security number, signature, and ~~documentation of compliance with this section~~, proof of current Utah license as a Registered Nurse, a Physician Assistant, or a Medical Doctor; ~~and all required fees;~~

(d) within ~~[90]~~ 120 days after submitting the challenge application, successfully complete the Department written and practical EMT-B examinations, or reexaminations, if necessary;

(e) The Department may extend the time limit in Subsection (2)(i) for an individual who demonstrates that the inability to meet the requirements within 120 days was due to circumstances beyond the applicants control, such as for documented medical circumstances that prevent completion of testing, military deployment out of the state, extreme illness in the immediate family, or the like.

~~—(f) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah [not a Utah resident] for the past consecutive five years; [however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;]~~ and

(f) submit a statement from a physician, confirming the applicant's results of a TB examination conducted within one year prior to submitting the application.

R426-12-203. EMT-B Reciprocity.

(1) The Department may certify an individual as an EMT-B an individual certified outside of the State of Utah if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater than what is required in Utah.

(2) An individual seeking reciprocity for certification in Utah based on out-of-state training and experience must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department and complete all of the following within 120 days ~~[one year]~~ of submitting the application;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah ~~[not a Utah resident]~~ for the past consecutive five years; ~~[however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to an FBI background investigation;]~~

(c) maintain and submit documentation of having completed within the prior two years, a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;

(d) submit a statement from a physician, confirming the applicant's results of a TB examination conducted within the prior year;

(e) successfully complete the Department written and practical EMT-B examinations, or reexaminations, if necessary;

(f) submit a current certification from one of the states of the United States or its possessions, or current registration and the name of the training institution if registered with the National Registry of EMTs; and

(g) provide documentation of completion of 25 hours of continuing medical education (CME) within the prior year.

R426-12-204. EMT-B Recertification Requirements.

(1) The Department may recertify an EMT-B for a four year period or for a shorter period as modified by the Department to standardize recertification cycles.

(2) An individual seeking recertification must:

(a) ~~[complete all EMT-B recertification requirements; —(b)—]~~ submit the applicable fees and a completed application, including social security number and signature, to the Department;

~~—(b)—~~ submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah ~~[not a Utah resident]~~ for the past consecutive five years; ~~[however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;]~~

(c) maintain and submit documentation of having completed within the prior two years, a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;

(d) submit a statement from the applicant's EMS provider organization or a physician, confirming the applicant's results of a TB examination; and

(e) successfully complete the Department applicable written and practical recertification examinations, or reexaminations if necessary, within one year prior to expiration ~~[of the certification to be renewed];~~ ~~and~~

(f) provide documentation of completion of 100 hours of Department-approved CME meeting the requirements of subsections (3), (4), (5), (6), and (7).

(3) The EMT-B must complete the CME throughout each of the prior four years.

(4) The EMT-B must take at least 25 elective hours and the following 75 required CME hours by subject:

(a) Well being of the EMT - 2 hours;

(b) Infection Control - 2 hours;

(c) Airway - 4 hours;

(d) Patient Assessment - 10 hours;

(e) Communications and Documentation - 4 hours;

(f) Pharmacology and Patient Assisted Medications - 8 hours;

(g) Medical Emergencies: Cardiac and Automatic External Defibrillation - 6 hours;

(h) Medical Emergencies - 7 hours;

(i) Trauma (must include simulated bleeding, shock, soft tissue, burns, kinetics, musculoskeletal, head and spine, eyes, face, chest, splinting and bandaging - 12 hours;

(j) Pediatric Patients - 8 hours;

(k) Obstetrics and Gynecology - 4 hours;

(l) Operations (must include lifting and moving, ambulance operations, extrication, triage - 4 hours; and

(m) HAZMAT awareness - 4 hours.

(5) An EMT-B may complete CME hours through the methodologies listed in this subsection. All CME must be related to the required skills and knowledge of an EMT. Instructors need not be EMS instructors, but must be knowledgeable in the field of instruction. Limitations and special requirements are listed with each methodology.

(a) Workshops and seminars related to the required skills and knowledge of an EMT and approved for CME credit by the Department or the Continuing Education Coordinating Board for EMS (CECBEMS).

(b) Local medical training meetings.

(c) Demonstration or practice sessions.

(d) Medical training meetings where a guest speaker presents material related to emergency medical care.

(e) Actual hours the EMT-B is involved in community emergency exercise and disaster drills. Up to 20 hours are creditable during a recertification period for participation in exercises and drills.

(f) Teaching the general public (schools, scouts, clubs, or church groups) on any topic within the scope of the EMT-B practice. Up to 15 hours are creditable during a certification period for teaching classes.

(g) Viewing audiovisuals (films, videotapes, etc.) which illustrate and review proper emergency care procedures. The EMT-B must view the audiovisual material in the presence of a training officer. Up to 10 hours are creditable during a certification period using audiovisuals.

(h) Completing college courses in topics such as biology, chemistry, anatomy and physiology. Other college courses relating to the scope and practice of an EMT-B may be creditable, but only with the approval of the Department. If in doubt, the EMT-B should contact the Department. Up to 10 hours are creditable during a certification period for college courses.

(i) Up to 16 hours of CPR training are creditable during a certification period.

(j) Computer and internet-based training that illustrates, drills, provides interactive use, or demonstrates proper emergency care procedures. The training must be approved by the ~~Continuing Education Coordinating Board of Emergency Medical Services~~CECBEMS or the Department. Up to 25 hours are creditable during a certification period using computer and internet-based training.

(k) Completing tests related to the EMT-B scope of practice in EMS-related journals or publications. Up to ~~5~~five hours are creditable during a certification period for completing tests from journals and publications.

(6) The EMT-B must complete the following skills at least two times as part of the CME training listed in subsections (4) and (5):

(a) bandaging of the arm, elbow, shoulder, neck, top of head, cheek, protruding eye, ear, and open chest wound;

(b) splinting using hare traction or sager splint (choice based upon availability of equipment);

(c) splinting of at least one upper and lower extremity;

(d) cervical and spinal immobilization using c-collar, long board, head stabilization equipment (utilize available equipment) and straps;

(e) patient assisted medications: nitroglycerin, pre-loaded epinephrine, inhaler, glucose, activated charcoal, and aspirin;

(f) pediatric immobilization: in a car seat and backboard;

(g) insertion of nasopharyngeal and oropharyngeal airways; and

(h) defibrillation of a simulated patient in cardiac arrest using an AED.

(7) An EMT-B who is affiliated with an EMS organization should have the training officer from the EMS organization submit a letter verifying the EMT-B's completion of the recertification requirements. An EMT-B who is not affiliated with an agency must submit verification of all recertification requirements directly to the Department.

(8) Each EMT-B is individually responsible to complete and submit the required recertification material to the Department. Each EMT-B should submit all recertification materials to the Department at one time, no later than 30 days and no earlier than one year prior to the EMT-B's current certification expiration date. If the Department receives incomplete or late recertification materials, the Department may not be able to process the recertification before the certification expires. The Department processes recertification material in the order received.

~~(9)~~ An EMS provider or an entity that provides CME may compile and submit recertification materials on behalf of an EMT-B; however, the EMT-B remains responsible for a timely and complete submission.

~~(9)~~¹⁰ The Department may shorten recertification periods. An EMT-B whose recertification period is shortened must meet the CME requirements in each of the required and elective subdivisions on a prorated basis by the expiration of the shortened period.

~~(11) The Department may not lengthen certification periods more than the four year certification, unless the individual is a member of the National Guard or reserve component of the armed forces and is on active duty when certification expired. If this happens, the individual shall recertify in accordance with Utah Code 39-1-64.~~

R426-12-205. EMT-B Lapsed Certification.

(1) An individual whose EMT-B certification has expired for less than one year may, within one year after expiration, complete all recertification requirements and pay a late recertification fee to become certified. The individual's new expiration date will be four years from the old expiration date.

(2) An individual whose certification has expired for more than one year must take an EMT-B course and reapply ~~as if there were no prior~~for initial certification.

~~(3) An individual whose certification has lapsed, is not authorized to provide care as an EMT until the individual completes the recertification process.~~

R426-12-206. EMT-B Testing Failures.

(1) An individual who fails any part of the EMT-B certification or recertification written or practical examination may retake the EMT-B examination ~~once~~twice without further course work.

~~(a)2~~ If the individual fails ~~on the~~both ~~re-examination~~re-examinations, he must take a complete EMT-B training course to be eligible for further examination.

~~(b)3~~ The individual may retake the course as many times as he desires, but may only take the examinations ~~twice~~three times for each completed course. If an individual retakes the course because of failure to pass the examinations, the individual must pass both the practical and written test administered after completion of the new course.

~~—(2) If an EMT-B fails the written or practical recertification examination after two attempts, he may, within 30 days following mailing of written notification of this second failure, submit a written request to take the test a third time.~~

~~—(3) Within 30 days of receipt of the request, the Department shall convene a review panel consisting of~~

~~—(a) the training officer of the individual's EMS provider organization or a certified EMS training officer or certified EMS instructor who would mentor a remediation plan; and~~

~~—(b) one or more representatives from the Department.~~

~~—(4) The review panel shall allow the individual to appear and provide information.~~

~~—(5) The Department shall determine whether a program of re-education and reexamination would likely result in successful completion of the examinations and shall recommend a course of action to the Department.~~

~~—(6) The Department shall consider the review panel's recommendation and provide one opportunity for reexamination if it determines that re-education and reexamination within that time would likely result in successful completion of the examinations.~~

~~—(7) If the Department does not allow the third examination, the EMT-B may file a request for agency action within 30 days of issuance of the Department's determination.~~

R426-12-300. Emergency Medical Technician-Intermediate (EMT-I) Requirements and Scope of Practice.

(1) The Department may certify ~~an EMT-B~~ as an EMT-I, an EMT-B who:

(a) meets the initial certification requirements in R426-12-301; and

(b) has 12 months of field experience as a certified EMT-B, six months of which the Department may waive upon a written request from the off-line medical director showing that there is a shortage of EMT-Is to serve the area.

(2) The Committee adopts as the standard for EMT-I training and competency in the state the following affective, cognitive, and psychomotor objectives for patient care and treatment from the 1998 United States Department of Transportation's "Emergency Medical Technician-Intermediate Training Program: National Standard Curriculum" (EMT-I Curriculum): 1-1, 1-3, 1-4, 2-1, 3-2, 3-3, 3-5, 4-2, 5-1, 5-2, 5-3, 5-4, 5-5, 6-3, which is incorporated by reference, with the exception of the following objectives: 1-1.18-24, 1-1.54, 1-3.14-15, 1-3.17, 1-4.18, 1-4.24-25, 1-4.38, 2-1.7-8, 2-1.21, 2-1.33, 2-1.82-83, 2-1.92, 2-1.94, 2-1.96, 4-2.14-16, 5-1.3-5, 5-2.6-11, 5-2.13-14, 5-2.16-18, 5-2.20, 5-2.22-33, 5-2.39, 5-2.41, 5-2.44-46, 5-3.5-16, 5-4.3-5, 5-4.8-11, 5-5.3, 5-5.8-9, and 5-5.13,

(3) In addition to the skills that an EMT-B may perform, an EMT-I may perform the adopted skills described in section R426-12-300(2).

R426-12-301. EMT-I Initial Certification.

(1) The Department may certify an EMT-I for a four year period.

(2) An individual who wishes to become certified as an EMT-I must:

(a) successfully complete a Department-approved EMT-I course as described in R426-12-300(2);

(b) be able to perform the functions listed in the objectives of the EMT-I Curriculum adopted in R426-12-300(2) as verified by personal attestation and successful accomplishment during the

course of all cognitive, affective, and psychomotor skills and objectives.

(c) achieve a favorable recommendation from the course coordinator and course medical director stating technical competence during field and clinical training and successful completion of all training requirements for EMT-I certification;

(d) be currently certified as an EMT-B;

(e) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(f) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah ~~not a Utah resident~~ for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;

(g) maintain and submit documentation of having completed within the prior two years a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;

(h) submit to the Department a statement from a physician, confirming the applicant's results of a TB examination conducted within one year prior to completing the EMT-I course; and

(i) within ~~90~~ 120 days after ~~completing the EMT-I course~~ the official course end date the applicant must, successfully complete the Department written and practical EMT-I examinations, or reexaminations, if necessary.

(3) The Department may extend the time limit in Subsection (2)(i) for an individual who demonstrates that the inability to meet the requirements within the ~~90~~ 120 days was due to circumstances beyond the applicant's control, such as for documented medical circumstances that prevent completion of testing, military deployment out of the state, extreme illness in the immediate family, or the like.

(4) If an individual's basic EMT certification lapses before he has completed all course requirements for an EMT-I, the individual must recertify as an EMT-B, including a practical test and CME documentation, before he can certify as an EMT-I. The individual may take the EMT-I written certification test to satisfy the written EMT-Basic recertification and EMT-I written certification requirements.

R426-12-302. EMT-I Reciprocity.

(1) The Department may certify as an EMT-I an individual certified outside of the State of Utah if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater to than what is required in Utah.

(2) An individual seeking reciprocity for certification in Utah based on out-of-state training and experience must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department and complete all of the following within 120 days ~~one year~~ of submitting the application;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah ~~not a Utah resident~~ for the past consecutive five years; however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;

(c) maintain and submit documentation of having completed within the prior two years, a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;

(d) submit a statement from a physician, confirming the applicant's results of a TB examination conducted within the prior year;

(e) successfully complete the Department written and practical examinations, or reexaminations, if necessary;

(f) submit a current certification from one of the states of the United States or its possessions, or current registration and the name of the training institution if registered with the National Registry of EMTs;

(g) provide documentation of completion of 25 hours of continuing medical education (CME) within the prior year.

R426-12-303. EMT-I Recertification Requirements.

(1) The Department may recertify ~~[an individual as]~~ an EMT-I for a four year period or for a shorter period as modified by the Department to standardize recertification cycles.

(2) An individual seeking recertification must:

(a) ~~[complete all EMT-I recertification requirements;~~

~~—(b)—~~submit the applicable fees and a completed application, including social security number and signature, to the Department;

~~[(e)](b)~~ submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah ~~[not a Utah resident]~~ for the past consecutive five years; ~~[however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation.]~~

~~[(d)](c)~~ maintain and submit documentation of having completed within the prior two years, a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;

~~[(e)](d)~~ submit a statement from the EMS provider organization or a physician, confirming the applicant's results of a TB examination

~~[(f)](e)~~ successfully complete the Department applicable written and practical recertification examinations, or reexaminations if necessary, within one year prior to expiration ~~[of the certification to be renewed];~~

~~[(g)](f)~~ submit a letter from a certified ~~[the]~~ off-line medical director recommending the individual for recertification and verifying the individual's demonstrated proficiency in the following EMT-I skills:

- (i) initiating and terminating intravenous infusion;
- (ii) completion of pediatric vascular access skills station;
- (iii) insertion and removal of intraosseous needle;
- (iv) insertion and removal of endotracheal tube;
- (v) administration of medications via intramuscular, subcutaneous, and intravenous routes; and
- (vi) EKG rhythm recognition; and

~~[(h)](g)~~ provide documentation of completion of 100 hours of Department-approved CME meeting the requirements of subsections (3), (4), (5), (6), (7) and (8).

(3) The EMT-I must complete the CME throughout each of the prior four years.

(4) The EMT-I must take at least 25 elective hours and the following 75 required CME hours by subject:

- (a) Foundations of EMT-Intermediate - 4 hours;
- (b) Pharmacology - 5;
- (c) Venous Access and Medication Administration - 5 hours;
- (d) Airway - 8 hours;
- (e) Techniques of Physical Examination - 4 hours;
- (f) Patient Assessment - 2 hours;
- (g) Clinical Decision Making - 4 hours
- (h) Trauma Systems and Mechanism of Injury - 3 hours;
- (i) Hemorrhage and Shock - 4 hours;
- (j) Burns - 3 hours;
- (k) Thoracic Trauma - 3 hours;
- (l) Respiratory - 2 hours;
- (m) Cardiac - 6 hours;
- (n) Diabetic - 2 hours;
- (o) Allergic Reactions - 2 hours;
- (p) Poisoning - 2 hours;
- (q) Environmental Emergencies - 2 hours;
- (r) Gynecology - 2 hours;
- (s) Obstetrics - 2 hours;
- (t) Neonatal resuscitation - 4 hours; and
- (u) Pediatrics - 6 hours.

(5) The Department strongly suggests that the 25 elective hours be in the following topics:

- (a) Anatomy and Physiology;
- (b) Assessment Based Management;
- (c) Behavioral Emergencies;
- (d) Communication;
- (e) Documentation;
- (f) Geriatrics;
- (g) HAZMAT;
- (h) History Taking;
- (i) Mass Casualty Incident;
- (j) Medical Incident Command;
- (k) Neurological Emergencies;
- (l) Non-Traumatic Abdominal Emergencies; and
- (m) Trauma Practical Lab.

(6) An EMT-I may complete CME hours through the methodologies listed in this subsection. All CME must be related to the required skills and knowledge of an EMT. Instructors need not be EMS instructors, but must be knowledgeable in the field of instruction. Limitations and special requirements are listed with each methodology.

(a) Workshops and seminars related to the required skills and knowledge of an EMT and approved for CME credit by the Department or the CECBEMS.

(b) Local medical training meetings.

(c) Demonstration or practice sessions.

(d) Medical training meetings where a guest speaker presents material related to emergency medical care.

(e) Actual hours the EMT-I is involved in community emergency exercise and disaster drills. Up to 20 hours are creditable during a recertification period for participation in exercises and drills.

(f) Teaching the general public (schools, scouts, clubs, or church groups) on any topic within the scope of the EMT-I practice. Up to 15 hours are creditable during a certification period for teaching classes.

(g) Viewing audiovisuals (films, videotapes, etc.) which illustrate and review proper emergency care procedures. The EMT-I must view the audiovisual material in the presence of a training officer. Up to 10 hours are creditable during a certification period using audiovisuals.

(h) Completing college courses in topics such as biology, chemistry, anatomy and physiology. Other college courses relating to the scope and practice of an EMT-I may be creditable, but only with the approval of the Department. If in doubt, the EMT-I should contact the Department. Up to 10 hours are creditable during a certification period for college courses.

(i) Up to 16 hours of CPR training are creditable during a certification period.

(j) Computer and internet-based training that illustrates, drills, provides interactive use, or demonstrates proper emergency care procedures. The training must be approved by the ~~[Continuing Education Coordinating Board of Emergency Medical Services]~~CECBEMS or the Department. Up to 25 hours are creditable during a certification period using computer and internet-based training.

(k) Completing tests related to the EMT-I scope of practice in EMS-related journals or publications. Up to ~~[5]~~five hours are creditable during a certification period for completing tests from journals and publications.

(7) The EMT-I must complete the following skills at least two times as part of the CME training listed in subsections (4) and (6):

(a) bandaging of the arm, elbow, shoulder, neck, top of head, cheek, protruding eye, ear, and open chest wound;

(b) splinting using hare traction or sager splint (choice based upon availability of equipment);

(c) splinting of at least one upper and lower extremity;

(d) cervical and spinal immobilization using c-collar, long board, head stabilization equipment (utilize available equipment) and straps;

(e) patient assisted medications: nitroglycerin, pre-loaded epinephrine, inhaler, glucose, activated charcoal, and aspirin;

(f) pediatric immobilization: in a car seat and backboard;

(g) insertion of nasopharyngeal and oropharyngeal airways; and

(h) defibrillation of a simulated patient in cardiac arrest using an AED.

(8) An EMT-I who is affiliated with an EMS organization should have the training officer from the EMS organization submit a letter verifying the EMT-I's completion of the recertification requirements. An EMT-I who is not affiliated with an agency must submit verification of all recertification requirements directly to the Department.

(9) Each EMT-I is individually responsible to complete and submit the required recertification material to the Department. Each EMT-I should submit all recertification materials to the Department at one time, no later than 30 days and no earlier than one year prior to the EMT-I's current certification expiration date. If the Department receives incomplete or late recertification materials, the Department may not be able to process the recertification before the certification expires. The Department processes recertification material in the order received.

(10) An EMS provider or an entity that provides CME may compile and submit recertification materials on behalf of an EMT-I; however, the EMT-I remains responsible for a timely and complete submission.

~~[(40)]~~(11) The Department may shorten recertification periods. An EMT-I whose recertification period is shortened must meet the CME requirements in each of the required and elective subdivisions on a prorated basis by the expiration of the shortened period.

(12) The Department may not lengthen recertification periods more than the four year certification, unless the individual is a member of the National Guard or reserve component of the armed forces and is on active duty when certification expires. If this happens, the individual shall recertify following Utah Code 39-1-64.

R426-12-304. EMT-I Lapsed Certification.

(1) An individual whose EMT-I certification has expired for less than one year, may, within one year after expiration, complete all recertification requirements and pay a late recertification fee to become certified. The individual's new expiration date will be four years from the individual's old expiration date.

(2) An individual whose certification has expired for more than one year must take the EMT-B and EMT-I courses and reapply ~~[as if there were no prior]~~for initial certification.

(3) An individual whose certification has lapsed, is not authorized to provide care as an EMT-I until the individual completes the recertification process.

R426-12-305. EMT-I Testing Failures.

(1) An individual who fails any part of the EMT-I certification or recertification written or practical examination may retake the EMT-I examination ~~[once]~~twice without further course work.

(2) If the individual fails both re-examinations, he must take a complete EMT-I training course to be eligible for further examination.

~~[(a)]~~(3) The individual may retake the course as many times as he desires, but may only take the examinations ~~[twice]~~three times for each completed course. If an individual retakes the course because of failure to pass the examinations, the individual must pass both the practical and written test administered after completion of the new course.

~~[(2)]~~ (2) If an EMT-I fails the written or practical recertification examination after two attempts, he may, within 30 days following mailing of written notification of this second failure, submit a written request to take the test a third time.

~~[(3)]~~ (3) Within 30 days of receipt of the request, the Department shall convene a review panel consisting of:

~~[(a)]~~ (a) the training officer of the individual's EMS provider organization or a certified EMS training officer or certified EMS instructor who would mentor a remediation plan; and

~~[(b)]~~ (b) one or more representatives from the Department.

~~[(4)]~~ (4) The review panel shall allow the individual to appear and provide information.

~~[(5)]~~ (5) The Department shall determine whether a program of re-education and reexamination would likely result in successful completion of the examinations and shall recommend a course of action to the Department.

~~[(6)]~~ (6) The Department shall consider the review panel's recommendation and provide one opportunity for reexamination if it determines that re-education and reexamination within that time would likely result in successful completion of the examinations.

~~[(7)]~~ (7) If the Department does not allow the third examination, the EMT-I may file a request for agency action within 30 days of issuance of the Department's determination.

] (4) If an EMT-I fails the recertification written or practical tests three times, he may request in writing, within 30 days of the date of the third failure notification letter, that he be allowed to apply for EMT-Basic recertification. If he applies for EMT-Basic recertification in this circumstance, he has three opportunities to test to that level. He has 120 days from the date of his request to complete recertification requirements at the EMT-Basic level.

R426-12-400. Emergency Medical Technician-Intermediate Advanced (EMT-IA) Requirements and Scope of Practice.

(1) The Department may certify as an EMT-IA, an EMT-B or an EMT-I [~~as an EMT-IA~~] who:

(a) meets the initial certification requirements in R426-12-401; and

(b) has 12 months of field experience as a certified EMT-B or EMT-I, six months of which the Department may waive upon a written request from the off-line medical director showing that there is a shortage of EMT-IAs to serve the area.

(2) The Committee adopts as the standard for EMT-IA training and competency in the state the following affective, cognitive, and psychomotor objectives for patient care and treatment from the 1998 United States Department of Transportation's "Emergency Medical Technician-Intermediate Training Program: National Standard Curriculum" (EMT-I Curriculum) which is incorporated by reference, with the exception of the following objectives: 1-1.18-24, 1-1.54, 2-1.8, 2-1.31(f), 2-1.33, 2-1.75(c), (e), and (f), 6-3.1, 6-3.102-106.

(3) In addition to the skills that an EMT-B and an EMT-I may perform, an EMT-IA may perform the adopted skills described in section R426-12-400(2).

R426-12-401. EMT-IA Initial Certification.

(1) The Department may certify an EMT-IA for a four-year period.

(2) An individual who wishes to become certified as an EMT-IA must:

(a) successfully complete a Department-approved EMT-IA course as described in R426-12-400(2);

(b) be able to perform the functions listed in the objectives of the EMT-I Curriculum adopted in R426-12-400(2) as verified by personal attestation and successful accomplishment during the course of all cognitive, affective, and psychomotor skills and objectives;

(c) achieve a favorable recommendation from the course coordinator and course medical director stating technical competence during field and clinical training and successful completion of all training requirements for EMT-IA certification;

(d) be currently certified as an EMT-B or EMT-I;

(e) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(f) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah[~~not a Utah resident~~] for the past consecutive five years;[~~however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;~~]

(g) maintain and submit verification of completion of a Department-approved course in adult and pediatric advanced cardiac life support and maintain current status as set by the entity sponsoring the course;

(h) submit a statement from a physician, confirming the applicant's results of a TB examination conducted within the prior year; and

(i) within ~~[90]~~120 days after [~~completing the EMT-IA course~~]the official course end, the applicant must, successfully complete the Department written and practical EMT-IA examinations, or reexaminations, if necessary;

(3) The Department may extend the time limit in Subsection (2)(i) for an individual who demonstrates that the inability to meet the requirements within the ~~[90]~~120 days was due to circumstances beyond the applicant's control, such as for documented medical circumstances that prevent completion of testing, military deployment out of the state, extreme illness in the immediate family, or the like.

(4) If an individual's basic EMT or intermediate EMT certification lapses before he has completed all course requirements for an EMT-IA, the individual must recertify at his current certification level, including a practical test and CME documentation, before he can certify as an EMT-IA. The individual may take the EMT-IA written certification test to satisfy the written EMT-Basic or EMT-Intermediate recertification and EMT-IA written certification requirements.

R426-12-402. EMT-IA Reciprocity.

(1) The Department may certify as an EMT-IA an individual certified outside of the State of Utah if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater than what is required in Utah.

(2) An individual seeking reciprocity for certification in Utah based on out-of-state training and experience must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department and complete all of the following within 120 days[~~one year~~] of submitting the application;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah[~~not a Utah resident~~] for the past consecutive five years;[~~however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;~~]

(c) maintain and submit verification of completion of a Department-approved course in adult and pediatric advanced cardiac life support and maintain current status as set by the entity sponsoring the course;

(d) submit a statement from a physician, confirming the applicant's results of a TB examination conducted within the prior year;

(e) successfully complete the Department written and practical EMT-IA examinations, or reexaminations, if necessary;

(f) submit a current certification from one of the states of the United States or its possessions, or current registration and the name of the training institution if registered with the National Registry of EMTs; and

(g) provide documentation of completion of 25 hours of continuing medical education (CME) within the prior year.

R426-12-403. EMT-IA Recertification Requirements.

(1) The Department may recertify an EMT-IA for a four year period or for a shorter period as modified by the Department to standardize recertification cycles.

(2) An individual seeking recertification must:

(a) ~~complete all EMT-IA recertification requirements;~~
~~(b)~~ submit the applicable fees and a completed application, including social security number and signature, to the Department;

(~~e~~b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah~~[not a Utah resident]~~ for the past consecutive five years;~~[however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;]~~

(~~d~~c) maintain and submit verification of completion of a Department-approved course in adult and pediatric advanced cardiac life support and maintain current status as set by the entity sponsoring the course;

(~~e~~d) submit a statement from the applicant's EMS provider organization or a physician, confirming the applicant's results of a TB examination;

(~~f~~e) successfully complete the Department applicable written and practical EMT-IA recertification examinations, or reexaminations, if necessary within one year prior to expiration;

(~~g~~f) submit a letter from a certified off-line medical director recommending the individual for recertification and verifying the individual's demonstrated proficiency in the following EMT-IA skills:

- (i) initiating and terminating intravenous infusion;
- (ii) completion of pediatric vascular access skills station;
- (iii) insertion and removal of intraosseous needle;
- (iv) insertion and removal of endotracheal tube;
- (v) administration of medications via intramuscular, subcutaneous, and intravenous routes; and
- (vi) EKG rhythm recognition; and

(~~h~~g) provide documentation of completion of 100 hours of Department-approved CME meeting the requirements of subsections (3), (4), (~~5~~), (6), (7) and (8).

(3) The EMT-IA must ~~have~~ complete~~d~~ the CME throughout each of the prior four years.

(4) The EMT-IA must have taken at least 25 elective hours and the following 75 required CME hours by subject:

- (a) Foundations of EMT-Intermediate - 4 hours;
- (b) Pharmacology - 5;
- (c) Venous Access and Medication Administration - 5 hours;
- (d) Airway - 8 hours;
- (e) Techniques of Physical Examination - 4 hours;
- (f) Patient Assessment - 2 hours;
- (g) Clinical Decision Making - 4 hours
- (h) Trauma Systems and Mechanism of Injury - 3 hours;
- (i) Hemorrhage and Shock - 4 hours;
- (j) Burns - 3 hours;
- (k) Thoracic Trauma - 3 hours;
- (l) Respiratory - 2 hours;
- (m) Cardiac - 6 hours;
- (n) Diabetic - 2 hours;
- (o) Allergic Reactions - 2 hours;
- (p) Poisoning - 2 hours;
- (q) Environmental Emergencies - 2 hours;
- (r) Gynecology - 2 hours;
- (s) Obstetrics - 2 hours;
- (t) Neonatal resuscitation - 4 hours; and
- (u) Pediatrics - 6 hours.

(5) The Department strongly suggests that the 25 elective hours be in the following topics:

- (a) Anatomy and Physiology;
- (b) Assessment Based Management;
- (c) Behavioral Emergencies;
- (d) Communication;
- (e) Documentation;
- (f) Geriatrics;
- (g) HAZMAT;
- (h) History Taking;
- (i) Mass Casualty Incident;
- (j) Medical Incident Command;
- (k) Neurological Emergencies;
- (l) Non-Traumatic Abdominal Emergencies; and
- (m) Trauma Practical Lab.

(6) An EMT-IA may complete CME hours through the methodologies listed in this subsection. All CME must be related to the required skills and knowledge of an EMT-IA. Instructors need not be EMS instructors, but must be knowledgeable in the field of instruction. Limitations and special requirements are listed with each methodology.

(a) Workshops and seminars related to the required skills and knowledge of an EMT-IA and approved for CME credit by the Department or the CECBEMS.

(b) Local medical training meetings.

(c) Demonstration or practice sessions.

(d) Medical training meetings where a guest speaker presents material related to emergency medical care.

(e) Actual hours the EMT-IA is involved in community emergency exercise and disaster drills. Up to 20 hours are creditable during a recertification period for participation in exercises and drills.

(f) Teaching the general public (schools, scouts, clubs, or church groups) on any topic within the scope of the EMT-IA practice. Up to 15 hours are creditable during a certification period for teaching classes.

(g) Viewing audiovisuals (films, videotapes, etc.) which illustrate and review proper emergency care procedures. The EMT-IA must view the audiovisual material in the presence of a training officer. Up to 10 hours are creditable during a certification period using audiovisuals.

(h) Completing college courses in topics such as biology, chemistry, anatomy and physiology. Other college courses relating to the scope and practice of an EMT-IA may be creditable, but only with the approval of the Department. If in doubt, the EMT-IA should contact the Department. Up to 10 hours are creditable during a certification period for college courses.

(i) Up to 16 hours of CPR training are creditable during a certification period.

(j) Computer and internet-based training that illustrates, drills, provides interactive use, or demonstrates proper emergency care procedures. The training must be approved by the CECBEMS or the Department. Up to 25 hours are creditable during a certification period using computer and internet-based training.

(k) Completing tests related to the EMT-IA scope of practice in EMS-related journals or publications. Up to [~~5~~]five hours are creditable during a certification period for completing tests from journals and publications.

(7) The EMT-IA must complete the following skills at least two times as part of the CME training listed in subsections (4) and (6):

(a) bandaging of the arm, elbow, shoulder, neck, top of head, cheek, protruding eye, ear, and open chest wound;

(b) splinting using hare traction or sager splint (choice based upon availability of equipment);

(c) splinting of at least one upper and lower extremity;

(d) cervical and spinal immobilization using c-collar, long board, head stabilization equipment (utilize available equipment) and straps;

(e) patient-assisted medications: nitroglycerin, pre-loaded epinephrine, inhaler, glucose, activated charcoal, and aspirin;

(f) pediatric immobilization: in a car seat and backboard;

(g) insertion of nasopharyngeal and oropharyngeal airways; and

(h) initiating and terminating intravenous infusion;

(i) completion of pediatric vascular access skills station;

(j) insertion and removal of intraosseous needle;

(k) insertion and removal of endotracheal tube;

(l) administration of medications via intramuscular, subcutaneous, and intravenous routes;

(m) transcutaneous pacing;

(n) synchronized cardioversion;

(o) insertion and removal of a nasal gastric tube;

(p) external jugular vein cannulation;

(q) needle decompression of a chest;

(r) administration of the following medications: adenosine, activated charcoal, aspirin, atropine, albuterol, D50, diazepam, epinephrine 1:1000, epinephrine 1:10,000, furosemide, lidocaine, morphine, naloxone, and nitroglycerin; and;

(s) EKG rhythm recognition of the following rhythms: ventricular fibrillation, ventricular tachycardia, atrial flutter, atrial fibrillation, sinus tachycardia, paroxysmal supraventricular tachycardia, pulseless electrical activity, asystole, premature ventricular contraction, atrioventricular blocks: 1st degree, 2nd degree types I and II, and 3rd degree.

(8) An EMT-IA who is affiliated with an EMS organization should have the training officer from the EMS organization submit a letter verifying the EMT-IA's completion of the recertification requirements. An EMT-I who is not affiliated with an agency must submit verification of all recertification requirements directly to the Department.

(9) Each EMT-IA is individually responsible to complete and submit the required recertification material to the Department. Each EMT-IA should submit all recertification materials to the Department at one time, no later than 30 days and no earlier than one year prior to the EMT-IA's current certification expiration date. If the Department receives incomplete or late recertification materials, the Department may not be able to process the recertification before the certification expires. The Department processes recertification material in the order received.

(10) An EMS provider or an entity that provides CME may compile and submit recertification materials on behalf of an EMT-IA; however, the EMT-IA remains responsible for a timely and complete submission.

~~(10)~~ (11) The Department may shorten recertification periods. An EMT-IA whose recertification period is shortened must meet the CME requirements in each of the required and elective subdivisions on a prorated basis by the expiration of the shortened period.

(12) The Department may not lengthen recertification periods more than the four year certification, unless the individual is a member of the National Guard or reserve component of the armed

forces and is on active duty when certification expires. If this happens, the individual shall recertify following Utah Code 39-1-64.

R426-12-404. EMT-IA Lapsed Certification.

(1) An individual whose EMT-IA certification has lapsed for less than one year, and who wishes to become recertified as an EMT-IA must complete all recertification requirements and pay a recertification late fee to become certified. The individual's new expiration date will be four years from the old expiration date.

(2) An individual whose EMT-IA certification has expired for more than one year, and who wishes to become recertified as a EMT-IA must:

(a) submit a completed application, including social security number and signature to the Department;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah~~[not a Utah resident]~~ for the past consecutive five years;~~[however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;]~~

(c) submit to the Department evidence of having completed 100 hours of Department-approved continuing medical education within the prior four years following R426-12-403 EMT-IA Recertification Requirements;

(d) submit a statement from a physician, confirming the applicant's results of a TB examination;

(e) submit verification of current completion of a Department-approved course in adult and pediatric advanced life support;

(f) submit a letter of recommendation including results of an oral examination, from a certified off-line medical director, verifying proficiency in ~~[paramedic]~~ EMT-IA skills;

(g) successfully complete the applicable Department written and practical examinations; and

(h) pay all applicable fees.

(3) The individual's new expiration date will be four years from the completion of all recertification materials.

(4) An Individual whose certification has lapsed is not authorized to provide care as an EMT-IA until the individual completes the recertification process.

R426-12-405. EMT-IA Testing Failures.

(1) ~~[If a]~~ An individual who fails any part of the EMT-IA~~[the]~~ written or practical certification or recertification examination may retake the EMT-IA examination twice without further course work. ~~[after two attempts, he may, within 30 days following mailing of written notification of this second failure, submit a written request to take the test a third time.]~~

(2) If the individual fails on both re-examinations, he must take a complete EMT-IA training course to be eligible for further examination at the EMT-IA level. ~~[Within thirty days of receipt of the request, the Department shall convene a review panel consisting of:~~

~~— (a) the chairman of the Paramedic Advisory Sub-Committee;~~

~~— (b) the off line medical director for the individual's EMS provider organization or a certified EMS training officer or certified EMS instructor who would mentor a remediation plan; and~~

~~— (c) one or more representatives from the Department; and~~

~~(3) The review panel shall allow the individual to appear and provide information.~~

~~—(4) The panel shall review whether a program of re-education and reexamination would likely result in successful completion of the examinations and shall recommend a course of action to the Department.~~

~~—(5) The Department shall consider the review panel's recommendation and provide one opportunity for reexamination if it determines that re-education and reexamination within that time would likely result in successful completion of the examinations.~~

~~—(6) If the Department does not allow the third examination, the EMT-IA may file a request for agency action within 30 days of issuance of the Department's determination.]~~

(3) The individual may retake the course as many times as he desires, but may only take the examinations three times for each completed course. If an individual retakes the course because of failure to pass the examinations, the individual must pass both the practical and written tests administered after completion of the new course.

(4) If an EMT-IA fails the recertification written or practical test three times, he may request in writing, within 30 days of the date of the third failure notification letter, that he be allowed to apply for EMT-I or EMT-B recertification. He has 120 days from the date of his request to complete recertification requirements at a lower level.

R426-12-500. Paramedic Requirements and Scope of Practice.

(1) The Department may certify as a paramedic, an EMT-B, an EMT-I or an EMT-IA ~~[as a paramedic]~~ who:

(a) meets the initial certification requirements in R426-12-501; and

(b) has 12 months of field experience as a certified EMT-B, EMT-I or EMT-IA, six months of which the Department may waive upon a written request from the off-line medical director showing that there is a shortage of paramedics to serve the area~~[-and];~~

(2) The Committee adopts as the standard for paramedic training and competency in the state the following affective, cognitive and psychomotor objectives for patient care and treatment from the 1998 United States Department of Transportation's "EMT-Paramedic Training Program: National Standard Curriculum" (Paramedic Curriculum) which is incorporated by reference.

(3) In addition to the skills that an EMT-B, an EMT-I and an EMT-IA may perform, a Paramedic may perform the adopted skills described in section R426-12-500(2).

R426-12-501. Paramedic Initial Certification.

(1) The Department may certify a paramedic for a four year period.

(2) An individual who wishes to become certified must:

(a) successfully complete a Department-approved Paramedic course as described in R426-12-500(2);

(b) be able to perform the functions listed in the objectives of the Paramedic Curriculum adopted in R426-12-500(2) as verified by personal attestation and successful accomplishment during the course of all cognitive, affective, and psychomotor skills and objectives;

(c) achieve a favorable recommendation from the course coordinator and course medical director stating technical competence during field and clinical training and successful completion of all training requirements for paramedic certification;

(d) be currently certified as an EMT-B, EMT-I, or EMT-IA;

(e) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(f) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah~~[not a Utah resident]~~ for the past consecutive five years;~~however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;]~~

(g) maintain and submit verification of completion of a Department-approved course in adult and pediatric advanced cardiac life support and maintain current status as set by the entity sponsoring the course;

(h) submit ~~[to the Department]~~ a statement from a physician, confirming the applicant's results of a TB examination conducted within ~~[one year]~~the prior ~~[to completing the paramedic course]~~year; and

(i) within ~~[90]~~120 days after ~~[completing the paramedic course]~~the official end date, the applicant must, successfully complete the Department written and practical paramedic examinations, or reexaminations, if necessary.

(3) The Department may extend the time limit in Subsection (2)(i) for an individual who demonstrates that the inability to meet the requirements within the ~~[90]~~120 days was due to circumstances beyond the applicant's control, such as for documented medical circumstances that prevent completion of testing, military deployment out of the state, extreme illness in the immediate family, or the like.

(4) If an individual's EMT-B, EMT-I, or EMT-IA certification lapses before he has completed all course requirements for a paramedic, the individual must recertify at his current certification level, including a practical test and CME documentation, before he can be certified as a paramedic. The individual may take the paramedic written test to satisfy the written EMT-Basic, EMT-Intermediate, or EMT-Intermediate Advanced recertification and paramedic written certification requirements.

R426-12-502. Paramedic Reciprocity.

(1) The Department may certify as a Paramedic an individual certified outside of the State of Utah if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater ~~[to]~~than what is required in Utah.

(2) An individual seeking reciprocity for certification in Utah based on out-of-state training and experience must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department and complete all of the following within 120 days~~[one year]~~ of submitting the application;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah~~[not a Utah resident]~~ for the past consecutive five years;~~however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;]~~

(c) maintain and submit verification of completion of a Department-approved course in adult and pediatric advanced cardiac life support and maintain current status as set by the entity sponsoring the course;

(d) submit a statement from a physician, confirming the applicant's results of a TB examination conducted within the prior year;

(e) successfully complete the Department written and practical ~~[EMT-I]~~ Paramedic examinations, or reexaminations, if necessary;

(f) submit a current certification from one of the states of the United States or its possessions, or current registration and the name of the training institution if registered with the National Registry of EMTs; and

(g) provide documentation of completion of 25 hours of continuing medical education (CME) within the prior year.

R426-12-503. Paramedic Recertification Requirements.

(1) The Department may recertify a paramedic for a four year period or for a shorter period as modified by the Department to standardize recertification cycles.

(2) An individual seeking recertification must:

(a) ~~[complete all paramedic recertification requirements;~~

~~—(b)—~~submit the applicable fees and a completed application, including social security number and signature, to the Department;

~~[(e)b]~~ submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah~~[not a Utah resident]~~ for the past consecutive five years;~~[however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;]~~

~~[(d)c]~~ maintain and submit verification of completion of a~~[current]~~ Department-approved course ~~[completion]~~ in Adult and Pediatric Advanced Cardiac Life Support;

~~[(e)d]~~ submit a statement from the applicant's EMS provider organization or a physician, confirming the applicant's results of a TB examination;

~~[(f)e]~~ successfully complete the applicable Department paramedic recertification examinations, or reexaminations if necessary, within one year prior to expiration~~[of the certification to be renewed];~~

(g) submit a letter from a certified off-line medical director recommending the individual for recertification and verifying the individual's demonstrated proficiency in the following paramedic skills; and

(h) provide documentation of completion of 100 hours of Department-approved CME meeting the requirements of subsections ~~(3)~~, (4), (5), ~~(6)~~, (7), and (8).

(3) The Paramedic must complete the CME throughout each of the prior four years.

(4) The Paramedic must take at least 20 elective hours and the following 80 required CME hours by subject:

- (a) EMS system roles and responsibilities - 2 hours;
- (b) Well being of the paramedic - 2 hours;
- (c) Pathophysiology - 1 hour;
- (d) Medical legal - 1 hour;
- (e) Pharmacology - 1 hour;
- (f) Venous access and medication administration - 1 hour;
- (g) Airway management and ventilation - 5 hours;
- (h) Patient assessment - 3 hours;
- (i) Communication - 1 hour;
- (j) Documentation - 1 hour;
- (k) Trauma Systems and Mechanism of injury - 1 hour;
- (l) Hemorrhage and shock - 2 hours;
- (m) Burns - 3 hours;
- (n) Head and facial - 3 hours;
- (o) Spinal trauma - 1 hour;
- (p) Thoracic trauma - 2 hours;

(q) Abdominal trauma - 2 hours;

(r) Pulmonary - 1 hour;

(s) Cardiology - 9 hours;

(t) Neurology - 4 hours;

(u) Endocrinology - 3 hours;

(v) Allergies and anaphylaxis - 1 hour;

(w) Gastroenterology - 4 hours;

(x) Toxicology - 2 hours;

(y) Environmental emergencies - 4 hours;

(z) Infectious and communicable diseases - 3 hours;

(aa) Behavioral/psychiatric disorders - 1 hour;

(bb) Obstetrics and gynecology - 2 hours;

(cc) Neonatology - 3 hours;

(dd) Pediatrics - 5 hours;

(ee) Geriatrics - 2 hours;

(ff) Assessment based management - 1 hour;

(gg) Medical incident command - 2 hours; and

(hh) Hazardous materials incidents - 1 hour;

(5) The Department strongly suggests that the ~~[25]~~20 elective hours be in the following topics:

(a) Ethics, Illness and injury prevention;

(b) Therapeutic communications;

(c) Life span development;

(d) Clinical decision making;

(e) Soft tissue trauma;

(f) Renal/urology;

(g) Hematology;

(h) Abuse and assault;

(i) Patients with special challenges;

(j) Acute intervention for chronic care patients;

(k) Ambulance operations;

(l) Rescue awareness and operations; and

(m) Crime scene awareness.

(6) A Paramedic may complete CME hours through the methodologies listed in this subsection. All CME must be related to the required skills and knowledge of a paramedic. Instructors need not be EMS instructors, but must be knowledgeable in the field of instruction. Limitations and special requirements are listed with each methodology.

(a) Workshops and seminars related to the required skills and knowledge of a paramedic and approved for CME credit by the Department or the CECBEMS.

(b) Local medical training meetings.

(c) Demonstration or practice sessions.

(d) Medical training meetings where a guest speaker presents material related to emergency medical care.

(e) Actual hours the Paramedic is involved in community emergency exercise and disaster drills. Up to 20 hours are creditable during a recertification period for participation in exercises and drills.

(f) Teaching the general public (schools, scouts, clubs, or church groups) on any topic within the scope of the Paramedic practice. Up to 15 hours are creditable during a certification period for teaching classes.

(g) Viewing audiovisuals (films, videotapes, etc.) which illustrate and review proper emergency care procedures. The Paramedic must view the audiovisual material in the presence of a training officer. Up to 10 hours are creditable during a certification period using audiovisuals.

(h) Completing college courses in topics such as biology, chemistry, anatomy and physiology. Other college courses relating

to the scope and practice of a paramedic may be creditable, but only with the approval of the Department. If in doubt, the Paramedic should contact the Department. Up to 10 hours are creditable during a certification period for college courses.

(i) Up to 16 hours of CPR training are creditable during a certification period.

(j) Computer and internet-based training that illustrates, drills, provides interactive use, or demonstrates proper emergency care procedures. The training must be approved by the Continuing Education Coordinating Board of Emergency Medical Services or the Department. Up to 25 hours are creditable during a certification period using computer and internet-based training.

(k) Completing tests related to the Paramedic scope of practice in EMS-related journals or publications. Up to ~~5~~ five hours are creditable during a certification period for completing tests from journals and publications.

(7) A Paramedic who is affiliated with an EMS organization should have the training officer from the EMS organization submit a letter verifying the Paramedic's completion of the recertification requirements. A Paramedic who is not affiliated with an agency must submit verification of all recertification requirements directly to the Department.

(8) Each Paramedic is individually responsible to complete and submit the required recertification material to the Department. Each Paramedic should submit all recertification materials to the Department at one time, no later than 30 days and no earlier than one year prior to the Paramedic's current certification expiration date. If the Department receives incomplete or late recertification materials, the Department may not be able to process the recertification before the certification expires. The Department processes recertification material in the order received.

(9) An EMS provider or an entity that provides CME may compile and submit recertification materials on behalf of a Paramedic; however, the Paramedic remains responsible for a timely and complete submission.

~~(9)10~~ The Department may shorten recertification periods. A paramedic whose recertification period is shortened must meet the CME requirements in each of the required and elective subdivisions on a prorated basis by the expiration of the shortened period.

(11) The Department may not lengthen recertification periods more than the four year certification, unless the individual is a member of the National Guard or reserve component of the armed forces and is on active duty when certification expires. If this happens, the individual shall recertify following Utah Code 39-1-64.

R426-12-504. Paramedic Lapsed Certification.

(1) An individual whose paramedic certification has lapsed for less than one year, and who wishes to become recertified as a paramedic must complete all recertification requirements and pay a recertification late fee.

(2) An individual whose paramedic certification has expired for more than one year, and who wishes to become recertified as a paramedic must:

(a) submit a completed application, including social security number and signature to the Department;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah ~~[not a Utah resident]~~ for the past consecutive five years; ~~[however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in~~

~~the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;]~~

(c) submit to the Department evidence of having completed 100 hours of Department-approved continuing medical education within the prior four years ~~[-], following R426-12-503 Paramedic Recertification Requirements;~~

(d) submit a statement from a physician, confirming the applicant's results of a TB examination;

(e) submit verification of current completion of a Department-approved course in adult and pediatric advanced life support;

(f) submit a letter of recommendation including results of an oral examination, from a certified off-line medical director, verifying proficiency in paramedic skills;

(g) successfully complete the applicable Department written and practical examinations; and

(h) pay all applicable fees.

(3) The individual's new expiration date will be four years from the completion of all recertification materials.

(4) An individual whose certification has lapsed is not authorized to provide care as a paramedic until the individual completes the recertification process.

R426-12-505. Paramedic Testing Failures.

(1) An individual who fails any part of the paramedic certification or recertification written or practical examination may retake the Paramedic examination twice without further course work.

(2) If the individual fails both re-examinations, he must take a complete Paramedic course to be eligible for further examination at the paramedic level.

(3) The individual may retake the course as many times as he desires, but may only take the examinations three times for each completed course. If an individual retakes the course because of failure to pass the examinations, the individual must pass both the practical and written test administered after completion of the new course.

~~— (1) If an individual fails the written or practical certification or recertification examination after two attempts, he may, within 30 days following mailing of written notification of this second failure, submit a written request to take the test a third time.~~

~~— (2) Within thirty days of receipt of the request, the Department shall convene a review panel consisting of:~~

~~— (a) the chairman of the Paramedic Advisory Sub-Committee;~~

~~— (b) the off-line medical director for the individual's EMS provider organization or a certified EMS training officer or certified EMS instructor who would mentor a remediation plan;~~

~~— (c) one or more representatives from the Department; and~~

~~— (d) a representative from the entity that provided training, but if the training was not provided in-state, then a representative of an in-state paramedic training program.~~

~~— (3) The review panel shall allow the individual to appear and provide information.~~

~~— (4) The panel shall review whether a program of re-education and reexamination would likely result in successful completion of the examinations and shall recommend a course of action to the Department.~~

~~— (5) The Department shall consider the review panel's recommendation and provide one opportunity for reexamination if it determines that re-education and reexamination within that time would likely result in successful completion of the examinations.~~

] (4) If a paramedic fails the recertification written or practical tests three times, he may request in writing, within 30 days of the date of the third failure notification letter, that he be allowed to apply for EMT-IA, EMT-I, or EMT-B certification. He has 120 days to complete recertification requirements at a lower level.

R426-12-600. Emergency Medical Dispatcher (EMD) Requirements and Scope of Practice.

(1) The Department may certify as an EMD an individual who meets the initial certification requirements in R426-12-601.

(2) The Committee adopts the 1995 United States Department of Transportation's "EMD Training Program: National Standard Curriculum" (EMD Curriculum) as the standard for EMD training and competency in the state, which is incorporated by reference.

(3) An EMD may perform the job functions as described in the EMD curriculum, as adopted in this section.

R426-12-601. EMD Initial Certification.

(1) The Department may certify an EMD for a four year period.

(2) An individual who wishes to become certified as an EMD must:

(a) successfully complete a Department-approved EMD course as described in R426-12-600(2);

(b) be able to perform the functions listed in the objectives of the EMD Curriculum adopted in R426-12-600(2) as verified by personal attestation and successful accomplishment during the course of all cognitive, affective and psychomotor skills and objectives listed in the EMD Curriculum;

(c) achieve a favorable recommendation from the course coordinator and course medical director stating technical competence and successful completion of all training requirements for EMD certification;

(d) be 18 years of age or older;

(e) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(f) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah~~[not a Utah resident]~~ for the past consecutive five years;~~[however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation]~~ and;

(g) maintain and submit documentation of having completed within the prior two years a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater; and

(h) within ~~[90]~~120 days after ~~[completing the EMD course,]~~the official course end date, the applicant must successfully complete the Department written and practical EMD examinations, or reexaminations, if necessary.

(3) The Department may extend the time limit in Subsection (2)(h) for an individual who demonstrates that the inability to meet the requirements within the ~~[90]~~120 days was due to circumstances beyond the applicant's control, such as for documented medical circumstances that prevent completion of testing, military deployment out of the state, extreme illness in the immediate family, or the like.

R426-12-602. EMD Reciprocity.

(1) The Department may certify as an EMD an individual certified outside of the State of Utah if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater than what is required in Utah.

(2) An individual seeking reciprocity for certification in Utah based on out-of-state training and experience must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department and complete all of the following within 120 days~~[one year]~~ of submitting the application;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah~~[not a Utah resident]~~ for the past consecutive five years;~~[however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation.];~~

(c) maintain and submit documentation of having completed within the prior two years, a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;

(d) successfully complete the Department written and practical EMD examination, or re-examinations, if necessary;

(e) submit a current certification from one of the states of the United States or its possessions~~[- or the National Academy of EMDs];~~ and

(f) provide documentation of completion of 12 hours of continuing medical education within the prior year.

(3) The Department may certify as an EMD an individual certified by the National Academy of Emergency Medical Dispatch (NAEMD).
~~—(4)~~ An individual seeking reciprocity for certification in Utah based on NAEMD certification must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department and complete all of the following within one year of submitting the application;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah~~[not a Utah resident]~~ for the past consecutive five years;~~[however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation.];~~

(c) maintain and submit documentation of having completed within the prior two years:

(i) a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater; and

(ii)~~[- a course in CISM;~~

~~—(d) as part of meeting the EMD's continuing medical education requirements, take -] a minimum of a two-hour course in critical incident stress management (CISM);~~

(e)~~[d]~~ submit documentation of current NAEMD certification~~]; and~~

~~—(f) if the individual's NAEMD certification is based on a course offered in Utah; and successfully pass a class that follows the CISM section of the Department established EMD curriculum;]~~

R426-12-603. EMD Recertification.

(1) The Department may recertify an EMD for a four year period or for a shorter period as modified by the Department to standardize recertification cycles.

(2) An individual seeking recertification must:

(a) ~~[complete all EMD recertification requirements;~~

~~—(b)]submit the applicable fees and a completed application, including social security number and signature, to the Department;~~

~~([e]b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah~~[not a Utah resident]~~ for the past consecutive five years;[however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;]~~

~~([d]c) maintain and submit documentation of having completed within the prior two years a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;~~

~~([e]d) successfully complete the applicable Department recertification examinations, or reexaminations if necessary, within one year prior to expiration of the certification to be renewed[-]; and~~

~~([f]e) provide documentation of completion of 48 hours of Department-approved CME meeting the requirements of subsections (3), (4), and (5).~~

(3) The EMD must complete the CME throughout each of the prior four years.

(4) The EMD must take at least [8]eight elective hours and the following 40 required CME hours by subject:

- (a) Roles and Responsibilities - 5 hours;
- (b) Obtaining Information from callers - 7 hours;
- (c) Resource allocation - 4 hours;
- (d) Providing emergency care instruction - 2 hours;
- (e) Legal and Liability Issues - 5 hours;
- (f) Critical Incident Stress Management - 5 hours;
- (g) Basic Emergency Medical Concepts - 5 hours; and
- (h) Chief complaint types - 7 hours.

(5) An EMD may complete CME hours through the methodologies listed in this subsection. All CME must be related to the required skills and knowledge of an EMD. Instructors need not be EMS instructors, but must be knowledgeable in the field of instruction. Limitations and special requirements are listed with each methodology.

(a) Workshops and seminars related to the required skills and knowledge of an EMD and approved for CME credit by the Department or the CECBEMS.

(b) Local medical training meetings.

(c) Demonstration or practice sessions.

(d) Medical training meetings where a guest speaker presents material related to emergency medical care.

(e) Actual hours the EMD is involved in community emergency exercise and disaster drills. Up to [8]eight hours are creditable during a recertification period for participation in exercises and drills.

(f) Teaching the general public (schools, scouts, clubs, or church groups) on any topic within the scope of the EMD practice.

(g) Viewing audiovisuals (films, videotapes, etc.) which illustrate and review proper emergency care procedures. The EMD must view the audiovisual material in the presence of a training officer. Up to 10 hours are creditable during a certification period using audiovisuals.

(h) Completing college courses relating to the scope and practice of an EMD may be creditable, but only with the approval of the Department. Up to [8]eight hours are creditable during a certification period for college courses.

(i) Telephone scenarios of practical training and role playing.

(j) Riding with paramedic or ambulance units to understand the EMS system as a whole. Up to [6]six hours are creditable during a certification period for ride-alongs.

(k) Computer and internet-based training that illustrates, drills, provides interactive use, or demonstrates proper emergency care procedures. The training must be approved by the Continuing Education Coordinating Board of Emergency Medical Services or the Department. Up to 12 hours are creditable during a certification period using computer and internet-based training.

(6) Notwithstanding the provisions of subsections (2), (3), (4), and (5), an EMD who has been certified or recertified by the National Academy of Emergency Medical Dispatch (NAEMD) may be recertified by the Department upon the following conditions:

(a) the EMD must, as part of meeting the EMD's continuing medical education requirements, take a minimum of a two-hour course in critical incident stress management (CISM);

(b) an individual who takes a NAEMD course offered in Utah must successfully pass a class that follows the CISM section of the Department-established EMD curriculum; and

(c) the individual must:

(i) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(ii) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah~~[not a Utah resident]~~ for the past consecutive five years; ~~however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation;]~~

(iii) maintain and submit documentation of having completed within the prior two years a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater; and

(iv) submit documentation of current NAEMD certification.

(7) An individual who is affiliated with an EMS organization should have the training officer from the EMS organization submit a letter verifying the EMD's completion of the recertification requirements. An EMD who is not affiliated with an EMS agency must submit verification of all recertification requirements directly to the Department.

~~([7]8) Each EMD is individually responsible to complete and submit the required recertification material to the Department. Each EMD should submit all recertification materials to the Department at one time and no later than 30 days and no earlier than one year prior to the EMD's current certification expiration date. If the Department receives incomplete or late recertification materials, the Department may not be able to process the recertification before the certification expires. The Department processes recertification material in the order received.~~

(9) An EMS provider or an entity that provides CME may compile and submit recertification materials on behalf of an EMD; however, the EMD remains responsible for a timely and complete submission.

(10) ~~The Department may shorten recertification periods. An EMD whose recertification period is shortened must meet the CME requirements in each of the required and elective subdivisions on a prorated basis by the expiration of the shortened period.~~

(11) ~~The Department may not lengthen recertification periods more than the four year certification, unless the individual is a member of the National Guard or reserve component of the armed forces and is on active duty when certification expired. If this happens, the individual shall recertify in accordance with Utah Code 39-1-64.~~

R426-12-604. EMD Lapsed Certification.

(1) An individual whose EMD certification has expired for less than one year may, within one year after expiration, complete all recertification requirements and pay a late recertification fee to become recertified.

(2) An individual whose certification has expired for more than one year must take an EMD course and reapply ~~[as if there were no prior]~~ for initial certification.

(3) ~~The individual's new expiration date will be four years from the old expiration date.~~

(4) ~~An individual whose certification has lapsed, is not authorized to provide dispatch services until he has completed the recertification process.~~

R426-12-605. EMD Testing Failures.

(1) An individual who fails any part of the EMD certification or recertification written or practical examination may retake the EMD examination ~~[once]~~ twice without further course work.

(a) ~~2~~ If the individual fails both ~~[on the re-examination]~~ re-examinations, he must take a complete EMD training course to be eligible for further examination at the EMD level.

(b) ~~3~~ The individual may retake the course as many times as he desires, but may only take the examinations ~~[twice]~~ three times for each completed course. If an individual retakes the course because of failure to pass the examinations, the individual must pass both the practical and written tests administered after completion of the new course.

~~(2) If an EMD fails the written or practical recertification examination after two attempts, he may, within 30 days following notification in writing of this second failure, submit a written request to take the test a third time.~~

~~(3) Within 30 days of receipt of the request, the Department shall convene a review panel consisting of:~~

~~(a) The training officer of the individual's EMS provider organization or a certified training officer who would mentor a remediation plan; and~~

~~(b) one or more representatives from the Department.~~

~~(4) The review panel shall allow the individual to appear and provide information regarding a remediation plan.~~

~~(5) The hearing panel shall review whether a program of re-education and reexamination within 30 days would likely result in successful completion of the examinations and shall recommend a course of action to the Department.~~

~~(6) The Department shall consider the review panel's recommendation and provide one opportunity for reexamination within 30 days of its decision if it determines that re-education and reexamination within that time would likely result in successful completion of the examinations.~~

~~(7) If the Department does not allow the third examination, the EMD may file a request for agency action within 30 days of issuance of the Department's determination.~~

R426-12-700. Emergency Medical Services Instructor Requirements.

(1) The Department may certify as an EMS Instructor an individual who:

(a) meets the initial certification requirements in R426-12-701; and

(b) is currently certified in Utah and has been certified ~~[in Utah EMS]~~ as an EMT-B, EMT-I, EMT-IA, Paramedic, or Dispatcher for 12 months.

(2) The Committee adopts the 1995 United States Department of Transportation's "EMS Instructor Training Program: National Standard Curriculum" (EMS Instructor Curriculum) as the standard for EMS Instructor training and competency in the state, which is adopted and incorporated by reference.

(3) An EMS instructor may only teach up to the certification level to which the instructor is certified. An EMS instructor who is only certified as an EMD may only teach EMD courses.

(4) An EMS instructor must abide by the terms of the "EMS Instructor Contract," teach according to the contract, and comply with the teaching standards and procedures in the EMS Instructor Manual or EMD Instructor Manual as incorporated into the respective "EMS Instructor Contract" or "EMD Instructor Contract."

(5) An EMS instructor must maintain the EMS certification for the level that the instructor is certified to teach. If an individual's EMS certification lapses, the instructor certification is invalid until EMS certification is renewed.

(6) The Department may waive a particular instructor certification requirement if the applicant can demonstrate that the applicant's training and experience requirements are equivalent or greater to what are required in Utah.

R426-12-701. EMS Instructor Certification.

(1) The Department may certify an individual who is an EMT-B, EMT-I, EMT-IA, Paramedic, or EMD as an EMS Instructor for a two year period.

(2) An individual who wishes to become certified as an EMS Instructor must:

(a) submit an application and pay all applicable fees;

(b) submit three letters of recommendation regarding EMS skills and teaching abilities;

(c) submit documentation of 15 hours of teaching experience;

(d) successfully complete all required examinations;

(e) submit biennially a completed and signed "EMS Instructor Contract" to the Department agreeing to abide by the standards and procedures in the ~~[then]~~ current EMS Instructor Manual or EMD Instructor Manual; and

(f) successfully complete the Department-sponsored initial EMS instructor training course.

(3) An individual who wishes to become certified as an EMS Instructor to teach EMT-B, EMT-I, EMT-IA, or paramedic courses must also:

(a) provide documentation of 30 hours of patient care within the prior year; and

(b) submit verification that the individual is recognized as a CPR instructor by the National Safety Council, the American Red Cross, or the American Heart Association; and

(4) An individual who wishes to become certified as an EMS Instructor to teach EMD courses must also successfully complete the Department-sponsored initial EMS instructor training course.

(5) The Department may waive portions of the initial EMS instructor training courses for previously completed Department-approved instructor programs.

R426-12-702. EMS Instructor Recertification.

An EMS instructor who wishes to recertify as an instructor must:

(1) maintain current EMS certification;

(2) attend the required Department-approved recertification training;

(3) submit verification of 30 hours of EMS teaching experience in the prior two years;

(4) ~~[if teaching an EMT-B, EMT-I, EMT-IA, paramedic course,]~~ submit verification that the instructor is currently recognized as a CPR instructor by the National Safety Council, the American Red Cross, or the American Heart Association~~[-];~~ if teaching an EMT-B, EMT-I, EMT-IA, or Paramedic course;

(5) submit an application and pay all applicable fees;

(6) successfully complete any Department-required examination; and

(7) submit biennially a completed and signed "EMS Instructor Contract" to the Department agreeing to abide by the standards and procedures in the current EMS Instructor Manual.

R426-12-703. EMS Instructor Lapsed Certification.

(1) An EMS instructor whose instructor certification has expired for less than two years may again become certified by completing the recertification requirements in R426-12-702.

(2) An EMS instructor whose instructor certification has expired for more than two years must complete all initial instructor certification requirements and reapply as if there were no prior certification.

R426-12-800. Emergency Medical Services Training Officer Requirements.

(1) ~~[The Department may certify an individual as a training officer for a one year period.~~

~~— (2) A training officer must abide by the terms of the "Training Officer Contract" and comply with the standards and procedures in the Training Officer Manual as incorporated into the "Training Officer Contract."~~ The Department may certify as an EMS Training Officer an individual who:

(a) meets the initial certification requirements in R426-12-801; and

(b) is currently certified in Utah and has been certified as an EMT-B, EMT-I, EMT-IA, Paramedic, or Dispatcher for 12 months.

(2) An EMS training officer must abide by the terms of the Training Officer Contract, and comply with the standards and procedures in the Training Officer Manual as incorporated into the respective Training Officer Contract.

R426-12-801. ~~[Emergency Medical Services]~~ EMS Training Officer Certification.

~~(1) The Department may certify an individual who is certified as an EMT-B, EMT-I, EMT-IA, Paramedic, or EMD as a training officer for a two year period.~~

~~(2) An individual who wishes to become certified as an EMS~~ [4] Training officer must:

~~(a) be currently certified as an EMS instructor;~~

~~(b) successfully complete the Department's course for new training officers;~~

~~(c) successfully complete any Department examinations;~~

~~(d) submit an application and pay all applicable fees; and~~

~~(e) submit ~~bi~~[a]nnually a completed and signed "Training Officer Contract" to the Department agreeing to abide by the standards and procedures in the then current Training Officer Manual.~~

~~(2)[3] A training officer must maintain EMS instructor certification to retain training officer certification.~~

R426-12-802. ~~[Emergency Medical Services]~~ EMS Training Officer Recertification.

A training officer who wishes to recertify as a training officer must:

(1) attend a training officer seminar every two years;

(2) maintain current EMS instructor and EMT-B, EMT-I, EMT-IA, Paramedic, or EMD certification;

(3) submit an application and pay all applicable fees;

(4) successfully complete any Department-examination requirements; and

(5) submit ~~[annually]~~ biennially a completed and signed new "Training Officer Contract" to the Department agreeing to abide by the standards and procedures in the ~~[then-]~~ current training officer manual.

R426-12-803. ~~[Emergency Medical Services]~~ EMS Training Officer Lapsed Certification.

~~[A training officer whose training officer certification has expired must complete all initial training officer certification requirements and reapply as if there were no prior certification.]~~ (1) An individual whose training officer certification has expired for less than one year may again become certified by completing the recertification requirements in R426-12-802. The individuals new expiration date will be two years from the old expiration date.

(2) An individual whose training officer certification has expired for more than one year must complete all initial training officer certification requirements and reapply as if there were no prior certification.

R426-12-900. Course Coordinator Certification.

(1) The Department may certify ~~[an individual]~~ as a course coordinator ~~[for a one year period]~~ an individual who: [-]

(a) meets the initial certification requirements in R426-12-901; and

(b) has been certified in Utah as an EMS Instructor and as an EMT-B, EMT-I, EMT-IA, Paramedic or Dispatcher for 12 months.

(2) A Course Coordinator may only coordinate courses up to the certification level to which the course coordinator is certified. An course coordinator who is only certified as an EMD, may only coordinate EMD courses.

~~(2)[3] A course coordinator must abide by the terms of the "Course Coordinator Contract" and comply with the standards and~~

procedures in the Course Coordinator Manual as incorporated into the "Course Coordinator Contract."

(4) A Course Coordinator must maintain an EMS Instructor certification and the EMS certification for the level that the course coordinator is certified to coordinate. If an individual's EMS certification lapses, the Course Coordinator certification is invalid until EMS certification is renewed.

R426-12-901. Course Coordinator Certification.

The Department may certify an individual who is an EMT-B, EMT-I, EMT-IA, Paramedic, or EMD as a course coordinator for a two year period. An individual who wishes to certify as a course coordinator must:

- (1) be certified as an EMS instructor for one year;
- (2) be an instructor of record for at least one Department-approved course;
- (3) have taught a minimum of 15 hours in a Department-approved course;
- (4) have co-coordinated one Department-approved course with a certified course coordinator;
- (5) submit a written evaluation and recommendation from the course coordinator in the co-coordinated course;
- (6) complete certification requirements prior to application to the Department's course for new course coordinators;
- (7) submit an application and pay all applicable fees;
- (8) complete the Department's course for new course coordinators;
- (9) successfully complete all examination requirements;
- (10) sign and submit annually the "Course Coordinator Contract" to the Department agreeing to abide to the standards and procedures in the then current Course Coordinator Manual; and
- (11) maintain EMS instructor certification.

R426-12-902. Course Coordinator Recertification.

A course coordinator who wishes to recertify as a course coordinator must:

- (1) maintain current EMS instructor and EMT-B, EMT-I, EMT-IA, Paramedic, or EMD certification;
- (2) coordinate or co-coordinate at least one Department-approved course every two years;
- (3) attend a course coordinator seminar every two years;
- (4) submit an application and pay all applicable fees;
- (5) successfully complete all examination requirements; and
- (6) sign and submit bi[~~a~~]annually a Course Coordinator Contract to the Department agreeing to abide by the policies and procedures in the then current Course Coordinator Manual.

R426-12-903. Emergency Medical Services Course Coordinator Lapsed Certification.

~~[A course coordinator whose course coordinator certification has expired must complete all initial course coordinator certification requirements and reapply as if there were no prior certification.](1)~~ An individual whose course coordinator certification has expired for less than one year may again become certified by completing the recertification requirements in R426-12-802. The individual's new expiration date will be two years from the old expiration date.

(2) An individual whose course coordinator certification has expired for more than one year must complete all initial course coordinator certification requirements and reapply as if there were no prior certification.

R426-12-1000. Paramedic Training Institutions Standards Compliance.

(1) A person must be authorized by the Department to provide training leading to the certification of a paramedic.

(2) To become authorized and maintain authorization to provide paramedic training, a person must:

- (a) enter into the Department's standard paramedic training contract; and
- (b) adhere to the terms of the contract, including the requirement to provide training in compliance with the Course Coordinator Manual and the Utah Paramedic Training Program Accreditation Standards Manual.

R426-12-1100. Course Approvals.

A course coordinator offering EMS training to individuals ~~[~~to~~]~~ who wish to become certified as an EMT-B, EMT-I, EMT-IA, Paramedic, or EMD, must obtain Department approval prior to initiating an EMS training course. The Department shall approve a course if:

- (1) the applicant submits the course application and fees no earlier than 90 days and no later than 30 days prior to commencing the course;
- (2) the applicant has sufficient equipment available for the training or if the equipment is available for rental from the Department;
- (3) the Department finds that the course meets all the Department rules and contracts governing training;
- (4) the course coordinators and instructors hold current respective course coordinator and EMS instructor certifications; and
- (5) the Department has the capacity to offer the applicable examinations in a timely manner after the conclusion of the course.

R426-12-1200. Off-line Medical Director Requirements.

(1) The Department may certify an off-line medical director for a four year period.

- (2) An off-line medical director must be:
 - (a) a physician actively engaged in the provision of emergency medical care;
 - (b) familiar with the Utah EMS Systems Act, Title 26, Chapter 8a, and applicable state rules; and
 - (c) familiar with medical equipment and medications required under "R426 Equipment, Drugs and Supplies List."

R426-12-1201. Off-line Medical Director Certification.

(1) An individual who wishes to certify as an off-line medical director must:

- (a) have completed an American College of Emergency Physicians or National Association of Emergency Medical Services Physicians medical director training course or the Department's medical director training course within twelve months of becoming a medical director;
- (b) submit an application and;
- (c) pay all applicable fees.
- (2) An individual who wishes to recertify as an off-line medical director must:
 - (a) retake the medical director training course every four years;
 - (b) submit an application; and
 - (c) pay all applicable fees.

R426-12-1300. Refusal, Suspension or Revocation of Certification.

(1) The Department shall exclude from EMS certification an individual who may pose an unacceptable risk to public health and safety, as indicated by his criminal history. The Department shall conduct a background check on each individual who seeks to certify or recertify as an EMS personnel, including an FBI background investigation if not a Utah resident for the past consecutive five years; ~~however a Utah resident whose reason for being out of state was due to being a foreign exchange student or serving a religious mission, in the military, as a Peace Corps volunteer, or the like need not submit to the FBI background investigation.]~~

(a) An individual convicted of certain crimes presents an unreasonable risk and the Department shall deny all applications for certification or recertification from individuals convicted of any of the following crimes:

(i) sexual misconduct if the victim's failure to affirmatively consent is an element of the crime, such as forcible rape;

(ii) sexual or physical abuse of children, the elderly or infirm, such as sexual misconduct with a child, making or distributing child pornography or using a child in a sexual display, incest involving a child, assault on an elderly or infirm person;

(iii) abuse, neglect, theft from, or financial exploitation of a person entrusted to the care or protection of the applicant, if the victim is an out-of-hospital patient or a patient or resident of a health care facility; and

(iv) crimes of violence against persons, such as aggravated assault, murder or attempted murder, manslaughter except involuntary manslaughter, kidnapping, robbery of any degree; or arson; or attempts to commit such crimes;

(b) Except in extraordinary circumstances, established by clear and convincing evidence that certification or recertification will not jeopardize public health and safety, the Department shall deny applicants for certification or recertification in the following categories:

(i) persons who are convicted of any crime not listed in (a) and who are currently incarcerated, on work release, on probation or on parole;

(ii) conviction of crimes in the following categories, unless at least three years have passed since the conviction or at least three years have passed since release from custodial confinement, whichever occurs later:

(A) crimes of violence against persons, such as assault;

(B) crimes defined as domestic violence under Section 77-36-1;

(C) crimes involving controlled substances or synthetics, or counterfeit drugs, including unlawful possession or distribution, or intent to distribute unlawfully, Schedule I through V drugs as defined by the Uniform Controlled Dangerous Substances Act; and

(D) crimes against property, such as grand larceny, burglary, embezzlement or insurance fraud.

(c) The Department may deny certification or recertification to individuals convicted of crimes, including DUIs, but not including minor traffic violations chargeable as infractions after consideration of the following factors:

(i) the seriousness of the crime;

(ii) whether the crime relates directly to the skills of pre-hospital care service and the delivery of patient care;

(iii) the amount of time that has elapsed since the crime was committed;

(iv) whether the crime involved violence to or abuse of another person;

(v) whether the crime involved a minor or a person of diminished capacity as a victim;

(vi) whether the applicant's actions and conduct since the crime occurred are consistent with the holding of a position of public trust;

(vii) the total number of arrests and convictions; and

(viii) whether the applicant was truthful regarding the crime on his or her application.

(2) Certified EMS personnel must notify the Department of any arrest, charge, or conviction within 30 days of the arrest, charge or conviction.

(3) The Department may require EMS personnel to submit to a background examination or a drug test upon Department request.

(4) The Department may refuse to issue a certification or recertification, or suspend or revoke a certification, or place a certification on probation, for any of the following causes:

(a) any of the reasons for exclusion listed in Subsection (1);

(b) a violation of Subsection (2);

(c) a refusal to submit to a background examination pursuant to Subsection (3);

(d) habitual or excessive use or addiction to narcotics or dangerous drugs;

(e) refusal to submit to a drug test administered by the individual's EMS provider organization or the Department;

(f) habitual abuse of alcoholic beverages or being under the influence of alcoholic beverages while on call or on duty as an EMS personnel or while driving any Department-permitted vehicle;

(g) failure to comply with the training, certification, or recertification requirements for the certification;

(h) failure to comply with a contractual agreement as an EMS instructor, a training officer, or a course coordinator;

(i) fraud or deceit in applying for or obtaining a certification;

(j) fraud, deceit, incompetence, patient abuse, theft, or dishonesty in the performance of duties and practice as a certified individual;

(k) unauthorized use or removal of narcotics, drugs, supplies or equipment from any emergency vehicle or health care facility;

(l) performing procedures or skills beyond the level of certification or agency licensure;

(m) violation of laws pertaining to medical practice, drugs, or controlled substances;

(n) conviction of a felony, misdemeanor, or a crime involving moral turpitude, excluding minor traffic violations chargeable as infractions;

(o) mental incompetence as determined by a court of competent jurisdiction;

(p) demonstrated inability and failure to perform adequate patient care;

(q) inability to provide emergency medical services with reasonable skill and safety because of illness, drunkenness, use of drugs, narcotics, chemicals, or any other type of material, or as a result of any other mental or physical condition, when the individual's condition demonstrates a clear and unjustifiable threat or potential threat to oneself, coworkers, or the public health, safety, or welfare that cannot be reasonably mitigated; and

(r) misrepresentation of an individual's level of certification;

(s) failure to display a state-approved emblem with level of certification during an EMS response, and

(t) other or good cause, including conduct which is unethical, immoral, or dishonorable to the extent that the conduct reflects negatively on the EMS profession or might cause the public to lose confidence in the EMS system.

(5)(a) The Department may suspend an individual for a felony or misdemeanor arrest or charge pending the resolution of the charge if the nature of the charge is one that, if true, the Department could revoke the certification under subsection (1); and

(b) The Department may order EMS personnel not to practice when an active criminal or administrative investigation is being conducted.

R426-12-1400. Penalties.

As required by Subsection 63-46a-3(5): Any person 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: emergency medical services

Date of Enactment or Last Substantive Amendment: ~~February 1, 2005~~ **2007**

Notice of Continuation: September 20, 2004

Authorizing, and Implemented or Interpreted Law: 26-8a-302



Human Services, Public Guardian
(Office of)
R549-1
Eligibility and Services Priority

NOTICE OF PROPOSED RULE

(New Rule)
DAR FILE No.: 29950
FILED: 05/15/2007, 16:55

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to provide procedures and standards for the determination of eligibility and establish services as required by Title 62A, Chapter 14, Part 1.

SUMMARY OF THE RULE OR CHANGE: This rule establishes eligibility and services priority criteria for the Office of Public Guardian.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-14-101 et seq.

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** None--The cost is covered by existing state and federal budget.
- ❖ **LOCAL GOVERNMENTS:** None--The cost is covered by existing state and federal budget.
- ❖ **OTHER PERSONS:** None--The cost is covered by existing state and federal budget.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--There are no compliance costs associated.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no impact anticipated.
Lisa-Michele Church, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
PUBLIC GUARDIAN (OFFICE OF)
Room 329
120 N 200 W
SALT LAKE CITY UT 84103, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Lori Bays at the above address, by phone at 801-538-4564, by FAX at 801-538-8243, or by Internet E-mail at lbays@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/09/2007

AUTHORIZED BY: Lori Bays, Director

R549. Human Services, Office of Public Guardian.

R549-1. Eligibility and Services Priority.

R549-1-1. Purpose.

- (1) The purpose of this rule is to provide:
 - (a) Procedures and standards for the determination of eligibility and establish services as required by Title 62A, Chapter 14, Part-1, Utah Code.

R549-1-2. Authority.

- (1) This rule is authorized pursuant to UCA 62A-14-105(2).

R549-1-3. Definitions.

- (1) Terms used in this rule are defined in Section 62A-14-102.

R549-1-4. Eligibility.

- (1) Individuals who have been found or are likely to be found legally incapacitated and in need of guardianship and/or conservatorship, and who have no other responsible, willing and able person to serve as their guardian, may be eligible for the services provided by Human Services, Office of Public Guardian "Office".

R549-1-5. Priority.

- (1) The Office will give priority to incapacitated individuals whose need for guardianship and/or conservatorship is more critical than other incapacitated individuals, as follows and in the following order:
 - (a) Individuals who are in life-threatening situations, where immediate guardianship assistance or intervention is necessary for the preservation of life or the prevention of serious harm or injury.

(b) Individuals who are experiencing abuse, neglect or self-neglect or financial exploitation.

(c) Individuals who are at significant risk of experiencing abuse, neglect or self-neglect or financial exploitation.

KEY: eligibility and priority, incapacitated, guardianship

Date of Enactment or Last Substantive Amendment: 2007

Authorizing, and Implemented or Interpreted Law: 62A-14-101 et seq.



Insurance, Administration **R590-220** Submission of Accident and Health Insurance Filings

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29947

FILED: 05/15/2007, 16:42

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Based on a need to store filings electronically and an increasing number of electronic filings, a policy change was made to require only electronic filings.

SUMMARY OF THE RULE OR CHANGE: The rule changes set standards for electronic filing. While reviewing the rule, numerous format and grammatical changes were made to enhance clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201.1, 31A-2-201, 31A-2-202, 31A-22-605, 31A-22-620, and 31A-30-106

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document," dated March 1, 2007; "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document (Instructions)," dated March 1, 2007; "NAIC Uniform Life, Accident and Health, Annuity and Credit Coding Matrix," dated March 1, 2007; "Utah Accident and Health Insurance Filing Certification," dated July 1, 2007; "Utah Accident and Health Insurance Group Questionnaire," dated July 1, 2007; and "Utah Accident and Health Insurance Request for Discretionary Group Authorization," dated July 1, 2007

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be a mid-term savings due to reducing need to store paper and an immediate savings in time due to reduced mail and handling of paper filings. There will be no change in the fees coming into the department.

❖ LOCAL GOVERNMENTS: The changes to this rule will have no effect on local governments since the rule deals solely with the relationship between the department and their licensees.

❖ OTHER PERSONS: For those insurers not already filing electronically there will be a transaction fee of \$6 to \$15 per filing. Some of this will be offset by the elimination of printing and mailing costs. There will be a minimal, if any, fiscal impact on consumers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: For those insurers not already filing electronically there will be a transaction fee of \$6 to \$15 per filing. Some of this will be offset by the elimination of printing and mailing costs. There will be minimal, if any, fiscal impact on consumers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impact of these changes will be minimal on businesses and will vary according to the size and number of filings they send to the department.
Kent Michie, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/09/2007

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-220. Submission of Accident and Health Insurance Filings.

R590-220-1. Authority.

This rule is promulgated by the insurance commissioner pursuant to Section 31A-2-201.1 and Subsections 31A-2-201(3), 31A-2-202(2), 31A-22-605(4), 31A-22-620(3)(f), and 31A-30-106(1)(i) and (k).

R590-220-2. Purpose and Scope.

(1) The purpose of this rule is to set forth procedures for submitting:

(a) accident and health filings required by Section 31A-21-201;
(b) individual accident and health filings in accordance with Section 31A-22-605 and Rule R590-85;

(c) ~~individual and group~~ Medicare supplement filings in accordance with Sections 31A-22-605 and 31A-22-620, and Rules R590-85 and R590-146;

(d) long term care filings required by Section 31A-22-1404 and Rule R590-148;

(e) basic health care plan filings required by Section 31A-22-613.5 and Rule R590-175; and

(f) health benefit plan filings required by Chapter 31A-30 and Rule R590-167.

(2) This rule applies to:

(a) all types of accident and health insurance products; and

(b) group accident and health contracts issued to nonresident policyholders, including trusts, when Utah residents are provided coverage by certificates of insurance.

R590-220-3. Documents Incorporated by Reference.

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

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

(a) "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document," dated March 1, 2007[~~effective January 1, 2006~~];

(b) "NAIC [~~Instruction Sheet for~~] Life, Accident and Health, Annuity, Credit Transmittal Document (Instructions)," dated March 1, 2007[~~effective January 1, 2006~~];

(c) "NAIC Instruction Sheet for Life, Accident and Health, Annuity, Credit Transmittal Document Form Filing Attachment and Rate Filing Attachment," effective January 1, 2006];

(~~c~~)(~~d~~) "NAIC Uniform Life, Accident and Health, Annuity and Credit Coding Matrix," dated March 1, 2007[~~effective January 1, 2006~~];

(~~d~~)(~~e~~) "Utah Accident and Health Insurance Filing Certification," dated July 1, 2007[~~version September 1, 2006~~];

(~~e~~)(~~f~~) "Utah Accident and Health Insurance Group Questionnaire," dated July 1, 2007[~~version September 1, 2006~~]; and

(~~f~~)(~~g~~) "Utah Accident and Health Insurance Request for Discretionary Group Authorization," dated July 1, 2007[~~version September 1, 2006~~].

R590-220-4. Definitions.

In addition to the definitions in Sections 31A-1-301 and 31A-30-103, the following definitions shall apply for the purposes of this rule.

(1) "Certification" means a statement that the filing being submitted is in compliance with Utah laws and rules.

(2) "Discretionary group" means a group that has been specifically authorized by the commissioner under Subsection 31A-22-701(1)(b).

(3) "Electronic filing" means a:

(a) filing submitted via the Internet by using the System for Electronic Rate and Form Filings, SERFF, system; or

(b) filing submitted via the Internet by using the Sircon system.

(4) "Eligible group" means a group that meets the definition in Subsection 31A-22-701(1)(a).

(~~5~~)(~~4~~) "File And Use" means a filing can be used, sold, or offered for sale after it has been filed with the department.

(~~6~~)(~~5~~) "File Before Use" means a filing can be used, sold, or offered for sale after it has been filed with the department and a stated period of time has elapsed from the date filed.

(~~7~~)(~~6~~) "File For Acceptance" means a filing can be used, sold, or offered for sale after it has been filed and the filer has received written confirmation that the filing was accepted.

(~~8~~)(~~7~~) "File for Approval" means a filing can be used, sold, or offered for sale after it has been filed and the filer has received written confirmation that the filing was approved.

(~~9~~)(~~8~~) "Filer" means a person or entity who submits a filing.

(~~10~~)(~~9~~) "Filing," when used as a noun, means an item required to be filed with the department including:

(a) a policy;

(b) a rate, rate manual, or rate methodologies;

(c) a form;

(d) a document;

(e) a plan;

(f) a manual;

(g) an application;

(h) a report;

(i) a certificate;

(j) an endorsement;

(k) an actuarial memorandum, demonstration, and certification;

(l) a licensee annual statement;

(m) a licensee renewal application; or

(n) an advertisement.

(~~11~~)(~~10~~) "Filing Objection Letter" means a letter issued by the commissioner when a review has determined the filing fails to comply with Utah law and rules. The filing objection letter, in addition to requiring correction of non-compliant items, may request clarification or additional information pertaining to the filing.

(12) "Filing status information" means a list of the states to which the filing was submitted, the date submitted, and the states' actions, including their responses.

(~~13~~)(~~11~~) "Letter of authorization" means a letter signed by an officer of the insurer on whose behalf the filing is submitted that designates filing authority to the filer.

(~~14~~)(~~12~~) "Market type" means the type of policy that indicates the targeted market such as individual or group.

(~~15~~)(~~13~~) "Order to Prohibit Use" means an order issued by the commissioner that [~~forbids~~]prohibits the use of a filing.

(~~16~~)(~~14~~) "Rating methodology change" for the purpose of a health benefit plan means a:

(a) [~~a~~]change in the number of case characteristics used by a covered carrier to determine premium rates for health benefit plans in a class of business;

(b) [~~a~~]change in the manner or procedures by which insureds are assigned into categories for the purpose of applying a case characteristic to determine premium rates for health benefit plans in a class of business;

(c) [~~a~~]change in the method of allocating expenses among health benefit plans in a class of business; or

(d) [~~a~~]change in a rating factor, with respect to any case characteristic, if the change would produce a change in premium for any individual or small employer that exceeds 10%. A change in a rating factor shall mean the cumulative change with respect to such factor considered over a 12-month period. If a covered carrier changes rating factors with respect to more than one case characteristic in a 12-month period, the carrier shall consider the cumulative effect of all such changes in applying the 10% test.

(~~17~~)(~~15~~) "Rejected" means a filing is:

(a) not submitted in accordance with Utah laws and rules;

(b) returned to the filer by the department with the reasons for rejection; and

(c) not considered filed with the department.

~~(18)(16)~~ "Type of insurance" means a specific accident and health product including dental, health benefit plan, long-term care, Medicare supplement, income replacement, specified disease, or vision.

(19) "Utah Filed Date" means the date provided to a filer by the Utah Insurance Department, that indicates a filing has been accepted pursuant to Subsections 4, 5, 6 or 7.

R590-220-5. General Filing Information.

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

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

(3) A filing that does not comply with this rule will be rejected and returned to the filer. A rejected filing:

(a) is not considered filed with the department[-];

(b) must be submitted as a new filing; and

(c) will not be reopened for purposes of resubmission.

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

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

(a) A filing may be reviewed:

(i) when submitted;

(ii) as a result of a complaint;

(iii) during a regulatory examination or investigation; or

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

(b) If a filing is reviewed and is not in compliance with Utah laws and rules, a Filing Objection Letter or an Order To Prohibit Use will be issued to the filer. The commissioner may require the filer[insurer] to disclose deficiencies in forms or rating practices to affected insureds.

(6) Filing correction.

(a) ~~[No transmittal is required when making a correction to misspelled words and punctuation in a filing. This]Filing corrections are[filing will be] considered informational.~~

(b) ~~[No transmittal is required when a clerical correction is made to a previous filing if]Filing corrections must be submitted within 15 days of the date ["Filed" with]the original filing was submitted to the department. The filer must reference the original filing[- or include a copy of the original transmittal].~~

(c) A new filing is required if a ~~[clerical]filing correction is made more than 15 days after the date ["Filed" with]the original filing was submitted to the department. The filer must reference the original filing[- or include a copy of the original transmittal].~~

(7) If responding to a Filing Objection Letter or an Order to Prohibit Use, refer to R590-220-15 for instructions.

(8) Filing withdrawal. A filer must notify the department when withdrawing a previously filed form, rate, or supplementary information.

R590-220-6. Filing Submission Requirements.

(1) All filings must be submitted as an electronic filing.

(2) A filing must be submitted by market type and type of insurance.

(3) A filing may not include more than one type of insurance, or request filing for more than one insurer.[- A complete filing consists of the following documents submitted in the following order:]

(4) SERFF Filings.

(a) Filing Description. Do not submit a cover letter. On the general information tab, complete the Filing Description section with the following information, presented in the order shown below.

(i) Provide a description of the filing.

(ii) Indicate if the filing:

(A) is new;

(B) is replacing or modifying a previous submission; if so, describe the changes made, if previously rejected the reasons for rejection, and the previous filing's Utah Filed Date;

(C) includes forms for informational purposes; if so, provide the Utah Filed Date; or

(D) does not include the base policy; if so, provide the Utah Filed Date of the base policy and describe the effect on the base policy.

(iii) Identify if any of the provisions are unusual, controversial, or have been previously objected to, or prohibited, and explain why the provision is included in the filing.

(iv) Explain any change in benefits or premiums that may occur while the contract is in force.

(v) List the issue ages, which means the range of minimum and maximum ages for which a policy will be issued.

(b) Certification. The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules. The Utah Accident and Health Insurance Filing Certification must be properly completed, signed, and attached to the supporting documentation tab. A false certification may subject the insurer or filer to administrative action.

(c) Domiciliary Approval and Filing Status Information. All filings for a foreign insurer must include on the supporting documentation tab:

(i) copy of domicile approval for the exact same filing;

(ii) filing status information which includes:

(A) a list of the states to which the filing was submitted;

(B) the date submitted; and

(C) summary of the states' actions and their responses; or

(iii) if the filing is specific to Utah and only filed in Utah, then state, "UTAH SPECIFIC - NOT SUBMITTED TO ANY OTHER STATE."

(d) Group Questionnaire or Discretionary Group Authorization Letter. A group filing must attach to the supporting documentation tab either a:

(i) signed and fully completed Utah Accident and Health Insurance Group Questionnaire; or

(ii) copy of the Utah Accident and Health Insurance Discretionary Group Authorization letter.

(e) Letter of Authorization.

(i) When the filer is not the insurer, a letter of authorization from the insurer must be attached to the supplementary documentation tab.

(ii) The insurer remains responsible for the filing being in compliance with Utah laws and rules.

(f) Items being submitted for filing.

(i) Any forms must be attached to the form schedule tab.

(ii) Any rating documentation, including actuarial memorandums and rate schedules, must be attached to the rate/rule schedule.

(5) Sircon Filings.

~~(a)(4)~~ Transmittal. The NAIC Life, Accident and Health, Annuity, Credit Transmittal Document, as provided in R590-220-3(2), must be ~~on the top of the filing. The transmittal form must be~~ properly completed.

~~(1)(4)~~ Complete the transmittal by using the following:

~~(A)(4)~~ NAIC ~~Instruction Sheet for~~ Life, Accident and Health, Annuity, Credit Transmittal Document ~~(Instructions); and~~

~~(B)(ii)~~ NAIC ~~Instruction Sheet for Life, Accident and Health, Annuity, Credit Transmittal Document Form Filing Attachment and Rate Filing Attachment; and~~

~~(iii)~~ NAIC Uniform Life, Accident and Health, Annuity and Credit Coding Matrix.

~~(ii)(b)~~ Do not submit the document described in sections (a)(i)(A) and (B) ~~(ii), and (iii)~~ with the filing.

~~(b)(2)~~ Filing Description. ~~A cover letter~~ Do not submit a cover letter ~~should not be submitted~~. ~~Instead, the~~ In Section 15 of the transmittal, complete the Filing Description with the following information ~~must be included in the Filing Description on the transmittal and~~ presented in the order shown below.

~~(i)~~ Provide a description of the filing.

~~(ii)(4)~~ Indicate if the filing:

~~(A)~~ is new~~;~~

~~(B)~~ is replacing or modifying a previous ~~filing, or contains forms~~ submission; if so, describe the changes made, if previously rejected the reasons for rejection, and the previous filing's Utah Filed Date;

~~(C)~~ includes forms ~~that have been previously filed and are included~~ for informational purposes~~;~~ if so, provide the Utah Filed Date; or

~~(D)~~ does not include the base policy; if so, provide the Utah Filed Date of the base policy and describe the effect on the base policy.

~~(ii)~~ Provide a brief description of each component's purpose, benefits and provisions.

~~(iii)~~ Identify if any of the provisions are ~~any new,~~ unusual, ~~or~~ controversial ~~provision.~~

~~(iv)~~ Identify or have been ~~any unresolved~~ previously objected to, or prohibited, and explain why the provision is included in the filing ~~provision and explain why the provision is included in the filing.~~

~~(iv)(v)~~ Explain any change in benefits or premiums that may occur while the contract is in force.

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

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

~~(viii)~~ If filing a certificate, outline of coverage, application, or endorsements, and the filing does not contain a policy, identify the affected policy form number, the Utah filed date, and describe the effect of the submitted forms on the base policy.

~~(b) Marketing Facts.~~

~~(v)(4)~~ List the issue ages, which means the range of minimum and maximum ages for which a policy will be issued~~;~~

~~(ii)~~ Identify the intended market, such as senior citizens, nonprofit organizations, association members, etc; and

~~(iii)~~ Describe marketing and advertising in detail, i.e., through a marketing association, mass solicitation, electronic media,

financial institutions, internet, telemarketing, or individually through licensed producers.

~~(c)~~ ~~Underwriting Methods. Provide a general explanation of the underwriting applicable to the filing.~~

~~(3)~~ Certification. The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules. The Utah Accident and Health Insurance Filing Certification must be properly completed and signed. ~~A filing will be rejected if the certification is missing or incomplete.~~ A false certification ~~that is inaccurate~~ may subject the insurer or filer to administrative action.

~~(4)~~ Domiciliary Approval and Filing Status Information. All filings for a foreign insurer must include:

~~(a)~~ a stamped copy of the approval letter from the domicile state for the exact same filing; ~~copy of domicile approval for the exact same filing;~~

~~(ii)(b)~~ filing status information which includes:

~~(A)(4)~~ a list of the states to which the filing was submitted;

~~(B)(4)~~ the date submitted; and

~~(C)(4)~~ summary of the states' actions and their responses; or ~~(iii)(e)~~ if the filing is specific to Utah and only filed in Utah, then section 14 of the transmittal must be completed stating, "UTAH SPECIFIC - NOT SUBMITTED TO ANY OTHER STATE."

~~(5)~~ Group Questionnaire or Discretionary Group Authorization Letter. A group filing must attach either a: ~~identify the type of group, and include either a~~

~~(i)~~ signed and fully completed ~~Utah Accident and Health Insurance Group Questionnaire;~~ or ~~a~~

~~(ii)~~ copy of the ~~Utah Accident and Health Insurance Discretionary Group Authorization~~ letter.

~~(6)~~ Letter of Authorization.

~~(i)~~ When the filer is not the insurer, a letter of authorization from the insurer must be included.

~~(ii)~~ The insurer remains responsible for the filing being in compliance with Utah laws and rules.

~~(7)~~ Items being submitted for filing. ~~Refer to each applicable subsection of this rule for general procedures and additional procedures on how to submit~~ Any form or rate items submitted for filing must be attached to the product forms ~~rates, and reports~~ tab.

~~(8) Return Notification Materials.~~

~~(a) Return notification materials are limited to:~~

~~(i) a copy of the transmittal; and~~

~~(ii) a self addressed, stamped envelope.~~

~~(b) Any additional documents submitted for return will be discarded.~~

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

~~(6) Refer to each applicable section of this rule for additional procedures on how to submit forms, rates, and reports.~~

R590-220-7. Procedures for Form Filings.

(1) Forms in General.

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

(b) Each form must be identified by a unique form number. The form number may not be variable.

(c) A form must be in final printed form or printer's proof format. A draft may not be submitted.

(d) Specific sections may be filed with variable data by placing brackets around affected information. Variable data must be identified within the specific section, or on a separate sheet included with the submission.

(e) Blank spaces within the forms must be completed in John Doe fashion to accurately represent the intended market, purpose, and use.

(2) Application Filing.

____(a) Each application or enrollment form may be submitted as a separate filing or may be filed with its related policy or certificate filing.

____(b) If an application has been previously filed or is filed separately, an informational copy of the application must be included with the policy or certificate filing.

(3) Policy Filing.

____(a) Each type of insurance must be filed separately.

____(b) A policy filing consists of one policy form, including its related forms, such as outline of coverage, certificate, or endorsement, and an actuarial memorandum.

____(c) ~~(a)~~ Only one policy filing for a single type of insurance may be filed, except as stated in subsection ~~(b)~~ (d).

____(d) ~~(b)~~ A Medicare supplement filing may include more than one policy filing but each filing is limited to only one of each of the Medicare supplement plans A through ~~(F)~~ L.

(4) Endorsement Only Filing.

(a) Up to three related endorsements may be filed together.

(b) A single endorsement that affects multiple forms may be filed if the Filing Description references all affected forms.

(c) The filing must include:

(i) A listing of all base policy form numbers, title and ~~dates filed with the department~~ Utah Filed Dates; and

(ii) a description of how each filed endorsement affects the base policy.

(d) Unrelated endorsements may not be filed together.

(5) Outline of Coverage. If an outline of coverage is required to be issued with a policy or an endorsement, the outline of coverage must be filed when the policy or endorsement is filed.

R590-220-8. Additional Procedures for Individual Accident and Health Market Filings.

(1) This section does not apply to filings for individual health benefit plans that are subject to 31A-30 and Rule R590-167. Individual health ~~Health~~ benefit plan filings are discussed in R590-220-10.

(2) Rate and rate documentation filings.

____(a) Rates and rate documentation submitted with a new form filing are a File and Use filing.

____(b) A rate revision filing is a File for Acceptance filing.

(3) A filer submitting an individual accident and health filing is advised to review Chapter 31A-22 ~~Part 6~~ Part 6, and Rules R590-85, R590-126, and R590-131.

(4) Every individual accident and health policy, or endorsement affecting benefits shall be accompanied by a rate filing with an actuarial memorandum signed by a qualified actuary.

____(a) A rate filing need not be submitted if the filing does not require a change in premiums, however the reason why there is not a change in premium must be explained in the Filing Description.

____(b) Rates must be filed in accordance with the requirements of Section 31A-22-602, Rule R590-85, and this rule.

(5) A filer submitting a long term care filing, including an endorsement attached to a life insurance policy, is advised to review Chapter 31A-22 Part 1401-1414, ~~XIV and~~ Rule R590-148, and Rule R590-220-12 and 13.

(6) A filer submitting a Medicare supplement filing is advised to review Section 31A-22-620, ~~and~~ Rule R590-146, and R590-220-11.

R590-220-9. Additional Procedures for Group Market Form Filings.

A filer submitting a group accident and health filing is advised to review 31A-8, 31A-22 Parts VI and VII, 31A-30, Rules R590-76, R590-126, R590-131, R590-146, and R590-233. ~~and R590-148, and R590-233.~~ A filer submitting a group health benefit plan filing should also review R590-220-10 in addition to this section.

(1) Determine whether the group is an eligible group or a discretionary group.

(2) Eligible Group. A filing for an eligible group must include a completed Utah Accident and Health Insurance Group Questionnaire.

(a) A questionnaire must be completed for each eligible group under Sections 31A-22-503 through 507.

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

(3) Discretionary Group. If the group is not an eligible group, then specific discretionary group authorization must be obtained prior to filing.

(a) To obtain discretionary group authorization a Utah Accident and Health Insurance Request for Discretionary Group Authorization must be submitted and include all required information.

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

(i) the existence of a verifiable group;

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

(iii) the proposed group would be actuarially sound;

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

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

(c) A discretionary group filing that does not provide authorization documentation will be rejected.

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

(e) Adding additional types of insurance products to be offered, requires that the discretionary group be reauthorized. The discretionary group authorization will specify the types of products that a discretionary group may offer.

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

(4) A filer may not submit a rate or form filing prior to receiving discretionary group authorization. If a rate or form filing is submitted without discretionary group authorization, the filing will be rejected.

(5) A filer submitting a long-term care filing, including a long-term care endorsement attached to a life insurance policy, is advised to review Chapter 31A-22 Part 1401-1414, ~~XIV~~, Rule R590-148, and ~~section~~ Sections 12 and 13 of this rule.

(6) A filer submitting a Medicare supplement filing is advised to review Section 31A-22-620, Rule R590-146, and ~~section~~ R590-220-11 ~~of this rule~~.

R590-220-10. Additional Procedures for Individual, Small Employer, and Group Health Benefit Plan Filings.

This section contains instructions for filings subject to 31A-30. A filer submitting health benefit plan filings that are subject to 31A-30 is advised to review 31A-8, ~~Chapter 31A-22~~ Parts ~~6~~~~(VH)~~ and ~~7~~~~(VH)~~, Chapter 31A-30, Rules R590-76, R590-131, R590-167, R590-175, ~~and~~ R590-176, and R590-233.

(1) General requirements.

(a) Letter of Intent. A filing must include a copy of the letter filed with the commissioner declaring the carrier's intention as required by R590-167-10.

(b) Class of Business. The Filing Description must describe the class of business, as provided in Section 31A-30-105.

(c) Rate Manual. A health benefit plan form filing must include a rate manual. If the rate manual was previously filed, provide ~~a copy of the transmittal and~~ documentation indicating the department's receipt.

(2) Rate Manual Filing.

(a) A rate manual that does not request a change in rating methodology is a ~~File Before Use~~ filing.

(b) A change in rating methodology filing is a ~~File for Approval~~ filing.

(c) A new and revised rate manual ~~must~~ ~~[-]~~

(i) ~~A filing must~~ include an actuarial certification signed by a qualified actuary ~~[-]~~.

(ii) ~~A rate manual and subsequent change must~~ be filed 30 days prior to use ~~[-]~~.

(iii) ~~A rate manual must~~ list the case characteristics and rate factors to be used ~~[-]~~.

(iv) ~~A rating manual must~~ be applied in the same manner for all health benefit plans in a class ~~[-]~~.

(v) ~~contain specific~~ ~~[-]~~ area factor and industry factors ~~must contain the specific schedules~~ applicable in Utah ~~[-]~~.

~~Any case characteristic not listed in Subsection 31A-30-106(1)(h) requires prior approval of the commissioner.~~

~~(iv) vi~~ ~~The rating manual shall describe~~ the method of calculating the risk load, including the method used to determine any experience factors ~~[-]~~; and

~~(vii)~~ ~~The rating manual must clearly describe~~ how the overall rate is reviewed for compliance with the rate restrictions.

~~(d) Any case characteristic not listed in Subsection 31A-30-106(1)(h) requires prior approval of the commissioner.~~

(3) Health Benefit Plan Reports.

(a) ~~Reports due April 1 each year.~~

~~(i) Actuarial Certification.~~ ~~[-]~~

~~(i) All individual and small employer carriers must file an~~ ~~Actuarial certification~~ as described in Section 31A-30-106 and Rule R590-167-11(1)(a) ~~[-]~~.

(ii) The report is due April 1 each year.

(b) ~~(ii)~~ ~~Small Employer Index Rates Report.~~ ~~[-]~~

All small employer carriers must file their index rates as of ~~January~~ ~~March~~ 1 of the current year and preceding year, as required by Subsection 31A-29-117(2).

(i) The report must include:

(A) the actual index rates ~~[-]~~; and

(B) calculate the percentage change in these rates between the two years.

(ii) The report is due February 1 each year.

~~(c)~~ ~~(b)~~ ~~A~~ ~~Each~~ report must be filed separately and be properly identified.

R590-220-11. Additional Procedures for Medicare Supplement Filings.

A filer submitting Medicare supplement filings is advised to review Section 31A-22-620 and Rule R590-146. A Medicare supplement form filing that affects rates must be filed with all required rating documentation.

(1) An insurer must file its Medicare Supplement Buyers Guide.

(2) Rates.

(a) Rates and rate documentation submitted with a new form filing are a ~~File and Use~~ filing.

~~(b)~~ A rate revision filing is a ~~File for Acceptance~~ filing. ~~(c)~~ ~~(b)~~ Medicare supplement rates must comply with Section 31A-22-602, Rules R590-146 and R590-85.

~~(d)~~ ~~(e)~~ An insurer shall not use or change premium rates for a Medicare supplement policy or certificate unless the rates, rating schedule and supporting documentation have been filed.

~~(e)~~ ~~(d)~~ A rate revision request may not be used to satisfy the annual filing requirements of Rule R590-146-14.C.

(3) Annual Medicare Supplement Reports.

(a) Medicare supplement reports are ~~File and Use~~ filings.

(b) Reports are due ~~May 31~~ ~~March 1~~ each year ~~[-]~~.

~~(c)~~ ~~Report of Multiple Policies.~~ ~~[-]~~

~~(i)~~ As required by R590-146-22, an issuer of Medicare supplement policies shall annually submit a report of multiple policies the insurer has issued to a single insured.

~~(ii)~~ The report is required each year listing each insured with multiple policies or stating that no multiple policies were issued.

~~(e)~~ ~~Reports due May 31 each year.~~

~~(b)~~ ~~(d)~~ ~~Annual Filing of Rates and Supporting Documentation.~~ ~~[-]~~

~~(i)~~ An issuer of Medicare supplement policies and certificates shall file annually its rates, rating schedule and supporting documentation, including ratios of incurred losses to earned premiums by policy duration, in accordance with R590-146-14.C.

~~(ii)~~ The NAIC Medicare Supplement Insurance Model Regulations Manual details what should be included in the annual rate filing.

~~(iii)~~ Annual reports submitted with a request or any type of reference to a rate revision will be rejected.

~~(e)~~ ~~(ii)~~ ~~Refund Calculation and Benchmark Ratio.~~ ~~[-]~~ An issuer shall file the ~~Medicare Supplement Refund Calculation Form~~ ~~[-]~~ and ~~Reporting Form for the Calculation of Benchmark Ratio Since Inception for Group Policies~~ ~~[-]~~ reports according to R590-146-14.B.

~~(f)~~ ~~(d)~~ ~~A~~ ~~Each~~ report must be filed separately and be properly identified.

R590-220-12. Additional Procedures for Combination Policies or Endorsements Providing Life and Accident and Health Benefits.

A filer submitting health and life combination policies, or health endorsements to life policies, is advised to review Rule R590-226.

(1) A combination filing is a policy or endorsement, which creates a product that provides both life and accident and health insurance benefits.

(a) The two types of acceptable combination filings are an endorsement or an integrated policy.

~~(b) Combination filings take considerable time to process, and will be processed by both the [Life Insurance Division and the Health Insurance Division, and the Life Section of the Life, Property and Casualty Insurance Division.~~

~~(2) [A combination filing submitted via paper must include transmittals and certifications for both the Life and Property and Casualty Insurance Division and the Health Insurance Division.] A combination filing [submitted electronically] must be submitted separately to both the Health Insurance Division and the Life Section of the Life, [and] Property and Casualty Insurance Division.~~

~~(3)(a) For an integrated policy, the filing must be submitted to the appropriate division based on benefits provided in the base policy.~~

~~(b) For an endorsement, the filing must be submitted to the appropriate division based on benefits provided in the endorsement.~~

~~(4) The Filing Description must identify the filing as having a combination of insurance types, such as:~~

~~(a) term life policy with a long-term care benefit rider; or~~

~~(b) major medical health policy that includes a life insurance benefit.~~

R590-220-13. Additional Procedures for Long Term Care Products.

A filer submitting long-term care product filings is advised to review Section 31A-22-1400, Rule R590-148, and section 12 of this rule. A long-term care form filing that affects rates must be filed with all required rating documentation.

(1) Rates.

(a) Rates and rate documentation submitted with a new form filing are a ["File and Use"] filing.

(b) A rate revision filing is a ["File for Acceptance"] filing.

~~(c)[(b)] Long-term care rates must comply with Rules R590-148 and R590-85.~~

~~(d)[(e)] An insurer shall not use or change premium rates for a long-term care policy or certificate unless the rates, rating schedule and supporting documentation have been filed.~~

(2) Annual Long-term Care Reports.

~~(a) All four long-term care reports required by Rule R590-148-25 must be submitted together as one filing [filed separately, with a transmittal, and be properly identified].~~

~~(b) If all four reports are not submitted as one filing, the filing is considered incomplete and will be rejected.~~

~~(c) If there is no information to report, the reporting form must indicate "NONE."~~

~~(d) Reports are due June 30 each year.~~

~~(e) The four reports shown below are required by R590-148-25.~~

~~(i) Replacement and Lapse Reporting Form.~~

~~(ii) Claims Denial Reporting Form.~~

~~(iii) Rescission Reporting Form.~~

~~(iv) Suitability Report Form.~~

R590-220-14. [Electronic Filings.

~~A filer submitting an electronic filing must follow the requirements for both the electronic system and this rule, as applicable.~~

~~R590-220-15. [Correspondence and], Status Checks[, and Responses].~~

~~(1) Correspondence. When corresponding with the department, a filer must provide sufficient information to identify the original filing:~~

~~(a) type of insurance;~~

~~(b) date of filing;~~

~~(c) form numbers; [and]~~

~~(d) submission method, SERFF or Sircon; and [copy of the original transmittal.]~~

~~(e) tracking number.~~

~~(2) Status Checks.~~

~~(a) A complete filing is usually processed within 45 days of receipt.~~

~~[(a)](b) A filer can request the status of its filing by telephone or email 60 days after the date of submission.~~

~~[(b) A complete filing is usually processed within 45 days of receipt. If a filing includes all return notification materials, a response should be received within that time.~~

~~(3) Response to an Order. A response to an order must include:~~

~~(a) a response cover letter identifying the changes made;~~

~~(b) a copy of the Protected Correspondence that was included with the Order to Prohibit Use;~~

~~(c) one copy of the revised documents with all changes highlighted;~~

~~(d) one copy of the revised documents incorporating all changes without highlights; and~~

~~(e) return notification materials, which consist of a copy of the response cover letter and a self-addressed stamped envelope.~~

~~(4) Rejected Filing.~~

~~(a) A rejected filing is NOT considered filed. If resubmitted it is considered a new filing.~~

~~(b) If resubmitting a previously rejected filing, the new filing must include a copy of the rejection notice.~~

~~]~~

R590-220-15. Responses.

(1) Response to a Filing Objection Letter. A response to a Filing Objection Letter must include:

(a) a cover letter identifying all changes made;

(b) revised documents with all changes highlighted; and

(c) revised documents incorporating all changes without highlights.

(2) Response to an Order to Prohibit Use.

(a) An Order to Prohibit Use becomes final 15 days after the date of the Order.

(b) Use of the filing must be discontinued not later than the date specified in the Order.

(c) To contest an Order to Prohibit Use, the commissioner must receive a written request for a hearing not later than 15 days after the date of the Order.

(d) A new filing is required if the company chooses to make the requested change addressed in the Filing Objection Letter. The new filing must reference the previously prohibited filing.

R590-220-16. Penalties.

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

R590-220-17. Enforcement Date.

The commissioner will begin enforcing the revised provisions of this rule 30 days from the effective date of this rule.

R590-220-18. Severability.

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

KEY: health insurance filings

Date of Enactment or Last Substantive Amendment: [January 22,] 2007

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-2-201.1; 31A-2-202; 31A-22-605; 31A-22-620; 31A-30-106



Insurance, Administration

R590-225

Submission of Property and Casualty Rate and Form Filings

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29949

FILED: 05/15/2007, 16:51

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Based on a need to store filings electronically and an increasing number of electronic filings, a policy change was made to require only electronic filings.

SUMMARY OF THE RULE OR CHANGE: The rule changes set standards for electronic filing. While reviewing the rule, numerous format and grammatical changes were made to enhance clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-2-201.1, 31A-2-202, and 31A-19a-203

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: "NAIC Uniform Property and Casualty Transmittal Document", dated March 1, 2007; "NAIC Property and Casualty Transmittal Document (Instructions)", dated March 1, 2007; and "NAIC Uniform Property and Casualty Coding Matrix", dated March 1, 2007

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There will be a mid-term savings due to reduced need to store paper and an immediate savings in time and workload due to less incoming mail and the need to handle paper filings. There will be no change in the fees coming into the department

❖ **LOCAL GOVERNMENTS:** The changes to this rule will have no effect on local governments since the rule deals solely with the relationship between the department and their licensees.

❖ **OTHER PERSONS:** For those insurers not already filing electronically there will be a transaction fee of \$6 to \$15 per filing. Some of this will be offset by the elimination of printing and mailing costs. There will be minimal, if any, fiscal impact on consumers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: For those insurers not already filing electronically there will be a transaction fee of \$6 to \$15 per filing. Some of this will be offset by the elimination of printing and mailing costs. There will be minimal, if any, fiscal impact on consumers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impact of these changes on property and casualty insurers will be minimal and will vary according to the size and number of filings an insurer sends to the department. Kent Michie, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/09/2007

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-225. Submission of Property and Casualty Rate and Form Filings.

R590-225-1. Authority.

This rule is promulgated by the insurance commissioner pursuant to Subsections 31A-2-201(3), 31A-2-201.1, 31A-2-202(2), and 31A-19a-203.

R590-225-2. Purpose and Scope.

(1) The purpose of this rule is to set forth procedures for submitting:

(a) property and casualty and title form filings required by Section 31A-21-201;

(b) property and casualty and title rates, and supplementary information under Section 31A-19a-203;

(c) service contract form filings required by Subsection 31A-6a-103(2)(a); and

(d) bail bond form filings required by Sections 31A-35-607 and Rule R590-196.

(2) This rule applies to all lines of property and casualty insurance, including title insurance, bail bond and service contracts.

R590-225-3. Documents Incorporated by Reference.

(1) The department requires that the documents described in this rule shall be used for all filings.

(a) Actual copies may be used or you may adapt them to your word processing system.

(b) If adapted, the content, size, font, and format must be similar.

(2) The following filing documents are hereby incorporated by reference and are available on the department's web site, <http://www.insurance.utah.gov/RF-Flgs.html>.

(a) "NAIC Uniform Property and Casualty Transmittal Document", dated ~~January 1, 2006~~ March 1, 2007;

(b) "NAIC ~~Instruction Sheet for Property and Casualty Transmittal Document~~ Property and Casualty Transmittal Document (Instructions)", dated ~~January 1, 2006~~ March 1, 2007;

(c) "NAIC Uniform Property and Casualty Coding Matrix", dated ~~March 1, 2006~~ March 1, 2007;

(d) "Utah Insurer Loss Cost Multiplier and Expense Constant Supplement Filing Forms", dated October 2003;

(e) "Utah Workers Compensation Insurer Loss Cost Multiplier Filing Form", dated October 2003.

R590-225-4. Definitions.

In addition to the definitions in Sections 31A-1-301 and 31A-19a-102, the following definitions shall apply for the purpose of this rule:

(1) "Certification" means a statement that the filing being submitted is in compliance with Utah laws and rules.

(2) "Electronic Filing" means a:

(a) filing submitted via the Internet by using the System for Electronic Rate and Form Filings, SERFF, system or

(b) filing submitted via the Internet by using the Sircon system or

(c) filing submitted via an email system.

~~(2)~~ (3) "File And Use" means a filing can be used, sold, or offered for sale after it has been filed with the department.

~~(3)~~ (4) "File Before Use" means a filing can be used, sold, or offered for sale after it has been filed with the department and a stated period of time has elapsed from the date filed.

~~(4)~~ (5) "Filer" means a person or entity who submits a filing.

(6) "Filing Objection Letter" means a letter issued by the commissioner when a review has determined the filing fails to comply with Utah law and rules. The filing objection letter may, in addition to requiring correction of non-compliant items, request clarification or additional information pertaining to the filing.

~~(5)~~ (7) "Letter of authorization" means a letter signed by an officer of the ~~insurer~~ licensee on whose behalf the filing is submitted that designates filing authority to the filer.

~~(6)~~ (8) "Order to Prohibit Use" means an order issued by the commissioner ~~which that~~ forbids prohibits the use of a filing.

~~(7)~~ (9) "Rejected" means a filing is:

(a) not submitted in accordance with applicable laws and rules;

(b) returned to the filer by the department with the reasons for rejection; and

(c) not considered filed with the department.

~~(8)~~ (10) "Type of Insurance" means a specific line of property and casualty insurance including general liability, commercial property, workers compensation, automobile, homeowners, title, bail bond and service contracts.

~~(9)~~ (11) "Use And File" means a filing can be used, sold, or offered for sale if it is filed within a stated period of time after its initial use.

(12) "Utah Filed Date" means the date provided to a filer by the Utah Insurance Department that indicates a filing has been accepted pursuant to this subsection 3.4 and 11.

R590-225-5. General Filing Information.

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

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

(3) Rates, supplementary information, and forms applying to a specific program or product may be submitted as one filing.

(4) A filing that does not comply with this rule will be rejected ~~as incomplete~~ and returned to the filer. A rejected filing:

(a) is not considered filed with the department;[-]

(b) must be submitted as a new filing;

(c) will not be reopened for purposes of resubmission.

(5) A prior filing ~~Prior filings~~ will not be researched to determine the purpose of the current filing.

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

(a) A filing may be reviewed:

(i) when submitted;

(ii) as a result of a complaint;

(iii) during a regulatory examination or investigation; or

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

(b) If a filing is reviewed and is not in compliance with Utah laws and rules, A Filing Objection Letter or an [ORDER TO PROHIBIT USE] ~~Order To Prohibit Use~~ will be issued to the filer. The commissioner may require the ~~filer~~ licensee to disclose deficiencies in forms or rating practices to affected consumers.

(7) Filing correction:

(a) [No filing transmittal is required when making a correction to misspelled words and punctuation in a filing. This filing] ~~Filing corrections are[-will be]~~ considered informational.

(b) [No transmittal is required when a clerical correction is made to a previous filing if] ~~Filing corrections must be submitted within 30 days of the date ["Filed" with]the original filing was submitted to the department. The filer must reference the original filing.[-or include a copy of the original transmittal.]~~

(c) A new filing is required if a [clerical]filing correction is made more than 30 days after the date ["Filed" with]the original filing was submitted to the department. The filer must reference the original filing.[-or include a copy of the original transmittal.]

(8) If responding to a Response to Filing Objection Letter or an Order to Prohibit Use, refer to R590-225-12 for instructions.

(9) Filing withdrawal. A filer must notify the department when withdrawing a previously filed form, rate, or supplementary information.

R590-225-6. Filing Submission Requirements.

(1) All filings must be submitted as an electronic filing.

(a) All filers must use SERFF or Sircon to submit a filing.

(b) EXCEPTION: bail bond agencies and service contract providers may use email to submit a filing.

(2) A filing must be submitted by market type and type of insurance, not by annual statement line number.

(3) A filing may not include more than one type of insurance, unless the filing is a commercial or personal inter-line form filing. The inter-line use of a form must be explained in the Filing Description.

(4) A filer may submit a filing for more than one insurer if all applicable companies are listed, on the transmittal and a copy of the transmittal is submitted for each company. A complete filing consists of the following documents submitted in the following order:

(1) "NAIC Uniform Property and Casualty Transmittal Document." COMPLETE THE TRANSMITTAL BY USING THE FOLLOWING:

(a) "NAIC Coding Matrix;"

(b) "NAIC Instruction Sheet;" and

(c) "Utah Property and Casualty Content Standards."

(2) Do not submit the documents described in (1)(a),(b), and (c) with a filing.

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

(a) Certification. The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules. The following statement must be included in the filing description:

"BY SUBMITTING THIS FILING I CERTIFY THAT THE ATTACHED FILING HAS BEEN COMPLETED IN ACCORDANCE WITH UTAH ADMINISTRATIVE RULE R590-225 AND IS IN COMPLIANCE WITH APPLICABLE UTAH LAWS AND RULES". A filing will be rejected if the certification is missing or incomplete. A certification that is inaccurate may subject the filer to administrative action.

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

(c) Describe the benefits and features of each form, rate or supplementary information contained in the filing, including specific features and options;

(d) Identify any new, unusual or controversial provision.

(e) Identify any unresolved previously prohibited provision and explain why the provision is included in the filing;

(f) If the filing is replacing or modifying a previous submission, provide information that identifies the filing being replaced or modified, the Utah filed date, and a detailed description of the changes made;

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

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

(5) Items being submitted for filing. Refer to each applicable subsection of this rule for general procedures and additional procedures on how to submit forms, rates, and supplementary information.

(6) Return Notification Materials.

(a) Return notification materials are limited to:

(i) a copy of the transmittal; and

(ii) a self-addressed, stamped envelope.

(b) Additional documents submitted for return will be discarded.

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

(5) SERFF Filing.

(a) Filing Description. Do not submit a cover letter. On the general information tab, complete the Filing Description Section with the following information, presented in the order shown below.

(i) Certification.

(A) The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules.

(B) The following statement must be included in the filing description: "BY SUBMITTING THIS FILING I CERTIFY THAT THE ATTACHED FILING HAS BEEN COMPLETED IN ACCORDANCE WITH UTAH ADMINISTRATIVE RULE R590-225 AND IS IN COMPLIANCE WITH APPLICABLE UTAH LAWS AND RULES".

(C) A filing will be rejected if the certification is false, missing, or incomplete.

(D) A certification that is false may subject the licensee to administrative action.

(ii) Provide a description of the filing.

(iii) Indicate if the filing:

(A) is new;

(B) is replacing or modifying a previous submission; if so, describe the changes made, if previously rejected the reasons for rejection, and previous filing's Utah Filed Date;

(C) includes forms for informational purposes; if so, provide the Utah Filed Date; or

(D) does not include the base policy; if so, provide the Utah Filed Date of the base policy and describe the effect on the base policy.

(iv) Identify if any of the provisions are unusual, controversial, or have been previously objected to, or prohibited, and explain why the provision is included in the filing.

(b) Letter of Authorization.

(i) When the filer is not the licensee, a letter of authorization from the licensee must be attached to the supplementary documentation tab.

(ii) The licensee remains responsible for the filing being in compliance with Utah laws and rules.

(c) Items being submitted for filing.

(i) Any forms must be attached to the form schedule tab.

(ii) Any rates and supplementary rating information must be attached to the rate/rule schedule tab.

(d) Refer to each applicable section of this rule for additional procedures on how to submit forms, rates, and supplementary information.

(6) Sircon Filing.

(a) Transmittal. The NAIC Uniform Property and Casualty Transmittal Document, as provided in R590-225-3(2), must be properly completed.

(i) COMPLETE THE TRANSMITTAL BY USING THE FOLLOWING:

(A) "NAIC Coding Matrix;"

(B) "NAIC Instruction Sheet;" and

(C) "Utah Property and Casualty Content Standards."

(ii) Do not submit the documents described in (A),(B), and (C) with the filing.

(b) Filing Description. Do not submit a cover letter. In section 21 of the transmittal, complete the filing description with the following information, presented in the order shown below.

(i) Certification.

(A) The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules.

(B) The following statement must be included in the filing description: "BY SUBMITTING THIS FILING I CERTIFY THAT THE ATTACHED FILING HAS BEEN COMPLETED IN ACCORDANCE WITH UTAH ADMINISTRATIVE RULE R590-225 AND IS IN COMPLIANCE WITH APPLICABLE UTAH LAWS AND RULES".

(C) A filing will be rejected if the certification is false, missing, or incomplete.

(D) A certification that is false may subject the licensee to administrative action.

(ii) Provide a description of the filing.

(iii) Indicate if the filing:

(A) is new;

(B) is replacing or modifying a previous submission; if so, describe the changes made, if previously rejected the reasons for rejection, and previous filing's Utah Filed Date;

(C) includes forms for informational purposes; if so, provide the Utah Filed Date; or

(D) does not include the base policy; if so, provide the Utah Filed Date of the base policy and describe the effect on the base policy.

(iv) Identify if any of the provisions are unusual, controversial, or have been previously objected to, or prohibited, and explain why the provision is included in the filing.

(c) Letter of Authorization.

(i) When the filer is not the licensee, a letter of authorization from the licensee must be attached to the supplementary documentation tab.

(ii) The licensee remains responsible for the filing being in compliance with Utah laws and rules.

(d) Refer to each applicable Section of this rule for additional procedures on how to submit forms, rates, and supplementary information.

(e) Items being submitted for filing. All items submitted for filing must be attached to the product forms tab.

(7) A complete EMAIL filing consists of the following when submitted by a bail bond agent or a service contract provider:

(a) The title of the EMAIL must display the company name only.

(b) Transmittal. The NAIC Uniform Property and Casualty Transmittal Document, as provided in R590-225-3(2), must be properly completed.

(i) COMPLETE THE TRANSMITTAL BY USING THE FOLLOWING:

(A) "NAIC Coding Matrix;"

(B) "NAIC Instruction Sheet;" and

(C) "Utah Property and Casualty Content Standards."

(ii) Do not submit the documents described in (A), (B), and (C) with the filing.

(c) Filing Description. Filing Description. Do not submit a cover letter. In section 21 of the transmittal, complete the Filing Description with the following information, presented in the order shown below.

(i) Certification.

(A) The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules.

(B) The following statement must be included in the filing description: "BY SUBMITTING THIS FILING I CERTIFY THAT THE ATTACHED FILING HAS BEEN COMPLETED IN ACCORDANCE WITH UTAH ADMINISTRATIVE RULE R590-225 AND IS IN COMPLIANCE WITH APPLICABLE UTAH LAWS AND RULES".

(C) A filing will be rejected if the certification is false, missing, or incomplete.

(D) A certification that is false may subject the licensee to administrative action.

(ii) Provide a description of the filing.

(iii) Indicate if the filing:

(A) is new;

(B) is replacing or modifying a previous submission; if so, describe the changes made, if previously rejected the reasons for rejection, and previous filing's Utah Filed Date;

(C) includes forms for informational purposes; if so, provide the Utah Filed Date; or

(iv) Identify if any of the provisions are unusual, controversial, or have been previously objected to, or prohibited, and explain why the provision is included in the filing.

(d) Letter of Authorization.

(i) When the filer is not the licensee, a letter of authorization from the licensee must be attached to the supplementary documentation tab.

(ii) The licensee remains responsible for the filing being in compliance with Utah laws and rules.

(e) Refer to each applicable Section of this rule for additional procedures on how to submit forms, rates, and supplementary information.

(f) Items being submitted for filing. Any items submitted for filing must be submitted in PDF format.

(8) A filing will be rejected if any of the information required is missing or incomplete.

R590-225-7. Procedures for Form Filings.

(1) Forms in general:

(a) Forms are "File And Use" filings. EXCEPTION: service contracts. Service contracts are "File Before Use".

(b) Each form must be identified by a unique form number. The form number may not be variable.

(c) A form must be in final printed form or printer's proof format. A draft may not be submitted.

(2) If you have authorized a Rate Service Organization (RSO) to make form filings on your behalf, no filing by you is required if you implement the filings as submitted by the RSO.

(a) A filing is required if you delay the effective date, non-adopt or alter the filing in any way.

(b) Your filing must be received by the department before the RSO effective date.

(c) We do not require that you attach copies of the RSO's forms when you reference a filing.

(3) If you have NOT authorized an RSO to file forms on your behalf, you must include, in your filing[-] a letter stating your intent to adopt any RSO forms for your use.

(a) Copies of the RSO forms are not required[-].

(b) ~~however, your~~ Your filing must include a complete list of the RSO forms you intend to adopt by form number, title/name and filing identification number of the RSO.

(4) A "Me Too" filing, referencing a filing submitted by another insurer, bail bond agency, or service contract provider is not permitted.

(5) If a previously filed Utah amendatory endorsement will be used in connection with the form being filed, explain this in the Filing Description section of the transmittal form and include a copy with the filing.

(6) If the filing is for more than one insurer and all insurers included in the filing have submitted a transmittal[-]:

(a) only one copy of each form is required[-].

~~_____~~ (b) ~~[However, if]~~ If the name of each respective company or unique insurer logo is printed on each separate set of the form, then a separate form must be filed for each insurer.

(7) Since a form may be used once it is "Filed" and must be "Filed" before it can be used, sold or offered for sale, you do not need to re-file or notify the department if the implementation date of the original filing changes.

RS90-225-8. Procedures for Rate and Supplementary Information Filings.

(1) Rates and supplementary information in general.

(a) Rates and supplementary information are "Use And File" filings. EXCEPTION: title and workers compensation rates and supplementary information are "File Before Use" filings.

(b) Service Contract Providers and Bail Bond ~~[Sureties,]~~ agencies, are exempt from this section.

(2) If you have authorized a Rate Service Organization (RSO) to make a prospective loss cost, supplementary information filing, or both, on your behalf, no filing by you is required if you implement the filing as submitted by the RSO.

~~_____~~ (a) A filing is required if you delay the effective date, non-adopt, or alter the filing in any way.

~~_____~~ (b) Any such filing must be received by the department within 30 days of the effective date established by the RSO.

~~_____~~ (c) We do not require that you attach copies of the RSO's manual pages when you reference an RSO filing.

(3) If you have NOT authorized an RSO to file the prospective loss cost, supplementary rating information, or both, on your behalf[-]

~~_____~~ (a) you must include in your filing a letter stating your intent to adopt the RSO prospective loss cost, supplementary rating information filing, or both.

~~_____~~ (b) You must file copies of any manual pages as if they were your own and provide your actuarial justification.

(4) A "Me Too" filing, referencing a filing submitted by another ~~[insurer]~~ licensee, is not permitted.

(5) If the filing is for more than one insurer and all insurers included in the filing have submitted a transmittal and the supporting data and manual pages are identical for each insurer included in the filing, only one copy of the supporting data and manual pages are required to be submitted.

(6) Rate and supplementary information filings must be supported and justified by each insurer.

~~_____~~ (a) Justification must include:

~~_____~~ (i) submission of all factors used in determining initial supplementary information and rates and

~~_____~~ (ii) ~~[along with]~~ a complete explanation as to the extent to which each factor has been used.

~~_____~~ (b) Underwriting criteria are not required unless they directly affect the rating of the policy.

~~_____~~ (c) Underwriting criteria used to differentiate between rating tiers is required.

(7) When submitting a filing for any kind of rating plan, rating modification plan, or credit and debit plan, an insurer must include in the filing:

(a) a statement identifying the arithmetic process to be used and whether factors will be added or multiplied when applying them to base rates; and

(b) justification for the method used.

(c) A filing will be rejected as incomplete if it fails to specifically provide this information.

(8) Utah and countrywide statistical data for the latest three years available must be submitted with each filing.

~~_____~~ (a) This data should include earned premiums, incurred losses, loss ratios, establishment of expense factors, and expected loss ratios.

~~_____~~ (b) Calculations involved in establishing rates from loss experience are to be exhibited including the establishment of trend factors, loss development factors, etc.

~~_____~~ (c) If any of the above information is not available, a detailed explanation of why must be provided with the filing.

(9) ~~[A rate]~~ Rate deviation, [and] prospective loss cost, and loss cost multiplier.

(a) In the past, a rate deviation filing was common.

~~_____~~ (i) A rate deviation consisted of a modification, usually a percentage decrease or increase, to a RSO manual rate or supplementary information.

~~_____~~ (ii) The justification was that an individual insurer could demonstrate experience, expense and profit factors different from the average experience, expense and profit contemplated in the RSO's manual rate.

(b) With the promulgation of a prospective loss cost, rate deviation ceased to exist.

~~_____~~ (i) There are no longer manual rates from which to deviate.

~~_____~~ (ii) Once an insurer has filed to implement the RSO prospective loss cost for a given line, company deviations previously filed became null and void.

~~_____~~ (iii) A filing of a straight percentage deviation is no longer applicable.

~~_____~~ (c) Loss cost multiplier.

~~_____~~ (i) An individual insurer adjustment to the RSO prospective loss cost must be made as part of the calculation of the loss cost multiplier and ~~[is]~~ must be included in the "Utah Insurer Loss Cost Multiplier Filing Forms."

~~_____~~ (ii) This form allows for the inclusion of an individual insurer modification of the RSO prospective loss cost.

(10) Procedures for Reference Filings to Advisory Prospective Loss Cost.

(a) An RSO does not usually file ~~[final]~~ an advisory rate that contains provisions for expenses, other than loss adjustment expenses[-] and profit.

~~_____~~ (i) An RSO develops and files with the commissioner a "Reference Filing" containing advisory prospective loss cost and supporting actuarial and statistical data.

~~_____~~ (ii) Each insurer must individually determine the rates it will file and the effective date of any rate changes.

(b) If an insurer that is a member, subscriber or service purchaser of any RSO determines to use the prospective loss cost in an RSO Reference Filing in support of its own filing, the insurer must make a filing using the "Utah Insurer Loss Cost Multiplier Filing Forms."

~~_____~~ (c) The insurer's filed rates are the combination of the RSO's prospective loss cost and the loss cost multiplier contained in the "Utah Insurer Loss Cost Multiplier Filing Forms."

~~[(e)]~~ (d) An insurer may file a modification of the prospective loss cost in the RSO Reference Filing based on its own anticipated experience.

~~_____~~ (e) Actuarial justification is required for a modification, upwards or downwards, of the prospective loss cost in the Reference Filing.

~~[(d)]~~ (f) An insurer may request to have its loss cost adjustments remain on file and reference all subsequent RSO prospective loss cost Reference Filings.

~~_____~~ (i) Upon receipt of subsequent RSO Reference Filings, the insurer's filed rates are the combination of the RSO's prospective loss

cost and the loss cost adjustments contained in the "Utah Insurer Loss Cost Multiplier Filing Forms" on file with the commissioner, and will be effective on the effective date of the prospective loss cost.

(ii) The insurer need not file anything further with the commissioner.

~~(g)~~(g) If the filer~~s~~ wants to have its filed loss cost adjustments remain on file with the commissioner, but intends to delay, modify, or not adopt a particular RSO's Reference Filing, the filer must make an appropriate filing with the commissioner.

~~(h)~~(h) An insurer's filed loss cost adjustments will remain in effect until the filer withdraws them or files a revised "Utah Insurer Loss Cost Multiplier Filing Form."

~~(i)~~(i) A filer may file such other information the filer deems relevant.

~~(j)~~(j) If an insurer wishes to use minimum premiums, it must file the minimum premiums it proposes to use.

(11) Supplementary Rate Information.

(a) The RSO files with the commissioner RSO filings containing a revision of rules, relativities and supplementary rate information. ~~These RSO filings include[s]:~~

(i) policy-writing rules~~s~~;

(ii) rating plans~~s~~;

(iii) classification codes and descriptions~~s~~; and

(iv) territory codes, descriptions, and rules, which include factors or relativities such as, increased limits factors, classification relativities or similar factors.

(b) These filings are made by the RSO on behalf of those insurers that have authorized the RSO to file rules, relativities and supplementary rating information on their behalf.

(c) An RSO may print and distribute a manual of rules, relativities and supplementary rating information.

(d) If an insurer has authorized an RSO to file on its behalf and the insurer decides to use the revisions and effective date then the insurer does NOT file anything with the commissioner.

(e) If an insurer has authorized an RSO to file on its behalf and the insurer decides to use the revisions as filed, BUT with a different effective date, then the insurer must notify the commissioner of ~~its~~the insurer's effective date within 30 days after the RSO's effective date.

(f) If an insurer has authorized an RSO to file on its behalf, but the insurer decides not to use the revision, then the insurer must notify the commissioner within 30-days after the RSO's effective date.

(g) If an insurer has authorized an RSO to file on its behalf, but the insurer decides to use the revision with modification, then within 30-days of the RSO's effective date the insurer must file the modification specifying the basis for the modification and the insurer's effective date.

(12) Consent-to-rate Filing.

(a) Subsection 31A-19a-203(6) allows an insurer to file a written application for a particular risk stating the insurer's reasons for using a higher rate than that otherwise applicable to a risk. ~~[This is called a "Consent to Rate" filing and must be filed.]~~

(b) The Filing Description must indicate that it is a consent-to-rate filing, show the filed rate, the proposed rate, and the reasons for the difference.

(13) Individual Risk Filing.

(a) R590-127, "Rate Filing Exemptions", provides for those circumstances when an Individual Risk filing is permitted.

(b) An individual risk filing must be filed with the commissioner.

(i) The filing shall consist of a copy of the Declarations Page, copies of any pertinent coverage forms and rating schedules, and premium development.

(ii) The Filing Description ~~shall~~must indicate that it is an individual risk filing, and contain the underwriter's explanation for the filing.

(14) Information Regarding Dividend Plan.

(a) Sections 31A-19a-210 and 31A-21-310 allow for dividend distributions.

(b) A plan or schedule for the distribution of a dividend[s] developed AFTER THE INCEPTION of a policy is NOT considered a rating plan and does not have to be filed according to the provisions of this rule.

~~(c) [However, all other plans or schedules]~~A plan or schedule for the distribution of a dividend applicable to an insurance policy FROM ITS INCEPTION are required to be filed pursuant to Section 31A-21-310.

(15) The Utah Insurance Code allows tiered rating plans within one insurer or insurer group with common ownership.

(a) A filing must show that the tiers are based on mutually exclusive underwriting rules, which are based on clear, objective criteria that would lead to a logical distinguishing of potential risk.

(b) A filing must provide supporting information that shows a clear distinction between the expected losses and expenses for each tier.

~~(c)~~(c) If an insurer group is using a tiered rating structure, the group of insurers cannot all file the same loss cost multiplier and then file standard percentage deviations.

(i) A difference must be demonstrated in the loss cost multiplier formula, either as a modification of the RSO prospective loss cost or in the insurer expense factor.

(ii) An individual insurer adjustment or modification must be supported by actuarial data which establishes a reasonable standard for measuring probable insurer variations in historical or prospective experience, underwriting standards, expense and profit factors.

R590-225-9. Additional Procedures for Workers Compensation Rate Filings.

The following are additional procedures for workers' compensation rate filings:

(1) Rates and supplementary information must be filed 30 days before they can be used.

(2)(a) Each insurer must individually determine the rates it will file.

(b) Filed rates.

(i) An insurer's workers' compensation filed rates are the combination of the most current prospective loss cost filed by the designated rate service organization and the insurers loss cost adjustment, known as the loss cost multiplier (LCM), as calculated and filed using the "Utah Worker's Compensation Insurer Loss Cost Multiplier Filing Form[s]."

~~(ii)~~(ii) Each insurer must implement the designated rate service organization's current prospective loss cost on the effective date assigned by the designated rate service organization. INSURERS MAY NOT DEFER NOR DELAY ADOPTION.

~~(iii)~~(iii) An insurer's filed loss cost multiplier will remain in effect until the insurer withdraws it or files a new loss cost multiplier.

(iv) Upon receipt of subsequent designated rate service organization reference filings, the insurer's filed rates are the combination of the designated RSO's prospective loss cost and the loss cost multiplier contained in the insurer's most current "Utah Loss Cost Multiplier Filing Form" on file with the department.

~~(3)~~(3) An insurer may file a modification to the designated rate service organization prospective loss cost in the subject reference filing based on its own anticipated experience. Supporting documentation

will be required for any modifications, upwards or downwards, of the designated rate service organization prospective loss cost.

~~[(6)](4)~~ An insurer may vary expense loads by individual classification or grouping. An insurer may use variable or fixed expense loads or a combination of these to establish its expense loadings. However, an insurer is required to file data in accordance with the uniform statistical plan filed by the designated rate service organization.

~~[(7)](5)~~ When submitting a filing for a workers compensation rating plan, a rating modification plan, or a credit and debit plan, an insurer must include in the filing the following or it will be rejected as incomplete:

(a) a statement identifying the arithmetic process to be used and whether factors will be added or multiplied when applying them to base rates; and

(b) justification for the method used.

~~[(8)](6)~~ To the extent that an insurer's rates are determined solely by applying its loss cost multiplier, as presented in the "Utah Worker's Compensation Insurer Loss Cost Multiplier Filing Forms" to the prospective loss cost contained in a designated rate service organization reference filing and printed in the designated rate service organization's rating manual, the insurer need not develop or file its rate pages with the commissioner. If an insurer chooses to print and distribute rate pages for its own use, based solely upon the application of its filed loss cost multiplier, the insurer need not file those pages with the insurance commissioner.

R590-225-10. Additional Procedures for Title Rate Filings.

(1) Title rate and a supplementary information filing are "File Before Use" filings. Rates and supplementary information shall be filed with the commissioner 30 days prior to use.

(2) Each change or amendment to any schedule of rates shall state the effective date of the change or amendment, which may not be less than 30 days after the date of filing. Any change or amendment remains in force for a period of at least 90 days from its effective date.

(3) Supplementary information and rate filings must be supported and justified by each insurer. Justification must include submission of all factors used in determining initial supplementary information and rates or changes in existing supplementary information and rates along with a complete explanation as to the extent to which each factor has been used.

(4) Rates that vary by risk classification such as extended coverage or standard coverage, and all discount factors, such as refinance, subdivision, or construction for purpose of resale discounts, must be supported by differences in expected losses or expenses.

(5) No rate may be filed or used which would require the title insurer or any title agency or producer to operate at less than the cost of doing business or adequately underwriting the title insurance policies.

R590-225-11. ~~Electronic Filings.~~

~~A filer, submitting an electronic filing, must follow the requirements for both the electronic system and this rule, as applicable.~~

R590-225-12. ~~Correspondence, and Status [Request][Checks][,] [and Responses.]~~

(1) Correspondence. When corresponding with the department, provide sufficient information to identify the original filing:

- (a) type of insurance;
- (b) date of filing; and

(c) ~~[form numbers; and~~

~~—(d) copy of the original transmittal.]~~ Submission method, SERFF, SIRCON or email; and

~~—(d) tracking number~~

(2) Status Checks.

~~—(a) A filer can request the status of its filing by telephone, or email 60 days after the date of submission.~~

~~—(b) A complete filing is usually processed within 45 days of receipt. A response should be received within that time.~~

~~[(3) Response to an Order. A response to an order must include:~~

~~—(a) a response cover letter identifying the changes made;~~

~~—(b) a copy of the prohibition letter;~~

~~—(c) one copy of the revised documents with all changes highlighted; and~~

~~—(d) return notification materials, which consist of a copy of the response cover letter and a self-addressed stamped envelope.~~

~~—(4) Rejected Filing.~~

~~—(a) A rejected filing is NOT considered filed. If resubmitted it is considered a new filing.~~

~~—(b) If resubmitting a previously rejected filing, the new filing must include a copy of the rejection notice.]~~

R590-225-12. Responses.

(1) Response to a Filing Objection Letter. A response to a filing objection letter must include:

—(a) a cover letter identifying the changes made;

—(b) revised documents with all changes highlighted, and

—(c) revised documents incorporating all changes without highlights.

(3) Response to an Order to Prohibit Use.

—(a) An Order to Prohibit Use becomes final 15 days after the date of the Order.

—(b) Use of the filing must be discontinued not later than the date specified in the Order.

—(c) To contest an Order to Prohibit Use, the commissioner must receive a written request for a hearing no later than 15 days after the date of the Order.

—(d) A new filing is required if the company chooses to make the requested changes addressed in the original Filing Objection Letter. The new filing must reference the previously prohibited filing.

R590-225-13. Penalties.

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

R590-225-14. Enforcement Date.

~~[The commissioner will begin enforcing the provisions of this rule April 1, 2004.]~~The commissioner will begin enforcing the revised provisions of this rule 30 days from the effective date of this rule.

R590-225-15. Severability.

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

KEY: property casualty insurance filing

Date of Enactment or Last Substantive Amendment: [January 22, 2007]

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-2-201.1; 31A-2-202; 31A-19a-203

◆ ————— ◆

Insurance, Administration R590-227 Submission of Annuity Filings

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29951

FILED: 05/15/2007, 17:09

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Based on a need to store filings electronically and an increasing number of electronic filings, a policy change was made to require only electronic filings.

SUMMARY OF THE RULE OR CHANGE: The rule changes set standards for electronic filing. While reviewing the rule, numerous format and grammatical changes were made to enhance clarity.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document," dated March 1, 2007; "NAIC Uniform Life, Accident and Health, Annuity and Credit Coding Matrix," dated March 1, 2007; "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document (Instructions)," dated March 1, 2007; "Utah Annuity Filing Certification," dated July 2007; "Utah Life and Annuity Group Questionnaire," dated July 2007; and "Utah Life and Annuity Request for Discretionary Group Authorization," dated July 2007

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There will be a mid-term savings due to reduced need to store paper and an immediate savings in time and workload due to less incoming mail and the need to handle paper filings. There will be no change in the fees coming into the department.

❖ **LOCAL GOVERNMENTS:** The changes to this rule will have no effect on local governments since it deals solely with the relationship between the department and their licensees.

❖ **OTHER PERSONS:** For those insurers not already filing electronically there will be a transaction fee of \$6 to \$15 per filing. Some of this will be offset by the elimination of printing and mailing costs. There will be minimal, if any, fiscal impact on consumers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: For those insurers not already filing electronically there will be a transaction fee of \$6 to \$15 per filing. Some of this will be offset by the

elimination of printing and mailing costs. There will be minimal, if any, fiscal impact on consumers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impact of these changes on annuity insurers will be minimal and will vary according to the size and number of filings an insurer sends to the department. Kent Michie, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/09/2007

AUTHORIZED BY: Jilene Whitby, Information Specialist

—————

**R590. Insurance, Administration.
R590-227. Submission of Annuity Filings.
R590-227-1. Authority.**

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

R590-227-2. Purpose and Scope.

(1) The purpose of this rule is to set forth the procedures for submitting annuity filings under Section 31A-21-201.

(2) This rule applies to:

(a) all types of individual and group annuities, variable annuities; and

(b) group annuity contracts issued to nonresident contract holders, including trusts, when Utah residents are provided coverage by certificates.

R590-227-3. Incorporation by Reference.

(1) The department requires that documents described in this rule ~~must~~ shall be used for all filings.

(a) Actual copies may be used or you may adapt them to your word processing system.

(b) If adapted, the content, size, font, and format must be similar.

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

(a) "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document," dated ~~January 1, 2006~~ March 1, 2007.

(b) "NAIC Uniform Life, Accident and Health, Annuity and Credit Coding Matrix," dated ~~January 1, 2006~~ March 1, 2007.

(c) "NAIC ~~[Instruction Sheet for]~~ Life, Accident and Health, Annuity, Credit Transmittal Document ~~(Instructions)~~," dated ~~[January 1, 2006]~~ March 1, 2007.

~~[(d)]~~ "NAIC ~~Instruction Sheet for Life, Accident and Health, Annuity, Credit Transmittal Document Form Filing Attachment~~," dated ~~January 1, 2006~~.

~~[(e)]~~ ~~(d)~~ "Utah Annuity Filing Certification," dated ~~[June 2006]~~ July 2007.

~~[(f)]~~ ~~(e)~~ "Utah Life and Annuity Group Questionnaire," dated ~~[June 2006]~~ July 2007.

~~[(g)]~~ ~~(f)~~ "Utah Life and Annuity Request for Discretionary Group Authorization," dated ~~[June 2006]~~ July 2007.

R590-227-4. Definitions.

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

(1) "Certification" means a statement that the filing being submitted is in compliance with Utah laws and rules.

(2) "Contract" means the annuity policy including attached endorsements and riders;

(3) "Data page" means the page or pages in a contract or certificate that provide the specific data for the annuitant detailing the coverage provided and may be titled by the insurer as contract data page, specifications page, contract schedule, etc.

(4) "Discretionary group" means a group that has been specifically authorized by the commissioner under Section 31A-22-509.

(5) "Electronic Filing" means:

(a) a filing submitted via the Internet by using the "System for Electronic Rate and Form Filings" (SERFF) System; or

(b) a filing submitted via the Internet by using the Sircon system;

or

(c) a filing submitted via an email system.

~~[(5)]~~ ~~(6)~~ "Eligible group" means a group that meets the definitions in Sections 31A-22-502 through 31A-22-508.

~~[(6)]~~ ~~(7)~~ "Endorsement" means a written agreement attached to an annuity contract that alters a provision of the contract, for example, a name change endorsement and a tax qualification endorsement.

~~[(7)]~~ ~~(8)~~ "File and Use" means a filing can be used, sold, or offered for sale after it has been filed with the department.

~~[(8)]~~ ~~(9)~~ "Filer" means a person or entity that submits a filing.

~~[(9)]~~ ~~(10)~~ "Filing," when used as a noun, means an item required to be filed with the department including:

(a) a contract;

(b) a form;

(c) a document;

(d) an application;

(e) a report;

(f) a certificate;

(g) an endorsement;

(h) a rider; and

(i) an actuarial memorandum, demonstration, and certification.

(11) "Filing Objection Letter" means a letter issued by the commissioner when a review has determined the filing fails to comply with Utah law and rules. The filing objection letter, in addition to requiring correction to non-compliant items, may request clarification or additional information pertaining to the filing.

~~[(10)]~~ ~~(12)~~ "Filing status information" means a list of the states to which the filing was submitted, the date submitted, and the states' actions, including their responses.

~~[(11)]~~ ~~(13)~~ "Issue Ages" means the range of minimum and maximum ages for which a contract or certificate will be issued.

~~[(12)]~~ ~~(14)~~ "Letter of Authorization" means a letter signed by an officer of the insurer on whose behalf the filing is submitted that designates filing authority to the filer.

~~[(13)]~~ ~~(15)~~ "Market type" means the type of contract that indicates the targeted market such as individual or group.

~~[(14)]~~ ~~(16)~~ "Order to Prohibit Use" means an order issued by the commissioner that ~~[forbids]~~ prohibits the use of a filing.

~~[(15)]~~ ~~(17)~~ "Rejected" means a filing is:

(a) not submitted in accordance with applicable laws or rules;

(b) returned to the insurer by the department with the reasons for rejection; and

(c) not considered filed with the department.

~~[(16)]~~ ~~(18)~~ "Rider" means a written agreement attached to an annuity contract or certificate that adds a benefit, for example, a waiver of surrender charge, a guaranteed minimum withdrawal benefit and a guaranteed minimum income benefit.

~~[(17)]~~ ~~(19)~~ "Type of insurance" means a specific type of annuity including, but not limited to, equity indexed annuity, single premium immediate annuity, modified guaranteed annuity, deferred annuity, or variable annuity. ~~[Refer to the NAIC Coding Matrix.]~~

(20) "Utah Filed Date" means the date provide to a filer by the Utah Insurance Department, that indicates a filing has been accepted pursuant to Subsection 7.

R590-227-5. General Filing Information.

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

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

(3) A filing that does not comply with this rule ~~[may]~~ will be rejected and returned to the filer. A rejected filing:

(a) is not considered filed with the department[-];

(b) must be submitted as a new filing; and

(c) will not be reopened for purposes of resubmission.

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

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

(a) ~~[F]~~ F filings may be reviewed:

(i) when submitted;

(ii) as a result of a complaint;

(iii) during a regulatory examination or investigation; or

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

(b) If a filing is reviewed and is ~~[found to be]~~ not in compliance with Utah laws and rules, A Filing Objection Letter or an [ORDER TO PROHIBIT USE] Order To Prohibit Use will be issued to the filer. The commissioner may require the filer to disclose deficiencies in forms or rating practices to affected ~~[contract holders]~~ insureds.

(6) Filing Correction.

(a) Filing corrections are considered informational.

(b) Filing corrections must be submitted within 30 days of the date the original filing was submitted to the department.

~~[(a) No filing transmittal is required when making a correction to a misspelled word and punctuation in a filing. The filing will be considered an informational filing.]~~

~~_____~~ (b) ~~No transmittal is required when a clerical correction is made to a previous filing if submitted within 30 days of the date filed with the department. The filer must reference the original filing [or include a copy of the original transmittal].~~

(c) A new filing is required if a ~~[clerical] filing correction is made more than 30 days after the date [filed with the] original filing was submitted to department. The filer must reference the original filing [or include a copy of the original transmittal].~~

~~_____~~ (7) If responding to a Filing Objection Letter or an Order to Prohibit Use, refer to R590-227-12 for instructions.

~~(7)~~(8) Filing withdrawal. A filer must notify the department when withdrawing a previously filed form, rate, or supplementary information.

R590-227-6. Filing Submission Requirements.

~~_____~~ (1) All filings must be submitted as an electronic filing.

~~_____~~ (2) A ~~[F]~~ filings must be submitted by market type and type of insurance.

~~_____~~ (3) A filing may not include more than one type of insurance, or request filing for more than one insurer. ~~[A complete filing consists of the following documents and submitted in the following order:]~~

~~_____~~ (4) SERFF Filings.

~~_____~~ (a) Filing Description. Do not submit a cover letter. On the general information tab, complete the Filing Description section with the following information, presented in the order shown below.

~~_____~~ (i) Provide a description of the filing.

~~_____~~ (ii) Indicate if the filing:

~~_____~~ (A) is new;

~~_____~~ (B) is replacing or modifying a previous submission; if so, describe the changes made, if previously rejected the reasons for rejection, and the previous filing's Utah Filed Date;

~~_____~~ (C) includes forms for informational purposes; if so, provide the Utah Filed Date; or

~~_____~~ (D) does not include the base policy; if so, provide the Utah Filed Date of the base policy and describe the effect on the base policy.

~~_____~~ (iii) Identify if any of the provisions are unusual, controversial, or have been previously objected to, or prohibited, and explain why the provision is included in the filing.

~~_____~~ (iv) Explain any change in benefits or premiums that may occur while the contract is in force.

~~_____~~ (v) List the issue ages, which means the range of minimum and maximum ages for which a policy will be issued.

~~_____~~ (vi) List the minimum initial premium.

~~_____~~ (vii) Identify the intended market for the filing, such as senior citizens, nonprofit organizations, association members, corporate owned, bank owned, etc.

~~_____~~ (b) Certification. The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules. The "Utah Annuity Filing Certification" must be properly completed, signed, and attached to the supporting documentation tab. A false certification may subject the licensee or filer to administrative action.

~~_____~~ (c) Domiciliary Approval and Filing Status Information. All filings for a foreign insurer must include on the supporting documentation tab:

~~_____~~ (i) copy of domicile approval for the exact same filing;

~~_____~~ (ii) filing status information which includes:

~~_____~~ (A) a list of the states to which the filing was submitted;

~~_____~~ (B) the date submitted; and

~~_____~~ (C) summary of the states' actions and their responses; or

~~_____~~ (iii) if the filing is specific to Utah and only filed in Utah, then state, "UTAH SPECIFIC - NOT SUBMITTED TO ANY OTHER STATE."

~~_____~~ (d) Group Questionnaire or Discretionary Group Authorization Letter. A group filing must attach to the supporting documentation tab either a:

~~_____~~ (i) signed and fully completed "Utah Life and Annuity Group Questionnaire"; or

~~_____~~ (ii) copy of the Utah Life and Annuity Discretionary Group Authorization letter.

~~_____~~ (e) Letter of Authorization.

~~_____~~ (i) When the filer is not the insurer, a letter of authorization from the insurer must be attached to the supplementary documentation tab.

~~_____~~ (ii) The insurer remains responsible for the filing being in compliance with Utah laws and rules.

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

~~_____~~ (g) Annuity Report. All annuity filings must include a sample annuity annual report.

~~_____~~ (h) Items being submitted for filing.

~~_____~~ (i) Any forms must be attached to the form schedule tab.

~~_____~~ (ii) Any rating documentation, including actuarial memorandums and rate schedules, must be attached to the rate/rule schedule.

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

~~_____~~ (A) description of the coverage in detail;

~~_____~~ (B) demonstration of compliance with applicable nonforfeiture and valuation laws; and

~~_____~~ (C) a certification of compliance with Utah law.

~~_____~~ (5) Sircon Filings.

~~(4)~~(a) Transmittal. ~~[Note: Based on the use of the NAIC Transmittal Document, a cover letter is not required.]~~ The "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document," as provided in R590-227-3, must be ~~[used]~~ properly completed.

~~_____~~ (i) Complete the transmittal by using the following:

~~_____~~ (A) NAIC Life, Accident and Health, Annuity, Credit Transmittal Document (Instruction); and ~~[It can be found at www.insurance.utah.gov/LH_Trans.pdf]~~

~~_____~~ (a)(B) [COMPLETE THE TRANSMITTAL BY USING THE FOLLOWING:

~~_____~~ (i) "NAIC Uniform Life, Accident and Health, Annuity and Credit Coding Matrix"~~[²]~~.

~~_____~~ [www.insurance.utah.gov/LifeA&H_Matrix.pdf];

~~_____~~ (ii) "NAIC" Instruction Sheet"

~~_____~~ www.insurance.utah.gov/LH_Trans_Inst.pdf;

~~_____~~ (iii) "Life Content Standards"

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

~~_____~~ (iv)(ii) Do not submit the documents described in ~~[s]~~Section (a)(i)(A) and (B) ~~[-(ii), and (iii)]~~ with ~~[a]~~the filing.

~~_____~~ (b) Filing Description ~~[Section]~~. Do not submit a cover letter. In Section 15 of the transmittal, complete the Filing Description with ~~[The]~~ following information ~~[must be included in the Filing~~

Description Section of the NAIC transmittal and must be presented in the order shown below[;].

~~(i) Domiciliary Approval and Filing Status Information. Foreign insurers and filers must first submit filings to their domicile state. All filings must include domicile and filing status information.~~

~~— (A) If a filing was submitted to the domicile state, provide a stamped copy of the approval letter from the domicile state for the exact same filing; and~~

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

~~— (I) a list of the states to which the filing was submitted;~~

~~— (II) the date submitted;~~

~~— (III) the states' actions and their responses.~~

~~— (C) If the filing is specific to Utah and only filed in Utah, then Section 14 of the transmittal must be completed stating, "UTAH SPECIFIC - NOT SUBMITTED TO ANY OTHER STATE."~~

~~— (ii) Marketing Facts:~~

~~— (A) List the issue ages.~~

~~— (B) List the minimum initial premium.~~

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

~~— (D) Describe the marketing and advertising in detail, i.e. individually solicited through licensed producers, marketed through a marketing association, financial institutions, Internet, or telemarketing.~~

~~— (iii) Description of Filing:~~

~~— (A)(i) Provide a [detailed] description [of the purpose] of the filing.~~

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

~~— (C) Identify any new, unusual, or controversial provisions:~~

~~— (ii) Indicate if the filing:~~

~~— (A) is new;~~

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

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

~~— (F) If the filing (B) is replacing or modifying a previous submission[;], if so, describe the changes made, if previously rejected the reasons for rejection, and the previous filing's Utah Filed Date:~~

~~— (C) [provide information that identifies the filing being replaced or modified, the Utah filed date, and a detailed description of the changes and highlight the changed provisions.~~

~~— (G) If the filing includes forms for informational purposes[;], if so, provide the Utah Filed Date; or [dates the forms were filed.]~~

~~— (D) does not include the base policy; if so, provide the Utah Filed Date of the base policy and~~

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

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

~~— (iii) Identify if any of the provisions are unusual, controversial, or have been previously objected to, or prohibited, and explain why the provision is included in the filing.~~

~~— (iv) Explain any change in benefits or premiums that may occur while the contract is in force.~~

~~— (v) List the issue Ages, which means the range of minimum and maximum ages for which a policy will be issued.~~

~~— (vi) List the minimum initial premium.~~

~~— (vii) Identify the intended market for the filing, such as senior citizens, nonprofit organizations, association members, corporate owned, bank owned, etc.~~

~~— (2)(c) Certification. The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules. [In addition to completing the certification on the NAIC transmittal, the filer must complete and submit -] [t] The "Utah Annuity Filing Certification" must be properly completed and signed. [A filing will be rejected if the certification is missing or incomplete. —] A false certification [that is inaccurate] may subject the licensee or filer to administrative action.~~

~~— (d) Domiciliary Approval and Filing Status Information. All filings for a foreign insurer must include:~~

~~— (i) a copy of domicile approval for the exact same filing;~~

~~— (ii) a filing status information which includes:~~

~~— (A) a list of the states to which the filing was submitted;~~

~~— (B) the date submitted; and~~

~~— (C) summary of the states' actions and their responses; or~~

~~— (iii) if the filing is specific to Utah and only filed in Utah, then section 14 of the transmittal must be completed stating, "UTAH SPECIFIC - NOT SUBMITTED TO ANY OTHER STATE."~~

~~— (3)(e) Group Questionnaire or Discretionary Group Authorization Letter. All group filings must attach [identify each type of group, and include] either a:~~

~~— (i) signed and fully completed "Utah Life and Annuity Group Questionnaire"[;] or~~

~~— (ii) copy of the "Utah Life and Annuity Discretionary Group Authorization letter".~~

~~— (4)(f) Letter of Authorization.~~

~~— (i) When [if] the filer is not the insurer, a letter of authorization from the insurer must be included.~~

~~— (ii) The insurer remains responsible for the filing being in compliance with Utah laws and rules.~~

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

~~— (6)(h) Items being submitted for filing. Any form items submitted for filing must be attached to the product forms tab. [Refer to each applicable subsection of this rule for general procedures and additional procedures on how to submit forms and reports.~~

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

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

~~— (a)(i) description of the coverage in detail;~~

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

~~— (c)(iii) a certification of compliance with Utah law.~~

~~— (9) Return Notification Materials:~~

~~— (a) Return notification materials are limited to:~~

~~— (i) a copy of the transmittal; and~~

- (ii) a self-addressed, stamped envelope.
- (b) Notice of filing will not be provided unless return notification materials are submitted.]
- (6) Refer to each applicable Section of this rule for additional procedures on how to submit forms and reports.

R590-227-7. Procedures for Filings.

- (1) Forms in General.
- (a) Forms are "File and Use" filings.
- (b) Each form must [:-
- (i)] be identified by a unique form number[:]. The form number may not be variable. [and
- (ii)] (c) [e] Contain a descriptive title on the cover page.
- [— (c) The form number and the policy cover page descriptive title may not be variable.
-] (d) Forms must be in final printed form or printer's proof format. Drafts may not be submitted.
- (e) Specific sections may be filed with variable data by placing brackets around affected information. Variable data must be identified within the specific section, or on a separate sheet included with the submission.
- (f) Blank spaces within [F]the form must be completed in John Doe fashion to accurately represent the intended market, purpose, and use.
- (i) If the market intended is for the senior age market, the form must be completed with data representative of senior annuitants.
- (ii) All John Doe data in the forms including the data page must be accurate and consistent with the actuarial memorandum, the application, and any marketing materials, as applicable.
- [— (iii) When submitting a rider or endorsement, include a sample data page that includes the rider or endorsement information.
- (iv) Forms may include variable data. All variable data must be identified within the brackets or a statement of variability must be included with the submission.
-] (2) Application Filing.
- (a) Each application or enrollment form may be submitted as a separate filing or may be filed with its related policy or certificate filing.
- (b) If an application has been previously filed or is filed separately, an informational copy of the application must be included with the policy or certificate filing.
- [2] (3) Contract Filing[s].
- (a) Each type of annuity must be filed separately.
- (b) A contract filing consists of one contract form, [for a single type of insurance-] including its related forms, such as an application, data page, rider or endorsement, and an actuarial memorandum.
- [4] (c) A data page must be included with every contract filing.
- [e] (d) Only one contract form for a single type of insurance may be [submitted] filed.
- [4] (e) A data page that changes the basic feature of the contract may not be filed without including the entire contract form in the filing. Separate data page filings without the contract form will be rejected as incomplete.
- [3] (4) Rider or Endorsement Filings.
- (a) Related riders or endorsements may be filed together [as a single filing].
- (b) A single rider or endorsement that affects multiple [related] forms may be filed if the Filing Description [must] reference[s] all affected [contract-] forms.
- (c) A rider or endorsement that is based on morbidity risks such as critical illness or long-term care, is considered accident and health

insurance and must be filed in accordance with Rule R590-220, "Accident and Health Insurance Filings".

(d) The filing must include:

- (i) a listing of all base contract form numbers, title and [dates filed with the]Utah Filed Dates; and [Insurance Department.]
- (ii) a description of how each filed rider or endorsement affects the base contract.
- (iii) a sample data page with data for the submitted form.
- (e) Unrelated endorsements may not be filed together.
- [— (4) Application Filings. Each application or enrollment form may be submitted as a separate filing or may be filed with its related contract or certificate filing. If an application has been previously filed or is filed separately, an informational copy of the application must be included with a contract or certificate filing.
-]]

R590-227-11. [Electronic Filings.

— Filers submitting electronic filings must follow the requirements for both the electronic system and this rule, as applicable.

R590-227-12. [Correspondence, [Inquiries, and Responses] and Status Checks.

- (1) Correspondence. When corresponding with the department, filers must provide sufficient information to identify the original filing:
- (a) type of insurance;
- (b) date of filing;
- (c) form numbers; [and]
- (d) submission method, SERFF or Sircon; and [copy of the original transmittal.]
- (e) tracking number.
- (2) Status Checks. A complete filing is usually processed within 45 days of receipt. A [F]filers may request the status of [their]its filing by telephone, or email 60 days after the date of submission.

R590-227-12. Responses.

- (1) Response to a Filing Objection Letter. A response to a Filing Objection Letter must include:
- (a) a cover letter identifying all changes made;
- (b) revised documents with all changes highlighted; and
- (c) revised documents incorporating all changes without highlights.
- (2) Response to an Order to Prohibit Use.
- (a) An Order to Prohibit Use becomes final 15 days after the date of the Order.
- (b) Use of the filing must be discontinued not later than the date specified in the Order.
- (c) To contest an Order to Prohibit Use, the commissioner must receive a written request for a hearing not later than 15 days after the date of the Order.
- (d) A new filing is required if the company chooses to make the requested change addressed in the Filing Objection Letter. The new filing must reference the previously prohibited filing.
- [— (3) Response to an Order.
- (a) A response to an order must include:
- (i) a response cover letter identifying the changes made;
- (ii) a copy of the Order to Prohibit Use;
- (iii) one copy of the revised documents with all changes highlighted; and
- (iv) return notification materials, which consist of a copy of the response cover letter and a self-addressed stamped envelope.

- ~~— (4) Rejected Filings.~~
- ~~— (a) A rejected filing is NOT considered filed. If resubmitted it is considered a new filing.~~
- ~~— (b) If resubmitting a previously rejected filing, the new filing must include a copy of the rejection notice.~~

]
R590-227-13. Penalties.

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

R590-227-14. Enforcement Date.

The commissioner will begin enforcing the revised provisions of this rule upon the effective date of this.

R590-227-15. Severability.

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

KEY: annuity insurance filings

Date of Enactment or Last Substantive Amendment: ~~September 7, 2006~~ 2007

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

◆ ————— ◆
**Judicial Conduct Commission,
 Administration
 R595-2-1
 Executive Committee**

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 29924
 FILED: 05/07/2007, 14:30

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to specifically provide that the Judicial Conduct Commission's executive committee has the authority to investigate and resolve complaints filed against the Commission's executive director or staff.

SUMMARY OF THE RULE OR CHANGE: This amendment adds, as a specified responsibility of the Judicial Conduct Commission's executive committee, the authority to investigate and resolve complaints against the Commission's executive director or staff.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article VIII, Section 13; and Subsection 78-8-107(11)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The rule change will have no anticipated cost or savings to the state budget. The rule change only applies to the internal administration of the

Judicial Conduct Commission, and not to any other agency, business, or person.

❖ **LOCAL GOVERNMENTS:** The rule change will have no anticipated cost or savings on local government. The rule change only applies to the internal administration of the Judicial Conduct Commission, and not to any other agency, business, or person.

❖ **OTHER PERSONS:** The rule change will have no anticipated cost or savings on other persons. The rule change only applies to the internal administration of the Judicial Conduct Commission, and not to any other agency, business, or person.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The rule change will have no compliance costs for affected persons. The rule change only applies to the internal administration of the Judicial Conduct Commission, and not to any other agency, business, or person.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule change will have no anticipated cost or savings on businesses. The rule change only applies to the internal administration of the Judicial Conduct Commission, and not to any other agency, business or person. Colin Winchester, Executive Director

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

JUDICIAL CONDUCT COMMISSION
 ADMINISTRATION
 2540 Washington Blvd
 7th Floor
 OGDEN 84401, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Colin Winchester at the above address, by phone at 801-626-3369, by FAX at 801-626-3390, or by Internet E-mail at cwinchester@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/09/2007

AUTHORIZED BY: Colin Winchester, Director

**R595. Judicial Conduct Commission, Administration.
 R595-2. Administration.
 R595-2-1. Executive Committee.**

A. There is hereby established an executive committee of the Commission, comprised of the following three members of the Commission, all elected by the Commission: one legislator, one judge or member of the Utah State Bar, and one public member. The Commission chair shall serve as one of the members of, and as chair of, the executive committee.

B. The terms of committee members shall be two years. Committee members may be elected to subsequent terms.

- C. The executive committee may:
1. recommend to the Commission the hiring or termination of the executive director;
 2. hire and terminate the employment of other Commission staff;
 3. approve the contracts of contract investigators;
 4. recommend to the Commission salary increases for the executive director and other Commission staff; ~~and~~
 5. investigate and resolve complaints against the executive director or Commission staff; and
 6. perform other administrative duties as assigned by the Commission.

KEY: judicial conduct commission
Date of Enactment or Last Substantive Amendment: ~~February 1, 2005~~ **2007**
Authorizing, and Implemented or Interpreted Law: Art. VIII, Sec. 13; 78-8-101 through 78-8-108



Labor Commission, Industrial Accidents
R612-2-27
Commission Approval of Health Care Treatment Protocol

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 29948
 FILED: 05/15/2007, 16:47

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule establishes the standards the Commission will apply in determining whether to approve contracts between health care providers and insurance carriers or self-insured employers regarding protocols for health care treatment of injured workers under Utah's workers' compensation system.

SUMMARY OF THE RULE OR CHANGE: This rule defines the terms "scientifically based" and "peer reviewed" as those terms are used in Subsections 34A-2-111(2)(c)(i)(B)(VII)(Aa) and (Bb). The rule also establishes requirements for periodic updating, pricing, accessibility, and disclosure of sources for such health care treatment protocols. Finally, the rule establishes the procedure for obtaining Commission approval or disapproval of a treatment protocol.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 34A-2-111(2)(c)(i)(B)(VII)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The administrative and adjudicative costs of implementing this rule can be absorbed within the Labor Commission's existing budget. With respect to costs or savings to the state in its capacity as an employer, the use of health care treatment protocols by the state's workers' compensation insurance carrier should reduce the carrier's medical expenses on behalf of the State. These medical savings will, in turn, reduce the state's insurance costs. The

Commission cannot quantify the amount of such savings at this time.

❖ **LOCAL GOVERNMENTS:** Local governments do not have any administrative or adjudicative responsibilities relative to this rule and will not experience any savings or costs in those areas. With respect to costs or savings to local governments in their capacities as employers, the use of health care treatment protocols by local governments should reduce their workers' compensation medical expenses. The Commission cannot quantify the amount of such savings at this time.

❖ **OTHER PERSONS:** The use of health care treatment protocols by other persons should reduce their workers' compensation medical expenses. The Commission cannot quantify the amount of such savings at this time. Medical providers who currently receive fees for services that will no longer be authorized under approved health care treatment protocols will experience a corresponding reduction in income.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Commission estimates that the purchase price for a set of health care treatment protocols will cost approximately \$250.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Increasing medical costs are the single most significant cost driver in Utah's workers' compensation system. The health care treatment protocols that are the subject of this rule will have the effect of removing unnecessary medical treatment from the system. This will have a positive fiscal impact for employers and businesses in Utah. Sherrie Hayashi, Commissioner

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

LABOR COMMISSION
 INDUSTRIAL ACCIDENTS
 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:

Joyce Sewell at the above address, by phone at 801-530-6988, by FAX at 801-530-6804, or by Internet E-mail at jsewell@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/10/2007

AUTHORIZED BY: Sherrie Hayashi, Commissioner



R612. Labor Commission, Industrial Accidents.
R612-2. Workers' Compensation Rules-Health Care Providers.
R612-2-27. Commission Approval of Health Care Treatment Protocol.

A. Authority. Pursuant to authority granted by Section 34A-2-111(2)(c)(i)(B)(VII) of the Utah Workers' Compensation Act, the

Utah Labor Commission establishes the following standards and procedures for Commission approval of medical treatment and quality care guidelines.

B. Standards:

1. Scientifically based: Section 34A-2-11(2)(c)(i)(B)(VII)(Aa) of the Act requires that guidelines be scientifically based. The Commission will consider a guideline to be "scientifically based" when it is supported by medical studies and/or research.

2. Peer reviewed: Section 34A-2-11(2)(c)(i)(B)(VII)(Bb) of the Act requires that guidelines be peer reviewed. The Commission will consider a guideline to be "peer reviewed" when the medical study's content, methodology, and results have been reviewed and approved prior to publication by an editorial board of qualified experts".

3. Other standards: Pursuant to its rule-making authority under Section 34A-2-11(2)(c)(i)(B)(VII), the Utah Labor Commission establishes the following additional standards for medical treatment and quality care guidelines.

a. The guidelines must be periodically updated and, subject to Commission discretion, may not be approved for use unless updated in whole or in part at least biannually;

b. Guideline sources must be identified;

c. The guidelines must be reasonably priced;

d. The guidelines must be easily accessible in print and electronic versions.

C. Procedure: Pursuant to Section 34A-2-11(2)(c)(i)(B)(VII) of the Utah Workers' Compensation Act, a party seeking Commission action to approve or disapprove a guideline shall file a petition for such action with the Labor Commission.

KEY: workers' compensation, fees, medical practitioner

Date of Enactment or Last Substantive Amendment: ~~July 11, 2006~~2007

Notice of Continuation: May 28, 2003

Authorizing, and Implemented or Interpreted Law: 34A-2-101 et seq.; 34A-3-101 et seq.; 34A-1-104

◆ ————— ◆

**Natural Resources, Parks and
Recreation
R651-207-1
Yearly Registration Fee**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE No.: 29913
FILED: 05/03/2007, 07:04

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to increase annual boating registration fee from \$10 to \$25.

SUMMARY OF THE RULE OR CHANGE: The fee has been fixed since 1987 and was recently opened once again. The increased costs have severely affected the boating restricted

fund and the boating program. By increasing fees, revenues would increase replenishing the boating restricted fund and helping to meet operating costs. Some of the revenue would also be dedicated to future capital projects and improvements.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 73-18-7(2)(b)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** Recreating boaters will pay more for their annual vessel registration by \$15 per year. That would mean an additional \$750,000 or more in revenues generated to replenish the boating restricted fund and update costs of operation. The State Parks Board approved of this increase when they compared it to other outdoor recreational costs.

❖ **LOCAL GOVERNMENTS:** This is a state boating program and there is no anticipated cost or savings to local government.

❖ **OTHER PERSONS:** Those with vessels who wish to recreate on Utah waters, will pay an increase of \$15 annual fee. So the annual registration fee will be \$25 as approved by the Board of State Parks and Recreation.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Those who do not register their vessels run the risk of being cited by a ranger/law enforcement officer for having no registration for their vessel.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule amendment should have minimum effect on businesses. Michael Styler, Executive Director

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/09/2007

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

**R651. Natural Resources, Parks and Recreation.
R651-207. Registration Fee.
R651-207-1. Yearly Registration Fee.**

The registration fee shall be [~~\$10~~]**\$25** per year.

KEY: boating**Date of Enactment or Last Substantive Amendment:** ~~[1987]~~July 9, 2007**Notice of Continuation:** April 18, 2006**Authorizing, and Implemented or Interpreted Law:** 73-18-7(2)

Natural Resources, Parks and
Recreation
R651-611
Fee Schedule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29914

FILED: 05/03/2007, 07:07

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Electrical costs have increased significantly and the local campgrounds are charging a much higher fee for overnight with electrical hookups. The installation of electrical hookups for the camping sites at Dead Horse Point State Park has significantly increased visitation. With that visitation comes increased demand and the increase in electrical charges needs to be addressed in this rule. By increasing the overnight camping fee at Dead Horse Point State Park, the park will be able to recover the increase in electrical costs and bring camping fees in line with the current market without affecting demand. At Wasatch/Soldier Hollow Golf courses the increases for nine holes to the general public and an increase in the motorized cart for nine holes (single rider) will bring the costs more in line with the expenses to the State.

SUMMARY OF THE RULE OR CHANGE: By increasing the overnight camping fee at Dead Horse Point State Park from \$15 to \$20, the park will be able to recover the increase in electrical costs and bring camping fees in line with the current market without affecting demand. At Wasatch/Soldier Hollow Golf courses, an increase of \$1 from \$12.50 to \$13.50 for nine holes to the general public and a \$1 increase in the motorized cart for nine holes (single rider) from \$6 to \$7 will bring the costs more in line with the expenses to the state.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63-11-17(8)(a)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: An increase in fees will result in an estimated \$150,000 in golf revenues, and approximately \$13,000 in camping revenue.
- ❖ LOCAL GOVERNMENTS: These changes are effective to state golf courses and state park camping facilities, and there are no aggregate anticipated costs or savings to local government.
- ❖ OTHER PERSONS: The public utilizing Dead Horse Point State Park camping facilities will pay \$5 more for their camping recreation there. There are no hard numbers to

report, but there will be figures after a season with the new charges. Those who golf at Wasatch Mountain State Park will pay \$1 more for nine holes and \$1 more for a motorized cart per nine holes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Those recreators who wish to utilize the camping electrical hookup sites at Dead Horse Point State Park will pay more for their fees to do so, from \$15 with no electrical hookups, to the new and improved electrical hookups at \$20. Those utilizing the golfing facilities at Wasatch Mountain/Soldier Hollow will pay more for their golfing by \$1 (\$12.50 to \$13.50), and a motorized cart for nine holes will also be increased by \$1 (\$6 to \$7).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule amendment should have no effect on businesses. Michael Styler, Executive Director

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/09/2007

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

R651. Natural Resources, Parks and Recreation.**R651-611. Fee Schedule.****R651-611-3. Camping Fees.**

Permits overnight camping and day use for the day of arrival until 2:00 p.m. of the following day or each successive day. Camp sites must be vacated by 12:00 noon following the last camping night at Dead Horse Point. Camping is limited to 14 consecutive days at all campgrounds with the exception of Snow Canyon State Park, with a five (5) consecutive day limit.

A. Individual Sites -- One (1) vehicle with up to eight (8) occupants and any attached recreational equipment as one (1) independent camp unit. Fees for individual sites are based on the following schedule:

1. \$9.00 with pit or vault toilets; \$12.00 with flush toilets; \$15.00 with flush toilets and showers or electrical hookups; \$18.00 with flush toilets, showers and electrical hookups; (Dead Horse Point, electrical hookups - \$20); \$21.00 with full hookups.

2. Primitive camping fees may be decreased at the park manager's discretion dependent upon the developed state of the facilities to be used by park visitors. Notification of the change must be made to the Division's financial manager and reservations manager before the reduced fee can be made effective.

3. Special Fun Tag holders may receive a \$2.00 discount for individual camping sites Monday through Thursday nights, excluding holidays.

4. One-half the campsite fee rounded up to the nearest dollar will be charged per vehicle at all parks and individual camping sites for all additional transportation vehicles that are separate and not attached to the primary vehicle, but are dependent upon that unit. No more than one additional vehicle is allowed at any individual campsite. This fee is not applicable at primitive campsites.

B. Group Sites - (by advance reservation for groups)

1. \$2.00 per person, age six (6) and over at sites with vault toilets. Minimum \$50.00 fee for each facility.

2. \$3.00 per person, age six (6) and over at sites with flush toilets and/or pavilions. Minimum \$75.00 fee for each facility.

R651-611-4. Special Fees.

A. Golf Course Fees

1. Palisade rental and green fees.

a. Nine holes general public - weekends and holidays - \$12.00

b. Nine holes weekdays (except holidays) - \$10.00

c. Nine holes Jr/Sr weekdays (except holidays) - \$8.00

d. 20 round card pass - \$160.00

e. 20 round card pass (Jr only) - \$100.00

f. Promotional pass - single person (any day) - \$450.00

g. Promotional pass - single person (weekdays only) - \$300.00

h. Promotional pass - couples (any day) - \$650.00

i. Promotional pass - family (any day) - \$850.00

j. Companion fee - walking, non -player - \$4.00

k. Motorized cart (18 holes) - \$10.00

l. Motorized cart (9 holes) - \$5.00

m. Pull carts (9 holes) - \$2.00

n. Club rental (9 holes) - \$5.00

o. School teams - No fee for practice rounds with coach and team roster. Tournaments are \$3.00 per player.

p. Driving range - small bucket - \$2.50

q. Driving range - large bucket - \$3.50

2. Wasatch Mountain and Soldier Hollow rental and green fees.

a. Nine holes general public - [~~\$12.50~~]\$13.50

b. Nine holes general public (weekends and holidays) - \$13.50

c. Nine holes Jr/Sr weekdays (except holidays) - \$11.00

d. 20 round card pass - \$220.00 - no holidays or weekends

e. Annual Promotional Pass (except holidays) - \$1,000.00

f. Companion fee - walking, non-player - \$4.00

g. Motorized cart (9 holes - mandatory on Mt. course) - \$13.00

h. Motorized cart (9 holes single rider) - [~~\$6.00~~]\$7.00

i. Pull carts (9 holes) - \$2.25

j. Club rental (9 holes) - \$6.00

k. School teams - No fee for practice rounds with coach and team roster (Wasatch County only).

Tournaments are \$3.00 per player.

l. Tournament fee (per player) - \$5.00

m. Driving range - small bucket - \$2.50

n. Driving range - large bucket - \$5.00

o. Advance tee time booking surcharge - \$15.00

3. Green River rental and green fees.

a. Nine holes general public - \$10.00

b. Nine holes Jr/Sr weekdays (except holidays) - \$8.00

c. Eighteen holes general public - \$16.00

d. 20 round card pass - \$140.00

e. Promotional pass - single person (any day) - \$350.00

f. Promotional pass - personal golf cart - \$350.00

g. Promotional pass - single person (Jr/Sr weekdays) - \$275.00

h. Promotional pass - couple (any day) - \$600.00

i. Promotional pass - family (any day) - \$750.00

j. Companion fee - walking, non-player - \$4.00

k. Motorized cart (9 holes) - \$10.00

l. Motorized cart (9 holes single rider) - \$5.00

m. Pull carts (9 holes) - \$2.25

n. Club rental (9 holes) - \$5.00

o. School teams - No fee for practice rounds with coach and team roster. Tournaments are \$3.00 per player.

4. Golf course hours are daylight to dark

5. No private, motorized golf carts are allowed, except where authorized by existing contractual agreement.

6. Jr golfers are 17 years and under. Sr golfers are 62 and older.

B. Boat Mooring and Dry Storage

1. Mooring Fees:

a. Day Use - \$5.00

b. Overnight Boat Parking - \$7.00 (until 8:00 a.m.)

c. Overnight Boat Camping - \$15.00 (until 2:00 p.m.)

d. Monthly - \$4.00/ft.

e. Monthly with Utilities - (Bear Lake) \$6.00/ft.

f. Monthly with Utilities - (Other Parks) \$5.00/ft.

g. Monthly Off Season - \$2.00/ft

h. Monthly (Off Season with utilities) - \$3.00/ft

2. Dry Storage Fees:

a. Overnight (until 2:00 p.m.) - \$5.00

b. Monthly During Season - \$75.00

c. Monthly Off Season - \$50.00

d. Monthly (unsecured) - \$25.00

C. Application Fees - Non -refundable PLUS Negotiated Costs.

1. Grazing Permit - \$20.00

2. Easement - \$250.00

3. Construction/Maintenance - \$50.00

4. Special Use Permit - \$50.00

5. Commercial Filming - \$50.00

6. Waiting List - \$10.00

D. Assessment and Assignment Fees.

1. Duplicate Document - \$10.00

2. Contract Assignment - \$20.00

3. Returned checks - \$20.00

4. Staff time - \$40.00/hour

5. Equipment - \$30.00/hour

6. Vehicle - \$20.00/hour

7. Researcher - \$5.00/hour

8. Photo copy - \$.10/each

9. Fee collection - \$10.00

KEY: parks, fees

Date of Enactment or Last Substantive Amendment: [~~January 1, 2006~~]July 9, 2007

Notice of Continuation: February 13, 2006

Authorizing, and Implemented or Interpreted Law: 63-11-17(8)



Natural Resources, Wildlife Resources

R657-5

Taking Big Game

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 29923
FILED: 05/07/2007, 14:12

RULE ANALYSIS

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

SUMMARY OF THE RULE OR CHANGE: The proposed amendments to this rule: 1) reduce the big game hunting age from 14 to 12, pursuant to H.B. 67 passed during the 2007 general session of the Utah State Legislature; 2) prohibit a person under the age of 14 from obtaining premium limited entry, limited entry, once-in-a-lifetime and cooperative wildlife management unit permits or bonus points, pursuant to H.B. 67 passed during the 2007 general session of the Utah State Legislature; 3) change the antlerless drawing application procedure to reflect online process only; and 4) make technical corrections for consistency and accuracy. (DAR NOTE: H.B. 67 (2007) is found at Chapter 139, Laws of Utah 2007, and was effective 04/30/2007.)

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

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** This amendment reduces the age requirement for hunting big game, prohibits young hunters from applying for certain permits, and creates an online application process. Since this amendment reduces the age requirement to hunt big game it has the potential to expand the number of applicants applying for and obtaining big game permits. However, the Division of Wildlife Resources (DWR) determines that these amendments do not create a cost or savings impact to the state budget or DWR's budget, since the changes will not increase workload and can be carried out with existing budget.

❖ **LOCAL GOVERNMENTS:** Since this amendment reduces the age requirement to hunt big game it has the potential to expand the number of applicants applying for and obtaining big game permits. This amendment has the potential to increase the amount of hunters traveling to and purchasing products from local businesses, however this should have little to no effect on the local government. This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ **OTHER PERSONS:** This amendment reduces the age requirement for hunting big game, prohibits young hunters from applying for certain permits, and creates an online

application process. Since this amendment reduces the age requirement to hunt big game it has the potential to expand the number of applicants applying for and obtaining big game permits. This may expand the number of people purchasing licenses/goods and services at license agents. Therefore, the amendments have the potential to generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR determines that these amendments will create additional costs for young hunters who decide to participate in hunting big game. Participation is voluntary and the rule amendments do not create a cost or savings impact to individuals who do not participate in hunting big game.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule have a potential to create an impact on businesses. Michael R. Styler, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/09/2007

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources. R657-5. Taking Big Game.

R657-5-4. Age Requirements and Restrictions.

(1)(a) ~~[A] Subject to the exceptions in subsection (c), a person~~ [4]12 years of age or older may ~~[purchase] apply for or obtain~~ a permit ~~and tag~~ to hunt big game. A person ~~[13]11~~ years of age may ~~[purchase] apply for~~ a permit ~~and tag~~ to hunt big game if that person's ~~[14]12~~th birthday falls within the calendar year for which the permit ~~and tag are~~ is issued.

(b) A person may not use a permit to hunt big game before their 12th birthday.

(c) A person who is younger than 14 years of age may not apply for or obtain the following types of big game permits issued by the division through a public drawing:

(i) premium limited entry;

(ii) limited entry;

(iii) once-in-a-lifetime; and

(iv) cooperative wildlife management unit.

~~(d) A person who is 13 years of age may apply for or obtain a type of permit listed in Subsection(1)(c) if that person's 14th birthday falls within the calendar year for which the permit is issued.~~

~~(e) antlerless deer, antlerless elk, and doe pronghorn permits are not limited entry, premium limited entry or cooperative wildlife management unit permits for purposes of determining a 12 or 13 year olds eligibility to apply for or obtain through a public drawing administered by the division.~~

(2)(a) A person at least ~~[14]~~12 years of age and under 16 years of age must be accompanied by his parent or legal guardian, or other responsible person 21 years of age or older and approved by his parent or guardian, while hunting big game with any weapon.

(b) As used in this section, "accompanied" means at a distance within which visual and verbal communication are maintained for the purposes of advising and assisting.

R657-5-57. Antlerless Application - Deadlines.

(1) Applications are available ~~[from license agents, division offices, and]~~through the division's Internet address.

(2) Residents may apply for, and draw the following permits, except as provided in Subsection (5):

- (a) antlerless deer;
- (b) antlerless elk;
- (c) doe pronghorn; and
- (d) antlerless moose.

(3) Nonresidents may apply in the drawing for, and draw the following permits, except as provided in Subsection (5):

- (a) antlerless deer;
- (b) antlerless elk;
- (c) doe pronghorn; and
- (d) antlerless moose, if permits are available during the current year.

(4) A youth may apply in the antlerless drawing as provided in Subsection (3) or Subsection R657-5-59(3).

(5) Any person who has obtained a pronghorn permit, or a moose permit may not apply for a doe pronghorn permit or antlerless moose permit, respectively, except as provided in Section R657-5-61.

(6) A person may not submit more than one application in the antlerless drawing per each species as provided in Subsections (2) and (3).

(7) Only a resident may apply for or obtain a resident permit and only a nonresident may apply for or obtain a nonresident permit, except as provided in Subsection R657-5-59(4) and Section R657-5-61.

(8)(a) Applications must be ~~[mailed]~~submitted online by the date prescribed in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.~~[-Applications filled out incorrectly or received later than the date prescribed in the Antlerless Addendum to the Bucks, Bulls and Once In A Lifetime Proclamation of the Wildlife Board for taking big game may be rejected.]~~

(b) If an error is found on an application, the applicant may be contacted for correction.

~~(9)(a) Late applications, received by the date published in the Antlerless Addendum to the Bucks, Bulls and Once In A Lifetime Proclamation, will not be considered in the drawing, but will be processed for the purpose of entering data into the division's draw data base to provide:~~

- ~~— (i) future preprinted applications;~~

~~— (ii) notification by mail of late application and other draw opportunities; and~~

~~— (iii) re-evaluation of division or third party errors.~~

~~— (b) The nonrefundable handling fee will be used to process the late application. Any permit fees submitted with the application will be refunded.~~

~~— (c) Late applications received after the date published in the Antlerless Addendum to the Bucks, Bulls and Once In A Lifetime Proclamation shall not be processed and shall be returned to the applicant.~~

~~— (10) Any person who applies for a hunt that occurs on private land is responsible for obtaining written permission from the landowner to access the property. To avoid disappointment and wasting the permit and fee if access is not obtained, hunters should get written permission before applying. The division does not guarantee access and does not have the names of landowners where hunts occur.~~

~~(11) To apply for a resident permit, a person must establish residency at the time of purchase.~~

~~(12) The posting date of the drawing shall be considered the purchase date of a permit.~~

R657-5-58. Fees for Antlerless Applications.

~~[Each application must include the permit fee and a nonrefundable handling fee for each species applied for, except when applying with a credit or debit card, the]The permit fees and handling fees must be paid pursuant to Rule R657-42-8(5).~~

R657-5-60. Antlerless Application Refunds.

(1) Unsuccessful applicants~~[- who applied with a check or money order will receive a refund in August.~~

~~— (2)(a) Unsuccessful applicants, who applied with a credit or debit card,] will not be charged for a permit.~~

~~[(b) Unsuccessful applicants, who applied as a group, will receive an equally distributed refund of money remaining after the successful applicants' permits are paid for in accordance with Section R657-5-26(6).]~~

~~— (3) The handling fees are nonrefundable.~~

KEY: wildlife, game laws, big game seasons

Date of Enactment or Last Substantive Amendment: [April 9,]2007

Notice of Continuation: November 21, 2005

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19; 23-16-5; 23-16-6



Tax Commission, Administration

R861-1A-41

Date of Assessment Pursuant to Ann.

Sections 59-1-302.1 and 59-1-706

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29941

FILED: 05/14/2007, 15:29

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The current statutes provide assessment date only for corporate and individual income tax, but not for all other tax types. The assessment date is necessary for tax lien purposes.

SUMMARY OF THE RULE OR CHANGE: The proposed section indicates that a liability is assessed on the day the liability is posted to the records of the Commission; it also provides exceptions to the general rule for audits and interest.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-1-302.1 and 59-1-706

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** Minimal increase--The proposed section clarifies assessment date for all tax types so that all others are on notice of Tax Commission liens on assets, and aware of the Tax Commission's superiority on liens from the date forward.

❖ **LOCAL GOVERNMENTS:** Minimal increase--The proposed section clarifies assessment date for all tax types so that all others are on notice of Tax Commission liens on assets, and aware of the Tax Commission's superiority on liens from the date forward.

❖ **OTHER PERSONS:** Minimal increase--The proposed section clarifies assessment date for all tax types so that all others are on notice of Tax Commission liens on assets, and aware of the Tax Commission's superiority on liens from the date forward.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The assessment date is relevant in determining which creditor is entitled to a person's assets.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated impacts. An assessment date is necessary for tax lien purposes in determining which creditor is entitled to a persons assets. D'Arcy Dixon, Commissioner

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

TAX COMMISSION
ADMINISTRATION
210 N 1950 W
SALT LAKE CITY UT 84134-0002, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/09/2007

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R861. Tax Commission, Administration.**R861-1A. Administrative Procedures.****R861-1A-41. Date of Assessment Pursuant to Utah Code Ann. Sections 59-1-302.1 and 59-1-706.**

(1) Except as provided in Subsections (2) and (3), "assessment date" means the date the tax liability is posted to the records of the commission.

(2) For purposes of a tax liability determined through an audit and for which a notice of deficiency has been mailed to the taxpayer, "assessment date" means:

(a) if a petition for redetermination has not been filed, the date:

(i) 30 days after a notice of deficiency has been mailed to the taxpayer;

(ii) 90 days after a notice of deficiency has been mailed to the taxpayer if the notice is addressed to a person outside the United States or District of Columbia; or

(iii) the taxpayer agrees with the commission, in writing, on the existence and amount of a tax liability, and consents to the assessment of the tax liability; or

(b) if a petition for redetermination has been filed, the date a tax liability resulting from a final commission decision is posted to the records of the commission.

(3) In the case of interest charged to a taxpayer, "assessment date" means the assessment date of the underlying tax liability.

(4) For purposes of Subsection (2), "deficiency" is defined as:

(a) provided in Section 59-7-516 in the case of a tax imposed under Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(b) provided in Section 59-10-523 in the case of a tax imposed under Title 59, Chapter 10, Individual Income Tax Act; or

(c) unless otherwise provided in statute, the amount by which the tax imposed exceeds the excess of:

(I) the sum of:

(A)(i) the amount shown as the tax by the taxpayer upon his return, if the return was made by the taxpayer and if an amount was shown on the return as the tax by the taxpayer; or

(ii) zero, if no return is filed, or the return does not show any tax; and

(B) amounts previously assessed (or collected without assessment) as a deficiency; less

(II) amounts previously abated, refunded, or otherwise repaid in respect of that tax.

(5) For purposes of Subsection (2), a notice of deficiency shall:

(a) be mailed by the commission as provided in Subsection 59-7-517(1)(a) in the case of a tax imposed under Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(b) be mailed by the commission as provided in Subsections 59-10-524(1) and (2) in the case of a tax imposed under Title 59, Chapter 10, Individual Income Tax Act; or

(c)(i)(A) unless otherwise required by statute, be mailed to the taxpayer at the taxpayer's last-known address if the commission determines that there is a deficiency in a tax; and

(ii) set forth the details of the deficiency and the manner of its computation.

(6) The commission may, at any time within the period prescribed for assessment, make a supplemental assessment if it is ascertained that an assessment is imperfect or incomplete in any material respect.

(7) The provisions of this rule apply to all taxes and fees collected by the commission unless otherwise provided by statute.

KEY: developmentally disabled, grievance procedures, taxation, disclosure requirements

Date of Enactment or Last Substantive Amendment: ~~February 12,~~ 2007

Notice of Continuation: March 20, 2007

Authorizing, and Implemented or Interpreted Law: 59-1-302.1; 59-1-706

◆ ————— ◆

Tax Commission, Auditing R865-19S-58

Materials and Supplies Sold to Owners, Contractors and Repairmen of Real Property Pursuant to Utah Code Ann. Sections 59-12-102 and 59-12-103

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 29942
FILED: 05/14/2007, 15:39

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment is necessary to provide guidance as to what constitutes "attachment" in the specific instance of telephone or communications equipment and associated wires and lines.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment indicates when telephone or communications equipment and associated wires and lines remain tangible personal property even when attached to real property.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-12-102 and 59-12-103

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** Insignificant cost--Those who were treating this property as real property would have collected sales tax on their labor. Others were always treating this property as tangible personal property.
- ❖ **LOCAL GOVERNMENTS:** Insignificant cost--Those who were treating this property as real property would have collected sales tax on their labor. Others were always treating this property as tangible personal property.
- ❖ **OTHER PERSONS:** Insignificant savings if purchasing this property from a seller that treated it as real property.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendment will make it easier for a retailer that provides telephone or communications systems to determine whether the seller is selling tangible personal property subject to sales tax, or is the final consumer of property and must pay sales tax on the purchase.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It will be easier to determine who owes sales tax. D'Arcy Dixon, Commissioner

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/09/2007

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R865. Tax Commission, Auditing.

R865-19S. Sales and Use Tax.

R865-19S-58. Materials and Supplies Sold to Owners, Contractors and Repairmen of Real Property Pursuant to Utah Code Ann. Sections 59-12-102 and 59-12-103.

~~[A-](1)~~ Sales of construction materials and other items of tangible personal property to real property contractors and repairmen of real property are generally subject to tax if the contractor or repairman converts the materials or items to real property.

~~[1-](a)~~ "Construction materials" include items of tangible personal property such as lumber, bricks, nails and cement that are used to construct buildings, structures or improvements on the land and typically lose their separate identity as personal property once incorporated into the real property.

~~[2-](b)~~ Fixtures or other items of tangible personal property such as furnaces, built-in air conditioning systems, built-in appliances, or other items that are appurtenant to or incorporated into real property and that become an integral part of a real property improvement are treated as construction materials for purposes of this rule.

~~[B-](2)~~ The sale of real property is not subject to sales tax, nor is the labor performed on real property. For example, the sale of a completed home or building is not subject to the tax, but sales of materials and supplies to contractors for use in building the home or building are taxable transactions as sales to final consumers.

~~[1-](a)~~ The contractor or repairman who converts the personal property to real property is the consumer of tangible personal property regardless of the type of contract entered into--whether it is a lump sum, time and material, or a cost-plus contract.

~~[2-](b)~~ Except as otherwise provided in ~~[B-4]Subsection (2)(d)~~, the contractor or repairman who converts the construction materials, fixtures or other items to real property is the consumer of the personal property whether the contract is performed for an individual, a religious or charitable institution, or a government entity.

~~[3-](c)~~ Sales of construction materials or fixtures made to religious or charitable institutions are exempt only if the items are sold as tangible personal property.

~~[4-](d)~~ Sales of materials are considered made to religious or charitable institutions and, therefore, exempt from sales tax, if:

~~[a-](i)~~ the religious or charitable institution makes payment for the materials directly to the vendor; or

~~[b-](ii)(A)~~ the materials are purchased on behalf of the religious or charitable institution.

~~[c-](B)~~ Materials are purchased on behalf of the religious or charitable institution if the materials are clearly identified and segregated and installed or converted to real property owned by the religious or charitable institution.

~~[5-](e)~~ Purchases not made pursuant to ~~[B-4-]Subsection (2)(d)~~ are assumed to have been made by the contractor and are subject to sales tax.

~~[C-](3)~~ If the contractor or repairman purchases all materials and supplies from vendors who collect the Utah tax, no sales tax license is required unless the contractor makes direct sales of tangible personal property in addition to the work on real property.

~~[1-](a)~~ If direct sales are made, the contractor shall obtain a sales tax license and collect tax on all sales of tangible personal property to final consumers.

~~[2-](b)~~ The contractor must accrue and remit tax on all merchandise bought tax-free and converted to real property. Books and records must be kept to account for both material sold and material consumed.

~~[D-](4)~~ This rule does not apply to contracts where the retailer sells and installs personal property that does not become part of the real property. Examples of items that remain tangible personal property even when attached to real property are:

~~[1-](a)~~ moveable items that are attached to real property merely for stability or for an obvious temporary purpose;

~~[2-](b)~~ manufacturing equipment and machinery and essential accessories appurtenant to the manufacturing equipment and machinery; ~~and~~

~~[3-](c)~~ items installed for the benefit of the trade or business conducted on the property that are affixed in a manner that facilitates removal without substantial damage to the real property or to the item itself; ~~and~~

~~(d) telephone or communications equipment and associated wire and lines if the equipment, wire, and lines:~~

~~(i) are provided as part of a single transaction;~~

~~(ii) that are part of real property are an incidental portion of the transaction;~~

~~(iii) are primarily used for the operation of a telephone system or a communications system;~~

~~(iv) are installed for the benefit of the trade or business conducted on the property; and~~

~~(v) are attached to real property in a manner such that their removal from the real property does not cause substantial damage to the equipment, wire, or lines or to the real property to which they are attached.~~

KEY: charities, tax exemptions, religious activities, sales tax
Date of Enactment or Last Substantive Amendment:
~~November 17, 2006~~ **2007**
Notice of Continuation: March 13, 2007

Authorizing, and Implemented or Interpreted Law: 59-12-102; 59-12-103

Tax Commission, Auditing

R865-20T-2

Methods of Paying Taxes on Cigarettes and Tobacco Products Pursuant to Utah Code Ann. Sections 59-14-205 and 59-14-303

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29943

FILED: 05/14/2007, 16:11

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The section is deleted because the procedures for consumers to pay cigarette tax have been codified by H.B. 37 (2007). (DAR NOTE: H.B. 37 (2007) is found at Chapter 6, Laws of Utah 2007, and was effective 02/14/2007.)

SUMMARY OF THE RULE OR CHANGE: The section is deleted as it is no longer necessary.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-14-205 and 59-14-303

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--Any fiscal impact was taken into account in H.B. 37 (2007).

❖ LOCAL GOVERNMENTS: None--Any fiscal impact was taken into account in H.B. 37 (2007).

❖ OTHER PERSONS: None--Any fiscal impact was taken into account in H.B. 37 (2007).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Consumers who buy untaxed cigarettes over the internet are required to pay cigarette taxes. This rule had indicated when and how that tax was to be paid. Those provisions have been transferred to statute.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated impacts. D'Arcy Dixon, Commissioner

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY
 SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER
 THAN 5:00 PM on 07/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/09/2007

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R865. Tax Commission, Auditing.
R865-20T. Tobacco Tax.
~~[R865-20T-2. Methods of Paying Taxes on Cigarettes and Tobacco
 Products Pursuant to Utah Code Ann. Sections 59-14-205 and 59-
 14-303.~~

- ~~— A. If the tax is due as a result of use, storage, or consumption of
 imported cigarettes, the tax may be paid by affixing stamps or by filing
 a return prescribed by the Tax Commission.~~
- ~~— 1. This return must be filed and the tax must be paid within 15
 days from the date of use, storage, or consumption unless application is
 made to the Tax Commission for permission to file returns and pay the
 tax on a monthly basis.~~
- ~~— 2. Monthly returns are due, together with the payment of the tax,
 on or before the 15th day of the month following the calendar month
 during which the cigarettes were imported.~~
- ~~— 3. Monthly returns must be filed even though no tax is due.~~
- ~~— B. Quarterly returns required under Section 59-14-303 shall
 include all purchases of tobacco products during the preceding quarter,
 with no adjustment for inventories on hand at the end of the quarter.]~~

KEY: taxation, tobacco products
Date of Enactment or Last Substantive Amendment: [February
12,]2007
Notice of Continuation: March 19, 2007
Authorizing, and Implemented or Interpreted Law: 59-14-204
through 59-14-206; 59-14-301 through 59-14-303



**Tax Commission, Motor Vehicle
 Enforcement**
R877-23V-4
License Holder Prohibitions Pursuant to
Utah Code Ann. Section 41-3-210

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 29940
 FILED: 05/14/2007, 14:22

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The section
 is deleted because rule language was codified by S.B. 138

(2007) or is already in statute. (DAR NOTE: S.B. 138 (2007)
 is found at Chapter 322, Laws of Utah 2007, and was effective
 04/30/2007.)

SUMMARY OF THE RULE OR CHANGE: The section is deleted since
 all language that was in the rule appears in statute.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS
 RULE: Section 41-3-210

- ANTICIPATED COST OR SAVINGS TO:
- ❖ THE STATE BUDGET: None--Language that is in statute is
 deleted.
 - ❖ LOCAL GOVERNMENTS: None--Language that is in statute is
 deleted.
 - ❖ OTHER PERSONS: None--Language that is in statute is
 deleted.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The
 amendment is because the rule language appears in statute.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE
 RULE MAY HAVE ON BUSINESSES: There are no anticipated
 impacts. D'Arcy Dixon, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR
 BUSINESS HOURS, AT:
 TAX COMMISSION
 MOTOR VEHICLE ENFORCEMENT
 210 N 1950 W
 SALT LAKE CITY UT 84134, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Cheryl Lee at the above address, by phone at 801-297-3900,
 by FAX at 801-297-3919, or by Internet E-mail at
 clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY
 SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER
 THAN 5:00 PM on 07/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/09/2007

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R877. Tax Commission, Motor Vehicle Enforcement.
R877-23V. Motor Vehicle Enforcement.
~~[R877-23V-4. License Holder Prohibitions Pursuant to Utah Code
 Ann. Section 41-3-210.~~

- ~~— A. A person holding a dealer's license may not:~~
- ~~— 1. employ a person who has not obtained a salesperson's license to
 act as a salesperson for that dealer;~~
- ~~— 2. enter into a contract, agreement, or owner-finder plan with a
 person who has not obtained a salesperson's license to act as a
 salesperson for that dealer; or~~
- ~~— 3. encourage or conspire with any person who has not obtained a
 salesperson's license to:~~
- ~~— a) act as a salesperson or agent;~~

~~— b) solicit for prospective purchasers; or~~
~~— c) negotiate or assist in any way in the negotiation of a sale of a motor vehicle for a salary, commission, or compensation of any kind.]~~

KEY: taxation, motor vehicles

Date of Enactment or Last Substantive Amendment:
~~[September 15, 2006]~~2007

Notice of Continuation: March 14, 2007

Authorizing, and Implemented or Interpreted Law: 41-3-210



Tax Commission, Motor Vehicle
 Enforcement
R877-23V-8
 Signs and Identification Pursuant to
 Utah Code Ann. Section 41-3-105

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 29938

FILED: 05/14/2007, 13:37

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment repeals rule language that was codified in S.B. 138 (2007). (DAR NOTE: S.B. 138 (2007) is found at Chapter 322, Laws of Utah 2007, and was effective 04/30/2007.)

SUMMARY OF THE RULE OR CHANGE: The proposed amendment deletes language specifying signage of vehicles used to transport salvage vehicles or parts on the highways. This language has been codified.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 41-3-105

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--Any fiscal impact was taken into account in S.B. 138 (2007).
- ❖ LOCAL GOVERNMENTS: None--Any fiscal impact was taken into account in S.B. 138 (2007).
- ❖ OTHER PERSONS: None--Any fiscal impact was taken into account in S.B. 138 (2007).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Language was moved from rule to statute.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated impacts. D'Arcy Dixon, Commissioner

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

TAX COMMISSION
 MOTOR VEHICLE ENFORCEMENT
 210 N 1950 W

SALT LAKE CITY UT 84134, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/09/2007

AUTHORIZED BY: D'Arcy Dixon, Commissioner

**R877. Tax Commission, Motor Vehicle Enforcement.
 R877-23V. Motor Vehicle Enforcement.
 R877-23V-8. Signs and Identification Pursuant to Utah Code Ann. Section 41-3-105.**

~~[A-](1)~~ Every dealer, dismantler, manufacturer, remanufacturer, transporter, crusher, and body shop must post a sign at its principal place of business.

~~[B-](2)~~ The sign required under ~~[A-]Subsection (1)~~ shall:
~~[1-](a)~~ plainly display in a permanent manner the name under which the business is licensed;

~~[2-](b)~~ be ~~[not less than]~~at least 24 square feet in size, unless required otherwise, in writing, by a government entity; and

~~[3-](c)~~ be painted on the building, attached to the building with nails or bolts, or affixed to posts that have been securely anchored in the ground.

~~[C-](3)~~ A similar sign must be conspicuously posted at each additional place of business and must show, in addition, the address of the principal place of business. All signs must remain posted at each place of business and on the office. If the office is not located at the site on which the motor vehicles are displayed or offered for sale or exchange, the bonded dealer number, dismantler number, or manufacturer number must also be conspicuously displayed either on the sign or on the building.

~~[D-](4)~~ If the additional place of business is an auto show or similar business that will conduct business for ten days or less, the sign need only show the licensee's name as licensed by the division and be of a size that reasonably identifies the licensee.

~~[E. Every dismantler, body shop, crusher, and dealer engaged in the business of dismantling motor vehicles for the sale of parts or salvage shall identify any vehicles or equipment used by the dismantler, body shop, crusher, or dealer for transporting salvage or parts on the highways. This identification shall include the name, address, and dismantler, body shop, crusher, or dealer number of the licensee, and shall be conspicuously displayed on both sides of the vehicle or equipment in letters and numerals not less than two inches in height.~~

~~— F-](5)~~ No place of business may be operated under a name other than that by which the licensee is licensed by the division. No sign may be posted at a place of business that shows a business name other than the one licensed by the division or gives the impression that the business is other than the one licensed by the division. However, a sign containing a variation of the licensee's name, if a variation of the licensee's name is required by a manufacturer in writing, may be posted as long as the sign containing the licensed name is more prominent.

~~G.](6)~~ Documents submitted by a licensee to a government entity shall be identified only by the name under which the licensee is licensed by the division. All documents used by the licensee to promote or transact a sale or lease of a vehicle shall identify that licensee only by the name under which the licensee is licensed with the division.

KEY: taxation, motor vehicles

Date of Enactment or Last Substantive Amendment:

~~September 15, 2006]~~**2007**

Notice of Continuation: March 14, 2007

Authorizing, and Implemented or Interpreted Law: 41-3-105



Tax Commission, Motor Vehicle Enforcement

R877-23V-14

Dealer Identification of Fees Associated with Issuance of Temporary Permits Pursuant to Utah Code Ann Sections 41-3-301 and 41-3-302

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29930

FILED: 05/14/2007, 12:10

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment deletes language codified by S.B. 138 (2007). (DAR NOTE: S.B. 138 (2007) is found at Chapter 322, Laws of Utah 2007, and was effective 04/30/2007.)

SUMMARY OF THE RULE OR CHANGE: The proposed amendment deletes language penalizing a dealer that fails to segregate and identifies state-mandated fees from dealer service and handling charges. This language has been codified by S.B. 138 (2007).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 41-3-301 and 41-3-302

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** None--Any fiscal impact was taken into account by S.B. 138 (2007).
- ❖ **LOCAL GOVERNMENTS:** None--Any fiscal impact was taken into account by S.B. 138 (2007).
- ❖ **OTHER PERSONS:** None--Any fiscal impact was taken into account by S.B. 138 (2007).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Proposed amendment deletes language that now appears in statute.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated impact.
D'Arcy Dixon, Commissioner

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

TAX COMMISSION

MOTOR VEHICLE ENFORCEMENT

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 cleec@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/09/2007

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R877. Tax Commission, Motor Vehicle Enforcement.

R877-23V. Motor Vehicle Enforcement.

R877-23V-14. Dealer Identification of Fees Associated with Issuance of Temporary Permits Pursuant to Utah Code Ann. Sections 41-3-301 and 41-3-302.

~~A. A dealer issuing temporary permits under Sections 41-3-301 or 41-3-302 shall segregate and separately identify the fees required by Title 41, Chapter 1a, as state mandated fees.~~

~~B.](1) Only fees required by Title 41, Chapter 1a, may be identified as state-mandated fees.~~

~~C. A dealer that fails to segregate and separately identify state-mandated fees pursuant to A. is in violation of Title 41, Chapter 3.~~

~~D.](2) [If a]A dealer that charges the [purchaser/consumer/lessee] purchaser or lessee of a motor vehicle a fee for [the handling and]preparing or processing [of]any state-mandated [fees]documents or services (such fees are commonly referred to as "dealer documentary service fees")~~, then the dealer~~ must, in addition to the requirements set forth in [A., B., C. above]Subsection (1), [must] prominently display a sign on the dealer premises in [such]a location [as to]that is readily discernable by all purchasers~~, consumers, or~~ and lessees. The sign shall [read as follows:]contain the language set forth in Subsection (2)(a).~~

(a) The (dealer documentary service fee) () as set forth in your contract represents costs and profit to the dealer for preparing and processing documents and other services related to the sale or lease of your vehicle. These fees are not set or state mandated by state statute or rule.

(b) The blank in [the preceding paragraph]Subsection (2)(a) may be wording selected by the dealer to describe the fee charged for document preparation and processing and other services, but must be, in all cases, the actual wording used in the dealer's contract of sale or lease agreement.

KEY: taxation, motor vehicles

Date of Enactment or Last Substantive Amendment:

~~September 15, 2006]~~**2007**

Notice of Continuation: March 14, 2007

Authorizing, and Implemented or Interpreted Law: 41-3-301; 41-3-302

◆ ————— ◆

Tax Commission, Property Tax
R884-24P-68

Property Tax Exemption for Taxable Tangible Personal Property With a Total Aggregate Fair Market Value of \$3,500 or Less Pursuant to Utah Code Ann. Section 59-2-1115

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29928

FILED: 05/14/2007, 11:28

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment is necessary to implement the changes made by H.B. 26 (2007) to Section 59-2-1115; the amendment also clarifies language in the rule. (DAR NOTE: H.B. 26 (2007) is found at Chapter 8, Laws of Utah 2007, and was effective 02/23/2007.)

SUMMARY OF THE RULE OR CHANGE: The proposed amendment deletes language that is now contradicted by statute; clarifies a taxpayer's application for the property tax exemption for property with an aggregate fair market value of \$3,500 or less; and clarifies how the \$3,500 is determined when property must be apportioned among counties.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-2-115

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** None--All fiscal Impacts were taken into account in H.B. 26 (2007), and H.B. 338 (2006). (DAR NOTE: H.B. 338 (2006) is found at Chapter 113, Laws of Utah 2006, and was effective 01/01/2007.)
- ❖ **LOCAL GOVERNMENTS:** None--All fiscal Impacts were taken into account in H.B. 26 (2007), and H.B. 338 (2006).
- ❖ **OTHER PERSONS:** None--All fiscal Impacts were taken into account in H.B. 26 (2007), and H.B. 338 (2006).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Statutory changes to the exemption may allow more persons to claim the exemption.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Statutory changes may allow more persons to claim the exemption. D'Arcy Dixon, Commissioner

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

TAX COMMISSION
PROPERTY TAX
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/09/2007

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R884. Tax Commission, Property Tax.

R884-24P. Property Tax.

R884-24P-68. Property Tax Exemption for Taxable Tangible Personal Property With a Total Aggregate Fair Market Value of \$3,500 or Less Pursuant to Utah Code Ann. Section 59-2-1115.

(1) The purpose of this rule is to provide for the administration of the property tax exemption for a taxpayer whose taxable tangible personal property has a total aggregate fair market value of \$3,500 or less.

~~(2)~~(a) Total aggregate fair market value is determined by aggregating the fair market value of all taxable tangible personal property owned by a taxpayer within a county.

(b) If taxable tangible personal property is required to be apportioned among counties, the determination of whether taxable tangible personal property has a total aggregate fair market value of \$3,500 or less shall be made after apportionment.

~~(3) "Taxable tangible personal property" does not include tangible personal property:~~

~~—(a) subject to a uniform fee under Sections 59-2-405.1 or 59-2-405.2; and~~

~~—(b) with a fair market value before apportionment greater than \$3,500.~~

~~(4)~~(2) A taxpayer shall apply for the exemption provided under Section 59-2-1115;

(a) if the county assessor has requested a signed statement from the taxpayer under Section 59-2-306, within the time frame set forth under Section 59-2-306 for filing the signed statement; or

(b) if the county assessor has not requested a signed statement from the taxpayer under Section 59-2-306, within 30 days from the day the taxpayer is requested to indicate whether the taxpayer has \$3,500 or less [than \$3,500] of taxable tangible personal property in the county.

KEY: taxation, personal property, property tax, appraisals

Date of Enactment or Last Substantive Amendment: ~~January 12,~~ 2007

Notice of Continuation: March 12, 2007

Authorizing, and Implemented or Interpreted Law: 59-2-1115

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 **R27-10** Identification Mark for State Motor Vehicles

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29939
FILED: 05/14/2007, 13:47

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: Pursuant to Subsection 63A-9-401(5), the Department of Administrative Services is responsible for ensuring that state-owned vehicles for all departments, universities, and colleges are marked as required by Section 41-1a-407. If "EX" license plates are required, the identification mark is also required, as described herein, for these agencies. Subsection 63A-9-601(1)(c) requires the Department of Administrative Services to enact rules relating to the size and design of the identification mark.

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 how state vehicles are marked for identification. Marking includes EX license plates, side panel markings, and window markings. The marking requirements differ based on type of vehicle. Vehicles that are exempt from marking are also defined. 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: 05/14/2007



Administrative Services, Fleet Operations, Surplus Property **R28-7** Surplus Property Rate Schedule

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29946
FILED: 05/15/2007, 16:16

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63A-9-807, Charges and fees assessed for surplus property. (1) The division may assess charges and fees for the acquisition, warehousing, distribution, or transfer of any property of the United States for educational, public health, or civil defense purposes, including

research, only if those charges and fees are reasonably related to the division's care and handling costs of acquiring, receipting, warehousing, distributing, or transferring the property. (2) The division may reduce or eliminate charges on property that is found not to be usable for the purpose for which it was procured. (3) The division shall limit the charges and fees assessed against real property to the reasonable administrative costs that the division incurred in effecting transfer.

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 describes how charges and fees are assessed based on the value of the surplus property sold or donated, as well as for services and handling of the property by the Utah State Agency for Surplus Property. 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 margareтчambers@utah.gov

AUTHORIZED BY: Margaret Chambers, Director

EFFECTIVE: 05/15/2007



Commerce, Administration
R151-33
Pete Suazo Utah Athletic Commission
Act Rule

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

DAR FILE NO.: 29927
FILED: 05/10/2007, 08:58

**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 was enacted pursuant to Title 13, Chapter 33, the Pete Suazo Utah Athletic

Commission (PSUAC) Act, enabling the PSUAC to administer the Act, and pursuant to Title 63, Chapter 46b, the Utah Administrative Procedures Act, adopting procedures for adjudicative proceedings before the agency.

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 comments about 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 Pete Suazo Utah Athletic Commission Act requires the PSUAC to adopt rules to administer the Act. As of 07/01/2007, pursuant to the passage of S.B. 167 Second Substitute during the 2007 General Legislative Session, the PSUAC will be moved under the new Utah Sports Authority. As of that date, the Sports Authority will have the responsibility to oversee and make rules for the PSUAC. The continuation of the current rule is necessary to serve as a sample for the Sports Authority when it adopts rules pursuant to S.B. 167. (DAR NOTE: S.B. 167 is found at Chapter 361, Laws of Utah 2007, and will be effective 07/01/2007.)

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Masuda Medcalf at the above address, by phone at 801-530-7663, by FAX at 801-530-6446, or by Internet E-mail at mmedcalf@utah.gov

AUTHORIZED BY: Francine Giani, Executive Director

EFFECTIVE: 05/10/2007



Health, Epidemiology and Laboratory
Services, Environmental Services
R392-400
Temporary Mass Gatherings Sanitation

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

DAR FILE NO.: 29925
FILED: 05/08/2007, 12:11

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS

AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Subsection 26-1-30(2)(u), which authorizes the Department to adopt rules and enforce minimum sanitary standards for the operation and maintenance of places used for public gatherings.

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 Office of Epidemiology has not received any written comments either supporting or opposing the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Temporary mass gatherings continue to increase. Most events occur at sites that have very limited resources for restrooms, drinking water, and safety. Because of their cost, provisions for sanitation and safety would probably be very limited at those events without this rule that requires them. An organizer otherwise willing to spend the needed money, needs the guidance provided by the rule to know what is needed for public health safety. 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,
 ENVIRONMENTAL SERVICES
 CANNON HEALTH BLDG
 288 N 1460 W
 SALT LAKE CITY UT 84116-3231, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Ronald Marsden at the above address, by phone at 801-538-6191, by FAX at 801-538-6564, or by Internet E-mail at rmarsden@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 05/08/2007



Health, Epidemiology and Laboratory Services, Laboratory Services

R438-12

Rules for the Authorization of Individuals Other Than Physicians, Registered Nurses, or Practical Nurses to Withdraw Blood for Alcoholic or Drug Determinations When Requested by a Peace Officer, and for Issuance of Permits to Such Individuals

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29926
 FILED: 05/08/2007, 12:30

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 26-1-30(2)(s) authorizes the Department of Health to establish qualifications for individuals to withdraw blood pursuant to Section 41-6a-523.

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 establishes requirements for individuals, other than a physician or nurse, permitted to collect blood at the direction of a peace officer for the determination of alcohol or drug content. It is necessary for law enforcement to obtain blood samples in driving under the influence investigations. 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 SERVICES
 CANNON HEALTH BLDG
 288 N 1460 W
 SALT LAKE CITY UT 84116-3231, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 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: 05/08/2007



Natural Resources, Wildlife Resources

R657-2

Adjudicative Proceedings

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29922
 FILED: 05/07/2007, 13:28

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Sections 23-13-2 and 63-46b-2, this rule sets forth the standards and procedures governing all adjudicative proceedings before the Wildlife Board and 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: No written comments supporting or opposing Rule R657-2 were received since 05/15/2002, when the rule was first enacted.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-2 sets forth the standards and procedures governing all adjudicative proceedings before the Wildlife Board and the division specifically governing the requests for agency action; declaratory orders brought pursuant to Section 63-46b-21; requests for species reclassification under Rule R657-3; and post issuance requests for a variance or amendment to a license, permit, tag or certification of registration. Rule R657-2 sets the standard procedure for filing time lines, pre-hearing procedures, decisions and orders, and Judicial Review, this rule helps to govern the legal proceedings for the division. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: James F Karpowitz, Director

EFFECTIVE: 05/07/2007



Natural Resources, Wildlife Resources
R657-22
Commercial Hunting Areas

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

DAR FILE No.: 29921
FILED: 05/07/2007, 08:50

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Section 23-17-6, the Wildlife Board is authorized to make rules and regulations concerning the operation of commercial hunting areas.

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 supporting or opposing Rule R657-22 were received since 06/03/2002, when the rule was last reviewed.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-22 provides the procedures and requirements for establishing, maintaining, and operating a commercial hunting area. The procedures adopted in this rule have provided an effective and efficient process. Continuation of this rule is necessary for continued success of the commercial hunting area program.

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

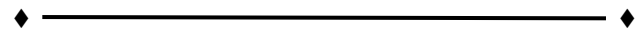
NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

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

AUTHORIZED BY: James F Karpowitz, Director

EFFECTIVE: 05/07/2007



Natural Resources, Wildlife Resources
R657-29
Government Records Access
Management Act

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

DAR FILE No.: 29916
FILED: 05/03/2007, 12:05

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 63-2-204(2) authorizes the division to make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,

specifying where and to whom requests for records access shall be directed.

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 Division of Wildlife Resources and the Wildlife Board have not received any written comments, either in support or opposition to Rule R657-29 since the last five-year review on 05/15/2002.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of Rule R657-29 is necessary to provide an effective and efficient process prescribing where and to whom requests for information shall be directed and to provide procedures for access to division records as allowed under Subsection 63-2-204(2).

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

AUTHORIZED BY: James F Karpowitz, Director

EFFECTIVE: 05/03/2007



Natural Resources, Wildlife Resources
R657-30
Fishing License for the Terminally Ill

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR File No.: 29920
FILED: 05/07/2007, 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 23-19-36 authorizes a resident who is terminally ill, and has less than five years to live, to receive a free fishing license. Rule R657-30 provides the procedures for a terminally ill person to obtain a free fishing license.

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 supporting or opposing Rule R657-30 were received since 06/05/2002, when the rule was last reviewed.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of Rule R657-30 is necessary to provide an effective and efficient process for issuing free fishing licenses to persons who are terminally ill.

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

AUTHORIZED BY: James F Karpowitz, Director

EFFECTIVE: 05/07/2007



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).

Administrative Services

Debt Collection

No. 29917: R21-1. Transfer of Collection Responsibility of State Agencies.

ENACTED OR LAST REVIEWED: 05/03/2002 (No. 24813, 5YR, filed 05/03/2002 at 9:26 a.m., published 06/01/2002).

EXTENDED DUE DATE: 08/31/2007

No. 29918: R21-2. Office of State Debt Collection Administrative Procedures.

ENACTED OR LAST REVIEWED: 05/03/2002 (No. 24814, 5YR, filed 05/03/2002 at 9:27 a.m., published 06/01/2002).

EXTENDED DUE DATE: 08/31/2007

No. 29919: R21-3. Debt Collection Through Administrative Offset.

ENACTED OR LAST REVIEWED: 05/03/2002 (No. 24815, 5YR, filed 05/03/2002 at 9:28 a.m., published 06/01/2002).

EXTENDED DUE DATE: 08/31/2007

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

Education

Administration

No. 29690 (AMD): R277-419. Pupil Accounting.
Published: April 1, 2007
Effective: May 9, 2007

No. 29691 (AMD): R277-459. Classroom Supplies Appropriation.
Published: April 1, 2007
Effective: May 9, 2007

No. 29692 (AMD): R277-503. Licensing Routes.
Published: April 1, 2007
Effective: May 9, 2007

No. 29693 (NEW): R277-612. Foreign Exchange Students.
Published: April 1, 2007
Effective: May 9, 2007

No. 29694 (AMD): R277-746-3. Standards and Procedures.
Published: April 1, 2007
Effective: May 9, 2007

Environmental Quality

Air Quality

No. 29514 (AMD): R307-110-20. Section XII, Involvement.
Published: March 1, 2007
Effective: May 2, 2007

No. 29229 (AMD): R307-220. Emission Standards: Plan for Designated Facilities.
Published: December 1, 2006
Effective: May 9, 2007

No. 29229 (CPR): R307-220. Emission Standards: Plan for Designated Facilities.
Published: April 1, 2007
Effective: May 9, 2007

No. 29231 (NEW): R307-424. Permits: Mercury Requirements for Electric Generating Units.
Published: December 1, 2006
Effective: May 9, 2007

No. 29231 (CPR): R307-424. Permits: Mercury Requirements for Electric Generating Units.
Published: April 1, 2007
Effective: May 9, 2007

Drinking Water

No. 29646 (AMD): R309-105. Administration: General Responsibilities of Public Water Systems.
Published: April 1, 2007
Effective: May 14, 2007

No. 29649 (AMD): R309-110-4. Definitions.
Published: April 1, 2007
Effective: May 14, 2007

No. 29647 (AMD): R309-210. Monitoring and Water Quality: Distribution System Monitoring Requirements.
Published: April 1, 2007
Effective: May 14, 2007

No. 29645 (AMD): R309-215. Monitoring and Water Quality: Treatment Plant Monitoring Requirements.
Published: April 1, 2007
Effective: May 14, 2007

No. 29648 (AMD): R309-220-15. Standard Health Effects Language.
Published: April 1, 2007
Effective: May 14, 2007

Health

Community and Family Health Services, Immunization
No. 29547 (AMD): R396-100. Immunization Rule for Students.
Published: March 15, 2007
Effective: May 7, 2007

Health Care Financing, Coverage and Reimbursement Policy

No. 29629 (AMD): R414-10A. Transplant Services Standards.
Published: April 1, 2007
Effective: May 15, 2007

No. 29673 (AMD): R414-61-2. Incorporation by Reference.
 Published: April 1, 2007
 Effective: May 15, 2007

No. 29676 (NEW): R414-307. Eligibility for Home and Community-Based Services Waivers.
 Published: April 1, 2007
 Effective: May 15, 2007

No. 29675 (REP): R414-507. Medicaid Long Term Care Managed Care.
 Published: April 1, 2007
 Effective: May 15, 2007

No. 29635 (AMD): R657-22-3. Application for a Certificate of Registration.
 Published: April 1, 2007
 Effective: May 8, 2007

No. 29636 (AMD): R657-27. License Agent Procedures.
 Published: April 1, 2007
 Effective: May 8, 2007

No. 29638 (AMD): R657-44-6. Damage to Livestock Forage on Private Land.
 Published: April 1, 2007
 Effective: May 8, 2007

Human Services

Substance Abuse and Mental Health
 No. 29383 (AMD): R523-1-23. Case Manager Certification.
 Published: January 15, 2007
 Effective: May 14, 2007

Services for People with Disabilities
 No. 29625 (AMD): R539-5. Self-Administered Services.
 Published: April 1, 2007
 Effective: May 11, 2007

Natural Resources

Wildlife Resources
 No. 29637 (AMD): R657-12. Hunting and Fishing Accommodations for Disabled People.
 Published: April 1, 2007
 Effective: May 8, 2007

Public Safety

Fire Marshal
 No. 29677 (AMD): R710-1. Concerns Servicing Portable Fire Extinguishers.
 Published: April 1, 2007
 Effective: May 8, 2007

No. 29683 (AMD): R710-4-3. Amendments and Additions.
 Published: April 1, 2007
 Effective: May 8, 2007

No. 29702 (AMD): R710-9. Rules Pursuant to the Utah Fire Prevention Law.
 Published: April 1, 2007
 Effective: May 8, 2007

No. 29701 (AMD): R710-11. Fire Alarm System Inspecting and Testing.
 Published: April 1, 2007
 Effective: May 8, 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 May 15, 2007, the effective dates of which are no later than June 1, 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
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<u>Administration</u>					
R13-2	Access to Records	29771	5YR	04/02/2007	2007-8/119
R13-2	Access to Records	29772	AMD	05/22/2007	2007-8/3
<u>Administrative Rules</u>					
R15-3-5	Statutory Provisions that Require Rulemaking Pursuant to Subsection 63-46a-4(11)	29554	AMD	04/30/2007	2007-6/5
<u>Facilities Construction and Management</u>					
R23-1	Procurement of Construction	29965	5YR	05/24/2007	Not Printed
R23-19	Facility Use Rules	29964	5YR	05/24/2007	Not Printed
R23-25	Administrative Rules Adjudicative Proceedings	29474	AMD	04/11/2007	2007-4/2
<u>Finance</u>					
R25-14	Payment of Attorneys Fees in Death Penalty Cases	29424	5YR	01/17/2007	2007-4/54

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<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	2007-6/36
R27-10	Identification Mark for State Motor Vehicles	29939	5YR	05/14/2007	2007-11/85
<u>Fleet Operations, Surplus Property</u>					
R28-1	State Surplus Property Disposal	29550	5YR	02/26/2007	2007-6/36
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<u>Records Committee</u>					
R35-2-2	Declining Requests for Hearings	29081	AMD	01/05/2007	2006-20/2
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<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
R70-530	Food Protection	29632	5YR	03/12/2007	2007-7/149
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<u>Administration</u>					
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R131-3	Use of Magnetometers on Capitol Hill	29952	5YR	05/16/2007	Not Printed
Commerce					
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R151-2	Government Records Access and Management Act Rules	29524	5YR	02/15/2007	2007-5/23
R151-3	Americans With Disabilities Act Rules	29903	5YR	05/01/2007	2007-10/105
R151-33	Pete Suazo Utah Athletic Commission Act Rule	29927	5YR	05/10/2007	2007-11/86

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<u>Consumer Protection</u>					
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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	2007-7/149
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R152-42	Uniform Debt-Management Services Act Rules	29413	CPR	05/22/2007	2007-8/114
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R156-1	General Rules of the Division of Occupational and Professional Licensing	29586	5YR	03/01/2007	2007-6/37
R156-1-102	Definitions	29555	NSC	03/09/2007	Not Printed
R156-9-302a	Qualifications for Licensure - Examination Requirements	29391	AMD	03/13/2007	2007-3/6
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
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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
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R156-40-302c	Qualifications for Licensure - Examination Requirements	29825	NSC	04/26/2007	Not Printed
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
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R156-54	Radiology Technologist and Radiology Practical Technician Licensing Act Rules	29396	5YR	01/09/2007	2007-3/56
R156-56	Utah Uniform Building Standard Act Rules	29120	AMD	01/01/2007	2006-21/5
R156-56	Utah Uniform Building Standard Act Rules	29357	NSC	01/01/2007	Not Printed
R156-56	Utah Uniform Building Standard Act Rules	29122	AMD	01/01/2007	2006-21/33
R156-56	Utah Uniform Building Standard Act Rules	29393	AMD	03/13/2007	2007-3/7
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R156-56-704	Statewide Amendments to the IBC	29078	CPR	03/27/2007	2007-4/48
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R156-70a	Physician Assistant Practice Act Rules	29564	5YR	02/27/2007	2007-6/38
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
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R162-7	Enforcement	29851	5YR	04/19/2007	2007-10/110
R162-8	Prelicensing Education	29836	5YR	04/18/2007	2007-10/110
R162-9	Continuing Education	29224	AMD	01/17/2007	2006-23/3
R162-9	Continuing Education	29837	5YR	04/18/2007	2007-10/111
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R162-102	Application Procedures	29711	AMD	05/29/2007	2007-8/38
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R162-104	Experience Requirement	29623	AMD	05/29/2007	2007-7/4
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R162-207-6	Determining Fitness for Renewal	29544	AMD	05/01/2007	2007-6/8
R162-208	Continuing Education	29520	AMD	04/10/2007	2007-5/10
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R277-437-1	Definitions (EXPIRED - Section R277-437-1, Legislative Nonreauthorization)	29902	NSC	05/01/2007	Not Printed
R277-459	Classroom Supplies Appropriation	29691	AMD	05/09/2007	2007-7/12
R277-473-9	Standardized Testing Rules and Professional Development Requirement	29478	AMD	03/27/2007	2007-4/12
R277-503	Licensing Routes	29749	5YR	03/29/2007	2007-8/121
R277-503	Licensing Routes	29692	AMD	05/09/2007	2007-7/14
R277-505	Administrative/Supervisory Certificates and Programs	29477	AMD	03/27/2007	2007-4/13
R277-505-5	District-Specific and Charter School-Specific Administrator Standards	29737	NSC	04/12/2007	Not Printed
R277-507	Driver Education Endorsement	29747	5YR	03/29/2007	2007-8/122
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
R277-517	Athletic Coaching Certification	29479	AMD	03/27/2007	2007-4/16
R277-519	Educator Inservice Procedures and Credit	29748	5YR	03/29/2007	2007-8/122
R277-612	Foreign Exchange Students	29693	NEW	05/09/2007	2007-7/17
R277-617	Authorization of Student Clubs and Organizations	29494	5YR	02/02/2007	2007-5/25
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ABBREVIATIONS

AMD = Amendment
 CPR = Change in proposed rule
 EMR = Emergency rule (120 day)
 NEW = New rule
 EXD = Expired
 NSC = Nonsubstantive rule change
 REP = Repeal
 R&R = Repeal and reenact
 5YR = Five-Year Review

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access Environmental Quality, Drinking Water	29782	R309-545	5YR	04/02/2007	2007-8/126

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