

UTAH STATE BULLETIN

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

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

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

Division of Administrative Rules, Salt Lake City 84114

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TABLE OF CONTENTS

1. SPECIAL NOTICES

Governor, Administration: Governor's Executive Order 2007-0009: Wildland Fire Management.....	1
Health, Health Care Financing, Coverage and Reimbursement Policy: Change for the Public Hearing on the Proposed Amendment to Section R414-60A-3 (DAR No. 30198)	2

2. NOTICES OF PROPOSED RULES

Commerce

Occupational and Professional Licensing	
No. 30248 (Amendment): R156-31b. Nurse Practice Act Rules	4
No. 30208 (Amendment): R156-31b. Nurse Practice Act Rules	12
Real Estate	
No. 30199 (Amendment): R162-102-1. Application	15
No. 30253 (Amendment): R162-104-5. Experience Requirement	16
No. 30200 (Amendment): R162-204-1. Residential Mortgage Record Keeping Requirements	18
No. 30251 (Amendment): R162-205. Residential Mortgage Unprofessional Conduct.....	19

Governor

Administration	
No. 30252 (Repeal): R355-1. Records Access and Management	21

Health

Health Care Financing, Coverage and Reimbursement Policy	
No. 30281 (Amendment): R414-60B. Preferred Drug List	22

Natural Resources

Water Rights	
No. 30246 (New Rule): R655-15. Administrative Procedures for Distribution Systems and Water Commissioners	24

Pardons (Board Of)

Administration	
No. 30268 (Amendment): R671-102. Americans with Disabilities Act Complaint Procedure Rule.....	34
No. 30270 (Amendment): R671-203. Victim Input and Notification.....	36
No. 30271 (Amendment): R671-206. Competency of Offenders	39
No. 30272 (Amendment): R671-308. Offender Hearing Assistance	40
No. 30273 (Amendment): R671-403. Restitution.....	40

TABLE OF CONTENTS

Public Safety

Peace Officer Standards and Training

No. 30275 (Amendment): R728-406-3. Policy and Procedures for Course Validation42

Tax Commission

Administration

No. 30278 (Amendment): R861-1A-24. Formal Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-502.5, 63-46b-8, and 63-46b-1043

No. 30279 (Amendment): R861-1A-26. Procedures for Formal Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-501 and 63-46b-6 through 63-46b-1144

No. 30277 (Amendment): R861-1A-29. Agency Review and Reconsideration Pursuant to Utah Code Ann. Section 63-46b-13.....46

Workforce Services

Employment Development

No. 30276 (Amendment): R986-200. Family Employment Program47

3. NOTICES OF CHANGES IN PROPOSED RULES

Insurance

Administration

No. 29875: R590-152. Health Discount Programs and Value Added Benefit Rule.....51

Title and Escrow Commission

No. 29994: R592-5. Title Insurance Product or Service Approval for a Dual Licensed Title License54

No. 29995: R592-6. Split Closing in Title Insurance55

4. FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Administrative Services

Fleet Operations

No. 30212: R27-4. Vehicle Replacement and Expansion of State Fleet57

Commerce

Securities

No. 30258: R164-1. Fraudulent Practices57

No. 30259: R164-4. Licensing Requirements.....58

No. 30260: R164-5. Broker-Dealer and Investment Adviser Books and Records58

No. 30261: R164-6. Denial, Suspension or Revocation of a License59

No. 30255: R164-9. Registration by Coordination59

No. 30256: R164-10. Registration by Qualification.....60

No. 30257: R164-11. Registration Statement.....60

No. 30264: R164-12. Sales Commission.....61

No. 30254: R164-13. Definitions.....	61
No. 30266: R164-14. Exemptions.....	62
No. 30267: R164-15. Federal Covered Securities.....	62
No. 30265: R164-18. Procedures.....	62
No. 30262: R164-25. Record of Registration.....	63
No. 30263: R164-26. Consent to Service of Process.....	63
 <u>Community and Culture</u>	
History	
No. 30201: R212-1. Adjudicative Proceedings.....	64
No. 30202: R212-12. Computerized Record of Cemeteries, Burial Locations and Plots, and Granting Matching Funds.....	64
 <u>Environmental Quality</u>	
Environmental Response and Remediation	
No. 30210: R311-401. Utah Hazardous Substance Priority List.....	65
 <u>Financial Institutions</u>	
Administration	
No. 30237: R331-5. Rule Governing Sale of Securities by Persons Issuing Securities, Who Are Under the Jurisdiction of the Department of Financial Institutions.....	65
No. 30238: R331-7. Rule Governing Leasing Transactions by Depository Institutions Subject to the Jurisdiction of the Department of Financial Institutions.....	66
No. 30239: R331-9. Rule Prescribing Rules of Procedure for Hearings Before the Commissioner of Financial Institutions of the State of Utah.....	66
No. 30240: R331-10. Schedule for Retention or Destruction of Records of Financial Institutions Under the Jurisdiction of the Department of Financial Institutions.....	67
No. 30241: R331-12. Guidelines Governing the Purchase and Sale of Loans and Participations in Loans by all State Chartered Financial Institutions.....	67
No. 30242: R331-14. Rule Governing Parties Who Engage in the Business of Issuing and Selling Money Orders, Traveler's Checks, and Other Instruments for the Purpose of Effecting Third-Party Payments.....	68
 <u>Health</u>	
Epidemiology and Laboratory Services; HIV/AIDS, Tuberculosis Control/Refugee Health	
No. 30206: R388-801. AIDS Testing and Reporting for Emergency Medical Services Providers Rule.....	68
No. 30207: R388-802. HIV Positive Student or School Employee Rule.....	69
Epidemiology and Laboratory Services, Environmental Services	
No. 30204: R392-502. Hotels, Motels and Resort Sanitation.....	69
Health Systems Improvement, Emergency Medical Services	
No. 30205: R426-5. Statewide Trauma System Standards.....	70

TABLE OF CONTENTS

Health Systems Improvement, Child Care Licensing
No. 30249: R430-2. General Licensing Provisions, Child Care Facilities71

Insurance
Administration
No. 30213: R590-148. Long-Term Care Insurance Rule71
No. 30243: R590-151. Records Access Rule72

Natural Resources
Parks and Recreation
No. 30245: R651-102. Government Records Access Management Act72
No. 30247: R651-301. State Recreation Fiscal Assistance Programs73

Pardons (Board Of)
Administration
No. 30215: R671-101. Rules73
No. 30214: R671-102. Americans with Disabilities Act complaint Procedure Rule74
No. 30216: R671-201. Original Parole Grant Hearing Schedule and Notice74
No. 30217: R671-202. Notification of Hearings75
No. 30218: R671-203. Victim Input and Notification75
No. 30219: R671-205. Credit for Time Served75
No. 30221: R671-206. Competency of Offenders76
No. 30222: R671-207. Mentally Ill and Deteriorated Offender Custody Transfer76
No. 30223: R671-301. Personal Appearance77
No. 30224: R671-302. News Media and Public Access to Hearings77
No. 30225: R671-303. Offender Access to Information78
No. 30226: R671-304. Hearing Record78
No. 30227: R671-305. Notification of Board Decision78
No. 30229: R671-308. Offender Hearing Assistance79
No. 30230: R671-309. Impartial Hearings79
No. 30232: R671-310. Rescission Hearings80
No. 30231: R671-311. Special Attention Hearings and Reviews80
No. 30233: R671-315. Pardons80
No. 30234: R671-316. Redetermination81

No. 30235: R671-402. Special Conditions of Parole.....	81
No. 30236: R671-405. Parole Termination	82
<u>Public Safety</u>	
Peace Officer Standards and Training	
No. 30211: R728-411. Guidelines Regarding Administrative Action Taken Against Individuals Functioning As Peace Officers Without Peace Officer Certification Or Powers.....	82
5. NOTICES OF FIVE-YEAR REVIEW EXTENSIONS	84
6. NOTICES OF RULE EFFECTIVE DATES	85
7. RULES INDEX.....	86

SPECIAL NOTICES

Governor's Executive Order 2007-0009: 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,

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 August 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 this 10th day of August 2007

(State Seal)

Jon M. Huntsman
Governor

ATTEST:

Gary R. Herbert
Lieutenant Governor

2007/0009

Health
Health Care Financing, Coverage and Reimbursement Policy

Change for the Public Hearing on the Proposed Amendment to Section R414-60A-3 (DAR No. 30198)

The Department of Health, Division of Health Care Financing, Coverage and Reimbursement Policy is changing the public hearing on Section R414-60A-3, Responsibilities and Functions, that was published in the August 1, 2007, issue of the *Utah State Bulletin* (No. 2007-15, page 16) under DAR No. 30198. The hearing is changed from Wednesday, August 29, 2007, at 3:00 p.m. to Tuesday, August 28, 2007, from 3:00 p.m. to 5:00 p.m. in Room 125 of the Cannon Health Building, 288 North 1460 West, Salt Lake City, UT.

Any comments or questions should be directed to: Melissa Frost by: phone at 801-538-6381, by FAX at 801-538-6099, or by Internet E-mail at mlfrost@utah.gov

End of the Special Notices Section

NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between July 17, 2007, 12:00 a.m., and August 1, 2007, 11:59 p.m. are included in this, the August 15, 2007, issue of the *Utah State Bulletin*.

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

Following the RULE ANALYSIS, the text of the PROPOSED RULE is usually printed. New rules or additions made to existing rules are underlined (e.g., example). Deletions made to existing rules are struck out with brackets surrounding them (e.g., [~~example~~]). Rules being repealed are completely struck out. A row of dots in the text between paragraphs (.) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not printed. If a PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of each rule that is too long to print is available from the filing agency or from the Division of Administrative Rules.

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least September 14, 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 December 13, 2007, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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

PROPOSED RULES are governed by Section 63-46a-4; and Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page.

Commerce, Occupational and
Professional Licensing
R156-31b
Nurse Practice Act Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 30248

FILED: 07/26/2007, 14:05

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During the 2007 legislative session, S.B. 45 was passed. As a result of the statutory amendments, references in this rule need to be updated. One of the key elements of the legislation was to include the licensure category of certified registered nurse anesthetist (CRNA) into the licensure category of advanced practical registered nurse (APRN). To ensure recognition of these health care providers by those unfamiliar with Utah licensing laws, the abbreviation for an APRN specializing as a nurse anesthetist is APRN-CRNA. The proposed changes update the existing rule to recognize the inclusion of CRNAs into the licensure category of APRNs. Also, the proposed rule change adds an additional criterion for an applicant for a temporary licensed practical nurse (LPN) or registered nurse (RN) license. The division will be requiring applicants for a temporary license to be registered to take the National Council Licensure Examination of the National Council of State Boards of Nursing (NCLEX) examination. The division is seeing an alarming increase in the number of RN students requesting temporary licensure as an LPN who never intend to take the exam or complete the licensure process for the LPN. The temporary license allows a person to practice for up to four months while completing the licensure process. The RN students are utilizing the temporary license to begin practicing at the LPN level and pay without any intent to become licensed at that level. (DAR NOTE: S.B. 45 (2007) is found at Chapter 57, Laws of Utah 2007, and was effective 04/30/2007.)

SUMMARY OF THE RULE OR CHANGE: Throughout the rule, statutory references to the Nurse Practice Act have been updated. Also throughout the rule, amendments are made so the term certified registered nurse anesthetist or initials CRNA are included in the licensure category and initials of the APRN. In Subsection R156-31b-102(1), definition for "absolute discharge" was deleted because the statute revisions removed the term so a definition is no longer needed. Subsection R156-31b-102(3) added a definition for "APRN-CRNA". Subsection R156-31b-102(4)(c) updated the accepted edition of the "Accredited Institutions of Postsecondary Education" to the current 2006-2007 edition. Subsection R156-31b-102(5) updated the edition of the "Directory of Accredited Nursing Programs" to the most current edition dated 2006-2007. Subsection R156-31b-102(11) amended the definition of a contact hour to be 60 minutes to be consistent with the American Nurses Credentialing Center which is the largest accreditor of nursing

continuing education. Subsection R156-31b-102(25) definition for "postsecondary school" is deleted because the definition is inaccurate in that nationally accredited proprietary schools are exempt from registration with Consumer Protection. Given this exemption, the division cannot force these schools to become registered and therefore, the definition is no longer needed or effective. In Section R156-31b-304, added a requirement that a person requesting a temporary license as either a LPN or RN be registered to take the appropriate NCLEX examination before the temporary license is issued. In Section R156-31b-401, the amendments removed the gender biased term "he" and replace it with the gender neutral term "the applicant".

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-31b-101 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Updates the "Accredited Institutions of Postsecondary Education", published by the American Council on Education from the 2003-2004 edition to the 2006-2007 edition; and updates the "Directory of Accredited Nursing Programs", published by the National League of Nursing Accrediting Commission from the 2003 edition to the 2006-2007 edition

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** Once these proposed amendments are made effective, the division will incur minimal costs of approximately \$100 to reprint the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.
- ❖ **LOCAL GOVERNMENTS:** The regulation of APRNs occurs at the state level; therefore, there should be no effect on local governments.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:**

SMALL BUSINESS: A CRNA employed by or owning a small business practice will continue to practice with the same scope of practice. Utilizing the initials APRN-CRNA will ensure licensees are recognized by other health care professionals, third party reimbursement companies, and the public as being a specialist in the area of nurse anesthesia. Temporary licensure for LPN and RN applicants will still be available so a health care company, regardless of size, can have more rapid access to new graduates. However, the person receiving the temporary license must have registered to take the NCLEX exam and intend to complete the licensure process.

OTHER PERSONS: Including CRNAs within the licensure category of APRNs does not affect the scope of practice. Those currently licensed in the category of CRNA will need to change business cards, letterhead, and other such documentation, but the financial impact should be minimal. RN students who are using the LPN temporary license as a means to start working as a nurse and being paid a nurse's wages with no intention of completing the licensure process will be required to pay the \$200 NCLEX examination fee to obtain the temporary license. The division is unable to determine an aggregate amount since it does not know how many applicants will be affected in the future.

COMPLIANCE COSTS FOR AFFECTED PERSONS: As stated above, APRN-CRNAs will have a minimal fiscal impact to change business documents to reflect the title and initial change. Anyone applying for a temporary LPN or RN license will be required to be registered to take the NCLEX examination which requires a registration fee of \$200.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule amendments regarding certified registered nurse anesthetists and advanced practice registered nurses are made to become consistent with statutory amendments passed in the 2007 General Session. The fiscal impact to businesses as a result of these amendments was addressed in the passage of S.B. 45. In addition, no fiscal impact to businesses is foreseen as to the requirement that applicants for a temporary LPN or RN license first register for the NCLEX examination. Earlier application for the examination only affects the timing of the registration and thus is not an additional substantive requirement. 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:

Laura Poe at the above address, by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at lpoe@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 09/14/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2007

AUTHORIZED BY: F. David Stanley, Director

R156. Commerce, Occupational and Professional Licensing.

R156-31b. Nurse Practice Act Rules.

R156-31b-101. Title.

These rules are known as the "Nurse Practice Act Rules".

R156-31b-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 31b, as defined or used in these rules:

(1) ~~["Absolute discharge", as used in Subsection 58-31b-302(5)(b), means the completion of criminal probation or parole.~~

~~(2) ["Affiliated with an institution of higher education", as used in Subsection 58-31b-601(1), means the general and science education courses required as part of a nursing education program are provided by an educational institution which is approved by the Board of Regents or an equivalent governmental agency in another state or a private educational institution which is regionally~~

accredited by an accrediting board recognized by the Council for Higher Education Accreditation of the American Council on Education; and the nursing program and the institution of higher education are affiliated with each other as evidenced by a written contract or memorandum of understanding.

~~(3) ["APRN" means an advanced practice registered nurse.~~

(3) "APRN-CRNA" means an advanced practice registered nurse specializing and certified as a certified registered nurse anesthetist.

(4) "Approved continuing education" in Subsection R156-31b-303(3) means:

(a) continuing education that has been approved by a professional nationally recognized approver of health related continuing education;

(b) nursing education courses taken from an approved education program as defined in Section R156-31b-601; and

(c) health related course work taken from an educational institution accredited by a regional institutional accrediting body identified in the "Accredited Institutions of Postsecondary Education", [2003-04]2006-2007 edition, published by the American Council on Education.

(5) "Approved education program" as defined in Subsection 58-31b-102(3) is further defined to include any nursing education program published in the documents entitled "Directory of Accredited Nursing Programs", [2003]2006-2007, published by the National League for Nursing Accrediting Commission, which are hereby adopted and incorporated by reference as a part of these rules.

(6) "CCNE" means the Commission on Collegiate Nursing Education.

(7) "CGFNS" means the Commission on Graduates of Foreign Nursing Schools.

(8) "COA", as used in these rules, means the Council of Accreditation of Nurse Anesthesia Education Programs.

(9) "Clinical mentor/preceptor", as used in Section R156-31b-607, means an individual who is employed by a clinical health care facility and is chosen by that agency, in collaboration with the Parent-Program, to provide direct, on-site supervision and direction to a nursing student who is engaged in a clinical rotation, and who is accountable to both the clinical agency and the supervisory clinical faculty member.

(10) "Comprehensive nursing assessment", as used in Section R156-31b-704, means an extensive data collection (initial and ongoing) for individuals, families, groups and communities addressing anticipated changes in patient/client conditions as well as emergent changes in patient's/client's health status; recognizing alterations to previous patient/client conditions; synthesizing the biological, psychological, spiritual and social aspects of the patient's/client's condition; evaluating the impact of nursing care; and using this broad and complete analysis to make independent decisions and identification of health care needs; plan nursing interventions, evaluate need for different interventions and the need to communicate and consult with other health team members.

(11) "Contact hour" means [50]60 minutes.

~~(12) ["CRNA" means a certified registered nurse anesthetist.~~

~~(13) ["Delegation" means transferring to an individual the authority to perform a selected nursing task in a selected situation. The nurse retains accountability for the delegation.~~

[44]13 "Direct supervision" is the supervision required in Subsection 58-31b-306(1)(a)(iii) and means:

(a) the person providing supervision shall be available on the premises at which the supervisee is engaged in practice; or

(b) if the supervisee is specializing in psychiatric mental health nursing, the supervisor may be remote from the supervisee if there is personal direct voice communication between the two prior to prescribing a prescription drug.

(~~14~~14) "Disruptive behavior", as used in these rules, means conduct, whether verbal or physical, that is demeaning, outrageous, or malicious and that places at risk patient care or the process of delivering quality patient care. Disruptive behavior does not include criticism that is offered in good faith with the aim of improving patient care.

(~~16~~15) "Focused nursing assessment", as used in Section R156-31b-703, means an appraisal of an individual's status and situation at hand, contributing to the comprehensive assessment by the registered nurse, supporting ongoing data collection and deciding who needs to be informed of the information and when to inform.

(~~17~~16) "Licensure by equivalency" as used in these rules means licensure as a licensed practical nurse after successful completion of course work in a registered nurse program which meets the criteria established in Sections R156-31b-601 and R156-31b-603.

(~~18~~17) "LPN" means a licensed practical nurse.

(~~19~~18) "NLNAC" means the National League for Nursing Accrediting Commission.

(~~20~~19) "NCLEX" means the National Council Licensure Examination of the National Council of State Boards of Nursing.

(~~21~~20) "Non-approved education program" means any foreign nurse education program.

(~~22~~21) "Other specified health care professionals", as used in Subsection 58-31b-102(~~13~~15), who may direct the licensed practical nurse means:

- (a) advanced practice registered nurse;
- (b) certified nurse midwife;
- (c) chiropractic physician;
- (d) dentist;
- (e) osteopathic physician;
- (f) physician assistant;
- (g) podiatric physician;
- (h) optometrist;
- (i) ~~certified registered nurse anesthetist~~;
- ~~(j) naturopathic physician; or~~
- (~~k~~l) mental health therapist as defined in Subsection 58-60-102(5).

(~~23~~22) "Parent-program", as used in Section R156-31b-607, means a nationally accredited, Board of Nursing approved nursing education program that is providing nursing education (didactic, clinical or both) to a student and is responsible for the education program curriculum, and program and student policies.

(~~24~~23) "Patient surrogate", as used in Subsection R156-31b-502(4), means an individual who has legal authority to act on behalf of the patient when the patient is unable to act or decide for himself, including a parent, foster parent, legal guardian, or a person designated in a power of attorney.[

~~(25) "Postsecondary school", as used in Section R156-31b-607, means a program registered and in good standing with the Utah Department of Commerce, Division of Consumer Protection, that offers coursework to individuals who have graduated from high school or have been awarded a GED.]~~

(~~26~~24) "Psychiatric mental health nursing specialty", as used in Subsection 58-31b-302(~~3~~4)(g), includes psychiatric mental

health nurse specialists and psychiatric mental health nurse practitioners.

(~~27~~25) "RN" means a registered nurse.

(~~28~~26) "Supervision" in Section R156-31b-701 means the provision of guidance or direction, evaluation and follow up by the licensed nurse for accomplishment of a task delegated to unlicensed assistive personnel or other licensed individuals.

(~~29~~27) "Supervisory clinical faculty", as used in Section R156-31b-607, means one or more individuals employed by an approved nursing education program who meet the accreditation and Board of Nursing specific requirements to be a faculty member and are responsible for the overall clinical experiences of nursing students and may supervise and coordinate clinical mentors/preceptors who provide the actual direct clinical experience.

(~~30~~28) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 31b, is further defined in Section R156-31b-502.

R156-31b-201. Board of Nursing - Membership.

In accordance with Subsection 58-31b-201(1), nurses serving as members of the Board shall be:

- (1) six registered nurses, two of whom are actively involved in nursing education;
- (2) one licensed practical nurse; and
- (3) two advanced practice registered nurses~~—or certified registered nurse anesthetists~~].

R156-31b-302a. Qualifications for Licensure - Education Requirements.

In accordance with Sections 58-31b-302(~~1~~2)(e) and 58-31b-303, the education requirements for licensure are defined as follows:

(1) Applicants for licensure as a LPN by equivalency shall submit written verification from an approved registered nurse education program, verifying the applicant is currently enrolled and has completed course work which is equivalent to the course work of an NLNAC accredited practical nurse program.

(2) Applicants from foreign education programs who are not currently licensed in another state shall submit a credentials evaluation report from one of the following credentialing services which verifies that the program completed by the applicant is equivalent to an approved practical nurse or registered nurse education program.

(a) Commission on Graduates of Foreign Nursing Schools for an applicant who is applying for licensure as a registered nurse; or

(b) Foundation for International Services, Inc. for an applicant who is applying for licensure as a licensed practical nurse.

R156-31b-302b. Qualifications for Licensure - Experience Requirements for APRNs Specializing in Psychiatric Mental Health Nursing.

(1) In accordance with Subsection 58-31b-302(~~3~~4)(g), the supervised clinical practice in mental health therapy and psychiatric and mental health nursing shall consist of a minimum of 4,000 hours of psychiatric mental health nursing education and clinical practice (including mental health therapy).

(a) 1,000 hours shall be credited for completion of clinical experience in an approved education program in psychiatric mental health nursing.

(b) The remaining 3,000 hours shall:

(i) include a minimum of 1,000 hours of mental health therapy and one hour of face to face supervision for every 20 hours of mental therapy services provided;

(ii) be completed while an employee, unless otherwise approved by the board and division, under the supervision of an approved supervisor; and

(iii) be completed under a program of supervision by a supervisor who meets the requirements under Subsection (3).

(c) At least 2,000 hours must be under the supervision of an APRN specializing in psychiatric mental health nursing. An APRN working in collaboration with a licensed mental health therapist may delegate selected clinical experiences to be supervised by that mental health therapist with general supervision by the APRN.

(2) An applicant who has obtained all or part of the clinical practice hours outside of the state, may receive credit for that experience if it is demonstrated by the applicant that the training completed is equivalent to and in all respects meets the requirements under this section.

(3) An approved supervisor shall verify practice as a licensee engaged in the practice of mental health therapy for not less than 4,000 hours in a period of not less than two years.

(4) Duties and responsibilities of a supervisor include:

(a) being independent from control by the supervisee such that the ability of the supervisor to supervise and direct the practice of the supervisee is not compromised;

(b) supervising not more than three supervisees unless otherwise approved by the division in collaboration with the board; and

(c) submitting appropriate documentation to the division with respect to all work completed by the supervisee, including the supervisor's evaluation of the supervisee's competence to practice.

(5) An applicant for licensure by endorsement as an APRN specializing in psychiatric mental health nursing under the provisions of Section 58-1-302 shall demonstrate compliance with the clinical practice in psychiatric and mental health nursing requirement under Subsection 58-31b-302(~~3~~4)(g) by demonstrating that the applicant has successfully engaged in active practice in psychiatric mental health nursing for not less than 4,000 hours in the three years immediately preceding the application for licensure.

R156-31b-302c. Qualifications for Licensure - Examination Requirements.

(1) In accordance with Section 58-31b-302, the examination requirements for graduates of approved nursing programs are as follows.

(a) An applicant for licensure as an LPN or RN shall pass the applicable NCLEX examination.

(b) An applicant for licensure as an APRN shall pass one of the following national certification examinations consistent with ~~his~~the applicant's educational specialty:

(i) one of the following examinations administered by the American Nurses Credentialing Center Certification:

- (A) Adult Nurse Practitioner;
- (B) Family Nurse Practitioner;
- (C) Pediatric Nurse Practitioner;
- (D) Gerontological Nurse Practitioner;
- (E) Acute Care Nurse Practitioner;
- (F) Clinical Specialist in Medical-Surgical Nursing;
- (G) Clinical Specialist in Gerontological Nursing;
- (H) Clinical Specialist in Adult Psychiatric and Mental Health Nursing;
- (I) Clinical Specialist in Child and Adolescent Psychiatric and Mental Health Nursing;

(J) Psychiatric and Mental Health Nurse Practitioner (Adult and Family);

(ii) Pediatric Nursing Certification Board;

(iii) American Academy of Nurse Practitioners;

(iv) the National Certification Corporation for the Obstetric, Gynecologic and Neonatal Nursing Specialties;

(v) the Oncology Nursing Certification Corporation Advanced Oncology Certified Nurse if taken on or before July 1, 2005;

(vi) the Advanced Practice Certification for the Clinical Nurse Specialist in Acute and Critical Care; or

(vii) the Advanced Critical Care Examination administered by the American Association of Critical Care Nurses; or

(viii) the national certifying examination administered by the American Midwifery Certification Board, Inc.; or

~~(e)ix) [An applicant for licensure as a CRNA shall pass]~~the examination of the Council on Certification of Nurse Anesthetists.

(2) In accordance with Section 58-31b-303, an applicant for licensure as an LPN or RN from a non-approved nursing program shall pass the applicable NCLEX examination.

R156-31b-303. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two year renewal cycle applicable to licensees under Title 58, Chapter 31b, is established by rule in Section R156-1-308.

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

(3) Each applicant for renewal shall comply with the following continuing competence requirements:

(a) A LPN or RN shall complete one of the following during the two years immediately preceding the application for renewal:

(i) licensed practice for not less than 400 hours;

(ii) licensed practice for not less than 200 hours and completion of 15 contact hours of approved continuing education; or

(iii) completion of 30 contact hours of approved continuing education hours.

(b) An APRN shall complete the following:

(i) be currently certified or recertified in their specialty area of practice; or

(ii) if licensed prior to July 1, 1992, complete 30 hours of approved continuing education and 400 hours of practice. [~~(e) A CRNA shall be currently certified or recertified as a CRNA.]~~

~~(e) A CRNA shall be currently certified or recertified as a CRNA.]~~

R156-31b-304. Temporary Licensure.

(1) In accordance with Subsection 58-1-303(1), the division may issue a temporary license to a person who meets all qualifications for licensure as either an LPN or RN, except for the passing of the required examination, if the applicant:

(a) is a graduate of or has completed a Utah-based, approved nursing education program within two months immediately preceding application for licensure;

(b) has never before taken the specific licensure examination;

(c) submits to the division evidence of having secured employment conditioned upon issuance of the temporary license, and the employment is under the direct, on-site supervision of a fully licensed registered nurse; and

(d) has registered for the appropriate NCLEX examination.

(2) The temporary license issued under Subsection (1) expires the earlier of:

- (a) the date upon which the division receives notice from the examination agency that the individual failed the examination;
- (b) four months from the date of issuance; or
- (c) the date upon which the division issues the individual full licensure.

R156-31b-306. Inactive Licensure, Reinstatement or Relicensure.

(1) In accordance with Subsection 58-1-305(1), an individual seeking activation of an inactive RN or LPN license must document current competency to practice as a nurse as defined in Subsection (3) below.

(2) An individual seeking reinstatement of RN or LPN licensure or relicensure as a RN or LPN in accordance with Subsection R156-1-308g(3)(b), R156-1-308i(3), R156-1-308j(3) and R156-1-308k(2)(c) shall document current competence as defined in Subsection (3) below.

(3) Documentation of current competency to practice as a nurse is established as follows:

(a) an individual who has not practiced as a nurse for five years or less must document current compliance with the continuing competency requirements as established in Subsection R156-31b-303(3);

(b) an individual who has not practiced as a nurse for more than five years but less than 10 years must pass the required examinations as defined in Section R156-31b-302c within six months prior to making application for licensure or successfully complete an approved re-entry program;

(c) an individual who has not practiced as a nurse for more than 10 years but less than 15 years must pass the required examinations as defined in Section R156-31b-302c within six months prior to making application for licensure ~~or~~and successfully complete an approved re-entry program;

(d) an individual who has not practiced as a nurse for more than 15 years shall repeat an approved nursing education program and pass the required examinations as defined in Section R156-31b-302c within six months prior to making application for licensure.

(4) To document current competency for activation, reinstatement or relicensure as an APRN ~~or CRNA~~, an individual must pass the required examinations as defined in Section R156-31b-302c and be currently certified or recertified in the specialty area.

R156-31b-401. Disciplinary Proceedings.

(1) An individual licensed as a LPN who is currently under disciplinary action and qualifies for licensure as an RN may be issued an RN license under the same restrictions as the LPN.

(2) A nurse whose license is suspended, may under Subsection 58-31b-401 petition the division at any time that ~~he~~the licensee can demonstrate that ~~he~~the licensee can resume competent practice.

(3) An individual who has had any license issued under Title 58, Chapter 31b revoked or surrendered two times or more as a result of unlawful or unprofessional conduct is ineligible to apply for relicensure.

R156-31b-601. Nursing Education Program Standards.

In accordance with Subsection 58-31b-601(2), the minimum standards that a nursing education program must meet to qualify graduates for licensure under this chapter are set forth in Sections R156-31b-601, 602, 603, and 604.

(1) Standards for programs located within Utah leading to licensure as a registered nurse ~~or advanced practice registered nurse~~ ~~or certified registered nurse anesthetist~~:

(a) be accredited or preaccredited regionally by a professional accrediting body approved by the Council for Higher Education Accreditation of the American Council on Education, or one of the following national accrediting bodies: the Accrediting Bureau of Health Education Schools (ABHES), the Accrediting Commission of Career Schools and Colleges of Technology (ACCSCCT), or the Accrediting Commission of the Distance Education and Training Council (DETC);

(b) admit as students, only persons having a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate;

(c) be legally authorized by the State of Utah to provide a program of education beyond secondary education;

(d) provide not less than a two academic year program of study that awards a minimum of an associate degree that is transferable to another institution of higher education;

(e) provide an academic program of study that awards a minimum of a master's degree that is transferable to another institution of higher education if providing education toward licensure as an advanced practice registered nurse;

(f) meet the accreditation standards of either CCNE, NLNAC, or COA as evidenced by accreditation by ~~either one of the organizations~~ as required under Subsection R156-31b-602; and

(g) have at least 20 percent of the school's revenue from sources that are not derived from funds provided under title IV, HEA program funds or student fees, including tuition if a proprietary school.

(2) Standards for programs located within Utah leading to licensure as a licensed practical nurse:

(a) be accredited or preaccredited regionally by a professional accrediting body approved by the Council for Higher Education Accreditation of the American Council on Education; or one of the following national accrediting bodies: the Accrediting Bureau of Health Education Schools (ABHES) or the Accrediting Commission of Career Schools and Colleges of Technology (ACCSCCT);

(b) admit as nursing students, only persons having a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate;

(c) be legally authorized by the State of Utah to provide a program of education beyond secondary education;

(d) provide not less than one academic year program of study that leads to a certificate or recognized educational credential and provides courses that are transferable to an institution of higher education;

(e) meet the accreditation standards of either CCNE or NLNAC as evidenced by accreditation by either organization as required under Subsection R156-31b-602.

(f) have at least 20 percent of the school's revenue from sources that are not derived from funds provided under title IV, HEA program funds or student fees, including tuition if a proprietary school.

(3) Programs located outside of Utah leading toward licensure as a nurse must be:

(a) accredited by the CCNE, NLNAC or COA; and

(b) approved by the Board of Nursing or duly recognized agency in the state in which the program is offered.

R156-31b-607. Standards for Out-of-State Programs Providing Clinical Experiences in Utah.

In accordance with Subsection 58-31b-601(2), the minimum standards that a nursing education program which is located outside the state must meet to allow students to obtain clinical experiences in Utah are set forth as follows.

(1) An entry level distance learning nursing education program which leads to licensure utilizing precepted clinical experiences in Utah must meet the following criteria:

(a) parent-program must be Board of Nursing approved in the state of primary location (business), be nationally accredited by either NLNAC, CCNE, or COA, and must be affiliated with an institution of higher education;

(b) parent-program clinical faculty supervisor must be licensed in Utah or a Compact state;

(c) preceptors within the health care facilities must be licensed in good standing, in Utah or a Compact State;

(d) parent-program must have a contract with the Utah health care facilities that provide the clinical sites; and

(e) parent-program must document compliance with the above stated criteria, along with a request to be approved to have a student who is exempt from licensure under Subsection 58-1-307(c).

(2) A nursing education program located in another state that desires to use Utah health care facilities for clinical experiences for one or more students must meet the following criteria:

(a) be approved by the home state Board of Nursing, be nationally accredited by either NLNAC or CCNE, and must be affiliated with an institution of higher education;

(b) clinical faculty must be employed by the nursing education program, meet the requirements to be a faculty member as established by the accrediting body and the program's Board of Nursing, and must be licensed, in good standing in Utah or a Compact state;

(c) preceptors within the health care facilities must be licensed, in good standing, in Utah or a Compact state;

(d) have a contract with the Utah health care facilities that provide the clinical sites;

(e) submit an annual report on forms provided by the Division of Occupational and Professional Licensing and Utah Board of Nursing; and

(f) document compliance with the above stated criteria, along with a request to be approved to have a student(s) who is exempt from licensure under Subsection 58-1-307(c) of the Utah Code.

(3) A distance learning didactic nursing education program with a Utah based proprietary post[-]secondary school which provides tutoring services, facilitates clinical site selection, and provides clinical site faculty must meet the following criteria:

(a) parent-program must be approved by the Board of Nursing in the state of primary location (business), be nationally accredited by either NLNAC or CCNE, and must be affiliated with an institution of higher education;

(b) a formal contract must be in place between the parent-program and the Utah post[-]secondary school;

(c) parent-program and Utah post[-]secondary school must submit an application for program approval by the Division of Occupational and Professional Licensing in collaboration with the Board of Nursing in Utah, utilizing the parent-program's existing curriculum. Approval is granted to the parent-program, not to the post[-]secondary school;

(d) clinical faculty (mentors) must be employed by the parent-program (this can be as a contractual faculty member), meet the

requirements to be a faculty member as established by the accrediting body and the parent-program's Board of Nursing, and must be licensed, in good standing in Utah or a Compact state;

(e) clinical faculty supervisor(s) located at the parent-program must be licensed, in Utah or a Compact state;

(f) parent-program is responsible for conducting the nursing education program, the program's policies and procedures, and the selection of the students;

(g) parent-program must have a contract with the Utah health care facilities that provide the clinical sites; and

(h) submit an annual report on forms provided by the Division of Occupational and Professional Licensing and Utah Board of Nursing.

R156-31b-701. Delegation of Nursing Tasks.

In accordance with Subsection 58-31b-102([++]14)(g), the delegation of nursing tasks is further defined, clarified, or established as follows:

(1) The nurse delegating tasks retains the accountability for the appropriate delegation of tasks and for the nursing care of the patient/client. The licensed nurse shall not delegate any task requiring the specialized knowledge, judgment and skill of a licensed nurse to an unlicensed assistive personnel. It is the licensed nurse who shall use professional judgment to decide whether or not a task is one that must be performed by a nurse or may be delegated to an unlicensed assistive personnel. This precludes a list of nursing tasks that can be routinely and uniformly delegated for all patients/clients in all situations. The decision to delegate must be based on careful analysis of the patient's/client's needs and circumstances.

(2) The licensed nurse who is delegating a nursing task shall:

(a) verify and evaluate the orders;

(b) perform a nursing assessment;

(c) determine whether the task can be safely performed by an unlicensed assistive personnel or whether it requires a licensed health care provider;

(d) verify that the delegatee has the competence to perform the delegated task prior to performing it;

(e) provide instruction and direction necessary to safely perform the specific task; and

(f) provide ongoing supervision and evaluation of the delegatee who is performing the task.

(3) The delegator shall evaluate the situation to determine the degree of supervision required to ensure safe care.

(a) The following factors shall be evaluated to determine the level of supervision needed:

(i) the stability of the condition of the patient/client;

(ii) the training and capability of the delegatee;

(iii) the nature of the task being delegated; and

(iv) the proximity and availability of the delegator to the delegatee when the task will be performed.

(b) The delegating nurse or another qualified nurse shall be readily available either in person or by telecommunication. The delegator responsible for the care of the patient/client shall make supervisory visits at appropriate intervals to:

(i) evaluate the patient's/client's health status;

(ii) evaluate the performance of the delegated task;

(iii) determine whether goals are being met; and

(iv) determine the appropriateness of continuing delegation of the task.

(4) Nursing tasks, to be delegated, shall meet the following criteria as applied to each specific patient/client situation:

- (a) be considered routine care for the specific patient/client;
- (b) pose little potential hazard for the patient/client;
- (c) be performed with a predictable outcome for the patient/client;
- (d) be administered according to a previously developed plan of care; and
- (e) not inherently involve nursing judgment which cannot be separated from the procedure.

(5) If the nurse, upon review of the patient's/client's condition, complexity of the task, ability of the unlicensed assistive personnel and other criteria as deemed appropriate by the nurse, determines that the unlicensed assistive personnel cannot safely provide care, the nurse shall not delegate the task.

(6) In accordance with Section 53A-11-601 and a student care plan, it is appropriate for a nurse to provide training to an unlicensed assistive personnel which includes the administration of glucagon in an emergency situation provided any training regarding the administration of glucagon is updated at least annually.

R156-31b-702. Scope of Practice.

(1) The lawful scope of practice for an RN employed by a department of health shall include implementation of standing orders and protocols, and completion and providing to a patient of prescriptions which have been prepared and signed by a physician in accordance with the provisions of Section 58-17b-620.

(2) An APRN who chooses to change or expand from a primary focus of practice must be able to document competency within that expanded practice based on education, experience and certification. The burden to demonstrate competency rests upon the licensee.

(3) An individual licensed as ~~either~~ an APRN ~~or a CRNA~~ may practice within the scope of practice of a RN under ~~his~~ the APRN ~~or CRNA~~ license.

(4) An individual licensed in good standing in Utah as either an APRN or a CRNA and residing in this state, may practice as an RN in any Compact state.

R156-31b-703. Generally Recognized Scope of Practice of a LPN.

In accordance with Subsection 58-31b-102(~~[43]~~15), the LPN practicing within the generally recognized LPN scope of practice practices as follows:

- (1) In demonstrating professional accountability shall:
 - (a) practice within the legal boundaries for practical nursing through the scope of practice authorized in statute and rule;
 - (b) demonstrate honesty and integrity in nursing practice;
 - (c) base nursing decisions on nursing knowledge and skills, the needs of patients/clients;
 - (d) accept responsibility for individual nursing actions, competence, decisions and behavior in the course of practical nursing practice; and
 - (e) maintain continued competence through ongoing learning and application of knowledge in the client's interest.
- (2) In demonstrating the responsibility for nursing practice implementation shall:
 - (a) conduct a focused nursing assessment;
 - (b) plan for episodic nursing care;
 - (c) demonstrate attentiveness and provides patient/client surveillance and monitoring;

- (d) assist in identification of client needs;
- (e) seek clarification of orders when needed;
- (f) demonstrate attentiveness and provides observation for signs, symptoms and changes in client condition;
- (g) assist in the evaluation of the impact of nursing care, and contributes to the evaluation of patient/client care;
- (h) recognize client characteristics that may affect the patient's/client's health status;
- (i) obtain orientation/training competency when encountering new equipment and technology or unfamiliar care situations;
- (j) implement appropriate aspects of client care in a timely manner;
 - (i) provide assigned and delegated aspects of patient's/client's health care plan;
 - (ii) implement treatments and procedures; and
 - (iii) administer medications accurately;
- (k) document care provided;
- (l) communicate relevant and timely client information with other health team members including:
 - (i) patient/client status and progress;
 - (ii) patient/client response or lack of response to therapies;
 - (iii) significant changes in patient/client condition; or
 - (iv) patient/client needs;
- (i) participate in nursing management;
 - (i) assign nursing activities to other LPNs;
 - (ii) delegate nursing activities for stable patients/clients to unlicensed assistive personnel;
 - (iii) observe nursing measures and provide feedback to nursing manager; and
 - (iv) observe and communicate outcomes of delegated and assigned activities;
- (n) take preventive measures to protect patient/client, others and self;
- (o) respect patient's/client's rights, concerns, decisions and dignity;
 - (p) promote a safe client environment;
 - (q) maintain appropriate professional boundaries; and
 - (r) assume responsibility for own decisions and actions.
- (3) In being a responsible member of an interdisciplinary health care team shall:
 - (a) function as a member of the health care team, contributing to the implementation of an integrated health care plan;
 - (b) respect client property and the property of others; and
 - (c) protect confidential information unless obligated by law to disclose the information.

R156-31b-704. Generally Recognized Scope of Practice of a RN.

In accordance with Subsection 58-31b-102(~~[44]~~16), the RN practicing within the generally recognized RN scope of practice practices as follows:

- (1) In demonstrating professional accountability shall:
 - (a) practice within the legal boundaries for nursing through the scope of practice authorized in statute and rules;
 - (b) demonstrate honesty and integrity in nursing practice;
 - (c) base professional decisions on nursing knowledge and skills, the needs of patients/clients;
 - (d) accept responsibility for judgments, individual nursing actions, competence, decisions and behavior in the course of nursing practice; and

(e) maintain continued competence through ongoing learning and application of knowledge in the patient's/client's interest.

(2) In demonstrating the responsibility for nursing practice implementation shall:

(a) conduct a comprehensive nursing assessment;

(b) detect faulty or missing patient/client information;

(c) apply nursing knowledge effectively in the synthesis of the biological, psychological, spiritual and social aspects of the patient's/client's condition;

(d) utilize this broad and complete analysis to plan strategies of nursing care and nursing interventions that are integrated within the patient's/client's overall health care plan;

(e) provide appropriate decision making, critical thinking and clinical judgment to make independent nursing decisions and identification of health care needs;

(f) seek clarification of orders when needed;

(g) implement treatments and therapy, including medication administration, delegated medical and independent nursing functions;

(h) obtain orientation/training for competence when encountering new equipment and technology or unfamiliar situations;

(i) demonstrate attentiveness and provides client surveillance and monitoring;

(j) identify changes in patient's/client's health status and comprehends clinical implications of patient/client signs, symptoms and changes as part of expected and unexpected patient/client course or emergent situations;

(k) evaluate the impact of nursing care, the patient's/client's response to therapy, the need for alternative interventions, and the need to communicate and consult with other health team members;

(l) document nursing care;

(m) intervene on behalf of patient/client when problems are identified and revises care plan as needed;

(n) recognize patient/client characteristics that may affect the patient's/client's health status; and

(o) take preventive measures to protect patient/client, others and self.

(3) In demonstrating the responsibility to act as an advocate for patient/client shall:

(a) respect the patient's/client's rights, concerns, decisions and dignity;

(b) identify patient/client needs;

(c) attend to patient/client concerns or requests;

(d) promote safe patient/client environment;

(e) communicate patient/client choices, concerns and special needs with other health team members regarding:

(i) patient/client status and progress;

(ii) patient/client response or lack of response to therapies; and

(iii) significant changes in patient/client condition;

(f) maintain appropriate professional boundaries;

(g) maintain patient/client confidentiality; and

(h) assume responsibility for own decisions and actions.

(4) In demonstrating the responsibility to organize, manage and supervise the practice of nursing shall:

(a) assign to another only those nursing measures that fall within that nurse's scope of practice, education, experience and competence or unlicensed person's role description;

(b) delegate to another only those nursing measures which that person has the necessary skills and competence to accomplish safely;

(c) match patient/client needs with personnel qualifications, available resources and appropriate supervision;

(d) communicate directions and expectations for completion of the delegated activity;

(e) supervise others to whom nursing activities are delegated or assigned by monitoring performance, progress and outcome, and assures documentation of the activity;

(f) provide follow-up on problems and intervenes when needed;

(g) evaluate the effectiveness of the delegation or assignment;

(h) intervene when problems are identified and revises plan of care as needed;

(i) retain professional accountability for nursing care as provided;

(j) promote a safe and therapeutic environment by:

(i) providing appropriate monitoring and surveillance of the care environment;

(ii) identifying unsafe care situations; and

(iii) correcting problems or referring problems to appropriate management level when needed; and

(k) teach and counsel patient/client families regarding health care regimen, which may include general information about health and medical condition, specific procedures and wellness and prevention.

(5) In being a responsible member of an interdisciplinary health care team shall:

(a) function as a member of the health care team, collaborating and cooperating in the implementation of an integrated patient/client-centered health care plan;

(b) respect patient/client property, and the property of others; and

(c) protect confidential information.

(6) In being the chief administrative nurse shall:

(a) assure that organizational policies, procedures and standards of nursing practice are developed, kept current and implemented to promote safe and effective nursing care;

(b) assure that the knowledge, skills and abilities of nursing staff are assessed and that nurses and nursing assistive personnel are assigned to nursing positions appropriate to their determined competence and licensure/certification/registration level;

(c) assure that competent organizational management and management of human resources within the nursing organization are established and implemented to promote safe and effective nursing care; and

(d) assure that thorough and accurate documentation of personnel records, staff development, quality assurance and other aspects of the nursing organization are maintained.

(7) When functioning in a nursing program educator (faculty) role shall:

(a) teach current theory, principles of nursing practice and nursing management;

(b) provide content and clinical experiences for students consistent with statutes and rules;

(c) supervise students in the provision of nursing services; and

(d) evaluate student scholastic and clinical performance with expected program outcomes.

KEY: licensing, nurses

Date of Enactment or Last Substantive Amendment: ~~January 23, 2006~~ 2007

Notice of Continuation: June 2, 2003

Authorizing, and Implemented or Interpreted Law: 58-31b-101; 58-1-106(1)(a); 58-1-202(1)(a)

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Commerce, Occupational and Professional Licensing

R156-31b

Nurse Practice Act Rules

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE No.: 30208
FILED: 07/19/2007, 09:47

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Board of Nursing are proposing amendments to clarify the delegation of nursing tasks by a registered nurse in a school setting. School nurses have expressed concern that they are being asked to delegate medication administration to unlicensed individuals by school personnel and parents, regardless of whether the nurse believes the delegation is appropriate. Given the uniqueness of the school setting, members of the Board of Nursing and the division agreed to propose a rule amendment that specifically addresses this issue and setting.

SUMMARY OF THE RULE OR CHANGE: In Section R156-31b-102, new definitions for "school setting" and "student health care plan" are being added. Subsection R156-31b-701(6) is being deleted and moved to the new Section R156-31b-701a. Section R156-31b-701a regarding delegation of nursing tasks in a school setting is being added. Proposed amendments provide a registered nurse (RN) in a school setting may not delegate the administration of any medication which requires nursing assessment or judgment prior to administration, evaluation, or followup unless expressly permitted by law. Also an RN in a school setting may not delegate the administration of medication for the first dose of a new medication or dosage change, or insulin via any route.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-31b-101 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** If these proposed amendments are made effective, the division will incur minimal costs of approximately \$100 to reprint the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the division's current budget. Given the limited

number of RN school nurses throughout the state, the legislature may be asked to provide more funding to the school districts to hire more nurses to administer medications in the school setting.

❖ **LOCAL GOVERNMENTS:** A school district may be required to hire more nurses to administer medications in the school setting, or may need to contract with independent nurses or home health care agencies to provide the knowledge and skill necessary to administer medications safely. The division is unable to determine any exact amount of costs related to possibly hiring more nurses or contracting with nurses.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** **SMALL BUSINESS:** If a private school did not have the necessary nurse employees to administer medications in the school, then the school would be required to hire and/or contract with an RN to provide this nursing tasks to students. The average full-time yearly salary for an RN in Utah is \$38,000 - \$52,000. **OTHER PERSONS:** According to the Utah Nurses Association, the ratio of an RN to student in Utah is 1:6,500, whereas the national standard is 1:750. As more and more children are mainstreamed and the number of children receiving prescribed medication increases, schools will be required to hire/contract with more nurses to administer medications in the school setting. The personnel budgets of schools and school districts will increase, but employment opportunities for licensed nurses will also increase, which has a positive effect on the state's economy.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Depending on the number of students receiving medications and the number of RNs currently working in schools, schools and school districts will need to obtain additional RN positions to provide for the nursing care needs of the student. The division is unable to determine an exact cost to schools or school districts due to a number of varying factors. However, the average full-time yearly salary for an RN in Utah is \$38,000 - \$52,000.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing prohibits a nurse from delegating duties relating to the administration of medications in a school setting. Thus, pursuant to Section 53A-11-601, where a school chooses to provide for the administration of medication to students, it could experience costs if additional nurses are needed to administer medications since that duty can no longer be delegated. That fiscal impact is difficult to ascertain as Section 53A-11-601 is permissive rather than mandatory, and of those schools that choose to provide for the administration of medications, it is not known how many will need to hire additional nurses. 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:

Laura Poe at the above address, by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at lpoe@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 09/14/2007

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 8/24/2007 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: 09/21/2007

AUTHORIZED BY: F. David Stanley, Director

R156. Commerce, Occupational and Professional Licensing.

R156-31b. Nurse Practice Act Rules.

R156-31b-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 31b, as defined or used in these rules:

(1) "Absolute discharge", as used in Subsection 58-31b-302(5)(b), means the completion of criminal probation or parole.

(2) "Affiliated with an institution of higher education", as used in Subsection 58-31b-601(1), means the general and science education courses required as part of a nursing education program are provided by an educational institution which is approved by the Board of Regents or an equivalent governmental agency in another state or a private educational institution which is regionally accredited by an accrediting board recognized by the Council for Higher Education Accreditation of the American Council on Education; and the nursing program and the institution of higher education are affiliated with each other as evidenced by a written contract or memorandum of understanding.

(3) "APRN" means an advanced practice registered nurse.

(4) "Approved continuing education" in Subsection R156-31b-303(3) means:

(a) continuing education that has been approved by a professional nationally recognized approver of health related continuing education;

(b) nursing education courses taken from an approved education program as defined in Section R156-31b-601; and

(c) health related course work taken from an educational institution accredited by a regional institutional accrediting body identified in the "Accredited Institutions of Postsecondary Education", 2003-04 edition, published by the American Council on Education.

(5) "Approved education program" as defined in Subsection 58-31b-102(3) is further defined to include any nursing education program published in the documents entitled "Directory of Accredited Nursing Programs", 2003, published by the National League for Nursing Accrediting Commission, which are hereby adopted and incorporated by reference as a part of these rules.

(6) "CCNE" means the Commission on Collegiate Nursing Education.

(7) "CGFNS" means the Commission on Graduates of Foreign Nursing Schools.

(8) "COA", as used in these rules, means the Council of Accreditation of Nurse Anesthesia Education Programs.

(9) "Clinical mentor/preceptor", as used in Section R156-31b-607, means an individual who is employed by a clinical health care facility and is chosen by that agency, in collaboration with the Parent-Program, to provide direct, on-site supervision and direction to a nursing student who is engaged in a clinical rotation, and who is accountable to both the clinical agency and the supervisory clinical faculty member.

(10) "Comprehensive nursing assessment", as used in Section R156-31b-704, means an extensive data collection (initial and ongoing) for individuals, families, groups and communities addressing anticipated changes in patient/client conditions as well as emergent changes in patient's/client's health status; recognizing alterations to previous patient/client conditions; synthesizing the biological, psychological, spiritual and social aspects of the patient's/client's condition; evaluating the impact of nursing care; and using this broad and complete analysis to make independent decisions and identification of health care needs; plan nursing interventions, evaluate need for different interventions and the need to communicate and consult with other health team members.

(11) "Contact hour" means 50 minutes.

(12) "CRNA" means a certified registered nurse anesthetist.

(13) "Delegation" means transferring to an individual the authority to perform a selected nursing task in a selected situation. The nurse retains accountability for the delegation.

(14) "Direct supervision" is the supervision required in Subsection 58-31b-306(1)(a)(iii) and means:

(a) the person providing supervision shall be available on the premises at which the supervisee is engaged in practice; or

(b) if the supervisee is specializing in psychiatric mental health nursing, the supervisor may be remote from the supervisee if there is personal direct voice communication between the two prior to prescribing a prescription drug.

(15) "Disruptive behavior", as used in these rules, means conduct, whether verbal or physical, that is demeaning, outrageous, or malicious and that places at risk patient care or the process of delivering quality patient care. Disruptive behavior does not include criticism that is offered in good faith with the aim of improving patient care.

(16) "Focused nursing assessment", as used in Section R156-31b-703, means an appraisal of an individual's status and situation at hand, contributing to the comprehensive assessment by the registered nurse, supporting ongoing data collection and deciding who needs to be informed of the information and when to inform.

(17) "Licensure by equivalency" as used in these rules means licensure as a licensed practical nurse after successful completion of course work in a registered nurse program which meets the criteria established in Sections R156-31b-601 and R156-31b-603.

(18) "LPN" means a licensed practical nurse.

(19) "NLNAC" means the National League for Nursing Accrediting Commission.

(20) "NCLEX" means the National Council Licensure Examination of the National Council of State Boards of Nursing.

(21) "Non-approved education program" means any foreign nurse education program.

(22) "Other specified health care professionals", as used in Subsection 58-31b-102(13), who may direct the licensed practical nurse means:

(a) advanced practice registered nurse;

(b) certified nurse midwife;

(c) chiropractic physician;
 (d) dentist;
 (e) osteopathic physician;
 (f) physician assistant;
 (g) podiatric physician;
 (h) optometrist;
 (i) certified registered nurse anesthetist;
 (j) naturopathic physician; or
 (k) mental health therapist as defined in Subsection 58-60-102(5).

(23) "Parent-program", as used in Section R156-31b-607, means a nationally accredited, Board of Nursing approved nursing education program that is providing nursing education (didactic, clinical or both) to a student and is responsible for the education program curriculum, and program and student policies.

(24) "Patient surrogate", as used in Subsection R156-31b-502(4), means an individual who has legal authority to act on behalf of the patient when the patient is unable to act or decide for himself, including a parent, foster parent, legal guardian, or a person designated in a power of attorney.

(25) "Postsecondary school", as used in Section R156-31b-607, means a program registered and in good standing with the Utah Department of Commerce, Division of Consumer Protection, that offers coursework to individuals who have graduated from high school or have been awarded a GED.

(26) "Psychiatric mental health nursing specialty", as used in Subsection 58-31b-302(3)(g), includes psychiatric mental health nurse specialists and psychiatric mental health nurse practitioners.

(27) "RN" means a registered nurse.

(28) "School setting", as used in Section R156-31b-701.5, means any pre-school through grade 12 and special education programs in private and public schools.

(29) "Student health care plan", as used in this rule, means a document developed by a registered nurse working in a school setting that guides school personnel in the care of a student with medical needs.

([28]30) "Supervision" in Section R156-31b-701 means the provision of guidance or direction, evaluation and follow up by the licensed nurse for accomplishment of a task delegated to unlicensed assistive personnel or other licensed individuals.

([29]31) "Supervisory clinical faculty", as used in Section R156-31b-607, means one or more individuals employed by an approved nursing education program who meet the accreditation and Board of Nursing specific requirements to be a faculty member and are responsible for the overall clinical experiences of nursing students and may supervise and coordinate clinical mentors/preceptors who provide the actual direct clinical experience.

([30]32) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 31b, is further defined in Section R156-31b-502.

R156-31b-701. Delegation of Nursing Tasks.

In accordance with Subsection 58-31b-102(11)(g), the delegation of nursing tasks is further defined, clarified, or established as follows:

(1) The nurse delegating tasks retains the accountability for the appropriate delegation of tasks and for the nursing care of the patient/client. The licensed nurse shall not delegate any task requiring the specialized knowledge, judgment and skill of a licensed nurse to an unlicensed assistive personnel. It is the licensed nurse who shall use professional judgment to decide whether or not a task is one that must be performed by a nurse or may be delegated

to an unlicensed assistive personnel. This precludes a list of nursing tasks that can be routinely and uniformly delegated for all patients/clients in all situations. The decision to delegate must be based on careful analysis of the patient's/client's needs and circumstances.

(2) The licensed nurse who is delegating a nursing task shall:

(a) verify and evaluate the orders;

(b) perform a nursing assessment;

(c) determine whether the task can be safely performed by an unlicensed assistive personnel or whether it requires a licensed health care provider;

(d) verify that the delegatee has the competence to perform the delegated task prior to performing it;

(e) provide instruction and direction necessary to safely perform the specific task; and

(f) provide ongoing supervision and evaluation of the delegatee who is performing the task.

(3) The delegator shall evaluate the situation to determine the degree of supervision required to ensure safe care.

(a) The following factors shall be evaluated to determine the level of supervision needed:

(i) the stability of the condition of the patient/client;

(ii) the training and capability of the delegatee;

(iii) the nature of the task being delegated; and

(iv) the proximity and availability of the delegator to the delegatee when the task will be performed.

(b) The delegating nurse or another qualified nurse shall be readily available either in person or by telecommunication. The delegator responsible for the care of the patient/client shall make supervisory visits at appropriate intervals to:

(i) evaluate the patient's/client's health status;

(ii) evaluate the performance of the delegated task;

(iii) determine whether goals are being met; and

(iv) determine the appropriateness of continuing delegation of the task.

(4) Nursing tasks, to be delegated, shall meet the following criteria as applied to each specific patient/client situation:

(a) be considered routine care for the specific patient/client;

(b) pose little potential hazard for the patient/client;

(c) be performed with a predictable outcome for the patient/client;

(d) be administered according to a previously developed plan of care; and

(e) not inherently involve nursing judgment which cannot be separated from the procedure.

(5) If the nurse, upon review of the patient's/client's condition, complexity of the task, ability of the unlicensed assistive personnel and other criteria as deemed appropriate by the nurse, determines that the unlicensed assistive personnel cannot safely provide care, the nurse shall not delegate the task. [

~~(6) In accordance with Section 53A-11-601 and a student care plan, it is appropriate for a nurse to provide training to an unlicensed assistive personnel which includes the administration of glucagon in an emergency situation provided any training regarding the administration of glucagon is updated at least annually.]~~

R156-31b-701a. Delegation of Nursing Tasks in a School Setting.

In addition to the delegation rules found in Section R156-31b-701, the delegation of nursing tasks in a school setting is further defined, clarified, or established as follows:

(1) In accordance with Section 53A-11-601 and a student health care plan, it is appropriate for a nurse to provide training to unlicensed assistive personnel, which training includes the administration of glucagon in an emergency situation, provided that any training regarding the administration of glucagon is updated at least annually.

(2) In accordance with a student health plan, a registered nurse may not delegate the administration of any medication which requires nursing assessment or judgment prior to administration, evaluation, or follow-up, unless expressly permitted by law such as glucagon and an epipen.

(3) A registered nurse working in a school setting may not delegate the administration of medication in the following circumstances:

(a) first dose of a new medication or a dosage change; or

(b) insulin via any route.

KEY: licensing, nurses

Date of Enactment or Last Substantive Amendment: ~~January 23, 2006~~2007

Notice of Continuation: June 2, 2003

Authorizing, and Implemented or Interpreted Law: 58-31b-101; 58-1-106(1)(a); 58-1-202(1)(a)



Commerce, Real Estate R162-102-1 Application

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE No.: 30199
FILED: 07/17/2007, 09:12

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Appraiser candidates are currently allowed to follow a "segmented approach" in obtaining approval of their education or experience, which means that they can submit either component for approval independent of the other component.

The segmented approach could erode public protection by allowing a person's education or experience to become outdated before the person completes the licensing or certification process and starts practicing the profession.

SUMMARY OF THE RULE OR CHANGE: Beginning on January 1, 2008, appraiser candidates will be required to obtain approval of their education and experience credits at the same time. Those who obtained approval of either the education component or the experience component, but not both, prior to January 1, 2008, will have three years to obtain approval of the other component.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 61-2b-6(1)(l) and 61-2b-8(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There will be no added cost to the state budget. There should be a savings to the Division of Real Estate because it will not have to approve education and experience separately at two different times and keep track of the fact that one of the components has been approved. It is not possible to calculate what the savings would be for a number of reasons, among them, the fact that it is unknown how many applicants might choose a segmented approval process instead of submitting both the education and the experience components at once if the choice is available to them.

❖ **LOCAL GOVERNMENTS:** Local governments do have appraisers and appraisal trainees on staff. This rule change could impact local governments because an appraiser candidate would have to obtain approval of education and experience at the same time, but it is unknown what, if any, financial impact this change in the appraiser application process would have on those local government entities who employ appraisers. It is not anticipated that this rule change would save local governments any money. If it results in any increased cost to local government, that potential impact would be lessened by the fact that the Division is providing considerable lead time (until January 1, 2011) before approval of a component would lapse if the applicant did not obtain approval of the other component.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** Many appraisal firms in Utah are small businesses. While this rule change would have no impact on other small businesses, there could be an impact on appraisal firms in that appraisal trainees who want to become licensed and those licensed appraisers who want to become certified would have to pursue licensure and certification more actively instead of obtaining approval of either their education or experience and then allowing many years to go by before completing their licensing or certification process. It is impossible to estimate how many persons would be affected and what, if anything, the cost would be of requiring a person who starts the licensing or certification process by submitting either the education or experience component to complete the process in a more timely fashion.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only persons potentially affected by this rule change are candidates for appraisal licensure or certification. Although requiring appraiser candidates to complete the licensing or certification process more quickly after they start the process might potentially cost appraiser candidates in an amount that the Division does not know how to quantify, the Division and the Utah Appraiser Board believe that public protection will be enhanced if a person's education and experience are not allowed to become stale before they start practicing the profession.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It is not clear what fiscal impact to businesses, if any, might result from this rule filing which requires applicants to submit education and experience

documentation at the same time. Current applicants who have already submitted their education or experience documentation will have a period of three years from the effective date of the rule filing to complete the remaining component. Thus, any fiscal impact to the industry should be minimal. 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 09/14/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 09/22/2007

AUTHORIZED BY: Derek Miller, Director

**R162. Commerce, Real Estate.
R162-102. Application Procedures.
R162-102-1. Application.**

102.1.1 Initial Review - An applicant for licensure or certification as an appraiser will be required to submit, on forms provided by the Division, documentation indicating successful completion of the education and experience required by the [s]State of Utah. Until January 1, 2008, an applicant may submit education documentation and experience documentation to the Division for approval separately. Effective January 1, 2008, an applicant shall submit education documentation and experience documentation to the Division at the same time.

102.1.1.1 ~~[The application]~~Education documentation may be reviewed by an Appraiser Education Review Committee appointed by the Real Estate Appraiser Licensing and Certification Board to determine if the education requirement has been met.

102.1.1.1.1 As a prerequisite to sitting for either the licensing examination or the certification examination, the applicant shall submit proof of successful completion of the 15-hour National USPAP Course or its equivalent from an instructor or instructors, at least one of whom is a State-Certified Residential or State-Certified General Appraiser and has been certified by the Appraiser Qualifications Board (AOB) of the Appraisal Foundation. Equivalency to the 15-hour National USPAP Course will be determined through the Course Approval Program of the Appraiser Qualifications Board (AOB) of the Appraisal Foundation.

102.1.1.2 The ~~[candidate will]~~applicant shall provide evidence of meeting the experience requirement by completing the form required by the Division.

102.1.1.3 The candidate ~~[will]~~shall submit the appropriate license or certification fee at the time of submission to the Division of either the education ~~[and]~~or experience documentation forms.

102.1.1.4 If an applicant has submitted education or experience documentation to the Division prior to January 1, 2008 and has obtained approval of only the education component or only the experience component required for licensure or certification, the applicant must submit proper documentation of the remaining component to the Division prior to January 1, 2011 or any approval of a component shall lapse.

102.1.2 Exam Application

102.1.2.1 Upon determining the candidate has completed the education and experience requirements, the Division will issue to the candidate a form permitting the candidate to register to sit for the examination. The permission to register to sit for the examination shall be valid for twenty-four months after issuance~~[-or twenty-four months after May 17, 2005, whichever is longer].~~

~~[102.1.2.1.1 As a prerequisite to sitting for the licensing/certification examination, the applicant will be required to submit proof of successful completion of the 15-hour National USPAP Course or its equivalent from an instructor or instructors, at least one of whom is a State-Certified Residential or State-Certified General Appraiser and has been certified by the Appraiser Qualifications Board (AOB) of the Appraisal Foundation. Equivalency to the 15-hour National USPAP Course will be determined through the Course Approval Program of the Appraiser Qualifications Board (AOB) of the Appraisal Foundation.~~

~~]~~102.1.2.2 The candidate ~~[will]~~shall make application to take the examination by returning the application form and the appropriate testing fee to the testing service designated by the Division. If the applicant fails to take the examination, the fee will be forfeited.

102.1.3 Final Application

102.1.3.1 Within 90 days after successful completion of the exam, the appraiser applicant must return to the Division each of the following:

102.1.3.1.1 A report from the testing service indicating successful completion of the exam.

102.1.3.1.2 The ~~[license-]~~application form required by the Division. The application form shall include the applicant's business and home addresses. A post office box without a street address is unacceptable as a business or home address. The applicant may designate either address to be used as a mailing address.

102.1.3.1.3 The fee for the federal registry if the applicant is applying for certification.

KEY: real estate appraisals, licensing

Date of Enactment or Last Substantive Amendment: [May 29], 2007

Notice of Continuation: February 15, 2007

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

◆ ————— ◆
**Commerce, Real Estate
R162-104-5
Experience Requirement**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 30253

FILED: 07/30/2007, 14:10

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: It has come to the attention of the Division of Real Estate that out-of-state persons who have no intention of acting as appraisers in Utah are obtaining appraiser licensure or certification in Utah for the sole purpose of obtaining licensure or certification by reciprocity in their home states based on the Utah license or certification, thereby circumventing tougher licensure or certification procedures in their own state. This loophole can be closed by requiring applicants for licensure or certification in Utah to demonstrate that they have some familiarity with the Utah market. In addition to closing this loophole, requiring candidates to demonstrate trainee experience gained in the appraisal of Utah properties will also help to ensure that the appraisers who are licensed or certified by the State of Utah are actually familiar enough with the Utah market to do a competent job appraising Utah properties.

SUMMARY OF THE RULE OR CHANGE: A new subsection R162-104-5(104.5.4) is added, providing that at least 50% of the appraisals submitted for experience credit shall be appraisals of Utah properties.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--Which appraisals will count toward experience credit for appraiser licensure or certification has no effect on the state budget.

❖ LOCAL GOVERNMENTS: The only local government entities who hire appraisers or appraiser trainees are county assessors' offices. The county assessors hire numerous appraiser trainees and train them to become licensed or certified appraisers who will work for the office in valuing real property for property tax purposes. It is not anticipated that this rule will have an impact on county assessors' offices since it would be to their advantage for their trainees to have some familiarity with the local market.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The only persons who would be affected by this rule change would be those individuals who want to obtain a license or certification in Utah without already having been licensed or certified in another state. Appraisers who have already been examined by another state and have become licensed or certified in that state may obtain a license in Utah by reciprocity instead of going through the process of proving their experience under the provisions of Rule R162-104. Therefore, those individuals who may obtain a Utah license or certification by reciprocity would not be affected by this rule and would not be deterred by this rule from either moving to Utah or doing business in Utah from their out-of-state residence. The rule change would affect only those out-of-state applicants who have not proven themselves in their home states, but who are asking the State of Utah to issue their initial appraiser license or certification to them despite a

lack of experience in the Utah market. It is believed that the primary reason that out-of-state individuals would seek their initial license or certification license in Utah, although they do not do any business in Utah, is to avoid more rigorous requirements in their home states. Such applicants would incur costs due to this rule change because they would either have to comply with the more rigorous requirements to become licensed or certified in their own states, or spend time in Utah assisting a Utah appraiser as a trainee in order to gain the necessary Utah experience. Either alternative would cost these persons an amount that the division does not know how to calculate. Despite the potential impact on these persons, the rule change would help to protect Utah citizens, including small businesses, by ensuring that those persons who are issued a license or certification to appraise in Utah are in fact qualified to appraise Utah properties.

COMPLIANCE COSTS FOR AFFECTED PERSONS: As stated above, out-of-state applicants who are not licensed or certified in their home states and who do not have experience appraising in Utah would incur costs in an amount that cannot be determined if this rule change is made effective.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact is anticipated beyond the costs to out-of-state applicants 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 09/14/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 09/22/2007

AUTHORIZED BY: Derek Miller, Director

R162. Commerce, Real Estate.**R162-104. Experience Requirement.****R162-104-5. Compliance with USPAP and Licensing Requirements; Local Experience Requirement.**

104.5 No experience credit will be given for appraisals which were performed in violation of Utah law, the law of another jurisdiction, or the administrative rules adopted by the Division and the Board.

104.5.1 No experience credit will be given for appraisals unless the appraisals were done in compliance with USPAP.

104.5.2 In order to qualify as experience credit toward certification, the additional points for certification required by Subsection R162-104.1.1.2 must have been accrued while the applicant was licensed as an appraiser in Utah, or in another state if licensure was required in that state, at the time the appraisal was performed.

104.5.3 Except for experience points claimed under Subsection R162-104.15.3, appraisals where only an exterior inspection of the subject property is performed shall be granted 25% of the credit awarded an appraisal which includes an interior inspection of the subject property. Not more than 25% of the total experience required for licensure or certification may be earned from appraisals where the interior of the subject property is not inspected.

104.5.4 At least 50% of the appraisals submitted for experience credit shall be appraisals of properties located in Utah.

KEY: real estate appraisals, experience

Date of Enactment or Last Substantive Amendment: ~~[May 29], 2007~~

Notice of Continuation: February 15, 2007

Authorizing, and Implemented or Interpreted Law: 61-2b-1 through 61-2b-40



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

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 30200

FILED: 07/17/2007, 09:33

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 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 costs nor saves 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 the 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.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The only persons who are affected by the mortgage record keeping requirements are the mortgage licensees themselves.

No cost 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. The rule change on who keeps the 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 notices of adverse action from the loan underwriter instead of keeping them in a separate place. There will be no additional cost incurred in connection with this requirement. The change in who keeps the records of a defunct entity will not cost the entity's former principal lending manager; it will actually 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 no increased cost for entities is 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 09/14/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 09/22/2007

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; and

_____ (l) 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



Commerce, Real Estate
R162-205
 Residential Mortgage Unprofessional
 Conduct

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE NO.: 30251
 FILED: 07/27/2007, 15:57

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is: 1) to add to the list of offenses that constitute unprofessional conduct the ordering of services from third party service providers such as appraisers, insurance agents, etc. in connection with the origination of residential mortgage loans and then failing to pay for those services; 2) to harmonize the section of the rule addressing the name under which business must be conducted with the current statute requiring an entity to have a principal lending manager; and 3) to define what is proper supervision of licensees by a principal lending manager.

SUMMARY OF THE RULE OR CHANGE: The amendments are: 1) the numbering system of the rule is changed; 2) the provision related to the name under which business must be conducted is changed to state that it is unprofessional conduct to conduct business other than in the name of the entity with which one's principal lending manager is affiliated; 3) a new provision is added defining as unprofessional conduct the failure to pay third-party service providers; 4) a new Subsection R162-205-2(205.2.1) is added to specify what a principal lending manager must do in order to properly supervise affiliated licensees; and 5) a new Subsection R162-205-2(205.2.2) is added to provide a "safe harbor" provision for principal lending managers. They will not be held responsible for failing to exercise reasonable supervision if they follow these guidelines.

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--Identifying another type of behavior as "unprofessional conduct" has no impact on the state budget, nor does setting forth standards for supervision of mortgage officers by their principal lending managers.
- ❖ LOCAL GOVERNMENTS: None--Local governments do not act as mortgage loan officers or principal lending managers. Therefore, rules related to the standards of conduct for loan officers and principal lending managers have no impact on local governments.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The only persons who are affected by defining as unprofessional conduct the failure to pay for mortgage-related services that one has ordered are the mortgage loan officer who has ordered the service and the third-party provider who has provided the service. The mortgage loan officer is already contractually obligated to pay for services ordered, so this rule change would not impose an additional financial obligation on the mortgage loan officer. The third party service providers may benefit from this rule change because the mortgage officers may be more likely to voluntarily pay them for services ordered if it is a licensing offense not to do so. With respect to the addition of standards for principal lending manager supervision of licensees, there is no anticipated cost to the managers. The addition of guidelines defining what level of supervision is required may actually save the managers money because they will know what is expected of them.

COMPLIANCE COSTS FOR AFFECTED PERSONS: As explained above, the only persons who could incur compliance costs because of this rule change would be mortgage loan officers and principal lending managers. With respect to the rule change defining as unprofessional conduct the failure to pay third-party service providers for services ordered, there will be no additional compliance costs because the party who orders the service would be contractually obligated to pay for the service already. With respect to the part of the rule defining what constitutes proper supervision, no additional cost to principal lending managers is anticipated. This rule may actually save principal lending managers money because they will know what is expected of them.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing clarifies that failure to pay for mortgage-related services from third party providers constitutes unprofessional conduct, as well as conducting business in any name other than the entity in which the principal lending manager is affiliated. It also clarifies the supervision responsibilities of a principal lending manager. 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 09/14/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 09/22/2007

AUTHORIZED BY: Derek Miller, Director

R162. Commerce, Real Estate.

R162-205. Residential Mortgage Unprofessional Conduct.

R162-205-1. Residential Mortgage Unprofessional Conduct.

205.1 Unprofessional conduct includes the following acts:

~~205.1.1[(a)]~~ conducting the business of residential mortgage ~~lending~~ loans, including soliciting or marketing, in the licensee's individual name, the principal lending manager's individual name, or ~~under~~ any name other than ~~a~~ the name of the licensed mortgage entity with which the individual's principal lending manager is affiliated ~~under which the entity or individual conducting such business is licensed with the Division~~;

~~205.1.2[(b)]~~ failing to remit to ~~the appropriate~~ third parties ~~ly~~ service providers the appraisal fees, inspection fees, credit reporting fees, insurance premiums, or similar fees which have been collected from a borrower;

~~205.1.3~~ failing to pay to third party service providers the fee for any service ordered by the licensee in connection with the business of residential mortgage loans, unless the potential borrower has contractually agreed to pay the third party service provider directly or unless a good faith dispute exists as to whether the service provided satisfies requirements established by state or federal law;

~~205.1.4[(e)]~~ charging for services not actually performed;

~~205.1.5[(d)]~~ charging a borrower more for third party services than the actual cost of those services;

~~205.1.6[(e)]~~ filling out or altering any Real Estate Purchase Contract or other contract for the sale of real property, or any addenda thereto;

~~205.1.7[(f)]~~ making any alteration to any appraisal of real property;

~~(g)~~ in the case of a principal lending manager, failing to exercise reasonable supervision over the activities of any unlicensed staff of the entity; and

~~205.1.8[(h)]~~ unless acting as a real estate licensee and not as a mortgage licensee:

~~(i)~~(a) providing a buyer or seller of real estate with comparative market analysis or otherwise assisting a buyer or seller to determine the offering price or sales price of real estate;

~~(ii)~~(b) representing or assisting a buyer or seller of real estate in negotiations concerning a possible sale of real estate, except that a mortgage licensee may advise a borrower about the consequences that the terms of a purchase agreement may have on the terms and availability of various mortgage products;

~~(iii)~~(c) performing any other acts that require a real estate license under Title 61, Chapter 2;

~~(iv)~~(d) advertising the sale of real estate by use of any advertising medium, except that a mortgage licensee may:

~~(i)~~(i) advertise real estate owned by the licensee as a "for sale by owner";

~~(ii)~~(ii) provide advertising to a property owner who has not signed an agency agreement with a real estate licensee and is selling the real estate "for sale by owner", so long as the advertising provides clear and distinguishable identification, contact information, function and responsibility of both the property owner and the mortgage licensee; or

~~(iii)~~(iii) advertise in conjunction with a real estate brokerage, so long as the advertising provides clear and distinguishable identification, contact information, function and responsibility of both the real estate licensee and the mortgage licensee.

R162-205-2. Residential Mortgage Standards of Practice.

205.2.1 Supervision of licensees and unlicensed staff. Principal lending managers shall exercise reasonable supervision by controlling and directing the details and means of the work activities of all licensees affiliated with the principal lending manager and all unlicensed staff. To exercise reasonable supervision, a principal lending manager shall:

(a) establish, maintain, and provide to all licensees affiliated with the principal lending manager and all unlicensed staff written policies setting out the office procedures for complying with federal and state laws governing residential mortgage lending, including the Utah Residential Mortgage Practices Act and the rules promulgated thereunder;

(b) ensure that each person affiliated with the principal lending manager and all unlicensed staff have read the Utah Residential Mortgage Practices Act and the rules promulgated thereunder;

(c) ensure that the business of residential mortgage loans conducted by an entity is conducted only by individuals who hold active mortgage officer or associate lending manager licenses issued by the Division of Real Estate;

(d) ensure that the licensees affiliated with the principal lending manager conduct all residential mortgage loan business, as defined in Utah Code Section 61-2c-102(1)(e), in the name of the licensed mortgage entity with which the principal lending manager is affiliated, and not in the licensee's own name or any other name;

(e) establish and enforce written policies and procedures for protecting and insulating underwriters employed by the entity with which the principal lending manager is affiliated from pressure from licensees and unlicensed staff that would jeopardize the underwriter's objectivity;

(f) establish and follow procedures for responding to all consumer complaints, and personally review any complaint relating to conduct that could constitute a violation of federal or state law governing residential mortgage lending by a licensee affiliated with the principal lending manager or by any unlicensed staff;

(g) review each loan file sent to the underwriter and attest, by signature on a form to be kept in each loan file, to the accuracy of all information in the file;

(h) for quality control purposes, review a minimum of 20 per cent of all loan applications that have failed without being sent to an underwriter, and retain with the reviewed applications some form of proof that the applications have been reviewed; and

(i) review for compliance with applicable federal and state laws all advertising and marketing materials and all marketing methods to be used by the entity and licensees affiliated with the principal lending manager.

205.2.1.1 Assistance from associate lending managers. A principal lending manager may employ associate lending managers to assist in performing the duties listed in Subsection 205.2.1. The principal lending manager shall actively supervise such associate lending managers and will remain personally responsible for adequate supervision of all licensees affiliated with the principal lending manager and all unlicensed staff.

205.2.2 Reasonable supervision. A principal lending manager will not be held responsible for failing to exercise reasonable supervision if:

(a) a licensee affiliated with the principal mortgage officer or an unlicensed staff member violates a provision of federal or state law, including the Utah Residential Mortgage Practices Act, in contravention of the principal lending manager's specific written policies;

(b) the principal lending manager's current written policies were provided to the licensee or unlicensed staff prior to the violation;

(c) the principal lending manager took reasonable steps intended to enforce the written policies;

(d) upon learning of the violation, the principal lending manager reported the violation to the Division and attempted to prevent or mitigate the damage;

(e) the principal lending manager did not participate in or implicitly or explicitly condone the violation; and

(f) the principal lending manager did not attempt to avoid learning of the violation.

KEY: residential mortgage loan origination

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

Notice of Continuation: December 13, 2006

Authorizing, and Implemented or Interpreted Law: 61-2c-301(1)(k)



Governor, Administration **R355-1** Records Access and Management

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE No.: 30252

FILED: 07/30/2007, 09:54

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The existing statute governs general Government Records Access and Management Act (GRAMA) actions. Provisions of the rule specific to the Governor's Office are being moved to policy.

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

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 63-2-204(2) and 63-2-904(2), and Section 63-46a-3

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There are no anticipated costs or savings to the state budget. The rule change does not alter GRAMA requirements in the Governor's Office as policy retains the same provisions.

❖ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local government as the rule change applies only to the Governor's Office.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There are no anticipated costs or savings to small businesses and/or persons other than businesses as the rule change applies only to the Governor's Office.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated costs or savings to affected persons as the rule change applies only to the Governor's Office.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed the repeal of this rule and do not anticipate any fiscal impact on businesses as the rule only applies to the Governor's Office. John Nixon, Director

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

GOVERNOR
ADMINISTRATION
Room E220 EAST BUILDING

420 N STATE ST
SALT LAKE CITY UT 84114-2220, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Hunter Finch at the above address, by phone at 801-538-1553, by FAX at 801-538-1547, or by Internet E-mail at HFINCH@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 09/14/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2007

AUTHORIZED BY: John Nixon, Director

~~[R355. Governor, Administration.
R355-1. Records Access and Management.
R355-1-1. Purpose.~~

~~— This rule establishes procedures by which the public can obtain access to records and information which is classified in accordance with the Government Records Access and Management Act (GRAMA), and as may be available in the Offices of the Governor and Lt. Governor; the Office of the First Lady and Residence Staff; the Elections, Centennial Values, Governor's Initiative on Families Today; and Governor's Commission for Women and Families offices; the Commission on Criminal and Juvenile Justice (C.C.J.J.); and the Governor's Office of Planning and Budget (G.O.P.B.).~~

~~R355-1-2. Authority.~~

~~— This rule is authorized by Sections 63-2-204(2), 63-2-904(2), and 63-46a-3.~~

~~R355-1-3. Public Requests for Access to Records.~~

~~— (a) Requests for access to "public" records/information shall be submitted to that office/area normally providing such data. For example, demographic/planning data requests shall be submitted to the Governor's Office of Planning and Budget.~~

~~— (b) Requests for access to records classified as "private", "controlled" or "protected" pursuant to Section 63-2-202, shall be submitted to: the Governor's Office, % Records Officer, Room 210 State Capitol Building, Salt Lake City, Utah, 84114.~~

~~— (c) Some records, collections of data, or other information are intended to be circulated to the public and are available at no charge at the respective office. For other records, the requesting person(s) may be required to pay a fee for copies made of records, as authorized by Section 63-2-203. Fees must be paid before records are provided to a requesting party.~~

~~— (d) Requests for private, controlled or protected records shall be in writing pursuant to Section 63-2-204(1). Forms may be available at, and provided by the office upon request.~~

~~— (e) The governor's office records officer will receive requests for records access, made pursuant to Section 63-2-204, and will assign requests for records to staff records coordinators within each area/office (i.e., Governor's Office of Planning and Budget, or C.C.J.J., etc.).~~

~~— (f) Decisions to approve or deny access to records, by the Records Officer, will be made in accordance with the provisions of Section 63-2-201.~~

~~R355-1-4. Appeals.~~

~~— Following a denial of access, the Governor's Chief of Staff, or designee, shall respond to an appeal, if filed, regarding a question(s) or request of access to records.~~

~~R355-1-5. Record Sharing.~~

~~— To provide for records sharing between governmental entities pursuant to Section 63-2-206, the Governor's Office is defined as a single governmental entity for purpose of this rule; and all sub-groups and sections as listed in R355-1-1, are part of that entity.~~

~~KEY: government documents, public records~~

~~Date of Enactment or Last Substantive Amendment: November 16, 1997~~

~~Notice of Continuation: September 3, 2002~~

~~Authorizing, and Implemented or Interpreted Law: 63-2-204(2); 63-2-904(2); 63-46a-3]~~



Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-60B
Preferred Drug List

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 30281

FILED: 08/01/2007, 11:44

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment is necessary to clarify service coverage for the preferred drug list (PDL), to clarify the establishment of a Pharmacy and Therapeutics (P&T) Committee within the Division of Health Care Financing, to clarify the independence of the P&T Committee, to clarify public notice requirements for P&T Committee meetings, and to clarify clinical and cost-related factors for the PDL.

SUMMARY OF THE RULE OR CHANGE: This amendment clarifies coverage policy for preferred drugs and medical necessity requirements for nonpreferred drugs. It also adds and removes language to clarify the legal authority under which public notice is given for P&T Committee meetings, adds language to affirm the establishment of the P&T Committee, and includes language to clarify that the P&T Committee bases its determinations on clinical and cost-related factors. These factors include cost, clinical and therapeutic effects, and medical necessity requirements. This amendment also removes language to clarify that the P&T Committee operates independently.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-18-3, 26-1-5, and 26-18-2.4

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There is no budget impact because this change only clarifies service coverage and specifies criteria that the P&T Committee uses to make PDL recommendations.
- ❖ LOCAL GOVERNMENTS: There is no budget impact because local governments do not fund the Medicaid drug program.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There is no budget impact to other persons and small businesses because this change only clarifies service coverage and specifies criteria that the P&T Committee uses to make PDL recommendations.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no budget impact because this change only clarifies service coverage and specifies criteria that the P&T Committee uses to make PDL recommendations.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In response to public comments, this rule will clarify the criteria to be used by the P&T committee as it makes recommendations to the Division of Health Care Financing. No fiscal impact on business is anticipated as a result of these amendments. David N. Sundwall, MD, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/14/2007

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 8/28/2007 at 3:00 PM, Cannon Health Building, 288 N 1460 W, Room 125, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2007

AUTHORIZED BY: David N. Sundwall, Executive Director

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

R414-60B. Preferred Drug List.

R414-60B-4. Service Coverage.

(1) Upon the recommendation of the Pharmacy and Therapeutics (P&T) Committee, DHCF pharmacy staff select the therapeutic classes and select the most clinically effective and cost effective drug or drugs within each class.

~~(2) The preferred drug or drugs are dispensed without prior authorization requirements.~~

~~(3) All other non-preferred drugs within each therapeutic class require prior authorization, unless the prescriber writes "medically necessary -- dispense as written" on the prescription and has justification in the patient's medical record substantiating the medical necessity of the non-preferred drug.~~ (2) The prescriber must write "medically necessary -- dispense as written" on the prescription and have justification in the patient's medical record substantiating the medical necessity of a non-preferred drug in order for this to be reimbursed.

(3) The preferred drug or drugs are covered without the notation required in (2).

R414-60B-5. P&T Committee Composition and Membership Requirements.

(1) There is created a Pharmacy and Therapeutics Committee within DHCF. The DHCF Director shall appoint the members of the P&T Committee for a two-year term. DHCF has the option of making the appointments renewable.

(2) DHCF staff request nominations for appointees from professional organizations within the state. These nominations are then given to the Director for selection and appointment.

(a) If there are no recommendations within 30 days of a request, DHCF may submit a list of potential candidates to professional organizations for consideration.

(b) If there are no willing nominees for appointment from professional organizations, the Director may seek recommendations from DHCF staff.

(3) The P&T Committee consists of one physician from each of the following specialty areas:

- (a) Internal Medicine;
- (b) Family Practice Medicine;
- (c) Psychiatry; and
- (d) Pediatrics.

(4) The P&T Committee consists of one pharmacist from each of the following areas:

- (a) Pharmacist in Academia;
- (b) Independent Pharmacy;
- (c) Chain Pharmacy; and
- (d) Hospital Pharmacy.

(5) DHCF shall appoint one voting committee manager.

(6) Up to two non-voting ad hoc specialists participate on the committee at the committee's invitation.

(7) An individual considered for nomination must demonstrate no direct connection to and must be independent of the pharmaceutical manufacturing industry.

(8) The P&T Committee shall elect a chairperson to a one-year term from among its members. The chairperson may serve consecutive terms if reelected by the committee.

(9) When a vacancy occurs on the committee, the Director shall appoint a replacement for the unexpired term of the vacating member.

R414-60B-6. P&T Committee Responsibilities and Functions.

(1) ~~[Under Section 26-18-106,]~~The P&T Committee functions as a professional and technical advisory board to DHCF in the formulation of a PDL.

(2) P&T Committee recommendations must:

(a) represent the majority vote at meetings in which a majority of voting members are present; and

(b) include votes by at least one committee member from the group identified in Subsection R414-60B-5(3) and one member from the group identified in Subsection R414-60B-5(4)

(3) The P&T Committee manager shall schedule meetings, set agendas, provide meeting materials, keep minutes, record committee business, notify the Director when vacancies occur, provide meeting notices, and coordinate functions between the committee and DHCF.

(4) Notice for a P&T Committee meeting shall be given in accordance with ~~[Section 52-4-202]~~ applicable law.

(5) The P&T Committee chairperson shall conduct all meetings. The P&T Committee manager shall conduct meetings if the chairperson is not present.

(6) P&T Committee meetings shall occur at least quarterly.

(7) P&T Committee meetings shall be open to the public except when meeting in executive session.

(8) The committee shall:

(a) review drug classes and make recommendations to DHCF for PDL implementation;

(b) review new drugs, new drug classes or both, to make recommendations to DHCF for PDL implementation;

(c) review drugs or drug classes as DHCF assigns or requests;

(d) review drugs within a therapeutic class and make a recommendation to DHCF for the preferred drug or drugs within the therapeutic class; and

(e) review evidence based criteria and drug information.

R414-60B-7. ~~[Reimbursement]~~ Clinical and Cost-Related Factors.

~~[Pharmaceuticals are reimbursed using the established fee schedule in the Utah Medicaid State Plan, which is incorporated by reference in Section R414-1-5.]~~The P&T Committee shall base its determinations on the following clinical and cost-related factors as established by the Drug Utilization Review Board:

(1) If clinical and therapeutic considerations are substantially equal, then the P&T Committee shall recommend to DHCF that it consider only cost.

(2) If cost information available to the P&T Committee indicates that costs are substantially the same, then the P&T Committee makes its recommendation to DHCF based on the clinical and therapeutic profiles of the drugs.

(3) In making its recommendations to DHCF, the P&T Committee may also consider whether the clinical, therapeutic effects, and medical necessity requirements justify the cost differential between drugs within a therapeutic class.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: 2007

Authorizing, and Implemented or Interpreted Law: 26-18-3; 26-1-5; 26-18-2.4

**Natural Resources, Water Rights
R655-15**

**Administrative Procedures for
Distribution Systems and Water
Commissioners**

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 30246

FILED: 07/26/2007, 11:29

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this administrative rule is to: 1) provide uniform rules and standards for establishing new distribution systems, and administering the state's existing 36 distribution systems; 2) provide uniform criteria and a standard process for selecting water commissioners; 3) provide a clear and uniform description of a water commissioner's authority and responsibilities; and 4) clarify the roles of the State Engineer, the water commissioner, and the water users in the administration of water distribution systems.

SUMMARY OF THE RULE OR CHANGE: This is an entirely new rule which includes rules and procedures for: 1) establishing State Engineer regulated water distribution systems; 2) the State Engineer's role; 3) the role of water commissioner including qualifications, selection process, authority, duties, removal process, and compensation; 4) the role of deputy water commissioners including qualifications, selection process, authority, duties, removal process, and compensation; 5) the role of the distribution system committee; 6) the distribution system chair and vice-chair; 7) the role of the water users; annual meetings and distribution system committee meetings; and 8) distribution system assessments.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 73-5-1, 73-5-3, and 73-5-4

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be no cost or savings to state budget because this rule is procedural, governing how state engineer administered water distribution systems operate. The expense of administering water distribution systems including water commissioner salaries is paid by an assessment to the water users within the water distribution system.

❖ LOCAL GOVERNMENTS: There will be no cost or savings to local government budget because this rule is procedural, governing how state engineer administered water distribution systems operate. The expense of administering water distribution systems including water commissioner salaries is paid by an assessment to the water users within the water distribution system.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There will be no cost or savings because this rule is procedural, governing how state engineer administered water distribution systems operate. There should be no increase or decrease in the cost of operating the distribution systems as a result of this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no cost because this rule is procedural, governing how state engineer administered water distribution systems operate. There should be no increase or decrease in the cost of operating the distribution systems as a result of this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There should be no fiscal impact on businesses. Michael Styler, Executive Director

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

NATURAL RESOURCES
WATER RIGHTS
Room 220
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kaelyn Anfinson at the above address, by phone at 801-538-7370, by FAX at 801-538-7442, or by Internet E-mail at KAELYNANFINSEN@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 09/14/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2007

AUTHORIZED BY: Jerry Olds, Director

R655. Natural Resources, Water Rights.

R655-15. Administrative Procedures for Distribution Systems and Water Commissioners.

R655-15-1. Authority.

(1) This rule is promulgated pursuant to Subsections 73-2-1(5)(a) and 73-2-1(5)(b) which authorize the State Engineer to make rules governing water distribution systems, water commissioners, water measurement and reporting that are consistent with Chapter 73-5, "Administration and Distribution."

R655-15-2. Purpose.

(1) Pursuant to authority delegated to the State Engineer by Section 73-5-1, this rule establishes procedures governing the

creation, organization, and operation of water Distribution Systems administered by the State Engineer, including the appointment, responsibilities, and authority of Water Commissioners to assist in the administration of Distribution Systems.

(2) The purpose of this rule is to provide guidance and mechanisms enabling the State Engineer to fulfill the duties delegated by Section 73-5-3.

R655-15-3. Application of Rule.

(1) This rule is applicable statewide to the regulation, distribution, diversion, and use of the waters of the state.

(2) This rule shall be liberally construed to permit the Division of Water Rights to effectuate the intent and purposes of applicable Utah law.

(3) The State Engineer may make exceptions to the provisions of this rule as necessary to ensure adequate and appropriate regulation, distribution, and measurement of water for Distribution Systems involving interstate streams.

R655-15-4. Definitions.

(1) Terms used in this rule are defined as follows:

(a) "Assessment " means monies paid by water users to the State Engineer specifically to defray the costs of a Distribution System as described in Subsection 73-5-1(3). Assessments are deposited into and appropriate payments made from the "Water Commissioner Fund" established by Section 73-5-1.5.

(b) "Control Structure" means any structure or device including but not limited to diversion dams, head gates, check dams, valves, or other installation that the State Engineer determines to be necessary for the proper regulation and distribution of water.

(c) "Deputy Water Commissioner" (Deputy Commissioner) means a person appointed by the State Engineer in accordance with Subsection 73-5-1(1). A Deputy Water Commissioner is an official and, in the performance of official duties, is a duly authorized assistant of the Water Commissioner.

(d) "Distribution Account" means the accounting unit established by the Division of Water Rights ("Division") for calculation of assessments and for tracking the assessments made to and payments collected from each water user.

(e) "Distribution Order" means an Order of the State Engineer interpreting the water rights included within a Distribution System, confirming priorities of water rights, giving instruction or direction regarding the regulation, distribution, and/or measurement of water based on those water rights, and may order the installation or repair of measuring devices, head gates, and control structures as authorized by Chapter 73-5. Distribution Orders are enforceable under the provisions of Sections 73-2-25 and 73-2-26.

(f) "Distribution Season" means that period of the year during which the regulation of water distribution and/or the measurement of water by a Water Commissioner is necessary as determined by the State Engineer.

(g) "Distribution System" means an organization of the owners of water rights within a river system or hydrologic unit, or a portion of a river system or hydrologic unit, that have been designated by the State Engineer for regulation by one or more Water Commissioners in accordance with Subsections 73-5-1(1)(b), 73-5-1(1)(c), and 73-5-1(2).

(h) "Distribution System Committee" (Committee) means the subgroup of water users properly designated to represent all water users within a Distribution System.

(i) "Division" means the Division of Water Rights of the State of Utah. The terms "Division" and "State Engineer" may be used interchangeably unless indicated otherwise by the context of the usage.

(j) "Enforcement Tag" means any orange tag attached by a water commissioner to or near a control structure or water measuring device in situations where the water user is ordered to comply with the water commissioner's regulation and distribution of water. An enforcement tag constitutes a distribution order and is enforceable in the same manner.

(k) "Measuring Device" means any structure or device approved by the State Engineer but not limited to flumes, weirs, meters, or similar devices that can be used to adequately determine the instantaneous flow of water or the volume of water measured over a period of time with an accuracy commensurate with industry standards.

(l) "Regulation Tag" means a white tag used by a water commissioner to inform and instruct the water users regarding the regulation and distribution of water at the location where the tag is placed.

(m) "State Engineer" means the Director of the Division of Water Rights appointed in accordance with Section 73-2-1 or other person acting in a legally delegated capacity as an agent, assistant, employee or representative of the Director. The terms "State Engineer" and "Division" may be used interchangeably unless indicated otherwise by the context of the usage.

(n) "Voluntary Agreement" means an agreement entered into by a group of water right owners whereby the owners stipulate to have the Water Commissioner regulate and distribute the water rights described in the agreement to the group of owners as if the group were a single entity such as a water company.

(o) "Voting Block" means a group of water users, designated as such by the State Engineer, who share a common interest within a Distribution System because of the nature of their water rights, the geographic location of their water use, or any other element of their water rights or water usage.

(p) "Water Commissioner" (Commissioner) means a person appointed by the State Engineer in accordance with Subsection 73-5-1(1)(a). A Water Commissioner is an official and, in the performance of official duties, is a duly authorized assistant of the State Engineer as contemplated at Section 73-5-3.

(q) "Water Company" means a water user organization that owns water rights, to which water is distributed by a Commissioner and which, in turn, delivers and distributes water to its members on the basis of proportional ownership of shares or other interest. A water company must be formally incorporated under applicable State of Utah statutes and may be either a for-profit entity or a mutual, non-profit entity.

(r) "Water User" means an individual person, a group acting cooperatively under a voluntary agreement, a water company, a municipality, a special district, a state or federal agency, or any other legal entity that meets the following criteria:

- (i) Owns a water right included within a Distribution System;
- (ii) Is subject to payment of an assessment;
- (iii) Has an identifiably separate and distinct interest in the use of water in the distribution system.

The members of a group acting under a voluntary agreement: a water company's members, shareholders or officers; and those persons served by a municipality, special district, or other governmental entity are not considered water users under this definition, but are represented at Annual Meetings or other meetings

of the Distribution System by one duly appointed representative of the group or entity. A group of co-owners, including a husband and wife, who jointly own a water right with an undivided interest are not considered separate water users under this definition, but are also represented at Annual Meetings or other meetings of the Distribution System by one duly appointed representative of the group. This definition applies only to Rule R655-15.

R655-15-5. Distribution Systems.

(1) To achieve the purposes set forth in Section 73-5-3, the State Engineer:

(a) Shall create a Distribution System when ordered by the district court: or

(b) May create a Distribution System when the State Engineer determines that a Distribution System is necessary as a result of:

(i) Investigations initiated by the Division; or

(ii) A request submitted by water users with sufficient supporting information.

(2) As authorized in Section 73-5-1, the State Engineer shall:

(a) Designate by geographical or political boundary, or other suitable criteria, the water rights that shall be included in the Distribution System; and

(b) Determine whether one or more Commissioners are required to regulate and distribute water according to the water rights included in the Distribution System.

(3) To establish a new Distribution System, the State Engineer shall consult with the water users who would potentially be included within the system in accordance with Section 73-5-1. The State Engineer shall:

(a) Provide timely notice to water users shown on the records of the Division as owning water rights within the proposed Distribution System.

(b) Hold a public meeting to:

(i) Inform the water users of the justifications for the Distribution System, the boundaries or the Proposed Distribution System, the water rights that would be regulated within the Distribution System, and the estimated costs of operating a Distribution System;

(ii) Explain the State Engineer's purposes, policies, and procedures regarding Distribution Systems; and

(iii) Receive comments from the water users regarding the justifications for a Distribution System and the other information presented at the meeting. The State Engineer may allow comments to be received after the meeting. The period of time for submitting comments will be set at the meeting.

(c) Hold an organizational meeting or meetings to:

(i) Establish a Committee or select a Distribution System Chair;

(ii) Prepare an operational budget for the Distribution System;

(iii) Establish a method of calculating assessments; and

(iv) Receive a recommendation(s) regarding the appointment of a Commissioner(s) and, if necessary, one or more Deputy Commissioners.

(d) Issue an Order of the State Engineer establishing the Distribution System. The Order shall be issued to all water users within the Distribution System and shall set forth:

(i) The organization of the Distribution System;

(ii) The method of calculating assessments; and

(iii) Any other information required for the effective operation of the Distribution System.

(e) Appoint one or more Commissioners and/or Deputy Commissioners;

(f) Establish and maintain a system of distribution accounts that shall be the basis for making assessments to the water users in the Distribution System.

(4) To modify the extent, organizational structure, or any other aspect of a Distribution System the State Engineer shall:

(a) Provide timely notice to each water user shown on the Division's records as being responsible for a Distribution Account included in the Distribution System; and

(b) In accord with said notice, schedule and hold a Distribution System meeting to:

(i) Explain the State Engineer's findings and conclusions regarding the proposed modifications;

(ii) Receive comments regarding the proposed modifications to the Distribution System. The State Engineer may allow comments to be received after the meeting. The period of time for submitting comments will be set at the meeting.

(c) Issue an Order of the State Engineer modifying the Distribution System. The Order shall be delivered to all water users within the modified Distribution System and shall describe the modifications made to the Distribution System.

(5) The State Engineer may determine, based on an investigation or other pertinent information, that an established Distribution System is no longer necessary to achieve the purposes set forth in Section 73-5-3. To dissolve a Distribution System, the State Engineer shall:

(a) Provide timely notice to the water users included in the Distribution System;

(b) In accord with said notice, schedule and hold a Distribution System meeting to:

(i) Explain the State Engineer's findings and conclusions regarding the dissolution of the Distribution System;

(ii) Receive comments regarding the dissolution of the Distribution System. The State Engineer may allow comments to be received after the meeting. The period of time for submitting comments will be set at the meeting.

(c) Relieve the Commissioner of responsibilities and authority regarding the regulation and distribution of water;

(d) Retire any outstanding financial obligations of the Distribution System and return any funds pertaining to the Distribution System remaining in the Water Commissioner Fund to the water users on a pro-rata basis according to the assessments paid over the previous five years;

(e) Take custody of all records maintained by the Distribution System; and

(f) Take custody of all equipment, vehicles and other physical assets accumulated in the operation of the Distribution System, said assets to be disposed in a manner consistent with pertinent statute or other regulation.

(g) Issue to all water users within the Distribution System an Order of the State Engineer dissolving the Distribution System.

(6) A Distribution System consists of the following parties:

(a) The State Engineer;

(b) One or more Commissioners and any appointed Deputy Commissioners;

(c) A Committee or Distribution System Chair; and

(d) The water users.

(7) The composition, authority, duties and responsibilities of the parties identified immediately above are described in the following sections.

R655-15-6. State Engineer.

(1) May, as authorized in Subsection 73-2-1(5), make administrative rules regarding Water Commissioners and Distribution Systems.

(2) May, as authorized in Section 73-5-1, establish a Committee or Distribution System Chair to represent water users.

(3) Shall consult with the water users, directly or through the Committee, regarding the qualifications, duties, compensation and appointment of the Commissioner(s);

(4) Shall appoint the Water Commissioner(s);

(5) May appoint one or more Deputy Commissioners;

(6) Shall retain authority and responsibility for supervision of the Commissioner and Deputy Commissioner(s) to assure that water is measured, divided, regulated, and distributed in a manner consistent with the rights of the water users.

(7) Shall provide fiduciary supervision, accounting and operation of the Water Commissioner Fund, including the calculation of assessments, mailing of assessment notices, collection of assessments, issuance of payments for the expenses of the Distribution System, and an annual reporting to the Committee and/or the water users of the status of finances of the Distribution System.

(8) Shall hold an Annual Meeting with the Committee and/or the water users as described in this rule.

(9) Shall, in consultation with the Committee Chair or the Distribution System Chair, designate a date, time and place of an Annual Meeting of the water users and provide a timely notice of the Annual Meeting and the proposed agenda to all necessary parties.

(10) May issue Distribution Orders.

R655-15-7. Water Commissioners.

(1) An applicant for the position of Water Commissioner ("Commissioner") shall, at a minimum:

(a) Be a high school graduate;

(b) Demonstrate a level of education and experience commensurate with the level of complexity and difficulty involved in regulating the Distribution System;

(c) Have demonstrated knowledge of:

(i) Irrigation practices and technologies;

(ii) The local area and the water users involved in the Distribution System;

(iii) The use and maintenance of water control and measurement equipment and devices;

(iv) Water measurement units, calculations and conversions; and

(v) Maps, standard land description terminology, units of measure and conversions.

(d) Have a demonstrated knowledge of or the ability and willingness to learn:

(i) Principles and terminology of Utah water rights law; and

(ii) Technology necessary for the effective regulation, distribution, measurement and reporting of water use in the Distribution System.

(e) Have a demonstrated ability to communicate effectively verbally and in writing;

(f) Have a demonstrated ability to work cooperatively with persons with conflicting interests to find appropriate solutions to challenges and/or resolve disputes;

(g) Be available at all times necessary throughout the distribution season to fulfill the duties of Water Commissioner set forth herein;

(h) Hold a valid Utah Drivers License

(i) Be able to walk over rough and uneven terrain for distances up to a half mile.

(j) Be less than 75 years of age. A person who is 75 years of age or older will not be appointed as Commissioner by the State Engineer.

(k) The applicant must disclose to the State Engineer and the interview panel any conflict of interest related to exercising the duties of the Commissioner. The State Engineer will determine whether a disclosed conflict of interest would prevent objective regulation and distribution of water on the Distribution System in accordance with the water rights and the instructions and Distribution Orders from the State Engineer. If such a conflict of interest exists, the applicant will be deemed ineligible for appointment. If such a conflict develops or is found to exist subsequent to an appointment, the Commissioner will be removed as described in this rule.

(2) Selection Process

(a) Public notice of the intent to fill a Commissioner position shall be advertised in a newspaper of local circulation in the area where the distribution system is located. The notice shall:

(i) Include a general description of the qualifications, duties, and compensation related to the position;

(ii) include the method of making application for the position; and

(iii) Be published in a manner and for a duration determined by the State Engineer as reasonable and sufficient.

(b) Application for the Water Commissioner position shall be made in writing to the Committee Chair or the Distribution System Chair as directed in the public notice. The application shall include a summary of the applicant's qualifications and experience. The Chair, in consultation with the State Engineer, shall determine, based on the relative qualifications of the applicants, those applicants to be invited for an interview.

(c) Interviews for the position of Water Commissioner shall be conducted by an interview panel. The interview panel shall consist of the Committee and the State Engineer. At the discretion of the Committee and with the consent of the State Engineer, the Committee may include additional water users on the interview panel to assure all interests are adequately represented. If a Committee has not been established on the Distribution System, the panel shall include the Distribution System Chair, a representative group of water users selected by the Distribution System Chair, and the State Engineer.

(d) The recommendation to the State Engineer concerning the appointment of the Commissioner shall be based on the results of the applicant interviews as determined by a majority vote of:

(i) The water users of the Distribution System if:

(A) The interview panel consisted of selected water users; or

(B) The interview panel consisted of a Committee that prepares recommendations for the water users' ratification.

(ii) The Committee if the Committee is established to act without ratification by the water users.

(e) If a majority of the water users, as determined by a vote of the water users or by a vote of the Committee as described above, agrees on a qualified applicant to recommend to the State Engineer, the State Engineer shall appoint the recommended applicant as Commissioner based on the recommendation. If the water users cannot agree as evidenced by a majority vote, the State Engineer shall select a person from among the qualified applicants for appointment as Commissioner.

(3) If the person selected and appointed as Commissioner as a result of the process outlined in (2) above is an employee of one of the water users on the distribution system (such as a water company or water conservancy district) and, if the Commissioner's duties will be performed during the hours of employment by the water user, the State Engineer shall enter into an agreement with the Commissioner's employer. The agreement shall cover, at minimum, the following issues:

(a) The duties to be performed by the Commissioner during the hours of employment;

(b) Supervision by the State Engineer and accountability of the Commissioner to the State Engineer in the performance of all official duties; and

(c) The compensation that will be paid by the Distribution System to the employer for the time spent by the Commissioner in the performance of his/her official duties.

(4) The Commissioner shall be appointed for a term of four years in accordance with Subsection 73-5-1(1)(a).

(a) A new four-year term shall commence with each appointment.

(b) The four-year term shall commence at the Annual Meeting or other Distribution System meeting or Committee meeting wherein the Commissioner appointment recommendation was made to the State Engineer.

(c) The four-year term shall run until the Annual Meeting or Committee Meeting held during the fourth year following the Commissioner's appointment.

(d) Regardless of the number of years remaining in a term, a Commissioner's term of appointment will terminate at the Annual Meeting prior to the Commissioner's 75th birthday.

(e) In exceptional situations, the State Engineer may extend a person's appointment as water commissioner to one additional term beyond the person's 75th birthday or until age 79 (whichever comes first). The decision to extend the person's appointment for one additional term must be based on consideration of a written request signed by at least five or a majority (whichever is less) of the water users of the water distribution system. The request must include the following:

(i) An attestation that the person currently demonstrates that he/she is physically and mentally capable of adequately performing the water commissioner duties;

(ii) An explanation why the replacement of the water commissioner would pose a burden and a hardship on the water distribution system; and

(iii) The steps that will be taken by the water users to resolve the concerns described in (ii) above by the end of the extended appointment.

(f) If a person is appointed as water commissioner to an extended term beyond his/her 75th birthday, that appointment will be reviewed with the water users on a year-by-year basis at the annual distribution meeting. If, as a result of that review, the State Engineer determines that the person is no longer physically or mentally capable of adequately performing the water commissioner duties, the person's appointment as water commissioner will be ended.

(5) If a Commissioner retires, resigns, or is otherwise removed prior to completing the full four-year term of appointment, the uncompleted term shall not be filled. The process described in these rules for selecting a Commissioner shall be followed in making a new appointment.

(6) A vacant Commissioner position shall be filled as soon as possible after the vacancy occurs. However, sufficient time will be

taken as required to adequately complete the selection process as described in these rules.

(7) Should a Commissioner vacancy occur during the distribution season, Division staff shall act in the stead of the Commissioner to regulate and distribute water in the Distribution System until such time as a new Commissioner is appointed.

(8) A person may be appointed to serve successive terms as Commissioner without limit.

(9) Authority

(a) The Commissioner is an assistant to the State Engineer and is authorized to act as described in Sections 73-5-3 and 73-5-4 to assure that water is properly measured, divided and distributed to the water users in accord with their respective water rights.

(b) As described in Section 73-5-3, the Commissioner is authorized to enter upon private property whenever necessary to carry out the provisions of statute and these rules.

(c) In all official duties and responsibilities of the position, the Commissioner is authorized to act as directed by the State Engineer.

(10) A person may serve concurrently as Commissioner for more than one Distribution System.

(11) Duties

(a) The Commissioner shall consult with the State Engineer to exchange information and receive direction. The Commissioner may also consult with the Committee or Distribution System Chair to exchange information.

(b) The Commissioner shall regulate the diversion and distribution of water:

(i) In accordance with properly established water rights on the records of the Division; and

(ii) In accordance with State Engineer Distribution Orders.

(c) The Commissioner shall measure and make records of the measurements of:

(i) The water delivered to each Distribution Account;

(ii) Any flows or volumes of water and reservoir water levels necessary for the proper regulation of water distribution in the Distribution System; and

(iii) Any other flows or volumes of water and reservoir water levels as directed by the State Engineer.

(d) The Commissioner shall regularly inspect Distribution System facilities, including water measuring devices, head gates, and other water control structures, to ensure they are operating properly and adequately maintained to meet the purposes of the Distribution System.

(i) The Commissioner shall perform or arrange for the performance of such facilities maintenance work as is included within the scope of the duties assigned and consistent with the appointment.

(ii) If inadequacies related to the regulation, distribution, and measurement of water are identified in the Distribution System facilities, said inadequacies being outside the scope of the Commissioner's designated duties, the Commissioner shall notify the responsible water user(s), the Distribution Committee Chair or Distribution System Chair, and the State Engineer.

(e) The Commissioner shall assist the State Engineer as requested to improve water measurement and accounting practices and procedures in the Distribution System.

(f) As new technologies are implemented to improve the efficiency of water delivery and distribution, the Commissioner shall become proficient in the use and application of the technology. Should a Commissioner prove unable or unwilling to acquire such

proficiency in a reasonable time, this condition shall constitute grounds for termination of the Commissioner's appointment.

(g) The Commissioner shall maintain records and make reports including:

(i) Complete, accurate, current, and legible records sufficient to demonstrate faithful performance of the duties designated.

(A) All records shall be available to the State Engineer upon request.

(B) All records shall be submitted to the State Engineer upon termination of the Commissioner's service.

(ii) A written Annual Report of the Distribution System including all information determined necessary by the State Engineer in consultation with the Committee or Distribution System Chair.

(A) The report shall include water use data based on actual water measurements, a record of regulation and distribution issues and decisions made during the distribution season, and any other information required by the State Engineer.

(B) The report shall be prepared in a format approved by the State Engineer.

(C) The report shall be delivered to the State Engineer and the Committee and/or water users each year at the Annual Meeting unless another reporting deadline has been approved by the State Engineer.

(h) The Commissioner shall assist, as requested, in acquiring current ownership, mailing address, and other information required to update Distribution Accounts.

(i) The Commissioner shall provide to the State Engineer, in a timely manner, an accounting of the water delivered to each water user as required for the calculation of Distribution Assessments.

(j) When necessary to effect the proper distribution of water, the Commissioner may adjust or close and lock a head gate and/or control structure to prevent changes in the control settings.

(i) Such adjustments and locks shall remain as set by the Commissioner until a change in regulation or distribution is required.

(ii) In such cases, the Commissioner may attach a State Engineer Water Regulation Tag at or near the head gate or control structure.

(k) As necessary in effecting a State Engineer Distribution Order or in a Division enforcement proceeding, the Commissioner may close and lock a head gate and/or control structure to cease delivery of water to the affected water user.

(i) Such closure and locking of a head gate and/or control structure shall remain in place until the conditions of the Distribution Order or enforcement proceeding have been met.

(ii) In such cases, the Commissioner shall attach a State Engineer Water Enforcement Tag at or near the head gate or control structure.

(l) The Commissioner shall assist the State Engineer as necessary in any Division enforcement proceeding related to the Distribution System.

(m) The Commissioner shall perform all other duties specific to the Distribution System as determined by the water users or the Committee and approved by the State Engineer.

(n) The Commissioner shall accurately complete and submit to the State Engineer all necessary forms provided by the State Engineer and supporting documentation of the expenses of the Distribution System.

(o) The Commissioner shall supervise and be responsible for the efforts of any Deputy Commissioner(s) appointed to assist in the regulation, distribution, and measurement of water on the Distribution System.

(p) The Commissioner shall devote the time necessary for the completion of the duties outlined in these rules and shall be generally available for contact at any reasonable time during the period of the distribution season.

(12) Compensation and Benefits:

(a) The salary or wage for a Commissioner shall be set within the guidelines established by the State Engineer.

(i) The salary or wage shall be paid through the State of Utah payroll system and shall be subject to all federal and state taxes and other required withholdings.

(ii) A Commissioner who retires, resigns or is otherwise removed during a distribution season will be compensated for only the portion of the distribution season completed prior to the termination of the Commissioner's service.

(b) A Commissioner shall be provided with a means of transportation for all travel related to fulfillment of official duties related to the Distribution System. The transportation may be provided by either of the following means:

(i) The Distribution System may provide a suitable vehicle to be used by the Commissioner solely in the performance of the Commissioner duties, with all vehicle expenses paid through the Distribution System; or

(ii) The Distribution System may compensate the Commissioner for the use of a personal vehicle in the performance of the Commissioner's official duties. Compensation shall include the total costs of operating and maintaining the vehicle for that portion of the vehicle use dedicated to the Commissioner's official duties. Compensation may be made:

(A) For actual vehicle operation and maintenance costs as reported and documented by the Commissioner; or

(B) At a per-mile rate determined from industry standards for operation and maintenance of similar vehicles in similar conditions; or

(C) Based on a flat monthly or yearly amount agreed upon by the water users' representatives and the Commissioner and approved by the State Engineer. The agreed amount must reasonably represent the actual costs of operating the vehicle.

(c) A Commissioner shall be provided with communication and computer equipment necessary for the effective performance of the Commissioner duties. The cost of purchasing, operating, and maintaining such equipment shall be borne by the Distribution System. If a Commissioner chooses to use personally owned equipment, compensation shall be made on the basis of documentation showing the costs of acquisition, maintenance and operation of said equipment and the proportion of said costs directly attributable to the performance of the Commissioner's official duties. Cost documentation must be acceptable to the Committee or Distribution System Chair and approved by the State Engineer.

(d) A Commissioner shall be provided with adequate office space and clerical assistance to enable regulation and distribution of water on the Distribution System. The need for office space will be determined in consultation among the State Engineer, the Commissioner, and the Committee or Distribution System Chair.

(e) A Commissioner shall be provided, at the expense of the Distribution System, such other equipment as is needed to effectively measure, distribute, and regulate water on the Distribution System.

(f) At the discretion of the Committee and with the consent of the water users and the State Engineer, the Commissioner may be provided with health insurance with premiums paid all or in-part by the Distribution System.

(g) A Commissioner shall be provided with Workers Compensation Insurance at the expense of the Distribution System in accordance with pertinent regulations governing the same.

(h) The Distribution System shall pay the cost of the retirement benefit for any Commissioner whose salary meets or exceeds the minimum salary level set by the Utah State Retirement Office to qualify for retirement benefits.

(i) The Commissioner shall be reimbursed according to the Distribution System budget for expenses incurred in the performance of the Commissioner's duties. The Commissioner must request reimbursement by properly completing and submitting reimbursement forms and documentation as directed by the State Engineer. Unless prior arrangements have been made with the Committee or the Distribution Chair and approved by the State Engineer, reimbursement forms and supporting documentation must be submitted to the State Engineer no later than December 15th of the calendar year in which the expense was incurred. Unless prior arrangements have been made, reimbursement will not be made on reimbursement forms submitted after December 15th of the year in which the expense was incurred.

(j) If the Commissioner is an employee of a regulated water user as described in (3) above, the Commissioner's salary, health insurance, worker's compensation insurance, retirement, and related payroll costs will be as provided by the employer. The Distribution System will compensate the employer for that portion of these costs that pertain directly to the performance of Commissioner's duties. Any other Commissioner expenses required for the operation of the Distribution System will be paid by the Distribution System as outlined above.

(13) Removal

(a) A Commissioner may be removed by the State Engineer for cause.

(i) The process to remove a Commissioner may be instigated by the State Engineer or as a result of a petition to the State Engineer from the water users or Committee.

(ii) The process for removing a Commissioner shall be governed by the provisions of the Utah Administrative Procedures Act.

(b) Water users may petition the District Court for the removal of a Commissioner.

R655-15-8. Deputy Water Commissioner.

(1) One or more Deputy Water Commissioners ("Deputy Commissioner") may be appointed by the State Engineer to assist the Commissioner.

(2) The need for a Deputy Commissioner shall be determined by the Commissioner and the Committee or Distribution System Chair and approved by the State Engineer.

(3) An applicant for the position of Deputy Commissioner shall, at a minimum:

(a) Be a high school graduate;

(b) Demonstrate a level of education and experience commensurate with the level of complexity and difficulty involved in assisting the Commissioner.

(c) Be less than 75 years of age. A person who is 75 years of age or older will not be appointed as Deputy Commissioner by the State Engineer.

(d) Hold a valid Utah Drivers License

(e) Be able to walk over rough and uneven terrain for distances up to a half mile.

(4) Selection Process

(a) Application for the position of Deputy Commissioner shall be made to the current Commissioner.

(b) The current Commissioner shall interview applicants as necessary and present a recommendation to the Committee or Distribution Committee Chair for consideration.

(c) If the current Commissioner and the Committee or Distribution System Chair are in unanimous agreement on a qualified applicant to recommend to the State Engineer, the State Engineer shall appoint the applicant as Deputy Commissioner based on that recommendation. If there is no unanimity, the State Engineer shall select a person from among the qualified applicants to appoint as Deputy Commissioner.

(5) A Deputy Commissioner shall be appointed to a term corresponding to the term of the current Commissioner.

(a) If a Deputy Commissioner is appointed part way through the term of a currently serving Commissioner, the Deputy Commissioner's first term shall be equal to the remaining term of the current Commissioner.

(b) When a Commissioner retires, resigns, or is otherwise removed from appointment, the appointments of all Deputy Commissioners shall be concurrently terminated. However, should the Commissioner position become vacant during a distribution season, the appointment of any Deputy Commissioner may be extended until the end of the distribution season.

(c) Regardless of the number of years remaining in a term, a Deputy Commissioner's term of appointment will terminate at the last Annual Meeting prior to the Deputy's 75th birthday.

(6) A person may be appointed to serve successive terms as Deputy Commissioner without limit.

(7) When acting under specific direction of the Commissioner, a Deputy Commissioner shall have the same authority as delegated to the Commissioner as an agent of the State Engineer.

(8) A person may serve concurrently as Deputy Commissioner for more than one Distribution System.

(9) The duties of the Deputy Commissioner(s) shall be to assist the Commissioner, as assigned, in the performance of the Commissioner's duties to fulfill the purposes of the Distribution System.

(10) Compensation and Benefits:

(a) The salary or wage for a Deputy Commissioner shall be set within the guidelines established by the State Engineer.

(i) The salary or wage shall be paid through the State of Utah payroll system and shall be subject to all federal and state taxes and other required withholdings.

(ii) The total amount of salary or wage budgeted each year shall be paid to the Deputy Commissioner within the calendar year upon successful completion of the duties and responsibilities of the position.

(b) A Deputy Commissioner may be provided with a means of transportation for all travel related to regulation of the Distribution System. The transportation may be provided by any of the means described in the above Section entitled "Water Commissioner".

(c) A Deputy Commissioner shall be provided, at the expense of the Distribution System, such equipment and supplies as are needed to effectively assist the Commissioner in the assigned duties on the Distribution System. Compensation shall be in a manner

equivalent to that adopted for compensation of the Commissioner for similar expenses.

(d) At the discretion of the Committee and with the consent of the water users and the State Engineer, the Deputy Commissioner may be provided with health insurance with premiums paid all or in part by the Distribution System.

(e) A Deputy Commissioner shall be provided with Workers Compensation Insurance at the expense of the Distribution System and in accordance with pertinent regulations governing same.

(f) The Distribution System shall pay the cost of the retirement benefit for any Deputy Commissioner whose salary meets or exceeds the minimum salary level set by the Utah State Retirement Office to qualify for retirement benefits.

(11) Removal

(a) A Deputy Commissioner may be removed by the State Engineer for cause.

(i) The process to remove a Deputy Commissioner may be instigated by the State Engineer or as a result of a petition to the State Engineer from the Commissioner, Committee, or the water users.

(ii) The process for removing a Deputy Commissioner shall be governed by the provisions of the Utah Administrative Procedures Act.

(b) Water users may petition the District Court for the removal of a Deputy Commissioner.

R655-15-9. Distribution System Committee.

(1) The Distribution System Committee ("Committee") shall be established in a manner that will provide equitable representation of the interests of all water users in the Distribution System.

(2) A Committee may be established by the State Engineer in a manner such that either:

(a) The Committee prepares recommendations for ratification by the water users of the Distribution System; or

(b) The decisions and recommendations of the Committee need no ratification by the water users of the Distribution System.

(3) The Committee shall be composed of no less than five and no more than 15 representatives of the water users. The number of Committee members and the terms of office shall be determined by majority vote of the water users present at an Annual Meeting or specially called organizational meeting, subject to the approval of the State Engineer.

(4) Members of the Committee are to equitably represent the water users of the Distribution System and may be:

(a) Elected from among the water users for a specified term of office; or

(b) Duly appointed representatives of water user groups such as water companies, voluntary agreement groups, municipalities, or special districts who serve at the pleasure of the organization represented; or

(c) A combination of the foregoing under (a) and (b);

(d) Re-elected or reappointed without term limits unless barred by other policy or rule duly adopted.

(5) Representation on the Committee shall be limited to one Committee member from each: group acting cooperatively according to a voluntary agreement; water company; municipality; special district; state or federal agency; voting block; or other grouping of water users according to geography or type of water right.

(6) Committee members representing a group or other legal entity shall be elected from among the group or legal entity to be represented on the committee unless the governing documents of said group or legal entity mandate another method of selection.

(7) A quorum of the Committee must be present in order for the Committee to act on any issue regarding the Distribution System. A quorum shall consist of no less than one-half of the Committee members. The business of the Committee shall be conducted by a simple majority vote of the Committee members present at the meeting. Each member of the Committee shall have one vote. In the event of a tie vote, the business at hand may be deferred. If the business is sufficiently urgent that deferment is not practical, the matter shall be decided by the State Engineer in accordance with Subsection 73-5-(2)(c).

(8) Changes in the composition, number of members, terms of office, etc., of the Committee may be made upon majority vote of the water users present at a properly scheduled Annual Meeting, subject to the approval of the State Engineer.

(9) The Committee shall elect from among its members:

- (a) A Chair who shall have responsibility to:
 - (i) Conduct all Annual Meetings of the water users;
 - (ii) Conduct all special meetings of the Committee; and
 - (iii) Act as agent of the Committee in communications with the State Engineer, the water users and other entities.

(b) A Vice-Chair who shall assist in all duties of the Chair and assume the duties of the Chair when the Chair is absent or otherwise unable to fulfill those duties.

(10) The Committee shall select and retain the services of a qualified Secretary who shall:

(a) Keep accurate and complete minutes of all Annual Meetings of the water users and all meetings of the Committee in a format approved by the State Engineer, the minutes shall be prepared and submitted to the Chair and to the Division of Water Rights within 30 days after the Annual Meeting;

(b) Prepare copies of the minutes of each Annual Meeting of the water users for distribution, review and approval by the water users present at the next subsequent Annual Meeting;

(c) Prepare copies of the minutes of each special meeting of the Committee for distribution, review and approval by the Committee at the next subsequent special meeting;

(d) Maintain a permanent record of all minutes of the meetings of the water users and the Committee;

(e) Maintain a complete and current record of the names, contact information, representation, and terms of office of all members of the Committee;

(f) Maintain a permanent record of all materials, reports, agendas, budgets, etc., presented or considered in Annual Meetings of the water users or special meetings of the Committee;

(g) Submit to the Chair for approval by the Committee an annual (or more frequent, as needed) itemized billing for services rendered and a statement of associated expenses for payment from the funds of the Distribution System;

(h) Submit all records of the Distribution System thus maintained;

(i) To the Chair of the Committee upon termination of service as Secretary; or

(ii) To the State Engineer upon dissolution of the Distribution System.

(11) A Committee whose actions are ratified by the water users shall prepare recommendations for the water users regarding:

(a) The recommendation to the State Engineer concerning the appointment of a Commissioner;

(b) The recommendation to the State Engineer concerning the appointment of a Deputy Commissioner need not be ratified by the water users;

(c) The duties of the Commissioner or Deputy Commissioner specific to the Distribution System;

(d) The operating budget for the Distribution System including compensation for the Commissioner and Deputy Commissioner(s);

(e) The total of the assessments to be levied to meet the operating expenses of the Distribution System; and

(f) Any other business necessary for the proper operation of the Distribution System.

(12) A Committee whose actions need not be ratified by the water users shall make all decisions and recommendations on behalf of the water users regarding the items listed above.

(13) The Committee may recognize and authorize the seating of a substitute member of the Committee to act in the place of any member absent or otherwise unable to attend to those duties. The substitute member shall be selected from among the same group represented by the absent member.

R655-15-10. Distribution System Chair and Vice-Chair.

(1) If a Committee is not established, the water users shall elect a Distribution System Chair and Vice-Chair ("Chair and Vice-Chair") by majority vote of the water users present at an Annual Meeting or specially called organizational meeting.

(2) A Chair shall have responsibility to:

(a) Conduct all Annual Meetings of the water users; and

(b) Act as agent of the water users in communications with a Commissioner, a Deputy Commissioner, the State Engineer, the water users and other entities.

(3) The Vice-Chair shall assist in all duties of the Chair and assume the duties of the Chair when the Chair is absent or otherwise unable to fulfill those duties.

(4) The Chair shall select and retain the services of a qualified Secretary who shall:

(a) Keep accurate and complete minutes of all Annual Meetings of the water users, the minutes shall be prepared and submitted to the Chair and to the Division of Water Rights within 30 days after the Annual Meeting;

(b) Prepare copies of the minutes of each Annual Meeting of the water users for distribution, review and approval by the water users present at the next subsequent Annual Meeting;

(c) Maintain a permanent record of all minutes of the Annual Meetings of the water users;

(d) Maintain a permanent record of all materials, reports, agendas, budgets, etc., presented or considered in Annual Meetings of the water users;

(e) Submit to the Chair an annual (or more frequent, as needed) itemized billing for services rendered and a statement of associated expenses for payment from the funds of the Distribution System;

(f) Submit all records of the Distribution System thus maintained;

(i) To the Chair upon termination of service as Secretary; or

(ii) To the State Engineer upon dissolution of the Distribution System.

R655-15-11. Water Users.

(1) Water users shall pay distribution assessments within the deadlines established in this rule.

(2) Water users may participate in organizational or Annual Meetings to:

(a) Select representatives to serve as members of the Committee or to elect a Distribution System Chair and Vice-Chair;

(b) Exchange information with the State Engineer, Commissioner and Committee or Distribution System Chair pertinent to the fulfillment of the purposes of the Distribution System.

(c) Vote on Distribution System business as described in this rule.

(3) A water user who is unable to attend an Annual Meeting or other meeting of the Distribution System may designate a person by proxy to act in the water user's stead in the conduct of official business of the Distribution System. The proxy shall:

(a) Be in writing;

(b) Name the person who is giving the proxy and who is recognized as a water user on the Distribution System;

(c) Name the person who is designated to act in the place of the absent water user;

(d) State the meeting and the date of the meeting at which the proxy is to be used;

(e) State any limitations on the authority of the proxy to act in the place of the absent water user;

(f) Be signed by the water user giving the proxy;

(g) Be submitted to the Committee or the Distribution System Chair at the meeting where the proxy is to be used prior to any attempt to act as proxy; and

(h) Be retained by the officers of the Distribution System as part of the records of the meeting.

(4) Except as provided below for a voting block, each water user shall have one vote in the conduct of official business of the Distribution System.

(5) To assure equitable representation of the interests of all water users in conducting the business of the Distribution System, the State Engineer may organize water users into voting blocks.

(a) A simple majority of the water users in a voting block shall determine the vote to be cast by the voting block.

(b) Each voting block in a Distribution System so organized shall have one vote in the conduct of the official business of the Distribution System.

(6) All water users shall assist the Commissioner in fulfilling the duties of that appointment as they pertain to the rights of the water user.

(7) Each water user shall abide by the regulation and distribution directions issued or set by a Commissioner and any appointed Deputy Commissioner, including but not limited to head gate and/or control structure settings. A water user who fails to abide by the direction of a Commissioner or Deputy in the performance of official duties is subject to enforcement proceedings and resulting administrative penalties as established by statute.

(8) Each water user shall maintain in workable and accessible condition all head gates, control structures, measuring devices and other equipment determined necessary by the State Engineer for the Commissioner's control, measurement and delivery of water.

(a) Measuring devices, head gates, and control structures shall be installed by and at the expense of the water user at each location determined necessary by the State Engineer.

(b) Measuring devices, head gates, and control structures shall be of a design approved by the State Engineer.

(c) Safe and reasonable access shall be provided to all head gates, control structures, measuring devices and other installations

required for the Commissioner's control, measurement, and delivery of water.

(9) Water users shall provide reports on water use as required by the State Engineer pursuant to Section 73-5-8.

R655-15-12. Annual Meetings.

(1) The State Engineer shall hold an Annual Meeting of the water users and/or the Committee prior to the start of each distribution season.

(2) The purpose of the Annual Meeting shall be to address the following matters:

(a) Review, amend as necessary, and approve the minutes of the next previous Annual Meeting;

(b) Review the finances of the Distribution System including:

(i) Current account balance of Distribution System funds;

(ii) Budgeted amounts and expenditures of the previous fiscal period;

(iii) Status of assessment collections including delinquent accounts;

(c) Set a budget for the current or prospective fiscal period. The budget shall provide for the following expenses:

(i) Compensation of the Commissioner(s), Deputy Commissioner(s), and Secretary;

(ii) Office and clerical expenses as are necessary for the effective distribution and regulation of water on the Distribution System;

(iii) Equipment expenses as are necessary for the effective distribution and regulation of water on the Distribution System;

(iv) Other expenses necessary for the effective distribution and regulation of water and operation of the Distribution System including those determined necessary by the State Engineer such as the State Engineer's Assessment for disbursement of funds, accounting, and assessment collection.

(d) Set a total assessment to be collected from the water users to defray the expenses of the adopted budget.

(e) Hear, review, and approve the Commissioner's Annual Report; if the report is unacceptable, motions may be adopted to amend the report;

(f) Review and amend, subject to approval of the State Engineer, the duties of the Commissioner;

(g) Review the performance of the Commissioner and any Deputy Commissioners and hear any commendations, comments, or complaints relative to the previous year.

(h) Recommend the appointment of a Commissioner, as may be necessary;

(i) Elect members of the Committee, as may be necessary;

(j) Receive a report or other information from the State Engineer concerning matters pertinent to the operation of the Distribution System;

(k) Conduct any other business as may be necessary to fulfill the purposes of the Distribution System.

R655-15-13. Distribution System Committee Meetings.

(1) Meetings of the Distribution System Committee ("Committee") shall be held as necessary to fulfill the purposes of the Distribution System.

(2) Committee meetings may be held in lieu of or in addition to the Annual Meeting with the water users as determined by the State Engineer.

(3) The Committee Chair and Vice-Chair shall be elected at a Committee Meeting.

(4) If the Committee meeting is held in lieu of the Annual Meeting with the water users, the purpose of the meeting shall be to address the matters described in Section entitled "Annual Meetings" herein.

(5) If the Committee meeting is held in addition to the Annual Meeting with the water users, the purpose of the meeting shall be to review information and develop recommendations on the matters described in the Section entitled "Annual Meetings," herein, for presentation to the water users.

R655-15-14. Assessments.

(1) A Distribution Account shall be established by the State Engineer for each water right or group of water rights within the Distribution System that shall include:

- (a) An account number;
- (b) The name, full mailing address, and other pertinent contact information for the person responsible for payment of the assessment associated with the account;
- (c) The water right or rights associated with the account;
- (d) Any other information that may be pertinent and useful in enabling identification of the water sources, beneficial use of water and place of use of the water rights associated with the account.

(2) Assessments to each Distribution Account shall be calculated so as to collect from each water user a pro rata share of the monies necessary to defray the expenses of the budget adopted at the Annual Meeting of the water users or at the Committee meeting.

(3) The method of calculating assessments shall be determined by the State Engineer, in consultation with the water users, Committee or Chair, to best meet the needs of the Distribution System and assure an equitable distribution of costs among the water users. The assessment calculation method for a Distribution System may be based upon:

(a) The proportion of the total annual assessment amount which the allowed irrigated acreage under the Distribution Account bears to the total allowed irrigated acreage within the Distribution System; or

(b) The proportion of the total annual assessment amount which the allowed water flow in cubic feet per second (cfs) or allowed annual diversion in acre-feet (AF) under the water right(s) in the Distribution Account bears to the total allowed flow or diversion allowance for all water rights within the Distribution System; or

(c) The proportion of the total annual assessment amount which the quantity (AF) of water actually taken by or delivered under the water right(s) in the Distribution Account (as reported by the Commissioner for the year prior) bears to the total quantity of water actually taken or delivered within the Distribution System; or

(d) Any other method of calculation which shall be acceptable to the water users and approved by the State Engineer and which results in an equitable and proportional sharing of system costs among the water users.

(4) Water users who place disproportionate demands on the Commissioner, as based on the relative amount of their assessment and as determined by the State Engineer, may receive an increased assessment. The amount of the increase will be determined by the State Engineer to compensate for the increased time required of the Commissioner to satisfy or properly distribute water to the water user.

(5) Assessment notices shall be mailed to the responsible party for each Distribution Account no later than April 1 of each year unless unusual circumstances require a delay.

(6) Assessment payments shall be made payable to the Utah State Engineer.

(7) As set forth in Section 73-5-1(3), assessments for Distribution Systems shall be due on or before May 1 of the year in which they are levied.

(8) A delinquency charge shall be levied against Distribution Account balances that remain unpaid as of June 1 of each year.

(a) The amount of the delinquency charge shall be 10% of the unpaid Distribution Account balance unless otherwise determined by the State Engineer in consultation with the water users, Committee or Chair.

(b) The delinquency charges collected shall be deposited in the Water Commissioner Fund dedicated to the Distribution System.

(9) Actions taken for collection of delinquent accounts shall be at the discretion of the State Engineer as provided in Subsection 73-5-1(3)(c). Costs incurred by the Division in collection of delinquent accounts shall be included in the administrative costs budgeted as the State Engineer's Assessment for disbursement of funds, accounting, and assessment collection.

KEY: water distribution, water commissioner, distribution system

Date of Enactment or Last Substantive Amendment: September 21, 2007

Authorizing, and Implemented or Interpreted Law: 73-2-1(5)(a)

◆ ————— ◆

Pardons (Board Of), Administration **R671-102** Americans with Disabilities Act Complaint Procedure Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 30268

FILED: 07/31/2007, 08:44

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is required so the agency can provide a prompt and equitable resolution of Americans with Disabilities Act (ADA) complaints filed against the Board.

SUMMARY OF THE RULE OR CHANGE: The changes update the complaint filing process at the agency. The changes also clarify new requirements to replace those that applied between 1992 and 2002.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 67-19-32

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The amendments do not create a cost to file or additional cost to process an ADA complaint.
- ❖ LOCAL GOVERNMENTS: None--The amendments do not create a cost to file or additional cost to process an ADA complaint.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--The amendments do not create a cost to file or additional cost to process an ADA complaint.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The amendments do not create a cost to file or additional cost to process an ADA complaint.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It has been determined that there is no fiscal impact on business associated with this amendment. Curtis Garner, Chairman

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@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 09/14/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2007

AUTHORIZED BY: Curtis L Garner, Chairman

R671. Pardons (Board of), Administration.

R671-102. Americans with Disabilities Act Complaint Procedure Rule.

R671-102-1. Purpose and Authority.

A. This rule is promulgated pursuant to Section 63-46a-3 (2) of the State Administrative Rulemaking Act. The Board of Pardons and Parole adopts, defines, and publishes within this rule complaint procedures to provide for prompt and equitable resolution of complaints filed in accordance with Title II of the Americans with Disabilities Act, pursuant to 2002 ed 42 U.S.C. 12131 - 12134.

B. No qualified individual with a disability, by reason of such disability, shall be excluded from participation in or be denied the benefits of the services, programs, or activities of this [office]agency, or be subjected to discrimination by this [office]agency.

R671-102-2. Definitions.

A. "The ADA Coordinator" or "Coordinator" means the [Office of the]Board of Pardons and Parole [Coordinator]Administrative Coordinator or other Board designee, who has responsibility for investigating and providing prompt and equitable resolution of complaints filed by qualified individuals with disabilities in accordance with the Americans With Disabilities Act, or provisions of this rule.

B. "The ADA State Coordinating Committee" means that committee with representatives designated by the directors of the following agencies:

- (1) Office of Planning and Budget;
- (2) Department of Human Resource Management;
- (3) Division of Risk Management;
- (4) Division of Facilities Construction Management; and
- (5) Office of Attorney General.

C. "Agency" means the Board of Pardons and Parole.

D. "Disability" means, with respect to an individual with a disability, a physical or mental impairment that substantially limits one or more of the major life activities of such an individual; a record of such an impairment; or being regarded as having such an impairment.

[D]E. "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

[E]F. "Individual with a disability" (hereafter individual) means a person who has a disability which limits one of his/her major life activities and who meets the essential eligibility requirement for the receipt of services or the participation in programs or activities provided by the [Office of the]Board of Pardons, or who would otherwise be an eligible applicant for vacant state positions, as well as those who are employees of the state.

[F]G. "Board" means the Board of Pardons and Parole.

[G]H. "Chairman" or "Chairman of the Board" means Chairman of the Board of Pardons and Parole.

R671-102-3. Filing of Complaints.

A. A complaint shall be filed in a timely manner to assure prompt, effective assessment and consideration of the facts, but no later than 60 days from the date of the alleged act of discrimination. [However, any complaint alleging an act of discrimination occurring between January 26, 1992 and the effective date of this rule may be filed within 60 days of the effective date of this rule.]

B. The Complaint shall be filed with the Board's ADA Coordinator in writing or in another accessible format suitable to the individual.

C. Each complaint shall:

- (1) include the individual's name and address;
- (2) include the nature and extent of the individual's disability;
- (3) describe the [office's]agency's alleged discriminatory action in sufficient detail to inform the [office]agency of the nature and date of the alleged violation;
- (4) describe the action and accommodation desired; and
- (5) be signed by the individual or by his/her legal representative.

D. Complaints filed on behalf of classes of third parties shall describe or identify by name, if possible, the alleged victims of discrimination.

R671-102-4. Investigation of Complaint.

A. The ADA C[e]ordinator shall conduct an investigation of each complaint received. The investigation shall be conducted to the extent necessary to assure all relevant facts are determined and documented. This may include gathering all information listed in Section 3 (C) of this rule if it is not made available by the individual.

B. When conducting the investigation, the C[e]ordinator may seek assistance from the Board's legal, human resource and budget staff in determining what action, if any, shall be taken on the complaint. Before making any decision that would involve:

(1) an expenditure of funds which is not absorbable within the agency's budget and would require appropriation authority;

(2) facility modifications which require an expenditure of funds which is not absorbable within the agency's budget and would require appropriation authority; or

(3) reclassification or reallocation in grade; the [e]Coordinator shall consult with the ADA State Coordinating Committee.

R671-102-5. Issuance of Decision.

A. Within 15 working days after receiving the complaint, the ADA Coordinator shall issue a decision outlining in writing, or in another suitable format, stating what action, if any, shall be taken on the complaint.

B. If the [e]Coordinator is unable to reach a decision within the 15 day period, he/she shall notify the individual in writing or by another suitable format why the decision is being delayed and what additional time is needed to reach a decision.

R671-102-6. Appeals.

A. The individual may appeal the decision of the ADA Coordinator by filing an appeal within five working days from the receipt of the decision.

B. The appeal shall be filed in writing with the [Chairman of the Board's Chairman] or a designee other than the Board's ADA Coordinator.

C. The filing of an appeal shall be considered as authorization to the [Board's] Chairman or designee, by the individual, to allow review of all information, including information classified as private or controlled.

D. The appeal shall describe in sufficient detail why the [e]Coordinator's decision is in error, is incomplete or ambiguous, is not supported by the evidence, or is otherwise improper.

E. The Chairman [of the Board] or designee shall review the factual findings of the investigation and the individual's statement regarding the inappropriateness of the [e]Coordinator's decision and arrive at an independent conclusion and recommendation. Additional investigations may be conducted if necessary to clarify questions of fact before arriving at an independent conclusion. Before making any decision that would involve [the Chairman or designee to]:

(1) an expenditure of funds which is not absorbable and would require appropriation authority;

(2) facility modifications which require an expenditure of funds which is not absorbable and would require appropriation authority; or

(3) reclassification or reallocation in grade; [he/she] the Chairman or designee shall also consult with the State ADA Coordinating Committee.

F. The decision shall be issued within ten working days after receiving the appeal and shall be in writing or in another suitable format to the individual.

G. If the Chairman or designee is unable to reach a decision within the ten working day period, he/she shall notify the individual in writing or by another suitable format why the decision is being delayed and the additional time needed to reach a decision.

R671-102-7. Classification of Records.

A. The record of each complaint and appeal, and all written records produced or received as part of such actions, shall be classified as protected as defined under Section 63-2-304 until the ADA Coordinator, the Chairman [of the Board] or their designees issue the decision, at which time any portions of the record which may pertain to the individual's medical condition shall remain classified as private as

defined under Section 63-2-302 or controlled as defined in Section 63-2-303. All other information gathered as part of the complaint record shall be classified as private information. Only the written decision of the [e]Coordinator, Chairman [of the Board] or designees shall be classified as public information.

R671-102-8. Relationship to Other Laws.

A. This rule does not prohibit or limit the use of remedies available to individuals under the State Anti-Discrimination Complaint Procedures Section [(67-19-32)]; the Federal ADA Complaint Procedures (2002 Edition, beginning with Part 35.170 [1992 Edition]); or any other Utah State [of] or Federal law that provides equal or greater protection for the rights of individuals with disabilities.

R671-102-9. Interpreters.

The Board will provide interpreters for the hearing impaired.

KEY: disabilities

Date of Enactment or Last Substantive Amendment: [February 15, 2003] 2007

Notice of Continuation: September 18, 2002

Authorizing, and Implemented or Interpreted Law: 67-19-32



Pardons (Board Of), Administration

R671-203

Victim Input and Notification

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 30270

FILED: 07/31/2007, 08:49

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment provides requirement for transfer of information from other agencies to allow the Board to provide notice of Board hearing to victims.

SUMMARY OF THE RULE OR CHANGE: The changes provide expanded information related to the process of providing victim notice of Board hearings.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 67-19-32

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None--The changes do not include additional costs to access victim information or provide notification.

❖ **LOCAL GOVERNMENTS:** None--The changes do not include additional costs to access victim information or provide notification.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** None--The changes do not include additional costs to access victim information or provide notification.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The changes do not include additional costs to access victim information or provide notification.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It has been determined that there is no fiscal impact on business associated with this amendment. Curtis Garner, Chairman

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@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 09/14/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2007

AUTHORIZED BY: Curtis L Garner, Chairman

R671. Pardons (Board of), Administration.

R671-203. Victim Input and Notification.

R671-203-1. Victim Input and Notification.

~~— Pursuant to statute, the Department of Corrections will provide the Board of Pardons with all available information concerning the impact a crime may have had upon the victim or victim's family. Pursuant to statute, the prosecutor of the case will forward to the Board a victim impact statement referring to physical, mental or economic loss suffered by the victim or victim's family.~~

~~— In accordance with statute victims shall be allowed to testify before the Board of Pardons at original parole grant hearings, rehearings and applicable parole violation and rescission hearings. Victims will be given timely notice, delivered to their last known address, of the date, place and time of the hearing.~~

~~— A victim is defined as an individual, of any age, against whom an offender committed a felony or class A misdemeanor offense for which the hearing is being held. If a victim does not wish to give testimony or is unable to do so, a designee may be appointed to speak on their behalf. Family may testify if the victim is deceased as a result of the offense or if the victim is a child.~~

~~— Oral testimony at hearings will be limited to five minutes in length per victim or designee. If family testifies, testimony should be limited to one family representative from the marital family (i.e. spouse or children) and/or one family representative from the nuclear/extended family (i.e. parent, sibling or grandparent). Under exceptional or extraordinary circumstances a victim may formally petition the Board to request additional testimony.~~

~~— If requested by the victim, the victim may present testimony during the hearing outside the presence of the offender. The offender will be excused from the hearing room so that the victim can give testimony. The victim's testimony will be recorded. At the conclusion of the testimony, the offender will be returned to the hearing room and the Board will play the recorded testimony to allow the offender to respond to the victim's testimony.~~

~~— Victims who want to testify are requested to notify the Board as far in advance of the hearing as possible so that appropriate arrangements can be made and time allocated for the presentations. Victims or designees should bring a written copy of their remarks to the hearing or send a copy to the Victim Coordinator for the Board file.~~

~~— If multiple victims want to testify, the Board may reschedule the hearing to accommodate the extra time required to hear all the testimony. If Board business is not concluded by 5:00 p.m. on a hearing day, all remaining hearings may be rescheduled and visitors may have to return.~~

~~— A victim or designee, who is appearing at a hearing where photographic equipment is being used by the media, will not be photographed without the approval of the victim and the individual presiding at the hearing.~~

~~— Victims may contact the Board of Pardons, after any parole hearing, for information concerning the outcome of that hearing. Victims are advised that they may also contact the Utah State Prison Records Unit Supervisor for information on offender releases.~~

~~— All persons attending hearings must comply with the security and clearance regulations of the facility where the hearing is held. These regulations include a picture identification, appropriate dress, and no contraband. Visitors should arrive at the facility 15 to 20 minutes prior to the scheduled hearing to allow adequate time for the security clearance.]~~

R671-203-1. General Provisions.

~~Pursuant to statute, the Department of Corrections shall provide the Board of Pardons with all available information concerning the impact a crime may have had upon the victim or victim's family. Pursuant to statute, the prosecutor of the case, and upon request of the Board, any other law enforcement official responsible for offender's arrest, conviction, and sentence, shall forward to the Board a victim impact statement referring to physical, mental or economic loss suffered by the victim or victim's family.~~

~~If a victim does not wish to give testimony or is unable to do so, a victim representative may be appointed by the victim, or if the victim is a minor, by the victim's parent(s) or lawful guardian or custodian, to speak on the victim's behalf. A family member of the victim may also testify if the victim is deceased as a result of the offense or if the victim is a child.~~

~~"Victim" for purposes of this Rule means:~~

~~A. any person, of any age, against whom an offender committed a felony or class A misdemeanor offense either personally or as a party to the offense, for which a prison sentence was imposed or for which the hearing is being held;~~

~~B. in the discretion of the Board, any person, of any age, against whom a related crime or act is alleged to have been perpetrated or attempted;~~

~~C. any victim originally named in an allegation of criminal conduct who is not a victim of the offense to which the defendant entered a negotiated plea of guilty; and~~

~~D. any victim representative and family member as provided herein.~~

"Victim Representative" means a person who is designated by the victim or designated by the Board, who represents the victim in the best interests of the victim.

A victim or victim representative, who is appearing at a hearing where photographic equipment is being used by the media, will not be photographed without the approval of the victim and the individual presiding at the hearing.

Victims may contact the Board of Pardons, after any parole hearing, for information concerning the outcome of that hearing. Victims are advised that they may also contact the Utah State Prison Records Unit Supervisor for information on offender releases.

All persons attending hearings must comply with the security and clearance regulations of the facility where the hearing is held. These regulations include a picture identification, appropriate dress, and no contraband. Visitors should arrive at the facility 15 to 20 minutes prior to the scheduled hearing to allow adequate time for the security clearance.

R671-203-2. Notification.

A. Notice of an offender's original parole hearing shall be timely sent to the victim at his most recent address of record with the board. The notice shall include:

- (1) the date, time, and location of the hearing;
- (2) a clear statement of the reason for the hearing, including all offenses involved;
- (3) the statutes and rules applicable to the victim's participation in the hearing;
- (4) the address and telephone number of an office or person the victim may contact for further explanation of the procedure regarding victim participation in the hearing;
- (5) specific information about how, when, and where the victim may obtain the results of the hearing; and
- (6) notification that the victim must maintain current contact information with the Board in order to receive future notifications of hearings affecting the offender's incarceration or parole.

B. If the victim is dead, or the Board is otherwise unable to contact the victim, the Board shall make reasonable efforts to notify the victim's immediate family of the hearing.

C. Following the notice of the original hearing, a victim may elect to receive notice of any future parole grant hearing, parole revocation hearing or re-hearing. In order to do so, the victim shall notify the Board of the desire to receive future notices, and shall thereafter maintain current contact information with the Board.

D. For victims who elect to receive future notices, the Board will mail such notice to the victim's last current address of record or most recent contact information as provided to the Board.

R671-203-3. Right to Attend; Right to Testify.

As used in this section, "hearing" means a hearing for a parole grant or revocation, or a rehearing of either of these if the offender is present.

A victim may attend any hearing regarding the offender. A victim may testify during any hearing regarding the impact of the offense(s) upon the victim, and may present his views concerning any decision to be made regarding the offender.

The victim may request a re-scheduling or continuance of the hearing if travel or other significant conflict prohibits their attendance at the hearing.

R671-203-4. Victim Statements and Testimony.

A. A victim, victim representative or victim's family member (if the victim is a child, deceased or unable to attend due to physical incapacity), may testify regarding the impact of the offense(s) upon the victim, and may present his views concerning any decision to be made regarding the offender.

B. The testimony may be presented as a written statement, which may also be read aloud, if the presenter desires; or as oral testimony.

C. Oral testimony at hearings will be limited to five minutes in length per victim or representative. If a family member testifies, testimony should be limited to one family representative from the marital family (i.e. spouse or children) and/or one family representative from the nuclear/extended family (i.e. parent, sibling or grandparent). Under exceptional or extraordinary circumstances a victim may formally petition the Board to request additional testimony.

D. The victim may present testimony during the hearing outside the presence of the offender. The offender will be excused from the hearing room so that the victim can give testimony. The victim's testimony will be recorded or otherwise made available to the offender. At the conclusion of the testimony, the offender will be returned to the hearing room, and the Board will allow the offender to respond. A separate hearing will not be scheduled to allow for testimony outside the presence of the offender.

E. Victims who desire to testify at hearings shall notify the Board as far in advance of the hearing as possible so that appropriate arrangements can be made and adequate time allocated.

F. Victims or representatives should bring a written copy of their remarks to the hearing or send a copy to the Victim Coordinator for the Board file.

G. In cases where multiple victims desire to testify, the Board may reschedule the hearing to accommodate the extra time required to hear all victims. If Board business is not concluded by 5:00 p.m. on a hearing day, all remaining hearings may be rescheduled and visitors required to return.

R671-203-5. Victim Impact Hearings.

A. In any case where an offender's original parole hearing is set by Board administrative determination more than three years from the offender's commitment to prison, the victim, as defined by R671-203-1, may request that the Board conduct a victim impact hearing, in order to preserve victim impact testimony and victim statements for future use and reference by the Board.

B. The sole purpose of a victim impact hearing is to afford an opportunity for victim impact testimony and victim statements to be made in cases where an offender's original hearing is scheduled more than three years following commitment to prison, so that the victim is not denied an opportunity to participate in the offender's original hearing, simply because of the passage of time between the offender's commitment to prison and original hearing. A victim impact hearing is not a substitute for an original hearing. A victim impact hearing will not result in a review, re-scheduling or re-determination of an original hearing date.

C. Victims who request, and for whom victim impact hearings are conducted, retain all rights afforded pursuant to constitutional provision, statute or Board rule, including: the right to notice of the original hearing and any future hearings, as provided by R671-203-1

and R671-203-2; the right to attend any hearing for the offender, as provided by R671-203-1 and R671-203-3; and the right to testify and make future statements to the Board at any hearing for the offender, as provided by R671-203-1 and R671-203-4.

D. Upon such a request from a victim, the Board shall schedule and conduct a victim impact hearing. In scheduling and conducting a victim impact hearing:

(1) All notice provisions of R671-202-1 and R671-203 et seq. shall apply.

(2) All victim appearance, testimony and statement provisions of R671-203 shall apply.

(3) The offender shall be present, pursuant to the provisions of R671-301, and shall be afforded an opportunity to respond to the victim's testimony or statement.

(4) The victim impact hearing shall be recorded, pursuant to the provisions of R671-304.

KEY: victims of crimes

Date of Enactment or Last Substantive Amendment: ~~February 18, 1998~~ **2007**

Notice of Continuation: September 18, 2002

Authorizing, and Implemented or Interpreted Law: 77-27-9.5; 77-27-13; 64-13-20

◆ ————— ◆

Pardons (Board Of), Administration **R671-206** Competency of Offenders

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 30271

FILED: 07/31/2007, 08:52

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change updates the process for requesting mental health evaluations and petitioning for a competency hearings.

SUMMARY OF THE RULE OR CHANGE: This amendment updates processes for requesting mental health evaluations and filing petitions for competency hearings.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 77-15-3, 77-15-5, 77-27-2, and 27-7-7

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None--The amendment does not impact the mental health evaluation process in a way that introduces fees or costs to the state.

❖ **LOCAL GOVERNMENTS:** None--The amendment does not impact the mental health evaluation process in a way that introduces fees or costs to local government.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** None--The amendment does not impact the mental health evaluation process in a way that introduces fees or costs to small businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs to public, victims, offenders, or other state agencies to comply with this amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It has been determined that there is no fiscal impact on business associated with this amendment. Curtis Garner, Chairman

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@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 09/14/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2007

AUTHORIZED BY: Curtis L Garner, Chairman

R671. Pardons (Board of), Administration.

R671-206. Competency of Offenders.

R671-206-1. General.

If ~~a board member or staff~~ the hearing official presiding at a hearing has reason to believe that an offender may be mentally incompetent as defined in UCA 77-15-2, all proceedings ~~will~~ shall be stayed pending a decision by the Board. The Board ~~shall~~ may request a mental health evaluation from the Department of Corrections or from a private mental health expert to assist in determining whether the offender is competent, or is likely to become competent while housed in the custody of the Department of Corrections.

If there is reason to believe that the inmate or parolee is incompetent, the Board may request the ~~Attorney General~~ Department of Corrections file a petition with the district court for a competency hearing pursuant to UCA 77-15-3(b).

If the district court determines the offender is mentally competent, the Board shall proceed with scheduled hearings or other actions.

KEY: criminal competency

Date of Enactment or Last Substantive Amendment: ~~November 21, 2002~~ **2007**

Notice of Continuation: September 25, 2002

Authorizing, and Implemented or Interpreted Law: 77-15-3; 77-15-5; 77-27-2; 77-27-7

Pardons (Board Of), Administration
R671-308
 Offender Hearing Assistance

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE No.: 30272
 FILED: 07/31/2007, 08:56

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule exists to define actions related to identifying competency to participate in Board hearings and the appointment of an assistant.

SUMMARY OF THE RULE OR CHANGE: This amendment provides clarification of who may provide assistance or representation to an offender at Board hearings.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 77-27-9, 77-27-11, and 77-27-29

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The amendment does not introduce costs to the state associated with providing assistance to an offender at Board hearings.
- ❖ LOCAL GOVERNMENTS: None--The amendment does not introduce costs to local government associated with providing assistance to an offender at Board hearings.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--The amendment does not introduce costs to small businesses associated with providing assistance to an offender at Board hearings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no cost introduced for the affected persons to provide assistance to an offender at Board hearings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It has been determined that there is no fiscal impact on business associated with this amendment. Curtis Garner, Chairman

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

PARDONS (BOARD OF)
 ADMINISTRATION
 Room 300
 448 E 6400 S
 SALT LAKE CITY UT 84107-8530, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@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 09/14/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2007

AUTHORIZED BY: Curtis L Garner, Chairman

R671. Pardons (Board of), Administration.

R671-308. Offender Hearing Assistance.

R671-308-1. Offender Hearing Assistance.

~~[An offender]~~Offenders who ~~[is]~~are deemed by the ~~[Board]~~Hearing Official to be unable to effectively represent themselves at a ~~[Board]~~ hearing ~~[will]~~may be allowed to have any assistance ~~[from another person]~~the Board determines is necessary to conduct an orderly hearing. This may include a Board-appointed representative. ~~[The person who is assisting must be approved by the Board.]~~

R671-308-2. Offender Hearing Legal ~~[Council]~~Counsel.

At parole violation hearings where there are no new criminal convictions, an attorney may be retained by the State to represent parolees ~~[on a case-by-case basis]~~. ~~[However, an]~~An alleged parole violator may choose to have ~~[a]~~private attorney ~~[represent]~~representation ~~[the offender at his/her]~~at the parolee's own expense.

~~— Except as otherwise provided by law, no person other than the offender may address the Board at any hearing except for the offender's attorney at a Parole Revocation hearing, or such persons as the Board may find necessary to the orderly conducting of any hearing.]~~

KEY: parole, inmates

Date of Enactment or Last Substantive Amendment: ~~[February 12, 2003]~~2007

Notice of Continuation: September 25, 2002

Authorizing, and Implemented or Interpreted Law: 77-27-9; 77-27-11; 77-27-29

Pardons (Board Of), Administration
R671-403
 Restitution

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE No.: 30273
 FILED: 07/31/2007, 08:58

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule provides the process for considering restitution ordered by the Courts, Department of Corrections, or other criminal justice agencies.

SUMMARY OF THE RULE OR CHANGE: The changes to this rule clarify the instances when the Board will consider restitution.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-5, 77-27-6, and 77-27-5.5

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The amendment does not introduce costs to the State associated with considering restitution at a Board hearing.
- ❖ LOCAL GOVERNMENTS: None--The amendment does not introduce costs to local government associated with considering restitution at a Board hearing.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--The amendment does not introduce costs to small businesses associated with considering restitution at a Board hearing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no cost incurred by the affected persons for the Board to consider restitution at a Board hearing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It has been determined that there is no fiscal impact on business associated with this amendment. Curtis Garner, Chairman

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@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 09/14/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2007

AUTHORIZED BY: Curtis L Garner, Chairman

R671. Pardons (Board of), Administration.

R671-403. Restitution.

R671-403-1. Policy.

The Board ~~will~~ shall consider restitution in all cases where restitution has been ordered by the court, when requested by the Department of Corrections or other criminal justice agencies, or other appropriate cases.

R671-403-2. Procedure.

~~[In cases where restitution has been ordered by the court and is included as part of the judgment and commitment, the Board will consider whether affirming such restitution is appropriate and whether persons have or are prepared to make restitution. The board may also originate orders of restitution on any crime(s) of commitment.~~

~~The Board will consider ordering restitution or affirming court ordered restitution in the following instances:~~

- ~~1. When ordered by the sentencing court and the order is included as part of the judgment and commitment provided to the Board by the court except for class B and class C misdemeanors;~~
- ~~2. When ordered by or as a part of a disciplinary proceeding as a result of misconduct;~~
- ~~3. When requested by the Department of Corrections or other criminal justice agency for the costs of extradition or return to custody;~~
- ~~4. When requested by the Department of Corrections for the costs of programs such as unpaid fees at community correction centers, therapy or other service fees, and after attempts to collect from the offender have repeatedly failed; and~~
- ~~5. When new information is made available which was not available to the court at the sentencing or restitution hearing, under the following procedure:~~

~~The Board may request that the Department of Corrections investigate the matter and the background and ability of the offender to pay and provide the Board with a written report and recommendation.~~

~~A restitution hearing may be conducted by a Board panel or hearing officer. Prior to the hearing, the offender and the victim(s) will be notified in writing of the hearing and will be provided with copies of the investigative report and other documentation unless it is of a confidential nature. The offender and the victim(s) will have the right to be present at the hearing and present evidence in their behalf. Where hearings are conducted by a hearing officer, the hearing officer will make a written report and recommendation to the Board which will be considered in a regularly scheduled Board meeting.]The Board may originate orders of restitution on any crime(s) of commitment in accordance with UCA 77-38a-302.~~

~~The Board shall affirm court-ordered restitution in accordance with UCA 77-38a-302.~~

~~The Board may consider ordering restitution in the following instances:~~

- ~~A. When ordered by or as part of a disciplinary proceeding as a result of inappropriate behavior;~~
- ~~B. When requested by the Department of Corrections or other criminal justice agency for the costs of extradition or return to custody.~~
- ~~C. When requested by the Department of Corrections for the costs of programs such as unpaid fees at community correction centers, therapy or other service fees; and~~
- ~~D. When new information is made available that was not available to the court at the time of sentencing or prior restitution hearing.~~

~~The Board may conduct a restitution hearing to determine the amount of restitution owed by an offender. The Board will make a reasonable effort to inform both the offender and the victim(s) of the hearing and will provide copies of rules and investigative reports and other documentation. The offender and the victim(s) shall have the right to be present at the hearing and present evidence in their behalf.~~

KEY: restitution, government hearings, parole
Date of Enactment or Last Substantive Amendment: ~~January 1, 1999~~ **2007**
Notice of Continuation: February 18, 2003
Authorizing, and Implemented or Interpreted Law: 77-27-5; 77-27-6; 77-27-5.5

◆ ————— ◆

Public Safety, Peace Officer Standards and Training

R728-406-3

Policy and Procedures for Course Validation

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 30275
 FILED: 07/31/2007, 14:50

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the change is to require agencies to submit an application into Peace Officer Standards and Training (POST) four weeks prior to the start of POST academy rather than two weeks.

SUMMARY OF THE RULE OR CHANGE: The change will require departments to submit applications four weeks prior to the start of an academy class in order to provide adequate time for POST staff to process the application.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-6-105

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** This change will not affect the state budget because it is not changing a procedure that POST already does.
- ❖ **LOCAL GOVERNMENTS:** This change will not affect the local governments because it is not adding responsibilities to any local government.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** This rule does not affect small businesses or other persons because it deals with application procedures between POST and Local police agencies.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The application process is already required by any applicant required to attend POST. Therefore, no additional costs or expenses will occur for any person.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It has been determined that there will be no fiscal impact on any government agency or any other persons. Scott Duncan, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 PUBLIC SAFETY
 PEACE OFFICER STANDARDS AND TRAINING
 410 W 9800 S
 SANDY UT 84070, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Steve Winward at the above address, by phone at 801-256-2326, by FAX at 801-256-0600, or by Internet E-mail at swinward@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/04/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2007

AUTHORIZED BY: Scott T Duncan, Commissioner

R728. Public Safety, Peace Officer Standards and Training.

R728-406. Requirements For Approval and Certification of Basic Correctional, Reserve and Special Function Training Programs and Applicants.

R728-406-3. Policy and Procedures for Course Validation.

A. The course must conform to the content and standards established by POST and approved by the POST Council.

B. All applicants shall have completed the POST application packet. Without exception, medical requirements will be completed before training begins.

1. Sponsored applicants - The sponsoring agency will complete the background investigation and insure that the requirements in 53-6-203 (applicants for admission to training programs) and R728-403 (Qualifications for Admission to Certified Peace Officer Training Academies) have been met. If the sponsoring agency has any question about an applicant as he relates to 53-6-203, or R728-403, POST shall be consulted before any training begins.

2. Self-Sponsored applicants - POST will conduct a criminal history check on all self-sponsored applicants. Programs providing training to self-sponsored students such as Weber State University or Salt Lake Community College will adhere to the following guidelines when providing POST with application packets.

a. It is the policy of POST that all applications will be checked to insure completeness. POST will return any application not complete and deny training to that individual until a complete application is received and a criminal history check has been completed.

b. It is the policy of POST that applications will be provided to POST at least ~~two~~ **four** weeks prior to the start of training unless special circumstances exist and arrangements have been made with POST (without exception medical release forms will be completed and submitted to POST before physical training begins.)

c. It is the policy of POST that a class schedule and a list of instructors will be provided to POST before training begins.

C. Equipment required to perform training must be furnished by the sponsoring agency or program. Equipment must meet POST standards.

D. All instructors must be POST certified, and approved to instruct in their assigned topic(s).

E. Lesson plans for each topic must be prepared in accordance with the currently approved student performance objectives. Instructors must read and sign Form #771/89 (Performance Objectives Agreement) indicating they are aware of and are willing to teach the POST approved performance objectives.

F. Sponsoring agencies and program coordinators must administer POST approved examinations and maintain a file of examinations used. The final certification examination, which is a comprehensive examination, will be given by POST. A minimum score of 80% is required to pass the test.

G. Attendance rosters shall be kept to satisfy statutory requirements and copies of these rosters will be submitted to POST. No attendee can miss more than 10% of the course and still be certifiable. Under no circumstances will a student be certified if he misses (and fails to make-up) the following classes:

1. Ethics and Professionalism
2. Laws of Arrest
3. Laws of Search and Seizure
4. Use of Force
5. First Aid (CPR only)
6. Arrest Control Techniques (practical exam)

H. Sponsoring agencies and programs must ensure that students possess a valid drivers license when involved in any training that requires the operating of a motor vehicle. Driver license checks shall be made through the State Division of Driver License.

I. Successful completion of the course and completion of all POST required paperwork is necessary before certification will be granted.

J. Upon completion of the training program, sponsoring agencies and programs will contact POST and make arrangements for the Certification Exam to be given. Anyone failing the Certification Exam once may take it again within a one year time frame. The requirement of taking the certification test after a year, for waiver purposes, will be applied by calculating the year from the date of successfully passing the test. Anyone who fails a certification re-take will not be permitted to take it again until they satisfactorily complete another approved basic training program.

K. When all requirements have been met, the sponsoring agency administrator shall submit to POST a letter informing POST that all requirements have been met. Peace officer certification begins when POST receives an application for certification and confirms that the applicant has completed a basic peace officer training program and met all requirements.

L. The Certification Exam will not be given if all the above requirements have not been met.

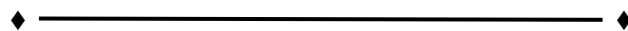
M. No person shall function with any authority until he has satisfactorily completed an approved training program and received POST certification.

KEY: law enforcement officers, approval for reserve basic course[[±]], approval for special function course[[±]], approval for correctional basic course[[±]]

Date of Enactment or Last Substantive Amendment: [~~April 15, 1997~~]2007

Notice of Continuation: February 26, 2007

Authorizing, and Implemented or Interpreted Law: 53-6-202



Tax Commission, Administration
R861-1A-24
Formal Adjudicative Proceedings
Pursuant to Utah Code Ann. Sections
59-1-502.5, 63-46b-8, and 63-46b-10

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 30278

FILED: 07/31/2007, 16:28

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This section is updated to reflect commission practice.

SUMMARY OF THE RULE OR CHANGE: The amendments codify commission practice and make technical changes to the process of requesting commissioners to hear certain appeals.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-1-502.5, 63-46b-8, and 63-46b-10

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None--Proposed amendments conform rule to commission practice.

❖ **LOCAL GOVERNMENTS:** None--Proposed amendments conform rule to commission practice.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** None--Proposed amendments conform rule to commission practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Proposed amendments conform rule to commission practice.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated costs.
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 09/14/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2007

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R861. Tax Commission, Administration.

R861-1A. Administrative Procedures.

R861-1A-24. Formal Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-502.5, 63-46b-8, and 63-46b-10.

~~[A-](1)~~ At a formal proceeding, an administrative law judge appointed by the commission or a commissioner may preside.

~~[+](a)~~ Assignment of a presiding officer to a case will be made pursuant to agency procedures and not at the request of any party to the appeal.

~~[2. Once assigned, the presiding officer will preside at all steps of the formal proceeding except as otherwise indicated in these rules or as internal staffing requirements dictate.](b)~~ A party may request that one or more commissioners sit in a proceeding for its appeal. However, the decision of whether the request is granted rests with the commission.

~~(c) If more than one commissioner or administrative law judge is present at any hearing, the hearing will be conducted by the presiding officer assigned to the appeal, unless otherwise determined by the commission.~~

~~[B-](2) [Unless waived by the petitioner, a]A~~ formal proceeding includes an initial hearing pursuant to Section 59-1-502.5, unless it is waived upon agreement of all parties, and ~~[may also involve]a~~ formal hearing on the record, if the initial hearing is waived or if a party appeals the initial hearing decision.

~~[+](a)~~ Initial Hearing.

~~[a-](i)~~ An initial hearing pursuant to Section 59-1-502.5 shall be in the form of a conference.

~~(ii) In accordance with Section 59-1-502.5, the commission shall make no record of an initial hearing.~~

~~[b-](iii)~~ Any issue may be settled in the initial hearing, but any party has a right to a formal hearing on matters that remain in dispute ~~[at the conclusion of the initial hearing. As to those matters, a]after the initial hearing decision is issued.~~

~~(iv) Any party dissatisfied with the result of the initial hearing must pursue a formal hearing [and final agency action.]before pursuing judicial review of unsettled matters.~~

~~[2-](b)~~ Formal Hearing~~[on the Record].~~ The commission shall make a record of all formal hearings, which may include a written record or an audio recording of the proceeding.~~[~~

~~— a) Formal hearings on the record shall be conducted by a presiding officer under 2.b) or by the commission sitting as panel under 2.e).~~

~~— b) Except as provided in 2.c., all formal hearings will be heard by the presiding officer.~~

~~— (1) Within the time period specified by statute, the presiding officer shall sign a decision and order in accordance with Section 63-46b-10 and forward the decision to the Commission for automatic agency review.~~

~~— (2) A quorum of the commission shall review the decision. If a majority of the participating commissioners concur with the decision, a statement affirming the decision shall be affixed to the decision and signed by the concurring commissioners to indicate that the decision represents final agency action. The order is subject to petition for reconsideration or to judicial review.~~

~~— (3) If, on agency review, a majority of the commissioners disagree with the decision, the case may be remanded to the presiding officer for further action, amended or reversed. If the presiding~~

~~officer's decision is amended or reversed, the commission shall issue its decision and order, and that decision and order shall represent final agency action on the matter.~~

~~— c) The commission, on its own motion, upon petition by a party to the appeal, or upon recommendation of the presiding officer, may sit as a panel at the formal hearing on the record if the case involves an important issue of first impression, complex testimony and evidence, or testimony requiring a prolonged hearing.~~

~~— (1) A panel of the commission shall consist of two or more commissioners~~

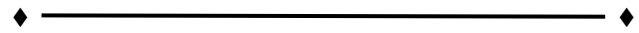
~~— (2) An order issued from a hearing before a panel of commissioners shall constitute final agency action, and it is subject to petition for reconsideration or to judicial review.]~~

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: 59-1-502.5; 63-46b-8; 63-46b-10



Tax Commission, Administration **R861-1A-26** Procedures for Formal Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-501 and 63-46b-6 through 63-46b-11

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 30279

FILED: 07/31/2007, 16:30

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This section is updated to reflect commission practice.

SUMMARY OF THE RULE OR CHANGE: This amendment codifies commission practice concerning subpoenas and continuances in the appeal process. It also clarifies the process to withdraw an appeal and makes technical changes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-1-501, and 63-46b-6 through 63-46b-11

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--Proposed amendments conform to commission practices.

❖ LOCAL GOVERNMENTS: None--Proposed amendments conform to commission practices.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--Proposed amendments conform to commission practices.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Proposed amendments conform to commission practice.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated costs.
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 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 09/14/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2007

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R861. Tax Commission, Administration.

R861-1A. Administrative Procedures.

R861-1A-26. Procedures for Formal Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-501 and 63-46b-6 through 63-46b-11.

~~[A. Prehearing and Scheduling Conference.](1) A prehearing, scheduling, or status conference may be held.~~

~~[+](a) At the conference, the parties and the presiding officer [shall] may:~~

~~(a)(i) establish [ground rules] deadlines and procedures for discovery;~~

~~(b)(ii) discuss scheduling;~~

~~(c)(iii) clarify other issues;~~

~~(d)(iv) determine whether to [divert] refer the action to a mediation process; and~~

~~(e)(v) determine whether the initial hearing will be waived [and whether the commission will preside as a panel at the formal hearing on the record pursuant to R861-1A-24].~~

~~[2-](b) The prehearing, [and] scheduling, or status conference may be converted to an initial hearing upon agreement of the parties.~~

~~[B-](2) Notice of Hearing. At least ten days prior to a hearing date, the Commission shall notify the petitioning party or the petitioning party's representative by mail, e-mail, or facsimile of the date, time and place of any hearing or proceeding.~~

~~[C-](3) Proceedings Conducted by Telephone. Any proceeding may be held with one or more of the parties on the telephone if the presiding officer determines that it will be more convenient or expeditious for one or more of the parties and does not unfairly prejudice the rights of any party. Each party to the proceeding is responsible for notifying the presiding officer of the telephone number where contact can be made for purposes of conducting the hearing.~~

~~[D-](4) Representation.~~

~~[+](a) A party may pursue [a petition] an appeal before the commission without assistance of legal counsel or other representation. However, a party may be represented by legal counsel or other representation at every stage of adjudication. Failure to obtain legal representation shall not be grounds for complaint at a later stage in the adjudicative proceeding or for relief on appeal from an order of the commission.~~

~~(a) Legal counsel must enter an appearance. (i) For appeals concerning Utah corporate franchise and income taxes or Utah individual income taxes, legal counsel must file a power of attorney or the taxpayer must submit a signed petition for redetermination (Tax Commission form TC-738) on which the taxpayer has authorized legal counsel to represent him or her in the appeal. For all other appeals, legal counsel may, as an alternative, submit an entry of appearance.~~

~~(b)(ii) Any representative other than legal counsel must submit a signed power of attorney authorizing the representative to act on the party's behalf and binding the party by the representative's action, unless the taxpayer submits a signed petition for redetermination (Tax Commission form TC-738) on which the taxpayer has authorized the representative to represent him or her in the appeal.~~

~~(c)(iii) [AH] If a party is represented by legal counsel or other representation, all documents will be directed to the party's representative. Documents will be mailed to the representative's street or other address as shown in documents submitted by the representative. Documents may also be transmitted by facsimile number, e-mail address or other electronic means [if such transmission does not breach confidentiality. Otherwise, documents will be mailed to or served upon the representative's street address as shown in the petition for agency action]. A request by a party that documents be transmitted by e-mail shall constitute a waiver of confidentiality of any confidential information disclosed in that e-mail.~~

~~[2-](b) Any division of the commission named as a party to the proceeding may be represented by the Attorney General's Office upon an attorney of that office submitting an entry of appearance.~~

~~[E-](5) Subpoena Power.~~

~~[+](a) [The presiding officer may issue subpoenas] Issuance. Subpoenas may be issued to secure the attendance of witnesses or the production of evidence.~~

~~(i) If all parties are represented by counsel, an attorney admitted to practice law in Utah may issue and sign the subpoena.~~

~~(a)(ii) [The] In all other cases, the party requesting the subpoena must prepare it and submit it to the presiding officer for signature.~~

~~(b)(b) Service. Service of the subpoena shall be made by the party requesting it in a manner consistent with the Utah Rules of Civil Procedure.~~

~~[E-](6) Motions.~~

~~[+](a) Consolidation. The presiding officer has discretion to consolidate cases when the same tax assessment, series of assessments, or issues are involved in each, or where the fact situations and the legal questions presented are virtually identical.~~

~~[2-](b) Continuance. A continuance may be granted at the discretion of the presiding officer.~~

~~(i) In the absence of a scheduling order:~~

~~(A) Each party to an appeal may receive one continuance, upon request, prior to the initial hearing.~~

~~(B) If the initial hearing is waived or a formal hearing is timely requested after an initial hearing decision is issued, each party may receive one continuance, upon request, prior to the formal hearing.~~

(C) A request must be submitted no later than ten days prior to the proceeding for which the continuance is requested and may be denied if a party is prejudiced by the continuance.

(ii) If a scheduling order has been issued or the requesting party has already been granted a continuance, a continuance request must be submitted in writing to the presiding officer. The request must set forth specific reasons for the continuance. After reviewing the request with one or more commissioners, the presiding officer shall grant the request only if the presiding officer determines that adequate cause has been shown and that no other party or parties will be unduly prejudiced.

[3-](c) Default. The presiding officer may enter an order of default against a party in accordance with Section 63-46b-11.

[a-](i) The default order shall include a statement of the grounds for default and shall be delivered to all parties [by electronic means or, if electronic transmission is unavailable, by U.S. mail].

[b-](ii) A defaulted party may seek to have the default set aside according to procedures set forth in the Utah Rules of Civil Procedure.

[4-](d) Ruling on [Procedural] Motions. [Procedural motions] Motions may be made during the hearing or by written motion.

[a-](i) Each motion shall include the grounds upon which it is based and the relief or order sought. Copies of written motions shall be served upon all other parties to the proceeding.

[b-](ii) Upon the filing of any motion, the presiding officer may:

[(+)](A) grant or deny the motion; or

[(2-)](B) set the matter for briefing, hearing, or further proceedings.

(iii) If a hearing on a motion is held that may dispose of all or a portion of the appeal or any claim or defense in the appeal, the commission shall make a record of the proceeding, which may include a written record or an audio recording of the proceeding.

(e) Requests to Withdraw Locally-Assessed Property Tax Appeals.

(i) A party who appeals a county board of equalization decision to the commission may unilaterally withdraw its appeal if:

(A) it submits a written request to withdraw the appeal 20 or more days prior to:

(I) the initial hearing; or

(II) the formal hearing, if the parties waived the initial hearing or participated in a mediation conference in lieu of the initial hearing; and

(B) no other party has filed a timely appeal of the county board of equalization decision.

(ii) A party who appeals an initial hearing decision issued by the commission may unilaterally withdraw its appeal if:

(A) it submits a written request to withdraw 20 or more days prior to the formal hearing, regardless of whether the party who appealed the initial hearing order is also the party who appealed the county board of equalization decision; and

(B) no other party has filed a timely appeal of the initial hearing decision.

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: 59-1-501; 63-46b-6 through 63-46b-11

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Tax Commission, Administration
R861-1A-29
 Agency Review and Reconsideration
 Pursuant to Utah Code Ann. Section
 63-46b-13

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 30277

FILED: 07/31/2007, 16:23

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This section is updated to reflect commission practice.

SUMMARY OF THE RULE OR CHANGE: The amendment codifies commission practice and clarifies the role of the administrative law judge and the commissioners in the hearing process. The rule also clarifies the date of issuance of an appeal as well as the date a decision becomes final.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63-46b-13

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None--Proposed amendments conform rule to commission practice.

❖ **LOCAL GOVERNMENTS:** None--Proposed amendments conform rule to commission practice.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** None--Proposed amendments conform rule to commission practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Proposed amendments conform rule to commission to practice.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated costs. 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 09/14/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2007

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R861. Tax Commission, Administration.

R861-1A. Administrative Procedures.

R861-1A-29. ~~Agency Review~~ Decisions, Orders, and Reconsideration Pursuant to Utah Code Ann. Section 63-46b-13.

~~A. Agency Review.~~

~~1. All written decisions and orders shall be submitted by the presiding officer to the commission for agency review before the decision or order is issued. Agency review is automatic, and no petition is required.~~ (1) Decisions and Orders.

(a) Initial hearing decisions, formal hearing decisions, and other dispositive orders.

(i) A quorum of the commission shall deliberate all hearing decisions and other orders that could dispose of all or a portion of an appeal or any claim or defense in the appeal.

(ii) A quorum of the commission shall sign all hearing decisions and other orders that dispose of all or a portion of an appeal or any claim or defense in the appeal.

(iii) An administrative law judge, if he or she was the presiding officer for an appeal, may elect not to sign the commission's hearing decisions and other orders that dispose of all or a portion of an appeal or any claim or defense in the appeal.

(iv) An initial hearing decision shall become final upon the expiration of 30 days after the date of its issuance, except in any case where a party has earlier requested a formal hearing in writing. The date a party requests a formal hearing is the earlier of the date the envelope containing the request is postmarked or the date the request is received at the Tax Commission.

(b) Orders that are not dispositive.

(i) A quorum of the commission is not required to participate in an order that does not dispose of a portion of an appeal or any claim or defense in the appeal.

(ii) The presiding officer is authorized to sign all orders that do not dispose of a portion of an appeal or any claim or defense in the appeal.

(iii) The commission may, at its option, sign any order that does not dispose of a portion of an appeal or any claim or defense in the appeal.

~~B. (2) Reconsideration. Within 20 days after the date that an order that is dispositive of a portion or all of an appeal or any claim or defense in the appeal is issued, any party may file a written request for reconsideration alleging mistake of law or fact, or discovery of new evidence.~~

~~(a) The commission shall respond to the petition within 20 days after the date that it was received in the appeals unit to notify the petitioner whether the reconsideration is granted or denied, or is under review.~~

~~(i) If no notice is issued within the 20-day period, the commission's lack of action on the request shall be deemed to be a denial and a final order.~~

~~(ii) For purposes of calculating the 30-day limitation period for pursuing judicial review, the date of the commission's order on the reconsideration or the order of denial is the date of the final agency action.~~

~~(b) If no petition for reconsideration is made, the 30-day limitation period for pursuing judicial review begins to run from the date of the final agency action.~~

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: 63-46b-13

◆ ————— ◆

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

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 30276

FILED: 07/31/2007, 16:10

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to lower the minimum participation requirement for households with children under six.

SUMMARY OF THE RULE OR CHANGE: Parents who have children under the age of six have difficulty meeting the 30 hour per week participation requirements. Lowering those requirements to a minimum of 20 hours per week is more realistic and helps families.

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** This is a federally-funded program so there are no costs or savings to the state budget.
- ❖ **LOCAL GOVERNMENTS:** This is a federally-funded program so there are no costs or savings to local government.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** This is a federally-funded program so there are no costs or savings to small businesses or other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for any affected persons as there are no fees associated with this program and it is federally funded.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business. Kristen Cox, Executive Director

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

WORKFORCE SERVICES
EMPLOYMENT DEVELOPMENT
140 E 300 S
SALT LAKE CITY UT 84111-2333, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/14/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2007

AUTHORIZED BY: Kristen Cox, Executive Director

R986. Workforce Services, Employment Development.

R986-200. Family Employment Program.

R986-200-210. Requirements of an Employment Plan.

(1) Within 15 business days of completion of the assessment, the following individuals in the household assistance unit are required to sign and make a good faith effort to participate to the maximum extent possible in a negotiated employment plan:

(a) All parents, including parents whose income and assets are included in determining eligibility of the household but have been determined to be ineligible or disqualified from being included in the financial assistance payment.

(b) Dependent minor children who are at least 16 years old, who are not parents, unless they are full-time students or are employed an average of 30 hours a week or more.

(2) The goal of the employment plan is obtaining marketable employment and it must contain the soonest possible target date for entry into employment consistent with the employability of the individual.

(3) An employment plan consists of activities designed to help an individual become employed. For each activity there will be:

- (a) an expected outcome;
- (b) an anticipated completion date;
- (c) the number of participation hours agreed upon per week; and

(d) a definition of what will constitute satisfactory progress for the activity.

(4) Each activity must be directed toward the goal of increasing the household's income.

(5) Activities may require that the client:

- (a) obtain immediate employment. If so, the parent client shall:
 - (i) promptly register for work and commence a search for employment for a specified number of hours each week; and
 - (ii) regularly submit a report to the Department on:
 - (A) how much time was spent in job search activities;
 - (B) the number of job applications completed;
 - (C) the interviews attended;
 - (D) the offers of employment extended; and
 - (E) other related information required by the Department.

(b) participate in an educational program to obtain a high school diploma or its equivalent, if the parent client does not have a high school diploma;

(c) obtain education or training necessary to obtain employment;

(d) obtain medical, mental health, or substance abuse treatment;

(e) resolve transportation and child care needs;

(f) relocate from a rural area which would require a round trip commute in excess of two hours in order to find employment;

(g) resolve any other barriers identified as preventing or limiting the ability of the client to obtain employment, and/or

(h) participate in rehabilitative services as prescribed by the State Office of Rehabilitation.

(6) The client must meet the performance expectations of, and provide verification for, each eligible activity in the employment plan in order to stay eligible for financial assistance. A list of what will be considered acceptable documentation is available at each employment center.

(7) The client must cooperate with the Department's efforts to monitor and evaluate the client's activities and progress under the employment plan, which includes providing the Department with a release of information, if necessary to facilitate the Department's monitoring of compliance.

(8) Where available, supportive services will be provided as needed for each activity.

(9) The client agrees, as part of the employment plan, to cooperate with other agencies, or with individuals or companies under contract with the Department, as outlined in the employment plan.

(10) An employment plan may, at the discretion of the Department, be amended to reflect new information or changed circumstances.

(11) The number of hours of participation in subsection (3)(c) of this section will not be lower than 30 hours per week. All 30 hours must be in eligible activities. 20 of those 30 hours must be in priority activities. A list of approved priority and eligible activities is available at each employment center. If the client has a child in the household under the age of six, the number of hours of participation in subsection (3)(c) of this section is a minimum of 20 hours per week and all of those 20 hours must be in priority activities.

(12) In the event a client has barriers which prevent the client from 30 hours of participation per week, or 20 hours in priority activities, a lower number of hours of participation can be approved if:

(a) the Department identifies and documents the barriers which prevent the client from full participation; and

(b) the client agrees to participate to the maximum extent possible to resolve the barriers which prevent the client from participating.

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

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

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

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

(a) The client can demonstrate that the education or training would substantially increase the income level that the client would be able to achieve without the education and training, and would offset the loss of income the household incurs while the education or training is being completed.

(b) The client does not already have a degree or skills training certificate in a currently marketable occupation.

(c) An assessment specific to the client's education and training aptitude has been completed showing the client has the ability to be successful in the education or training.

(d) The mental and physical health of the client indicates the education or training could be completed successfully and the client could perform the job once the schooling is completed.

(e) The specific employment goal that requires the education or training is marketable in the area where the client resides or the client has agreed to relocate for the purpose of employment once the education/training is completed.

(f) The client, when determined appropriate, is willing to complete the education/training as quickly as possible, such as attending school full time which may include attending school during the summer.

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

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

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

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

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

(4) A parent client with a high school diploma or equivalent who has received 24 months of education or training while receiving financial assistance must participate a minimum of 30 hours per week in eligible activities. Twenty of those 30 hours must be in priority activities. A list of approved priority and eligible activities is available at each employment center. If the client has a child in the household under the age of six, the minimum number of hours of participation under this subsection is 20 hours per week and all of those 20 hours must be in priority activities.

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

KEY: family employment program

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

Notice of Continuation: September 14, 2005

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

◆ ————— ◆

End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive public comment that requires the PROPOSED RULE to be altered before it goes into effect. A CHANGE IN PROPOSED RULE allows an agency to respond to comments it receives.

As with a PROPOSED RULE, a CHANGE IN PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the CHANGE IN PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the CHANGE IN PROPOSED RULE is usually printed. The text shows only those changes made since the PROPOSED RULE was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [~~example~~]). A row of dots in the text between paragraphs (.) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends September 14, 2007. At its option, the agency may hold public hearings.

From the end of the waiting period through December 13, 2007, the agency may notify the Division of Administrative Rules that it wants to make the CHANGE IN PROPOSED RULE effective. When an agency submits a NOTICE OF EFFECTIVE DATE for a CHANGE IN PROPOSED RULE, the PROPOSED RULE as amended by the CHANGE IN PROPOSED RULE becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by *Utah Code* Section 63-46a-6 (2001); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

The Changes in Proposed Rules Begin on the Following Page.

Insurance, Administration
R590-152
Health Discount Programs and Value
Added Benefit Rule

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 29875
 Filed: 07/23/2007, 16:02

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Additional changes are being made to this rule to adopt suggested changes made during the comment period and hearing.

SUMMARY OF THE RULE OR CHANGE: Some of the changes have been made to fix grammatical and punctuation problems and to clarify statements made in the rule. Much of the clarification deals with distinguishing the health discount program marketer and operator and distinguishing between a health discount plan and program. Subsection R590-152-5(2) lists those that do not need to be licensed as a health discount program operator to notify the commissioner each time a health discount program marketer and private label entity changes. Subsection R590-152-5(6) requires the annual license renewal of the health discount program operator and health discount program marketer's license. Section R590-152-6 clarifies that the requirements of this section deal with the health discount program operator. Subsection R590-152-7(4) requires health discount program operator websites be updated at the end of each month. Changes to Section R590-152-8 clarify that those licensed under Chapters 7 and 8 of Title 31A may provide value-added benefits if they follow the requirements in Subsection R590-152-8(2)(a), including the requirement to comply with Sections R590-152-10 and R590-152-11 of this rule. Subsection R590-152-11(3)(c), under disclosure material, allows the health discount program operator to give the new member a list of providers in the form of a hard copy or access to their webpage. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the May 15, 2007, issue of the Utah State Bulletin, on page 74. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-8a-210

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** The changes to this rule will not require the department to change its staff nor will there be a change in revenues. No additional filings will need to be made to the department.
- ❖ **LOCAL GOVERNMENTS:** This rule deals with the relationship between the department and its licensees and will not affect local government.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** This rule will require health discount program operators to report changes in their marketers and private label entities. This is an electronic process that would not be done often and would not take much time. Also, allowing the health discount program operator to give the new member a website to go to in order to view their list of providers would save the operator some money in printing and postage. This savings would vary depending on the size of the provider list and the number of new members.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule will require health discount program operators to report changes in their marketers and private label entities. This is an electronic process that would not be done often and would not take much time. Also, allowing the health discount program operator to give the new member a website to go to in order to view their list of providers would save the operator some money in printing and postage. This savings would vary depending on the size of the provider list and the number of new members.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There could be a savings as a result of these new changes and if not, a very small increase in costs, which will vary from operator to operator. D. Kent Michie, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/14/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2007

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-152. Health Discount Programs and Value Added Benefit Rule.

R590-152-1. Authority.

This rule is promulgated by the commissioner under 31A-8a-210, which authorizes the commissioner to enforce Chapter 8a and protect the public interest.

R590-152-2. Purpose and Scope.

(1) The purpose of this rule is to describe initial and renewal license procedures, fees, and other authorized charges, required and prohibited practices, advertising and marketing activity, disclosure requirements, provider agreements, dispute resolution, and record keeping.

(2) This rule applies to health discount programs, health discount program operators, and health discount plan marketers.~~;~~

~~(3) This rule applies to~~ and a value added benefit provided by a person licensed under Title 31A, Chapters 7 or 8.

R590-152-3. Definitions.

For the purposes of this rule, the commissioner adopts the definitions in Sections 31A-1-301 and 31A-8a-102 and the following:

(1) "Administration of the health discount ~~[plan]~~program" means the processes ~~[used by the health discount program]~~ to solicit members, enroll members, maintain the membership, resolve disputes with members, disenroll members, and collect or refund fees and other authorized charges.

(2) "Authority to do business in this state" means ~~[to have]~~having other applicable licenses as required by statute and operating within the scope of such licenses.

(3) "Health discount program marketer" means a person or entity, including a private label entity, ~~[which]~~that places its name on and markets or distributes a health discount program but does not operate the marketed or distributed health discount program.

(4) "Private label entity" means an entity that purchases a health discount program from ~~[another entity and puts their own]~~a health discount program operator and issues or markets the obtained health discount program under the private label entity's name or logo~~[on the purchased health discount program]~~.

(5) "Prominently" means not less than 14-point type or no smaller than the largest type on the page if larger than 12 point type.

R590-152-4. General Information.

(1) The commissioner may examine, audit, or investigate the business and affairs of any health discount program operator or a licensed health discount program marketer or any person the commissioner believes may be operating or marketing a health discount program.

(2) ~~[If a]~~A health discount program, ~~[or]~~a health discount program operator, or a health discount ~~[plan]~~program marketer that offers an insurance benefit~~[s, then they]~~ as part of a health discount program or in addition to a health discount program must comply with statutes and rules pertaining to the solicitation, negotiation, and sale of insurance in Utah.

R590-152-5. Licensing (Application, Initial, Renewal).

(1) The following must be licensed prior to offering a health discount program:

- (a) ~~[a health discount program;~~
- ~~(b)]~~ a health discount program operator; or
- ~~(c)]~~ (b) a health discount program marketer~~;~~
- ~~(i) if operating separately from the health discount program operator whose health discount program is being marketed by the health discount program marketer; or~~
- ~~(ii) if marketing]~~ that markets health discount programs from more than one ~~[provider of health discount programs]~~health discount program operator.

(2) The following do not require a license as a health discount program operator or health discount program marketer:

(a) a licensee licensed under Chapters 7 or 8 if only offering a value added benefit;

(b) a health discount program marketer or private label entity issuing or selling one of more health discount programs obtained from a single health discount program operator.

(3) The "Application for Health Discount Program Operator or Health Discount Program Marketer" must be completed and submitted with the appropriate fee.

~~(3)]~~(4) The commissioner may deny an application from [a health discount program,]a health discount program operator[;] or a health discount program marketer if the applicant would not be in compliance with Chapter 31A-8a because the applicant, in this or any other jurisdiction, for a matter dealing with a health discount program is:

(a) under investigation; or

(b) has been found in violation of a statute or regulation.

(5) A licensed health discount program operator must notify the commissioner each time a health discount program marketer or private label entity is added or deleted during the annual licensure period.

(6) Annual licensure period.

(a) A license issued under this section is for one annual period which expires each December 31st.

(b) A licensee desiring to continue to do business in this state must renew its license prior to December 31st each year by submitting an Application for Health Discount Program Operator or Health Discount Program Marketer and paying the required fee.

R590-152-6. Fees and Other Authorized Charges.

(1) A health discount program operator may provide discounts or free services through contracted providers to subscribers in exchange for a periodic payment to the program or as a benefit in connection with membership in a particular group.

(2) A health discount program operator may charge:

(a) a non-refundable one-time enrollment charge; and

(b) a refundable periodic fee.

(3) A health discount program operator that charges fees for a time period in excess of one month must, in the event of cancellation of the membership by ~~[the health discount program or]~~the health discount program operator, make a pro-rata refund of the periodic fees paid by the member.

R590-152-7. Required Practices.

(1) A health discount program operator must have an active toll-free telephone number for members to call.

(2) Face to face, paper, telephone, and electronic communications with clients or potential clients must state that the health discount program is a discount plan and not insurance.

(3) When a health discount program ~~[marketer]~~operator or a health discount program marketer sells a health discount program together with any other product that can be sold separately, including insured benefits, an itemized list of the fees or premiums for each individual product must be provided in writing to the client at solicitation.

(4) Information available to a health discount program member via a health discount program operator's web page must be ~~[updated within 15 days of any change in the information]~~current at the end of each month.

R590-152-8. Value Added Benefit.

(1) Any value added benefit must actually exist and a copy of the contract verifying such existence must be available upon request to the commissioner.

(2) Prior to any offering of a value added benefit, a person licensed under Title 31A, Chapter 7 or 8, shall:

(a) file with the commissioner a value added benefits list that includes the following:

(i) the insurer's name and address;

(ii) the insurer's policy form number(s) to which the value added benefit applies; and

(iii) a description of the benefits offered.

(b) comply with Sections R590-152-10 and 11, if providing a member discount card.

R590-152-9. Prohibited practices.

(1) A health discount program operator may not make any payments to providers for:

- (a) participation in the health discount program;
- (b) capitation payments;
- (c) signing fees;
- (d) bonuses; or
- (e) other forms of compensation.

(2) A health discount program operator may not offer any insurance benefits unless licensed as an insurance producer and contracted and appointed by the insurer providing the insurance benefits.

R590-152-10. Advertising and Marketing.

(1) The format and content of any advertisement shall be sufficiently complete and clear as to avoid deceiving or misleading the reader, viewer, or listener.

(2) An advertisement of any insured product or benefit must comply with applicable provisions of Subsections 31A-23a-102 (12) and (13) and Rule R590-130, Rules Governing Advertisements of Insurance.

(3) A health discount program operator must approve in writing all advertisements, marketing materials, brochures, and discount cards used by a health discount program marketer marketing the a health discount program operator's health discount program.

(4) All advertisements, marketing materials, brochures, and discount cards used by a health discount program operator and the health discount program operator's health discount program marketer and by a health discount program marketer marketing the more than one health discount plan operator's health discount program must be available to the commissioner upon his request.

(5) The health discount program operator must have an executed written agreement with a health discount program marketer prior to the health discount plan marketer marketing, promoting, selling, or distributing the a health discount program.

R590-152-11. Disclosures.

(1) A health discount program operator must provide the disclosures required by Section 31A-8a-205.

(2) The membership card shall prominently state: "This is not health insurance."

(3) Disclosure materials provided to a purchaser or potential purchaser must include:

- (a) membership materials;
- (b) new enrollee information;

(c) a printed list of providers, or access to the health discount program operator's web page, that have agreed by written contract with the health discount program to accept the program;

(d) a statement that "A health discount program member is responsible for the entire payment of their medical or health care bill after the discount is applied."; and

(e) the complete terms and conditions of any refund policy.

(4) A health discount program operator or health discount program marketer must:

(a) provide a purchaser a 30-day money back guarantee, which allows the purchaser to terminate the contract and receive a full refund of any periodic fee paid; and

(b) the 30-day period must commence when the purchaser receives the membership materials.

R590-152-12. Contracts.

(1) A provider agreement between a health discount program operator and a provider network shall require:

(a) the provider network to have a written agreement with each provider in the network authorizing the provider network to contract with a health discount program on behalf of the provider; and

(b) the health discount program operator to inform each provider within the contracted provider network with information about the health discount program.

(2) A provider agreement between a health discount program operator and another health discount program operator that has contracted with a provider network shall require the contract with the provider network to comply with Subsection (1).

R590-152-13. Dispute Resolution Procedures.

A health discount program operator must:

(1) file its dispute resolution procedures with the commissioner pursuant to Section 31A-8a-203; and

(2) comply with its filed dispute resolution procedures.

R590-152-14. 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.

R590-152-15. Enforcement Date.

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

R590-152-16. Severability.

If any provision of this rule or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of such provision to other persons or circumstances shall not be affected thereby.

KEY: insurance, medical discount plans

Date of Enactment or Last Substantive Amendment: 2007

Notice of Continuation: November 27, 2002

Authorizing, and Implemented or Interpreted Law: 31A-1-103; 31A-2-201



**Insurance, Title and Escrow
Commission
R592-5
Title Insurance Product or Service
Approval for a Dual Licensed Title
License**

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 29994
Filed: 08/01/2007, 17:05

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes to this rule are a result of proposed changes made during the hearing and comment period of this rule.

SUMMARY OF THE RULE OR CHANGE: The meaning of "Dual Licensed Title Licensee" is being added and includes what it does not mean. A statutory reference in Subsection R592-5-3(5) is being corrected. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed new rule that was published in the June 15, 2007, issue of the Utah State Bulletin, on page 37. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-404 and 31A-2-405

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This rule will have no fiscal impact on the state budget. Fees received by the department should not be affected nor will there be a requirement for additional filings or other work that would affect the staff of the department.
- ❖ LOCAL GOVERNMENTS: Since this rule deals with the department and their licensees, this rule will have no impact on local government.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The changes to this rule will allow title licensees who have an inactive real estate or mortgage license or certificate to be exempted from the definition of a "dual licensee," which will allow them to continue to sell title insurance products without the approval of the Title and Escrow Commission. If this exemption had not been added to the rule those with an inactive real estate and mortgage license or certificate would have been slowed in their ability to complete a title transaction while they waited for approval from the commission.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The changes to this rule will allow title licensees who have an inactive real estate or mortgage license or certificate to be exempted from the definition of a "dual licensee," which will allow them to continue to sell title insurance products without the approval of the Title and Escrow Commission. If this exemption had not

been added to the rule those with an inactive real estate and mortgage license or certificate would have been slowed in their ability to complete a title transaction while they waited for approval from the commission.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this rule will allow those with inactive licenses to continue to do their business as they have done up to this point. D. Kent Michie, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/14/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2007

AUTHORIZED BY: Jilene Whitby, Information Specialist

**R592. Insurance, Title and Escrow Commission.
R592-5. Title Insurance Product or Service Approval for a Dual Licensed Title Licensee.**

R592-5-3. Definitions.

For the purposes of this rule, the commissioner adopts the definitions in Sections 31A-1-301, 31A-2-402, and the following:

(1)(a) "Dual licensed title licensee" has the same meaning as set forth in 31A-2-402.

(b) "Dual licensed title licensee" does not mean:

(i) a title licensee who holds an inactive license under 31A-2-402(3)(b)(i), (ii) and (iii); or

(ii) a title licensee who holds an education provider certificate.

(2) "Need for expedited approval" means a significant hardship to the buyer or seller in the transaction.

(~~2~~)(3) "Principal" means a person from whom a dual licensee has received compensation for submitting a transaction under one or more of his or her dual licenses. Examples include, but are not limited to, a mortgage company, a real estate broker, a title agency, a builder, or a developer.

(~~3~~)(4) "Title insurance product" means the insuring, guaranteeing, or indemnifying of owners of real or personal property or the holders of liens or encumbrances on that property, or others interested in the property against loss or damage suffered by reason

of liens or encumbrances upon, defects in, or the unmarketability of the title to the property, or invalidity or unenforceability of any liens or encumbrances on the property.

~~[(4)](5)~~ "Title insurance service" has the same meaning as the definition of "escrow" found in Subsection 31A-1-301~~[(55)](56)~~.

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KEY: title dual licensees
Date of Enactment or Last Substantive Amendment: 2007
Authorizing, and Implemented or Interpreted Law: 31A-2-404



**Insurance, Title and Escrow
Commission**
R592-6
Split Closing in Title Insurance

NOTICE OF CHANGE IN PROPOSED RULE
DAR File No.: 29995
Filed: 07/30/2007, 13:14

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Due to changes proposed in the rule hearing and during the comment period, this change in proposed rule filing is being made.

SUMMARY OF THE RULE OR CHANGE: In Subsection R592-6-3(1)(b), the word "acceptance" is replaced with "receipt." Under the definition of "Split Closing", Subsections R592-6-3(2)(b) and (c) are eliminated which refer to two separate people providing the title insurance and conducting the real estate closing in two separate locations. Subsections R592-6-4(3)(b)(i) and (ii) are switched. In each the words "monies collected" are replaced with "monies received." The reference to "depositing" monies received via a wire transfer has been eliminated. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed new rule that was published in the June 15, 2007, issue of the Utah State Bulletin, on page 39. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-2-404

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The changes to this rule will have no fiscal impact on the state's budget. The department's revenues will not change and the workload of our personnel will not be affected.
- ❖ LOCAL GOVERNMENTS: Since this rule deals with the relationship between the department and their licensees, it will have no impact on local government.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There is only a minor increase in cost if the licensee chooses to do a split closing. The additional cost will come in the additional form the title agency will need to complete and retain and the time it will take to complete the form.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is only a minor increase in cost if the licensee chooses to do a split closing. The additional cost will come in the additional form the title agency will need to complete and retain and the time it will take to complete the form. There could be a minor fiscal impact to the consumer involved in a split closing if the costs are passed on to him or her.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this rule will result in a very minor fiscal impact to the title agent involved in a split closing. D. Kent Michie, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/14/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2007

AUTHORIZED BY: Jilene Whitby, Information Specialist

R592. Insurance, Title and Escrow Commission.
R592-6. Split Closings in Title Insurance.

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R592-6-3. Definitions.

For the purposes of this rule, the commissioner adopts the definitions in Sections 31A-1-301, 31A-2-402, and the following:

- (1) "Courtesy closing" means:
 - (a) the signing of settlement documents for a real estate transaction; or
 - (b) the ~~acceptance~~ receipt of monies for forwarding to the person conducting the escrow services to complete the real estate purchase.
- (2) "Split closing" means a real estate transaction closing conducted[;
 - ~~(a)-~~ by two different persons providing a title insurance product[; ~~or~~].

~~[(b) one person providing a title insurance product and one person conducting a courtesy closing as defined herein; and (c) in two separate locations.~~

—(3) "Split Closing Instruction form" means the Split Closing Instruction form established by the Title and Escrow Commission and available at the department.

(4) "Title insurance product" means the insuring, guaranteeing, or indemnifying of owners of real or personal property or the holders of liens or encumbrances on that property, or others interested in the property against loss or damage suffered by reason of liens or encumbrances upon, defects in, or the unmarketability of the title to the property, or invalidity or unenforceability of any liens or encumbrances on the property.

(5) "Title insurance service" has the same meaning as the definition of "escrow" found in Subsection 31A-1-301.

R592-6-4. Split Closing Requirements, Processes and Procedures.

- (1) A split closing may be conducted if:
 - (a) requested by the buyer, seller, or lender or an agent for the buyer, seller, or lender; and
 - (b) a Split Closing Instruction form is completed and executed by the buyer, seller, and persons conducting the split closing not later than the date of closing.

- (2) Only persons issuing a title policy may:
 - (a) provide a title insurance service; and
 - (b) receive, deposit, and disburse monies.
- (3) A person conducting a courtesy closing:
 - (a) may have real estate settlement documents signed; and
 - (b) may accept monies for forwarding to the person conducting the escrow services to complete the real estate purchase;
 - (i) ~~[monies collected via wire transfer may be deposited and must be forwarded within one business day of receipt; or~~
 - ~~—(ii)—~~monies ~~[collected]~~received via any ~~[other—]~~method other than~~[except]~~ wire transfer may not be deposited and must be forwarded when the signed real estate documents are forwarded[-]; or
 - (ii) monies received via wire transfer must be forwarded within one business day of receipt.

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KEY: title split closings
Date of Enactment or Last Substantive Amendment: 2007
Authorizing, and Implemented or Interpreted Law: 31A-2-404



End of the Notices of Changes in Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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

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

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

Administrative Services, Fleet Operations **R27-4**

Vehicle Replacement and Expansion of State Fleet

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30212
FILED: 07/25/2007, 09:28

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: This rule is established pursuant to Subsections 63A-9-401(1)(a), 63A-9-401(1)(d)(v), 63A-9-401(1)(d)(ix), 63A-9-401(1)(d)(x), 63A-9-401(1)(d)(xi) 63A-9-401(1)(d)(xii), and 63A-9-401(6) which require the Division of Fleet Operations (DFO) to: coordinate all purchases of state vehicles; make rules establishing requirements for the procurement of state vehicles, whether for the replacement or upgrade of current fleet vehicles or fleet expansion; make rules establishing requirements for cost recovery and billing procedures; make rules establishing requirements for the disposal of state vehicles; make rules establishing requirements for the reassignment and reallocation of state vehicles and make rules establishing rate structures for state vehicles.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule defines: delegation of division duties; vehicle replacement; fleet expansion; vehicle feature and miscellaneous equipment upgrade; agency installation of miscellaneous equipment; vehicle class differential upgrade; cost recovery; executive

vehicle replacement; capital credit or reservation of vehicle allocation for surrendered vehicles; inter-agency vehicle reassignment or reallocation guidelines; and disposal of state vehicles. 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 margaretcchambers@utah.gov

AUTHORIZED BY: Margaret Chambers, Director

EFFECTIVE: 07/25/2007



Commerce, Securities **R164-1** Fraudulent Practices

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30258
FILED: 07/30/2007, 14:49

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 61-1-1(3) of the Utah Uniform Securities Act states that it is unlawful for any person to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person. Subsection 61-1-24(1)(a) allows the division to

make rules necessary to carry out the provisions of the Act. Rule R164-1 helps to clarify Subsection 61-1-1(3) by identifying some acts and practices that are deemed fraudulent.

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 assists the public and courts in interpreting "act, practice, or course of business which operates or would operate as a fraud or deceit upon any person" and should be continued. The list is not all-inclusive, but gives individuals some guidelines in determining whether their acts and practices are fraudulent in nature.

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

COMMERCE
SECURITIES
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:

Charles Lyons at the above address, by phone at 801-530-6940, by FAX at 801-530-6980, or by Internet E-mail at clyons@utah.gov

AUTHORIZED BY: Wayne Klein, Director

EFFECTIVE: 07/30/2007

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Commerce, Securities
R164-4
Licensing Requirements

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

DAR FILE NO.: 30259
FILED: 07/30/2007, 14:50

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 61-1-4 provides licensing and notice filing procedures. Section 61-1-5 provides postlicensing provisions. Section 61-1-6 provides information on denial, suspension, revocation, cancellation, or withdrawal of licenses. Section 61-1-24 provides that the division make rules necessary to carry out the provisions of the Act.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Utah Uniform Securities Act requires that to act as a broker-dealer, broker-dealer agent, issuer agent, investment adviser, or as an investment adviser representative, a person or entity must be appropriately licensed. Rule R164-4 provides the procedures and requirements for obtaining these licenses, and should be continued.

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

COMMERCE
SECURITIES
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:

Charles Lyons at the above address, by phone at 801-530-6940, by FAX at 801-530-6980, or by Internet E-mail at clyons@utah.gov

AUTHORIZED BY: Wayne Klein, Director

EFFECTIVE: 07/30/2007



Commerce, Securities
R164-5
Broker-Dealer and Investment Adviser
Books and Records

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

DAR FILE NO.: 30260
FILED: 07/30/2007, 14:51

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 61-1-5 of the Utah Uniform Securities Act provides postlicensing requirements for licensees. Section 61-1-24 of the Act provides that the division may make rules necessary to carry out the provisions of the Act.

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: Rule R164-5 provides guidance in interpreting Section 61-1-5 of the Act and identifies specific books, records, and financial reports that must be maintained, and should be continued. Rule R164-5 does not impose additional requirements upon licensees, but rather clarifies the requirements of the Act.

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

COMMERCE
SECURITIES
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:

Charles Lyons at the above address, by phone at 801-530-6940, by FAX at 801-530-6980, or by Internet E-mail at clyons@utah.gov

AUTHORIZED BY: Wayne Klein, Director

EFFECTIVE: 07/30/2007



Commerce, Securities
R164-6
Denial, Suspension or Revocation of a License

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR File No.: 30261
FILED: 07/30/2007, 14:53

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 61-1-6 of the Utah Uniform Securities Act sets forth grounds upon which the division director may discipline a licensee. Section 61-1-24 of the Act provides that the division may make rules necessary to carry out the provisions of the Act.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The justifications for taking disciplinary action under Section 61-1-6 of the Act include engaging in "dishonest or unethical practices in the securities

business". Rule R164-6 identifies specific acts which are deemed to be dishonest and unethical business practices, and should be continued.

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

COMMERCE
SECURITIES
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:

Charles Lyons at the above address, by phone at 801-530-6940, by FAX at 801-530-6980, or by Internet E-mail at clyons@utah.gov

AUTHORIZED BY: Wayne Klein, Director

EFFECTIVE: 07/30/2007



Commerce, Securities
R164-9
Registration by Coordination

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR File No.: 30255
FILED: 07/30/2007, 14:28

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: Section 61-1-9 of the Utah Uniform Securities Act establishes Registration by Coordination as one of three methods of registering securities offerings in the state of Utah. Section 61-1-24 of the Utah Uniform Securities Act allows the division to make rules necessary to carry out the provisions of the chapter.

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 key terms and establishes the specific procedures that an applicant for Registration by Coordination must adhere to in obtaining approval of its registration statement. The rule also coordinates registration procedures with Canada under the Multijurisdictional Disclosure System and should be continued.

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

COMMERCE
SECURITIES
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:

Benjamin N Johnson at the above address, by phone at 801-530-6134, by FAX at 801-530-6980, or by Internet E-mail at bnjohnson@utah.gov

AUTHORIZED BY: Wayne Klein, Director

EFFECTIVE: 07/30/2007

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

COMMERCE
SECURITIES
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:

Benjamin N Johnson at the above address, by phone at 801-530-6134, by FAX at 801-530-6980, or by Internet E-mail at bnjohnson@utah.gov

AUTHORIZED BY: Wayne Klein, Director

EFFECTIVE: 07/30/2007

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Commerce, Securities
R164-10
Registration by Qualification

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

DAR FILE No.: 30256
FILED: 07/30/2007, 14:34

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 61-1-10 of the Utah Uniform Securities Act establishes Registration by Qualification as one of three methods of registering securities offerings in the state of Utah. Section 61-1-24 of the Utah Uniform Securities Act allows the division to make rules necessary to carry out the provisions of the chapter.

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 key terms, sets forth filing and procedural requirements, and provides a comprehensive disclosure regimen for offerings registered by qualification, and should be continued.

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Commerce, Securities
R164-11
Registration Statement

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

DAR FILE No.: 30257
FILED: 07/30/2007, 14:41

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 61-1-24 of the Utah Uniform Securities Act allows the division to make rules necessary to carry out the provisions of the chapter. Subsection 61-1-11(7)(b) states that the division determines escrow and impounding requirements.

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 was established to ensure disclosure of material information, prevent fraud, and limit promoter profits. In addition, the rule serves to establish procedures for fairness hearings and for the impound of funds in offerings registered by qualification until the division approves a release of those funds. Therefore, this rule should be continued.

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

COMMERCE
SECURITIES
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:

Benjamin N Johnson at the above address, by phone at 801-530-6134, by FAX at 801-530-6980, or by Internet E-mail at bnjohnson@utah.gov

AUTHORIZED BY: Wayne Klein, Director

EFFECTIVE: 07/30/2007

Commerce, Securities
R164-12
Sales Commission

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

DAR FILE No.: 30264
FILED: 07/30/2007, 14:55

**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 61-1-24 of the Utah Uniform Securities Act allows the division to make rules necessary to carry out the provisions of the chapter.

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: As a protection for investors, this rule limits the amount of commission-related compensation that can be paid in connection with a public offering, and should be continued.

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

COMMERCE
SECURITIES
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:

Benjamin N Johnson at the above address, by phone at 801-530-6134, by FAX at 801-530-6980, or by Internet E-mail at bnjohnson@utah.gov

AUTHORIZED BY: Wayne Klein, Director

EFFECTIVE: 07/30/2007

Commerce, Securities
R164-13
Definitions

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

DAR FILE No.: 30254
FILED: 07/30/2007, 14:19

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 61-1-13 defines terms used in the Utah Uniform Securities Act. Subsection 61-1-13(2) provides that terms not defined in Section 61-1-13 shall have the meaning established by the division in rule, or in the absence of a rule, the meaning accepted in the business community. Section 61-1-24 allows the division to make rules when necessary to carry out the provisions of the Utah Uniform Securities Act.

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: Rule R164-13 definitions serve to clarify key phrases used in the Utah Uniform Securities Act and assist the public in complying with the statute. The rule should be continued.

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

COMMERCE
SECURITIES
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:

Benjamin N Johnson at the above address, by phone at 801-530-6134, by FAX at 801-530-6980, or by Internet E-mail at bnjohnson@utah.gov

AUTHORIZED BY: Wayne Klein, Director

EFFECTIVE: 07/30/2007

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Commerce, Securities
R164-14
Exemptions

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

DAR FILE No.: 30266
FILED: 07/30/2007, 15:00

**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 61-1-14 establishes the various exemptions from registration under the Utah Uniform Securities Act. Subsections 61-1-14(1)(l) and 61-1-14(2)(s) allow the division to exempt from registration by rule such securities or transactions as to which the division director finds that registration is not necessary or appropriate for the protection of investors.

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 aids the public in qualifying for exemptions from registration by setting forth in detail filing and qualification requirements for many of the statutory exemptions. It also establishes several additional exemptions by rule, and should be continued.

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

COMMERCE
SECURITIES
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:
Benjamin N Johnson at the above address, by phone at 801-530-6134, by FAX at 801-530-6980, or by Internet E-mail at bnjohnson@utah.gov

AUTHORIZED BY: Wayne Klein, Director

EFFECTIVE: 07/30/2007

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Commerce, Securities
R164-15
Federal Covered Securities

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

DAR FILE No.: 30267
FILED: 07/30/2007, 15:08

**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 61-1-15.5 governs federal-covered securities and states that the division may, by rule or order, require filing of documents relating to federal-covered securities. Section 61-1-24 allows the division to make rules when necessary to carry out the provisions of the chapter.

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 should be continued as it clarifies the notice filing requirements set forth in Section 61-1-15.5 and ensures that the division gets notice of federal covered securities offered in this state.

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

COMMERCE
SECURITIES
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:
Benjamin N Johnson at the above address, by phone at 801-530-6134, by FAX at 801-530-6980, or by Internet E-mail at bnjohnson@utah.gov

AUTHORIZED BY: Wayne Klein, Director

EFFECTIVE: 07/30/2007

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Commerce, Securities
R164-18
Procedures

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30265
 FILED: 07/30/2007, 14:57

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 61-1-18 of the Utah Uniform Securities Act establishes the Division of Securities and defines its functions, including responsibility for administration, and enforcement of the Act. Section 61-1-24 provides that the division may make rules necessary to carry out the provisions of the Act.

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: Rule R164-18 establishes procedures for administrative actions in compliance with the Utah Administrative Procedures Act (UAPA). The rule includes a description of how administrative actions are commenced, when hearings are held, and when declaratory orders are issued. Rule R164-18 assists the division in complying with UAPA, and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 COMMERCE
 SECURITIES
 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:
 Charles Lyons at the above address, by phone at 801-530-6940, by FAX at 801-530-6980, or by Internet E-mail at clyons@utah.gov

AUTHORIZED BY: Wayne Klein, Director

EFFECTIVE: 07/30/2007



**Commerce, Securities
 R164-25
 Record of Registration**

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30262
 FILED: 07/30/2007, 14:54

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 61-1-25(5) of the Utah Uniform Securities Act states that the division may honor requests for interpretive opinions. Section 61-1-24 allows the division to make rules necessary to carry out the provisions of the Act.

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 assists the public in interpreting the Act by providing guidelines for requesting interpretive opinions and no-action letters, and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 COMMERCE
 SECURITIES
 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:
 Charles Lyons at the above address, by phone at 801-530-6940, by FAX at 801-530-6980, or by Internet E-mail at clyons@utah.gov

AUTHORIZED BY: Wayne Klein, Director

EFFECTIVE: 07/30/2007



**Commerce, Securities
 R164-26
 Consent to Service of Process**

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30263
 FILED: 07/30/2007, 14:55

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 61-1-26(7) of the Utah Uniform Securities Act requires that every applicant for registration and every issuer shall consent to have the division or its director be its attorney to receive service of any lawful,

noncriminal process. Section 61-1-24 authorizes the division to make rules necessary to carry out the provisions of the Act.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Act allows the division to accept service of process for individuals or companies registered under the Act. This rule outlines the process, and should be continued. For the service to be effective, the plaintiff in the action (whether the division or a private party) must send a copy of the process, by registered mail, to the defendant's or respondent's last address filed with the division. This creates an obligation for applicants and issuers to provide the division with current address information.

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

COMMERCE
SECURITIES
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:

Charles Lyons at the above address, by phone at 801-530-6940, by FAX at 801-530-6980, or by Internet E-mail at clyons@utah.gov

AUTHORIZED BY: Wayne Klein, Director

EFFECTIVE: 07/30/2007

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Community and Culture, History
R212-1
Adjudicative Proceedings

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

DAR FILE No.: 30201
FILED: 07/17/2007, 10:39

**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 enacted in compliance with the Utah Administrative Procedures Act, Section 63-46b-1, which determines the legal rights, duties, privileges, immunities, or other legal interests of an identifiable person, including agency action to grant, deny, revoke,

suspend, modify, annul, withdraw, or amend an authority, right, or license; and judicial review of the action.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed, the division has received no written comments.

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 division procedures for adjudicative hearings and declarative orders. Therefore, this rule should be continued.

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

COMMUNITY AND CULTURE
HISTORY
300 RIO GRANDE
SALT LAKE CITY UT 84101-1182, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Alycia Aldrich at the above address, by phone at 801-533-3556, by FAX at 801-533-3567, or by Internet E-mail at AALDRICH@utah.gov

AUTHORIZED BY: Wilson Martin, Associate Director

EFFECTIVE: 07/17/2007

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Community and Culture, History
R212-12
Computerized Record of Cemeteries,
Burial Locations and Plots, and
Granting Matching Funds

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

DAR FILE No.: 30202
FILED: 07/17/2007, 10:39

**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 enacted in compliance with Subsection 9-8-203(3)(c) which states that the division shall create and maintain a computerized record of cemeteries and burial locations in a state-coordinated and publicly accessible information system; and gather information for the information system created and maintained under Subsection 9-8-203(3)(c)(i) by providing matching grants, upon approval by the board.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed, the division has received no written comments.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes procedures for the adequate handling of cemetery records and matching grant funds. Therefore, this rule should be continued.

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

COMMUNITY AND CULTURE
HISTORY
300 RIO GRANDE
SALT LAKE CITY UT 84101-1182, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Alycia Aldrich at the above address, by phone at 801-533-3556, by FAX at 801-533-3567, or by Internet E-mail at AALDRICH@utah.gov

AUTHORIZED BY: Wilson Martin, Associate Director

EFFECTIVE: 07/17/2007

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Environmental Quality, Environmental
Response and Remediation
R311-401

Utah Hazardous Substance Priority List

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

DAR FILE No.: 30210
FILED: 07/19/2007, 15:56

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 19-6-311 requires publication and maintenance by rule of the hazardous substances priority list.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Publication and maintenance of the hazardous substances priority list is

required by Section 19-6-311. Therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
ENVIRONMENTAL RESPONSE AND REMEDIATION
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sandra K. Allen at the above address, by phone at 801-536-4122, by FAX at 801-359-8853, or by Internet E-mail at SKALLEN@utah.gov

AUTHORIZED BY: William Sinclair, Deputy Executive Director

EFFECTIVE: 07/19/2007

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Financial Institutions, Administration
R331-5

Rule Governing Sale of Securities by
Persons Issuing Securities, Who Are
Under the Jurisdiction of the
Department of Financial Institutions

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

DAR FILE No.: 30237
FILED: 07/25/2007, 13:50

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 7-1-503 authorizes the Commissioner of Financial Institutions to regulate the sale by financial institutions of its securities including the solicitation of deposit accounts which is restricted. Subsection 7-1-301(13) allows the commissioner to regulate the issuance, advertising, offer for sale, and sale of a security to the extent authorized by Section 7-1-503.

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 supporting or opposing written comments have been received by the agency concerning 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 rule is necessary because it covers registration with the department, offering circular requirements, securities sale report, limitations on resale of "restricted securities," remuneration paid for

solicitation or for sales, manipulative and deceptive devices, waivers, and penalties for violation. Therefore, this rule should be continued.

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

FINANCIAL INSTITUTIONS
ADMINISTRATION
Room 201
324 S STATE ST
SALT LAKE CITY UT 84111-2393, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Paul Allred at the above address, by phone at 801-538-8854, by FAX at 801-538-8894, or by Internet E-mail at PALLRED@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 07/25/2007

lease restrictions, sale-leaseback restrictions, leveraged lease restrictions, and account requirements, and should be continued.

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

FINANCIAL INSTITUTIONS
ADMINISTRATION
Room 201
324 S STATE ST
SALT LAKE CITY UT 84111-2393, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Paul Allred at the above address, by phone at 801-538-8854, by FAX at 801-538-8894, or by Internet E-mail at PALLRED@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 07/25/2007

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Financial Institutions, Administration

R331-7

Rule Governing Leasing Transactions
by Depository Institutions Subject to the
Jurisdiction of the Department of
Financial Institutions

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 30238
FILED: 07/25/2007, 13:51

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 7-1-501 lists the persons and institutions subject to the jurisdiction of the department, and those under the jurisdiction of the department who must comply with supervision and examination including, as the rule states, "acceptable employment of deposits and other funds involved in leasing or leasing transactions".

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 supporting or opposing written comments have been received by the agency concerning 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 rule clearly defines acceptable leases and leasing transactions, residual dependence restrictions, salvage powers, sales-type capital

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Financial Institutions, Administration

R331-9

Rule Prescribing Rules of Procedure for
Hearings Before the Commissioner of
Financial Institutions of the State of
Utah

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 30239
FILED: 07/25/2007, 13:52

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 7-1-309 expressly authorizes the Commissioner of Financial Institutions to conduct hearings relating to matters within his supervisory jurisdiction.

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 supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section 7-1-301 affords the commissioner the functions, powers, duties, and responsibilities with respect to institutions, persons, or businesses subject to the jurisdiction of the department. The rule lists the types of hearings the commissioner may call in

connection with any matter pending before the department and how those hearings should commence. It also covers confidential proceedings, pleadings, discovery, and subpoenas, and should be continued.

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

FINANCIAL INSTITUTIONS
ADMINISTRATION
Room 201
324 S STATE ST
SALT LAKE CITY UT 84111-2393, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Paul Allred at the above address, by phone at 801-538-8854, by FAX at 801-538-8894, or by Internet E-mail at PALLRED@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 07/25/2007

Financial Institutions, Administration

R331-10

Schedule for Retention or Destruction of Records of Financial Institutions Under the Jurisdiction of the Department of Financial Institutions

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30240
FILED: 07/25/2007, 13:52

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 7-1-301(7) authorizes the commissioner to adopt rules for the retention and destruction of financial institution records under the department's jurisdiction that are consistent with federal laws and regulations.

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 supporting or opposing written comments have been received since the last notice of continuation.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: No other state rule establishes the schedule of retention and destruction of

records for financial institutions under the department's jurisdiction so it should be continued.

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

FINANCIAL INSTITUTIONS
ADMINISTRATION
Room 201
324 S STATE ST
SALT LAKE CITY UT 84111-2393, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Paul Allred at the above address, by phone at 801-538-8854, by FAX at 801-538-8894, or by Internet E-mail at PALLRED@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 07/25/2007

Financial Institutions, Administration

R331-12

Guidelines Governing the Purchase and Sale of Loans and Participations in Loans by all State Chartered Financial Institutions

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30241
FILED: 07/25/2007, 13:53

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 7-1-301 authorizes the commissioner to establish guidelines for the purchase and sale of loans and participations in loans by state-chartered financial institutions.

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 supporting or opposing written comments have been received since the last notice of continuation.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: No other state rule establishes the guidelines for the purchase and sale of loans and participations in loans by state-chartered financial institutions so it should be continued.

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

FINANCIAL INSTITUTIONS
ADMINISTRATION
Room 201
324 S STATE ST
SALT LAKE CITY UT 84111-2393, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Paul Allred at the above address, by phone at 801-538-8854, by FAX at 801-538-8894, or by Internet E-mail at PALLRED@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 07/25/2007

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

FINANCIAL INSTITUTIONS
ADMINISTRATION
Room 201
324 S STATE ST
SALT LAKE CITY UT 84111-2393, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Paul Allred at the above address, by phone at 801-538-8854, by FAX at 801-538-8894, or by Internet E-mail at PALLRED@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 07/25/2007

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Financial Institutions, Administration
R331-14

Rule Governing Parties Who Engage in
the Business of Issuing and Selling
Money Orders, Traveler's Checks, and
Other Instruments for the Purpose of
Effecting Third-Party Payments

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

DAR FILE No.: 30242
FILED: 07/25/2007, 13:53

**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: Sections 7-1-301 and 7-1-505, and Subsection 7-1-501(8)(c) authorize the commissioner to adopt rules requiring licensing and prescribing standards with regard to the financial condition and capability of all parties who issue instruments payable to third parties.

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 supporting or opposing written comments have been received since the last notice of continuation.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: No other state rule establishes the authority to engage in the selling of money orders, traveler's checks, and other instruments in the state of Utah so it should be continued.

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Health, Epidemiology and Laboratory
Services; HIV/AIDS, Tuberculosis
Control/Refugee Health
R388-801

AIDS Testing and Reporting for
Emergency Medical Services Providers
Rule

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

DAR FILE No.: 30206
FILED: 07/19/2007, 09:12

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule establishes procedures for patient testing and reporting following a significant exposure of an emergency medical services provider as authorized by Section 26-6a-9 of the Utah Communicable Disease Control Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have not been any written comments received during and since the last five-year review of the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is authorized or mandated by state law and implements or interprets Section 26-6a-9 of the Utah Communicable Disease Control Act. The rule establishes procedures for patient testing and reporting following a significant exposure of an emergency medical services (EMS) provider. Testing will allow an agency to

determine baseline serostatus. Having an accurate baseline will help determine if an EMS worker seroconverts due to an exposure. Depending on the results from the source, patient can also determine whether to initiate post exposure prophylaxis treatment. 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;
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:

Jennifer Brown at the above address, by phone at 801-538-6131, by FAX at 801-538-9913, or by Internet E-mail at jenniferbrown@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 07/19/2007

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**Health, Epidemiology and Laboratory
Services; HIV/AIDS, Tuberculosis
Control/Refugee Health**
R388-802
**HIV Positive Student or School
Employee Rule**

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

DAR FILE No.: 30207
FILED: 07/19/2007, 09:30

**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: This rule establishes standards relating to HIV infection in the schools in order to reduce the risk to susceptible individuals and protect individuals against both unreasonable health risks and unnecessary restrictions in activities and associations as authorized by Section 26-1-30.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have not been any written comments received during and since the last five-year review of the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The purpose of this rule is to establish standards relating to HIV infection in the schools in order to reduce the risk to susceptible individuals and protect individuals against both unreasonable health risks and unnecessary restrictions in activities and associations. 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;
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:

Jennifer Brown at the above address, by phone at 801-538-6131, by FAX at 801-538-9913, or by Internet E-mail at jenniferbrown@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 07/19/2007

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**Health, Epidemiology and Laboratory
Services, Environmental Services**
R392-502
Hotels, Motels and Resort Sanitation

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

DAR FILE No.: 30204
FILED: 07/18/2007, 09:23

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Subsection 26-1-30(2). Subsection 26-1-30(2)(u) authorizes the Department to adopt rules and enforce minimum sanitary standards for the operation and maintenance of lodging houses and hotels.

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. A committee composed of representatives of the local health departments and representatives of the public lodging industry has submitted proposed rule changes to the Utah Department of Health

(UDOH). The major recommended changes included: 1) the name of the rule was proposed to be changed to "Public Lodging Sanitation" and that bed and breakfast facilities and guest ranches be added to the list of facilities regulated under the rule; 2) a change in the number of plumbing fixtures required in facilities of different sizes; 3) a recommendation to require restrooms to be within 300 feet of living units rather than just requiring them to be "conveniently located"; 4) the allowance of public access to automatic ice dispensing equipment rather than prohibiting public access to ice bins, 5) a requirement for window areas to be at least 5% of the floor area (rather than 5% and in no case less than 10%) or mechanical ventilation be used; 6) a requirement that linens be changed at least weekly and between occupants rather than daily or between occupants; 7) an allowance of pet friendly rooms rather than prohibiting pets from public lodging altogether; 8) a requirement to comply with the Utah Indoor Clean Air Act; and 9) a requirement for the use of mechanical washing and drying equipment for soiled laundry. A former Utah legislator, now lobbyist, recently contacted UDOH regarding allowing pets in Utah public lodging. His interest was whether legislation might be needed that would allow pets to stay at Utah public lodging facilities.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: With hotel/motel occupancy rates increasing and more public lodging being built every year, the need for regulation of these facilities continues to be important. Many stories in the national television news and news magazines have highlighted the problems with cleaning of hotel rooms and infestations of bed bugs. Travelers have become more aware of the potential for problems and thus are scrutinizing the rooms they are staying in more than ever. Regulations that require a minimum level of sanitation at Utah lodging are very important to the health of the traveling public. 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: 07/18/2007



Health, Health Systems Improvement, Emergency Medical Services **R426-5** Statewide Trauma System Standards

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 30205
 FILED: 07/18/2007, 13:16

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 26-8a-251 authorizes the department to create a trauma system advisory committee and establish rules for committee procedures and administration to include the term and cause for removal of committee members. Section 26-8a-253 requires the department to establish by rule, a statewide trauma registry and implement a quality assurance program. Section 26-8a-254 authorizes the Department to establish rules for trauma center designation standards and guidelines for the triage, treatment, transportation, and transfer of trauma patients.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: One written comment was received from the Utah Hospital Association in support of a rule change in 2005, which eliminated the sunset date for mandatory trauma data collection for all acute care hospitals. The rule change did not affect the mandate for the department to fund the hospital data collection efforts.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of the rule promotes optimal care for trauma patients; alleviates unnecessary death and disability; informs health care providers about trauma system capabilities; encourages efficient and effective continuum of care; and minimizes the overall cost of trauma care. Continuation of the rule is required to ensure that standards are established so that trauma centers are categorized to their capability to provide care, trauma victims are triaged at the initial point of contact and sent to appropriate health care facilities. The rule is necessary to establish requirements for trauma center designation, advisory committee operational procedures, triage, transport, treatment, and transfer guidelines, and to establish a statewide trauma registry and quality assurance program. Trauma center designation is a voluntary commitment. Participation in the statewide trauma registry is mandatory and is financially supported by the department.

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:

Jolene Whitney at the above address, by phone at 801-538-6290, by FAX at 801-538-6808, or by Internet E-mail at jrwhitney@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 07/18/2007



Health, Health Systems Improvement,
Child Care Licensing
R430-2
General Licensing Provisions, Child
Care Facilities

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

DAR FILE NO.: 30249
FILED: 07/27/2007, 09:41

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 26-39-104(1)(a) allows the Department of Health to "make and enforce rules to implement this chapter and, as necessary to protect children's common needs for a safe and healthy environment..."

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule is necessary in order for the Department of Health to continue to fulfill its statutory responsibility to regulate child care programs in order to protect the health and safety of the children in these programs.

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT,
CHILD CARE LICENSING
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:

Teresa Whiting at the above address, by phone at 801-538-6320, by FAX at 801-538-6325, or by Internet E-mail at TWHITING@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 07/27/2007



Insurance, Administration
R590-148
Long-Term Care Insurance Rule

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

DAR FILE NO.: 30213
FILED: 07/25/2007, 11:18

**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 31A-2-201 gives the commissioner the authority to write rules to implement the provisions of Title 31A. Section 31A-22-1404 is the specific rulemaking authority in relation to 20 different areas of long-term care, including: definitions; required provisions; continuation and conversion; inflation protection; filing requirements; eligibility standards; disclosure requirements; loss ratio requirements and premium rates; which are all included in this rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has not received any written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is a major protection to the consumer. The department has incorporated a rate stability requirement approved by the industry through

the National Association of Insurance Commissioners. As the Utah population ages, we will need better guidance and protections for the aging. This rule will provide better understanding of products being sold. The rule requires better analysis by the producer of the suitability of the product they are selling to an individual. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 07/25/2007

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**Insurance, Administration
R590-151
Records Access Rule**

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

DAR FILE No.: 30243
FILED: 07/25/2007, 13:56

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 63-2-204(2) gives authority to write a rule specifying where and to whom requests for access shall be directed. This is specified in Subsection R590-151-3(A) of the rule. Subsection 63-2-904(2) gives authority to specify by rule at which level the requirements in this chapter dealing with archives and records services shall be undertaken.

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 by the department regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes fair and reasonable records management and access practices

allowing the public access to public records and restricting those records that are private in an attempt to prevent abuses in regards to these records. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 07/25/2007

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**Natural Resources, Parks and
Recreation
R651-102
Government Records Access
Management Act**

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

DAR FILE No.: 30245
FILED: 07/26/2007, 11:27

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63-2-103 contains definitions used in this rule and Section 63-2-204 clarifies to whom and where to send a request for access to division records.

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 should continue because it helps the public more easily find, request and understand by rule, the procedures and information for the public in a condensed version.

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

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/26/2007

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

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/26/2007



Natural Resources, Parks and
 Recreation
R651-301
 State Recreation Fiscal Assistance
 Programs

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

DAR FILE No.: 30247
 FILED: 07/26/2007, 11:58

**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: Section 63-11a-501 allows the division to give grants to federal government agencies, state agencies, or local governments for the planning, acquisition, and development of trails within the state's recreational trail system with funds appropriated by the Legislature for that purpose.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Utah Division of State Parks will continue this rule because it gives the definition and covers the fiscal assistance application process to apply for state-funded recreation fiscal assistance programs.



Pardons (Board Of), Administration
R671-101
 Rules

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

DAR FILE No.: 30215
 FILED: 07/25/2007, 11:20

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 77-27-9 establishes the Board of Pardons and Parole functions and Section 63-46a-1 et seq. establishes rulemaking procedure.

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 exists to define agency compliance with State Rulemaking procedures. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)
 ADMINISTRATION
 Room 300
 448 E 6400 S
 SALT LAKE CITY UT 84107-8530, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 07/25/2007



**Pardons (Board Of), Administration
R671-102
Americans with Disabilities Act
complaint Procedure Rule**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**
DAR FILE No.: 30214
FILED: 07/25/2007, 11:19

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 67-19-32 outlines state procedures for personnel to file complaints and grievances regarding prohibited discriminatory practices.

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 outlines the procedure for the agency to follow in the event of a complaint or grievance of discriminatory behavior. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
**PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.**

DIRECT QUESTIONS REGARDING THIS RULE TO:
Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 07/25/2007



**Pardons (Board Of), Administration
R671-201
Original Parole Grant Hearing Schedule
and Notice**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**
DAR FILE No.: 30216
FILED: 07/25/2007, 11:28

**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: Section 77-27-7 requires the Board to establish and conduct hearings at certain times.

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 provides the requirement for the agency to conduct hearings according to a certain schedule. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
**PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.**

DIRECT QUESTIONS REGARDING THIS RULE TO:
Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 07/25/2007



Pardons (Board Of), Administration
R671-202
 Notification of Hearings

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

DAR FILE No.: 30217
 FILED: 07/25/2007, 11:32

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 77-27-7 and 77-27-9 require the Board to provide notification of hearings.

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 the requirement for the agency to provide notice of upcoming hearings. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)
 ADMINISTRATION
 Room 300
 448 E 6400 S
 SALT LAKE CITY UT 84107-8530, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 07/25/2007

Pardons (Board Of), Administration
R671-203
 Victim Input and Notification

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

DAR FILE No.: 30218
 FILED: 07/25/2007, 11:51

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 77-27-9.5, 77-27-13, and 64-13-20 require the Board to provide victim notification and to receive information contained in the Presentence Investigation Report.

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 procedure to meet requirement for victim notification and information provided in presentence report. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)
 ADMINISTRATION
 Room 300
 448 E 6400 S
 SALT LAKE CITY UT 84107-8530, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 07/25/2007

Pardons (Board Of), Administration
R671-205
 Credit for Time Served

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

DAR FILE No.: 30219
 FILED: 07/25/2007, 11:57

**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: Sections 77-27-7, 77-27-9, and 77-19-7 require information be sent to the Board so it can determine credit for time served on each sentence.

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 requirement to send information to the Board which will be used to determine credit for time served by offenders. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 07/25/2007

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Pardons (Board Of), Administration
R671-206
Competency of Offenders

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**
DAR FILE NO.: 30221
FILED: 07/25/2007, 12:13

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 77-15-3, 77-15-5, and 27-7-7 relate to the mental competence of offenders and Board processes.

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 actions by agency related to mental competence of offender to

participate in Board processes. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 07/25/2007

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Pardons (Board Of), Administration
R671-207
**Mentally Ill and Deteriorated Offender
Custody Transfer**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**
DAR FILE NO.: 30222
FILED: 07/25/2007, 12:18

**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 77-16a-204 relates to transfer hearings of the mentally ill and deteriorated offender.

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 action by the agency in hearings for mentally ill and deteriorated offenders under consideration for a custody transfer. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S

SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 07/25/2007

Pardons (Board Of), Administration
R671-301
Personal Appearance

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30223
FILED: 07/25/2007, 12:24

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: Sections 77-27-2, 77-27-9, and 77-27-29 require the Board to conduct personal appearance hearings.

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 exists to define the requirement to provide personal appearance hearings. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 07/25/2007

Pardons (Board Of), Administration
R671-302
News Media and Public Access to Hearings

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30224
FILED: 07/25/2007, 12:28

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: Section 77-27-9 requires the Board to conduct open public hearings accessible by the media

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 the accessibility to Board hearings by the public and members of the media. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 07/25/2007

Pardons (Board Of), Administration
R671-303
 Offender Access to Information

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

DAR FILE No.: 30225
 FILED: 07/25/2007, 12:31

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 63, Chapter 2, governs offender access to agency information.

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 offender access to agency information. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)
 ADMINISTRATION
 Room 300
 448 E 6400 S
 SALT LAKE CITY UT 84107-8530, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 07/25/2007

Pardons (Board Of), Administration
R671-304
 Hearing Record

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

DAR FILE No.: 30226
 FILED: 07/25/2007, 12:34

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 77-27-8 and 77-27-9 require the Board to keep a record of hearing proceedings.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule provides procedure for keeping a record of hearing proceedings. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)
 ADMINISTRATION
 Room 300
 448 E 6400 S
 SALT LAKE CITY UT 84107-8530, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 07/25/2007

Pardons (Board Of), Administration
R671-305
 Notification of Board Decision

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

DAR FILE No.: 30227
 FILED: 07/25/2007, 12:39

**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 77-27-9.7 requires the Board to provide notification of decisions to victims and the public.

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 procedure for providing notification of decisions. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 07/25/2007



Pardons (Board Of), Administration
R671-308
Offender Hearing Assistance

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30229
FILED: 07/25/2007, 12:44

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 77-27-9, 77-27-11, and 77-27-29 require the Board to provide offenders certain hearing rights and assistance.

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 provides procedure agency will follow to allow assistance to an offender at hearings. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 07/25/2007



Pardons (Board Of), Administration
R671-309
Impartial Hearings

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30230
FILED: 07/25/2007, 12:47

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: Sections 77-27-7 and 77-27-9 require the Board to conduct impartial hearings

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 provides requirement for the agency to provide impartial hearings. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 07/25/2007



**Pardons (Board Of), Administration
R671-310
Rescission Hearings**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**
DAR FILE No.: 30232
FILED: 07/25/2007, 12:56

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 77-27-5, 77-27-6, and 77-27-11 provide for the Board to conduct hearings, which may include a rescission hearing to determine issues related to an offender's status.

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 outlines how to conduct hearings which may include a rescission consideration. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
**PARDONS (BOARD OF)
ADMINISTRATION**
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 07/25/2007



**Pardons (Board Of), Administration
R671-311
Special Attention Hearings and
Reviews**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**
DAR FILE No.: 30231
FILED: 07/25/2007, 12:52

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 77-27-7, 77-27-5, 77-27-6, 77-27-10, and 77-27-11 provide for the Board to conduct hearings, which may include a special attention hearing to determine issues relating to offender's status.

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 requirement to provide special attention hearings related to offender's status. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
**PARDONS (BOARD OF)
ADMINISTRATION**
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 07/25/2007



**Pardons (Board Of), Administration
R671-315
Pardons**

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30233
FILED: 07/25/2007, 12:59

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 77-27-2, 77-27-5, and 77-27-9; and Utah Constitution, Art. VII, Sec. 12 grant the Board authority to conduct pardon hearings.

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 Board action related to a petition and conducting a pardon hearing. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 07/25/2007

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Pardons (Board Of), Administration
R671-316
Redetermination

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30234
FILED: 07/25/2007, 13:02

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 77-27-5 requires the

Board to conduct redetermination hearings regarding the status of offenders.

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 procedure related to requirement to conduct redetermination hearings. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 07/25/2007

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Pardons (Board Of), Administration
R671-402
Special Conditions of Parole

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30235
FILED: 07/25/2007, 13:06

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 77-27-5, 77-27-6, 77-27-10, and 77-27-11 requires the Board establish conditions of parole for offenders released from prison.

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 procedure

for requirements in conditions of parole for offenders released from prison. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 07/25/2007

Pardons (Board Of), Administration
R671-405
Parole Termination

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

DAR FILE No.: 30236
FILED: 07/25/2007, 13:08

**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: Sections 76-3-202, 77-27-9, and 77-27-12 require the Board to determine when parole should be terminated.

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 provides procedure for determining when parole should be terminated. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 07/25/2007

Public Safety, Peace Officer Standards
and Training
R728-411

Guidelines Regarding Administrative
Action Taken Against Individuals
Functioning As Peace Officers Without
Peace Officer Certification Or Powers

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

DAR FILE No.: 30211
FILED: 07/23/2007, 16:05

**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: This rule is authorized by Section 53-6-105 which gives the power to the director of Peace Officers Standards and Training (POST) to promulgate standards for the certification of Correctional, Reserve, and Special Function Officer Training programs and applicants.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: POST has not received any comments in support or opposing this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule outlines the procedures required to notify an agency and any interested parties if an officer is deemed ineligible as a peace officer because the officer has not received the mandatory 40 hours of in-service training. Therefore, this rule should be continued.

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

PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
410 W 9800 S
SANDY UT 84070, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve Winward at the above address, by phone at 801-256-2326, by FAX at 801-256-0600, or by Internet E-mail at swinward@utah.gov

AUTHORIZED BY: Scott T Duncan, Commissioner

EFFECTIVE: 07/23/2007



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 (Section 63-46a-9). 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 Subsection 63-46a-9(4) and (5).

Governor

Administration

No. 30250: R355-1. Records Access and Management .

ENACTED OR LAST REVIEWED: 09/03/2002 (No. 25217, 5YR, filed 09/03/2002 at 2:56 a.m., published 09/15/2002).

EXTENDED DUE DATE: 01/01/2008

(DAR NOTE: See the proposed repeal of Rule R355-1 under DAR No. 30252 in this issue, August 15, 2007, of the Bulletin.)

Human Resource Management

Administration

No. 30209: R477-100. Americans With Disabilities Act (ADA) Complaint Procedure.

ENACTED OR LAST REVIEWED: 09/04/2002 (No. 25229, 5YR, filed 09/04/2002 at 1:43 p.m., published 10/01/2002).

EXTENDED DUE DATE: 01/08/2008

(DAR NOTE: See the proposed repeal of Rule R477-100 under DAR No. 30170 in the August 1, 2007, issue of the Bulletin.)

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

Commerce

Occupational and Professional Licensing
No. 29915 (AMD): R156-63. Security Personnel Licensing Act Rules.
Published: June 1, 2007
Effective: July 19, 2007

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 30005 (AMD): R414-10A. Transplant Services Standards.
Published: June 15, 2007
Effective: July 23, 2007

No. 29807 (NEW): R414-60A. Drug Utilization Review Board.
Published: May 1, 2007
Effective: July 19, 2007

No. 29977 (AMD): R414-200-4. Cost Sharing.
Published: June 15, 2007
Effective: July 23, 2007

Insurance

Administration

No. 29998 (AMD): R590-126-4. Prohibited Policy Provisions.
Published: June 15, 2007
Effective: July 30, 2007

No. 30006 (AMD): R590-148-25. Reporting Requirements.
Published: June 15, 2007
Effective: July 30, 2007

No. 29969 (AMD): R590-226. Submission of Life Insurance Filings.
Published: June 15, 2007
Effective: July 30, 2007

No. 29971 (AMD): R590-228. Submission of Credit Life and Credit Accident and Health Insurance Form and Rate Filings.

Published: June 15, 2007

Effective: July 30, 2007

No. 29999 (AMD): R590-233-4. Prohibited Policy Provisions.

Published: June 15, 2007

Effective: July 30, 2007

Labor Commission

Adjudication

No. 29957 (AMD): R602-2-4. Attorney Fee.

Published: June 15, 2007

Effective: July 24, 2007

Transportation

Motor Carrier, Ports of Entry

No. 30009 (AMD): R912-9. Pilot/Escort Requirements and Certification Program.

Published: June 15, 2007

Effective: July 27, 2007

Workforce Services

Employment Development

No. 29974 (AMD): R986-200-231. Assets That Are Not Counted (Exempt) for Eligibility Purposes.

Published: June 15, 2007

Effective: July 31, 2007

No. 29976 (AMD): R986-400. General Assistance and Working Toward Employment.

Published: June 15, 2007

Effective: July 31, 2007

No. 29975 (AMD): R986-500-504. AA Financial Assistance Eligibility and Amount.

Published: June 15, 2007

Effective: July 31, 2007

No. 29973 (AMD): R986-700-709. Employment Support (ES) CC.

Published: June 15, 2007

Effective: July 31, 2007

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 August 1, 2007, the effective dates of which are no later than August 15, 2007. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: The index may contain inaccurate page number references. Also the index is incomplete in the sense that index entries for Changes in Proposed Rules (CPRs) are not preceded by entries for their parent Proposed Rules. Bulletin issue information and effective date information presented in the index are, to the best of our knowledge, complete and accurate. If you have any questions regarding the index and the information it contains, please contact Nancy Lancaster (801 538-3218), Mike Broschinsky (801 538-3003), or Kenneth A. Hansen (801 538-3777).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Administrative Services					
<u>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
R15-4-10	Estimates of Anticipated Cost or Savings, and Compliance Cost	30111	EMR	07/01/2007	2007-14/38
<u>Facilities Construction and Management</u>					
R23-1	Procurement of Construction	29965	5YR	05/24/2007	2007-12/59
R23-19	Facility Use Rules	29964	5YR	05/24/2007	2007-12/59
R23-19	Facility Use Rule	29812	R&R	06/07/2007	2007-9/3
R23-20	Free Speech Activities	29811	NEW	06/07/2007	2007-9/11

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R23-25	Administrative Rules Adjudicative Proceedings	29474	AMD	04/11/2007	2007-4/2
<u>Finance</u>					
R25-7	Travel-Related Reimbursements for State Employees	29910	AMD	07/03/2007	2007-10/3
R25-14	Payment of Attorneys Fees in Death Penalty Cases	29424	5YR	01/17/2007	2007-4/54
<u>Fleet Operations</u>					
R27-4	Vehicle Replacement and Expansion of State Fleet	30212	5YR	07/25/2007	2007-16/57
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	2007-11/84
<u>Fleet Operations, Surplus Property</u>					
R28-1	State Surplus Property Disposal	29550	5YR	02/26/2007	2007-6/36
R28-7	Surplus Property Rate Schedule	29946	5YR	05/15/2007	2007-11/84
<u>Records Committee</u>					
R35-2-2	Declining Requests for Hearings	29081	AMD	01/05/2007	2006-20/2
<u>Risk Management</u>					
R37-1	Risk Management General Rules	30046	5YR	06/08/2007	2007-13/140
R37-2	Risk Management State Workers' Compensation Insurance Administration	30047	5YR	06/08/2007	2007-13/140
R37-3	Risk Management Adjudicative Proceedings	30048	5YR	06/08/2007	2007-13/141
Agriculture and Food					
<u>Administration</u>					
R51-2	Administration Procedures for Informal Proceedings Before the Utah Department of Agriculture and Food	29405	5YR	01/11/2007	2007-3/56
<u>Animal Industry</u>					
R58-1	Admission and Inspection of Livestock, Poultry, and Other Animals	29506	5YR	02/08/2007	2007-5/19
R58-1	Admission and Inspection of Livestock, Poultry, and Other Animals	29912	AMD	08/07/2007	2007-11/4
R58-6	Poultry	29504	5YR	02/08/2007	2007-5/20
R58-8	Testing and Vaccination of Bovine Livestock for Brucellosis Control	30041	5YR	06/07/2007	2007-13/142
R58-8	Testing and Vaccination of Bovine Livestock for Brucellosis Control (5YR EXTENSION)	29512	NSC	06/07/2007	Not Printed
R58-8	Testing and Vaccination of Bovine Livestock for Brucellosis Control	30045	REP	08/07/2007	2007-13/3
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
R70-330	Raw Milk for Retail	30100	AMD	08/07/2007	2007-13/3

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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
R70-550	Utah Inland Shellfish Safety Program	29970	NEW	08/07/2007	2007-12/7
R70-560	Inspection and Regulation of Cottage Food Production Operations	30062	NEW	08/07/2007	2007-13/7
Alcoholic Beverage Control					
<u>Administration</u>					
R81-1-3	General Policies	29881	AMD	06/29/2007	2007-10/6
R81-1-3	General Policies	30168	NSC	07/30/2007	Not Printed
R81-1-6	Violation Schedule	29439	AMD	03/30/2007	2007-4/4
R81-1-21	Beer Advertising in Event Venues	30169	NSC	07/30/2007	Not Printed
R81-1-25	Sexually-Oriented Entertainers and Stage Approvals	29898	AMD	06/29/2007	2007-10/8
R81-1-26	Criminal History Background Checks	29440	AMD	03/30/2007	2007-4/6
R81-4D-1	Licensing	30167	NSC	07/30/2007	Not Printed
Attorney General					
<u>Administration</u>					
R105-2	Records Access and Management	30037	5YR	06/05/2007	2007-13/142
Capitol Preservation Board (State)					
<u>Administration</u>					
R131-3	Use of Magnetometers on Capitol Hill	29952	5YR	05/16/2007	2007-12/60
Commerce					
<u>Administration</u>					
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	2007-11/85
R151-33	Pete Suazo Utah Athletic Commission Act Rule	30164	NSC	07/05/2007	Not Printed
R151-35	Powersport Vehicle Franchise Act Rule	30195	5YR	07/13/2007	2007-15/61
<u>Consumer Protection</u>					
R152-6	Utah Administrative Procedures Act Rules	30118	5YR	06/22/2007	2007-14/42
R152-11	Utah Consumer Sales Practices Act	29470	5YR	02/01/2007	2007-4/55
R152-15	Business Opportunity Disclosure Act Rules	30119	5YR	06/22/2007	2007-14/42
R152-20	New Motor Vehicle Warranties	29862	5YR	04/26/2007	2007-10/105
R152-20-2	Definitions	29412	AMD	03/20/2007	2007-3/4
R152-22	Charitable Solicitations Act	29427	AMD	04/02/2007	2007-4/8
R152-22	Charitable Solicitations Act	30120	5YR	06/22/2007	2007-14/43
R152-23	Utah Health Spa Services	29238	AMD	01/23/2007	2006-24/3
R152-23	Utah Health Spa Services	30121	5YR	06/22/2007	2007-14/43
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
R152-34	Postsecondary Proprietary School Act Rules	29710	AMD	05/22/2007	2007-8/4
R152-34	Postsecondary Proprietary School Act Rules	30101	5YR	06/15/2007	2007-13/142
R152-42	Uniform Debt-Management Services Act Rules	29413	CPR	05/22/2007	2007-8/114

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R152-42	Uniform Debt-Management Services Act Rules	29413	NEW	05/22/2007	2007-3/5
<u>Occupational and Professional Licensing</u>					
R156-1	General Rules of the Division of Occupational and Professional Licensing	29586	5YR	03/01/2007	2007-6/37
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	CPR	01/11/2007	2006-23/87
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	29432	AMD	03/27/2007	2007-4/9
R156-11a	Cosmetologist/Barber, Esthetician, Electrologist and Nail Technician Licensing Act Rule	29810	5YR	04/12/2007	2007-9/33
R156-16a	Optometry Practice Act Rules	29871	5YR	04/26/2007	2007-10/106
R156-17b	Pharmacy Practice Act Rules	29770	AMD	05/24/2007	2007-8/8
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rules	29355	AMD	02/22/2007	2007-2/3
R156-24a	Physical Therapist Practice Act Rules	29459	5YR	01/30/2007	2007-4/56
R156-26a	Certified Public Accountant Licensing Act Rules	29473	5YR	02/01/2007	2007-4/56
R156-28	Veterinary Practice Act Rules	29472	5YR	02/01/2007	2007-4/57
R156-37	Utah Controlled Substance Act Rules	29696	5YR	03/15/2007	2007-7/150
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
R156-42a	Occupational Therapy Practice Act Rules	29356	AMD	02/22/2007	2007-2/11
R156-54	Radiology Technologist and Radiology Practical Technician Licensing Act Rules	29396	5YR	01/09/2007	2007-3/56
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
R156-56	Utah Uniform Building Standard Act Rules	29745	5YR	03/29/2007	2007-8/119
R156-56	Utah Uniform Building Standard Act Rules	30132	NSC	07/01/2007	Not Printed
R156-56	Utah Uniform Building Standard Act Rules	29863	AMD	07/01/2007	2007-10/21
R156-56	Utah Uniform Building Standard Act Rules	29866	AMD	07/01/2007	2007-10/10
R156-56-704	Statewide Amendments to the IBC	29078	AMD	03/27/2007	2006-20/10
R156-56-704	Statewide Amendments to the IBC	29078	CPR	03/27/2007	2007-4/48
R156-56-704	Statewide Amendments to the IBC	29865	AMD	07/01/2007	2007-10/25
R156-56-711	Statewide Amendments to the IRC	29075	AMD	01/01/2007	2006-20/13
R156-57	Respiratory Care Practices Act Rules	29354	AMD	02/22/2007	2007-2/12
R156-63	Security Personnel Licensing Act Rules	29915	AMD	07/19/2007	2007-11/8
R156-64	Deception Detection Examiners Licensing Act Rules	29803	5YR	04/09/2007	2007-9/33
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

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R156-72	Acupuncture Licensing Act Rules	29395	5YR	01/09/2007	2007-3/57
R156-72-302c	Informed Consent	29735	NSC	04/12/2007	Not Printed
R156-75	Genetic Counselor Licensing Act Rules	29397	5YR	01/09/2007	2007-3/58
R156-76	Professional Geologist Licensing Act Rules	29905	5YR	05/01/2007	2007-10/106
R156-78A	Prelitigation Panel Review Rules	29804	5YR	04/09/2007	2007-9/34
<u>Real Estate</u>					
R162-1	Authority and Definitions	29832	5YR	04/18/2007	2007-10/107
R162-1-2	Definitions	29738	AMD	05/30/2007	2007-8/18
R162-2	Exam and License Application Requirements	29831	5YR	04/18/2007	2007-10/107
R162-3	License Status Changes	29833	5YR	04/18/2007	2007-10/108
R162-3-6	Renewal and Reinstatement	29736	AMD	05/30/2007	2007-8/20
R162-4	Office Procedures - Real Estate Principal Brokerage	29834	5YR	04/18/2007	2007-10/108
R162-5	Property Management	29827	5YR	04/18/2007	2007-10/109
R162-6	Licensee Conduct	29835	5YR	04/18/2007	2007-10/109
R162-6-1	Improper Practices	29769	AMD	05/30/2007	2007-8/23
R162-7	Enforcement	29851	5YR	04/19/2007	2007-10/110
R162-7-2	Notice of Complaint	29740	AMD	05/30/2007	2007-8/26
R162-8	Prelicensing Education	29836	5YR	04/18/2007	2007-10/110
R162-8	Prelicensing Education	29719	AMD	05/30/2007	2007-8/27
R162-9	Continuing Education	29224	AMD	01/17/2007	2006-23/3
R162-9	Continuing Education	29837	5YR	04/18/2007	2007-10/111
R162-9	Continuing Education	29718	AMD	05/30/2007	2007-8/33
R162-101	Authority and Definitions	29828	5YR	04/18/2007	2007-10/111
R162-102	Application Procedures	29523	5YR	02/15/2007	2007-5/24
R162-102	Application Procedures	29711	AMD	05/29/2007	2007-8/38
R162-102-3	Renewal	29989	NSC	06/11/2007	Not Printed
R162-103	Appraisal Education Requirements	29829	5YR	04/18/2007	2007-10/111
R162-104	Experience Requirement	29522	5YR	02/15/2007	2007-5/24
R162-104	Experience Requirement	29623	AMD	05/29/2007	2007-7/4
R162-106	Professional Conduct	29521	5YR	02/15/2007	2007-5/25
R162-106-5	Failure to Respond to Investigation	29546	AMD	04/25/2007	2007-6/6
R162-107	Unprofessional Conduct	30197	5YR	07/16/2007	2007-15/61
R162-109	Administrative Proceedings	29830	5YR	04/18/2007	2007-10/112
R162-202	Initial Application	29237	AMD	01/24/2007	2006-24/4
R162-202-1	Licensing Examination	29517	AMD	04/10/2007	2007-5/4
R162-202-5	Determining Fitness for Licensure	29545	AMD	05/01/2007	2007-6/7
R162-203	Change to Residential Mortgage Licensure Statement	29516	AMD	04/10/2007	2007-5/4
R162-206	Licensing Examination	29518	REP	04/10/2007	2007-5/6
R162-207	License Renewal	29519	AMD	04/10/2007	2007-5/7
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
R162-210-6	Instructor Certification and Renewal	29429	NSC	02/12/2007	Not Printed
<u>Securities</u>					
R164-1	Fraudulent Practices	30258	5YR	07/30/2007	2007-16/57
R164-4	Licensing Requirements	30259	5YR	07/30/2007	2007-16/58

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R164-5	Broker-Dealer and Investment Adviser Books and Records	30260	5YR	07/30/2007	2007-16/58
R164-6	Denial, Suspension or Revocation of a License	30261	5YR	07/30/2007	2007-16/59
R164-9	Registration by Coordination	30255	5YR	07/30/2007	2007-16/59
R164-10	Registration by Qualification	30256	5YR	07/30/2007	2007-16/60
R164-11	Registration Statement	30257	5YR	07/30/2007	2007-16/60
R164-12	Sales Commission	30264	5YR	07/30/2007	2007-16/61
R164-13	Definitions	30254	5YR	07/30/2007	2007-16/61
R164-14	Exemptions	30266	5YR	07/30/2007	2007-16/62
R164-15	Federal Covered Securities	30267	5YR	07/30/2007	2007-16/62
R164-18	Procedures	30265	5YR	07/30/2007	2007-16/63
R164-25	Record of Registration	30262	5YR	07/30/2007	2007-16/63
R164-26	Consent to Service of Process	30263	5YR	07/30/2007	2007-16/64

Community and Culture

Home Energy Assistance Target (HEAT)

R195-2	Energy Assistance Program Standards	30124	5YR	06/22/2007	2007-14/44
R195-2	Energy Assistance Programs Standards (5YR EXTENSION)	29982	NSC	06/22/2007	Not Printed
R195-3	Energy Assistance Income Standards, Income Eligibility, and Payment Determination	30125	5YR	06/22/2007	2007-14/44
R195-3	Energy Assistance Income Standards, Income Eligibility, and Payment Determination (5YR EXTENSION)	29983	NSC	06/22/2007	Not Printed
R195-4	Energy Assistance: Asset Standards	30126	5YR	06/22/2007	2007-14/45
R195-4	Energy Assistance: Asset Standards (5YR EXTENSION)	29984	NSC	06/22/2007	Not Printed
R195-5	Energy Assistance: Program Benefits	30127	5YR	06/22/2007	2007-14/45
R195-5	Energy Assistance: Program Benefits (5YR EXTENSION)	29985	NSC	06/22/2007	Not Printed
R195-6	Energy Assistance: Eligibility Determination	30128	5YR	06/25/2007	2007-14/46
R195-6	Energy Assistance: Eligibility Determination (5YR EXTENSION)	29986	NSC	06/25/2007	Not Printed
R195-7	Energy Assistance: Records and Benefit Management (5YR EXTENSION)	29987	NSC	06/25/2007	Not Printed
R195-7	Energy Assistance: Records and Benefit Management	30130	5YR	06/25/2007	2007-14/46
R195-8	Energy Assistance: Special State Programs	30131	5YR	06/25/2007	2007-14/47
R195-8	Energy Assistance: Special State Programs (5YR EXTENSION)	29988	NSC	06/25/2007	Not Printed

Fine Arts

R207-1	Utah Arts Council General Program Rules	29528	NSC	03/08/2007	Not Printed
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Home Energy Assistance Target (HEAT)

R207-1	Utah Arts Council General Program Rules	30288	5YR	08/03/2007	Not Printed
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Fine Arts

R207-2	Policy for Commissions, Purchases, and Donations to, and Loans from, the Utah State Art Collections	29529	NSC	03/08/2007	Not Printed
R207-2	Policy for Commissions, Purchases, and Donations to, and Loans from, the Utah State Art Collections.	30287	5YR	08/03/2007	Not Printed

History

R212-1	Adjudicative Proceedings	30201	5YR	07/17/2007	2007-16/64
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RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R212-12	Computerized Record of Cemeteries, Burial Locations and Plots, and Granting Matching Funds	30202	5YR	07/17/2007	2007-16/65
Library					
R223-1	Adjudicative Procedures	30079	5YR	06/13/2007	2007-13/143
Corrections					
<u>Administration</u>					
R251-106-3	Standards and Procedures	29531	AMD	05/01/2007	2007-6/9
R251-107	Executions	29533	AMD	05/01/2007	2007-6/11
R251-305	Visiting at Community Correctional Centers	29462	5YR	01/31/2007	2007-4/58
R251-306	Sponsors in Community Correctional Centers	29463	5YR	01/31/2007	2007-4/58
R251-401	Supervision Fees	30040	5YR	06/07/2007	2007-13/143
R251-707	Legal Access	29464	5YR	01/31/2007	2007-4/59
R251-710	Search	29465	5YR	01/31/2007	2007-4/59
Crime Victim Reparations					
<u>Administration</u>					
R270-1	Award and Reparation Standards	29753	AMD	05/22/2007	2007-8/41
R270-1-26	Victim Services	29220	AMD	01/10/2007	2006-23/6
Education					
<u>Administration</u>					
R277-110	Legislative Supplemental Salary Adjustment	30086	NEW	08/07/2007	2007-13/11
R277-413	Accreditation of Secondary Schools	30087	AMD	08/07/2007	2007-13/12
R277-416	Experimental and Developmental Programs	29746	5YR	03/29/2007	2007-8/121
R277-416	Experimental and Developmental Programs	29935	REP	07/09/2007	2007-11/14
R277-419	Pupil Accounting	29690	AMD	05/09/2007	2007-7/10
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
R277-459	Classroom Supplies Appropriation	30088	AMD	08/07/2007	2007-13/14
R277-462	Comprehensive Guidance Program	30089	AMD	08/07/2007	2007-13/16
R277-464	Highly Impacted Schools	29931	AMD	07/09/2007	2007-11/15
R277-467	Distribution of Funds Appropriated for Library Books and Electronic Resources	30090	NEW	08/07/2007	2007-13/19
R277-469	Instructional Materials Commission Operating Procedures	30091	AMD	08/07/2007	2007-13/20
R277-470	Charter Schools	30092	AMD	08/07/2007	2007-13/23
R277-473	Testing Procedures	30093	AMD	08/07/2007	2007-13/31
R277-473-9	Standardized Testing Rules and Professional Development Requirement	29478	AMD	03/27/2007	2007-4/12
R277-481	Charter School Accountability and Assistance	30094	REP	08/07/2007	2007-13/34
R277-484	Data Standards, Deadlines and Procedures	30095	AMD	08/07/2007	2007-13/36
R277-487	Charter School Revolving Loan Fund	30096	REP	08/07/2007	2007-13/39
R277-488	Critical Languages Pilot Program	29932	NEW	07/09/2007	2007-11/17
R277-489	Optional Extended-Day Kindergarten - Responsibilities, Timelines, and Funding	29933	NEW	07/09/2007	2007-11/19
R277-489	Optional Extended-Day Kindergarten - Responsibilities, Timelines, and Funding	30174	NSC	07/30/2007	Not Printed
R277-503	Licensing Routes	29749	5YR	03/29/2007	2007-8/121
R277-503	Licensing Routes	29692	AMD	05/09/2007	2007-7/14

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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
R277-510	Educator Licensing - Highly Qualified Teachers	30097	R&R	08/07/2007	2007-13/42
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
R277-603	Basic Skills Education Program	29934	AMD	07/09/2007	2007-11/21
R277-611	Medical Recommendations by School Personnel to Parents	29936	REP	07/09/2007	2007-11/24
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
R277-617	Authorization of Student Clubs and Organizations	29937	REP	07/09/2007	2007-11/25
R277-705	Secondary School Completion and Diplomas	29495	5YR	02/02/2007	2007-5/26
R277-713	Concurrent Enrollment of High School Students in College Courses	30098	AMD	08/07/2007	2007-13/47
R277-746-3	Standards and Procedures	29694	AMD	05/09/2007	2007-7/19
R277-915	Work-based Learning Programs for Interns	29496	5YR	02/02/2007	2007-5/26

Environmental Quality

Administration

R305-1	Records Access and Management	29809	5YR	04/12/2007	2007-9/34
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Air Quality

R307-101	General Requirements	29661	5YR	03/15/2007	2007-7/150
R307-101-2	Definitions	29000	CPR	03/09/2007	2007-3/39
R307-101-2	Definitions	29000	AMD	03/09/2007	2006-19/27
R307-105	General Requirements: Emergency Controls (5YR EXTENSION)	29501	NSC	07/13/2007	Not Printed
R307-105	General Requirements: Emergency Controls	30183	5YR	07/13/2007	2007-15/62
R307-110	General Requirements: State Implementation Plan	29662	5YR	03/15/2007	2007-7/151
R307-110-13	Section IX, Control Measures for Area and Point Sources, Part D, Ozone	29001	CPR	03/09/2007	2007-3/40
R307-110-13	Section IX, Control Measures for Area and Point Sources, Part D, Ozone	29001	AMD	03/09/2007	2006-19/30
R307-110-20	Section XII, Involvement	29514	AMD	05/02/2007	2007-5/13
R307-110-20	Section XII, Transportation Conformity Consultation	29801	NSC	05/02/2007	Not Printed
R307-110-36	Section XXII, Interstate Transport	29227	AMD	02/09/2007	2006-23/7
R307-110-36	Section XXII, Interstate Transport	29293	NSC	02/09/2007	Not Printed
R307-120	General Requirements: Tax Exemption for Air and Water Pollution Control Equipment	29327	AMD	03/09/2007	2007-1/7
R307-120	General Requirements: Tax Exemption for Air and Water Pollution Control Equipment	29653	5YR	03/15/2007	2007-7/155
R307-121	General Requirements: Eligibility of Expenditures for Purchase of Vehicles that Use Cleaner Burning Fuels for Corporate and Individual Income Tax Credits (5YR EXTENSION)	29321	NSC	07/13/2007	Not Printed

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R307-121	General Requirements: Eligibility of Expenditures for Purchase of Vehicles that Use Cleaner Burning Fuels for Corporate and Individual Income Tax Credits	30184	5YR	07/13/2007	2007-15/62
R307-121	General Requirements: Eligibility of Expenditures for Purchase of Vehicles that Use Cleaner Burning Fuels for Corporate and Individual Income Tax Credits	29797	R&R	07/13/2007	2007-9/14
R307-122	General Requirements: Eligibility of Expenditures for Purchase and Installation Costs of Fireplaces and Wood Stoves that Use Cleaner Burning Fuels (5YR EXTENSION)	29322	NSC	07/13/2007	Not Printed
R307-122	General Requirements: Eligibility of Expenditures for Purchase and Installation Costs of Fireplaces and Wood Stoves that Use Cleaner Burning Fuels	29798	REP	07/13/2007	2007-9/17
R307-130	General Penalty Policy	29654	5YR	03/15/2007	2007-7/155
R307-130-4	Options	29652	AMD	07/13/2007	2007-7/19
R307-135	Enforcement Response Policy for Asbestos Hazard Emergency Response Act	29659	5YR	03/15/2007	2007-7/156
R307-210	Stationary Sources	29228	AMD	03/15/2007	2006-23/8
R307-214-2	Part 63 Sources	29194	AMD	02/09/2007	2006-23/10
R307-220	Emission Standards: Plan for Designated Facilities	29655	5YR	03/15/2007	2007-7/156
R307-220	Emission Standards: Plan for Designated Facilities	29229	CPR	05/09/2007	2007-7/136
R307-220	Emission Standards: Plan for Designated Facilities	29229	AMD	05/09/2007	2006-23/12
R307-221	Emission Standards: Emission Controls for Existing Municipal Solid Waste Landfills	29656	5YR	03/15/2007	2007-7/157
R307-222	Emission Standards: Existing Incinerators for Hospital, Medical, Infectious Waste	29657	5YR	03/15/2007	2007-7/157
R307-223	Emission Standards: Existing Small Municipal Waste Combustion Units	29658	5YR	03/15/2007	2007-7/158
R307-224	Mercury Emission Standards: Coal-Fired Electric Generating Units	29230	NEW	03/15/2007	2006-23/14
R307-301	Utah and Weber Counties: Oxygenated Gasoline Program As a Contingency Measure	29660	5YR	03/15/2007	2007-7/158
R307-320	Ozone Maintenance Areas and Ogden City: Employer-Based Trip Reduction Program	29002	CPR	03/09/2007	2007-3/40
R307-320	Davis, Salt Lake and Utah Counties, and Ogden City: Employer-Based Trip Reduction Program	29002	AMD	03/09/2007	2006-19/32
R307-320	Ozone Maintenance Areas and Ogden City: Employer-Based Trip Reduction Program	29663	5YR	03/15/2007	2007-7/160
R307-325	Ozone Nonattainment and Maintenance Areas: General Requirements	29003	CPR	03/09/2007	2007-3/42
R307-325	Davis and Salt Lake Counties and Ozone Nonattainment Areas: Ozone Provisions	29003	AMD	03/09/2007	2006-19/35
R307-325	Ozone Nonattainment and Maintenance Areas: General Requirements	29664	5YR	03/15/2007	2007-7/160
R307-326	Davis and Salt Lake Counties and Ozone Nonattainment Areas: Control of Hydrocarbon Emissions in Refineries	29006	AMD	03/09/2007	2006-19/37
R307-326	Ozone Nonattainment and Maintenance Areas: Control of Hydrocarbon Emissions in Refineries	29006	CPR	03/09/2007	2007-3/43
R307-326	Ozone Nonattainment and Maintenance Areas: Control of Hydrocarbon Emissions in Petroleum Refineries	29665	5YR	03/15/2007	2007-7/161
R307-326-1	Purpose	29526	NSC	03/09/2007	Not Printed
R307-327	Ozone Nonattainment and Maintenance Areas: Petroleum Liquid Storage	29004	CPR	03/09/2007	2007-3/45

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R307-327	Davis and Salt Lake Counties and Ozone Nonattainment Areas: Petroleum Liquid Storage	29004	AMD	03/09/2007	2006-19/40
R307-327	Davis and Salt Lake Counties and Ozone Nonattainment Areas: Petroleum Liquid Storage	29666	5YR	03/15/2007	2007-7/163
R307-328	Davis, Salt Lake, Utah, and Weber Counties and Ozone Nonattainment Areas: Gasoline Transfer and Storage	29005	AMD	01/16/2007	2006-19/43
R307-328	Ozone Nonattainment and Maintenance Areas and Utah and Weber Counties: Gasoline Transfer and Storage	29667	5YR	03/15/2007	2007-7/164
R307-328-1	Purpose	29150	NSC	01/16/2007	Not Printed
R307-332	Davis and Salt Lake Counties and Ozone Nonattainment Areas: Stage II Vapor Recovery Systems	29007	REP	01/16/2007	2006-19/46
R307-335	Davis and Salt Lake Counties and Ozone Nonattainment Areas: Degreasing and Solvent Cleaning Operations	29008	AMD	01/16/2007	2006-19/49
R307-335	Ozone Nonattainment and Maintenance Areas: Degreasing and Solvent Cleaning Operations	29668	5YR	03/15/2007	2007-7/165
R307-340	Davis and Salt Lake Counties and Ozone Nonattainment Areas: Surface Coating Processes	29009	AMD	03/09/2007	2006-19/52
R307-340	Ozone Nonattainment and Maintenance Areas: Surface Coating Processes	29009	CPR	03/09/2007	2007-3/46
R307-340	Davis and Salt Lake Counties and Ozone Nonattainment Areas: Surface Coating Processes	29669	5YR	03/15/2007	2007-7/165
R307-340-1	Purpose	29151	NSC	03/09/2007	Not Printed
R307-341	Davis and Salt Lake Counties and Ozone Nonattainment Areas: Cutback Asphalt	29010	AMD	01/16/2007	2006-19/59
R307-341	Ozone Nonattainment and Maintenance Areas: Cutback Asphalt	29670	5YR	03/15/2007	2007-7/166
R307-342	Davis, Salt Lake, Utah, and Weber Counties and Ozone Nonattainment Areas: Qualification of Contractors and Test Procedures for Vapor Recovery Systems for Gasoline Delivery Tanks	29011	AMD	01/16/2007	2006-19/60
R307-342	Ozone Nonattainment and Maintenance Areas: Qualification of Contractors and Test Procedures for Vapor Recovery Systems for Gasoline Delivery Tanks	29671	5YR	03/15/2007	2007-7/167
R307-343	Davis and Salt Lake Counties and Ozone Nonattainment Areas: Emissions Standards for Wood Furniture Manufacturing Operations	29012	AMD	03/09/2007	2006-19/63
R307-343	Ozone Nonattainment and Maintenance Areas: Emissions Standards for Wood Furniture Manufacturing Operations	29012	CPR	03/09/2007	2007-3/51
R307-343	Davis and Salt Lake Counties and Ozone Nonattainment Areas: Emissions Standards for Wood Furniture Manufacturing Operations	29672	5YR	03/15/2007	2007-7/167
R307-343-6	Compliance Procedures and Monitoring Requirements	29508	NSC	03/09/2007	Not Printed
R307-401	Permit: New and Modified Sources	30185	5YR	07/13/2007	2007-15/63
R307-403	Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas	30186	5YR	07/13/2007	2007-15/63
R307-405	Permits: Major Sources in Attainment or Unclassified Areas (PSD)	30187	5YR	07/13/2007	2007-15/64
R307-406	Visibility	30188	5YR	07/13/2007	2007-15/64
R307-410	Permits: Emission Impact Analysis	30189	5YR	07/13/2007	2007-15/65
R307-414	Permits: Fees for Approval Orders	30190	5YR	07/13/2007	2007-15/66
R307-415	Permits: Operating Permit Requirements	30191	5YR	07/13/2007	2007-15/66
R307-417	Permits: Acid Rain Sources	30192	5YR	07/13/2007	2007-15/67

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R307-420	Permits: Ozone Offset Requirements in Davis and Salt Lake Counties	30193	5YR	07/13/2007	2007-15/67
R307-421	Permits: PM10 Offset Requirements in Salt Lake County and Utah County	30194	5YR	07/13/2007	2007-15/68
R307-424	Permits: Mercury Requirements for Electric Generating Units	29231	NEW	05/09/2007	2006-23/15
R307-424	Permits: Mercury Requirements for Electric Generating Units	29231	CPR	05/09/2007	2007-7/137
<u>Drinking Water</u>					
R309-105	Administration: General Responsibilities of Public Water Systems	29369	AMD	03/06/2007	2007-2/15
R309-105	Administration: General Responsibilities of Public Water Systems	29646	AMD	05/14/2007	2007-7/20
R309-105-9	Minimum Water Pressure	29036	AMD	01/01/2007	2006-19/68
R309-110	Administration: Definitions	29364	AMD	03/06/2007	2007-2/20
R309-110-4	Definitions	29649	AMD	05/14/2007	2007-7/22
R309-115-2	Initial Proceedings	29361	NSC	03/06/2007	Not Printed
R309-150	Water System Rating Criteria	29363	AMD	03/06/2007	2007-2/31
R309-200	Monitoring and Water Quality: Drinking Water Standards	29371	AMD	03/06/2007	2007-2/43
R309-210	Monitoring and Water Quality: Distribution System Monitoring Requirements	29365	AMD	03/06/2007	2007-2/46
R309-210	Monitoring and Water Quality: Distribution System Monitoring Requirements	29647	AMD	05/14/2007	2007-7/23
R309-215	Monitoring and Water Quality: Treatment Plant Monitoring Requirements	29366	AMD	03/06/2007	2007-2/63
R309-215	Monitoring and Water Quality: Treatment Plant Monitoring Requirements	29645	AMD	05/14/2007	2007-7/34
R309-220	Monitoring and Water Quality: Public Notification Requirements	29367	AMD	03/06/2007	2007-2/86
R309-220-15	Standard Health Effects Language	29648	AMD	05/14/2007	2007-7/46
R309-225	Monitoring and Water Quality: Consumer Confidence Reports	29368	AMD	03/06/2007	2007-2/89
R309-225	Monitoring and Water Quality: Consumer Confidence Reports	29650	NSC	03/29/2007	Not Printed
R309-300-13	Grandparent Certification Criteria	29362	NSC	03/06/2007	Not Printed
R309-405-4	Assessment of a Penalty and Calculation of Settlement Amounts	29360	NSC	03/06/2007	Not Printed
R309-500	Facility Design and Operation: Plan Review, Operation and Maintenance Requirements	29774	5YR	04/02/2007	2007-8/122
R309-505	Facility Design and Operation: Minimum Treatment Requirements	29775	5YR	04/02/2007	2007-8/123
R309-510	Facility Design and Operation: Minimum Sizing Requirements	29776	5YR	04/02/2007	2007-8/123
R309-515	Facility Design and Operation: Source Development	29777	5YR	04/02/2007	2007-8/124
R309-520	Facility Design and Operation: Disinfection	29642	5YR	03/13/2007	2007-7/169
R309-525	Facility Design and Operation: Conventional Surface Water Treatment	29778	5YR	04/02/2007	2007-8/124
R309-530	Facility Design and Operation: Alternative Surface Water Treatment Methods	29779	5YR	04/02/2007	2007-8/125
R309-535	Facility Design and Operation: Miscellaneous Treatment Methods	29780	5YR	04/02/2007	2007-8/125
R309-540	Facility Design and Operation: Pump Stations	29781	5YR	04/02/2007	2007-8/126
R309-545	Facility Design and Operation: Drinking Water Storage Tanks	29782	5YR	04/02/2007	2007-8/126
R309-550	Facility Design and Operation: Transmission and Distribution Pipelines	29783	5YR	04/02/2007	2007-8/126
R309-700	Financial Assistance: State Drinking Water Project Revolving Loan Program	29784	5YR	04/02/2007	2007-8/127
R309-705	Financial Assistance: Federal Drinking Water Project Revolving Loan Program	29785	5YR	04/02/2007	2007-8/127

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Environmental Response and Remediation</u>					
R311-200	Underground Storage Tanks: Definitions (5YR EXTENSION)	29567	NSC	04/18/2007	Not Printed
R311-200	Underground Storage Tanks: Definitions	29838	5YR	04/18/2007	2007-10/112
R311-201	Underground Storage Tanks: Certification Programs (5YR EXTENSION)	29568	NSC	04/18/2007	Not Printed
R311-201	Underground Storage Tanks: Certification Programs	29839	5YR	04/18/2007	2007-10/113
R311-202	Underground Storage Tank Technical Standards (5YR EXTENSION)	29569	NSC	04/18/2007	Not Printed
R311-202	Underground Storage Tank Technical Standards	29840	5YR	04/18/2007	2007-10/114
R311-203	Underground Storage Tanks: Notification, New Installations, Registration Fees, and Testing Requirements (5YR EXTENSION)	29570	NSC	04/18/2007	Not Printed
R311-203	Underground Storage Tanks: Notification, New Installations, Registration Fees, and Testing Requirements	29841	5YR	04/18/2007	2007-10/114
R311-204	Underground Storage Tanks: Closure and Remediation	29842	5YR	04/18/2007	2007-10/115
R311-204	Underground Storage Tanks: Closure and Remediation (5YR EXTENSION)	29571	NSC	04/18/2007	Not Printed
R311-205	Underground Storage Tanks: Site Assessment Protocol (5YR EXTENSION)	29572	NSC	04/18/2007	Not Printed
R311-205	Underground Storage Tanks: Site Assessment Protocol	29843	5YR	04/18/2007	2007-10/116
R311-206	Underground Storage Tanks: Financial Assurance Mechanisms (5YR EXTENSION)	29573	NSC	04/18/2007	Not Printed
R311-206	Underground Storage Tanks: Financial Assurance Mechanisms	29844	5YR	04/18/2007	2007-10/116
R311-207	Accessing the Petroleum Storage Tank Trust Fund for Leaking Petroleum Storage Tanks (5YR EXTENSION)	29574	NSC	04/18/2007	Not Printed
R311-207	Accessing the Petroleum Storage Tank Trust Fund for Leaking Petroleum Storage Tanks	29845	5YR	04/18/2007	2007-10/117
R311-208	Underground Storage Tank Penalty Guidance (5YR EXTENSION)	29575	NSC	04/18/2007	Not Printed
R311-208	Underground Storage Tank Penalty Guidance	29846	5YR	04/18/2007	2007-10/118
R311-209	Petroleum Storage Tank Cleanup Fund and State Cleanup Appropriation (5YR EXTENSION)	29576	NSC	04/18/2007	Not Printed
R311-209	Petroleum Storage Tank Cleanup Fund and State Cleanup Appropriation	29847	5YR	04/18/2007	2007-10/118
R311-210	Administrative Procedures for Underground Storage Tank Act Adjudicative Proceedings (5YR EXTENSION)	29577	NSC	04/18/2007	Not Printed
R311-210	Administrative Procedures for Underground Storage Tank Adjudicative Proceedings	29848	5YR	04/18/2007	2007-10/119
R311-211	Corrective Action Cleanup Standards Policy - UST and CERCLA Sites (5YR EXTENSION)	29578	NSC	04/18/2007	Not Printed
R311-211	Corrective Action Cleanup Standards Policy - UST and CERCLA Sites	29849	5YR	04/18/2007	2007-10/119
R311-212	Administration of the Petroleum Storage Tank Loan Fund (5YR EXTENSION)	29579	NSC	04/18/2007	Not Printed
R311-212	Administration of the Petroleum Storage Tank Loan Fund	29850	5YR	04/18/2007	2007-10/120
R311-401	Utah Hazardous Substance Priority List	30210	5YR	07/19/2007	2007-16/65
R311-600	Hazardous Substances Mitigation Act: Enforceable Written Assurances	29585	NSC	03/26/2007	Not Printed
R311-600	Hazardous Substances Mitigation Act: Enforceable Written Assurances	29460	NEW	03/26/2007	2007-4/18
<u>Radiation Control</u>					
R313-25	License Requirements for Land Disposal of Radioactive Waste - General Provisions	29333	AMD	03/16/2007	2007-1/9

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R313-26	Generator Site Access Permit Requirements for Accessing Utah Radioactive Waste Disposal Facilities	29332	AMD	03/16/2007	2007-1/10
R313-28	Use of X-Rays in the Healing Arts	29334	AMD	03/16/2007	2007-1/12
R313-35	Requirements for X-Ray Equipment Used for Non-Medical Applications (5YR EXTENSION)	29310	NSC	03/05/2007	Not Printed
R313-35	Requirements for X-Ray Equipment Used for Non-Medical Applications	29595	5YR	03/05/2007	2007-7/169
R313-36	Special Requirements for Industrial Radiographic Operations	29336	AMD	03/16/2007	2007-1/15
R313-70	Payments, Categories and Types of Fees	29335	AMD	03/16/2007	2007-1/17
<u>Solid and Hazardous Waste</u>					
R315-301	Solid Waste Authority, Definitions, and General Requirements	29202	AMD	02/01/2007	2006-23/17
R315-301-2	Definitions	30163	NSC	07/11/2007	Not Printed
R315-301-5	Permit Required	29509	NSC	02/28/2007	Not Printed
R315-302	Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements	29203	AMD	02/01/2007	2006-23/22
R315-303	Landfilling Standards	29204	AMD	02/01/2007	2006-23/28
R315-304	Industrial Solid Waste Landfill Requirements	29205	AMD	02/01/2007	2006-23/33
R315-304	Industrial Solid Waste Facility Requirements	29754	5YR	03/30/2007	2007-8/128
R315-305-4	General Requirements	29206	AMD	02/01/2007	2006-23/35
R315-305-4	General Requirements	29566	NSC	03/09/2007	Not Printed
R315-306-2	Requirements for Large Incinerators	29207	AMD	02/01/2007	2006-23/37
R315-308	Ground Water Monitoring Requirements	29208	AMD	02/01/2007	2006-23/38
R315-308-2	Ground Water Monitoring Requirements	29716	NSC	04/12/2007	Not Printed
R315-309	Financial Assurance	29209	AMD	02/01/2007	2006-23/43
R315-310	Permit Requirements for Solid Waste Facilities	29210	AMD	02/01/2007	2006-23/46
R315-311	Permit Approval For Solid Waste Disposal, Waste Tire Storage, Energy Recovery, And Incinerator Facilities	29211	AMD	02/01/2007	2006-23/50
R315-311-1	General Requirements	29511	NSC	02/28/2007	Not Printed
R315-312	Recycling and Composting Facility Standards	29212	AMD	02/01/2007	2006-23/52
R315-312-3	Composting Requirements	29768	NSC	04/12/2007	Not Printed
R315-313-2	Transfer Station Standards	29213	AMD	02/01/2007	2006-23/54
R315-314-3	Facility Standards for Piles Used for Storage and Treatment	29214	AMD	02/01/2007	2006-23/56
R315-315-2	Asbestos Waste	29425	NSC	02/13/2007	Not Printed
R315-316	Infectious Waste Requirements	29215	AMD	02/01/2007	2006-23/58
R315-317	Other Processes, Variances, and Violations	29216	AMD	02/01/2007	2006-23/60
R315-318-1	General Requirements	29217	AMD	02/01/2007	2006-23/61
R315-320	Waste Tire Transporter and Recycler Requirements	29218	AMD	02/01/2007	2006-23/62
R315-320-4	Waste Tire Transporter Requirements	29510	NSC	02/28/2007	Not Printed
<u>Water Quality</u>					
R317-1-2	General Requirements	29186	AMD	01/19/2007	2006-22/21
R317-1-7	TMDLs	29098	AMD	01/19/2007	2006-20/54
R317-6	Ground Water Quality Protection	29294	AMD	01/23/2007	2006-24/23
R317-6-6	Implementation	29185	AMD	01/19/2007	2006-22/23

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R317-11	Certification Required to Design, Inspect and Maintain Underground Wastewater Disposal Systems, or Conduct Percolation and Soil Tests for Underground Wastewater Disposal Systems	29296	AMD	01/26/2007	2006-24/26
R317-12	Tax Exemption for Water Pollution Control Equipment	29326	NEW	03/09/2007	2007-1/21
Financial Institutions					
<u>Administration</u>					
R331-5	Rule Governing Sale of Securities by Persons Issuing Securities, Who Are Under the Jurisdiction of the Department of Financial Institutions	30237	5YR	07/25/2007	2007-16/66
R331-7	Rule Governing Leasing Transactions by Depository Institutions Subject to the Jurisdiction of the Department of Financial Institutions	30238	5YR	07/25/2007	2007-16/66
R331-9	Rule Prescribing Rules of Procedure for Hearings Before the Commissioner of Financial Institutions of the State of Utah	30239	5YR	07/25/2007	2007-16/67
R331-10	Schedule for Retention or Destruction of Records of Financial Institutions Under the Jurisdiction of the Department of Financial Institutions	30240	5YR	07/25/2007	2007-16/67
R331-12	Guidelines Governing the Purchase and Sale of Loans and Participations in Loans by all State Chartered Financial Institutions	30241	5YR	07/25/2007	2007-16/68
R331-14	Rule Governing Parties Who Engage in the Business of Issuing and Selling Money Orders, Traveler's Checks, and Other Instruments for the Purpose of Effecting Third-Party Payments	30242	5YR	07/25/2007	2007-16/68
R331-22	Rule Governing Reimbursement of Costs of Financial Institutions for Production of Records	29818	5YR	04/16/2007	2007-9/35
<u>Banks</u>					
R333-11	Ownership by State-Chartered Banks of Real Estate Other Than Property Used for Bank Business or Held as an Investment	29972	5YR	05/25/2007	2007-12/60
<u>Credit Unions</u>					
R337-10	Rule Designating Applicable Federal Law for Credit Unions Subject to the Jurisdiction of the Department of Financial Institutions	29352	NSC	01/22/2007	Not Printed
R337-10	Rule Designating Applicable Federal Law for Credit Unions Subject to the Jurisdiction of the Department of Financial Institutions	29173	NEW	01/22/2007	2006-22/25
<u>Nondepository Lenders</u>					
R343-1	Rule Governing Form of Disclosures For Title Lenders, Who Are Under the Jurisdiction of the Department of Financial Institutions	29225	NEW	01/09/2007	2006-23/65
Health					
<u>Administration</u>					
R380-20	Government Records Access and Management	29867	5YR	04/26/2007	2007-10/121
R380-200	Patient Safety Sentinel Event Reporting	29538	AMD	04/26/2007	2007-6/14
<u>Children's Health Insurance Program</u>					
R382-1	Benefits and Administration	29872	AMD	07/01/2007	2007-10/29
R382-10	Eligibility	29732	AMD	05/23/2007	2007-8/44
R382-10	Eligibility	29873	AMD	07/01/2007	2007-10/31

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Epidemiology and Laboratory Services, Epidemiology</u>					
R386-702	Communicable Disease Rule	29721	5YR	03/22/2007	2007-8/128
R386-702	Communicable Disease Rule	29742	AMD	05/24/2007	2007-8/48
<u>Epidemiology and Laboratory Services: HIV/AIDS, Tuberculosis Control/Refugee Health</u>					
R388-801	AIDS Testing and Reporting for Emergency Medical Services Providers Rule	30206	5YR	07/19/2007	2007-16/69
R388-802	HIV Positive Student or School Employee Rule	30207	5YR	07/19/2007	2007-16/70
R388-803	HIV Test Reporting	29979	5YR	05/29/2007	2007-12/61
R388-804	Special Measures for the Control of Tuberculosis	29980	5YR	05/29/2007	2007-12/61
R388-804	Special Measures for the Control of Tuberculosis	29911	AMD	07/16/2007	2007-11/27
<u>Epidemiology and Laboratory Services, Environmental Services</u>					
R392-100	Food Service Sanitation	29722	5YR	03/22/2007	2007-8/129
R392-200	Design, Construction, Operation, Sanitation, and Safety of Schools	29799	5YR	04/05/2007	2007-9/36
R392-300	Recreational Camp Sanitation	29860	5YR	04/24/2007	2007-10/121
R392-301	Recreational Vehicle Park Sanitation	29899	5YR	04/30/2007	2007-10/122
R392-302	Design, Construction and Operation of Public Pools	29720	5YR	03/22/2007	2007-8/130
R392-302	Design, Construction and Operation of Public Pools	29717	AMD	05/31/2007	2007-8/55
R392-400	Temporary Mass Gatherings Sanitation	29925	5YR	05/08/2007	2007-11/85
R392-401	Roadway Rest Stop Sanitation	29901	5YR	04/30/2007	2007-10/122
R392-402	Mobile Home Park Sanitation	29900	5YR	04/30/2007	2007-10/123
R392-501	Labor Camp Sanitation	29870	5YR	04/26/2007	2007-10/123
R392-502	Hotels, Motels and Resort Sanitation	30204	5YR	07/18/2007	2007-16/70
R392-510	Utah Indoor Clean Air Act	29856	5YR	04/23/2007	2007-10/124
<u>Community and Family Health Services, Immunization</u>					
R396-100	Immunization Rule for Students	29547	AMD	05/07/2007	2007-6/19
<u>Community and Family Health Services, WIC Services</u>					
R406-100	Special Supplemental Nutrition Program for Women, Infants and Children	29878	5YR	04/27/2007	2007-10/124
R406-200	Program Overview	29879	5YR	04/27/2007	2007-10/125
R406-201	Outreach Program	29880	5YR	04/27/2007	2007-10/126
R406-202	Eligibility	29876	5YR	04/27/2007	2007-10/126
R406-301	Clinic Guidelines	29877	5YR	04/27/2007	2007-10/127
<u>Health Care Financing, Coverage and Reimbursement Policy</u>					
R414-1	Utah Medicaid Program	29819	5YR	04/16/2007	2007-9/36
R414-1A	Medicaid Policy for Experimental, Investigational or Unproven Medical Practices	29960	5YR	05/21/2007	2007-12/62
R414-2A-7	Limitations	29868	AMD	06/26/2007	2007-10/32
R414-3A-6	Services	29869	AMD	06/26/2007	2007-10/33
R414-4A	Outpatient Hospital Services: Payment of Triage Fee	29441	5YR	01/26/2007	2007-4/60
R414-7C	Alternative Remedies for Nursing Facilities	29442	5YR	01/26/2007	2007-4/60
R414-10	Physician Services	29435	5YR	01/26/2007	2007-4/61
R414-10A	Transplant Services Standards	29493	5YR	02/02/2007	2007-5/27
R414-10A	Transplant Services Standards	29629	AMD	05/15/2007	2007-7/48
R414-10A	Transplant Services Standards	30005	AMD	07/23/2007	2007-12/10
R414-21	Physical and Occupational Therapy	29816	5YR	04/16/2007	2007-9/37

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R414-38	Personal Care Service	29817	5YR	04/16/2007	2007-9/37
R414-45	Personal Supervision by a Physician	29466	5YR	01/31/2007	2007-4/61
R414-60	Medicaid Policy for Pharmacy Copayment Procedures	29961	5YR	05/21/2007	2007-12/63
R414-60	Medicaid Policy for Pharmacy Copayment Procedures	30117	NSC	07/10/2007	Not Printed
R414-60A	Drug Utilization Review Board	29807	NEW	07/19/2007	2007-9/21
R414-61-2	Incorporation by Reference	29673	AMD	05/15/2007	2007-7/64
R414-61-2	Incorporation by Reference	29674	AMD	06/26/2007	2007-7/63
R414-100	Medicaid Primary Care Network Services	29966	5YR	05/24/2007	2007-12/63
R414-200	Non-Traditional Medicaid Health Plan Services	29967	5YR	05/24/2007	2007-12/64
R414-200-4	Cost Sharing	29977	AMD	07/23/2007	2007-12/19
R414-300	Primary Care Network, Covered-at-Work Demonstration Waiver	29730	REP	05/23/2007	2007-8/73
R414-303-17	Personal Assistance Waiver for Adults with Physical Disabilities	29543	AMD	05/01/2007	2007-6/23
R414-307	Eligibility for Home and Community-Based Services Waivers	29676	NEW	05/15/2007	2007-7/65
R414-308	Application, Eligibility Determinations and Improper Medical Assistance	29469	AMD	04/01/2007	2007-4/22
R414-310	Medicaid Primary Care Network Demonstration Waiver	29731	AMD	05/23/2007	2007-8/74
R414-310	Medicaid Primary Care Network Demonstration Waiver	30081	5YR	06/13/2007	2007-13/144
R414-320	Medicaid Health Insurance Flexibility and Accountability Demonstration Waiver	29380	AMD	03/09/2007	2007-2/91
R414-401-3	Assessment	29908	AMD	07/01/2007	2007-10/35
R414-504	Nursing Facility Payments	29907	AMD	07/01/2007	2007-10/36
R414-507	Medicaid Long Term Care Managed Care	29675	REP	05/15/2007	2007-7/67
R414-510	Intermediate Care Facility for Individuals with Mental Retardation Transition Program	29197	NEW	01/17/2007	2006-23/66
<u>Health Care Financing, Medical Assistance Program</u>					
R420-1	Utah Medical Assistance Program	29909	REP	07/01/2007	2007-10/40
<u>Health Systems Improvement, Emergency Medical Services</u>					
R426-5	Statewide Trauma System Standards	30205	5YR	07/18/2007	2007-16/71
R426-12	Emergency Medical Services Training and Certification Standards	29944	AMD	08/08/2007	2007-11/30
R426-16	Emergency Medical Services Maximum Ambulance Transportation Rates and Charges	29392	AMD	04/01/2007	2007-3/9
<u>Center for Health Data, Health Care Statistics</u>					
R428-1	Adoption of Health Data Plan	29788	5YR	04/03/2007	2007-9/38
R428-2	Health Data Authority Standards for Health Data	29789	5YR	04/03/2007	2007-9/38
R428-5	Appeal and Adjudicative Proceedings	29790	5YR	04/03/2007	2007-9/39
R428-10	Health Data Authority Hospital Inpatient Reporting Rule	29791	5YR	04/03/2007	2007-9/39
R428-12	Health Data Authority Survey of Enrollees in Health Maintenance Organizations	29792	5YR	04/03/2007	2007-9/40
R428-20	Health Data Authority Request for Health Data Information	29793	5YR	04/03/2007	2007-9/40
<u>Health Systems Improvement, Child Care Licensing</u>					
R430-2	General Licensing Provisions, Child Care Facilities	30249	5YR	07/27/2007	2007-16/72
<u>Health Systems Improvement, Licensing</u>					
R432-2-6	Application	29750	AMD	05/29/2007	2007-8/82
R432-100-33	General Hospital Standards	29525	AMD	04/11/2007	2007-5/14

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Epidemiology and Laboratory Services, Laboratory Services</u>					
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	29926	5YR	05/08/2007	2007-11/86
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	29968	NSC	06/12/2007	Not Printed
<u>Epidemiology and Laboratory Services, Laboratory Improvement</u>					
R444-11	Rules for Approval to Perform Blood Alcohol Examinations	29861	5YR	04/25/2007	2007-10/127
R444-14	Rule for the Certification of Environmental Laboratories	29549	5YR	02/26/2007	2007-6/39
Human Resource Management					
<u>Administration</u>					
R477-1	Definitions	30051	5YR	06/09/2007	2007-13/144
R477-1	Definitions	29882	AMD	07/01/2007	2007-10/41
R477-2	Administration	30049	5YR	06/09/2007	2007-13/145
R477-2	Administration	29883	AMD	07/01/2007	2007-10/46
R477-3	Classification	30058	5YR	06/09/2007	2007-13/146
R477-3	Classification	29884	AMD	07/01/2007	2007-10/49
R477-4	Filling Positions	30061	5YR	06/09/2007	2007-13/146
R477-4	Filling Positions	29885	AMD	07/01/2007	2007-10/51
R477-5	Employee Status and Probation	30055	5YR	06/09/2007	2007-13/147
R477-5	Employee Status and Probation	29886	AMD	07/01/2007	2007-10/53
R477-6	Compensation	30060	5YR	06/09/2007	2007-13/148
R477-6	Compensation	29887	AMD	07/01/2007	2007-10/54
R477-7	Leave	30161	5YR	06/29/2007	2007-14/47
R477-7	Leave	29888	AMD	07/01/2007	2007-10/57
R477-8	Working Conditions	30059	5YR	06/09/2007	2007-13/148
R477-8	Working Conditions	29889	AMD	07/01/2007	2007-10/64
R477-9	Employee Conduct	30052	5YR	06/09/2007	2007-13/149
R477-9	Employee Conduct	29890	AMD	07/01/2007	2007-10/68
R477-10	Employee Development	30050	5YR	06/09/2007	2007-13/150
R477-10	Employee Development	29891	AMD	07/01/2007	2007-10/70
R477-11	Discipline	29894	NSC	05/11/2007	Not Printed
R477-11	Discipline	30056	5YR	06/09/2007	2007-13/151
R477-12	Separations	30053	5YR	06/09/2007	2007-13/152
R477-12	Separations	29892	AMD	07/01/2007	2007-10/72
R477-13	Volunteer Programs	30057	5YR	06/09/2007	2007-13/152
R477-13-1	Volunteer Programs	29896	NSC	05/11/2007	Not Printed
R477-14	Rules Governing a Drug-Free Workplace	29893	NSC	05/11/2007	Not Printed
R477-15	Unlawful Harassment Policy and Procedure	29895	NSC	05/11/2007	Not Printed
R477-15	Unlawful Harassment Policy and Procedure	30054	5YR	06/09/2007	2007-13/153

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Human Services					
<u>Administration</u>					
R495-810	Government Records Access and Management Act	29497	5YR	02/05/2007	2007-5/27
R495-878	Department of Human Services Civil Rights Complaint Procedure	29498	5YR	02/05/2007	2007-5/28
<u>Administration, Administrative Services, Licensing</u>					
R501-8	Outdoor Youth Program	29874	NSC	05/14/2007	Not Printed
<u>Child and Family Services</u>					
R512-1	Description of Division Services, Eligibility, and Service Access.	30289	5YR	08/07/2007	Not Printed
R512-2	Title IV-B Child Welfare/Family Preservation and Support Services and Title IV-E Foster Care, Adoption, and Independent Living.	30290	5YR	08/07/2007	Not Printed
R512-10	Youth Advocate Program	29387	5YR	01/03/2007	2007-3/58
R512-31	Foster Parent Due Process.	30291	5YR	08/07/2007	Not Printed
R512-40	Adoptive Home Studies, Recruitment, Approval.	30292	5YR	08/07/2007	Not Printed
R512-42	Adoption by Relatives.	30293	5YR	08/07/2007	Not Printed
R512-43	Adoption Assistance	29388	5YR	01/03/2007	2007-3/59
R512-60	Children's Trust Account	29390	5YR	01/03/2007	2007-3/59
R512-300	Out-of-Home Services	30010	EMR	06/01/2007	2007-12/55
<u>Substance Abuse and Mental Health</u>					
R523-1-2	State and Local Relationships	29381	AMD	02/26/2007	2007-2/97
R523-1-5	Fee for Service	29245	AMD	01/30/2007	2006-24/29
R523-1-11	Policies and Procedures Relating to Referrals, Admissions, and Transfers of Mental Health Consumers to the Utah State Hospital and Between Mental Health Center Catchment Areas	29382	AMD	02/26/2007	2007-2/99
R523-1-23	Case Manager Certification	29383	AMD	05/14/2007	2007-2/101
R523-20	Division Rules of Administration	30038	5YR	06/05/2007	2007-13/153
R523-20-2	Providers' Application for Funding - Fee Collection Policy	29246	AMD	01/30/2007	2006-24/31
R523-22	Utah Standards for Approval of Alcohol and Drug Educational Programs for Court-Referred DUI Offenders	30123	5YR	06/22/2007	2007-14/49
R523-23	On-Premise Alcohol Training and Education Seminar Rules of Administration	28928	CPR	01/30/2007	2006-24/43
R523-23	Alcohol Training and Education Seminar Rules of Administration	28928	AMD	01/30/2007	2006-17/43
R523-23	On-Premise Alcohol Training and Education Seminar Rules of Administration	30122	5YR	06/22/2007	2007-14/49
<u>Substance Abuse and Mental Health, State Hospital</u>					
R525-1	Medical Records	29434	REP	04/02/2007	2007-4/27
R525-8	Forensic Mental Health Facility	29802	AMD	06/15/2007	2007-9/24
<u>Recovery Services</u>					
R527-5	Release of Information	29415	5YR	01/16/2007	2007-3/60
R527-34	Non-IV-A Services	29416	5YR	01/16/2007	2007-3/61
R527-35	Non-IV-A Fee Schedule	29417	5YR	01/16/2007	2007-3/61
R527-201	Medical Support Services	29418	5YR	01/16/2007	2007-3/62
<u>Services for People with Disabilities</u>					
R539-5	Self-Administered Services	29625	AMD	05/11/2007	2007-7/70

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R539-9	Supported Employment Pilot Program	30116	EMR	07/01/2007	2007-14/39
R539-9	Supported Employment Pilot Program	30085	AMD	08/07/2007	2007-13/50
<u>Juvenile Justice Services</u>					
R547-1	Residential and Nonresidential, Nonsecure Community Program Standards	29992	5YR	05/30/2007	2007-12/64
R547-3	Juvenile Jail Standards	29993	5YR	05/30/2007	2007-12/65
R547-6	Youth Parole Authority Policies and Procedures	30032	5YR	06/04/2007	2007-13/154
R547-7	Juvenile Holding Room Standards	29990	5YR	05/30/2007	2007-12/65
R547-12	Division of Juvenile Justice Services Classification of Records	29991	5YR	05/30/2007	2007-12/66
R547-13	Guidelines for Admission to Secure Youth Detention Facilities	30033	5YR	06/04/2007	2007-13/154
R547-14	Possession of Prohibited Items in Juvenile Detention Facilities	29897	5YR	04/30/2007	2007-10/128
<u>Public Guardian (Office of)</u>					
R549-1	Eligibility and Services Priority	29950	NEW	07/09/2007	2007-11/50
Insurance					
<u>Administration</u>					
R590-68	Insider Trading of Equity Securities of Domestic Stock Insurance Companies	29815	5YR	04/13/2007	2007-9/41
R590-70	Insurance Holding Companies	29451	5YR	01/29/2007	2007-4/62
R590-85	Individual Accident and Health Insurance and Individual and Group Medicare Supplement Rates	29821	5YR	04/16/2007	2007-9/41
R590-93	Replacement of Life Insurance and Annuities	29752	AMD	05/29/2007	2007-8/84
R590-93	Replacement of Life Insurance and Annuities	30042	AMD	08/08/2007	2007-13/51
R590-95	Rule to Permit the Same Minimum Nonforfeiture Standards for Men and Women Insureds Under the 1980 CSO and 1980 CET Mortality Tables	29447	5YR	01/27/2007	2007-4/62
R590-99	Delay or Failure to Record Documents and the Insuring of Properties with the False Appearance of Unmarketability as Unfair Title Insurance Practices	29446	5YR	01/27/2007	2007-4/63
R590-101	Appointment and Termination of Individuals Licensed as Agents, and Organizations Licensed as Agents by Insurers	29820	5YR	04/16/2007	2007-9/42
R590-102	Insurance Department Fee Payment Rule	29443	5YR	01/26/2007	2007-4/63
R590-102-9	Individual Resident and Non-Resident License Fees	29824	AMD	06/08/2007	2007-9/25
R590-103	Security Deposits	29406	5YR	01/11/2007	2007-3/62
R590-108	Interest Rate During Grace Period or Upon Reinstatement of Policy	29814	5YR	04/13/2007	2007-9/43
R590-114	Letters of Credit	29452	5YR	01/29/2007	2007-4/64
R590-116	Valuation of Assets	29583	5YR	02/28/2007	2007-6/39
R590-117	Valuation of Liabilities	29584	5YR	02/28/2007	2007-6/40
R590-118	Licensing Examination Rule	29813	5YR	04/13/2007	2007-9/43
R590-120	Surety Bond Forms	29823	5YR	04/16/2007	2007-9/44
R590-121	Rate Modification Plan Rule	29403	5YR	01/11/2007	2007-3/63
R590-121-2	Authority	29726	NSC	04/12/2007	Not Printed
R590-122	Permissible Arbitration Provisions	30135	5YR	06/26/2007	2007-14/50
R590-123	Additions and Deletions of Designees by Organizations	29445	5YR	01/27/2007	2007-4/64
R590-123-1	Authority	29448	NSC	02/13/2007	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R590-126	Accident and Health Insurance Standards	29404	5YR	01/11/2007	2007-3/63
R590-126-4	Prohibited Policy Provisions	29431	AMD	04/09/2007	2007-4/28
R590-126-4	Prohibited Policy Provisions	29998	AMD	07/30/2007	2007-12/20
R590-133	Variable Contracts	29411	5YR	01/12/2007	2007-3/64
R590-142	Continuing Education Rule	29444	5YR	01/26/2007	2007-4/65
R590-143	Life and Health Reinsurance Agreements	29450	5YR	01/29/2007	2007-4/65
R590-146	Medicare Supplement Insurance Standards	29822	5YR	04/16/2007	2007-9/44
R590-147	Annual and Quarterly Statement Filing Instructions	29449	5YR	01/29/2007	2007-4/66
R590-148	Long-Term Care Insurance Rule	30213	5YR	07/25/2007	2007-16/72
R590-148-25	Reporting Requirements	30006	AMD	07/30/2007	2007-12/22
R590-149	ADA Complaint Procedure Rule	30134	5YR	06/26/2007	2007-14/50
R590-150	Commissioner's Acceptance of Examination Reports	29454	5YR	01/29/2007	2007-4/66
R590-151	Records Access Rule	30243	5YR	07/25/2007	2007-16/73
R590-153-6	Permitted Advertising and Business Entertainment	30080	AMD	08/08/2007	2007-13/53
R590-157	Surplus Lines Insurance Premium Tax and Stamping Fee	29684	AMD	06/13/2007	2007-7/71
R590-173	Credit for Reinsurance	30160	5YR	06/29/2007	2007-14/51
R590-176	Health Benefit Plan Enrollment	29400	5YR	01/11/2007	2007-3/65
R590-181	Yankee Bond Rule	29407	5YR	01/11/2007	2007-3/65
R590-182	Risk Based Capital Instructions	29410	5YR	01/12/2007	2007-3/66
R590-203	Health Grievance Review Process and Disability Claims	29826	5YR	04/17/2007	2007-10/128
R590-211-1	Authority	29724	NSC	04/12/2007	Not Printed
R590-220	Submission of Accident and Health Insurance Filings	28767	CPR	01/22/2007	2006-24/44
R590-220	Submission of Accident and Health Insurance Filings	28767	AMD	01/22/2007	2006-12/27
R590-220	Submission of Accident and Health Insurance Filings	28767	CPR	01/22/2007	2006-16/30
R590-220	Submission of Accident and Health Insurance Filings	29947	AMD	07/12/2007	2007-11/51
R590-225	Submission of Property and Casualty Rate and Form Filings	29949	AMD	07/12/2007	2007-11/58
R590-225-6	Filing Submission Requirements	29290	AMD	01/22/2007	2006-24/32
R590-226	Submission of Life Insurance Filings	29969	AMD	07/30/2007	2007-12/23
R590-227	Submission of Annuity Filings	29951	AMD	07/12/2007	2007-11/65
R590-228	Submission of Credit Life and Credit Accident and Health Insurance Form and Rate Filings	29971	AMD	07/30/2007	2007-12/30
R590-233-4	Prohibited Policy Provisions	29999	AMD	07/30/2007	2007-12/35
R590-235-3	Definitions	29858	NSC	05/14/2007	Not Printed
R590-236	HIPAA Eligibility Following Receipt of a Certificate of Insurability or Denial by an Individual Carrier	29430	AMD	04/09/2007	2007-4/30
R590-238	Captive Insurance Companies	29458	CPR	05/25/2007	2007-8/115
R590-238	Captive Insurance Companies	29458	NEW	05/25/2007	2007-4/32
R590-239	Exemption of Student Health Centers From Insurance Code	29419	NEW	04/09/2007	2007-3/13
R590-240	Exemption of Student Health Programs From Insurance Code	29420	NEW	06/08/2007	2007-3/15
R590-240	Exemption of Student Health Programs From Insurance Code	29420	CPR	06/08/2007	2007-9/30
R590-240-5	Exemption Requirements	30102	AMD	08/08/2007	2007-13/54

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R590-241	Rule to Recognize the Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities	30082	NEW	08/08/2007	2007-13/56
<u>Title and Escrow Commission</u>					
R592-4-5	Charges	29725	NSC	04/12/2007	Not Printed
Labor Commission					
<u>Adjudication</u>					
R602-2-4	Attorney Fee	29957	AMD	07/24/2007	2007-12/40
<u>Industrial Accidents</u>					
R612-2-27	Commission Approval of Health Care Treatment Protocol	29948	AMD	07/10/2007	2007-11/71
R612-2-27	Commission Approval of Health Care Treatment Protocol	30110	NSC	07/11/2007	Not Printed
R612-4-2	Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund	29124	AMD	01/01/2007	2006-21/49
<u>Occupational Safety and Health</u>					
R614-1-4	Incorporation of Federal Standards	29282	AMD	01/23/2007	2006-24/33
R614-1-4	Incorporation of Federal Standards	29857	AMD	06/22/2007	2007-10/77
<u>Safety</u>					
R616-1	Coal Mine Rules	29733	R&R	05/23/2007	2007-8/88
R616-2-3	Safety Codes and Rules for Boilers and Pressure Vessels	29313	AMD	02/08/2007	2007-1/24
R616-2-3	Safety Codes and Rules for Boilers and Pressure Vessels	29527	AMD	04/24/2007	2007-6/26
R616-2-3	Safety Codes and Rules for Boilers and Pressure Vessels	29581	AMD	04/24/2007	2007-6/25
Money Management Council					
<u>Administration</u>					
R628-2	Investment of Funds of Public Education Foundations Established Under Section 53A-4-205 or Funds Acquired by Gift, Devise or Bequest	30177	5YR	07/10/2007	2007-15/68
R628-15	Certification as an Investment Adviser	29906	AMD	06/21/2007	2007-10/79
R628-17	Limitations on Commercial Paper and Corporate Notes	29222	NEW	01/09/2007	2006-23/68
Natural Resources					
<u>Oil, Gas and Mining; Administration</u>					
R642-100	Records of the Division and Board of Oil, Gas and Mining	29596	5YR	03/07/2007	2007-7/170
<u>Oil, Gas and Mining; Abandoned Mine Reclamation</u>					
R643-870	Abandoned Mine Reclamation Regulation Definitions	29597	5YR	03/07/2007	2007-7/170
R643-872	Abandoned Mine Reclamation Fund	29598	5YR	03/07/2007	2007-7/171
R643-874	General Reclamation Requirements	29599	5YR	03/07/2007	2007-7/171
R643-875	Noncoal Reclamation	29600	5YR	03/07/2007	2007-7/172
R643-877	Rights of Entry	29601	5YR	03/07/2007	2007-7/172
R643-879	Acquisition, Management, and Disposition of Lands and Water	29602	5YR	03/07/2007	2007-7/173
R643-882	Reclamation on Private Land	29603	5YR	03/07/2007	2007-7/173
R643-884	State Reclamation Plan	29604	5YR	03/07/2007	2007-7/174
R643-886	State Reclamation Grants	29605	5YR	03/07/2007	2007-7/174

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Oil, Gas and Mining: Coal</u>					
R645-100	Administrative: Introduction	29606	5YR	03/07/2007	2007-7/175
R645-103	Areas Unsuitable for Coal Mining and Reclamation Operations	29607	5YR	03/07/2007	2007-7/175
R645-200	Coal Exploration: Introduction	29608	5YR	03/07/2007	2007-7/176
R645-201	Coal Exploration: Requirements for Exploration Approval	29609	5YR	03/07/2007	2007-7/176
R645-202	Coal Exploration: Compliance Duties	29610	5YR	03/07/2007	2007-7/177
R645-203	Coal Exploration: Public Availability of Information	29611	5YR	03/07/2007	2007-7/177
R645-300	Coal Mine Permitting: Administrative Procedures	29612	5YR	03/07/2007	2007-7/178
R645-301	Coal Mine Permitting: Permit Application Requirements	29613	5YR	03/07/2007	2007-7/178
R645-302	Coal Mine Permitting: Special Categories and Areas of Mining	29614	5YR	03/07/2007	2007-7/179
R645-303	Coal Mine Permitting: Change, Renewal, and Transfer, Assignment, or Sale of Permit Rights	29615	5YR	03/07/2007	2007-7/179
R645-402	Inspection and Enforcement: Individual Civil Penalties	29616	5YR	03/07/2007	2007-7/180
<u>Oil, Gas and Mining: Oil and Gas</u>					
R649-1	Oil and Gas General Rules	29617	5YR	03/07/2007	2007-7/180
R649-2	General Rules	29618	5YR	03/07/2007	2007-7/181
R649-3	Drilling and Operating Practices	29619	5YR	03/07/2007	2007-7/181
R649-5	Underground Injection Control of Recovery Operations and Class II Injection Wells	29620	5YR	03/07/2007	2007-7/182
R649-8	Reporting and Report Forms	29621	5YR	03/07/2007	2007-7/182
R649-9	Waste Management and Disposal	29622	5YR	03/07/2007	2007-7/183
<u>Parks and Recreation</u>					
R651-102	Government Records Access Management Act	30245	5YR	07/26/2007	2007-16/73
R651-201	Definitions	30025	AMD	08/07/2007	2007-13/69
R651-205-16	Huntington Reservoir	29806	AMD	07/09/2007	2007-9/26
R651-206	Carrying Passengers for Hire	30026	AMD	08/07/2007	2007-13/70
R651-207-1	Yearly Registration Fee	29913	AMD	07/09/2007	2007-11/72
R651-215	Personal Flotation Devices	30027	AMD	08/07/2007	2007-13/79
R651-217	Fire Extinguishers	30028	AMD	08/07/2007	2007-13/81
R651-219-5	Equipment Good and Serviceable	30029	AMD	08/07/2007	2007-13/82
R651-221-1	Boat Livery Agreements	30030	AMD	08/07/2007	2007-13/82
R651-301	State Recreation Fiscal Assistance Programs	30247	5YR	07/26/2007	2007-16/74
R651-611	Fee Schedule	29914	AMD	07/09/2007	2007-11/73
R651-611-4	Special Fees	29773	AMD	05/22/2007	2007-8/90
R651-634-1	User Permits and Fees	29163	AMD	01/02/2007	2006-22/39
<u>Forestry, Fire and State Lands</u>					
R652-1	Definition of Terms	29756	5YR	04/02/2007	2007-8/130
R652-3	Applicant Qualifications and Application Forms	29758	5YR	04/02/2007	2007-8/131
R652-4	Application Fees and Assessments	29761	5YR	04/02/2007	2007-8/131
R652-5	Payments, Royalties, Audits, and Reinstatements	29757	5YR	04/02/2007	2007-8/132
R652-6	Government Records Access and Management	29766	5YR	04/02/2007	2007-8/132
R652-20	Mineral Resources	29760	5YR	04/02/2007	2007-8/133
R652-20-1600	Posting Dates/Simultaneous Filing	29468	AMD	03/26/2007	2007-4/36

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R652-30	Special Use Leases	29759	5YR	04/02/2007	2007-8/133
R652-40	Easements	29767	5YR	04/02/2007	2007-8/134
R652-50	Range Management	29764	5YR	04/02/2007	2007-8/134
R652-60	Cultural Resources	29755	5YR	04/02/2007	2007-8/135
R652-70	Sovereign Lands	29765	5YR	04/02/2007	2007-8/135
R652-90	Sovereign Land Management Planning	29763	5YR	04/02/2007	2007-8/136
R652-100	Materials Permits	29762	5YR	04/02/2007	2007-8/136
R652-122-300	Minimum Standards for Wildland Fire Training	29170	AMD	01/03/2007	2006-22/40
R652-122-300	Minimum Standards for Wildland Fire Training	29467	NSC	02/13/2007	Not Printed
R652-130	Leaf-it-to-us, Children's Crusade for Trees Administration (EXPIRED RULE)	29800	NSC	04/03/2007	Not Printed
R652-140	Utah Forest Practices Act (EXPIRED RULE)	29433	NSC	01/23/2007	Not Printed
R652-140	Utah Forest Practices Act	29461	NEW	03/26/2007	2007-4/37
<u>Water Rights</u>					
R655-1	Wells Used for the Discovery and Production of Geothermal Energy in the State of Utah	30182	5YR	07/12/2007	2007-15/69
R655-2	Procedure for Administrative Proceedings Before the Division of Water Rights Commenced Prior to January 1, 1988	30181	5YR	07/12/2007	2007-15/69
<u>Wildlife Resources</u>					
R657-2	Adjudicative Proceedings	29922	5YR	05/07/2007	2007-11/86
R657-4	Possession of Live Game Birds	29996	5YR	05/31/2007	2007-12/66
R657-5	Taking Big Game	29351	AMD	02/07/2007	2007-1/25
R657-5	Taking Big Game	29923	AMD	07/09/2007	2007-11/75
R657-5	Taking Big Game	30063	AMD	08/07/2007	2007-13/84
R657-5-43	General Archery Elk Hunt	29502	AMD	04/09/2007	2007-5/17
R657-6	Taking Upland Game	30064	AMD	08/07/2007	2007-13/86
R657-9	Taking Waterfowl, Common Snipe and Coot	30065	AMD	08/07/2007	2007-13/88
R657-10	Taking Cougar	30066	AMD	08/07/2007	2007-13/90
R657-12	Hunting and Fishing Accommodations for Disabled People	29637	AMD	05/08/2007	2007-7/73
R657-13	Taking Fish and Crayfish	30067	AMD	08/07/2007	2007-13/93
R657-14	Commercial Harvesting of Protected Aquatic Wildlife	30173	5YR	07/09/2007	2007-15/70
R657-17	Lifetime Hunting and Fishing License	30068	AMD	08/07/2007	2007-13/95
R657-17-3	Lifetime License Entitlement	29328	AMD	02/07/2007	2007-1/34
R657-18	Wood Products on Division of Wildlife Resources Lands	30083	REP	08/07/2007	2007-13/97
R657-20	Falconry	29398	5YR	01/10/2007	2007-3/66
R657-20	Falconry	29401	AMD	03/12/2007	2007-3/19
R657-22	Commercial Hunting Areas	29921	5YR	05/07/2007	2007-11/87
R657-22-3	Application for a Certificate of Registration	29635	AMD	05/08/2007	2007-7/75
R657-26	Adjudicative Proceedings for a License, Permit, or Certificate of Registration	30077	AMD	08/07/2007	2007-13/98
R657-27	License Agent Procedures	29794	5YR	04/04/2007	2007-9/45
R657-27	License Agent Procedures	29636	AMD	05/08/2007	2007-7/76
R657-28	Use of Division Lands - Rights-of-Way, Leases, and Special Use Permits	30084	AMD	08/07/2007	2007-13/101
R657-29	Government Records Access Management Act	29916	5YR	05/03/2007	2007-11/87
R657-30	Fishing License for the Terminally Ill	29920	5YR	05/07/2007	2007-11/88
R657-33	Taking Bear	29402	AMD	03/12/2007	2007-3/24

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R657-33	Taking Bear	30069	AMD	08/07/2007	2007-13/111
R657-38	Dedicated Hunter Program	29329	AMD	02/07/2007	2007-1/35
R657-38	Dedicated Hunter Program	30070	AMD	08/07/2007	2007-13/113
R657-41	Conservation and Sportsman Permits	30071	AMD	08/07/2007	2007-13/117
R657-41-2	Definitions	29201	AMD	01/09/2007	2006-23/69
R657-42	Fees, Exchanges, Surrenders, Refunds and Reallocation of Wildlife Documents	29330	AMD	02/07/2007	2007-1/37
R657-42	Fees, Exchanges, Surrenders, Refunds and Reallocation of Wildlife Documents	30076	AMD	08/07/2007	2007-13/118
R657-43	Landowner Permits	29639	5YR	03/13/2007	2007-7/183
R657-43	Landowner Permits (5YR EXTENSION)	29580	NSC	03/13/2007	Not Printed
R657-43	Landowner Permits	29704	NSC	04/12/2007	Not Printed
R657-43	Landowner Permits	30072	AMD	08/07/2007	2007-13/120
R657-44	Big Game Depredation	30109	5YR	06/20/2007	2007-14/51
R657-44	Big Game Depredation	30073	AMD	08/07/2007	2007-13/122
R657-44-6	Damage to Livestock Forage on Private Land	29638	AMD	05/08/2007	2007-7/79
R657-49	Big Game Conservation Easements on Former School Trust Lands (5YR EXTENSION)	29165	NSC	02/07/2007	Not Printed
R657-49	Big Game Conservation Easements on Former School Trust Lands	29349	REP	02/07/2007	2007-1/39
R657-50	Error Remedy	29795	5YR	04/04/2007	2007-9/45
R657-50	Error Remedy	29703	NSC	04/12/2007	Not Printed
R657-51	Youth Permits (5YR EXTENSION)	29536	NSC	04/23/2007	Not Printed
R657-51	Youth Permits	29530	REP	04/23/2007	2007-6/27
R657-53	Amphibian and Reptile Collection, Importation, Transportation, and Possession	29751	AMD	05/22/2007	2007-8/92
R657-54	Taking Wild Turkey	30074	AMD	08/07/2007	2007-13/125
R657-55	Wildlife Convention Permits	30075	AMD	08/07/2007	2007-13/128
R657-56	Recreational Lease of Private Lands for Free Public Walk-in Access	30078	AMD	08/07/2007	2007-13/130

Pardons (Board Of)

Administration

R671-101	Rules	30215	5YR	07/25/2007	2007-16/74
R671-102	Americans with Disabilities Act complaint Procedure Rule	30214	5YR	07/25/2007	2007-16/75
R671-201	Original Parole Grant Hearing Schedule and Notice	30216	5YR	07/25/2007	2007-16/75
R671-202	Notification of Hearings	30217	5YR	07/25/2007	2007-16/76
R671-203	Victim Input and Notification	30218	5YR	07/25/2007	2007-16/76
R671-205	Credit for Time Served	30219	5YR	07/25/2007	2007-16/77
R671-206	Competency of Offenders	30221	5YR	07/25/2007	2007-16/77
R671-207	Mentally Ill and Deteriorated Offender Custody Transfer	30222	5YR	07/25/2007	2007-16/77
R671-301	Personal Appearance	30223	5YR	07/25/2007	2007-16/78
R671-302	News Media and Public Access to Hearings	30224	5YR	07/25/2007	2007-16/78
R671-303	Offender Access to Information	30225	5YR	07/25/2007	2007-16/79
R671-304	Hearing Record	30226	5YR	07/25/2007	2007-16/79
R671-305	Notification of Board Decision	30227	5YR	07/25/2007	2007-16/80
R671-308	Offender Hearing Assistance	30229	5YR	07/25/2007	2007-16/80
R671-309	Impartial Hearings	30230	5YR	07/25/2007	2007-16/81
R671-310	Rescission Hearings	30232	5YR	07/25/2007	2007-16/81

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R671-311	Special Attention Hearings and Reviews	30231	5YR	07/25/2007	2007-16/82
R671-315	Pardons	30233	5YR	07/25/2007	2007-16/82
R671-316	Redetermination	30234	5YR	07/25/2007	2007-16/82
R671-402	Special Conditions of Parole	30235	5YR	07/25/2007	2007-16/83
R671-405	Parole Termination	30236	5YR	07/25/2007	2007-16/83
Public Education Job Enhancement Program					
<u>Job Enhancement Committee</u>					
R690-100	Public Education Job Enhancement Program Participant Eligibility and Requirements	30099	AMD	08/07/2007	2007-13/132
Public Safety					
<u>Administration</u>					
R698-1	Public Petitions for Declaratory Orders	29384	5YR	01/02/2007	2007-2/118
R698-2	Government Records Access and Management Act Rule	29385	5YR	01/02/2007	2007-2/118
R698-3	Americans With Disabilities Act (ADA) Complaint Procedure	29386	5YR	01/02/2007	2007-2/119
R698-100	Possession of Firearms, Ammunition, Dangerous Weapons, Explosives, Chemical and Incendiary Devices in Olympic Venue Secure Areas (5YR EXTENSION)	29331	NSC	04/02/2007	Not Printed
R698-100	Possession of Firearms, Ammunition, Dangerous Weapons, Explosives, Chemical and Incendiary Devices in Olympic Venue Secure Areas	29787	5YR	04/02/2007	2007-8/136
R698-100	Possession of Firearms, Ammunition, Dangerous Weapons, Explosives, Chemical and Incendiary Devices in Olympic venue Secure Areas	29728	REP	05/23/2007	2007-8/109
<u>Driver License</u>					
R708-2	Commercial Driver Training Schools	29593	5YR	03/02/2007	2007-7/184
R708-3	Driver License Point System Administration	29590	5YR	03/02/2007	2007-7/184
R708-7	Functional Ability in Driving: Guidelines for Physicians	29633	5YR	03/13/2007	2007-7/184
R708-7-10	Use of the Functional Ability Profile	29582	AMD	04/23/2007	2007-6/29
R708-8	Review Process: Driver License Medical Section	29723	5YR	03/23/2007	2007-8/137
R708-14	Adjudicative Proceedings For Driver License Actions Involving Alcohol and Drugs	29591	5YR	03/02/2007	2007-7/185
R708-21	Third-Party Testing	29727	5YR	03/23/2007	2007-8/137
R708-25	Commercial Driver License Applicant Fitness Certification	29734	5YR	03/26/2007	2007-8/138
R708-25	Commercial Driver License Applicant Fitness Certification	29741	NSC	04/12/2007	Not Printed
R708-27	Certification of Driver Education Teachers in the Public Schools to Administer Knowledge and Driving Skills Tests	29729	5YR	03/23/2007	2007-8/139
R708-34	Medical Waivers for Intrastate Commercial Driving Privileges	29589	5YR	03/02/2007	2007-7/185
R708-35	Adjudicative Proceedings For Driver License Offenses Not Involving Alcohol or Drug Actions	29592	5YR	03/02/2007	2007-7/186
R708-43	YES or NO Notification	29805	AMD	06/08/2007	2007-9/27
<u>Fire Marshal</u>					
R710-1	Concerns Servicing Portable Fire Extinguishers	29677	AMD	05/08/2007	2007-7/80
R710-1	Concerns Servicing Portable Fire Extinguishers	29981	5YR	05/30/2007	2007-12/67
R710-2	Rules Pursuant to the Utah Fireworks Act	29422	AMD	03/12/2007	2007-3/27

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R710-2	Rules Pursuant to the Utah Fireworks Act	30031	5YR	06/04/2007	2007-13/155
R710-2-7	Importer, Wholesaler, Display or Special Effects Operator Licenses	29679	NSC	03/29/2007	Not Printed
R710-3	Assisted Living Facilities	29235	AMD	01/09/2007	2006-23/70
R710-3	Assisted Living Facilities	30034	5YR	06/04/2007	2007-13/155
R710-4	Buildings Under the Jurisdiction of the State Fire Prevention Board	29233	AMD	01/09/2007	2006-23/72
R710-4	Buildings Under the Jurisdiction of the State Fire Prevention Board	30043	5YR	06/08/2007	2007-13/156
R710-4-3	Amendments and Additions	29683	AMD	05/08/2007	2007-7/82
R710-6	Liquefied Petroleum Gas Rules	29423	AMD	03/12/2007	2007-3/29
R710-7	Concerns Servicing Automatic Fire Suppression Systems	30007	5YR	05/31/2007	2007-12/67
R710-8	Day Care Rules	29234	AMD	01/09/2007	2006-23/76
R710-8	Day Care Rules	29706	5YR	03/16/2007	2007-8/139
R710-9	Rules Pursuant to the Utah Fire Prevention Law	29232	AMD	01/09/2007	2006-23/78
R710-9	Rules Pursuant to the Utah Fire Prevention Law	29421	AMD	03/12/2007	2007-3/32
R710-9	Rules Pursuant to the Utah Fire Prevention Law	29702	AMD	05/08/2007	2007-7/83
R710-9	Rules Pursuant to the Utah Fire Prevention Law	30044	5YR	06/08/2007	2007-13/156
R710-11	Fire Alarm System Inspecting and Testing	29701	AMD	05/08/2007	2007-7/88
<u>Peace Officer Standards and Training</u>					
R728-101	Public Petitions For Declaratory Rulings	29551	5YR	02/26/2007	2007-6/40
R728-205-1	Authority	29196	AMD	01/20/2007	2006-23/83
R728-205-1	Authority	29374	NSC	01/20/2007	Not Printed
R728-401	Requirements For Approval and Certification of Peace Officer Basic Training Programs and Applicants	29548	5YR	02/26/2007	2007-6/67
R728-401	Requirements For Approval and Certification of Peace Officer Basic Training Programs and Applicants	29552	5YR	02/26/2007	2007-6/41
R728-401-3	Procedures for Course Validation	29147	AMD	01/20/2007	2006-22/45
R728-402	Application Procedures to Attend a Basic Peace Officer Training Program	29176	AMD	01/20/2007	2006-22/47
R728-402	Application Procedures to Attend a Basic Peace Officer Training Program	29553	5YR	02/26/2007	2007-6/41
R728-403	Qualifications For Admission To Certified Peace Officer Training Academies	29557	5YR	02/26/2007	2007-6/42
R728-404	Basic Training Basic Academy Rules	29558	5YR	02/26/2007	2007-6/42
R728-405	Drug Testing Requirement	29559	5YR	02/26/2007	2007-6/43
R728-406	Requirements For Approval and Certification of Basic Correctional, Reserve and Special Function Training Programs and Applicants	29560	5YR	02/26/2007	2007-6/43
R728-407	Waiver/Reactivation Process	29561	5YR	02/26/2007	2007-6/44
R728-409	Refusal, Suspension, or Revocation of Peace Officer Certification	29562	5YR	02/27/2007	2007-6/44
R728-410	Guidelines Regarding Failure To Obtain Annual Statutory Training	29563	5YR	02/27/2007	2007-6/45
R728-411	Guidelines Regarding Administrative Action Taken Against Individuals Functioning As Peace Officers Without Peace Officer Certification Or Powers	30211	5YR	07/23/2007	2007-16/84
R728-411	Guidelines Regarding Administrative Action Taken Against Individuals Functioning As Peace Officers Without Peace Officer Certification Or Powers	30196	NSC	07/30/2007	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R728-500	Utah Peace Officer Standards and Training In-Service Training Certification Procedures	29565	5YR	02/27/2007	2007-6/45
Public Service Commission					
<u>Administration</u>					
R746-348	Interconnection	29428	5YR	01/22/2007	2007-4/67
R746-349	Competitive Entry and Reporting Requirements	29626	5YR	03/08/2007	2007-7/186
R746-351	Pricing Flexibility	29627	5YR	03/09/2007	2007-7/187
R746-400	Public Utility Reports	30107	5YR	06/19/2007	2007-14/52
R746-409	Pipeline Safety	29438	AMD	03/27/2007	2007-4/38
R746-420	Requests for Approval of a Solicitation Process	29376	NEW	05/17/2007	2007-2/102
R746-420	Requests for Approval of a Solicitation Process	29376	CPR	05/17/2007	2007-7/138
R746-430	Procedural and Informational Requirements for Review of Utility's Action Plan	29377	NEW	05/17/2007	2007-2/109
R746-430	Procedural and Informational Requirements for Review of Utility's Action Plan	29377	CPR	05/17/2007	2007-7/145
R746-440	Significant Energy Resource Solicitation	29378	NEW	03/19/2007	2007-2/111
Regents (Board Of)					
<u>College of Eastern Utah</u>					
R767-1	Government Records Access and Management Act	30108	5YR	06/19/2007	2007-14/52
<u>University of Utah, Parking and Transportation Services</u>					
R810-2	Parking Meters	29532	5YR	02/21/2007	2007-6/46
R810-5	Permit Types, Eligibility, and Designated Parking Areas	29539	5YR	02/22/2007	2007-6/46
R810-6	Permit Prices and Refunds	29537	5YR	02/21/2007	2007-6/47
R810-9	Contractors and Their Employees	29540	5YR	02/22/2007	2007-6/47
R810-10	Enforcement System	29541	5YR	02/22/2007	2007-6/47
R810-11	Appeals System	29542	5YR	02/22/2007	2007-6/48
School and Institutional Trust Lands					
<u>Administration</u>					
R850-1	Definition of Terms	30147	5YR	06/27/2007	2007-14/53
R850-2	Trust Land Management Objectives	30145	5YR	06/27/2007	2007-14/53
R850-3	Applicant Qualifications, Application Forms, and Application Processing	30146	5YR	06/27/2007	2007-14/54
R850-4	Application Fees and Assessments	30149	5YR	06/27/2007	2007-14/54
R850-5	Payments, Royalties, Audits, and Reinstatements	29904	AMD	06/21/2007	2007-10/81
R850-5	Payments, Royalties, Audits, and Reinstatements	30144	5YR	06/27/2007	2007-14/55
R850-6	Government Records Access and Management	30148	5YR	06/27/2007	2007-14/55
R850-11	Procurement	29859	5YR	04/24/2007	2007-10/129
R850-30	Special Use Leases	30150	5YR	06/27/2007	2007-14/56
R850-40	Easements	30151	5YR	06/27/2007	2007-14/56
R850-50	Range Management	30152	5YR	06/27/2007	2007-14/57
R850-60	Cultural Resources	30153	5YR	06/27/2007	2007-14/57
R850-80	Sale of Trust Lands	30154	5YR	06/27/2007	2007-14/58
R850-90	Land Exchanges	29408	5YR	01/12/2007	2007-3/66
R850-120	Beneficiary Use of Institutional Trust Lands.	29409	5YR	01/12/2007	2007-3/67

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Science Technology and Research Governing Auth.					
<u>Administration</u>					
R856-1	Formation and Funding of Utah Science Technology and Research Innovation Teams	29298	NEW	04/04/2007	2006-24/35
R856-1-6	Ongoing Funding for Utah Science Technology and Research Innovation Team	29375	AMD	04/04/2007	2007-2/113
R856-2	Distribution of Utah Science Technology and Research Commercialization Revenues	29299	NEW	04/04/2007	2006-24/37
Tax Commission					
<u>Administration</u>					
R861-1A	Administrative Procedures	29713	5YR	03/20/2007	2007-8/139
R861-1A-19	Definition of Bond Pursuant to Utah Code Ann. Section 59-1-505	29324	AMD	02/12/2007	2007-1/41
R861-1A-41	Date of Assessment Pursuant to Ann. Sections 59-1-302.1 and 59-1-706	29941	AMD	07/16/2007	2007-11/76
<u>Auditing</u>					
R865-3C	Corporation Income Tax	29714	5YR	03/21/2007	2007-8/142
R865-4D	Special Fuel Tax	29556	5YR	02/26/2007	2007-6/48
R865-6F	Franchise Tax	29624	5YR	03/08/2007	2007-7/187
R865-6F-30	Higher Education Savings Incentive Program Tax Deduction Pursuant to Utah Code Ann. Sections 53B-8a-112, 59-7-105, and 59-7-106	29323	AMD	02/12/2007	2007-1/41
R865-6F-37	Disclosure of Reportable Transactions and Material adviser List Pursuant to Utah Code Ann. Sections 59-1-1301 through 59-1-1309	29437	AMD	04/16/2007	2007-4/40
R865-9I	Income Tax	29712	5YR	03/20/2007	2007-8/142
R865-9I-32	Confidentiality of Return Information, Penalties, and Exchange of Information With the Internal Revenue Service or Governmental Units Pursuant to Utah Code Ann. Section 59-10-545	29320	AMD	02/12/2007	2007-1/42
R865-9I-42	Order of Credits Applied Against Utah Individual Income Tax Due Pursuant to Utah Code Ann. Sections 9-2-413, 59-6-102, 59-13-202, and Title 59, Chapter 10	29786	NSC	04/12/2007	Not Printed
R865-9I-49	Higher Education Savings Incentive Program Tax Deduction Pursuant to Utah Code Ann. Sections 53B-8a-112 and 59-10-114	29315	AMD	02/12/2007	2007-1/43
R865-9I-52	Subtractions For Health Care Insurance and For Premiums for Long-term Care Insurance Pursuant to Utah Code Ann. Section 59-10-114	29314	AMD	02/12/2007	2007-1/44
R865-9I-53	Disclosure of Reportable Transactions and Material adviser List Pursuant to Utah Code Ann. Sections 59-1-1301 through 59-1-1309	29436	AMD	04/16/2007	2007-4/41
R865-11Q	Sales and Use Tax	29644	5YR	03/14/2007	2007-7/189
R865-12L	Local Sales and Use Tax	29705	5YR	03/16/2007	2007-8/144
R865-13G	Motor Fuel Tax	29628	5YR	03/09/2007	2007-7/190
R865-14W	Mineral Producers' Withholding Tax	29707	5YR	03/19/2007	2007-8/146
R865-15O	Oil and Gas Tax	29708	5YR	03/19/2007	2007-8/146
R865-19S	Sales and Use Tax	29641	5YR	03/13/2007	2007-7/191
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	29942	AMD	07/16/2007	2007-11/78
R865-20T	Tobacco Tax	29709	5YR	03/19/2007	2007-8/147
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	29943	AMD	07/16/2007	2007-11/79

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R865-20T-6	Purchase of Cigarette Stamps Pursuant to Utah Code Ann. Section 59-14-206	29929	NSC	05/31/2007	Not Printed
R865-20T-12	Definition of Counterfeit Tax Stamp Pursuant to Utah Code Ann. Section 59-14-102	29325	AMD	02/12/2007	2007-1/45
R865-20T-12	Definition of Counterfeit Tax Stamp Pursuant to Utah Code Ann. Section 59-14-102	29643	NSC	03/29/2007	Not Printed
R865-25X	Brine Shrimp Royalty	29715	5YR	03/21/2007	2007-8/148
<u>Motor Vehicle</u>					
R873-22M	Motor Vehicle	29631	5YR	03/12/2007	2007-7/194
<u>Motor Vehicle Enforcement</u>					
R877-23V	Motor Vehicle Enforcement	29651	5YR	03/14/2007	2007-7/196
R877-23V-4	License Holder Prohibitions Pursuant to Utah Code Ann. Section 41-3-210	29940	AMD	07/16/2007	2007-11/80
R877-23V-8	Signs and Identification Pursuant to Utah Code Ann. Section 41-3-105	29938	AMD	07/16/2007	2007-11/81
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	29930	AMD	07/16/2007	2007-11/82
<u>Property Tax</u>					
R884-24P	Property Tax	29630	5YR	03/12/2007	2007-7/197
R884-24P-19	Appraiser Designation Program Pursuant to Utah Code Ann. Sections 59-2-701 and 59-2-702	29223	AMD	01/12/2007	2006-23/83
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	29928	AMD	07/16/2007	2007-11/83
Technology Services					
<u>Administration</u>					
R895-3	Computer Software Licensing, Copyright, Control, Retention, and Transfer	29978	5YR	05/29/2007	2007-12/68
Transportation					
<u>Administration</u>					
R907-66	Administration, Architecture/Engineering Services Procurement, Consultant Services -- Eligibility of Costs for Reimbursement -- Bonuses or Incentive Compensation	29182	AMD	01/03/2007	2006-22/50
<u>Motor Carrier</u>					
R909-1-1	Adoption of Federal Regulations	29338	AMD	02/08/2007	2007-1/45
R909-19	Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation, and Certification	29341	AMD	02/08/2007	2007-1/46
R909-75	Adoption of Federal Regulations	29339	AMD	02/08/2007	2007-1/49
<u>Motor Carrier, Ports of Entry</u>					
R912-9	Pilot/Escort Requirements and Certification Program	30009	AMD	07/27/2007	2007-12/42
R912-76	Single Tire Configuration	29426	5YR	01/19/2007	2007-4/68
<u>Operations, Construction</u>					
R916-1	Advertising and Awarding Construction Contracts	29183	AMD	01/03/2007	2006-22/52
R916-2-3	Prequalification Policy	29184	AMD	01/03/2007	2006-22/53
<u>Operations, Maintenance</u>					
R918-2	Widening Pavement to Curb and Gutter	29456	REP	06/06/2007	2007-4/42
R918-3	Snow Removal	30296	5YR	08/09/2007	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Operations, Traffic and Safety</u>					
R920-50-1	Utah Ropeway Rules for Passenger Ropeways	29340	AMD	02/13/2007	2007-1/50
<u>Program Development</u>					
R926-4	Establishing and Defining a Functional Classification of Highways in the State of Utah	29455	NEW	03/26/2007	2007-4/43
R926-6	Transportation Corridor Preservation Revolving Loan Fund	29358	AMD	02/22/2007	2007-2/114
Workforce Services					
<u>Administration</u>					
R982-101	Americans with Disabilities Complaint Procedure	30136	5YR	06/26/2007	2007-14/58
R982-201	Government Records Access and Management Act	30138	5YR	06/26/2007	2007-14/59
R982-301	Councils	30139	5YR	06/26/2007	2007-14/59
R982-601	Provider Code of Conduct	30140	5YR	06/26/2007	2007-14/60
<u>Employment Development</u>					
R986-100-114a	Determining When a Document is Considered Received by the Department	29700	AMD	06/14/2007	2007-7/89
R986-200	Family Employment Program	29587	AMD	05/01/2007	2007-6/30
R986-200	Family Employment Program	29853	AMD	07/01/2007	2007-10/83
R986-200-215	Family Employment Program Two Parent Household (FEPTP)	29414	AMD	03/15/2007	2007-3/36
R986-200-217	Time Limits	30105	NSC	06/29/2007	Not Printed
R986-200-231	Assets That Are Not Counted (Exempt) for Eligibility Purposes	29974	AMD	07/31/2007	2007-12/45
R986-200-246	Transitional Cash Assistance	29300	AMD	02/01/2007	2006-24/38
R986-400	General Assistance and Working Toward Employment	29854	AMD	07/01/2007	2007-10/85
R986-400	General Assistance and Working Toward Employment	29976	AMD	07/31/2007	2007-12/46
R986-500-504	AA Financial Assistance Eligibility and Amount	29975	AMD	07/31/2007	2007-12/47
R986-700	Child Care Assistance	29301	AMD	02/01/2007	2006-24/39
R986-700	Child Care Assistance	29491	AMD	04/01/2007	2007-4/44
R986-700	Child Care Assistance	29852	AMD	07/01/2007	2007-10/87
R986-700-709	Employment Support (ES) CC	29973	AMD	07/31/2007	2007-12/48
R986-900-902	Options and Waivers	29588	AMD	05/01/2007	2007-6/34
<u>Unemployment Insurance</u>					
R994-102	Employment Security Act, Public Policy and Authority	29954	5YR	05/16/2007	2007-12/68
R994-106	Combined Wage Claims	29955	5YR	05/17/2007	2007-12/69
R994-202	Employing Units	29678	R&R	07/01/2007	2007-7/90
R994-204	Included Employment	29680	R&R	07/01/2007	2007-7/96
R994-205	Exempt Employment	29681	R&R	07/01/2007	2007-7/103
R994-206	Agricultural Labor	29682	R&R	07/01/2007	2007-7/107
R994-208	Definition of Wages	29685	R&R	07/01/2007	2007-7/111
R994-302	Payment by Employer	29686	R&R	07/01/2007	2007-7/115
R994-303	Contribution Rates and Relief of Charges	29956	5YR	05/17/2007	2007-12/69
R994-303	Contribution Rates and Relief of Charges	29687	R&R	07/01/2007	2007-7/118
R994-305	Collection of Contributions	29688	R&R	07/01/2007	2007-7/122
R994-306-202	Relief of Charges Decisions	29743	NSC	04/12/2007	Not Printed
R994-308	Bond or Security Requirement	29689	R&R	07/01/2007	2007-7/125

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R994-309	Nonprofit Organizations	29697	AMD	07/01/2007	2007-7/127
R994-310	Coverage	29695	R&R	07/01/2007	2007-7/128
R994-311	Governmental Units and Indian Tribes	29698	AMD	07/01/2007	2007-7/130
R994-312	Employing Unit Records - Confidential	29699	AMD	07/01/2007	2007-7/132
R994-315-103	Reporting Formats	30106	AMD	08/08/2007	2007-13/134
R994-401	Payment of Benefits	29959	5YR	05/17/2007	2007-12/70
R994-402	Extended Benefits	29958	5YR	05/17/2007	2007-12/70
R994-403	Claim for Benefits	30141	5YR	06/26/2007	2007-14/60
R994-404	Payments Following Workers' Compensation	29962	5YR	05/22/2007	2007-12/71
R994-405	Ineligibility for Benefits	30142	5YR	06/26/2007	2007-14/61
R994-405	Ineligibility for Benefits	29855	AMD	08/08/2007	2007-10/88
R994-405-3	Professional Employment Organizations (PEO)	30104	AMD	08/08/2007	2007-13/135
R994-406	Fraud, Fault and Nonfault Overpayments	29963	5YR	05/22/2007	2007-12/71

RULES INDEX - BY KEYWORD (SUBJECT)

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

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>access</u>					
Environmental Quality, Drinking Water	29782	R309-545	5YR	04/02/2007	2007-8/126
<u>access to information</u>					
Administrative Services, Administration	29771	R13-2	5YR	04/02/2007	2007-8/119
	29772	R13-2	AMD	05/22/2007	2007-8/3
<u>accountants</u>					
Commerce, Occupational and Professional Licensing	29473	R156-26a	5YR	02/01/2007	2007-4/56
<u>accreditation</u>					
Education, Administration	30087	R277-413	AMD	08/07/2007	2007-13/12
	29477	R277-505	AMD	03/27/2007	2007-4/13
	29737	R277-505-5	NSC	04/12/2007	Not Printed
<u>acid rain</u>					
Environmental Quality, Air Quality	30192	R307-417	5YR	07/13/2007	2007-15/67
<u>action plan</u>					
Public Service Commission, Administration	29377	R746-430	CPR	05/17/2007	2007-7/145
	29377	R746-430	NEW	05/17/2007	2007-2/109

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>acupuncture</u>					
Commerce, Occupational and Professional Licensing	29395	R156-72	5YR	01/09/2007	2007-3/57
	29735	R156-72-302c	NSC	04/12/2007	Not Printed
<u>adjudicative procedures</u>					
Commerce, Securities	30265	R164-18	5YR	07/30/2007	2007-16/63
Community and Culture, Library	30079	R223-1	5YR	06/13/2007	2007-13/143
<u>adjudicative proceedings</u>					
Administrative Services, Facilities Construction and Management	29474	R23-25	AMD	04/11/2007	2007-4/2
Community and Culture, History	30201	R212-1	5YR	07/17/2007	2007-16/64
Public Safety, Driver License	29591	R708-14	5YR	03/02/2007	2007-7/185
	29592	R708-35	5YR	03/02/2007	2007-7/186
<u>administration procedures</u>					
Environmental Quality, Drinking Water	29362	R309-300-13	NSC	03/06/2007	Not Printed
<u>administrative law</u>					
Administrative Services, Administrative Rules	29554	R15-3-5	AMD	04/30/2007	2007-6/5
	30111	R15-4-10	EMR	07/01/2007	2007-14/38
Administrative Services, Facilities Construction and Management	29474	R23-25	AMD	04/11/2007	2007-4/2
<u>administrative procedures</u>					
Commerce, Consumer Protection	30118	R152-6	5YR	06/22/2007	2007-14/42
Community and Culture, History	30201	R212-1	5YR	07/17/2007	2007-16/64
Community and Culture, Library	30079	R223-1	5YR	06/13/2007	2007-13/143
Environmental Quality, Drinking Water	29361	R309-115-2	NSC	03/06/2007	Not Printed
	29363	R309-150	AMD	03/06/2007	2007-2/31
	29360	R309-405-4	NSC	03/06/2007	Not Printed
Human Resource Management, Administration	29884	R477-3	AMD	07/01/2007	2007-10/49
	30058	R477-3	5YR	06/09/2007	2007-13/146
	30053	R477-12	5YR	06/09/2007	2007-13/152
	29892	R477-12	AMD	07/01/2007	2007-10/72
	30054	R477-15	5YR	06/09/2007	2007-13/153
	29895	R477-15	NSC	05/11/2007	Not Printed
Labor Commission, Adjudication	29957	R602-2-4	AMD	07/24/2007	2007-12/40
Natural Resources, Forestry, Fire and State Lands	29756	R652-1	5YR	04/02/2007	2007-8/130
	29758	R652-3	5YR	04/02/2007	2007-8/131
	29761	R652-4	5YR	04/02/2007	2007-8/131
	29757	R652-5	5YR	04/02/2007	2007-8/132
	29760	R652-20	5YR	04/02/2007	2007-8/133
	29468	R652-20-1600	AMD	03/26/2007	2007-4/36
	29759	R652-30	5YR	04/02/2007	2007-8/133
	29767	R652-40	5YR	04/02/2007	2007-8/134
	29764	R652-50	5YR	04/02/2007	2007-8/134
	29765	R652-70	5YR	04/02/2007	2007-8/135

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	29762	R652-100	5YR	04/02/2007	2007-8/136
	29800	R652-130	NSC	04/03/2007	Not Printed
Natural Resources, Wildlife Resources	29922	R657-2	5YR	05/07/2007	2007-11/86
Public Safety, Administration	29384	R698-1	5YR	01/02/2007	2007-2/118
Public Safety, Driver License	29633	R708-7	5YR	03/13/2007	2007-7/184
	29582	R708-7-10	AMD	04/23/2007	2007-6/29
	29723	R708-8	5YR	03/23/2007	2007-8/137
School and Institutional Trust Lands, Administration	30147	R850-1	5YR	06/27/2007	2007-14/53
	30146	R850-3	5YR	06/27/2007	2007-14/54
	30149	R850-4	5YR	06/27/2007	2007-14/54
	30144	R850-5	5YR	06/27/2007	2007-14/55
	29904	R850-5	AMD	06/21/2007	2007-10/81
	30150	R850-30	5YR	06/27/2007	2007-14/56
	30151	R850-40	5YR	06/27/2007	2007-14/56
	30152	R850-50	5YR	06/27/2007	2007-14/57
	30154	R850-80	5YR	06/27/2007	2007-14/58
	29408	R850-90	5YR	01/12/2007	2007-3/66
	29409	R850-120	5YR	01/12/2007	2007-3/67
<u>administrative responsibility</u>					
Human Resource Management, Administration	29883	R477-2	AMD	07/01/2007	2007-10/46
	30049	R477-2	5YR	06/09/2007	2007-13/145
<u>administrative rules</u>					
Human Resource Management, Administration	30057	R477-13	5YR	06/09/2007	2007-13/152
	29896	R477-13-1	NSC	05/11/2007	Not Printed
<u>admission guidelines</u>					
Human Services, Juvenile Justice Services	30033	R547-13	5YR	06/04/2007	2007-13/154
<u>adoption</u>					
Human Services, Child and Family Services	30290	R512-2	5YR	08/07/2007	Not Printed
	30292	R512-40	5YR	08/07/2007	Not Printed
	30293	R512-42	5YR	08/07/2007	Not Printed
	29388	R512-43	5YR	01/03/2007	2007-3/59
<u>adoption assistance</u>					
Workforce Services, Employment Development	29975	R986-500-504	AMD	07/31/2007	2007-12/47
<u>advertising</u>					
Commerce, Consumer Protection	29470	R152-11	5YR	02/01/2007	2007-4/55
Transportation, Operations, Construction	29183	R916-1	AMD	01/03/2007	2006-22/52
<u>agricultural law</u>					
Agriculture and Food, Plant Industry	29453	R68-19	5YR	01/29/2007	2007-4/55
Agriculture and Food, Regulatory Services	29492	R70-201	5YR	02/02/2007	2007-5/21

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
AIDS					
Health, Epidemiology and Laboratory Services; HIV/AIDS, Tuberculosis Control/Refugee Health	30206	R388-801	5YR	07/19/2007	2007-16/69
	30207	R388-802	5YR	07/19/2007	2007-16/70
air pollution					
Environmental Quality, Air Quality	29661	R307-101	5YR	03/15/2007	2007-7/150
	29000	R307-101-2	AMD	03/09/2007	2006-19/27
	29000	R307-101-2	CPR	03/09/2007	2007-3/39
	29501	R307-105	NSC	07/13/2007	Not Printed
	30183	R307-105	5YR	07/13/2007	2007-15/62
	29662	R307-110	5YR	03/15/2007	2007-7/151
	29001	R307-110-13	CPR	03/09/2007	2007-3/40
	29801	R307-110-20	NSC	05/02/2007	Not Printed
	29514	R307-110-20	AMD	05/02/2007	2007-5/13
	29227	R307-110-36	AMD	02/09/2007	2006-23/7
	29293	R307-110-36	NSC	02/09/2007	Not Printed
	29327	R307-120	AMD	03/09/2007	2007-1/7
	29653	R307-120	5YR	03/15/2007	2007-7/155
	30184	R307-121	5YR	07/13/2007	2007-15/62
	29797	R307-121	R&R	07/13/2007	2007-9/14
	29321	R307-121	NSC	07/13/2007	Not Printed
	29322	R307-122	NSC	07/13/2007	Not Printed
	29798	R307-122	REP	07/13/2007	2007-9/17
	29654	R307-130	5YR	03/15/2007	2007-7/155
	29652	R307-130-4	AMD	07/13/2007	2007-7/19
	29659	R307-135	5YR	03/15/2007	2007-7/156
	29228	R307-210	AMD	03/15/2007	2006-23/8
	29194	R307-214-2	AMD	02/09/2007	2006-23/10
	29655	R307-220	5YR	03/15/2007	2007-7/156
	29229	R307-220	AMD	05/09/2007	2006-23/12
	29229	R307-220	CPR	05/09/2007	2007-7/136
	29656	R307-221	5YR	03/15/2007	2007-7/157
	29657	R307-222	5YR	03/15/2007	2007-7/157
	29658	R307-223	5YR	03/15/2007	2007-7/158
	29230	R307-224	NEW	03/15/2007	2006-23/14
	29002	R307-320	AMD	03/09/2007	2006-19/32
	29663	R307-320	5YR	03/15/2007	2007-7/160
	29002	R307-320	CPR	03/09/2007	2007-3/40
	29003	R307-325	CPR	03/09/2007	2007-3/42
	29664	R307-325	5YR	03/15/2007	2007-7/160
	29003	R307-325	AMD	03/09/2007	2006-19/35
	29665	R307-326	5YR	03/15/2007	2007-7/161
	29006	R307-326	AMD	03/09/2007	2006-19/37
	29006	R307-326	CPR	03/09/2007	2007-3/43
	29526	R307-326-1	NSC	03/09/2007	Not Printed

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
	29004	R307-327	CPR	03/09/2007	2007-3/45
	29666	R307-327	5YR	03/15/2007	2007-7/163
	29004	R307-327	AMD	03/09/2007	2006-19/40
	29667	R307-328	5YR	03/15/2007	2007-7/164
	29005	R307-328	AMD	01/16/2007	2006-19/43
	29150	R307-328-1	NSC	01/16/2007	Not Printed
	29007	R307-332	REP	01/16/2007	2006-19/46
	29008	R307-335	AMD	01/16/2007	2006-19/49
	29668	R307-335	5YR	03/15/2007	2007-7/165
	29669	R307-340	5YR	03/15/2007	2007-7/165
	29009	R307-340	AMD	03/09/2007	2006-19/52
	29009	R307-340	CPR	03/09/2007	2007-3/46
	29151	R307-340-1	NSC	03/09/2007	Not Printed
	29670	R307-341	5YR	03/15/2007	2007-7/166
	29010	R307-341	AMD	01/16/2007	2006-19/59
	29011	R307-342	AMD	01/16/2007	2006-19/60
	29671	R307-342	5YR	03/15/2007	2007-7/167
	29672	R307-343	5YR	03/15/2007	2007-7/167
	29012	R307-343	AMD	03/09/2007	2006-19/63
	29012	R307-343	CPR	03/09/2007	2007-3/51
	29508	R307-343-6	NSC	03/09/2007	Not Printed
	30185	R307-401	5YR	07/13/2007	2007-15/63
	30187	R307-405	5YR	07/13/2007	2007-15/64
	30188	R307-406	5YR	07/13/2007	2007-15/64
	30189	R307-410	5YR	07/13/2007	2007-15/65
	30190	R307-414	5YR	07/13/2007	2007-15/66
	30191	R307-415	5YR	07/13/2007	2007-15/66
	30193	R307-420	5YR	07/13/2007	2007-15/67
	30194	R307-421	5YR	07/13/2007	2007-15/68
	29231	R307-424	NEW	05/09/2007	2006-23/15
	29231	R307-424	CPR	05/09/2007	2007-7/137
<u>air pollution control</u>					
Environmental Quality, Air Quality	29660	R307-301	5YR	03/15/2007	2007-7/158
<u>air quality</u>					
Environmental Quality, Air Quality	30186	R307-403	5YR	07/13/2007	2007-15/63
	30192	R307-417	5YR	07/13/2007	2007-15/67
<u>air travel</u>					
Administrative Services, Finance	29910	R25-7	AMD	07/03/2007	2007-10/3
<u>aircraft</u>					
Tax Commission, Motor Vehicle	29631	R873-22M	5YR	03/12/2007	2007-7/194
<u>alcoholic beverages</u>					
Alcoholic Beverage Control, Administration	30168	R81-1-3	NSC	07/30/2007	Not Printed
	29881	R81-1-3	AMD	06/29/2007	2007-10/6
	29439	R81-1-6	AMD	03/30/2007	2007-4/4

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	30169	R81-1-21	NSC	07/30/2007	Not Printed
	29898	R81-1-25	AMD	06/29/2007	2007-10/8
	29440	R81-1-26	AMD	03/30/2007	2007-4/6
	30167	R81-4D-1	NSC	07/30/2007	Not Printed
<u>allocation of commercialization revenues</u> Science Technology and Research Governing Auth., Administration	29299	R856-2	NEW	04/04/2007	2006-24/37
<u>alternative licensing</u> Education, Administration	29749	R277-503	5YR	03/29/2007	2007-8/121
	29692	R277-503	AMD	05/09/2007	2007-7/14
<u>Americans with Disabilities Act 1992</u> Human Services, Administration	29498	R495-878	5YR	02/05/2007	2007-5/28
<u>amphibians</u> Natural Resources, Wildlife Resources	29751	R657-53	AMD	05/22/2007	2007-8/92
<u>annual training</u> Public Safety, Peace Officer Standards and Training	29563	R728-410	5YR	02/27/2007	2007-6/45
<u>annuity insurance filings</u> Insurance, Administration	29951	R590-227	AMD	07/12/2007	2007-11/65
<u>annuity replacement</u> Insurance, Administration	29752	R590-93	AMD	05/29/2007	2007-8/84
	30042	R590-93	AMD	08/08/2007	2007-13/51
<u>appellate procedures</u> Agriculture and Food, Administration	29405	R51-2	5YR	01/11/2007	2007-3/56
<u>appraisals</u> Tax Commission, Property Tax	29630	R884-24P	5YR	03/12/2007	2007-7/197
	29223	R884-24P-19	AMD	01/12/2007	2006-23/83
	29928	R884-24P-68	AMD	07/16/2007	2007-11/83
<u>approval</u> Public Safety, Peace Officer Standards and Training	29548	R728-401	5YR	02/26/2007	2007-6/67
	29552	R728-401	5YR	02/26/2007	2007-6/41
	29147	R728-401-3	AMD	01/20/2007	2006-22/45
<u>approval for correctional basic course</u> Public Safety, Peace Officer Standards and Training	29560	R728-406	5YR	02/26/2007	2007-6/43
<u>approval for reserve basic course</u> Public Safety, Peace Officer Standards and Training	29560	R728-406	5YR	02/26/2007	2007-6/43
<u>approval for special function course</u> Public Safety, Peace Officer Standards and Training	29560	R728-406	5YR	02/26/2007	2007-6/43
<u>approval orders</u> Environmental Quality, Air Quality	30185	R307-401	5YR	07/13/2007	2007-15/63

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>art donations</u>					
Community and Culture, Fine Arts	30287	R207-2	5YR	08/03/2007	Not Printed
	29529	R207-2	NSC	03/08/2007	Not Printed
<u>art financing</u>					
Community and Culture, Fine Arts	29528	R207-1	NSC	03/08/2007	Not Printed
Community and Culture, Home Energy Assistance Target (HEAT)	30288	R207-1	5YR	08/03/2007	Not Printed
<u>art in public places</u>					
Community and Culture, Home Energy Assistance Target (HEAT)	30288	R207-1	5YR	08/03/2007	Not Printed
Community and Culture, Fine Arts	29528	R207-1	NSC	03/08/2007	Not Printed
	30287	R207-2	5YR	08/03/2007	Not Printed
	29529	R207-2	NSC	03/08/2007	Not Printed
<u>art loans</u>					
Community and Culture, Fine Arts	30287	R207-2	5YR	08/03/2007	Not Printed
	29529	R207-2	NSC	03/08/2007	Not Printed
<u>art preservation</u>					
Community and Culture, Fine Arts	29528	R207-1	NSC	03/08/2007	Not Printed
Community and Culture, Home Energy Assistance Target (HEAT)	30288	R207-1	5YR	08/03/2007	Not Printed
<u>art work</u>					
Community and Culture, Fine Arts	30287	R207-2	5YR	08/03/2007	Not Printed
	29529	R207-2	NSC	03/08/2007	Not Printed
<u>asbestos</u>					
Environmental Quality, Air Quality	29659	R307-135	5YR	03/15/2007	2007-7/156
<u>asphalt</u>					
Environmental Quality, Air Quality	29670	R307-341	5YR	03/15/2007	2007-7/166
	29010	R307-341	AMD	01/16/2007	2006-19/59
<u>assembly</u>					
Administrative Services, Facilities Construction and Management	29811	R23-20	NEW	06/07/2007	2007-9/11
<u>assisted living facilities</u>					
Public Safety, Fire Marshal	30034	R710-3	5YR	06/04/2007	2007-13/155
	29235	R710-3	AMD	01/09/2007	2006-23/70
<u>athletic trainer</u>					
Commerce, Occupational and Professional Licensing	29353	R156-40a	NEW	02/22/2007	2007-2/9
<u>athletics</u>					
Education, Administration	29479	R277-517	AMD	03/27/2007	2007-4/16
<u>attorneys</u>					
Administrative Services, Finance	29424	R25-14	5YR	01/17/2007	2007-4/54
<u>audiology</u>					
Commerce, Occupational and Professional Licensing	29471	R156-41	5YR	02/01/2007	2007-4/57

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>automobile repair</u>					
Commerce, Consumer Protection	29862	R152-20	5YR	04/26/2007	2007-10/105
	29412	R152-20-2	AMD	03/20/2007	2007-3/4
<u>automobiles</u>					
Commerce, Consumer Protection	29862	R152-20	5YR	04/26/2007	2007-10/105
	29412	R152-20-2	AMD	03/20/2007	2007-3/4
<u>aviculture</u>					
Natural Resources, Wildlife Resources	29996	R657-4	5YR	05/31/2007	2007-12/66
<u>awards</u>					
Public Education Job Enhancement Program, Job Enhancement Committee	30099	R690-100	AMD	08/07/2007	2007-13/132
<u>bait and switch</u>					
Commerce, Consumer Protection	29470	R152-11	5YR	02/01/2007	2007-4/55
<u>bait dealers</u>					
Natural Resources, Wildlife Resources	30173	R657-14	5YR	07/09/2007	2007-15/70
<u>banks and banking</u>					
Financial Institutions, Banks	29972	R333-11	5YR	05/25/2007	2007-12/60
<u>basic academy rules</u>					
Public Safety, Peace Officer Standards and Training	29558	R728-404	5YR	02/26/2007	2007-6/42
<u>basic application procedures</u>					
Public Safety, Peace Officer Standards and Training	29176	R728-402	AMD	01/20/2007	2006-22/47
	29553	R728-402	5YR	02/26/2007	2007-6/41
<u>basic skills</u>					
Education, Administration	29934	R277-603	AMD	07/09/2007	2007-11/21
<u>beam limitation</u>					
Environmental Quality, Radiation Control	29334	R313-28	AMD	03/16/2007	2007-1/12
<u>bear</u>					
Natural Resources, Wildlife Resources	29402	R657-33	AMD	03/12/2007	2007-3/24
	30069	R657-33	AMD	08/07/2007	2007-13/111
<u>bed allocations</u>					
Human Services, Substance Abuse and Mental Health	29381	R523-1-2	AMD	02/26/2007	2007-2/97
	29245	R523-1-5	AMD	01/30/2007	2006-24/29
	29382	R523-1-11	AMD	02/26/2007	2007-2/99
	29383	R523-1-23	AMD	05/14/2007	2007-2/101
<u>beneficiaries</u>					
School and Institutional Trust Lands, Administration	29409	R850-120	5YR	01/12/2007	2007-3/67
<u>benefits</u>					
Community and Culture, Home Energy Assistance Target (HEAT)	30127	R195-5	5YR	06/22/2007	2007-14/45
	29985	R195-5	NSC	06/22/2007	Not Printed

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	29987	R195-7	NSC	06/25/2007	Not Printed
	30130	R195-7	5YR	06/25/2007	2007-14/46
Workforce Services, Unemployment Insurance	29959	R994-401	5YR	05/17/2007	2007-12/70
<u>bids</u>					
Transportation, Operations, Construction	29183	R916-1	AMD	01/03/2007	2006-22/52
	29184	R916-2-3	AMD	01/03/2007	2006-22/53
<u>big game</u>					
Natural Resources, Wildlife Resources	30109	R657-44	5YR	06/20/2007	2007-14/51
	30073	R657-44	AMD	08/07/2007	2007-13/122
	29638	R657-44-6	AMD	05/08/2007	2007-7/79
<u>big game conservation easements</u>					
Natural Resources, Wildlife Resources	29165	R657-49	NSC	02/07/2007	Not Printed
	29349	R657-49	REP	02/07/2007	2007-1/39
<u>big game seasons</u>					
Natural Resources, Wildlife Resources	29351	R657-5	AMD	02/07/2007	2007-1/25
	29923	R657-5	AMD	07/09/2007	2007-11/75
	30063	R657-5	AMD	08/07/2007	2007-13/84
	29502	R657-5-43	AMD	04/09/2007	2007-5/17
	30072	R657-43	AMD	08/07/2007	2007-13/120
	29580	R657-43	NSC	03/13/2007	Not Printed
	29639	R657-43	5YR	03/13/2007	2007-7/183
	29704	R657-43	NSC	04/12/2007	Not Printed
<u>birds</u>					
Natural Resources, Wildlife Resources	29996	R657-4	5YR	05/31/2007	2007-12/66
	30064	R657-6	AMD	08/07/2007	2007-13/86
	30065	R657-9	AMD	08/07/2007	2007-13/88
	29401	R657-20	AMD	03/12/2007	2007-3/19
	29398	R657-20	5YR	01/10/2007	2007-3/66
<u>boating</u>					
Natural Resources, Parks and Recreation	30025	R651-201	AMD	08/07/2007	2007-13/69
	29806	R651-205-16	AMD	07/09/2007	2007-9/26
	30026	R651-206	AMD	08/07/2007	2007-13/70
	29913	R651-207-1	AMD	07/09/2007	2007-11/72
	30027	R651-215	AMD	08/07/2007	2007-13/79
	30028	R651-217	AMD	08/07/2007	2007-13/81
	30029	R651-219-5	AMD	08/07/2007	2007-13/82
	30030	R651-221-1	AMD	08/07/2007	2007-13/82
<u>boilers</u>					
Labor Commission, Safety	29313	R616-2-3	AMD	02/08/2007	2007-1/24
	29527	R616-2-3	AMD	04/24/2007	2007-6/26
	29581	R616-2-3	AMD	04/24/2007	2007-6/25

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>bona fide prospective purchaser</u>					
Environmental Quality, Environmental Response and Remediation	29585	R311-600	NSC	03/26/2007	Not Printed
	29460	R311-600	NEW	03/26/2007	2007-4/18
<u>bonding requirements</u>					
Transportation, Operations, Construction	29183	R916-1	AMD	01/03/2007	2006-22/52
Workforce Services, Unemployment Insurance	29689	R994-308	R&R	07/01/2007	2007-7/125
<u>bonuses</u>					
Transportation, Administration	29182	R907-66	AMD	01/03/2007	2006-22/50
<u>boxing</u>					
Commerce, Administration	30164	R151-33	NSC	07/05/2007	Not Printed
	29927	R151-33	5YR	05/10/2007	2007-11/85
<u>breaks</u>					
Human Resource Management, Administration	30059	R477-8	5YR	06/09/2007	2007-13/148
	29889	R477-8	AMD	07/01/2007	2007-10/64
<u>brine shrimp royalty</u>					
Tax Commission, Auditing	29715	R865-25X	5YR	03/21/2007	2007-8/148
<u>building codes</u>					
Commerce, Occupational and Professional Licensing	29120	R156-56	AMD	01/01/2007	2006-21/5
	29122	R156-56	AMD	01/01/2007	2006-21/33
	29357	R156-56	NSC	01/01/2007	Not Printed
	30132	R156-56	NSC	07/01/2007	Not Printed
	29393	R156-56	AMD	03/13/2007	2007-3/7
	29866	R156-56	AMD	07/01/2007	2007-10/10
	29863	R156-56	AMD	07/01/2007	2007-10/21
	29745	R156-56	5YR	03/29/2007	2007-8/119
	29865	R156-56-704	AMD	07/01/2007	2007-10/25
	29078	R156-56-704	AMD	03/27/2007	2006-20/10
	29078	R156-56-704	CPR	03/27/2007	2007-4/48
	29075	R156-56-711	AMD	01/01/2007	2006-20/13
<u>building inspection</u>					
Commerce, Occupational and Professional Licensing	29120	R156-56	AMD	01/01/2007	2006-21/5
	29357	R156-56	NSC	01/01/2007	Not Printed
	30132	R156-56	NSC	07/01/2007	Not Printed
	29122	R156-56	AMD	01/01/2007	2006-21/33
	29866	R156-56	AMD	07/01/2007	2007-10/10
	29863	R156-56	AMD	07/01/2007	2007-10/21
	29745	R156-56	5YR	03/29/2007	2007-8/119
	29393	R156-56	AMD	03/13/2007	2007-3/7
	29865	R156-56-704	AMD	07/01/2007	2007-10/25
	29078	R156-56-704	AMD	03/27/2007	2006-20/10
	29078	R156-56-704	CPR	03/27/2007	2007-4/48

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	29075	R156-56-711	AMD	01/01/2007	2006-20/13
<u>burial</u>					
Community and Culture, History	30202	R212-12	5YR	07/17/2007	2007-16/65
<u>capital punishment</u>					
Administrative Services, Finance	29424	R25-14	5YR	01/17/2007	2007-4/54
Pardons (Board Of), Administration	30219	R671-205	5YR	07/25/2007	2007-16/77
<u>captive insurance</u>					
Insurance, Administration	29458	R590-238	CPR	05/25/2007	2007-8/115
	29458	R590-238	NEW	05/25/2007	2007-4/32
<u>cash management</u>					
Money Management Council, Administration	29906	R628-15	AMD	06/21/2007	2007-10/79
<u>cemetery</u>					
Community and Culture, History	30202	R212-12	5YR	07/17/2007	2007-16/65
<u>census</u>					
Transportation, Program Development	29455	R926-4	NEW	03/26/2007	2007-4/43
<u>certification</u>					
Labor Commission, Safety	29733	R616-1	R&R	05/23/2007	2007-8/88
	29581	R616-2-3	AMD	04/24/2007	2007-6/25
	29527	R616-2-3	AMD	04/24/2007	2007-6/26
<u>certification of instructors</u>					
Human Services, Substance Abuse and Mental Health	30123	R523-22	5YR	06/22/2007	2007-14/49
<u>certifications</u>					
Labor Commission, Safety	29313	R616-2-3	AMD	02/08/2007	2007-1/24
Public Safety, Peace Officer Standards and Training	29562	R728-409	5YR	02/27/2007	2007-6/44
Transportation, Motor Carrier	29341	R909-19	AMD	02/08/2007	2007-1/46
<u>charities</u>					
Commerce, Consumer Protection	29427	R152-22	AMD	04/02/2007	2007-4/8
	30120	R152-22	5YR	06/22/2007	2007-14/43
Tax Commission, Auditing	29641	R865-19S	5YR	03/13/2007	2007-7/191
	29942	R865-19S-58	AMD	07/16/2007	2007-11/78
<u>charter schools</u>					
Education, Administration	30092	R277-470	AMD	08/07/2007	2007-13/23
	30094	R277-481	REP	08/07/2007	2007-13/34
	30096	R277-487	REP	08/07/2007	2007-13/39
<u>child abuse</u>					
Human Services, Child and Family Services	29390	R512-60	5YR	01/03/2007	2007-3/59
	30010	R512-300	EMR	06/01/2007	2007-12/55
<u>child care</u>					
Workforce Services, Employment Development	29301	R986-700	AMD	02/01/2007	2006-24/39

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	29852	R986-700	AMD	07/01/2007	2007-10/87
	29491	R986-700	AMD	04/01/2007	2007-4/44
	29973	R986-700-709	AMD	07/31/2007	2007-12/48
<u>child care facilities</u>					
Health, Health Systems Improvement, Child Care Licensing	30249	R430-2	5YR	07/27/2007	2007-16/72
<u>child support</u>					
Human Services, Recovery Services	29415	R527-5	5YR	01/16/2007	2007-3/60
	29416	R527-34	5YR	01/16/2007	2007-3/61
	29417	R527-35	5YR	01/16/2007	2007-3/61
	29418	R527-201	5YR	01/16/2007	2007-3/62
<u>child welfare</u>					
Human Services, Child and Family Services	30289	R512-1	5YR	08/07/2007	Not Printed
	30290	R512-2	5YR	08/07/2007	Not Printed
	29387	R512-10	5YR	01/03/2007	2007-3/58
	30291	R512-31	5YR	08/07/2007	Not Printed
	29388	R512-43	5YR	01/03/2007	2007-3/59
	29390	R512-60	5YR	01/03/2007	2007-3/59
	30010	R512-300	EMR	06/01/2007	2007-12/55
<u>children</u>					
Health, Community and Family Health Services, WIC Services	29878	R406-100	5YR	04/27/2007	2007-10/124
	29879	R406-200	5YR	04/27/2007	2007-10/125
	29880	R406-201	5YR	04/27/2007	2007-10/126
	29876	R406-202	5YR	04/27/2007	2007-10/126
	29877	R406-301	5YR	04/27/2007	2007-10/127
<u>children's health benefits</u>					
Health, Children's Health Insurance Program	29872	R382-1	AMD	07/01/2007	2007-10/29
	29873	R382-10	AMD	07/01/2007	2007-10/31
	29732	R382-10	AMD	05/23/2007	2007-8/44
<u>children's trust account</u>					
Human Services, Child and Family Services	29390	R512-60	5YR	01/03/2007	2007-3/59
<u>CHIP</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	29380	R414-320	AMD	03/09/2007	2007-2/91
<u>Civil Rights Act 1964</u>					
Human Services, Administration	29498	R495-878	5YR	02/05/2007	2007-5/28
<u>Class I area</u>					
Environmental Quality, Air Quality	30187	R307-405	5YR	07/13/2007	2007-15/64
<u>cleanup standards</u>					
Environmental Quality, Water Quality	29294	R317-6	AMD	01/23/2007	2006-24/23

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>coaching certification</u> Education, Administration	29479	R277-517	AMD	03/27/2007	2007-4/16
<u>coal mines</u> Natural Resources, Oil, Gas and Mining; Coal	29606	R645-100	5YR	03/07/2007	2007-7/175
	29607	R645-103	5YR	03/07/2007	2007-7/175
	29608	R645-200	5YR	03/07/2007	2007-7/176
	29609	R645-201	5YR	03/07/2007	2007-7/176
	29610	R645-202	5YR	03/07/2007	2007-7/177
	29611	R645-203	5YR	03/07/2007	2007-7/177
	29612	R645-300	5YR	03/07/2007	2007-7/178
	29613	R645-301	5YR	03/07/2007	2007-7/178
	29614	R645-302	5YR	03/07/2007	2007-7/179
	29615	R645-303	5YR	03/07/2007	2007-7/179
	29616	R645-402	5YR	03/07/2007	2007-7/180
<u>coatings</u> Environmental Quality, Air Quality	29672	R307-343	5YR	03/15/2007	2007-7/167
	29012	R307-343	AMD	03/09/2007	2006-19/63
	29012	R307-343	CPR	03/09/2007	2007-3/51
	29508	R307-343-6	NSC	03/09/2007	Not Printed
<u>code of conduct</u> Workforce Services, Administration	30140	R982-601	5YR	06/26/2007	2007-14/60
<u>collections</u> Tax Commission, Auditing	29705	R865-12L	5YR	03/16/2007	2007-8/144
<u>commercialization of aquatic wildlife</u> Natural Resources, Wildlife Resources	30173	R657-14	5YR	07/09/2007	2007-15/70
<u>communicable diseases</u> Health, Epidemiology and Laboratory Services, Epidemiology	29742	R386-702	AMD	05/24/2007	2007-8/48
	29721	R386-702	5YR	03/22/2007	2007-8/128
Health, Epidemiology and Laboratory Services; HIV/AIDS, Tuberculosis Control/Refugee Health	30206	R388-801	5YR	07/19/2007	2007-16/69
	30207	R388-802	5YR	07/19/2007	2007-16/70
	29911	R388-804	AMD	07/16/2007	2007-11/27
	29980	R388-804	5YR	05/29/2007	2007-12/61
<u>community-based corrections</u> Corrections, Administration	29463	R251-306	5YR	01/31/2007	2007-4/58
<u>competency</u> Education, Administration	29934	R277-603	AMD	07/09/2007	2007-11/21
<u>complaints</u> Workforce Services, Administration	30136	R982-101	5YR	06/26/2007	2007-14/58
<u>compliance determinations</u> Environmental Quality, Drinking Water	29647	R309-210	AMD	05/14/2007	2007-7/23

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	29365	R309-210	AMD	03/06/2007	2007-2/46
	29366	R309-215	AMD	03/06/2007	2007-2/63
	29645	R309-215	AMD	05/14/2007	2007-7/34
<u>computer software</u> Technology Services, Administration	29978	R895-3	5YR	05/29/2007	2007-12/68
<u>conduct</u> Commerce, Real Estate	30197	R162-107	5YR	07/16/2007	2007-15/61
<u>confidentiality</u> Human Services, Recovery Services	29415	R527-5	5YR	01/16/2007	2007-3/60
<u>confidentiality of information</u> Administrative Services, Administration	29771	R13-2	5YR	04/02/2007	2007-8/119
	29772	R13-2	AMD	05/22/2007	2007-8/3
	30049	R477-2	5YR	06/09/2007	2007-13/145
	29883	R477-2	AMD	07/01/2007	2007-10/46
Regents (Board Of), College of Eastern Utah	30108	R767-1	5YR	06/19/2007	2007-14/52
Workforce Services, Unemployment Insurance	29699	R994-312	AMD	07/01/2007	2007-7/132
<u>conflict of interest</u> Human Resource Management, Administration	30052	R477-9	5YR	06/09/2007	2007-13/149
	29890	R477-9	AMD	07/01/2007	2007-10/68
<u>connections</u> Environmental Quality, Drinking Water	29783	R309-550	5YR	04/02/2007	2007-8/126
<u>conservation permits</u> Natural Resources, Wildlife Resources	30071	R657-41	AMD	08/07/2007	2007-13/117
<u>consumer</u> Commerce, Consumer Protection	29594	R152-26	5YR	03/05/2007	2007-7/149
	29379	R152-26	AMD	02/23/2007	2007-2/3
<u>consumer confidence report</u> Environmental Quality, Drinking Water	29368	R309-225	AMD	03/06/2007	2007-2/89
	29650	R309-225	NSC	03/29/2007	Not Printed
<u>consumer protection</u> Commerce, Consumer Protection	30118	R152-6	5YR	06/22/2007	2007-14/42
	29470	R152-11	5YR	02/01/2007	2007-4/55
	30119	R152-15	5YR	06/22/2007	2007-14/42
	29862	R152-20	5YR	04/26/2007	2007-10/105
	29412	R152-20-2	AMD	03/20/2007	2007-3/4
	30120	R152-22	5YR	06/22/2007	2007-14/43
	29427	R152-22	AMD	04/02/2007	2007-4/8
	30121	R152-23	5YR	06/22/2007	2007-14/43
	29238	R152-23	AMD	01/23/2007	2006-24/3
	29413	R152-42	CPR	05/22/2007	2007-8/114
	29413	R152-42	NEW	05/22/2007	2007-3/5

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>contests</u>					
Commerce, Administration	30164	R151-33	NSC	07/05/2007	Not Printed
	29927	R151-33	5YR	05/10/2007	2007-11/85
<u>continuing education</u>					
Commerce, Real Estate	29718	R162-9	AMD	05/30/2007	2007-8/33
	29837	R162-9	5YR	04/18/2007	2007-10/111
<u>continuing professional education</u>					
Commerce, Occupational and Professional Licensing	29473	R156-26a	5YR	02/01/2007	2007-4/56
<u>contractors</u>					
Commerce, Occupational and Professional Licensing	29393	R156-56	AMD	03/13/2007	2007-3/7
	29866	R156-56	AMD	07/01/2007	2007-10/10
	29863	R156-56	AMD	07/01/2007	2007-10/21
	29745	R156-56	5YR	03/29/2007	2007-8/119
	29120	R156-56	AMD	01/01/2007	2006-21/5
	30132	R156-56	NSC	07/01/2007	Not Printed
	29122	R156-56	AMD	01/01/2007	2006-21/33
	29357	R156-56	NSC	01/01/2007	Not Printed
	29078	R156-56-704	AMD	03/27/2007	2006-20/10
	29078	R156-56-704	CPR	03/27/2007	2007-4/48
	29865	R156-56-704	AMD	07/01/2007	2007-10/25
	29075	R156-56-711	AMD	01/01/2007	2006-20/13
<u>contracts</u>					
Administrative Services, Facilities Construction and Management	29965	R23-1	5YR	05/24/2007	2007-12/59
Transportation, Administration	29182	R907-66	AMD	01/03/2007	2006-22/50
Transportation, Operations, Construction	29183	R916-1	AMD	01/03/2007	2006-22/52
	29184	R916-2-3	AMD	01/03/2007	2006-22/53
<u>controlled substances</u>					
Commerce, Occupational and Professional Licensing	29696	R156-37	5YR	03/15/2007	2007-7/150
<u>cooperative agreement</u>					
Natural Resources, Forestry, Fire and State Lands	29467	R652-122-300	NSC	02/13/2007	Not Printed
	29170	R652-122-300	AMD	01/03/2007	2006-22/40
<u>copyright</u>					
Technology Services, Administration	29978	R895-3	5YR	05/29/2007	2007-12/68
<u>corporation tax</u>					
Tax Commission, Auditing	29714	R865-3C	5YR	03/21/2007	2007-8/142
<u>corrections</u>					
Corrections, Administration	29531	R251-106-3	AMD	05/01/2007	2007-6/9
	29533	R251-107	AMD	05/01/2007	2007-6/11
	29462	R251-305	5YR	01/31/2007	2007-4/58
	29464	R251-707	5YR	01/31/2007	2007-4/59

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	29465	R251-710	5YR	01/31/2007	2007-4/59
<u>cosmetologists/barbers</u>					
Commerce, Occupational and Professional Licensing	29432	R156-11a	AMD	03/27/2007	2007-4/9
	29013	R156-11a	AMD	01/11/2007	2006-19/5
	29013	R156-11a	CPR	01/11/2007	2006-23/87
	29810	R156-11a	5YR	04/12/2007	2007-9/33
<u>cost sharing</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	29967	R414-200	5YR	05/24/2007	2007-12/64
	29977	R414-200-4	AMD	07/23/2007	2007-12/19
<u>costs</u>					
Financial Institutions, Administration	29818	R331-22	5YR	04/16/2007	2007-9/35
<u>cottage food</u>					
Agriculture and Food, Regulatory Services	30062	R70-560	NEW	08/07/2007	2007-13/7
<u>cougar</u>					
Natural Resources, Wildlife Resources	30066	R657-10	AMD	08/07/2007	2007-13/90
<u>councils</u>					
Workforce Services, Administration	30139	R982-301	5YR	06/26/2007	2007-14/59
<u>counselors</u>					
Education, Administration	30089	R277-462	AMD	08/07/2007	2007-13/16
<u>coverage</u>					
Workforce Services, Unemployment Insurance	29695	R994-310	R&R	07/01/2007	2007-7/128
<u>coverage groups</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	29543	R414-303-17	AMD	05/01/2007	2007-6/23
<u>covered-at-work</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	30081	R414-310	5YR	06/13/2007	2007-13/144
	29731	R414-310	AMD	05/23/2007	2007-8/74
<u>covered-at-work-benefits</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	29730	R414-300	REP	05/23/2007	2007-8/73
<u>credit enhancements</u>					
Environmental Quality, Drinking Water	29784	R309-700	5YR	04/02/2007	2007-8/127
<u>credit insurance filings</u>					
Insurance, Administration	29971	R590-228	AMD	07/30/2007	2007-12/30
<u>criminal competency</u>					
Pardons (Board Of), Administration	30221	R671-206	5YR	07/25/2007	2007-16/77
	30222	R671-207	5YR	07/25/2007	2007-16/77
<u>critical languages</u>					
Education, Administration	29932	R277-488	NEW	07/09/2007	2007-11/17

RULES INDEX

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>cultural resources</u>					
Natural Resources, Forestry, Fire and State Lands	29755	R652-60	5YR	04/02/2007	2007-8/135
School and Institutional Trust Lands, Administration	30153	R850-60	5YR	06/27/2007	2007-14/57
<u>curricula</u>					
Education, Administration	29495	R277-705	5YR	02/02/2007	2007-5/26
	30098	R277-713	AMD	08/07/2007	2007-13/47
<u>dairy inspection</u>					
Agriculture and Food, Regulatory Services	30100	R70-330	AMD	08/07/2007	2007-13/3
<u>data standards</u>					
Education, Administration	30095	R277-484	AMD	08/07/2007	2007-13/36
<u>day care</u>					
Public Safety, Fire Marshal	29234	R710-8	AMD	01/09/2007	2006-23/76
	29706	R710-8	5YR	03/16/2007	2007-8/139
<u>deadlines</u>					
Education, Administration	30095	R277-484	AMD	08/07/2007	2007-13/36
<u>debt management</u>					
Commerce, Consumer Protection	29413	R152-42	CPR	05/22/2007	2007-8/114
	29413	R152-42	NEW	05/22/2007	2007-3/5
<u>deception detection examiner</u>					
Commerce, Occupational and Professional Licensing	29803	R156-64	5YR	04/09/2007	2007-9/33
<u>definitions</u>					
Commerce, Real Estate	29828	R162-101	5YR	04/18/2007	2007-10/111
Environmental Quality, Air Quality	29661	R307-101	5YR	03/15/2007	2007-7/150
	29000	R307-101-2	AMD	03/09/2007	2006-19/27
	29000	R307-101-2	CPR	03/09/2007	2007-3/39
Environmental Quality, Drinking Water	29364	R309-110	AMD	03/06/2007	2007-2/20
	29649	R309-110-4	AMD	05/14/2007	2007-7/22
Human Resource Management, Administration	29882	R477-1	AMD	07/01/2007	2007-10/41
	30051	R477-1	5YR	06/09/2007	2007-13/144
	30057	R477-13	5YR	06/09/2007	2007-13/152
	29896	R477-13-1	NSC	05/11/2007	Not Printed
Natural Resources, Forestry, Fire and State Lands	29756	R652-1	5YR	04/02/2007	2007-8/130
School and Institutional Trust Lands, Administration	30147	R850-1	5YR	06/27/2007	2007-14/53
<u>degreasing</u>					
Environmental Quality, Air Quality	29668	R307-335	5YR	03/15/2007	2007-7/165
	29008	R307-335	AMD	01/16/2007	2006-19/49
<u>demonstration</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	29731	R414-310	AMD	05/23/2007	2007-8/74
	30081	R414-310	5YR	06/13/2007	2007-13/144

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>dental</u>					
Environmental Quality, Radiation Control	29334	R313-28	AMD	03/16/2007	2007-1/12
<u>depreddation</u>					
Natural Resources, Wildlife Resources	30073	R657-44	AMD	08/07/2007	2007-13/122
	30109	R657-44	5YR	06/20/2007	2007-14/51
	29638	R657-44-6	AMD	05/08/2007	2007-7/79
<u>developmentally disabled</u>					
Commerce, Administration	29903	R151-3	5YR	05/01/2007	2007-10/105
	29498	R495-878	5YR	02/05/2007	2007-5/28
	29386	R698-3	5YR	01/02/2007	2007-2/119
	29713	R861-1A	5YR	03/20/2007	2007-8/139
	29324	R861-1A-19	AMD	02/12/2007	2007-1/41
	29941	R861-1A-41	AMD	07/16/2007	2007-11/76
<u>direct filtration</u>					
Environmental Quality, Drinking Water	29779	R309-530	5YR	04/02/2007	2007-8/125
<u>disabilities</u>					
Human Services, Services for People with Disabilities	29625	R539-5	AMD	05/11/2007	2007-7/70
	30085	R539-9	AMD	08/07/2007	2007-13/50
Pardons (Board Of), Administration	30214	R671-102	5YR	07/25/2007	2007-16/75
	30136	R982-101	5YR	06/26/2007	2007-14/58
<u>disabilities act</u>					
Public Safety, Administration	29386	R698-3	5YR	01/02/2007	2007-2/119
<u>disability</u>					
Human Services, Services for People with Disabilities	30116	R539-9	EMR	07/01/2007	2007-14/39
<u>disabled persons</u>					
Natural Resources, Wildlife Resources	29637	R657-12	AMD	05/08/2007	2007-7/73
<u>discipline of employees</u>					
Human Resource Management, Administration	30056	R477-11	5YR	06/09/2007	2007-13/151
	29894	R477-11	NSC	05/11/2007	Not Printed
<u>disclosure requirements</u>					
Tax Commission, Administration	29713	R861-1A	5YR	03/20/2007	2007-8/139
	29324	R861-1A-19	AMD	02/12/2007	2007-1/41
	29941	R861-1A-41	AMD	07/16/2007	2007-11/76
<u>disease control</u>					
Agriculture and Food, Animal Industry	29912	R58-1	AMD	08/07/2007	2007-11/4
	29506	R58-1	5YR	02/08/2007	2007-5/19
	29504	R58-6	5YR	02/08/2007	2007-5/20
	30041	R58-8	5YR	06/07/2007	2007-13/142
	30045	R58-8	REP	08/07/2007	2007-13/3
	29512	R58-8	NSC	06/07/2007	Not Printed

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>disinfection monitoring</u>					
Environmental Quality, Drinking Water	29645	R309-215	AMD	05/14/2007	2007-7/34
	29366	R309-215	AMD	03/06/2007	2007-2/63
<u>discipline of employees</u>					
Human Resource Management, Administration	29893	R477-14	NSC	05/11/2007	Not Printed
<u>dismissal of employees</u>					
Human Resource Management, Administration	30056	R477-11	5YR	06/09/2007	2007-13/151
	29894	R477-11	NSC	05/11/2007	Not Printed
<u>distribution of commercialization revenues</u>					
Science Technology and Research Governing Auth., Administration	29299	R856-2	NEW	04/04/2007	2006-24/37
<u>distribution system monitoring</u>					
Environmental Quality, Drinking Water	29365	R309-210	AMD	03/06/2007	2007-2/46
	29647	R309-210	AMD	05/14/2007	2007-7/23
<u>diversion programs</u>					
Commerce, Occupational and Professional Licensing	29586	R156-1	5YR	03/01/2007	2007-6/37
	29555	R156-1-102	NSC	03/09/2007	Not Printed
Human Services, Juvenile Justice Services	29992	R547-1	5YR	05/30/2007	2007-12/64
<u>domestic violence</u>					
Human Services, Child and Family Services	30289	R512-1	5YR	08/07/2007	Not Printed
	30010	R512-300	EMR	06/01/2007	2007-12/55
<u>drainage</u>					
Transportation, Operations, Maintenance	29456	R918-2	REP	06/06/2007	2007-4/42
<u>drinking water</u>					
Environmental Quality, Drinking Water	29369	R309-105	AMD	03/06/2007	2007-2/15
	29646	R309-105	AMD	05/14/2007	2007-7/20
	29036	R309-105-9	AMD	01/01/2007	2006-19/68
	29364	R309-110	AMD	03/06/2007	2007-2/20
	29649	R309-110-4	AMD	05/14/2007	2007-7/22
	29361	R309-115-2	NSC	03/06/2007	Not Printed
	29363	R309-150	AMD	03/06/2007	2007-2/31
	29371	R309-200	AMD	03/06/2007	2007-2/43
	29365	R309-210	AMD	03/06/2007	2007-2/46
	29647	R309-210	AMD	05/14/2007	2007-7/23
	29645	R309-215	AMD	05/14/2007	2007-7/34
	29366	R309-215	AMD	03/06/2007	2007-2/63
	29367	R309-220	AMD	03/06/2007	2007-2/86
	29648	R309-220-15	AMD	05/14/2007	2007-7/46
	29368	R309-225	AMD	03/06/2007	2007-2/89
	29650	R309-225	NSC	03/29/2007	Not Printed
	29362	R309-300-13	NSC	03/06/2007	Not Printed

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	29360	R309-405-4	NSC	03/06/2007	Not Printed
	29774	R309-500	5YR	04/02/2007	2007-8/122
	29775	R309-505	5YR	04/02/2007	2007-8/123
	29776	R309-510	5YR	04/02/2007	2007-8/123
	29777	R309-515	5YR	04/02/2007	2007-8/124
	29642	R309-520	5YR	03/13/2007	2007-7/169
	29778	R309-525	5YR	04/02/2007	2007-8/124
	29779	R309-530	5YR	04/02/2007	2007-8/125
	29780	R309-535	5YR	04/02/2007	2007-8/125
	29781	R309-540	5YR	04/02/2007	2007-8/126
	29782	R309-545	5YR	04/02/2007	2007-8/126
	29783	R309-550	5YR	04/02/2007	2007-8/126
<u>driver education</u>					
Education, Administration	29747	R277-507	5YR	03/29/2007	2007-8/122
	29694	R277-746-3	AMD	05/09/2007	2007-7/19
Public Safety, Driver License	29593	R708-2	5YR	03/02/2007	2007-7/184
	29727	R708-21	5YR	03/23/2007	2007-8/137
	29729	R708-27	5YR	03/23/2007	2007-8/139
<u>driver license verification</u>					
Public Safety, Driver License	29805	R708-43	AMD	06/08/2007	2007-9/27
<u>drug abuse</u>					
Human Resource Management, Administration	29893	R477-14	NSC	05/11/2007	Not Printed
<u>drug testing</u>					
Public Safety, Peace Officer Standards and Training	29559	R728-405	5YR	02/26/2007	2007-6/43
<u>drug testing programs</u>					
Public Safety, Peace Officer Standards and Training	29559	R728-405	5YR	02/26/2007	2007-6/43
<u>drug/alcohol education</u>					
Human Resource Management, Administration	29893	R477-14	NSC	05/11/2007	Not Printed
<u>dual employment</u>					
Human Resource Management, Administration	30059	R477-8	5YR	06/09/2007	2007-13/148
	29889	R477-8	AMD	07/01/2007	2007-10/64
<u>due process</u>					
Human Services, Child and Family Services	30291	R512-31	5YR	08/07/2007	Not Printed
Human Services, Substance Abuse and Mental Health	29381	R523-1-2	AMD	02/26/2007	2007-2/97
	29245	R523-1-5	AMD	01/30/2007	2006-24/29
	29382	R523-1-11	AMD	02/26/2007	2007-2/99
	29383	R523-1-23	AMD	05/14/2007	2007-2/101
<u>DUI programs</u>					
Human Services, Substance Abuse and Mental Health	30123	R523-22	5YR	06/22/2007	2007-14/49

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>economic development</u>					
Workforce Services, Administration	30140	R982-601	5YR	06/26/2007	2007-14/60
<u>education</u>					
Commerce, Consumer Protection	29710	R152-34	AMD	05/22/2007	2007-8/4
	30101	R152-34	5YR	06/15/2007	2007-13/142
Commerce, Real Estate	29829	R162-103	5YR	04/18/2007	2007-10/111
Education, Administration	30092	R277-470	AMD	08/07/2007	2007-13/23
	30094	R277-481	REP	08/07/2007	2007-13/34
<u>education finance</u>					
Education, Administration	29690	R277-419	AMD	05/09/2007	2007-7/10
<u>educational media</u>					
Education, Administration	30090	R277-467	NEW	08/07/2007	2007-13/19
<u>educational planning</u>					
Education, Administration	29746	R277-416	5YR	03/29/2007	2007-8/121
	29935	R277-416	REP	07/09/2007	2007-11/14
<u>educational reform</u>					
Education, Administration	29935	R277-416	REP	07/09/2007	2007-11/14
	29746	R277-416	5YR	03/29/2007	2007-8/121
<u>educational research</u>					
Education, Administration	29746	R277-416	5YR	03/29/2007	2007-8/121
	29935	R277-416	REP	07/09/2007	2007-11/14
<u>educational testing</u>					
Education, Administration	30093	R277-473	AMD	08/07/2007	2007-13/31
	29478	R277-473-9	AMD	03/27/2007	2007-4/12
<u>educational tuition</u>					
Human Resource Management, Administration	30050	R477-10	5YR	06/09/2007	2007-13/150
	29891	R477-10	AMD	07/01/2007	2007-10/70
<u>educator licensure</u>					
Education, Administration	29747	R277-507	5YR	03/29/2007	2007-8/122
<u>educators</u>					
Education, Administration	30086	R277-110	NEW	08/07/2007	2007-13/11
	30097	R277-510	R&R	08/07/2007	2007-13/42
Public Education Job Enhancement Program, Job Enhancement Committee	30099	R690-100	AMD	08/07/2007	2007-13/132
<u>effluent standards</u>					
Environmental Quality, Water Quality	29186	R317-1-2	AMD	01/19/2007	2006-22/21
	29098	R317-1-7	AMD	01/19/2007	2006-20/54
<u>electric generating units</u>					
Environmental Quality, Air Quality	29229	R307-220	AMD	05/09/2007	2006-23/12
	29229	R307-220	CPR	05/09/2007	2007-7/136
	29230	R307-224	NEW	03/15/2007	2006-23/14

<u>KEYWORD AGENCY</u>	<u>FILE NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE DATE</u>	<u>BULLETIN ISSUE/PAGE</u>
	29231	R307-424	NEW	05/09/2007	2006-23/15
	29231	R307-424	CPR	05/09/2007	2007-7/137
<u>electrologists</u>					
Commerce, Occupational and Professional Licensing	29810	R156-11a	5YR	04/12/2007	2007-9/33
	29013	R156-11a	AMD	01/11/2007	2006-19/5
	29013	R156-11a	CPR	01/11/2007	2006-23/87
	29432	R156-11a	AMD	03/27/2007	2007-4/9
<u>eligibility</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	29676	R414-307	NEW	05/15/2007	2007-7/65
	29469	R414-308	AMD	04/01/2007	2007-4/22
Human Services, Child and Family Services	30289	R512-1	5YR	08/07/2007	Not Printed
	30290	R512-2	5YR	08/07/2007	Not Printed
<u>eligibility and priority</u>					
Human Services, Public Guardian (Office of)	29950	R549-1	NEW	07/09/2007	2007-11/50
<u>emergency medical services</u>					
Health, Health Systems Improvement, Emergency Medical Services	30205	R426-5	5YR	07/18/2007	2007-16/71
	29944	R426-12	AMD	08/08/2007	2007-11/30
	29392	R426-16	AMD	04/01/2007	2007-3/9
<u>emergency powers</u>					
Environmental Quality, Air Quality	30183	R307-105	5YR	07/13/2007	2007-15/62
	29501	R307-105	NSC	07/13/2007	Not Printed
<u>emission controls</u>					
Environmental Quality, Air Quality	29003	R307-325	CPR	03/09/2007	2007-3/42
	29003	R307-325	AMD	03/09/2007	2006-19/35
	29664	R307-325	5YR	03/15/2007	2007-7/160
	29669	R307-340	5YR	03/15/2007	2007-7/165
	29009	R307-340	AMD	03/09/2007	2006-19/52
	29009	R307-340	CPR	03/09/2007	2007-3/46
	29151	R307-340-1	NSC	03/09/2007	Not Printed
	29670	R307-341	5YR	03/15/2007	2007-7/166
	29010	R307-341	AMD	01/16/2007	2006-19/59
<u>emission fees</u>					
Environmental Quality, Air Quality	30191	R307-415	5YR	07/13/2007	2007-15/66
<u>employee benefits plans</u>					
Human Resource Management, Administration	29887	R477-6	AMD	07/01/2007	2007-10/54
	30060	R477-6	5YR	06/09/2007	2007-13/148
<u>employee performance evaluations</u>					
Human Resource Management, Administration	29891	R477-10	AMD	07/01/2007	2007-10/70
	30050	R477-10	5YR	06/09/2007	2007-13/150

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>employee productivity</u>					
Human Resource Management, Administration	30050	R477-10	5YR	06/09/2007	2007-13/150
	29891	R477-10	AMD	07/01/2007	2007-10/70
<u>employee recruitment</u>					
Workforce Services, Unemployment Insurance	29958	R994-402	5YR	05/17/2007	2007-12/70
<u>employee termination</u>					
Workforce Services, Unemployment Insurance	29855	R994-405	AMD	08/08/2007	2007-10/88
	30142	R994-405	5YR	06/26/2007	2007-14/61
	30104	R994-405-3	AMD	08/08/2007	2007-13/135
<u>employee's rights</u>					
Workforce Services, Unemployment Insurance	29855	R994-405	AMD	08/08/2007	2007-10/88
	30104	R994-405-3	AMD	08/08/2007	2007-13/135
<u>employees' rights</u>					
Human Resource Management, Administration	29892	R477-12	AMD	07/01/2007	2007-10/72
	30053	R477-12	5YR	06/09/2007	2007-13/152
Workforce Services, Unemployment Insurance	30142	R994-405	5YR	06/26/2007	2007-14/61
<u>employer liability</u>					
Workforce Services, Unemployment Insurance	29686	R994-302	R&R	07/01/2007	2007-7/115
<u>employment</u>					
Human Resource Management, Administration	30061	R477-4	5YR	06/09/2007	2007-13/146
	29885	R477-4	AMD	07/01/2007	2007-10/51
	29886	R477-5	AMD	07/01/2007	2007-10/53
	30055	R477-5	5YR	06/09/2007	2007-13/147
Workforce Services, Unemployment Insurance	29678	R994-202	R&R	07/01/2007	2007-7/90
	30142	R994-405	5YR	06/26/2007	2007-14/61
	29855	R994-405	AMD	08/08/2007	2007-10/88
	30104	R994-405-3	AMD	08/08/2007	2007-13/135
<u>employment support procedures</u>					
Workforce Services, Employment Development	29700	R986-100-114a	AMD	06/14/2007	2007-7/89
<u>employment tests</u>					
Workforce Services, Unemployment Insurance	29680	R994-204	R&R	07/01/2007	2007-7/96
	29681	R994-205	R&R	07/01/2007	2007-7/103
	29682	R994-206	R&R	07/01/2007	2007-7/107
<u>energy assistance</u>					
Community and Culture, Home Energy Assistance Target (HEAT)	29982	R195-2	NSC	06/22/2007	Not Printed
	30124	R195-2	5YR	06/22/2007	2007-14/44
	30125	R195-3	5YR	06/22/2007	2007-14/44
	29983	R195-3	NSC	06/22/2007	Not Printed

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	29984	R195-4	NSC	06/22/2007	Not Printed
	30126	R195-4	5YR	06/22/2007	2007-14/45
	30127	R195-5	5YR	06/22/2007	2007-14/45
	29985	R195-5	NSC	06/22/2007	Not Printed
	29986	R195-6	NSC	06/25/2007	Not Printed
	30128	R195-6	5YR	06/25/2007	2007-14/46
	29987	R195-7	NSC	06/25/2007	Not Printed
	30130	R195-7	5YR	06/25/2007	2007-14/46
	29988	R195-8	NSC	06/25/2007	Not Printed
<u>energy assistance moratorium</u> Community and Culture, Home Energy Assistance Target (HEAT)	30131	R195-8	5YR	06/25/2007	2007-14/47
<u>energy industries</u> Community and Culture, Home Energy Assistance Target (HEAT)	29988	R195-8	NSC	06/25/2007	Not Printed
<u>energy utility</u> Public Service Commission, Administration	29378	R746-440	NEW	03/19/2007	2007-2/111
<u>enforceable written assurance</u> Environmental Quality, Environmental Response and Remediation	29585	R311-600	NSC	03/26/2007	Not Printed
<u>enforcement (administrative)</u> Public Safety, Administration	29384	R698-1	5YR	01/02/2007	2007-2/118
<u>engineers</u> Commerce, Occupational and Professional Licensing	29355	R156-22	AMD	02/22/2007	2007-2/3
<u>enrollment</u> Education, Administration	29693	R277-612	NEW	05/09/2007	2007-7/17
<u>enrollment options</u> Education, Administration	29902	R277-437-1	NSC	05/01/2007	Not Printed
<u>enterprise zones</u> Tax Commission, Auditing	29712	R865-9I	5YR	03/20/2007	2007-8/142
	29320	R865-9I-32	AMD	02/12/2007	2007-1/42
	29786	R865-9I-42	NSC	04/12/2007	Not Printed
	29315	R865-9I-49	AMD	02/12/2007	2007-1/43
	29314	R865-9I-52	AMD	02/12/2007	2007-1/44
	29436	R865-9I-53	AMD	04/16/2007	2007-4/41
<u>environment</u> Tax Commission, Auditing	29628	R865-13G	5YR	03/09/2007	2007-7/190
<u>environmental assessment</u> Natural Resources, Forestry, Fire and State Lands	29763	R652-90	5YR	04/02/2007	2007-8/136
<u>environmental protection</u> Environmental Quality, Air Quality	29001	R307-110-13	AMD	03/09/2007	2006-19/30
	29655	R307-220	5YR	03/15/2007	2007-7/156

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
	30191	R307-415	5YR	07/13/2007	2007-15/66
Environmental Quality, Drinking Water	29363	R309-150	AMD	03/06/2007	2007-2/31
	29362	R309-300-13	NSC	03/06/2007	Not Printed
	29360	R309-405-4	NSC	03/06/2007	Not Printed
<u>Equine Viral Arteritis (EVA)</u>					
Agriculture and Food, Animal Industry	29342	R58-23	NEW	02/28/2007	2007-1/5
<u>equipment</u>					
Environmental Quality, Air Quality	29327	R307-120	AMD	03/09/2007	2007-1/7
	29653	R307-120	5YR	03/15/2007	2007-7/155
<u>essential facilities</u>					
Public Service Commission, Administration	29626	R746-349	5YR	03/08/2007	2007-7/186
<u>estheticians</u>					
Commerce, Occupational and Professional Licensing	29810	R156-11a	5YR	04/12/2007	2007-9/33
	29013	R156-11a	AMD	01/11/2007	2006-19/5
	29013	R156-11a	CPR	01/11/2007	2006-23/87
	29432	R156-11a	AMD	03/27/2007	2007-4/9
<u>executions</u>					
Corrections, Administration	29533	R251-107	AMD	05/01/2007	2007-6/11
<u>experience</u>					
Commerce, Real Estate	29522	R162-104	5YR	02/15/2007	2007-5/24
	29623	R162-104	AMD	05/29/2007	2007-7/4
<u>extended benefits</u>					
Workforce Services, Unemployment Insurance	29958	R994-402	5YR	05/17/2007	2007-12/70
<u>extended-day</u>					
Education, Administration	30174	R277-489	NSC	07/30/2007	Not Printed
	29933	R277-489	NEW	07/09/2007	2007-11/19
<u>extinguishers</u>					
Public Safety, Fire Marshal	29677	R710-1	AMD	05/08/2007	2007-7/80
	29981	R710-1	5YR	05/30/2007	2007-12/67
<u>extracurricular activities</u>					
Education, Administration	29494	R277-617	5YR	02/02/2007	2007-5/25
	29937	R277-617	REP	07/09/2007	2007-11/25
<u>facilities</u>					
Education, Administration	30096	R277-487	REP	08/07/2007	2007-13/39
<u>facilities use</u>					
Administrative Services, Facilities Construction and Management	29964	R23-19	5YR	05/24/2007	2007-12/59
	29812	R23-19	R&R	06/07/2007	2007-9/3
Capitol Preservation Board (State), Administration	29952	R131-3	5YR	05/16/2007	2007-12/60

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>facility</u>					
Human Services, Substance Abuse and Mental Health, State Hospital	29802	R525-8	AMD	06/15/2007	2007-9/24
<u>fair employment practices</u>					
Human Resource Management, Administration	30049	R477-2	5YR	06/09/2007	2007-13/145
	29883	R477-2	AMD	07/01/2007	2007-10/46
	30061	R477-4	5YR	06/09/2007	2007-13/146
	29885	R477-4	AMD	07/01/2007	2007-10/51
<u>falconry</u>					
Natural Resources, Wildlife Resources	29401	R657-20	AMD	03/12/2007	2007-3/19
	29398	R657-20	5YR	01/10/2007	2007-3/66
<u>family employment program</u>					
Workforce Services, Employment Development	29587	R986-200	AMD	05/01/2007	2007-6/30
	29853	R986-200	AMD	07/01/2007	2007-10/83
	29414	R986-200-215	AMD	03/15/2007	2007-3/36
	30105	R986-200-217	NSC	06/29/2007	Not Printed
	29974	R986-200-231	AMD	07/31/2007	2007-12/45
	29300	R986-200-246	AMD	02/01/2007	2006-24/38
<u>federal law</u>					
Financial Institutions, Credit Unions	29352	R337-10	NSC	01/22/2007	Not Printed
	29173	R337-10	NEW	01/22/2007	2006-22/25
<u>fees</u>					
Administrative Services, Finance	29424	R25-14	5YR	01/17/2007	2007-4/54
Corrections, Administration	30040	R251-401	5YR	06/07/2007	2007-13/143
Environmental Quality, Air Quality	30190	R307-414	5YR	07/13/2007	2007-15/66
Environmental Quality, Environmental Response and Remediation	29841	R311-203	5YR	04/18/2007	2007-10/114
	29570	R311-203	NSC	04/18/2007	Not Printed
Environmental Quality, Radiation Control	29335	R313-70	AMD	03/16/2007	2007-1/17
Human Services, Substance Abuse and Mental Health	29381	R523-1-2	AMD	02/26/2007	2007-2/97
	29245	R523-1-5	AMD	01/30/2007	2006-24/29
	29382	R523-1-11	AMD	02/26/2007	2007-2/99
	29383	R523-1-23	AMD	05/14/2007	2007-2/101
Labor Commission, Industrial Accidents	30110	R612-2-27	NSC	07/11/2007	Not Printed
	29948	R612-2-27	AMD	07/10/2007	2007-11/71
Natural Resources, Parks and Recreation	29914	R651-611	AMD	07/09/2007	2007-11/73
	29773	R651-611-4	AMD	05/22/2007	2007-8/90
<u>filing deadlines</u>					
Workforce Services, Unemployment Insurance	30141	R994-403	5YR	06/26/2007	2007-14/60
<u>filing fees</u>					
Natural Resources, Forestry, Fire and State Lands	29761	R652-4	5YR	04/02/2007	2007-8/131
School and Institutional Trust Lands, Administration	30149	R850-4	5YR	06/27/2007	2007-14/54

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>filing requirements</u>					
Public Service Commission, Administration	29376	R746-420	CPR	05/17/2007	2007-7/138
	29378	R746-440	NEW	03/19/2007	2007-2/111
<u>filtration</u>					
Environmental Quality, Drinking Water	29778	R309-525	5YR	04/02/2007	2007-8/124
<u>financial assistance</u>					
Environmental Quality, Drinking Water	29785	R309-705	5YR	04/02/2007	2007-8/127
<u>financial disclosures</u>					
Community and Culture, Home Energy Assistance Target (HEAT)	30126	R195-4	5YR	06/22/2007	2007-14/45
	29984	R195-4	NSC	06/22/2007	Not Printed
<u>financial institutions</u>					
Financial Institutions, Administration	30237	R331-5	5YR	07/25/2007	2007-16/66
	30238	R331-7	5YR	07/25/2007	2007-16/66
	30239	R331-9	5YR	07/25/2007	2007-16/67
	30240	R331-10	5YR	07/25/2007	2007-16/67
	30241	R331-12	5YR	07/25/2007	2007-16/68
	30242	R331-14	5YR	07/25/2007	2007-16/68
	29818	R331-22	5YR	04/16/2007	2007-9/35
Financial Institutions, Credit Unions	29352	R337-10	NSC	01/22/2007	Not Printed
	29173	R337-10	NEW	01/22/2007	2006-22/25
Financial Institutions, Nondepository Lenders	29225	R343-1	NEW	01/09/2007	2006-23/65
<u>financial responsibility</u>					
Environmental Quality, Environmental Response and Remediation	29845	R311-207	5YR	04/18/2007	2007-10/117
	29574	R311-207	NSC	04/18/2007	Not Printed
<u>financial statements</u>					
Commerce, Securities	30256	R164-10	5YR	07/30/2007	2007-16/60
<u>financing of programs</u>					
Human Services, Substance Abuse and Mental Health	30038	R523-20	5YR	06/05/2007	2007-13/153
	29246	R523-20-2	AMD	01/30/2007	2006-24/31
<u>fire alarm systems</u>					
Public Safety, Fire Marshal	29701	R710-11	AMD	05/08/2007	2007-7/88
<u>fire prevention</u>					
Public Safety, Fire Marshal	29677	R710-1	AMD	05/08/2007	2007-7/80
	29981	R710-1	5YR	05/30/2007	2007-12/67
	29233	R710-4	AMD	01/09/2007	2006-23/72
	30043	R710-4	5YR	06/08/2007	2007-13/156
	29683	R710-4-3	AMD	05/08/2007	2007-7/82
	30007	R710-7	5YR	05/31/2007	2007-12/67
	29234	R710-8	AMD	01/09/2007	2006-23/76
	29706	R710-8	5YR	03/16/2007	2007-8/139

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	29232	R710-9	AMD	01/09/2007	2006-23/78
	29421	R710-9	AMD	03/12/2007	2007-3/32
	29702	R710-9	AMD	05/08/2007	2007-7/83
	30044	R710-9	5YR	06/08/2007	2007-13/156
<u>firearms</u>					
Human Services, Juvenile Justice Services	29897	R547-14	5YR	04/30/2007	2007-10/128
Public Safety, Administration	29331	R698-100	NSC	04/02/2007	Not Printed
	29728	R698-100	REP	05/23/2007	2007-8/109
	29787	R698-100	5YR	04/02/2007	2007-8/136
<u>fireplaces</u>					
Environmental Quality, Air Quality	29798	R307-122	REP	07/13/2007	2007-9/17
	29322	R307-122	NSC	07/13/2007	Not Printed
<u>fireworks</u>					
Public Safety, Fire Marshal	29422	R710-2	AMD	03/12/2007	2007-3/27
	30031	R710-2	5YR	06/04/2007	2007-13/155
	29679	R710-2-7	NSC	03/29/2007	Not Printed
<u>fiscal assistance</u>					
Natural Resources, Parks and Recreation	30247	R651-301	5YR	07/26/2007	2007-16/74
<u>fish</u>					
Natural Resources, Wildlife Resources	30067	R657-13	AMD	08/07/2007	2007-13/93
<u>fishing</u>					
Natural Resources, Wildlife Resources	30067	R657-13	AMD	08/07/2007	2007-13/93
	29920	R657-30	5YR	05/07/2007	2007-11/88
<u>fleet expansion</u>					
Administrative Services, Fleet Operations	30212	R27-4	5YR	07/25/2007	2007-16/57
<u>flocculation</u>					
Environmental Quality, Drinking Water	29778	R309-525	5YR	04/02/2007	2007-8/124
<u>food</u>					
Agriculture and Food, Regulatory Services	30062	R70-560	NEW	08/07/2007	2007-13/7
<u>food establishment registration</u>					
Agriculture and Food, Regulatory Services	30062	R70-560	NEW	08/07/2007	2007-13/7
<u>food inspection</u>					
Agriculture and Food, Regulatory Services	29507	R70-320	5YR	02/08/2007	2007-5/22
	29499	R70-350	5YR	02/05/2007	2007-5/22
	29500	R70-360	5YR	02/05/2007	2007-5/23
<u>food services</u>					
Health, Epidemiology and Laboratory Services, Environmental Services	29722	R392-100	5YR	03/22/2007	2007-8/129
<u>food stamps</u>					
Workforce Services, Employment Development	29588	R986-900-902	AMD	05/01/2007	2007-6/34

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>foreign exchange students</u> Education, Administration	29693	R277-612	NEW	05/09/2007	2007-7/17
<u>forensic</u> Human Services, Substance Abuse and Mental Health, State Hospital	29802	R525-8	AMD	06/15/2007	2007-9/24
<u>forest practices</u> Natural Resources, Forestry, Fire and State Lands	29433	R652-140	NSC	01/23/2007	Not Printed
	29461	R652-140	NEW	03/26/2007	2007-4/37
<u>foster care</u> Human Services, Child and Family Services	30290	R512-2	5YR	08/07/2007	Not Printed
	30291	R512-31	5YR	08/07/2007	Not Printed
	29388	R512-43	5YR	01/03/2007	2007-3/59
<u>franchises</u> Commerce, Administration	30195	R151-35	5YR	07/13/2007	2007-15/61
Commerce, Consumer Protection	30119	R152-15	5YR	06/22/2007	2007-14/42
Tax Commission, Auditing	29624	R865-6F	5YR	03/08/2007	2007-7/187
	29323	R865-6F-30	AMD	02/12/2007	2007-1/41
	29437	R865-6F-37	AMD	04/16/2007	2007-4/40
<u>fraud</u> Commerce, Consumer Protection	29594	R152-26	5YR	03/05/2007	2007-7/149
	29379	R152-26	AMD	02/23/2007	2007-2/3
Commerce, Securities	30258	R164-1	5YR	07/30/2007	2007-16/57
<u>free speech</u> Administrative Services, Facilities Construction and Management	29811	R23-20	NEW	06/07/2007	2007-9/11
<u>freedom of information</u> Administrative Services, Administration	29771	R13-2	5YR	04/02/2007	2007-8/119
	29772	R13-2	AMD	05/22/2007	2007-8/3
	29524	R151-2	5YR	02/15/2007	2007-5/23
Natural Resources, Parks and Recreation	30245	R651-102	5YR	07/26/2007	2007-16/73
Natural Resources, Wildlife Resources	29916	R657-29	5YR	05/03/2007	2007-11/87
Public Safety, Administration	29385	R698-2	5YR	01/02/2007	2007-2/118
<u>fuel</u> Tax Commission, Auditing	29556	R865-4D	5YR	02/26/2007	2007-6/48
<u>fuel dispensing</u> Administrative Services, Fleet Operations	29515	R27-6	5YR	02/14/2007	2007-5/19
<u>functional classification</u> Transportation, Program Development	29455	R926-4	NEW	03/26/2007	2007-4/43
<u>funeral industries</u> Commerce, Occupational and Professional Licensing	29391	R156-9-302a	AMD	03/13/2007	2007-3/6

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>funeral services</u>					
Commerce, Occupational and Professional Licensing	29391	R156-9-302a	AMD	03/13/2007	2007-3/6
<u>game birds</u>					
Natural Resources, Wildlife Resources	29921	R657-22	5YR	05/07/2007	2007-11/87
	29635	R657-22-3	AMD	05/08/2007	2007-7/75
<u>game laws</u>					
Natural Resources, Wildlife Resources	29996	R657-4	5YR	05/31/2007	2007-12/66
	30063	R657-5	AMD	08/07/2007	2007-13/84
	29351	R657-5	AMD	02/07/2007	2007-1/25
	29923	R657-5	AMD	07/09/2007	2007-11/75
	29502	R657-5-43	AMD	04/09/2007	2007-5/17
	30064	R657-6	AMD	08/07/2007	2007-13/86
	30066	R657-10	AMD	08/07/2007	2007-13/90
	30173	R657-14	5YR	07/09/2007	2007-15/70
	30068	R657-17	AMD	08/07/2007	2007-13/95
	29328	R657-17-3	AMD	02/07/2007	2007-1/34
	29402	R657-33	AMD	03/12/2007	2007-3/24
	30069	R657-33	AMD	08/07/2007	2007-13/111
	30074	R657-54	AMD	08/07/2007	2007-13/125
<u>gasoline</u>					
Environmental Quality, Air Quality	29660	R307-301	5YR	03/15/2007	2007-7/158
	29665	R307-326	5YR	03/15/2007	2007-7/161
	29006	R307-326	AMD	03/09/2007	2006-19/37
	29006	R307-326	CPR	03/09/2007	2007-3/43
	29526	R307-326-1	NSC	03/09/2007	Not Printed
	29004	R307-327	CPR	03/09/2007	2007-3/45
	29666	R307-327	5YR	03/15/2007	2007-7/163
	29004	R307-327	AMD	03/09/2007	2006-19/40
	29007	R307-332	REP	01/16/2007	2006-19/46
Tax Commission, Auditing	29628	R865-13G	5YR	03/09/2007	2007-7/190
<u>gasoline transport</u>					
Environmental Quality, Air Quality	29667	R307-328	5YR	03/15/2007	2007-7/164
	29005	R307-328	AMD	01/16/2007	2006-19/43
	29150	R307-328-1	NSC	01/16/2007	Not Printed
	29011	R307-342	AMD	01/16/2007	2006-19/60
	29671	R307-342	5YR	03/15/2007	2007-7/167
<u>general assistance</u>					
Workforce Services, Employment Development	29976	R986-400	AMD	07/31/2007	2007-12/46
	29854	R986-400	AMD	07/01/2007	2007-10/85
<u>genetic counselors</u>					
Commerce, Occupational and Professional Licensing	29397	R156-75	5YR	01/09/2007	2007-3/58

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>geology</u>					
Commerce, Occupational and Professional Licensing	29905	R156-76	5YR	05/01/2007	2007-10/106
<u>geothermal resources</u>					
Natural Resources, Water Rights	30182	R655-1	5YR	07/12/2007	2007-15/69
<u>government corporations</u>					
Workforce Services, Unemployment Insurance	29698	R994-311	AMD	07/01/2007	2007-7/130
<u>government documents</u>					
Administrative Services, Records Committee	29081	R35-2-2	AMD	01/05/2007	2006-20/2
Attorney General, Administration	30037	R105-2	5YR	06/05/2007	2007-13/142
	29524	R151-2	5YR	02/15/2007	2007-5/23
Community and Culture, Home Energy Assistance Target (HEAT)	29987	R195-7	NSC	06/25/2007	Not Printed
	30130	R195-7	5YR	06/25/2007	2007-14/46
Environmental Quality, Administration	29809	R305-1	5YR	04/12/2007	2007-9/34
	29867	R380-20	5YR	04/26/2007	2007-10/121
	29497	R495-810	5YR	02/05/2007	2007-5/27
Natural Resources, Parks and Recreation	30245	R651-102	5YR	07/26/2007	2007-16/73
Natural Resources, Forestry, Fire and State Lands	29766	R652-6	5YR	04/02/2007	2007-8/132
Natural Resources, Wildlife Resources	29916	R657-29	5YR	05/03/2007	2007-11/87
Public Safety, Administration	29385	R698-2	5YR	01/02/2007	2007-2/118
	30148	R850-6	5YR	06/27/2007	2007-14/55
<u>government ethics</u>					
Human Resource Management, Administration	30052	R477-9	5YR	06/09/2007	2007-13/149
	29890	R477-9	AMD	07/01/2007	2007-10/68
<u>government hearings</u>					
Agriculture and Food, Administration	29405	R51-2	5YR	01/11/2007	2007-3/56
Commerce, Consumer Protection	30118	R152-6	5YR	06/22/2007	2007-14/42
Financial Institutions, Administration	30239	R331-9	5YR	07/25/2007	2007-16/67
	30056	R477-11	5YR	06/09/2007	2007-13/151
	29894	R477-11	NSC	05/11/2007	Not Printed
	30219	R671-205	5YR	07/25/2007	2007-16/77
	30226	R671-304	5YR	07/25/2007	2007-16/79
	30227	R671-305	5YR	07/25/2007	2007-16/80
<u>government purchasing</u>					
School and Institutional Trust Lands, Administration	29859	R850-11	5YR	04/24/2007	2007-10/129
<u>governor</u>					
Environmental Quality, Air Quality	30183	R307-105	5YR	07/13/2007	2007-15/62
	29501	R307-105	NSC	07/13/2007	Not Printed
<u>GRAMA</u>					
Attorney General, Administration	30037	R105-2	5YR	06/05/2007	2007-13/142
	29809	R305-1	5YR	04/12/2007	2007-9/34

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	29867	R380-20	5YR	04/26/2007	2007-10/121
Natural Resources, Forestry, Fire and State Lands	29766	R652-6	5YR	04/02/2007	2007-8/132
Regents (Board Of), College of Eastern Utah	30108	R767-1	5YR	06/19/2007	2007-14/52
School and Institutional Trust Lands, Administration	30148	R850-6	5YR	06/27/2007	2007-14/55
<u>grants</u>					
Education, Administration	29305	R277-511	NEW	01/23/2007	2006-24/7
Natural Resources, Oil, Gas and Mining; Abandoned Mine Reclamation	29605	R643-886	5YR	03/07/2007	2007-7/174
<u>grievance procedures</u>					
Tax Commission, Administration	29713	R861-1A	5YR	03/20/2007	2007-8/139
	29324	R861-1A-19	AMD	02/12/2007	2007-1/41
	29941	R861-1A-41	AMD	07/16/2007	2007-11/76
<u>grievances</u>					
Human Resource Management, Administration	29884	R477-3	AMD	07/01/2007	2007-10/49
	30058	R477-3	5YR	06/09/2007	2007-13/146
	30056	R477-11	5YR	06/09/2007	2007-13/151
	29894	R477-11	NSC	05/11/2007	Not Printed
	30053	R477-12	5YR	06/09/2007	2007-13/152
	29892	R477-12	AMD	07/01/2007	2007-10/72
<u>ground water</u>					
Environmental Quality, Water Quality	29294	R317-6	AMD	01/23/2007	2006-24/23
	29185	R317-6-6	AMD	01/19/2007	2006-22/23
<u>guardianship</u>					
Human Services, Public Guardian (Office of)	29950	R549-1	NEW	07/09/2007	2007-11/50
<u>halfway houses</u>					
Corrections, Administration	29463	R251-306	5YR	01/31/2007	2007-4/58
<u>hardship grants</u>					
Environmental Quality, Drinking Water	29784	R309-700	5YR	04/02/2007	2007-8/127
<u>Hatch Act</u>					
Human Resource Management, Administration	30052	R477-9	5YR	06/09/2007	2007-13/149
	29890	R477-9	AMD	07/01/2007	2007-10/68
<u>hazardous air pollutant</u>					
Environmental Quality, Air Quality	29194	R307-214-2	AMD	02/09/2007	2006-23/10
	30189	R307-410	5YR	07/13/2007	2007-15/65
<u>hazardous materials transportation</u>					
Transportation, Motor Carrier	29339	R909-75	AMD	02/08/2007	2007-1/49
<u>hazardous pollutant</u>					
Environmental Quality, Air Quality	29659	R307-135	5YR	03/15/2007	2007-7/156

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>hazardous substances</u>					
Environmental Quality, Environmental Response and Remediation	29839	R311-201	5YR	04/18/2007	2007-10/113
	29568	R311-201	NSC	04/18/2007	Not Printed
	29840	R311-202	5YR	04/18/2007	2007-10/114
	29569	R311-202	NSC	04/18/2007	Not Printed
	29841	R311-203	5YR	04/18/2007	2007-10/114
	29570	R311-203	NSC	04/18/2007	Not Printed
	29842	R311-204	5YR	04/18/2007	2007-10/115
	29571	R311-204	NSC	04/18/2007	Not Printed
	29844	R311-206	5YR	04/18/2007	2007-10/116
	29573	R311-206	NSC	04/18/2007	Not Printed
	29850	R311-212	5YR	04/18/2007	2007-10/120
	29579	R311-212	NSC	04/18/2007	Not Printed
	30210	R311-401	5YR	07/19/2007	2007-16/65
Transportation, Motor Carrier	29339	R909-75	AMD	02/08/2007	2007-1/49
<u>Hazardous Substances Mitigation Act</u>					
Environmental Quality, Environmental Response and Remediation	29585	R311-600	NSC	03/26/2007	Not Printed
<u>hazardous substances priority list</u>					
Environmental Quality, Environmental Response and Remediation	30210	R311-401	5YR	07/19/2007	2007-16/65
<u>hazardous waste</u>					
Transportation, Motor Carrier	29339	R909-75	AMD	02/08/2007	2007-1/49
<u>health</u>					
Health, Center for Health Data, Health Care Statistics	29788	R428-1	5YR	04/03/2007	2007-9/38
	29789	R428-2	5YR	04/03/2007	2007-9/38
	29790	R428-5	5YR	04/03/2007	2007-9/39
	29791	R428-10	5YR	04/03/2007	2007-9/39
	29793	R428-20	5YR	04/03/2007	2007-9/40
<u>health care facilities</u>					
Health, Health Systems Improvement, Licensing	29750	R432-2-6	AMD	05/29/2007	2007-8/82
<u>health care professionals</u>					
Public Safety, Driver License	29633	R708-7	5YR	03/13/2007	2007-7/184
	29582	R708-7-10	AMD	04/23/2007	2007-6/29
<u>health care quality</u>					
Health, Center for Health Data, Health Care Statistics	29792	R428-12	5YR	04/03/2007	2007-9/40
<u>health effects</u>					
Environmental Quality, Drinking Water	29367	R309-220	AMD	03/06/2007	2007-2/86
	29648	R309-220-15	AMD	05/14/2007	2007-7/46
<u>health facilities</u>					
Health, Health Systems Improvement, Licensing	29525	R432-100-33	AMD	04/11/2007	2007-5/14

<u>KEYWORD AGENCY</u>	<u>FILE NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE DATE</u>	<u>BULLETIN ISSUE/PAGE</u>
<u>health insurance</u>					
Insurance, Administration	29404	R590-126	5YR	01/11/2007	2007-3/63
	29431	R590-126-4	AMD	04/09/2007	2007-4/28
	29998	R590-126-4	AMD	07/30/2007	2007-12/20
	29400	R590-176	5YR	01/11/2007	2007-3/65
	29999	R590-233-4	AMD	07/30/2007	2007-12/35
<u>health insurance exemption</u>					
Insurance, Administration	29419	R590-239	NEW	04/09/2007	2007-3/13
	29420	R590-240	NEW	06/08/2007	2007-3/15
	29420	R590-240	CPR	06/08/2007	2007-9/30
	30102	R590-240-5	AMD	08/08/2007	2007-13/54
<u>health insurance filings</u>					
Insurance, Administration	29947	R590-220	AMD	07/12/2007	2007-11/51
	28767	R590-220	CPR	01/22/2007	2006-16/30
	28767	R590-220	CPR	01/22/2007	2006-24/44
	28767	R590-220	AMD	01/22/2007	2006-12/27
<u>health maintenance organization</u>					
Health, Center for Health Data, Health Care Statistics	29792	R428-12	5YR	04/03/2007	2007-9/40
<u>health planning</u>					
Health, Center for Health Data, Health Care Statistics	29788	R428-1	5YR	04/03/2007	2007-9/38
	29789	R428-2	5YR	04/03/2007	2007-9/38
	29790	R428-5	5YR	04/03/2007	2007-9/39
	29791	R428-10	5YR	04/03/2007	2007-9/39
	29793	R428-20	5YR	04/03/2007	2007-9/40
<u>health policy</u>					
Health, Center for Health Data, Health Care Statistics	29788	R428-1	5YR	04/03/2007	2007-9/38
	29789	R428-2	5YR	04/03/2007	2007-9/38
	29790	R428-5	5YR	04/03/2007	2007-9/39
	29793	R428-20	5YR	04/03/2007	2007-9/40
<u>health spas</u>					
Commerce, Consumer Protection	30121	R152-23	5YR	06/22/2007	2007-14/43
	29238	R152-23	AMD	01/23/2007	2006-24/3
<u>hearings</u>					
Environmental Quality, Drinking Water	29361	R309-115-2	NSC	03/06/2007	Not Printed
Labor Commission, Adjudication	29957	R602-2-4	AMD	07/24/2007	2007-12/40
<u>HEAT</u>					
Community and Culture, Home Energy Assistance Target (HEAT)	30124	R195-2	5YR	06/22/2007	2007-14/44
	29982	R195-2	NSC	06/22/2007	Not Printed
<u>high quality ground water</u>					
Environmental Quality, Drinking Water	29775	R309-505	5YR	04/02/2007	2007-8/123

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>higher education</u>					
Education, Administration	30098	R277-713	AMD	08/07/2007	2007-13/47
	30177	R628-2	5YR	07/10/2007	2007-15/68
<u>highly qualified</u>					
Education, Administration	30097	R277-510	R&R	08/07/2007	2007-13/42
	29305	R277-511	NEW	01/23/2007	2006-24/7
<u>highway construction</u>					
Transportation, Operations, Maintenance	29456	R918-2	REP	06/06/2007	2007-4/42
<u>HIPPA eligibility</u>					
Insurance, Administration	29430	R590-236	AMD	04/09/2007	2007-4/30
<u>hiring practices</u>					
Human Resource Management, Administration	30061	R477-4	5YR	06/09/2007	2007-13/146
	29885	R477-4	AMD	07/01/2007	2007-10/51
<u>historic preservation</u>					
Tax Commission, Auditing	29624	R865-6F	5YR	03/08/2007	2007-7/187
	29323	R865-6F-30	AMD	02/12/2007	2007-1/41
	29437	R865-6F-37	AMD	04/16/2007	2007-4/40
	29712	R865-9I	5YR	03/20/2007	2007-8/142
	29320	R865-9I-32	AMD	02/12/2007	2007-1/42
	29786	R865-9I-42	NSC	04/12/2007	Not Printed
	29315	R865-9I-49	AMD	02/12/2007	2007-1/43
	29314	R865-9I-52	AMD	02/12/2007	2007-1/44
	29436	R865-9I-53	AMD	04/16/2007	2007-4/41
<u>HIV</u>					
Health, Epidemiology and Laboratory Services; HIV/AIDS, Tuberculosis Control/Refugee Health	30207	R388-802	5YR	07/19/2007	2007-16/70
<u>HIV/AIDS</u>					
Health, Epidemiology and Laboratory Services; HIV/AIDS, Tuberculosis Control/Refugee Health	29979	R388-803	5YR	05/29/2007	2007-12/61
<u>holidays</u>					
Human Resource Management, Administration	30161	R477-7	5YR	06/29/2007	2007-14/47
	29888	R477-7	AMD	07/01/2007	2007-10/57
<u>hospital policy</u>					
Health, Center for Health Data, Health Care Statistics	29791	R428-10	5YR	04/03/2007	2007-9/39
<u>hospitals</u>					
Environmental Quality, Air Quality	29657	R307-222	5YR	03/15/2007	2007-7/157
Health, Administration	29538	R380-200	AMD	04/26/2007	2007-6/14
<u>hostile work environment</u>					
Human Resource Management, Administration	30054	R477-15	5YR	06/09/2007	2007-13/153
	29895	R477-15	NSC	05/11/2007	Not Printed

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>hotels</u> Health, Epidemiology and Laboratory Services, Environmental Services	30204	R392-502	5YR	07/18/2007	2007-16/70
<u>human services</u> Human Services, Administration, Administrative Services, Licensing	29874	R501-8	NSC	05/14/2007	Not Printed
<u>hunting</u> Natural Resources, Wildlife Resources	30070	R657-38	AMD	08/07/2007	2007-13/113
	29329	R657-38	AMD	02/07/2007	2007-1/35
<u>hunting and fishing licenses</u> Natural Resources, Wildlife Resources	30068	R657-17	AMD	08/07/2007	2007-13/95
	29328	R657-17-3	AMD	02/07/2007	2007-1/34
<u>hydropneumatic systems</u> Environmental Quality, Drinking Water	29781	R309-540	5YR	04/02/2007	2007-8/126
<u>immunization</u> Health, Community and Family Health Services, Immunization	29547	R396-100	AMD	05/07/2007	2007-6/19
<u>implements of husbandry</u> Transportation, Motor Carrier	29338	R909-1-1	AMD	02/08/2007	2007-1/45
<u>import requirements</u> Agriculture and Food, Animal Industry	29912	R58-1	AMD	08/07/2007	2007-11/4
<u>import restrictions</u> Natural Resources, Wildlife Resources	29751	R657-53	AMD	05/22/2007	2007-8/92
<u>imputation</u> Public Service Commission, Administration	29626	R746-349	5YR	03/08/2007	2007-7/186
<u>in-service training</u> Public Safety, Peace Officer Standards and Training	29565	R728-500	5YR	02/27/2007	2007-6/45
<u>incapacitated</u> Human Services, Public Guardian (Office of)	29950	R549-1	NEW	07/09/2007	2007-11/50
<u>incinerators</u> Environmental Quality, Air Quality	29655	R307-220	5YR	03/15/2007	2007-7/156
	29229	R307-220	CPR	05/09/2007	2007-7/136
	29229	R307-220	AMD	05/09/2007	2006-23/12
<u>income</u> Health, Health Care Financing, Coverage and Reimbursement Policy	29543	R414-303-17	AMD	05/01/2007	2007-6/23
<u>income eligibility</u> Community and Culture, Home Energy Assistance Target (HEAT)	29983	R195-3	NSC	06/22/2007	Not Printed
	30125	R195-3	5YR	06/22/2007	2007-14/44
<u>income tax</u> Tax Commission, Auditing	29712	R865-9I	5YR	03/20/2007	2007-8/142

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	29320	R865-9I-32	AMD	02/12/2007	2007-1/42
	29786	R865-9I-42	NSC	04/12/2007	Not Printed
	29315	R865-9I-49	AMD	02/12/2007	2007-1/43
	29314	R865-9I-52	AMD	02/12/2007	2007-1/44
	29436	R865-9I-53	AMD	04/16/2007	2007-4/41
<u>independent contractor</u>					
Workforce Services, Unemployment Insurance	29680	R994-204	R&R	07/01/2007	2007-7/96
<u>independent evaluator</u>					
Public Service Commission, Administration	29376	R746-420	NEW	05/17/2007	2007-2/102
<u>independent foster care adolescent</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	29543	R414-303-17	AMD	05/01/2007	2007-6/23
<u>indigent</u>					
Health, Health Care Financing, Medical Assistance Program	29909	R420-1	REP	07/01/2007	2007-10/40
<u>individual home booster pumps</u>					
Environmental Quality, Drinking Water	29781	R309-540	5YR	04/02/2007	2007-8/126
<u>indoor air pollution</u>					
Health, Epidemiology and Laboratory Services, Environmental Services	29856	R392-510	5YR	04/23/2007	2007-10/124
<u>industrial waste</u>					
Environmental Quality, Water Quality	29186	R317-1-2	AMD	01/19/2007	2006-22/21
	29098	R317-1-7	AMD	01/19/2007	2006-20/54
<u>industry</u>					
Environmental Quality, Radiation Control	29310	R313-35	NSC	03/05/2007	Not Printed
	29595	R313-35	5YR	03/05/2007	2007-7/169
	29336	R313-36	AMD	03/16/2007	2007-1/15
<u>infants</u>					
Health, Community and Family Health Services, WIC Services	29878	R406-100	5YR	04/27/2007	2007-10/124
	29879	R406-200	5YR	04/27/2007	2007-10/125
	29880	R406-201	5YR	04/27/2007	2007-10/126
	29876	R406-202	5YR	04/27/2007	2007-10/126
	29877	R406-301	5YR	04/27/2007	2007-10/127
<u>infectious waste</u>					
Environmental Quality, Air Quality	29657	R307-222	5YR	03/15/2007	2007-7/157
<u>informal procedures</u>					
Community and Culture, Library	30079	R223-1	5YR	06/13/2007	2007-13/143
<u>inmates</u>					
Pardons (Board Of), Administration	30216	R671-201	5YR	07/25/2007	2007-16/75
	30217	R671-202	5YR	07/25/2007	2007-16/76
	30223	R671-301	5YR	07/25/2007	2007-16/78
	30225	R671-303	5YR	07/25/2007	2007-16/79

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	30229	R671-308	5YR	07/25/2007	2007-16/80
	30230	R671-309	5YR	07/25/2007	2007-16/81
	30232	R671-310	5YR	07/25/2007	2007-16/81
	30231	R671-311	5YR	07/25/2007	2007-16/82
	30234	R671-316	5YR	07/25/2007	2007-16/82
<u>inmates' rights</u>					
Pardons (Board Of), Administration	30225	R671-303	5YR	07/25/2007	2007-16/79
<u>inspections</u>					
Agriculture and Food, Animal Industry	29505	R58-18	5YR	02/08/2007	2007-5/20
	29503	R58-22	5YR	02/08/2007	2007-5/21
	29342	R58-23	NEW	02/28/2007	2007-1/5
Agriculture and Food, Plant Industry	29347	R68-20	AMD	02/28/2007	2007-1/6
Agriculture and Food, Regulatory Services	29632	R70-530	5YR	03/12/2007	2007-7/149
<u>instructional materials</u>					
Education, Administration	30091	R277-469	AMD	08/07/2007	2007-13/20
<u>insurance</u>					
Human Resource Management, Administration	30060	R477-6	5YR	06/09/2007	2007-13/148
	29887	R477-6	AMD	07/01/2007	2007-10/54
	29443	R590-102	5YR	01/26/2007	2007-4/63
	29824	R590-102-9	AMD	06/08/2007	2007-9/25
	29406	R590-103	5YR	01/11/2007	2007-3/62
	29452	R590-114	5YR	01/29/2007	2007-4/64
	29813	R590-118	5YR	04/13/2007	2007-9/43
	29822	R590-146	5YR	04/16/2007	2007-9/44
	29449	R590-147	5YR	01/29/2007	2007-4/66
	30213	R590-148	5YR	07/25/2007	2007-16/72
	30006	R590-148-25	AMD	07/30/2007	2007-12/22
	30134	R590-149	5YR	06/26/2007	2007-14/50
	30243	R590-151	5YR	07/25/2007	2007-16/73
	30160	R590-173	5YR	06/29/2007	2007-14/51
	29407	R590-181	5YR	01/11/2007	2007-3/65
	29410	R590-182	5YR	01/12/2007	2007-3/66
	29826	R590-203	5YR	04/17/2007	2007-10/128
	29724	R590-211-1	NSC	04/12/2007	Not Printed
<u>insurance companies</u>					
Insurance, Administration	29820	R590-101	5YR	04/16/2007	2007-9/42
	29814	R590-108	5YR	04/13/2007	2007-9/43
	29583	R590-116	5YR	02/28/2007	2007-6/39
	29584	R590-117	5YR	02/28/2007	2007-6/40
	29454	R590-150	5YR	01/29/2007	2007-4/66
<u>insurance fee</u>					
Insurance, Administration	29684	R590-157	AMD	06/13/2007	2007-7/71

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>insurance law</u>					
Insurance, Administration	29815	R590-68	5YR	04/13/2007	2007-9/41
	29451	R590-70	5YR	01/29/2007	2007-4/62
	29821	R590-85	5YR	04/16/2007	2007-9/41
	29447	R590-95	5YR	01/27/2007	2007-4/62
	29446	R590-99	5YR	01/27/2007	2007-4/63
	29403	R590-121	5YR	01/11/2007	2007-3/63
	29726	R590-121-2	NSC	04/12/2007	Not Printed
	30135	R590-122	5YR	06/26/2007	2007-14/50
	29445	R590-123	5YR	01/27/2007	2007-4/64
	29448	R590-123-1	NSC	02/13/2007	Not Printed
	29411	R590-133	5YR	01/12/2007	2007-3/64
	29444	R590-142	5YR	01/26/2007	2007-4/65
	29450	R590-143	5YR	01/29/2007	2007-4/65
<u>insurance rule</u>					
Insurance, Administration	29823	R590-120	5YR	04/16/2007	2007-9/44
<u>interconnection</u>					
Public Service Commission, Administration	29428	R746-348	5YR	01/22/2007	2007-4/67
<u>interest buy-downs</u>					
Environmental Quality, Drinking Water	29784	R309-700	5YR	04/02/2007	2007-8/127
<u>intern program</u>					
Education, Administration	29496	R277-915	5YR	02/02/2007	2007-5/26
<u>interstate compacts</u>					
Workforce Services, Unemployment Insurance	29955	R994-106	5YR	05/17/2007	2007-12/69
<u>interstate shell fish safety</u>					
Agriculture and Food, Regulatory Services	29970	R70-550	NEW	08/07/2007	2007-12/7
<u>intrastate driver license waivers</u>					
Public Safety, Driver License	29589	R708-34	5YR	03/02/2007	2007-7/185
<u>investigations</u>					
Public Safety, Peace Officer Standards and Training	29562	R728-409	5YR	02/27/2007	2007-6/44
<u>investment advisers</u>					
Money Management Council, Administration	29906	R628-15	AMD	06/21/2007	2007-10/79
<u>iron and manganese control</u>					
Environmental Quality, Drinking Water	29780	R309-535	5YR	04/02/2007	2007-8/125
<u>job descriptions</u>					
Human Resource Management, Administration	30058	R477-3	5YR	06/09/2007	2007-13/146
	29884	R477-3	AMD	07/01/2007	2007-10/49
<u>juvenile corrections</u>					
Human Services, Juvenile Justice Services	29992	R547-1	5YR	05/30/2007	2007-12/64

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	29993	R547-3	5YR	05/30/2007	2007-12/65
	30032	R547-6	5YR	06/04/2007	2007-13/154
	29990	R547-7	5YR	05/30/2007	2007-12/65
	29991	R547-12	5YR	05/30/2007	2007-12/66
	30033	R547-13	5YR	06/04/2007	2007-13/154
<u>juvenile detention</u>					
Human Services, Juvenile Justice Services	30033	R547-13	5YR	06/04/2007	2007-13/154
<u>kindergarten</u>					
Education, Administration	30174	R277-489	NSC	07/30/2007	Not Printed
	29933	R277-489	NEW	07/09/2007	2007-11/19
<u>labor</u>					
Labor Commission, Safety	29733	R616-1	R&R	05/23/2007	2007-8/88
<u>laboratories</u>					
Health, Epidemiology and Laboratory Services, Laboratory Improvement	29549	R444-14	5YR	02/26/2007	2007-6/39
<u>land exchange</u>					
School and Institutional Trust Lands, Administration	29408	R850-90	5YR	01/12/2007	2007-3/66
<u>land use</u>					
Natural Resources, Forestry, Fire and State Lands	29763	R652-90	5YR	04/02/2007	2007-8/136
Natural Resources, Wildlife Resources	30084	R657-28	AMD	08/07/2007	2007-13/101
School and Institutional Trust Lands, Administration	29409	R850-120	5YR	01/12/2007	2007-3/67
<u>landfills</u>					
Environmental Quality, Air Quality	29229	R307-220	AMD	05/09/2007	2006-23/12
	29229	R307-220	CPR	05/09/2007	2007-7/136
	29655	R307-220	5YR	03/15/2007	2007-7/156
<u>landowner permits</u>					
Natural Resources, Wildlife Resources	29580	R657-43	NSC	03/13/2007	Not Printed
	29639	R657-43	5YR	03/13/2007	2007-7/183
	30072	R657-43	AMD	08/07/2007	2007-13/120
	29704	R657-43	NSC	04/12/2007	Not Printed
<u>law</u>					
Public Safety, Fire Marshal	29232	R710-9	AMD	01/09/2007	2006-23/78
	29421	R710-9	AMD	03/12/2007	2007-3/32
	29702	R710-9	AMD	05/08/2007	2007-7/83
	30044	R710-9	5YR	06/08/2007	2007-13/156
<u>law enforcement officers</u>					
Public Safety, Peace Officer Standards and Training	29551	R728-101	5YR	02/26/2007	2007-6/40
	29548	R728-401	5YR	02/26/2007	2007-6/67
	29552	R728-401	5YR	02/26/2007	2007-6/41
	29147	R728-401-3	AMD	01/20/2007	2006-22/45
	29176	R728-402	AMD	01/20/2007	2006-22/47

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	29553	R728-402	5YR	02/26/2007	2007-6/41
	29557	R728-403	5YR	02/26/2007	2007-6/42
	29558	R728-404	5YR	02/26/2007	2007-6/42
	29559	R728-405	5YR	02/26/2007	2007-6/43
	29560	R728-406	5YR	02/26/2007	2007-6/43
	29561	R728-407	5YR	02/26/2007	2007-6/44
	29562	R728-409	5YR	02/27/2007	2007-6/44
	29563	R728-410	5YR	02/27/2007	2007-6/45
	29565	R728-500	5YR	02/27/2007	2007-6/45
<u>leases</u>					
Financial Institutions, Administration	30238	R331-7	5YR	07/25/2007	2007-16/66
Natural Resources, Forestry, Fire and State Lands	29759	R652-30	5YR	04/02/2007	2007-8/133
Natural Resources, Wildlife Resources	30084	R657-28	AMD	08/07/2007	2007-13/101
School and Institutional Trust Lands, Administration	30150	R850-30	5YR	06/27/2007	2007-14/56
<u>leave benefits</u>					
Human Resource Management, Administration	30161	R477-7	5YR	06/29/2007	2007-14/47
	29888	R477-7	AMD	07/01/2007	2007-10/57
<u>legal aid</u>					
Corrections, Administration	29464	R251-707	5YR	01/31/2007	2007-4/59
<u>legislative procedures</u>					
Public Safety, Driver License	29723	R708-8	5YR	03/23/2007	2007-8/137
<u>libraries</u>					
Education, Administration	30090	R277-467	NEW	08/07/2007	2007-13/19
<u>license plates</u>					
Tax Commission, Motor Vehicle	29631	R873-22M	5YR	03/12/2007	2007-7/194
<u>licensing</u>					
Commerce, Administration	29927	R151-33	5YR	05/10/2007	2007-11/85
	30164	R151-33	NSC	07/05/2007	Not Printed
Commerce, Occupational and Professional Licensing	29586	R156-1	5YR	03/01/2007	2007-6/37
	29555	R156-1-102	NSC	03/09/2007	Not Printed
	29391	R156-9-302a	AMD	03/13/2007	2007-3/6
	29871	R156-16a	5YR	04/26/2007	2007-10/106
	29770	R156-17b	AMD	05/24/2007	2007-8/8
	29459	R156-24a	5YR	01/30/2007	2007-4/56
	29473	R156-26a	5YR	02/01/2007	2007-4/56
	29472	R156-28	5YR	02/01/2007	2007-4/57
	29696	R156-37	5YR	03/15/2007	2007-7/150
	29825	R156-40-302c	NSC	04/26/2007	Not Printed
	29353	R156-40a	NEW	02/22/2007	2007-2/9
	29471	R156-41	5YR	02/01/2007	2007-4/57
	29356	R156-42a	AMD	02/22/2007	2007-2/11
	29396	R156-54	5YR	01/09/2007	2007-3/56

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	29393	R156-56	AMD	03/13/2007	2007-3/7
	29745	R156-56	5YR	03/29/2007	2007-8/119
	29866	R156-56	AMD	07/01/2007	2007-10/10
	29863	R156-56	AMD	07/01/2007	2007-10/21
	29120	R156-56	AMD	01/01/2007	2006-21/5
	29357	R156-56	NSC	01/01/2007	Not Printed
	29122	R156-56	AMD	01/01/2007	2006-21/33
	30132	R156-56	NSC	07/01/2007	Not Printed
	29078	R156-56-704	AMD	03/27/2007	2006-20/10
	29078	R156-56-704	CPR	03/27/2007	2007-4/48
	29865	R156-56-704	AMD	07/01/2007	2007-10/25
	29075	R156-56-711	AMD	01/01/2007	2006-20/13
	29354	R156-57	AMD	02/22/2007	2007-2/12
	29915	R156-63	AMD	07/19/2007	2007-11/8
	29803	R156-64	5YR	04/09/2007	2007-9/33
	29564	R156-70a	5YR	02/27/2007	2007-6/38
	29394	R156-71	5YR	01/08/2007	2007-3/57
	29395	R156-72	5YR	01/09/2007	2007-3/57
	29735	R156-72-302c	NSC	04/12/2007	Not Printed
	29397	R156-75	5YR	01/09/2007	2007-3/58
	29905	R156-76	5YR	05/01/2007	2007-10/106
Commerce, Real Estate	29832	R162-1	5YR	04/18/2007	2007-10/107
	29738	R162-1-2	AMD	05/30/2007	2007-8/18
	29711	R162-102	AMD	05/29/2007	2007-8/38
	29523	R162-102	5YR	02/15/2007	2007-5/24
	29989	R162-102-3	NSC	06/11/2007	Not Printed
Environmental Quality, Radiation Control	29336	R313-36	AMD	03/16/2007	2007-1/15
Human Services, Administration, Administrative Services, Licensing	29874	R501-8	NSC	05/14/2007	Not Printed
Human Services, Juvenile Justice Services	29992	R547-1	5YR	05/30/2007	2007-12/64
	29990	R547-7	5YR	05/30/2007	2007-12/65
Natural Resources, Wildlife Resources	29794	R657-27	5YR	04/04/2007	2007-9/45
	29636	R657-27	AMD	05/08/2007	2007-7/76
	29920	R657-30	5YR	05/07/2007	2007-11/88
Public Safety, Driver License	29734	R708-25	5YR	03/26/2007	2007-8/138
	29741	R708-25	NSC	04/12/2007	Not Printed
Technology Services, Administration	29978	R895-3	5YR	05/29/2007	2007-12/68
<u>licensure</u>					
Education, Administration	29306	R277-512	NEW	01/23/2007	2006-24/9
<u>life insurance</u>					
Insurance, Administration	29752	R590-93	AMD	05/29/2007	2007-8/84
	30042	R590-93	AMD	08/08/2007	2007-13/51
<u>life insurance filings</u>					
Insurance, Administration	29969	R590-226	AMD	07/30/2007	2007-12/23

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>life insurance mortality tables</u> Insurance, Administration	30082	R590-241	NEW	08/08/2007	2007-13/56
<u>liquefied petroleum gas</u> Public Safety, Fire Marshal	29423	R710-6	AMD	03/12/2007	2007-3/29
<u>loans</u> Education, Administration	30096	R277-487	REP	08/07/2007	2007-13/39
Environmental Quality, Drinking Water	29784	R309-700	5YR	04/02/2007	2007-8/127
	29785	R309-705	5YR	04/02/2007	2007-8/127
<u>low quality ground water</u> Environmental Quality, Drinking Water	29775	R309-505	5YR	04/02/2007	2007-8/123
<u>MACT</u> Environmental Quality, Air Quality	29194	R307-214-2	AMD	02/09/2007	2006-23/10
<u>mammography</u> Environmental Quality, Radiation Control	29334	R313-28	AMD	03/16/2007	2007-1/12
<u>management</u> Natural Resources, Forestry, Fire and State Lands	29767	R652-40	5YR	04/02/2007	2007-8/134
	29763	R652-90	5YR	04/02/2007	2007-8/136
School and Institutional Trust Lands, Administration	30151	R850-40	5YR	06/27/2007	2007-14/56
<u>marketing</u> Commerce, Consumer Protection	30119	R152-15	5YR	06/22/2007	2007-14/42
<u>materials handling</u> Natural Resources, Forestry, Fire and State Lands	29762	R652-100	5YR	04/02/2007	2007-8/136
<u>Medicaid</u> Health, Health Care Financing, Coverage and Reimbursement Policy	29819	R414-1	5YR	04/16/2007	2007-9/36
	29960	R414-1A	5YR	05/21/2007	2007-12/62
	29868	R414-2A-7	AMD	06/26/2007	2007-10/32
	29869	R414-3A-6	AMD	06/26/2007	2007-10/33
	29441	R414-4A	5YR	01/26/2007	2007-4/60
	29442	R414-7C	5YR	01/26/2007	2007-4/60
	29435	R414-10	5YR	01/26/2007	2007-4/61
	29493	R414-10A	5YR	02/02/2007	2007-5/27
	29629	R414-10A	AMD	05/15/2007	2007-7/48
	30005	R414-10A	AMD	07/23/2007	2007-12/10
	29816	R414-21	5YR	04/16/2007	2007-9/37
	29817	R414-38	5YR	04/16/2007	2007-9/37
	29466	R414-45	5YR	01/31/2007	2007-4/61
	29961	R414-60	5YR	05/21/2007	2007-12/63
	30117	R414-60	NSC	07/10/2007	Not Printed
	29807	R414-60A	NEW	07/19/2007	2007-9/21
	29674	R414-61-2	AMD	06/26/2007	2007-7/63

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	29673	R414-61-2	AMD	05/15/2007	2007-7/64
	29966	R414-100	5YR	05/24/2007	2007-12/63
	29967	R414-200	5YR	05/24/2007	2007-12/64
	29977	R414-200-4	AMD	07/23/2007	2007-12/19
	29730	R414-300	REP	05/23/2007	2007-8/73
	29469	R414-308	AMD	04/01/2007	2007-4/22
	30081	R414-310	5YR	06/13/2007	2007-13/144
	29731	R414-310	AMD	05/23/2007	2007-8/74
	29380	R414-320	AMD	03/09/2007	2007-2/91
	29908	R414-401-3	AMD	07/01/2007	2007-10/35
	29907	R414-504	AMD	07/01/2007	2007-10/36
	29675	R414-507	REP	05/15/2007	2007-7/67
	29197	R414-510	NEW	01/17/2007	2006-23/66
Health, Health Care Financing, Medical Assistance Program	29909	R420-1	REP	07/01/2007	2007-10/40
Human Services, Recovery Services	29418	R527-201	5YR	01/16/2007	2007-3/62
<u>medical incinerator</u>					
Environmental Quality, Air Quality	29657	R307-222	5YR	03/15/2007	2007-7/157
<u>medical laboratories</u>					
Health, Epidemiology and Laboratory Services, Laboratory Improvement	29861	R444-11	5YR	04/25/2007	2007-10/127
<u>medical malpractice</u>					
Commerce, Occupational and Professional Licensing	29804	R156-78A	5YR	04/09/2007	2007-9/34
<u>medical practitioner</u>					
Labor Commission, Industrial Accidents	29948	R612-2-27	AMD	07/10/2007	2007-11/71
	30110	R612-2-27	NSC	07/11/2007	Not Printed
<u>medical recommendations</u>					
Education, Administration	29936	R277-611	REP	07/09/2007	2007-11/24
<u>medical records</u>					
Human Services, Substance Abuse and Mental Health, State Hospital	29434	R525-1	REP	04/02/2007	2007-4/27
<u>membrane technology</u>					
Environmental Quality, Drinking Water	29779	R309-530	5YR	04/02/2007	2007-8/125
<u>mental health</u>					
Human Services, Substance Abuse and Mental Health, State Hospital	29802	R525-8	AMD	06/15/2007	2007-9/24
<u>mercury</u>					
Environmental Quality, Air Quality	29230	R307-224	NEW	03/15/2007	2006-23/14
	29231	R307-424	NEW	05/09/2007	2006-23/15
	29231	R307-424	CPR	05/09/2007	2007-7/137
<u>migrant labor</u>					
Health, Epidemiology and Laboratory Services, Environmental Services	29870	R392-501	5YR	04/26/2007	2007-10/123

RULES INDEX

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>migratory birds</u>					
Natural Resources, Wildlife Resources	30065	R657-9	AMD	08/07/2007	2007-13/88
<u>mineral resources</u>					
Tax Commission, Auditing	29707	R865-14W	5YR	03/19/2007	2007-8/146
<u>mines</u>					
Natural Resources, Oil, Gas and Mining; Abandoned Mine Reclamation	29597	R643-870	5YR	03/07/2007	2007-7/170
	29598	R643-872	5YR	03/07/2007	2007-7/171
	29599	R643-874	5YR	03/07/2007	2007-7/171
	29600	R643-875	5YR	03/07/2007	2007-7/172
	29601	R643-877	5YR	03/07/2007	2007-7/172
	29602	R643-879	5YR	03/07/2007	2007-7/173
	29603	R643-882	5YR	03/07/2007	2007-7/173
	29604	R643-884	5YR	03/07/2007	2007-7/174
	29605	R643-886	5YR	03/07/2007	2007-7/174
<u>minimum sizing</u>					
Environmental Quality, Drinking Water	29776	R309-510	5YR	04/02/2007	2007-8/123
<u>minimum standards</u>					
Natural Resources, Forestry, Fire and State Lands	29467	R652-122-300	NSC	02/13/2007	Not Printed
	29170	R652-122-300	AMD	01/03/2007	2006-22/40
<u>mining</u>					
Labor Commission, Safety	29733	R616-1	R&R	05/23/2007	2007-8/88
<u>mining law</u>					
Natural Resources, Oil, Gas and Mining; Abandoned Mine Reclamation	29601	R643-877	5YR	03/07/2007	2007-7/172
	29602	R643-879	5YR	03/07/2007	2007-7/173
<u>miscellaneous treatment</u>					
Environmental Quality, Drinking Water	29780	R309-535	5YR	04/02/2007	2007-8/125
<u>mobile homes</u>					
Health, Epidemiology and Laboratory Services, Environmental Services	29900	R392-402	5YR	04/30/2007	2007-10/123
<u>modeling</u>					
Environmental Quality, Air Quality	30189	R307-410	5YR	07/13/2007	2007-15/65
<u>motels</u>					
Health, Epidemiology and Laboratory Services, Environmental Services	30204	R392-502	5YR	07/18/2007	2007-16/70
<u>motor fuel</u>					
Tax Commission, Auditing	29628	R865-13G	5YR	03/09/2007	2007-7/190
<u>motor vehicles</u>					
Administrative Services, Fleet Operations	29939	R27-10	5YR	05/14/2007	2007-11/84
Commerce, Consumer Protection	29862	R152-20	5YR	04/26/2007	2007-10/105
	29412	R152-20-2	AMD	03/20/2007	2007-3/4
Environmental Quality, Air Quality	30184	R307-121	5YR	07/13/2007	2007-15/62

<u>KEYWORD AGENCY</u>	<u>FILE NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE DATE</u>	<u>BULLETIN ISSUE/PAGE</u>
	29797	R307-121	R&R	07/13/2007	2007-9/14
	29321	R307-121	NSC	07/13/2007	Not Printed
	29660	R307-301	5YR	03/15/2007	2007-7/158
	29663	R307-320	5YR	03/15/2007	2007-7/160
	29002	R307-320	AMD	03/09/2007	2006-19/32
	29002	R307-320	CPR	03/09/2007	2007-3/40
	29007	R307-332	REP	01/16/2007	2006-19/46
Tax Commission, Motor Vehicle	29631	R873-22M	5YR	03/12/2007	2007-7/194
Tax Commission, Motor Vehicle Enforcement	29651	R877-23V	5YR	03/14/2007	2007-7/196
	29940	R877-23V-4	AMD	07/16/2007	2007-11/80
	29938	R877-23V-8	AMD	07/16/2007	2007-11/81
	29930	R877-23V-14	AMD	07/16/2007	2007-11/82
<u>motorcycles</u>					
Commerce, Administration	30195	R151-35	5YR	07/13/2007	2007-15/61
<u>municipal landfills</u>					
Environmental Quality, Air Quality	29656	R307-221	5YR	03/15/2007	2007-7/157
<u>municipal waste incinerator</u>					
Environmental Quality, Air Quality	29658	R307-223	5YR	03/15/2007	2007-7/158
<u>mutual funds</u>					
Commerce, Securities	30267	R164-15	5YR	07/30/2007	2007-16/62
<u>nail technicians</u>					
Commerce, Occupational and Professional Licensing	29810	R156-11a	5YR	04/12/2007	2007-9/33
	29432	R156-11a	AMD	03/27/2007	2007-4/9
	29013	R156-11a	AMD	01/11/2007	2006-19/5
	29013	R156-11a	CPR	01/11/2007	2006-23/87
<u>natural resources</u>					
Natural Resources, Forestry, Fire and State Lands	29767	R652-40	5YR	04/02/2007	2007-8/134
School and Institutional Trust Lands, Administration	30151	R850-40	5YR	06/27/2007	2007-14/56
<u>naturopathic physician</u>					
Commerce, Occupational and Professional Licensing	29394	R156-71	5YR	01/08/2007	2007-3/57
<u>naturopaths</u>					
Commerce, Occupational and Professional Licensing	29394	R156-71	5YR	01/08/2007	2007-3/57
<u>network interconnection</u>					
Public Service Commission, Administration	29428	R746-348	5YR	01/22/2007	2007-4/67
<u>new hire registry</u>					
Workforce Services, Unemployment Insurance	30106	R994-315-103	AMD	08/08/2007	2007-13/134
<u>new source review</u>					
Environmental Quality, Air Quality	29228	R307-210	AMD	03/15/2007	2006-23/8

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>news agencies</u>					
Pardons (Board Of), Administration	30224	R671-302	5YR	07/25/2007	2007-16/78
<u>non-traditional</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	29967	R414-200	5YR	05/24/2007	2007-12/64
	29977	R414-200-4	AMD	07/23/2007	2007-12/19
<u>nonattainment</u>					
Environmental Quality, Air Quality	30186	R307-403	5YR	07/13/2007	2007-15/63
<u>nonprofit organizations</u>					
Workforce Services, Unemployment Insurance	29697	R994-309	AMD	07/01/2007	2007-7/127
<u>notification</u>					
Natural Resources, Forestry, Fire and State Lands	29433	R652-140	NSC	01/23/2007	Not Printed
	29461	R652-140	NEW	03/26/2007	2007-4/37
<u>nursing facility</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	29908	R414-401-3	AMD	07/01/2007	2007-10/35
<u>nutrition</u>					
Health, Community and Family Health Services, WIC Services	29878	R406-100	5YR	04/27/2007	2007-10/124
	29879	R406-200	5YR	04/27/2007	2007-10/125
	29880	R406-201	5YR	04/27/2007	2007-10/126
	29876	R406-202	5YR	04/27/2007	2007-10/126
	29877	R406-301	5YR	04/27/2007	2007-10/127
<u>occupational licensing</u>					
Commerce, Occupational and Professional Licensing	29586	R156-1	5YR	03/01/2007	2007-6/37
	29555	R156-1-102	NSC	03/09/2007	Not Printed
	29353	R156-40a	NEW	02/22/2007	2007-2/9
	29397	R156-75	5YR	01/09/2007	2007-3/58
Environmental Quality, Water Quality	29296	R317-11	AMD	01/26/2007	2006-24/26
Insurance, Administration	29813	R590-118	5YR	04/13/2007	2007-9/43
<u>occupational therapy</u>					
Commerce, Occupational and Professional Licensing	29356	R156-42a	AMD	02/22/2007	2007-2/11
<u>off road vehicles</u>					
Commerce, Administration	30195	R151-35	5YR	07/13/2007	2007-15/61
<u>offenders</u>					
Corrections, Administration	30040	R251-401	5YR	06/07/2007	2007-13/143
<u>offset</u>					
Environmental Quality, Air Quality	30186	R307-403	5YR	07/13/2007	2007-15/63
	30193	R307-420	5YR	07/13/2007	2007-15/67
	30194	R307-421	5YR	07/13/2007	2007-15/68

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>oil and gas conservation</u>					
Natural Resources, Oil, Gas and Mining; Oil and Gas	29621	R649-8	5YR	03/07/2007	2007-7/182
<u>oil and gas law</u>					
Natural Resources, Oil, Gas and Mining; Oil and Gas	29617	R649-1	5YR	03/07/2007	2007-7/180
	29618	R649-2	5YR	03/07/2007	2007-7/181
	29619	R649-3	5YR	03/07/2007	2007-7/181
	29620	R649-5	5YR	03/07/2007	2007-7/182
	29622	R649-9	5YR	03/07/2007	2007-7/183
<u>Olympics</u>					
Public Safety, Administration	29787	R698-100	5YR	04/02/2007	2007-8/136
	29728	R698-100	REP	05/23/2007	2007-8/109
	29331	R698-100	NSC	04/02/2007	Not Printed
<u>online</u>					
Education, Administration	29306	R277-512	NEW	01/23/2007	2006-24/9
<u>opening and closing dates</u>					
Community and Culture, Home Energy Assistance Target (HEAT)	29982	R195-2	NSC	06/22/2007	Not Printed
	30124	R195-2	5YR	06/22/2007	2007-14/44
<u>operating permits</u>					
Environmental Quality, Air Quality	30191	R307-415	5YR	07/13/2007	2007-15/66
	30192	R307-417	5YR	07/13/2007	2007-15/67
<u>operation and maintenance</u>					
Environmental Quality, Drinking Water	29642	R309-520	5YR	03/13/2007	2007-7/169
<u>operation and maintenance requirements</u>					
Environmental Quality, Drinking Water	29774	R309-500	5YR	04/02/2007	2007-8/122
<u>optometrists</u>					
Commerce, Occupational and Professional Licensing	29871	R156-16a	5YR	04/26/2007	2007-10/106
<u>order to proceed</u>					
Public Service Commission, Administration	29376	R746-420	CPR	05/17/2007	2007-7/138
	29377	R746-430	CPR	05/17/2007	2007-7/145
	29377	R746-430	NEW	05/17/2007	2007-2/109
<u>overflow and drains</u>					
Environmental Quality, Drinking Water	29782	R309-545	5YR	04/02/2007	2007-8/126
<u>overpayments</u>					
Workforce Services, Unemployment Insurance	29688	R994-305	R&R	07/01/2007	2007-7/122
	29963	R994-406	5YR	05/22/2007	2007-12/71
<u>overtime</u>					
Human Resource Management, Administration	30059	R477-8	5YR	06/09/2007	2007-13/148
	29889	R477-8	AMD	07/01/2007	2007-10/64

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>ozone</u>					
Environmental Quality, Air Quality	29662	R307-110	5YR	03/15/2007	2007-7/151
	29001	R307-110-13	AMD	03/09/2007	2006-19/30
	29001	R307-110-13	CPR	03/09/2007	2007-3/40
	29801	R307-110-20	NSC	05/02/2007	Not Printed
	29514	R307-110-20	AMD	05/02/2007	2007-5/13
	29227	R307-110-36	AMD	02/09/2007	2006-23/7
	29293	R307-110-36	NSC	02/09/2007	Not Printed
	29003	R307-325	CPR	03/09/2007	2007-3/42
	29664	R307-325	5YR	03/15/2007	2007-7/160
	29003	R307-325	AMD	03/09/2007	2006-19/35
	29665	R307-326	5YR	03/15/2007	2007-7/161
	29006	R307-326	AMD	03/09/2007	2006-19/37
	29006	R307-326	CPR	03/09/2007	2007-3/43
	29526	R307-326-1	NSC	03/09/2007	Not Printed
	29004	R307-327	CPR	03/09/2007	2007-3/45
	29666	R307-327	5YR	03/15/2007	2007-7/163
	29004	R307-327	AMD	03/09/2007	2006-19/40
	29667	R307-328	5YR	03/15/2007	2007-7/164
	29005	R307-328	AMD	01/16/2007	2006-19/43
	29150	R307-328-1	NSC	01/16/2007	Not Printed
	29007	R307-332	REP	01/16/2007	2006-19/46
	29008	R307-335	AMD	01/16/2007	2006-19/49
	29668	R307-335	5YR	03/15/2007	2007-7/165
	29669	R307-340	5YR	03/15/2007	2007-7/165
	29009	R307-340	AMD	03/09/2007	2006-19/52
	29009	R307-340	CPR	03/09/2007	2007-3/46
	29151	R307-340-1	NSC	03/09/2007	Not Printed
	29671	R307-342	5YR	03/15/2007	2007-7/167
	29011	R307-342	AMD	01/16/2007	2006-19/60
	29012	R307-343	AMD	03/09/2007	2006-19/63
	29012	R307-343	CPR	03/09/2007	2007-3/51
	29672	R307-343	5YR	03/15/2007	2007-7/167
	29508	R307-343-6	NSC	03/09/2007	Not Printed
	30193	R307-420	5YR	07/13/2007	2007-15/67
<u>pardons</u>					
Pardons (Board Of), Administration	30215	R671-101	5YR	07/25/2007	2007-16/74
	30233	R671-315	5YR	07/25/2007	2007-16/82
<u>parking facilities</u>					
Regents (Board Of), University of Utah, Parking and Transportation Services	29532	R810-2	5YR	02/21/2007	2007-6/46
	29539	R810-5	5YR	02/22/2007	2007-6/46
	29537	R810-6	5YR	02/21/2007	2007-6/47
	29540	R810-9	5YR	02/22/2007	2007-6/47
	29541	R810-10	5YR	02/22/2007	2007-6/47

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	29542	R810-11	5YR	02/22/2007	2007-6/48
<u>parks</u>					
Natural Resources, Parks and Recreation	30025	R651-201	AMD	08/07/2007	2007-13/69
	29806	R651-205-16	AMD	07/09/2007	2007-9/26
	30026	R651-206	AMD	08/07/2007	2007-13/70
	30027	R651-215	AMD	08/07/2007	2007-13/79
	30028	R651-217	AMD	08/07/2007	2007-13/81
	30029	R651-219-5	AMD	08/07/2007	2007-13/82
	30030	R651-221-1	AMD	08/07/2007	2007-13/82
	30247	R651-301	5YR	07/26/2007	2007-16/74
	29914	R651-611	AMD	07/09/2007	2007-11/73
	29773	R651-611-4	AMD	05/22/2007	2007-8/90
	29163	R651-634-1	AMD	01/02/2007	2006-22/39
<u>parole</u>					
Human Services, Juvenile Justice Services	30032	R547-6	5YR	06/04/2007	2007-13/154
Pardons (Board Of), Administration	30216	R671-201	5YR	07/25/2007	2007-16/75
	30217	R671-202	5YR	07/25/2007	2007-16/76
	30219	R671-205	5YR	07/25/2007	2007-16/77
	30223	R671-301	5YR	07/25/2007	2007-16/78
	30225	R671-303	5YR	07/25/2007	2007-16/79
	30229	R671-308	5YR	07/25/2007	2007-16/80
	30230	R671-309	5YR	07/25/2007	2007-16/81
	30232	R671-310	5YR	07/25/2007	2007-16/81
	30231	R671-311	5YR	07/25/2007	2007-16/82
	30234	R671-316	5YR	07/25/2007	2007-16/82
	30235	R671-402	5YR	07/25/2007	2007-16/83
	30236	R671-405	5YR	07/25/2007	2007-16/83
<u>patient safety</u>					
Health, Administration	29538	R380-200	AMD	04/26/2007	2007-6/14
<u>payment determination</u>					
Community and Culture, Home Energy Assistance Target (HEAT)	29983	R195-3	NSC	06/22/2007	Not Printed
	30125	R195-3	5YR	06/22/2007	2007-14/44
<u>PCN</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	29380	R414-320	AMD	03/09/2007	2007-2/91
<u>peace officer basic course</u>					
Public Safety, Peace Officer Standards and Training	29548	R728-401	5YR	02/26/2007	2007-6/67
	29552	R728-401	5YR	02/26/2007	2007-6/41
	29147	R728-401-3	AMD	01/20/2007	2006-22/45
<u>peace officers</u>					
Public Safety, Peace Officer Standards and Training	29196	R728-205-1	AMD	01/20/2007	2006-23/83
	29374	R728-205-1	NSC	01/20/2007	Not Printed

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>peer review</u>					
Commerce, Occupational and Professional Licensing	29473	R156-26a	5YR	02/01/2007	2007-4/56
<u>penalties</u>					
Environmental Quality, Air Quality	29654	R307-130	5YR	03/15/2007	2007-7/155
	29652	R307-130-4	AMD	07/13/2007	2007-7/19
Environmental Quality, Drinking Water	29360	R309-405-4	NSC	03/06/2007	Not Printed
Environmental Quality, Environmental Response and Remediation	29846	R311-208	5YR	04/18/2007	2007-10/118
	29575	R311-208	NSC	04/18/2007	Not Printed
<u>per diem allowances</u>					
Administrative Services, Finance	29910	R25-7	AMD	07/03/2007	2007-10/3
<u>performance measurement</u>					
Health, Center for Health Data, Health Care Statistics	29792	R428-12	5YR	04/03/2007	2007-9/40
<u>performing arts</u>					
Community and Culture, Fine Arts	29528	R207-1	NSC	03/08/2007	Not Printed
Community and Culture, Home Energy Assistance Target (HEAT)	30288	R207-1	5YR	08/03/2007	Not Printed
<u>permits</u>					
Environmental Quality, Air Quality	30185	R307-401	5YR	07/13/2007	2007-15/63
	30188	R307-406	5YR	07/13/2007	2007-15/64
Environmental Quality, Drinking Water	29774	R309-500	5YR	04/02/2007	2007-8/122
Natural Resources, Forestry, Fire and State Lands	29765	R652-70	5YR	04/02/2007	2007-8/135
	29762	R652-100	5YR	04/02/2007	2007-8/136
Natural Resources, Wildlife Resources	30076	R657-42	AMD	08/07/2007	2007-13/118
	29330	R657-42	AMD	02/07/2007	2007-1/37
	29703	R657-50	NSC	04/12/2007	Not Printed
	29795	R657-50	5YR	04/04/2007	2007-9/45
<u>permitted vehicles</u>					
Transportation, Motor Carrier, Ports of Entry	30009	R912-9	AMD	07/27/2007	2007-12/42
<u>permitting authority</u>					
Environmental Quality, Air Quality	30192	R307-417	5YR	07/13/2007	2007-15/67
<u>personal property</u>					
Tax Commission, Property Tax	29630	R884-24P	5YR	03/12/2007	2007-7/197
	29223	R884-24P-19	AMD	01/12/2007	2006-23/83
	29928	R884-24P-68	AMD	07/16/2007	2007-11/83
<u>personnel management</u>					
Human Resource Management, Administration	29882	R477-1	AMD	07/01/2007	2007-10/41
	30051	R477-1	5YR	06/09/2007	2007-13/144
	30055	R477-5	5YR	06/09/2007	2007-13/147
	29886	R477-5	AMD	07/01/2007	2007-10/53
	30060	R477-6	5YR	06/09/2007	2007-13/148

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	29887	R477-6	AMD	07/01/2007	2007-10/54
	30052	R477-9	5YR	06/09/2007	2007-13/149
	29890	R477-9	AMD	07/01/2007	2007-10/68
	30057	R477-13	5YR	06/09/2007	2007-13/152
	29896	R477-13-1	NSC	05/11/2007	Not Printed
	29893	R477-14	NSC	05/11/2007	Not Printed
<u>petroleum</u>					
Environmental Quality, Air Quality	29660	R307-301	5YR	03/15/2007	2007-7/158
	29666	R307-327	5YR	03/15/2007	2007-7/163
	29004	R307-327	AMD	03/09/2007	2006-19/40
	29004	R307-327	CPR	03/09/2007	2007-3/45
Environmental Quality, Environmental Response and Remediation	29838	R311-200	5YR	04/18/2007	2007-10/112
	29567	R311-200	NSC	04/18/2007	Not Printed
	29568	R311-201	NSC	04/18/2007	Not Printed
	29839	R311-201	5YR	04/18/2007	2007-10/113
	29840	R311-202	5YR	04/18/2007	2007-10/114
	29569	R311-202	NSC	04/18/2007	Not Printed
	29841	R311-203	5YR	04/18/2007	2007-10/114
	29570	R311-203	NSC	04/18/2007	Not Printed
	29842	R311-204	5YR	04/18/2007	2007-10/115
	29571	R311-204	NSC	04/18/2007	Not Printed
	29843	R311-205	5YR	04/18/2007	2007-10/116
	29572	R311-205	NSC	04/18/2007	Not Printed
	29844	R311-206	5YR	04/18/2007	2007-10/116
	29573	R311-206	NSC	04/18/2007	Not Printed
	29845	R311-207	5YR	04/18/2007	2007-10/117
	29574	R311-207	NSC	04/18/2007	Not Printed
	29846	R311-208	5YR	04/18/2007	2007-10/118
	29575	R311-208	NSC	04/18/2007	Not Printed
	29847	R311-209	5YR	04/18/2007	2007-10/118
	29576	R311-209	NSC	04/18/2007	Not Printed
	29848	R311-210	5YR	04/18/2007	2007-10/119
	29577	R311-210	NSC	04/18/2007	Not Printed
	29849	R311-211	5YR	04/18/2007	2007-10/119
	29578	R311-211	NSC	04/18/2007	Not Printed
	29579	R311-212	NSC	04/18/2007	Not Printed
	29850	R311-212	5YR	04/18/2007	2007-10/120
Tax Commission, Auditing	29708	R865-150	5YR	03/19/2007	2007-8/146
<u>petroleum hydrocarbons</u>					
Environmental Quality, Water Quality	29294	R317-6	AMD	01/23/2007	2006-24/23
<u>petroleum industries</u>					
Tax Commission, Auditing	29708	R865-150	5YR	03/19/2007	2007-8/146

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>pharmacies</u>					
Commerce, Occupational and Professional Licensing	29770	R156-17b	AMD	05/24/2007	2007-8/8
<u>pharmacists</u>					
Commerce, Occupational and Professional Licensing	29770	R156-17b	AMD	05/24/2007	2007-8/8
<u>physical examinations</u>					
Public Safety, Driver License	29734	R708-25	5YR	03/26/2007	2007-8/138
	29741	R708-25	NSC	04/12/2007	Not Printed
<u>physical therapy</u>					
Commerce, Occupational and Professional Licensing	29459	R156-24a	5YR	01/30/2007	2007-4/56
<u>physically handicapped persons</u>					
Commerce, Administration	29903	R151-3	5YR	05/01/2007	2007-10/105
<u>physician assistants</u>					
Commerce, Occupational and Professional Licensing	29564	R156-70a	5YR	02/27/2007	2007-6/38
<u>physicians</u>					
Public Safety, Driver License	29633	R708-7	5YR	03/13/2007	2007-7/184
	29582	R708-7-10	AMD	04/23/2007	2007-6/29
<u>pilot/escort vehicles</u>					
Transportation, Motor Carrier, Ports of Entry	30009	R912-9	AMD	07/27/2007	2007-12/42
<u>pipelines</u>					
Public Service Commission, Administration	29438	R746-409	AMD	03/27/2007	2007-4/38
<u>plan review</u>					
Environmental Quality, Drinking Water	29774	R309-500	5YR	04/02/2007	2007-8/122
<u>plots</u>					
Community and Culture, History	30202	R212-12	5YR	07/17/2007	2007-16/65
<u>PM10</u>					
Environmental Quality, Air Quality	29662	R307-110	5YR	03/15/2007	2007-7/151
	29001	R307-110-13	AMD	03/09/2007	2006-19/30
	29001	R307-110-13	CPR	03/09/2007	2007-3/40
	29801	R307-110-20	NSC	05/02/2007	Not Printed
	29514	R307-110-20	AMD	05/02/2007	2007-5/13
	29227	R307-110-36	AMD	02/09/2007	2006-23/7
	29293	R307-110-36	NSC	02/09/2007	Not Printed
	30194	R307-421	5YR	07/13/2007	2007-15/68
<u>PM2.5</u>					
Environmental Quality, Air Quality	29662	R307-110	5YR	03/15/2007	2007-7/151
	29001	R307-110-13	AMD	03/09/2007	2006-19/30
	29001	R307-110-13	CPR	03/09/2007	2007-3/40
	29801	R307-110-20	NSC	05/02/2007	Not Printed
	29514	R307-110-20	AMD	05/02/2007	2007-5/13

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	29227	R307-110-36	AMD	02/09/2007	2006-23/7
	29293	R307-110-36	NSC	02/09/2007	Not Printed
	30194	R307-421	5YR	07/13/2007	2007-15/68
<u>point-system</u>					
Public Safety, Driver License	29590	R708-3	5YR	03/02/2007	2007-7/184
<u>police training</u>					
Public Safety, Peace Officer Standards and Training	29176	R728-402	AMD	01/20/2007	2006-22/47
	29553	R728-402	5YR	02/26/2007	2007-6/41
	30196	R728-411	NSC	07/30/2007	Not Printed
	30211	R728-411	5YR	07/23/2007	2007-16/84
<u>pools</u>					
Health, Epidemiology and Laboratory Services, Environmental Services	29717	R392-302	AMD	05/31/2007	2007-8/55
	29720	R392-302	5YR	03/22/2007	2007-8/130
<u>position classifications</u>					
Human Resource Management, Administration	30058	R477-3	5YR	06/09/2007	2007-13/146
	29884	R477-3	AMD	07/01/2007	2007-10/49
<u>post-conviction</u>					
Administrative Services, Finance	29424	R25-14	5YR	01/17/2007	2007-4/54
<u>postsecondary proprietary school</u>					
Commerce, Consumer Protection	30101	R152-34	5YR	06/15/2007	2007-13/142
	29710	R152-34	AMD	05/22/2007	2007-8/4
<u>powersport vehicles</u>					
Commerce, Administration	30195	R151-35	5YR	07/13/2007	2007-15/61
<u>prelitigation</u>					
Commerce, Occupational and Professional Licensing	29804	R156-78A	5YR	04/09/2007	2007-9/34
<u>preneed</u>					
Commerce, Occupational and Professional Licensing	29391	R156-9-302a	AMD	03/13/2007	2007-3/6
<u>prequalification</u>					
Transportation, Operations, Construction	29184	R916-2-3	AMD	01/03/2007	2006-22/53
<u>prescription drug plans</u>					
Insurance, Administration	29858	R590-235-3	NSC	05/14/2007	Not Printed
<u>press</u>					
Corrections, Administration	29531	R251-106-3	AMD	05/01/2007	2007-6/9
<u>pricing flexibility</u>					
Public Service Commission, Administration	29627	R746-351	5YR	03/09/2007	2007-7/187
<u>primary care</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	30081	R414-310	5YR	06/13/2007	2007-13/144
	29731	R414-310	AMD	05/23/2007	2007-8/74

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>primary care network</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	29966	R414-100	5YR	05/24/2007	2007-12/63
	29730	R414-300	REP	05/23/2007	2007-8/73
<u>primary disinfectants</u>					
Environmental Quality, Drinking Water	29642	R309-520	5YR	03/13/2007	2007-7/169
<u>primary term</u>					
Natural Resources, Forestry, Fire and State Lands	29760	R652-20	5YR	04/02/2007	2007-8/133
	29468	R652-20-1600	AMD	03/26/2007	2007-4/36
<u>prison release</u>					
Pardons (Board Of), Administration	30219	R671-205	5YR	07/25/2007	2007-16/77
<u>prisons</u>					
Corrections, Administration	29531	R251-106-3	AMD	05/01/2007	2007-6/9
	29533	R251-107	AMD	05/01/2007	2007-6/11
	29464	R251-707	5YR	01/31/2007	2007-4/59
	29465	R251-710	5YR	01/31/2007	2007-4/59
<u>privacy law</u>					
Human Services, Recovery Services	29415	R527-5	5YR	01/16/2007	2007-3/60
<u>private landowners</u>					
Natural Resources, Wildlife Resources	30078	R657-56	AMD	08/07/2007	2007-13/130
<u>private security officers</u>					
Commerce, Occupational and Professional Licensing	29915	R156-63	AMD	07/19/2007	2007-11/8
<u>procurement</u>					
Administrative Services, Facilities Construction and Management	29965	R23-1	5YR	05/24/2007	2007-12/59
<u>professional competency</u>					
Education, Administration	29477	R277-505	AMD	03/27/2007	2007-4/13
	29737	R277-505-5	NSC	04/12/2007	Not Printed
	29748	R277-519	5YR	03/29/2007	2007-8/122
Public Safety, Peace Officer Standards and Training	30211	R728-411	5YR	07/23/2007	2007-16/84
	30196	R728-411	NSC	07/30/2007	Not Printed
<u>professional education</u>					
Education, Administration	29747	R277-507	5YR	03/29/2007	2007-8/122
<u>professional engineers</u>					
Commerce, Occupational and Professional Licensing	29355	R156-22	AMD	02/22/2007	2007-2/3
<u>professional geologists</u>					
Commerce, Occupational and Professional Licensing	29905	R156-76	5YR	05/01/2007	2007-10/106
<u>professional land surveyors</u>					
Commerce, Occupational and Professional Licensing	29355	R156-22	AMD	02/22/2007	2007-2/3

<u>KEYWORD AGENCY</u>	<u>FILE NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE DATE</u>	<u>BULLETIN ISSUE/PAGE</u>
<u>prohibited devices</u>					
Human Services, Juvenile Justice Services	29897	R547-14	5YR	04/30/2007	2007-10/128
<u>prohibited items</u>					
Human Services, Juvenile Justice Services	29897	R547-14	5YR	04/30/2007	2007-10/128
<u>prohibited items and devices</u>					
Human Services, Substance Abuse and Mental Health	29381	R523-1-2	AMD	02/26/2007	2007-2/97
	29245	R523-1-5	AMD	01/30/2007	2006-24/29
	29382	R523-1-11	AMD	02/26/2007	2007-2/99
	29383	R523-1-23	AMD	05/14/2007	2007-2/101
Human Services, Juvenile Justice Services	29992	R547-1	5YR	05/30/2007	2007-12/64
<u>property casualty insurance filing</u>					
Insurance, Administration	29949	R590-225	AMD	07/12/2007	2007-11/58
	29290	R590-225-6	AMD	01/22/2007	2006-24/32
<u>property tax</u>					
Tax Commission, Property Tax	29630	R884-24P	5YR	03/12/2007	2007-7/197
	29223	R884-24P-19	AMD	01/12/2007	2006-23/83
	29928	R884-24P-68	AMD	07/16/2007	2007-11/83
<u>PSD</u>					
Environmental Quality, Air Quality	30187	R307-405	5YR	07/13/2007	2007-15/64
<u>public access</u>					
Natural Resources, Wildlife Resources	30078	R657-56	AMD	08/07/2007	2007-13/130
<u>public assistance</u>					
Workforce Services, Employment Development	29588	R986-900-902	AMD	05/01/2007	2007-6/34
<u>public assistance programs</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	29469	R414-308	AMD	04/01/2007	2007-4/22
<u>public buildings</u>					
Administrative Services, Facilities Construction and Management	29965	R23-1	5YR	05/24/2007	2007-12/59
	29812	R23-19	R&R	06/07/2007	2007-9/3
	29964	R23-19	5YR	05/24/2007	2007-12/59
Capitol Preservation Board (State), Administration	29952	R131-3	5YR	05/16/2007	2007-12/60
Public Safety, Fire Marshal	29233	R710-4	AMD	01/09/2007	2006-23/72
	30043	R710-4	5YR	06/08/2007	2007-13/156
	29683	R710-4-3	AMD	05/08/2007	2007-7/82
<u>public education</u>					
Education, Administration	29902	R277-437-1	NSC	05/01/2007	Not Printed
	30089	R277-462	AMD	08/07/2007	2007-13/16
	30177	R628-2	5YR	07/10/2007	2007-15/68
<u>public health</u>					
Health, Epidemiology and Laboratory Services, Environmental Services	29722	R392-100	5YR	03/22/2007	2007-8/129

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
	29799	R392-200	5YR	04/05/2007	2007-9/36
	29860	R392-300	5YR	04/24/2007	2007-10/121
	29899	R392-301	5YR	04/30/2007	2007-10/122
	29925	R392-400	5YR	05/08/2007	2007-11/85
	29901	R392-401	5YR	04/30/2007	2007-10/122
	29900	R392-402	5YR	04/30/2007	2007-10/123
	29870	R392-501	5YR	04/26/2007	2007-10/123
	30204	R392-502	5YR	07/18/2007	2007-16/70
	29856	R392-510	5YR	04/23/2007	2007-10/124
<u>public information</u>					
Administrative Services, Administration	29771	R13-2	5YR	04/02/2007	2007-8/119
	29772	R13-2	AMD	05/22/2007	2007-8/3
	30049	R477-2	5YR	06/09/2007	2007-13/145
	29883	R477-2	AMD	07/01/2007	2007-10/46
<u>public investments</u>					
Money Management Council, Administration	30177	R628-2	5YR	07/10/2007	2007-15/68
	29906	R628-15	AMD	06/21/2007	2007-10/79
	29222	R628-17	NEW	01/09/2007	2006-23/68
<u>public meetings</u>					
Natural Resources, Forestry, Fire and State Lands	29763	R652-90	5YR	04/02/2007	2007-8/136
<u>public notification</u>					
Environmental Quality, Drinking Water	29367	R309-220	AMD	03/06/2007	2007-2/86
	29648	R309-220-15	AMD	05/14/2007	2007-7/46
<u>public petitions declaratory rulings</u>					
Public Safety, Peace Officer Standards and Training	29551	R728-101	5YR	02/26/2007	2007-6/40
<u>public records</u>					
Attorney General, Administration	30037	R105-2	5YR	06/05/2007	2007-13/142
	29524	R151-2	5YR	02/15/2007	2007-5/23
	29809	R305-1	5YR	04/12/2007	2007-9/34
	29867	R380-20	5YR	04/26/2007	2007-10/121
Natural Resources, Oil, Gas and Mining; Administration	29596	R642-100	5YR	03/07/2007	2007-7/170
Natural Resources, Parks and Recreation	30245	R651-102	5YR	07/26/2007	2007-16/73
Natural Resources, Forestry, Fire and State Lands	29766	R652-6	5YR	04/02/2007	2007-8/132
Natural Resources, Wildlife Resources	29916	R657-29	5YR	05/03/2007	2007-11/87
Public Safety, Administration	29385	R698-2	5YR	01/02/2007	2007-2/118
Regents (Board Of), College of Eastern Utah	30108	R767-1	5YR	06/19/2007	2007-14/52
School and Institutional Trust Lands, Administration	30148	R850-6	5YR	06/27/2007	2007-14/55
<u>public schools</u>					
Education, Administration	29496	R277-915	5YR	02/02/2007	2007-5/26

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>public utilities</u>					
Public Service Commission, Administration	29626	R746-349	5YR	03/08/2007	2007-7/186
	29627	R746-351	5YR	03/09/2007	2007-7/187
	30107	R746-400	5YR	06/19/2007	2007-14/52
<u>pumps</u>					
Environmental Quality, Drinking Water	29781	R309-540	5YR	04/02/2007	2007-8/126
<u>qualifications for training</u>					
Public Safety, Peace Officer Standards and Training	29557	R728-403	5YR	02/26/2007	2007-6/42
<u>quality improvement</u>					
Health, Administration	29538	R380-200	AMD	04/26/2007	2007-6/14
<u>quality standards</u>					
Environmental Quality, Drinking Water	29371	R309-200	AMD	03/06/2007	2007-2/43
<u>rabbits</u>					
Natural Resources, Wildlife Resources	30064	R657-6	AMD	08/07/2007	2007-13/86
<u>RACT</u>					
Environmental Quality, Air Quality	29664	R307-325	5YR	03/15/2007	2007-7/160
	29003	R307-325	AMD	03/09/2007	2006-19/35
	29003	R307-325	CPR	03/09/2007	2007-3/42
<u>radiation</u>					
Environmental Quality, Radiation Control	29333	R313-25	AMD	03/16/2007	2007-1/9
<u>radioactive materials</u>					
Environmental Quality, Radiation Control	29336	R313-36	AMD	03/16/2007	2007-1/15
	29335	R313-70	AMD	03/16/2007	2007-1/17
<u>radioactive waste disposal</u>					
Environmental Quality, Radiation Control	29333	R313-25	AMD	03/16/2007	2007-1/9
<u>radioactive waste generator permit</u>					
Environmental Quality, Radiation Control	29332	R313-26	AMD	03/16/2007	2007-1/10
<u>radiology practical technicians</u>					
Commerce, Occupational and Professional Licensing	29396	R156-54	5YR	01/09/2007	2007-3/56
<u>radiology technologists</u>					
Commerce, Occupational and Professional Licensing	29396	R156-54	5YR	01/09/2007	2007-3/56
<u>rally</u>					
Administrative Services, Facilities Construction and Management	29811	R23-20	NEW	06/07/2007	2007-9/11
<u>range management</u>					
Natural Resources, Forestry, Fire and State Lands	29764	R652-50	5YR	04/02/2007	2007-8/134
School and Institutional Trust Lands, Administration	30152	R850-50	5YR	06/27/2007	2007-14/57

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>rates</u>					
Administrative Services, Fleet Operations, Surplus Property	29946	R28-7	5YR	05/15/2007	2007-11/84
Labor Commission, Industrial Accidents	29124	R612-4-2	AMD	01/01/2007	2006-21/49
Natural Resources, Forestry, Fire and State Lands	29761	R652-4	5YR	04/02/2007	2007-8/131
School and Institutional Trust Lands, Administration	30149	R850-4	5YR	06/27/2007	2007-14/54
Workforce Services, Unemployment Insurance	29687	R994-303	R&R	07/01/2007	2007-7/118
	29956	R994-303	5YR	05/17/2007	2007-12/69
	29743	R994-306-202	NSC	04/12/2007	Not Printed
<u>raw milk</u>					
Agriculture and Food, Regulatory Services	30100	R70-330	AMD	08/07/2007	2007-13/3
<u>reactivation process</u>					
Public Safety, Peace Officer Standards and Training	29561	R728-407	5YR	02/26/2007	2007-6/44
<u>real estate</u>					
Financial Institutions, Banks	29972	R333-11	5YR	05/25/2007	2007-12/60
<u>real estate appraisals</u>					
Commerce, Real Estate	29828	R162-101	5YR	04/18/2007	2007-10/111
	29711	R162-102	AMD	05/29/2007	2007-8/38
	29523	R162-102	5YR	02/15/2007	2007-5/24
	29989	R162-102-3	NSC	06/11/2007	Not Printed
	29829	R162-103	5YR	04/18/2007	2007-10/111
	29623	R162-104	AMD	05/29/2007	2007-7/4
	29522	R162-104	5YR	02/15/2007	2007-5/24
	29521	R162-106	5YR	02/15/2007	2007-5/25
	29546	R162-106-5	AMD	04/25/2007	2007-6/6
	30197	R162-107	5YR	07/16/2007	2007-15/61
	29830	R162-109	5YR	04/18/2007	2007-10/112
<u>real estate business</u>					
Commerce, Real Estate	29832	R162-1	5YR	04/18/2007	2007-10/107
	29738	R162-1-2	AMD	05/30/2007	2007-8/18
	29831	R162-2	5YR	04/18/2007	2007-10/107
	29833	R162-3	5YR	04/18/2007	2007-10/108
	29736	R162-3-6	AMD	05/30/2007	2007-8/20
	29834	R162-4	5YR	04/18/2007	2007-10/108
	29827	R162-5	5YR	04/18/2007	2007-10/109
	29835	R162-6	5YR	04/18/2007	2007-10/109
	29769	R162-6-1	AMD	05/30/2007	2007-8/23
	29851	R162-7	5YR	04/19/2007	2007-10/110
	29740	R162-7-2	AMD	05/30/2007	2007-8/26
	29719	R162-8	AMD	05/30/2007	2007-8/27
	29836	R162-8	5YR	04/18/2007	2007-10/110
	29224	R162-9	AMD	01/17/2007	2006-23/3

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>real estate investment</u>					
Financial Institutions, Banks	29972	R333-11	5YR	05/25/2007	2007-12/60
<u>reclamation</u>					
Natural Resources, Oil, Gas and Mining; Abandoned Mine Reclamation	29597	R643-870	5YR	03/07/2007	2007-7/170
	29598	R643-872	5YR	03/07/2007	2007-7/171
	29599	R643-874	5YR	03/07/2007	2007-7/171
	29600	R643-875	5YR	03/07/2007	2007-7/172
	29601	R643-877	5YR	03/07/2007	2007-7/172
	29602	R643-879	5YR	03/07/2007	2007-7/173
	29603	R643-882	5YR	03/07/2007	2007-7/173
	29604	R643-884	5YR	03/07/2007	2007-7/174
	29605	R643-886	5YR	03/07/2007	2007-7/174
Natural Resources, Oil, Gas and Mining; Coal	29606	R645-100	5YR	03/07/2007	2007-7/175
	29607	R645-103	5YR	03/07/2007	2007-7/175
	29608	R645-200	5YR	03/07/2007	2007-7/176
	29609	R645-201	5YR	03/07/2007	2007-7/176
	29610	R645-202	5YR	03/07/2007	2007-7/177
	29611	R645-203	5YR	03/07/2007	2007-7/177
	29612	R645-300	5YR	03/07/2007	2007-7/178
	29613	R645-301	5YR	03/07/2007	2007-7/178
	29614	R645-302	5YR	03/07/2007	2007-7/179
	29615	R645-303	5YR	03/07/2007	2007-7/179
	29616	R645-402	5YR	03/07/2007	2007-7/180
<u>records</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	29469	R414-308	AMD	04/01/2007	2007-4/22
Pardons (Board Of), Administration	30225	R671-303	5YR	07/25/2007	2007-16/79
	30138	R982-201	5YR	06/26/2007	2007-14/59
<u>records access</u>					
Attorney General, Administration	30037	R105-2	5YR	06/05/2007	2007-13/142
Regents (Board Of), College of Eastern Utah	30108	R767-1	5YR	06/19/2007	2007-14/52
<u>records appeal hearings</u>					
Administrative Services, Records Committee	29081	R35-2-2	AMD	01/05/2007	2006-20/2
<u>recreation</u>					
Natural Resources, Wildlife Resources	29329	R657-38	AMD	02/07/2007	2007-1/35
	30070	R657-38	AMD	08/07/2007	2007-13/113
<u>recreation areas</u>					
Health, Epidemiology and Laboratory Services, Environmental Services	29860	R392-300	5YR	04/24/2007	2007-10/121
	29899	R392-301	5YR	04/30/2007	2007-10/122
	29901	R392-401	5YR	04/30/2007	2007-10/122

RULES INDEX

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>recreation therapy</u>					
Commerce, Occupational and Professional Licensing	29825	R156-40-302c	NSC	04/26/2007	Not Printed
<u>recreational therapy</u>					
Commerce, Occupational and Professional Licensing	29825	R156-40-302c	NSC	04/26/2007	Not Printed
<u>refinery</u>					
Environmental Quality, Air Quality	29006	R307-326	AMD	03/09/2007	2006-19/37
	29006	R307-326	CPR	03/09/2007	2007-3/43
	29665	R307-326	5YR	03/15/2007	2007-7/161
	29526	R307-326-1	NSC	03/09/2007	Not Printed
<u>registration</u>					
Commerce, Consumer Protection	29710	R152-34	AMD	05/22/2007	2007-8/4
	30101	R152-34	5YR	06/15/2007	2007-13/142
Environmental Quality, Radiation Control	29335	R313-70	AMD	03/16/2007	2007-1/17
Natural Resources, Forestry, Fire and State Lands	29433	R652-140	NSC	01/23/2007	Not Printed
	29461	R652-140	NEW	03/26/2007	2007-4/37
Workforce Services, Unemployment Insurance	30141	R994-403	5YR	06/26/2007	2007-14/60
<u>regulated contaminants</u>					
Environmental Quality, Drinking Water	29371	R309-200	AMD	03/06/2007	2007-2/43
<u>Rehabilitation Act 1973</u>					
Human Services, Administration	29498	R495-878	5YR	02/05/2007	2007-5/28
<u>reimbursement</u>					
Transportation, Administration	29182	R907-66	AMD	01/03/2007	2006-22/50
<u>religious activities</u>					
Tax Commission, Auditing	29641	R865-19S	5YR	03/13/2007	2007-7/191
	29942	R865-19S-58	AMD	07/16/2007	2007-11/78
<u>removal</u>					
Transportation, Operations, Maintenance	30296	R918-3	5YR	08/09/2007	Not Printed
<u>repair</u>					
Administrative Services, Fleet Operations	29534	R27-8	5YR	02/21/2007	2007-6/36
<u>reporting</u>					
Health, Epidemiology and Laboratory Services; HIV/AIDS, Tuberculosis Control/Refugee Health	29979	R388-803	5YR	05/29/2007	2007-12/61
Health, Health Systems Improvement, Emergency Medical Services	30205	R426-5	5YR	07/18/2007	2007-16/71
Natural Resources, Oil, Gas and Mining; Oil and Gas	29621	R649-8	5YR	03/07/2007	2007-7/182
<u>reports</u>					
Education, Administration	30095	R277-484	AMD	08/07/2007	2007-13/36
	30107	R746-400	5YR	06/19/2007	2007-14/52
<u>reptiles</u>					
Natural Resources, Wildlife Resources	29751	R657-53	AMD	05/22/2007	2007-8/92

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>request for proposals</u>					
School and Institutional Trust Lands, Administration	30150	R850-30	5YR	06/27/2007	2007-14/56
<u>research funding</u>					
Science Technology and Research Governing Auth., Administration	29298	R856-1	NEW	04/04/2007	2006-24/35
	29375	R856-1-6	AMD	04/04/2007	2007-2/113
<u>residency requirements</u>					
Community and Culture, Home Energy Assistance Target (HEAT)	29982	R195-2	NSC	06/22/2007	Not Printed
	30124	R195-2	5YR	06/22/2007	2007-14/44
Natural Resources, Forestry, Fire and State Lands	29758	R652-3	5YR	04/02/2007	2007-8/131
School and Institutional Trust Lands, Administration	30146	R850-3	5YR	06/27/2007	2007-14/54
<u>residential mortgage loan origination</u>					
Commerce, Real Estate	29237	R162-202	AMD	01/24/2007	2006-24/4
	29517	R162-202-1	AMD	04/10/2007	2007-5/4
	29545	R162-202-5	AMD	05/01/2007	2007-6/7
	29516	R162-203	AMD	04/10/2007	2007-5/4
	29518	R162-206	REP	04/10/2007	2007-5/6
	29519	R162-207	AMD	04/10/2007	2007-5/7
	29544	R162-207-6	AMD	05/01/2007	2007-6/8
	29520	R162-208	AMD	04/10/2007	2007-5/10
	29429	R162-210-6	NSC	02/12/2007	Not Printed
<u>resorts</u>					
Health, Epidemiology and Laboratory Services, Environmental Services	30204	R392-502	5YR	07/18/2007	2007-16/70
<u>resource decision</u>					
Public Service Commission, Administration	29378	R746-440	NEW	03/19/2007	2007-2/111
<u>respiratory care</u>					
Commerce, Occupational and Professional Licensing	29354	R156-57	AMD	02/22/2007	2007-2/12
<u>restaurants</u>					
Tax Commission, Auditing	29705	R865-12L	5YR	03/16/2007	2007-8/144
<u>retirement</u>					
Human Resource Management, Administration	29892	R477-12	AMD	07/01/2007	2007-10/72
	30053	R477-12	5YR	06/09/2007	2007-13/152
Public Safety, Peace Officer Standards and Training	29374	R728-205-1	NSC	01/20/2007	Not Printed
	29196	R728-205-1	AMD	01/20/2007	2006-23/83
<u>right-of-way</u>					
Natural Resources, Wildlife Resources	30084	R657-28	AMD	08/07/2007	2007-13/101
Transportation, Program Development	29358	R926-6	AMD	02/22/2007	2007-2/114
<u>risk management</u>					
Administrative Services, Risk Management	30046	R37-1	5YR	06/08/2007	2007-13/140

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	30047	R37-2	5YR	06/08/2007	2007-13/140
	30048	R37-3	5YR	06/08/2007	2007-13/141
<u>roads</u>					
Transportation, Program Development	29455	R926-4	NEW	03/26/2007	2007-4/43
<u>ropeways</u>					
Transportation, Operations, Traffic and Safety	29340	R920-50-1	AMD	02/13/2007	2007-1/50
<u>royalties</u>					
Natural Resources, Forestry, Fire and State Lands	29760	R652-20	5YR	04/02/2007	2007-8/133
	29468	R652-20-1600	AMD	03/26/2007	2007-4/36
<u>rules and procedures</u>					
Health, Epidemiology and Laboratory Services, Epidemiology	29721	R386-702	5YR	03/22/2007	2007-8/128
	29742	R386-702	AMD	05/24/2007	2007-8/48
Health, Community and Family Health Services, Immunization	29547	R396-100	AMD	05/07/2007	2007-6/19
Human Resource Management, Administration	29882	R477-1	AMD	07/01/2007	2007-10/41
	30051	R477-1	5YR	06/09/2007	2007-13/144
	30057	R477-13	5YR	06/09/2007	2007-13/152
	29896	R477-13-1	NSC	05/11/2007	Not Printed
	29583	R590-116	5YR	02/28/2007	2007-6/39
	29584	R590-117	5YR	02/28/2007	2007-6/40
Natural Resources, Wildlife Resources	29636	R657-27	AMD	05/08/2007	2007-7/76
	29794	R657-27	5YR	04/04/2007	2007-9/45
Public Safety, Driver License	29593	R708-2	5YR	03/02/2007	2007-7/184
Public Safety, Peace Officer Standards and Training	29562	R728-409	5YR	02/27/2007	2007-6/44
Public Service Commission, Administration	30107	R746-400	5YR	06/19/2007	2007-14/52
	29438	R746-409	AMD	03/27/2007	2007-4/38
	30145	R850-2	5YR	06/27/2007	2007-14/53
<u>safety</u>					
Labor Commission, Occupational Safety and Health	29857	R614-1-4	AMD	06/22/2007	2007-10/77
	29282	R614-1-4	AMD	01/23/2007	2006-24/33
Labor Commission, Safety	29527	R616-2-3	AMD	04/24/2007	2007-6/26
	29581	R616-2-3	AMD	04/24/2007	2007-6/25
	29313	R616-2-3	AMD	02/08/2007	2007-1/24
Public Service Commission, Administration	29438	R746-409	AMD	03/27/2007	2007-4/38
Transportation, Motor Carrier	29338	R909-1-1	AMD	02/08/2007	2007-1/45
Transportation, Operations, Maintenance	30296	R918-3	5YR	08/09/2007	Not Printed
<u>safety regulations</u>					
Transportation, Motor Carrier	29341	R909-19	AMD	02/08/2007	2007-1/46
	29339	R909-75	AMD	02/08/2007	2007-1/49
<u>salaries</u>					
Human Resource Management, Administration	30060	R477-6	5YR	06/09/2007	2007-13/148

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	29887	R477-6	AMD	07/01/2007	2007-10/54
<u>salary adjustments</u>					
Education, Administration	30086	R277-110	NEW	08/07/2007	2007-13/11
<u>sales</u>					
School and Institutional Trust Lands, Administration	30154	R850-80	5YR	06/27/2007	2007-14/58
<u>sales tax</u>					
Tax Commission, Auditing	29644	R865-11Q	5YR	03/14/2007	2007-7/189
	29705	R865-12L	5YR	03/16/2007	2007-8/144
	29641	R865-19S	5YR	03/13/2007	2007-7/191
	29942	R865-19S-58	AMD	07/16/2007	2007-11/78
<u>salt</u>					
Natural Resources, Forestry, Fire and State Lands	29760	R652-20	5YR	04/02/2007	2007-8/133
	29468	R652-20-1600	AMD	03/26/2007	2007-4/36
<u>scholarships</u>					
Public Education Job Enhancement Program, Job Enhancement Committee	30099	R690-100	AMD	08/07/2007	2007-13/132
<u>school enrollment</u>					
Education, Administration	29690	R277-419	AMD	05/09/2007	2007-7/10
<u>schools</u>					
Environmental Quality, Air Quality	29659	R307-135	5YR	03/15/2007	2007-7/156
Health, Epidemiology and Laboratory Services, Environmental Services	29799	R392-200	5YR	04/05/2007	2007-9/36
Public Safety, Driver License	29593	R708-2	5YR	03/02/2007	2007-7/184
<u>screening</u>					
Health, Epidemiology and Laboratory Services; HIV/AIDS, Tuberculosis Control/Refugee Health	29980	R388-804	5YR	05/29/2007	2007-12/61
	29911	R388-804	AMD	07/16/2007	2007-11/27
<u>SDWA</u>					
Environmental Quality, Drinking Water	29785	R309-705	5YR	04/02/2007	2007-8/127
<u>search and seizure</u>					
Corrections, Administration	29465	R251-710	5YR	01/31/2007	2007-4/59
<u>secondary disinfectants</u>					
Environmental Quality, Drinking Water	29642	R309-520	5YR	03/13/2007	2007-7/169
<u>securities</u>					
Commerce, Securities	30258	R164-1	5YR	07/30/2007	2007-16/57
	30259	R164-4	5YR	07/30/2007	2007-16/58
	30260	R164-5	5YR	07/30/2007	2007-16/58
	30255	R164-9	5YR	07/30/2007	2007-16/59
	30256	R164-10	5YR	07/30/2007	2007-16/60
	30254	R164-13	5YR	07/30/2007	2007-16/61
	30266	R164-14	5YR	07/30/2007	2007-16/62
	30267	R164-15	5YR	07/30/2007	2007-16/62

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
Financial Institutions, Administration	30237	R331-5	5YR	07/25/2007	2007-16/66
	29222	R628-17	NEW	01/09/2007	2006-23/68
<u>securities regulation</u>					
Commerce, Securities	30258	R164-1	5YR	07/30/2007	2007-16/57
	30259	R164-4	5YR	07/30/2007	2007-16/58
	30260	R164-5	5YR	07/30/2007	2007-16/58
	30261	R164-6	5YR	07/30/2007	2007-16/59
	30255	R164-9	5YR	07/30/2007	2007-16/59
	30256	R164-10	5YR	07/30/2007	2007-16/60
	30257	R164-11	5YR	07/30/2007	2007-16/60
	30264	R164-12	5YR	07/30/2007	2007-16/61
	30254	R164-13	5YR	07/30/2007	2007-16/61
	30266	R164-14	5YR	07/30/2007	2007-16/62
	30267	R164-15	5YR	07/30/2007	2007-16/62
	30265	R164-18	5YR	07/30/2007	2007-16/63
	30262	R164-25	5YR	07/30/2007	2007-16/63
	30263	R164-26	5YR	07/30/2007	2007-16/64
Money Management Council, Administration	29906	R628-15	AMD	06/21/2007	2007-10/79
	29222	R628-17	NEW	01/09/2007	2006-23/68
<u>security</u>					
Public Safety, Administration	29331	R698-100	NSC	04/02/2007	Not Printed
	29728	R698-100	REP	05/23/2007	2007-8/109
	29787	R698-100	5YR	04/02/2007	2007-8/136
<u>security guards</u>					
Commerce, Occupational and Professional Licensing	29915	R156-63	AMD	07/19/2007	2007-11/8
<u>security measures</u>					
Corrections, Administration	29465	R251-710	5YR	01/31/2007	2007-4/59
<u>sedimentation</u>					
Environmental Quality, Drinking Water	29778	R309-525	5YR	04/02/2007	2007-8/124
<u>self administered services</u>					
Human Services, Services for People with Disabilities	29625	R539-5	AMD	05/11/2007	2007-7/70
<u>self-employment income</u>					
Community and Culture, Home Energy Assistance Target (HEAT)	30125	R195-3	5YR	06/22/2007	2007-14/44
	29983	R195-3	NSC	06/22/2007	Not Printed
<u>sentencing</u>					
Pardons (Board Of), Administration	30236	R671-405	5YR	07/25/2007	2007-16/83
<u>sentinel event</u>					
Health, Administration	29538	R380-200	AMD	04/26/2007	2007-6/14
<u>server training</u>					
Human Services, Substance Abuse and Mental Health	30122	R523-23	5YR	06/22/2007	2007-14/49

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	28928	R523-23	AMD	01/30/2007	2006-17/43
	28928	R523-23	CPR	01/30/2007	2006-24/43
<u>settlements</u>					
Labor Commission, Adjudication	29957	R602-2-4	AMD	07/24/2007	2007-12/40
<u>significant energy resource</u>					
Public Service Commission, Administration	29376	R746-420	CPR	05/17/2007	2007-7/138
	29376	R746-420	NEW	05/17/2007	2007-2/102
	29377	R746-430	CPR	05/17/2007	2007-7/145
	29377	R746-430	NEW	05/17/2007	2007-2/109
<u>slow sand filtration</u>					
Environmental Quality, Drinking Water	29779	R309-530	5YR	04/02/2007	2007-8/125
<u>smoking</u>					
Health, Epidemiology and Laboratory Services, Environmental Services	29856	R392-510	5YR	04/23/2007	2007-10/124
<u>snow</u>					
Transportation, Operations, Maintenance	30296	R918-3	5YR	08/09/2007	Not Printed
<u>snowfall</u>					
Transportation, Operations, Maintenance	30296	R918-3	5YR	08/09/2007	Not Printed
<u>sobriety tests</u>					
Health, Epidemiology and Laboratory Services, Laboratory Services	29926	R438-12	5YR	05/08/2007	2007-11/86
	29968	R438-12	NSC	06/12/2007	Not Printed
<u>social services</u>					
Human Services, Child and Family Services	30289	R512-1	5YR	08/07/2007	Not Printed
	30010	R512-300	EMR	06/01/2007	2007-12/55
<u>solicitation</u>					
Public Service Commission, Administration	29376	R746-420	NEW	05/17/2007	2007-2/102
<u>solicitation process</u>					
Public Service Commission, Administration	29376	R746-420	CPR	05/17/2007	2007-7/138
<u>solicitations</u>					
Commerce, Consumer Protection	29427	R152-22	AMD	04/02/2007	2007-4/8
	30120	R152-22	5YR	06/22/2007	2007-14/43
<u>solid waste management</u>					
Environmental Quality, Solid and Hazardous Waste	29202	R315-301	AMD	02/01/2007	2006-23/17
	30163	R315-301-2	NSC	07/11/2007	Not Printed
	29509	R315-301-5	NSC	02/28/2007	Not Printed
	29203	R315-302	AMD	02/01/2007	2006-23/22
	29204	R315-303	AMD	02/01/2007	2006-23/28
	29205	R315-304	AMD	02/01/2007	2006-23/33
	29754	R315-304	5YR	03/30/2007	2007-8/128
	29206	R315-305-4	AMD	02/01/2007	2006-23/35
	29566	R315-305-4	NSC	03/09/2007	Not Printed

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
	29207	R315-306-2	AMD	02/01/2007	2006-23/37
	29208	R315-308	AMD	02/01/2007	2006-23/38
	29716	R315-308-2	NSC	04/12/2007	Not Printed
	29209	R315-309	AMD	02/01/2007	2006-23/43
	29210	R315-310	AMD	02/01/2007	2006-23/46
	29211	R315-311	AMD	02/01/2007	2006-23/50
	29511	R315-311-1	NSC	02/28/2007	Not Printed
	29212	R315-312	AMD	02/01/2007	2006-23/52
	29768	R315-312-3	NSC	04/12/2007	Not Printed
	29213	R315-313-2	AMD	02/01/2007	2006-23/54
	29214	R315-314-3	AMD	02/01/2007	2006-23/56
	29425	R315-315-2	NSC	02/13/2007	Not Printed
	29215	R315-316	AMD	02/01/2007	2006-23/58
	29216	R315-317	AMD	02/01/2007	2006-23/60
	29217	R315-318-1	AMD	02/01/2007	2006-23/61
	29218	R315-320	AMD	02/01/2007	2006-23/62
	29510	R315-320-4	NSC	02/28/2007	Not Printed
<u>solvent</u>					
Environmental Quality, Air Quality	29010	R307-341	AMD	01/16/2007	2006-19/59
	29670	R307-341	5YR	03/15/2007	2007-7/166
<u>solvent cleaning</u>					
Environmental Quality, Air Quality	29668	R307-335	5YR	03/15/2007	2007-7/165
	29008	R307-335	AMD	01/16/2007	2006-19/49
<u>source development</u>					
Environmental Quality, Drinking Water	29777	R309-515	5YR	04/02/2007	2007-8/124
<u>source maintenance</u>					
Environmental Quality, Drinking Water	29777	R309-515	5YR	04/02/2007	2007-8/124
<u>sovereign lands</u>					
Natural Resources, Forestry, Fire and State Lands	29765	R652-70	5YR	04/02/2007	2007-8/135
<u>spas</u>					
Health, Epidemiology and Laboratory Services, Environmental Services	29717	R392-302	AMD	05/31/2007	2007-8/55
	29720	R392-302	5YR	03/22/2007	2007-8/130
<u>special events</u>					
Health, Epidemiology and Laboratory Services, Environmental Services	29925	R392-400	5YR	05/08/2007	2007-11/85
<u>special fuel</u>					
Tax Commission, Auditing	29556	R865-4D	5YR	02/26/2007	2007-6/48
<u>special income group</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	29676	R414-307	NEW	05/15/2007	2007-7/65
<u>speech-language pathology</u>					
Commerce, Occupational and Professional Licensing	29471	R156-41	5YR	02/01/2007	2007-4/57

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>sponsors</u> Corrections, Administration	29463	R251-306	5YR	01/31/2007	2007-4/58
<u>sportsmen</u> Natural Resources, Wildlife Resources	30071	R657-41	AMD	08/07/2007	2007-13/117
<u>spousal notification</u> Health, Epidemiology and Laboratory Services; HIV/AIDS, Tuberculosis Control/Refugee Health	29979	R388-803	5YR	05/29/2007	2007-12/61
<u>stabilization</u> Environmental Quality, Drinking Water	29780	R309-535	5YR	04/02/2007	2007-8/125
<u>stack height</u> Environmental Quality, Air Quality	30189	R307-410	5YR	07/13/2007	2007-15/65
<u>STAR</u> Science Technology and Research Governing Auth., Administration	29298	R856-1	NEW	04/04/2007	2006-24/35
	29375	R856-1-6	AMD	04/04/2007	2007-2/113
	29299	R856-2	NEW	04/04/2007	2006-24/37
<u>state buildings</u> Capitol Preservation Board (State), Administration	29952	R131-3	5YR	05/16/2007	2007-12/60
<u>state employees</u> Administrative Services, Finance	29910	R25-7	AMD	07/03/2007	2007-10/3
Human Resource Management, Administration	30055	R477-5	5YR	06/09/2007	2007-13/147
	29886	R477-5	AMD	07/01/2007	2007-10/53
<u>state fleet information system</u> Administrative Services, Fleet Operations	29457	R27-5	5YR	01/29/2007	2007-4/54
<u>state HEAT office records</u> Community and Culture, Home Energy Assistance Target (HEAT)	29987	R195-7	NSC	06/25/2007	Not Printed
	30130	R195-7	5YR	06/25/2007	2007-14/46
<u>state property</u> Administrative Services, Fleet Operations, Surplus Property	29550	R28-1	5YR	02/26/2007	2007-6/36
<u>state records committee</u> Administrative Services, Records Committee	29081	R35-2-2	AMD	01/05/2007	2006-20/2
<u>stationary sources</u> Environmental Quality, Air Quality	29228	R307-210	AMD	03/15/2007	2006-23/8
<u>stipends</u> Education, Administration	29934	R277-603	AMD	07/09/2007	2007-11/21
<u>storage tanks</u> Environmental Quality, Drinking Water	29782	R309-545	5YR	04/02/2007	2007-8/126
<u>stoves</u> Environmental Quality, Air Quality	29798	R307-122	REP	07/13/2007	2007-9/17

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	29322	R307-122	NSC	07/13/2007	Not Printed
<u>student eligibility</u>					
Workforce Services, Unemployment Insurance	30141	R994-403	5YR	06/26/2007	2007-14/60
<u>students</u>					
Education, Administration	29936	R277-611	REP	07/09/2007	2007-11/24
	30098	R277-713	AMD	08/07/2007	2007-13/47
<u>students at risk</u>					
Education, Administration	29931	R277-464	AMD	07/09/2007	2007-11/15
<u>substance abuse</u>					
Human Services, Substance Abuse and Mental Health	30038	R523-20	5YR	06/05/2007	2007-13/153
	29246	R523-20-2	AMD	01/30/2007	2006-24/31
	30122	R523-23	5YR	06/22/2007	2007-14/49
	28928	R523-23	AMD	01/30/2007	2006-17/43
	28928	R523-23	CPR	01/30/2007	2006-24/43
<u>supervision</u>					
Corrections, Administration	30040	R251-401	5YR	06/07/2007	2007-13/143
<u>supplies</u>					
Education, Administration	29691	R277-459	AMD	05/09/2007	2007-7/12
	30088	R277-459	AMD	08/07/2007	2007-13/14
<u>supported employment</u>					
Human Services, Services for People with Disabilities	30116	R539-9	EMR	07/01/2007	2007-14/39
<u>surface coating</u>					
Environmental Quality, Air Quality	29669	R307-340	5YR	03/15/2007	2007-7/165
	29009	R307-340	AMD	03/09/2007	2006-19/52
	29009	R307-340	CPR	03/09/2007	2007-3/46
	29151	R307-340-1	NSC	03/09/2007	Not Printed
<u>surface water treatment</u>					
Environmental Quality, Drinking Water	29775	R309-505	5YR	04/02/2007	2007-8/123
<u>surface water treatment plant monitoring</u>					
Environmental Quality, Drinking Water	29645	R309-215	AMD	05/14/2007	2007-7/34
	29366	R309-215	AMD	03/06/2007	2007-2/63
<u>surveyors</u>					
Commerce, Occupational and Professional Licensing	29355	R156-22	AMD	02/22/2007	2007-2/3
<u>surveys</u>					
Environmental Quality, Radiation Control	29310	R313-35	NSC	03/05/2007	Not Printed
	29595	R313-35	5YR	03/05/2007	2007-7/169
	29336	R313-36	AMD	03/16/2007	2007-1/15
Natural Resources, Forestry, Fire and State Lands	29767	R652-40	5YR	04/02/2007	2007-8/134
School and Institutional Trust Lands, Administration	30151	R850-40	5YR	06/27/2007	2007-14/56

<u>KEYWORD AGENCY</u>	<u>FILE NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE DATE</u>	<u>BULLETIN ISSUE/PAGE</u>
<u>suspensions</u>					
Natural Resources, Wildlife Resources	30077	R657-26	AMD	08/07/2007	2007-13/98
<u>system</u>					
Public Safety, Fire Marshal	30007	R710-7	5YR	05/31/2007	2007-12/67
<u>tax exemptions</u>					
Environmental Quality, Air Quality	29653	R307-120	5YR	03/15/2007	2007-7/155
	29327	R307-120	AMD	03/09/2007	2007-1/7
	29321	R307-121	NSC	07/13/2007	Not Printed
	30184	R307-121	5YR	07/13/2007	2007-15/62
	29797	R307-121	R&R	07/13/2007	2007-9/14
	29798	R307-122	REP	07/13/2007	2007-9/17
	29322	R307-122	NSC	07/13/2007	Not Printed
Environmental Quality, Water Quality	29326	R317-12	NEW	03/09/2007	2007-1/21
Tax Commission, Auditing	29641	R865-19S	5YR	03/13/2007	2007-7/191
	29942	R865-19S-58	AMD	07/16/2007	2007-11/78
<u>tax returns</u>					
Tax Commission, Auditing	29712	R865-9I	5YR	03/20/2007	2007-8/142
	29320	R865-9I-32	AMD	02/12/2007	2007-1/42
	29786	R865-9I-42	NSC	04/12/2007	Not Printed
	29315	R865-9I-49	AMD	02/12/2007	2007-1/43
	29314	R865-9I-52	AMD	02/12/2007	2007-1/44
	29436	R865-9I-53	AMD	04/16/2007	2007-4/41
<u>taxation</u>					
Tax Commission, Administration	29713	R861-1A	5YR	03/20/2007	2007-8/139
	29324	R861-1A-19	AMD	02/12/2007	2007-1/41
	29941	R861-1A-41	AMD	07/16/2007	2007-11/76
Tax Commission, Auditing	29714	R865-3C	5YR	03/21/2007	2007-8/142
	29556	R865-4D	5YR	02/26/2007	2007-6/48
	29624	R865-6F	5YR	03/08/2007	2007-7/187
	29323	R865-6F-30	AMD	02/12/2007	2007-1/41
	29437	R865-6F-37	AMD	04/16/2007	2007-4/40
	29705	R865-12L	5YR	03/16/2007	2007-8/144
	29628	R865-13G	5YR	03/09/2007	2007-7/190
	29707	R865-14W	5YR	03/19/2007	2007-8/146
	29708	R865-15O	5YR	03/19/2007	2007-8/146
	29709	R865-20T	5YR	03/19/2007	2007-8/147
	29943	R865-20T-2	AMD	07/16/2007	2007-11/79
	29929	R865-20T-6	NSC	05/31/2007	Not Printed
	29325	R865-20T-12	AMD	02/12/2007	2007-1/45
	29643	R865-20T-12	NSC	03/29/2007	Not Printed
Tax Commission, Motor Vehicle	29631	R873-22M	5YR	03/12/2007	2007-7/194
Tax Commission, Motor Vehicle Enforcement	29651	R877-23V	5YR	03/14/2007	2007-7/196
	29940	R877-23V-4	AMD	07/16/2007	2007-11/80

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	29938	R877-23V-8	AMD	07/16/2007	2007-11/81
	29930	R877-23V-14	AMD	07/16/2007	2007-11/82
Tax Commission, Property Tax	29630	R884-24P	5YR	03/12/2007	2007-7/197
	29223	R884-24P-19	AMD	01/12/2007	2006-23/83
	29928	R884-24P-68	AMD	07/16/2007	2007-11/83
<u>taxes</u>					
Insurance, Administration	29684	R590-157	AMD	06/13/2007	2007-7/71
<u>teacher</u>					
Education, Administration	29305	R277-511	NEW	01/23/2007	2006-24/7
<u>teacher certification</u>					
Education, Administration	29477	R277-505	AMD	03/27/2007	2007-4/13
	29737	R277-505-5	NSC	04/12/2007	Not Printed
	29748	R277-519	5YR	03/29/2007	2007-8/122
Public Safety, Driver License	29729	R708-27	5YR	03/23/2007	2007-8/139
<u>teachers</u>					
Education, Administration	29691	R277-459	AMD	05/09/2007	2007-7/12
	30088	R277-459	AMD	08/07/2007	2007-13/14
	29749	R277-503	5YR	03/29/2007	2007-8/121
	29692	R277-503	AMD	05/09/2007	2007-7/14
<u>technology funding</u>					
Science Technology and Research Governing Auth., Administration	29298	R856-1	NEW	04/04/2007	2006-24/35
	29375	R856-1-6	AMD	04/04/2007	2007-2/113
<u>telecommunications</u>					
Public Service Commission, Administration	29428	R746-348	5YR	01/22/2007	2007-4/67
	29626	R746-349	5YR	03/08/2007	2007-7/186
	29627	R746-351	5YR	03/09/2007	2007-7/187
<u>telecommuting</u>					
Human Resource Management, Administration	30059	R477-8	5YR	06/09/2007	2007-13/148
	29889	R477-8	AMD	07/01/2007	2007-10/64
<u>telephone</u>					
Commerce, Consumer Protection	29594	R152-26	5YR	03/05/2007	2007-7/149
	29379	R152-26	AMD	02/23/2007	2007-2/3
<u>telephone utility regulation</u>					
Public Service Commission, Administration	29428	R746-348	5YR	01/22/2007	2007-4/67
<u>temporary mass gatherings</u>					
Health, Epidemiology and Laboratory Services, Environmental Services	29925	R392-400	5YR	05/08/2007	2007-11/85
<u>terminally ill</u>					
Natural Resources, Wildlife Resources	29920	R657-30	5YR	05/07/2007	2007-11/88
<u>tires</u>					
Transportation, Motor Carrier, Ports of Entry	29426	R912-76	5YR	01/19/2007	2007-4/68

<u>KEYWORD AGENCY</u>	<u>FILE NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE DATE</u>	<u>BULLETIN ISSUE/PAGE</u>
<u>title escrow charges</u> Insurance, Title and Escrow Commission	29725	R592-4-5	NSC	04/12/2007	Not Printed
<u>title insurance</u> Insurance, Administration	30080	R590-153-6	AMD	08/08/2007	2007-13/53
<u>tobacco products</u> Tax Commission, Auditing	29709	R865-20T	5YR	03/19/2007	2007-8/147
	29943	R865-20T-2	AMD	07/16/2007	2007-11/79
	29929	R865-20T-6	NSC	05/31/2007	Not Printed
	29643	R865-20T-12	NSC	03/29/2007	Not Printed
	29325	R865-20T-12	AMD	02/12/2007	2007-1/45
<u>towing</u> Transportation, Motor Carrier	29341	R909-19	AMD	02/08/2007	2007-1/46
<u>traffic violations</u> Public Safety, Driver License	29590	R708-3	5YR	03/02/2007	2007-7/184
<u>training programs</u> Human Resource Management, Administration	29891	R477-10	AMD	07/01/2007	2007-10/70
	30050	R477-10	5YR	06/09/2007	2007-13/150
Public Safety, Driver License	29727	R708-21	5YR	03/23/2007	2007-8/137
Workforce Services, Administration	30140	R982-601	5YR	06/26/2007	2007-14/60
<u>tramways</u> Transportation, Operations, Traffic and Safety	29340	R920-50-1	AMD	02/13/2007	2007-1/50
<u>tramway permits</u> Transportation, Operations, Traffic and Safety	29340	R920-50-1	AMD	02/13/2007	2007-1/50
<u>transfer</u> Technology Services, Administration	29978	R895-3	5YR	05/29/2007	2007-12/68
<u>transmission and distribution pipelines</u> Environmental Quality, Drinking Water	29783	R309-550	5YR	04/02/2007	2007-8/126
<u>transportation</u> Administrative Services, Finance	29910	R25-7	AMD	07/03/2007	2007-10/3
Transportation, Administration	29182	R907-66	AMD	01/03/2007	2006-22/50
Transportation, Motor Carrier	29338	R909-1-1	AMD	02/08/2007	2007-1/45
Transportation, Program Development	29455	R926-4	NEW	03/26/2007	2007-4/43
	29358	R926-6	AMD	02/22/2007	2007-2/114
<u>transportation corridor preservation revolving loan fund</u> Transportation, Program Development	29358	R926-6	AMD	02/22/2007	2007-2/114
<u>transportation planning</u> Transportation, Program Development	29358	R926-6	AMD	02/22/2007	2007-2/114
<u>transportation safety</u> Transportation, Operations, Traffic and Safety	29340	R920-50-1	AMD	02/13/2007	2007-1/50

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>trauma</u> Health, Health Systems Improvement, Emergency Medical Services	30205	R426-5	5YR	07/18/2007	2007-16/71
<u>trees</u> Natural Resources, Forestry, Fire and State Lands	29800	R652-130	NSC	04/03/2007	Not Printed
<u>trip reduction</u> Environmental Quality, Air Quality	29002	R307-320	CPR	03/09/2007	2007-3/40
	29002	R307-320	AMD	03/09/2007	2006-19/32
	29663	R307-320	5YR	03/15/2007	2007-7/160
<u>trucking industries</u> Tax Commission, Auditing	29624	R865-6F	5YR	03/08/2007	2007-7/187
	29323	R865-6F-30	AMD	02/12/2007	2007-1/41
	29437	R865-6F-37	AMD	04/16/2007	2007-4/40
<u>trucks</u> Transportation, Motor Carrier	29338	R909-1-1	AMD	02/08/2007	2007-1/45
	29341	R909-19	AMD	02/08/2007	2007-1/46
Transportation, Motor Carrier, Ports of Entry	30009	R912-9	AMD	07/27/2007	2007-12/42
<u>trust land management</u> School and Institutional Trust Lands, Administration	30150	R850-30	5YR	06/27/2007	2007-14/56
<u>tuberculosis</u> Health, Epidemiology and Laboratory Services; HIV/AIDS, Tuberculosis Control/Refugee Health	29911	R388-804	AMD	07/16/2007	2007-11/27
	29980	R388-804	5YR	05/29/2007	2007-12/61
<u>UMAP</u> Health, Health Care Financing, Medical Assistance Program	29909	R420-1	REP	07/01/2007	2007-10/40
<u>underground storage tanks</u> Environmental Quality, Environmental Response and Remediation	29838	R311-200	5YR	04/18/2007	2007-10/112
	29567	R311-200	NSC	04/18/2007	Not Printed
	29568	R311-201	NSC	04/18/2007	Not Printed
	29839	R311-201	5YR	04/18/2007	2007-10/113
	29840	R311-202	5YR	04/18/2007	2007-10/114
	29569	R311-202	NSC	04/18/2007	Not Printed
	29841	R311-203	5YR	04/18/2007	2007-10/114
	29570	R311-203	NSC	04/18/2007	Not Printed
	29842	R311-204	5YR	04/18/2007	2007-10/115
	29571	R311-204	NSC	04/18/2007	Not Printed
	29843	R311-205	5YR	04/18/2007	2007-10/116
	29572	R311-205	NSC	04/18/2007	Not Printed
	29844	R311-206	5YR	04/18/2007	2007-10/116
	29573	R311-206	NSC	04/18/2007	Not Printed
	29845	R311-207	5YR	04/18/2007	2007-10/117

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	29574	R311-207	NSC	04/18/2007	Not Printed
	29846	R311-208	5YR	04/18/2007	2007-10/118
	29575	R311-208	NSC	04/18/2007	Not Printed
	29847	R311-209	5YR	04/18/2007	2007-10/118
	29576	R311-209	NSC	04/18/2007	Not Printed
	29848	R311-210	5YR	04/18/2007	2007-10/119
	29577	R311-210	NSC	04/18/2007	Not Printed
	29849	R311-211	5YR	04/18/2007	2007-10/119
	29578	R311-211	NSC	04/18/2007	Not Printed
	29579	R311-212	NSC	04/18/2007	Not Printed
	29850	R311-212	5YR	04/18/2007	2007-10/120
 <u>unemployed workers</u>					
Workforce Services, Administration	30140	R982-601	5YR	06/26/2007	2007-14/60
 <u>unemployment compensation</u>					
Workforce Services, Unemployment Insurance	29954	R994-102	5YR	05/16/2007	2007-12/68
	29955	R994-106	5YR	05/17/2007	2007-12/69
	29678	R994-202	R&R	07/01/2007	2007-7/90
	29680	R994-204	R&R	07/01/2007	2007-7/96
	29681	R994-205	R&R	07/01/2007	2007-7/103
	29682	R994-206	R&R	07/01/2007	2007-7/107
	29685	R994-208	R&R	07/01/2007	2007-7/111
	29686	R994-302	R&R	07/01/2007	2007-7/115
	29687	R994-303	R&R	07/01/2007	2007-7/118
	29956	R994-303	5YR	05/17/2007	2007-12/69
	29688	R994-305	R&R	07/01/2007	2007-7/122
	29743	R994-306-202	NSC	04/12/2007	Not Printed
	29689	R994-308	R&R	07/01/2007	2007-7/125
	29697	R994-309	AMD	07/01/2007	2007-7/127
	29695	R994-310	R&R	07/01/2007	2007-7/128
	29698	R994-311	AMD	07/01/2007	2007-7/130
	29699	R994-312	AMD	07/01/2007	2007-7/132
	29959	R994-401	5YR	05/17/2007	2007-12/70
	29958	R994-402	5YR	05/17/2007	2007-12/70
	30141	R994-403	5YR	06/26/2007	2007-14/60
	29962	R994-404	5YR	05/22/2007	2007-12/71
	30142	R994-405	5YR	06/26/2007	2007-14/61
	29855	R994-405	AMD	08/08/2007	2007-10/88
	30104	R994-405-3	AMD	08/08/2007	2007-13/135
	29963	R994-406	5YR	05/22/2007	2007-12/71
 <u>utilities</u>					
Public Service Commission, Administration	29377	R746-430	CPR	05/17/2007	2007-7/145
	29377	R746-430	NEW	05/17/2007	2007-2/109
 <u>utility</u>					
Public Service Commission, Administration	29376	R746-420	NEW	05/17/2007	2007-2/102

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>vacations</u>					
Human Resource Management, Administration	29888	R477-7	AMD	07/01/2007	2007-10/57
	30161	R477-7	5YR	06/29/2007	2007-14/47
<u>vehicle maintenance</u>					
Administrative Services, Fleet Operations	29534	R27-8	5YR	02/21/2007	2007-6/36
<u>vehicle replacement</u>					
Administrative Services, Fleet Operations	30212	R27-4	5YR	07/25/2007	2007-16/57
<u>vendor approval</u>					
Administrative Services, Fleet Operations	29534	R27-8	5YR	02/21/2007	2007-6/36
<u>ventilation</u>					
Health, Epidemiology and Laboratory Services, Environmental Services	29856	R392-510	5YR	04/23/2007	2007-10/124
<u>veterinarians</u>					
Environmental Quality, Radiation Control	29310	R313-35	NSC	03/05/2007	Not Printed
	29595	R313-35	5YR	03/05/2007	2007-7/169
<u>veterinary medicine</u>					
Commerce, Occupational and Professional Licensing	29472	R156-28	5YR	02/01/2007	2007-4/57
<u>victim compensation</u>					
Crime Victim Reparations, Administration	29753	R270-1	AMD	05/22/2007	2007-8/41
	29220	R270-1-26	AMD	01/10/2007	2006-23/6
<u>victims of crimes</u>					
Crime Victim Reparations, Administration	29753	R270-1	AMD	05/22/2007	2007-8/41
	29220	R270-1-26	AMD	01/10/2007	2006-23/6
	30218	R671-203	5YR	07/25/2007	2007-16/76
<u>violations</u>					
Natural Resources, Wildlife Resources	30077	R657-26	AMD	08/07/2007	2007-13/98
<u>visibility</u>					
Environmental Quality, Air Quality	30188	R307-406	5YR	07/13/2007	2007-15/64
<u>visitation</u>					
Corrections, Administration	29462	R251-305	5YR	01/31/2007	2007-4/58
<u>wages</u>					
Workforce Services, Unemployment Insurance	29685	R994-208	R&R	07/01/2007	2007-7/111
<u>waiver of basic training</u>					
Public Safety, Peace Officer Standards and Training	29561	R728-407	5YR	02/26/2007	2007-6/44
<u>waivers</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	29676	R414-307	NEW	05/15/2007	2007-7/65
<u>waste disposal</u>					
Environmental Quality, Solid and Hazardous Waste	29202	R315-301	AMD	02/01/2007	2006-23/17

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	30163	R315-301-2	NSC	07/11/2007	Not Printed
	29509	R315-301-5	NSC	02/28/2007	Not Printed
	29203	R315-302	AMD	02/01/2007	2006-23/22
	29204	R315-303	AMD	02/01/2007	2006-23/28
	29205	R315-304	AMD	02/01/2007	2006-23/33
	29754	R315-304	5YR	03/30/2007	2007-8/128
	29206	R315-305-4	AMD	02/01/2007	2006-23/35
	29566	R315-305-4	NSC	03/09/2007	Not Printed
	29207	R315-306-2	AMD	02/01/2007	2006-23/37
	29208	R315-308	AMD	02/01/2007	2006-23/38
	29716	R315-308-2	NSC	04/12/2007	Not Printed
	29209	R315-309	AMD	02/01/2007	2006-23/43
	29210	R315-310	AMD	02/01/2007	2006-23/46
	29211	R315-311	AMD	02/01/2007	2006-23/50
	29511	R315-311-1	NSC	02/28/2007	Not Printed
	29212	R315-312	AMD	02/01/2007	2006-23/52
	29768	R315-312-3	NSC	04/12/2007	Not Printed
	29213	R315-313-2	AMD	02/01/2007	2006-23/54
	29214	R315-314-3	AMD	02/01/2007	2006-23/56
	29425	R315-315-2	NSC	02/13/2007	Not Printed
	29215	R315-316	AMD	02/01/2007	2006-23/58
	29216	R315-317	AMD	02/01/2007	2006-23/60
	29217	R315-318-1	AMD	02/01/2007	2006-23/61
	29218	R315-320	AMD	02/01/2007	2006-23/62
	29510	R315-320-4	NSC	02/28/2007	Not Printed
Environmental Quality, Water Quality	29186	R317-1-2	AMD	01/19/2007	2006-22/21
	29098	R317-1-7	AMD	01/19/2007	2006-20/54
<u>waste to energy plant</u>					
Environmental Quality, Air Quality	29658	R307-223	5YR	03/15/2007	2007-7/158
<u>waste water</u>					
Environmental Quality, Water Quality	29296	R317-11	AMD	01/26/2007	2006-24/26
<u>water conservation</u>					
Environmental Quality, Drinking Water	29776	R309-510	5YR	04/02/2007	2007-8/123
<u>water hauling</u>					
Environmental Quality, Drinking Water	29783	R309-550	5YR	04/02/2007	2007-8/126
<u>water policy</u>					
Natural Resources, Oil, Gas and Mining; Abandoned Mine Reclamation	29602	R643-879	5YR	03/07/2007	2007-7/173
<u>water pollution</u>					
Environmental Quality, Water Quality	29186	R317-1-2	AMD	01/19/2007	2006-22/21
	29098	R317-1-7	AMD	01/19/2007	2006-20/54
<u>water pollution equipment</u>					
Environmental Quality, Water Quality	29326	R317-12	NEW	03/09/2007	2007-1/21

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>water quality</u>					
Environmental Quality, Drinking Water	29368	R309-225	AMD	03/06/2007	2007-2/89
	29650	R309-225	NSC	03/29/2007	Not Printed
Environmental Quality, Water Quality	29294	R317-6	AMD	01/23/2007	2006-24/23
	29185	R317-6-6	AMD	01/19/2007	2006-22/23
<u>water rights procedures</u>					
Natural Resources, Water Rights	30181	R655-2	5YR	07/12/2007	2007-15/69
<u>water slides</u>					
Health, Epidemiology and Laboratory Services, Environmental Services	29717	R392-302	AMD	05/31/2007	2007-8/55
	29720	R392-302	5YR	03/22/2007	2007-8/130
<u>water system rating</u>					
Environmental Quality, Drinking Water	29363	R309-150	AMD	03/06/2007	2007-2/31
<u>waterfowl</u>					
Natural Resources, Wildlife Resources	30065	R657-9	AMD	08/07/2007	2007-13/88
<u>watershed management</u>					
Environmental Quality, Drinking Water	29646	R309-105	AMD	05/14/2007	2007-7/20
	29369	R309-105	AMD	03/06/2007	2007-2/15
	29036	R309-105-9	AMD	01/01/2007	2006-19/68
<u>weapons</u>					
Human Services, Juvenile Justice Services	29897	R547-14	5YR	04/30/2007	2007-10/128
<u>wild turkey</u>					
Natural Resources, Wildlife Resources	30074	R657-54	AMD	08/07/2007	2007-13/125
<u>wildland urban interface</u>					
Natural Resources, Forestry, Fire and State Lands	29467	R652-122-300	NSC	02/13/2007	Not Printed
	29170	R652-122-300	AMD	01/03/2007	2006-22/40
<u>wildlife</u>					
Natural Resources, Wildlife Resources	29922	R657-2	5YR	05/07/2007	2007-11/86
	29996	R657-4	5YR	05/31/2007	2007-12/66
	30063	R657-5	AMD	08/07/2007	2007-13/84
	29351	R657-5	AMD	02/07/2007	2007-1/25
	29923	R657-5	AMD	07/09/2007	2007-11/75
	29502	R657-5-43	AMD	04/09/2007	2007-5/17
	30064	R657-6	AMD	08/07/2007	2007-13/86
	30065	R657-9	AMD	08/07/2007	2007-13/88
	30066	R657-10	AMD	08/07/2007	2007-13/90
	29637	R657-12	AMD	05/08/2007	2007-7/73
	30067	R657-13	AMD	08/07/2007	2007-13/93
	30068	R657-17	AMD	08/07/2007	2007-13/95
	29328	R657-17-3	AMD	02/07/2007	2007-1/34
	30083	R657-18	REP	08/07/2007	2007-13/97
	29398	R657-20	5YR	01/10/2007	2007-3/66

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	29401	R657-20	AMD	03/12/2007	2007-3/19
	29921	R657-22	5YR	05/07/2007	2007-11/87
	29635	R657-22-3	AMD	05/08/2007	2007-7/75
	30077	R657-26	AMD	08/07/2007	2007-13/98
	29794	R657-27	5YR	04/04/2007	2007-9/45
	29636	R657-27	AMD	05/08/2007	2007-7/76
	30084	R657-28	AMD	08/07/2007	2007-13/101
	29920	R657-30	5YR	05/07/2007	2007-11/88
	29402	R657-33	AMD	03/12/2007	2007-3/24
	30069	R657-33	AMD	08/07/2007	2007-13/111
	30070	R657-38	AMD	08/07/2007	2007-13/113
	29329	R657-38	AMD	02/07/2007	2007-1/35
	30071	R657-41	AMD	08/07/2007	2007-13/117
	29201	R657-41-2	AMD	01/09/2007	2006-23/69
	29330	R657-42	AMD	02/07/2007	2007-1/37
	30076	R657-42	AMD	08/07/2007	2007-13/118
	30072	R657-43	AMD	08/07/2007	2007-13/120
	29580	R657-43	NSC	03/13/2007	Not Printed
	29639	R657-43	5YR	03/13/2007	2007-7/183
	29704	R657-43	NSC	04/12/2007	Not Printed
	30073	R657-44	AMD	08/07/2007	2007-13/122
	30109	R657-44	5YR	06/20/2007	2007-14/51
	29638	R657-44-6	AMD	05/08/2007	2007-7/79
	29165	R657-49	NSC	02/07/2007	Not Printed
	29349	R657-49	REP	02/07/2007	2007-1/39
	29703	R657-50	NSC	04/12/2007	Not Printed
	29795	R657-50	5YR	04/04/2007	2007-9/45
	29530	R657-51	REP	04/23/2007	2007-6/27
	29536	R657-51	NSC	04/23/2007	Not Printed
	29751	R657-53	AMD	05/22/2007	2007-8/92
	30074	R657-54	AMD	08/07/2007	2007-13/125
	30075	R657-55	AMD	08/07/2007	2007-13/128
	30078	R657-56	AMD	08/07/2007	2007-13/130
<u>wildlife conservation</u>					
Natural Resources, Wildlife Resources	30070	R657-38	AMD	08/07/2007	2007-13/113
	29329	R657-38	AMD	02/07/2007	2007-1/35
<u>wildlife law</u>					
Natural Resources, Wildlife Resources	29637	R657-12	AMD	05/08/2007	2007-7/73
	30067	R657-13	AMD	08/07/2007	2007-13/93
	29921	R657-22	5YR	05/07/2007	2007-11/87
	29635	R657-22-3	AMD	05/08/2007	2007-7/75
	29636	R657-27	AMD	05/08/2007	2007-7/76
	29794	R657-27	5YR	04/04/2007	2007-9/45

RULES INDEX

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>wildlife permits</u>					
Natural Resources, Wildlife Resources	30071	R657-41	AMD	08/07/2007	2007-13/117
	29201	R657-41-2	AMD	01/09/2007	2006-23/69
	29536	R657-51	NSC	04/23/2007	Not Printed
	29530	R657-51	REP	04/23/2007	2007-6/27
	30075	R657-55	AMD	08/07/2007	2007-13/128
<u>withholding tax</u>					
Tax Commission, Auditing	29707	R865-14W	5YR	03/19/2007	2007-8/146
<u>women</u>					
Health, Community and Family Health Services, WIC Services	29878	R406-100	5YR	04/27/2007	2007-10/124
	29879	R406-200	5YR	04/27/2007	2007-10/125
	29880	R406-201	5YR	04/27/2007	2007-10/126
	29876	R406-202	5YR	04/27/2007	2007-10/126
	29877	R406-301	5YR	04/27/2007	2007-10/127
<u>wood</u>					
Natural Resources, Wildlife Resources	30083	R657-18	REP	08/07/2007	2007-13/97
<u>wood furniture</u>					
Environmental Quality, Air Quality	29672	R307-343	5YR	03/15/2007	2007-7/167
	29012	R307-343	AMD	03/09/2007	2006-19/63
	29012	R307-343	CPR	03/09/2007	2007-3/51
	29508	R307-343-6	NSC	03/09/2007	Not Printed
<u>workers' compensation</u>					
Administrative Services, Risk Management	30047	R37-2	5YR	06/08/2007	2007-13/140
Labor Commission, Adjudication	29957	R602-2-4	AMD	07/24/2007	2007-12/40
Labor Commission, Industrial Accidents	29948	R612-2-27	AMD	07/10/2007	2007-11/71
	30110	R612-2-27	NSC	07/11/2007	Not Printed
	29124	R612-4-2	AMD	01/01/2007	2006-21/49
Workforce Services, Unemployment Insurance	29962	R994-404	5YR	05/22/2007	2007-12/71
<u>working toward employment</u>					
Workforce Services, Employment Development	29854	R986-400	AMD	07/01/2007	2007-10/85
	29976	R986-400	AMD	07/31/2007	2007-12/46
<u>x-rays</u>					
Environmental Quality, Radiation Control	29334	R313-28	AMD	03/16/2007	2007-1/12
	29310	R313-35	NSC	03/05/2007	Not Printed
	29595	R313-35	5YR	03/05/2007	2007-7/169
	29335	R313-70	AMD	03/16/2007	2007-1/17
<u>youth</u>					
Human Services, Administration, Administrative Services, Licensing	29874	R501-8	NSC	05/14/2007	Not Printed
<u>youth advocate</u>					
Human Services, Child and Family Services	29387	R512-10	5YR	01/03/2007	2007-3/58

