UTAH STATE BULLETIN

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The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah State Government. The Department of Administrative Services, Division of Administrative Rules produces the *Bulletin* under authority of Section 63-46a-10, *Utah Code Annotated* 1953.

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.

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TABLE OF CONTENTS

1. SPECIAL NOTICES

2. NOTICES OF PROPOSED RULES

3. NOTICES OF 120-DAY (EMERGENCY) RULES

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

SPECIAL NOTICES

Commerce
Administration

Public Hearing on Proposed Modified Fee Schedule for Services Provided and Costs Incurred by the Department of Commerce During Fiscal Year 2009

The Department of Commerce will hold a hearing on Monday, December 10, 2007, at 9:00 a.m. in the Heber M. Wells Building, 160 East 300 South, Room 210, Salt Lake City, Utah.

The purpose of the hearing is to obtain public comment on proposed fees which could be assessed for services provided and costs which would be incurred by the Department during Fiscal Year 2009. Subsection 63-38-3.2(5)(a) of the Budgetary Procedures Act provides that an agency shall conduct a public hearing on any proposed regulatory fee.

Background: Various divisions of the Department assess fees for licensure, registration, or certification of individuals and businesses to engage in certain occupations and professions. Many existing fees are unchanged in the proposed fee schedule which has been prepared for consideration by the Legislature during its 2008 General Session. Copies of the schedule will be distributed at the December 10, 2007, hearing.

For further information, please contact Peter Anjewierden at (801) 530-6293.

Governor's Proclamation: Stating the Outcome of Voting on Citizen Referendum Number One on the Ballot for the 2007 Statewide Special Election, Declaring that House Bill 148 Does Not Take Effect

PROCLAMATION

I, Jon M. Huntsman, Jr., Governor of the State of Utah, pursuant to the requirements of Utah Code Annotated Section 20A-7-310, proclaim as follows:

WHEREAS, the people of Utah cast 198,205 votes for and 325,279 votes against Citizens' Referendum Number One, in the November 6, 2007 Statewide Special Election;

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and the laws of the State of Utah, I do by this Proclamation declare that House Bill 148, Education Vouchers, passed by the Utah State Legislature in its 2007 General Session does not take effect.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to beaffixed the Great Seal of the State of Utah. Done at the State Capitol Complex in Salt Lake City, Utah, this 27th day of November, 2007.

(State Seal)

Jon M. Huntsman, Jr.
Governor

ATTEST:

Gary R. Herbert
Lieutenant Governor

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 November 2, 2007, 12:00 a.m., and November 15, 2007, 11:59 p.m. are included in this, the December 1, 2007, issue of the *Utah State Bulletin*.

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

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

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least December 31, 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 March 30, 2008, 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
R156-1-102a
Global Definitions of Levels of Supervision

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 30655
FILED: 11/05/2007, 11:07

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Administrative Rules Review Committee considered the division's proposed rule amendments at their 10/23/2007 meeting and voted unanimously for the division to move forward in enacting the proposed amendments.

SUMMARY OF THE RULE OR CHANGE: A new Section R156-1-102a is being added to implement a global definition of levels of supervision in the division's umbrella rule, Rule R156-1. The proposed amendments require that, except as otherwise provided by statute or rule, all unlicensed personnel specifically allowed to practice a regulated occupation or profession, and regulated license classifications required to practice under supervision must practice under an appropriate level of supervision defined in the global definition as specified by the licensing act or licensing act rule governing each occupation or profession. The proposed amendments define three levels of supervision: "direct supervision" and "immediate supervision", "indirect supervision", and "general supervision". The proposed amendments also define the term "supervising licensee". The proposed amendments make it clear that it does not apply when another occupational/ professional statute or rule provides otherwise. In other words, the proposed amendments set the standard if the term is used in statute or rule, but is not defined. However, where it is defined, the proposed amendments are inapplicable. It is hoped that over time division statutes and rules will migrate toward the global definition and hence better consistency.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-1-308 and Subsections 58-1-106(1)(a) and 58-1-501(4)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The division will incur minimal costs of approximately $200 to reprint the rule once the proposed amendments are made effective. Also having better definitions for supervision will enable better regulation by the division and allow for greater protection of public health, safety, and welfare. The proposed amendments could trigger a nominal increase in complaints and investigations, but the impact cannot be quantified. The division expects all costs and increases can be handled within its existing budget.

❖ LOCAL GOVERNMENTS: The proposed amendments do not apply to local governments as they are not involved in this regulatory arena. Therefore, no costs or savings are anticipated.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: SMALL BUSINESS: If supervision standards are increased for a regulated occupation or profession, small business owners could see an increase in costs to meet the new standards. However, these costs cannot be quantified due to a varying number of factors affecting the costs. OTHER PERSONS: If business owners see an increase in costs to meet an increased supervision standard, those costs could be passed through to the public. However, any increase in costs to the public cannot be quantified due to such a varying number of factors affecting the increased costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: If costs are increased to meet an increased supervision standard, it would impact the revenue stream of business owners. This in turn could affect the number of employees and salary compensation, as well as the cost of services provided to the public. However, any exact amount of these costs cannot be quantified due to such a varying number of factors affecting the increased costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There appears to be no discernible fiscal impact to businesses expected with this rule filing which establishes definitions for levels of supervision for occupations and professions regulated by the Division. 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:
F. David Stanley at the above address, by phone at 801-530-6039, by FAX at 801-530-6511, or by Internet E-mail at dstanley@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 12/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2008

AUTHORIZED BY: F. David Stanley, Director

R156. Commerce, Occupational and Professional Licensing.
R156-1. General Rules of the Division of Occupational and Professional Licensing.
R156-1-102a. Global Definitions of Levels of Supervision.

(1) Except as otherwise provided by statute or rule, the global definitions of levels of supervision herein shall apply to supervision terminology used in Title 58 and Title R156, and shall be referenced

and used, to the extent practicable, in statutes and rules to promote uniformity and consistency.

(2) Except as otherwise provided by statute or rule, all unlicensed personnel specifically allowed to practice a regulated occupation or profession are required to practice under an appropriate level of supervision defined herein, as specified by the licensing act or licensing act rule governing each occupation or profession.

(3) Except as otherwise provided by statute or rule, all license classifications required to practice under supervision shall practice under an appropriate level of supervision defined herein, as specified by the licensing act or licensing act rule governing each occupation or profession.

(4) Levels of supervision are defined as follows:

(a) "Direct supervision" and "immediate supervision" mean the supervising licensee is present and available for face-to-face communication with the person being supervised when and where occupational or professional services are being provided.

(b) "Indirect supervision" means the supervising licensee:

(i) has given either written or verbal instructions to the person being supervised;

(ii) is present within the facility in which the person being supervised is providing services; and

(iii) is available to provide immediate face-to-face communication with the person being supervised as necessary.

(c) "General supervision" means that the supervising licensee:

(i) has authorized the work to be performed by the person being supervised;

(ii) is available for consultation with the person being supervised by personal face-to-face contact, or direct voice contact by telephone, radio or some other means, without regard to whether the supervising licensee is located on the same premises as the person being supervised; and

(iii) can provide any necessary consultation within a reasonable period of time and personal contact is routine.

(5) "Supervising licensee" means a licensee who has satisfied any requirements to act as a supervisor and has agreed to provide supervision of an unlicensed individual or a licensee in a classification or licensure status that requires supervision in accordance with the provisions of this chapter.

KEY: diversion programs, licensing, occupational licensing, supervision
Date of Enactment or Last Substantive Amendment: [~~June 19, 2006~~]2008
Notice of Continuation: March 1, 2007
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-308; 58-1-501(4)

♦ ♦

Commerce, Occupational and Professional Licensing

R156-26a

Certified Public Accountant Licensing Act Rules

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 30715
FILED: 11/13/2007, 08:50

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The division and Utah Board of Accountancy are proposing amendments to the rule to clarify education requirements for licensure as a certified public accountant (CPA) and to make grammatical corrections.

SUMMARY OF THE RULE OR CHANGE: Throughout the rule, the term "rules" has been replaced with "rule", the term "division" has been replaced with "Division" and the term "board" has been replaced with "Board" where appropriate. Also, various grammatical corrections have been made throughout the rule. In Subsection R156-26a-302a(1)(a), corrected the name of the Association of Advanced Collegiate Schools of Business (AACSB). In Subsection R156-26a-302a(1)(a)(ii), added that a graduate degree in taxation with identified additional hours of training would meet the education requirements for licensure. In Subsection R156-26a-302a(1)(b), amendments are made to clarify and add accrediting agencies that are allowed to accredit graduate or undergraduate programs in schools not accredited by the AACSB.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-26a-101 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The division will incur minimal costs of approximately $150 to reprint the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the division's current budget.

❖ LOCAL GOVERNMENTS: The proposed amendments do not apply to local governments; therefore, no costs or savings are anticipated. Proposed amendments only apply to licensed certified public accountants (CPA) and applicants for licensure as a CPA.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The proposed amendments will only apply to licensed CPAs and applicants for licensure as a CPA. It is anticipated the amendment clarifying accrediting agencies and restricting graduate and undergraduate programs to schools using only the approved accrediting agencies should not create any additional costs to other persons/applicants for licensure as a CPA and if anything may help to reduce costs to the institutions affected. The proposed amendment allowing a graduate degree in taxation with additional hours of training as meeting the education requirements for licensure may qualify additional persons not previously qualified for licensure as a CPA. The division is not able to determine how many persons may be affected by this additional educational degree allowed.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments will only apply to licensed CPAs and applicants for licensure as a CPA. It is anticipated the amendment clarifying accrediting agencies and restricting graduate and undergraduate programs to schools using only the approved

accrediting agencies should not create any additional costs to other persons/applicants for licensure as a CPA and if anything may help to reduce costs to the institutions affected. The proposed amendment allowing a graduate degree in taxation with additional hours of training as meeting the education requirements for licensure may qualify additional persons not previously qualified for licensure as a CPA. The division is not able to determine how many persons may be affected by this additional educational degree allowed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated from this rule filing, which clarifies existing provisions regarding the type of degrees that meet the education requirement and the proper accrediting agencies; corrects statutory references; and makes other minor technical changes. Francine A. Giani, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Clyde Ormond at the above address, by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at cormond@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/31/2007

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 12/05/2007 at 1:00 PM, Heber Wells Bldg, 160 E 300 S, Conference Room 402 (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2008

AUTHORIZED BY: F. David Stanley, Director

R156. Commerce, Occupational and Professional Licensing.
R156-26a. Certified Public Accountant Licensing Act Rule[s].
R156-26a-101. Title.

Th[~~ese~~]is rule[~~s are~~] is known as the "Certified Public Accountant Licensing Act Rule[~~s~~]".

R156-26a-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 26a, as defined or used in th[~~ese~~]is rule[~~s~~]:

(1) "Administering organization" means an organization approved by the Division of Occupational and Professional Licensing and the Utah Board of Accountancy which will administer peer reviews in the Peer Review Program.

(2) "AICPA" means American Institute of Certified Public Accountants.

(3) "Incidental to regular practice" as defined in Subsection 58-26a-305(1)(a) is further defined to mean:

(a) An individual or a firm licensed as a certified public accountant or equivalent designation in any other state, district, or territory of the United States or any foreign country may perform services in this state for a client whose principal office or residence is located outside of this state as long as the services are incidental to primary services being performed outside of this state for that client.

(b) An individual or firm licensed in another jurisdiction, as incidental to their practice in such other jurisdiction, may advertise in this state that their services are available by any means including, but not limited to television, radio, newspaper, magazine or Internet advertising provided such representations are not false, misleading or deceptive; and provided that such individual or firm does not establish a CPA/Client relationship to perform services requiring a CPA license or CPA firm registration with any individual, business or other legal entity having its principal office or residence in this state without first obtaining a CPA license and CPA firm registration in this state.

(c) Incidental to regular practice in another jurisdiction includes a licensed CPA or equivalent designation continuing a CPA/Client relationship with an individual which originated while the client's residence was located outside of this state but thereafter the client moved their residence to this state.

(4) "Qualified continuing professional education (CPE)" as used in th[~~ese~~]is rule[~~s~~] means continuing education that meets the standards set forth in Section R156-26a-303b.

(5) "Standard setting bodies" means the Financial Accounting Standards Board, the Government Accounting Standards Board, the American Institute of Certified Public Accountants, the Securities and Exchange Commission, and the Federal Accounting Standards Advisory Board and other generally recognized standard setting bodies.

(6) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 26a, is further defined, in accordance with Subsection 58-1-203[~~(5)~~](1)(e), in Section R156-26a-501.

(7) "Year of review" means the calendar year during which a peer review is to be conducted.

R156-26a-103. Authority.

Th[~~ese~~]is rule[~~s are~~] is adopted by the [~~d~~]Division under the authority of Subsection 58-1-106(1)(a) to enable the [~~d~~]Division to administer Title 58, Chapter 26a.

R156-26a-201. Advisory Peer Committees Created - Membership - Duties.

(1) There is created in accordance with Subsection 58-1-203[~~(6)~~](1)(f), the Education Advisory Committee to the Utah Board of Accountancy consisting of one full-time faculty from each college or university in Utah which has an accredited program as set forth in Section R156-26a-302a, a majority of which committee are to be licensed CPAs.

([~~a~~]2) The Education Advisory Committee shall be appointed and serve in accordance with Section R156-1-[~~204~~]205.[~~(b)~~] The duties and responsibilities of the Education Advisory Committee shall include assisting the [~~d~~]Division in collaboration with the [~~b~~]Board in their duties, functions, and responsibilities [~~defined in Section 58-1-202 as follows~~]and shall include:

([~~i~~]a) [~~reviewing an applicant's transcript of credits to determine satisfactory completion of the education requirements prior to approving the applicant to take the qualifying examination and~~]advising the [~~b~~]Board as to the acceptability of an educational institution; and

(b) assisting the Board to make a final determination pursuant to R156-26a-302a(4)(c) of whether an applicant is qualified to sit for the AICPA examination.

([~~c~~]3) The committee shall consider, [~~the following~~]when advising the [~~b~~]Board of the acceptability of the educational institution, the following:

([~~i~~]a) the institution's accreditation[~~,~~];

(b) the acceptability by other state licensing boards[~~,~~];

(c) the faculty qualifications; and

(d) other educational resources.

([~~2~~]4) There is created in accordance with Subsection 58-1-203[~~(6)~~](1)(f), the Peer Review Committee to the Utah Board of Accountancy consisting of not more than ten licensed CPAs.[

~~(a)~~] The committee shall be appointed and serve in accordance with Section R156-1-[~~204~~]205.

([~~b~~]5) The duties and responsibilities of the Peer Review Committee shall be[~~include~~] advising the [~~Utah Board of Accountancy~~]Board on peer reviews matters and shall include:

([~~i~~]a) reviewing the results of peer reviews administered by approved organizations and requiring corrective action of firms with significant deficiencies noted in the review process when considered necessary in addition to those required by the administering organization;

([~~ii~~]b) evaluating compliance of CPE programs;

([~~iii~~]c) performing random audits to determine compliance with the CPE requirements and the standards for CPE programs;

([~~iv~~]d) reviewing complaints and recommending whether certain acts, practices or omissions violate the ethical standards of the profession;

([~~v~~]e) providing technical assistance to the [~~d~~]Division; and

([~~vi~~]f) serving as expert witnesses at administrative hearings.

R156-26a-302a. Qualifications for CPA Licensure - Education Requirements.

The education requirements for CPA licensure in Subsection 58-26a-302(1)(d) are defined, clarified, or established as follows:

(1) An applicant shall submit transcripts showing completion of course work consisting of a minimum of 150 semester hours (225 quarter hours) as follows:

(a) a graduate or undergraduate program within an institution whose business or accounting education program is accredited by the [~~American Assembly of Collegiate Schools of Business~~]Association of Advanced Collegiate Schools of Business (AACSB), or the Association of Collegiate Business Schools and Programs (ACBSP), from which the applicant received one of the following:

(i) a graduate degree in accounting;

(ii) a graduate degree in taxation, or a master of business administration degree which includes not less than:

(A) 24 semester hours (36 quarter hours) in upper division accounting courses covering the subjects of financial accounting, auditing, taxation, and management accounting;[~~or~~]

(B) 15 semester hours (23 quarter hours) graduate level accounting courses covering the subjects of financial accounting, auditing, taxation, and management accounting;[~~or~~]

(C) an equivalent combination of graduate and upper division accounting courses covering the subjects of financial accounting, auditing, taxation, and management accounting with one hour of graduate level course work being equivalent to 1.6 hours of upper division course work; or

(iii) a baccalaureate degree in business or accounting and 30 semester hours (45 quarter hours) beyond the requirements for a baccalaureate degree which includes not less than:

(A) 16 semester hours (24 quarter hours) in upper division accounting courses, which when combined with the accounting courses listed in Subsection (B) below, have at least one course with a minimum of two semester hours (three quarter hours) each covering the subjects of financial accounting, auditing, taxation, and management accounting;

(B) eight semester hours (12 quarter hours) in graduate level accounting courses, which when combined with the accounting courses listed in Subsection (A) above, have at least one course each covering the subjects of financial accounting, auditing, taxation, and management accounting;

(C) 12 semester hours (18 quarter hours) in upper division non-accounting business courses;

(D) 12 semester hours (18 quarter hours) in graduate level business or accounting courses; and

(E) 10 semester hours (15 quarter hours) of either graduate or upper division accounting or business courses.

(b) a graduate or undergraduate program from an institution accredited by the Northwest [~~Association of Schools and~~]Commission on Colleges and Universities,[~~Commission on Colleges, or the~~] North Central Association of Colleges and Schools, Middle States Association of Colleges and Schools, New England Association of Colleges and Schools, Southern Association of Colleges and Schools and Western Association of Schools and Colleges[~~Commission on Institutions of Higher Education, or an equivalent accrediting institution~~] from which the applicant received a baccalaureate or graduate degree with not less than:

(i) 30 semester hours (45 quarter hours) in business or related courses providing a minimum of two semester hours (three quarter hours) in each of the following subjects:

(A) business law;

(B) computers;

(C) economics;

(D) ethics;

(E) finance;

(F) statistics and quantitative methods;

(G) written and oral communications; and

(H) business administration such as marketing, production, management, policy or organizational behavior;

(ii) 24 semester hours (36 quarter hours) in upper division accounting courses with a minimum of two semester hours (three quarter hours) in each of the following subjects:

(A) auditing;

(B) finance;

(C) managerial or cost;

(D) systems; and

(E) taxes; and

(iii) 30 semester hours (45 quarter hours) beyond the requirements for a baccalaureate degree of additional business related course work including not less than:

(A) eight semester hours (12 quarter hours) in graduate accounting courses;

(B) 12 semester hours (18 quarter hours) in graduate accounting or graduate business courses; and

(C) 10 semester hours (15 quarter hours) of additional business related hours shall be taken in upper division undergraduate or graduate level courses.

(2) The [~~d~~]Division in collaboration with the [~~b~~]Board or the education subcommittee of the board may make a written finding for cause that a particular accredited institution or program is not acceptable.

(3) The Division in collaboration with the [~~b~~]Board or the education subcommittee of the board may accept education of a person who holds a license as a certified public accountant or equivalent designation in a foreign country, if the applicant has obtained from the National Association of State Boards of Accountancy (NASBA) verification of compliance with the terms of an agreement for reciprocal licensure between the foreign country and the International Qualifications Appraisal Board of NASBA, which agreement provides the applicant's examinations, education and experience is determined to be substantially equivalent to the 1994 Uniform Accountancy Act licensure requirements or a version of the Uniform Accountancy Act having substantially equivalent requirements.

(4) In accordance with Section 58-26a-306, the qualifications to sit for the AICPA examination [~~is~~]are clarified or supplemented as follows:

(a) In accordance with Subsection 58-26a-306(1)(a), the form of application approved by the Division shall be the application that CPA Examination Services (CPAES) requires in order to sit for the examination.

(b) In accordance with Subsection 58-26a-306(1)(b), the fee shall be the fee charged by CPAES. No additional fee shall be due to the Division.

(c) In accordance with Subsections 58-26a-306(1)(c) and (d), the Board has approved CPAES to make the determination of whether the applicant has met the education requirements, provided however that, if an applicant disputes the finding of CPAES, the Board shall make a final determination of whether the applicant is qualified to sit for the AICPA examination.

R156-26a-302[~~d~~]c. Qualifications for Licensure - Examinations.

[~~(1) -~~]The Division in collaboration with the [~~b~~]Board may accept testing of a person who holds a license as a certified public accountant or equivalent designation in a foreign country, if the applicant has obtained from the National Association of State Boards of Accountancy (NASBA) verification of compliance with the terms of an agreement for reciprocal licensure between the foreign country and the International Qualifications Appraisal Board of NASBA, which agreement provides the applicant's examinations, education and experience is determined to be substantially equivalent to the 1994 Uniform Accountancy Act licensure requirements or a version of the Uniform Accountancy Act having substantially equivalent requirements.

R156-26a-303a. Renewal Requirements - Peer Review.

(1) General.

In accordance with Subsections 58-1-308(3)(b) and 58-26a-303(2)(b), there is created a peer review requirement as a condition for renewal of licenses issued under the Certified Public Accountant Licensing Act, providing for review of the work products of licensees and firms.

(a) The purpose of the program is to monitor compliance with applicable accounting and auditing standards adopted by generally recognized standard setting bodies.

(b) The program shall emphasize education and may include other remedial actions determined appropriate where a firm's work product and services do not comply with established professional standards.

(c) In the event a firm is unwilling or unable to comply with established standards, or intentionally disregards professional standards so as to warrant disciplinary action, the administering organization shall refer the matter to the [~~d~~]Division and shall consult with the [~~d~~]Division regarding appropriate action to protect the public interest.

(2) Scheduling of the Peer Review.

(a) A firm's initial peer review shall be assigned a due date to require that the initial review be started no later than 18 months after the date of the issuance of its initial report as defined in Subsection 58-26a-102(16).

(b) Not less than once in each three years a firm engaged in the practice of public accounting shall undergo, at its own expense, a peer review commensurate in scope with its practice.

(c) The administering organization will assign the year of review.

(d) A portion of the peer review may be performed by a regulatory body if the Utah Board of Accountancy approves the regulatory body as an administering organization. This does not by itself satisfy the peer review requirement unless the other standards as specified in th[~~ese~~]is rule[~~s~~] are fulfilled by the regulatory body.

(3) Selection of a Peer Reviewer or inspector in the case of inspections mandated by law or regulatory bodies.

A firm scheduled for peer review shall engage a reviewer qualified to conduct the peer review. Regulatory bodies will assign inspectors.

(4) Qualifications of a Peer Reviewer and inspectors.

(a) Peer reviewers must provide evidence of one of the two following minimum qualifications to the administering organization:

(i) acceptance as a peer reviewer by the AICPA; or

(ii) compliance with the qualifications required by the AICPA to qualify as a peer reviewer.

(b) Peer reviewers must be licensed or hold a permit to practice as a CPA in the state of Utah or another state or jurisdiction of the United States.

(c) The administering organization will approve reviewers for those reviews not administered by the AICPA.

(d) Regulatory bodies will determine the qualifications of inspectors.

(5) Conduct of the Peer Review or inspection. Peer reviews shall be conducted as follows:

(a) [~~Standards for review: -~~]Peer reviews shall be conducted according to the "Standards for Performing and Reporting on Peer Reviews" promulgated by the AICPA, effective October 5, 1998 as amended, which are hereby incorporated by reference and adopted as the minimum standards for peer reviews of all firms. This section shall not require any firm or licensee to become a member of the AICPA or any administering organization.

(b) The Utah Board of Accountancy may review the standards used by the regulatory body to determine if those standards are sufficient to satisfy all or part of the peer review requirements, or what additional review may be required to meet the peer review requirements under th[~~ese~~]is rule[~~s~~].

(6) [~~Procedures in Case of Substandard Review, a Modified or Adverse Report or repeat findings.~~

~~(a)~~]If an administering organization finds that a peer review was not performed in accordance with th[~~ese~~]is rule[~~s~~] or the peer review results in a modified or adverse report or in repeat findings, the Peer Review Committee may require remedial action to assure that the review or performance of the CPA or CPA firm being reviewed meets the objectives of the peer review program.

(7) Review of Multi-State Firms.

(a) With respect to a multi-state firm, the Division may accept a peer review based solely upon work conducted outside of this state as satisfying the requirement to undergo peer review under th[~~ese~~]is rule[~~s~~], if:

(i) the peer review is conducted during the year scheduled or rescheduled under R156-26a-303a(2);

(ii) the peer review is performed in accordance with requirements equivalent to those of this state;

(iii) the peer review:

(A) studies, evaluates and reports on the quality control system of the firm as a whole in the case of on-site reviews[~~;~~]; or[~~;~~]

(B) results in an evaluation and report on selected engagements in the case of off-site reviews;

(iv) the firm's internal inspection procedures require that the firm's personnel from another office outside the state perform the inspection of the office located in this state not less than once in each three year period; and

(v) at the conclusion of the peer review, the peer reviewer issues a report equivalent to that required by R156-26a-303a(5) or in the case of an approved regulatory body, a report is issued under their standards.

(b) A multi-state firm not granted approval under R156-26a-303a(8)(a) shall undergo a peer review pursuant to th[~~ese~~]is rule[~~s~~] which shall comply with R156-26a-303a(8)(a) of the multi-state firm within this state[~~.~~]; and

(c) A multi-state firm seeking approval under R156-26a-303a(8)(a) shall submit an application to the administering organization by February 1 of the year of review establishing that the peer review it proposes to undergo meets all of the requirements of R156-26a-303a(5).

(8) [~~Exemption.~~

~~(a)~~]A firm which does not perform services encompassed in the scope of minimum standards as set out in R156-26a-303a(5)(a) or (b) is exempt from peer review and shall notify the Division of Occupational and Professional Licensing of the exemption at the time of renewal of its registration. A firm which begins providing these services must commence a peer review within 18 months of the date of the issuance of its initial report as defined in Subsection 58-26a-102(16).

(9) Mergers, Combinations, Dissolutions or Separations.

(a) Mergers or combinations: In the event that two or more firms are merged or sold and combined, the surviving firm shall retain the year of review of the largest firm.

(b) Dissolutions or separations: In the event that a firm is divided, the new firms shall retain the year of review of the former firm. In the event that this period is less than 12 months, a new year shall be assigned so that the review occurs after 12 months of operation.

(c) Upon application to the administering organization and a showing of hardship caused solely by compliance with R156-26a-303a(10)[~~(a) or (b)~~], the Division may authorize a change in a firm's year of review.

(10) [~~Extension.~~

~~(a)~~]If the firm can demonstrate that the time established for the conduct of a peer review will create an unreasonable hardship upon the firm, the Division may approve an extension not to exceed 180 days from the date the peer review was originally scheduled. A request for extension shall be addressed in writing by the firm to the Division with a copy to the administering organization responsible for administration of that firm's peer review. The written request for extension must be received by the Division and the administering organization not less than 30 days prior to the date of scheduled review or the request will not be considered. The Division shall inform the administering organization of the approval of any extension.

(11) Retention of Documents Relating to Peer Reviews.

(a) All documentation necessary to establish that each peer review was performed in conformity with peer review standards adopted by the [~~b~~]Board, including the peer review working papers, the peer review report, comment letters and related correspondence indicating the firm's concurrence or nonconcurrence, and any proposed remedial actions and related implementation shall be maintained.

(b) The documents described in R156-26a-303a(11)(a) shall be retained for a period of time corresponding to the designated retention period of the relevant administering organization. In no event shall the retention period be less than 90 days.

(12) Costs and Fees for Peer Review.

(a) All costs associated with firm-on-firm reviews will be negotiated between the firm and the reviewer and paid directly to the reviewer. All costs associated with committee assigned review team (CART) reviews will be set by the administering organization. The administering organization will collect the fees associated with CART reviews and pay the reviewer.

(b) All costs associated with the administration of the review process will be paid from fees charged to the firms. The fees will be collected by the administering organization. The schedule of fees will be included in the administering organization's proposal. The fee schedule will specify how much is to be paid each year and will be based on the firm size.

(13) All financial statements, working papers, or other documents reviewed are confidential. Access to those documents shall be limited to being made available, upon request, to the Peer Review Committee or the technical reviewer for purposes of assuring that peer reviews are performed according to professional standards.

R156-26a-303b. Renewal and Reinstatement Requirements - Continuing Professional Education (CPE).

(1) All CPAs are required to maintain current knowledge, skills, and abilities in all areas in which they provide services in order to provide services in a competent manner. To maintain or to obtain the knowledge, skills and abilities to competently provide services, a CPA may be required to obtain CPE above and beyond the 80 minimum CPE credits specified in Section 58-26a-304.

[~~(a)~~]The following standards have been broadly stated in recognition of the diversity of practice and experience among CPAs. They establish a framework for the development, presentation, measurement, and reporting of CPE programs and thereby help to ensure that CPAs maintain the required knowledge, skills and abilities necessary to competently provide services and to enable to the CPA to provide evidence of meeting the minimum CPE requirements specified under th[~~ese~~]is rule[~~s~~].

(2) General Standards for CPAs.

(a) Standard No. 1. All CPAs must participate in CPE learning activities that maintain and/or improve their professional competence. This CPE must include a minimum of 80 hours of CPE in each two-year period ending on December 31 of each odd numbered year.

(i) The term "must", as used in these standards, means departure from those specific standards is not permitted. The term "should", as used in these standards, means that CPAs and CPE program sponsors are expected to follow such standards as written and are required to justify any departures from such standards when unusual circumstances warrant such departures.

(ii) Selection of CPE learning activities should be a thoughtful, reflective process addressing the individual CPA's current and future professional plans, current knowledge and skills level, and desired or needed additional competence to meet future opportunities and/or professional responsibilities.

(iii) A CPA's field of employment does not limit the need for CPE. CPAs performing professional services need to have a broad range of knowledge, skills, and abilities. Thus, the concept of professional competence should be interpreted broadly. Accordingly, acceptable continuing education encompasses programs contributing to the development and maintenance of both technical and non-technical professional skills.

(iv) Acceptable CPE subjects include accounting, assurance/auditing, consulting services, specialized knowledge and applications, management, taxation, and ethics. Other subjects, including personal development, may also be acceptable if they maintain and/or improve the CPA's professional competence. Such subjects may include, but are not limited to: accounting and auditing, taxation, management advisory services, information technology, communication arts, mathematics, statistics, probability and quantitative analysis, economics, business law and litigation support, functional fields of business such as finance, production, marketing, personnel relations, development and management, business management and organizations, social environment of business, and specialized areas of industry such as film industry, real estate, or farming.

(v) To help guide their professional development, CPAs may find it useful to develop a learning plan. The learning plan can be used to evaluate learning and professional competence development.

(A) A learning plan means a structured process that helps guide CPAs in their professional development. A learning plan is used to evaluate and document learning and professional competence development. A learning plan should be reviewed regularly and modified as a CPA's professional competence needs change. A learning plan should include:

(I) a self-assessment of the gap between current and needed knowledge, skills, and abilities;

(II) a set of learning objectives arising from this assessment; and

(III) learning activities to be undertaken to fulfill the learning plan.

(b) Standard No 2. CPAs should comply with all applicable CPE requirements and should claim CPE credit only for CPE programs when the CPE program sponsors have complied with the Standards for CPE Program Presentation (Nos. 8 - 11) and Standard for CPE Program Reporting No. 17.

(i) In addition to minimum CPE requirements specified in th[~~ese~~]is rule[~~s~~], CPAs are responsible for compliance with all applicable CPE requirements, rules, and regulations of other state licensing bodies, other governmental entities and other professional organizations or bodies who have standard setting authority. CPAs should contact each appropriate entity to which they report to determine its specific requirements or any exceptions it may have to the standards presented herein.

(ii) Periodically, CPAs may participate in learning activities which do not comply with all applicable CPE requirements, for example specialized industry programs offered through industry sponsors. If CPAs propose to claim credit for such learning activities, they should retain all relevant information regarding the program to provide documentation to the Division, other state licensing bodies, and/or all other professional organizations or bodies showing that the learning activity is equivalent to one which meets all these or other applicable Standards.

(c) Standard No. 3. CPAs are responsible for accurate reporting of CPE credits earned and should retain appropriate documentation of their participation in learning activities, including: name and contact information of CPE program sponsor, title and description of content, date of program, location and number of CPE credits, all of which should be included in documentation provided by the CPE program sponsor.

(i) Although CPAs are required to document a minimum level of CPE hours, through periodic reporting of CPE, the objective of CPE must always be maintenance/enhancement of professional competence, not just attainment of minimum credits.

(ii) Compliance with regulatory and other requirements mandates that CPAs keep documentation of their participation in activities designed to maintain and/or improve professional competence. In the absence of legal or other requirements for longer retention, a CPA must retain documentation for a minimum of five years from the end of the year in which the learning activities were completed.

(iii) Participants must document their claims of CPE credit. Examples of acceptable evidence of completion include:

(A) For group and independent study programs, a certificate or other verification supplied by the CPE program sponsor.

(B) For self-study programs, a certificate supplied by the CPE program sponsor after satisfactory completion of an examination.

(C) For instruction credit, a certificate or other verification supplied by the CPE program sponsor.

(D) For a university or college course that is successfully completed for credit, a record or transcript of the grade the participant received.

(E) For university or college non-credit courses, a certificate of attendance issued by a representative of the university or college.

(F) For published articles, books, or CPE programs, (1) a copy of the publication (or in the case of a CPE program, course development documentation) that names the writer as author or contributor, (2) a statement from the writer supporting the number of CPE hours claimed, and (3) the name and contact information of the independent reviewer or publisher.

(d) Standard No. 4. CPAs who complete sponsored learning activities that maintain or improve their professional competence should claim the CPE credits recommended by CPE program sponsors.

(i) CPAs may participate in a variety of sponsored learning activities, such as workshops, seminars and conferences, self-study courses, Internet-based programs, and independent study. While CPE program sponsors determine credits, CPAs should claim credit only for activities through which they maintained or improved their professional competence. CPAs who participate in only part of a

program should claim CPE credit only for the portion they attended or completed.

(ii) In order to qualify as CPE, an Internet-based program must qualify as a group program as provided in Subsection R156-26a-303b(3)(b)(i) or as a self-study program as provided in Subsection R156-26a-303b(3)(g).

(e) Standard No. 5. CPAs may engage in independent study under the direction of a CPE program sponsor who has met the applicable standards for CPE program sponsors when the subject matter and level of study maintain or improve their professional competence.

(i) Independent study is an educational process designed to permit a participant to learn a given subject under the guidance of a CPE program sponsor one-on-one. Participants in an independent study program should:

(A) Enter into a written learning contract with a CPE program sponsor who must comply with the applicable standards for CPE program sponsors.

(B) Accept the written recommendation of the CPE program sponsor as to the number of credits to be earned upon successful completion of the proposed learning activities. CPE credits will be awarded only if:

(I) all the requirements of the independent study as outlined in the learning contract are met;

(II) the CPE program sponsor reviews and signs the participant's report;

(III) the CPE program sponsor reports to the participant the actual credits earned; and

(IV) the CPE program sponsor provides the participant with contact information.

(ii) The credits to be recommended by an independent study CPE program sponsor should be agreed upon in advance and should be equated to the effort expended to improve professional competence. The credits cannot exceed the time devoted to the learning activities and may be less than the actual time involved.

(iii) Retain the necessary documentation to satisfy regulatory requirements as to the content, inputs, and outcomes of the independent study.

(iv) Complete the program of independent study in 15 weeks or less.

(3) Standards for CPE Program Sponsors (Standard 1), Standards for CPE Program Development (Standards 2-7), Standards for CPE Program Presentation (Standards 8-11), Standards for Program Measurement (Standards 12-16), and Standards for CPE Program Reporting (Standards 17-18). "CPE sponsor", as used herein, means the individual or organization responsible for setting learning objectives, developing the program materials to achieve such objectives, offering a program to participants, and maintaining the documentation required by these standards. The term "CPE program sponsor" may include associations of CPAs, whether formal or informal, as well as employers who offer in-house programs.

(a) Standard No. 1. CPE program sponsors are responsible for compliance with all applicable standards and other CPE requirements.

(i) In addition to the minimum requirements under th[~~ese~~]is rule[~~s~~], CPE program sponsors may have to meet specific CPE requirements of other state licensing bodies, other governmental entities, and/or other professional organizations or bodies. CPE program sponsors should contact the appropriate entity to determine requirements.

(b) Standard No. 2. Sponsored learning activities must be based on relevant learning objectives and outcomes that clearly articulate the knowledge, skills, and abilities that can be achieved by participants in the learning activities.

(i) Learning activities, meaning an educational endeavor that improves or maintains professional competence, provided by CPE program sponsors for the benefit of CPAs, should specify the level, content, and learning objectives so that potential participants can determine if the learning activities are appropriate to their professional competence development needs. Learning activity levels include, for example, basic, intermediate, advanced, update, and overview as defined as follows:

(A) Advanced. Learning activity level most useful for individuals with mastery of the particular topic. This level focuses on the development of in-depth knowledge, a variety of skills, or a broader range of applications. Advanced level programs are often appropriate for seasoned professionals within organizations; however, they may also be beneficial for other professionals with specialized knowledge in a subject area.

(B) Basic. Learning activity level most beneficial to CPAs new to a skill or an attribute. These individuals are often at the staff or entry level in organizations, although such programs may also benefit a seasoned professional with limited exposure to the area.

(C) Intermediate. Learning activity level that builds on a basic program, most appropriate for CPAs with detailed knowledge in an area. Such persons are often at a mid-level within the organization, with operational and/or supervisory responsibilities.

(D) Overview. Learning activity level that provides a general review of a subject area from a broad perspective. These programs may be appropriate for professionals at all organizational levels.

(E) Update. Learning activity level that provides a general review of new developments. This level is for participants with a background in the subject area who desire to keep current.

(c) Standard No. 3. CPE program sponsors should develop and execute learning activities in a manner consistent with the prerequisite education, experience, and/or advance preparation of participants.

(i) To the extent it is possible to do so, CPE program sponsors should make every attempt to equate program content and level with the backgrounds of intended participants. All programs must clearly identify prerequisite education, experience, and/or advance preparation, if any, in precise language so that potential participants can readily ascertain whether they qualify for the program.

(d) Standard No. 4. CPE program sponsors must use activities, materials, and delivery systems that are current, technically accurate, and effectively designed, and include discussions of ethical issues that may apply to the subject matter. CPE program sponsors must be qualified in the subject matter.

(i) To best facilitate the learning process, sponsored programs and materials must be prepared, presented and updated in a timely manner. Learning activities must be developed by individuals or teams having expertise in the subject matter. Expertise may be demonstrated through practical experience or education.

(ii) CPE program sponsors must review the course materials periodically to ensure that they are accurate and consistent with currently accepted standards relating to the program's subject matter.

(e) Standard No. 5. CPE program sponsors of group and self-study programs must ensure learning activities are reviewed by qualified persons other than those who developed them to ensure that the program is technically accurate and current and addresses the stated learning objectives. These reviews must occur before the

first presentation of these materials and again after each significant revision of the CPE programs.

(i) Individuals or teams qualified in the subject matter must review programs. When it is impractical to review certain programs in advance, such as lectures given only once, greater reliance should be placed on the recognized professional competence of the instructors or presenters. Using independent reviewing organizations familiar with these standards may enhance quality assurance.

(f) Standard No. 6. CPE program sponsors of independent study learning activities must be qualified in the subject matter.

(i) A CPE program sponsor of independent study learning activities must have expertise in the specific subject area related to the independent study. The CPE program sponsor must also:

(A) Review, evaluate, approve and sign the proposed independent study learning contract, including agreeing in advance on the number of credits to be recommended upon successful completion.

(B) Review and sign the written report developed by the participant in independent study.

(C) Retain the necessary documentation to satisfy regulatory requirements as to the content, inputs, and outcomes of the independent study.

(g) Standard No. 7. Self-study programs must employ learning methodologies that clearly define learning objectives, guide the participant through the learning process, and provide evidence of a participant's satisfactory completion of the program.

(i) To guide participants through a learning process, CPE program sponsors of self-study programs must elicit participant responses to test for understanding of the material, offer evaluative feedback to incorrect responses, and provide reinforcement feedback to correct responses. To provide evidence of satisfactory completion of the course, CPE program sponsors of self-study programs must require participants to successfully complete a final examination with a minimum-passing grade of at least 70 percent before issuing CPE credit for the course.

(A) Evaluative feedback, as used in this subsection, means: specific response to incorrect answers to questions in self-study programs. Unique feedback must be provided for each incorrect response, as each one is likely to be wrong for differing reasons.

(B) Reinforcement feedback, as used in this subsection, means: specific responses to correct answers to questions in self-study programs. Such feedback restates why the answer selected was correct.

(ii) Examinations may contain questions of varying format (for example, multiple-choice, essay and simulations.) If objective type questions are used, at least five questions per CPE credit must be included on the final examination. For example, the final examination for a five-credit course must include at least 25 questions.

(iii) Self-study programs must be based on materials specifically developed for instructional use. Self-study programs requiring only the reading of general professional literature, IRS publications, or reference manuals followed by a test will not be acceptable. However, the use of the publications and reference materials in self-study programs as supplements to the instructional materials could qualify if the self-study program complies with each of the CPE standards.

(h) Standard No. 8. CPE program sponsors must provide descriptive materials that enable CPAs to assess the appropriateness of learning activities. To accomplish this, CPE program sponsors must inform participants in advance of: learning objectives, prerequisites, program level, program content, advance preparation, instructional delivery methods, recommended CPE credit, and course registration requirements. Instructional delivery methods, as used in this subsection, means: delivery strategies such as case studies, computer-assisted learning, lectures, group participation, programmed instruction, teleconferencing, use of audiovisual aids, or work groups employed in group, self-study, or independent study programs.

(i) For potential participants to effectively plan their CPE, the program sponsor should disclose the significant features of the program in advance (e.g., through the use of brochures, Internet notices, invitations, direct mail, or other announcements). When CPE programs are offered in conjunction with non-educational activities, or when several CPE programs are offered concurrently, participants should receive an appropriate schedule of events indicating those components that are recommended for CPE credit. The CPE program sponsor's registration policies and procedures should be formalized, published, and made available to participants.

(ii) CPE program sponsors should distribute program materials in a timely manner and encourage participants to complete any advance preparation requirements. All programs should clearly identify prerequisite education, experience, and/or advance preparation requirements, if any, in the descriptive materials. Prerequisites should be written in precise language so that potential participants can readily ascertain whether they qualify for the program.

(i) Standard No. 9. CPE program sponsors must ensure instructors are qualified with respect to both program content and instructional methods used.

(i) Instructors are key ingredients in the learning process for any group program. Therefore, it is imperative that CPE program sponsors exercise great care in selecting qualified instructors for all group programs. Qualified instructors are those who are capable, through training, education, or experience of communicating effectively and providing an environment conducive to learning. They should be competent and current in the subject matter, skilled in the use of the appropriate instructional methods and technology, and prepared in advance. As used in this subsection, Group Program means: An educational process designed to permit a participant to learn a given subject through interaction with an instructor and other participants either in a classroom or conference setting or by using the Internet.

(ii) CPE program sponsors should evaluate the instructor's performance at the conclusion of each program to determine the instructor's suitability to serve in the future.

(j) Standard No. 10. CPE program sponsors must employ an effective means for evaluating learning activity quality with respect to content and presentation, as well as provide a mechanism for participants to assess whether learning objectives were met.

(i) The objectives of evaluation are to assess participant satisfaction with specific programs and to increase subsequent program effectiveness. Evaluations, whether written or electronic, should be solicited from participants and instructors for each program session, including self-study, to determine, among other things, whether:

(A) Stated learning objectives were met.

(B) If applicable, prerequisite requirements were appropriate.

(C) Program materials were accurate.

(D) Program materials were relevant and contributed to the achievement of the learning objectives.

(E) Time allotted to the learning activity was appropriate.

(F) If applicable, individual instructors were effective.

(G) Facilities and/or technological equipment was appropriate.

(H) Handout or advance preparation materials were satisfactory.

(I) Audio and video materials were effective.

(ii) CPE program sponsors should periodically review evaluation results to assess program effectiveness and should inform developers and instructors of evaluation results.

(k) Standard No. 11. CPE program sponsors must ensure instructional methods employed are appropriate for the learning activities. Instructional methods means: delivery strategies such as case studies, computer-assisted learning, lectures, group participation, programmed instruction, teleconferencing, use of audiovisual aids, or work groups employed in group, self-study, or independent study programs. Learning activities should be presented in a manner consistent with the descriptive and technical materials provided.

(i) CPE program sponsors should evaluate the instructional methods employed for the learning activities to determine if the delivery is appropriate and effective. Integral aspects in the learning environment that should be carefully monitored include the number of participants and the facilities and technologies employed in the delivery of the learning activity.

(ii) CPE program sponsors are expected to present learning activities that comply with course descriptions and objectives. Appropriate supplemental materials may also be used.

(l) Standard No. 12. Sponsored learning activities are measured by program length, with one 50-minute period equal to one CPE credit. One-half CPE credit increments (equal to 25 minutes) are permitted after the first credit has been earned in a given learning activity.

(i) For learning activities in which individual segments are less than 50 minutes, the sum of the segments should be considered one total program. For example, five 30-minute presentations would equal 150 minutes and should be counted as three CPE credits.

(ii) When the total minutes of a sponsored learning activity are greater than 50, but not equally divisible by 50, the CPE credits granted should be rounded down to the nearest one-half credit. Thus, learning activities with segments totaling 140 minutes should be granted two and one-half CPE credits.

(iii) While it is the participant's responsibility to report the appropriate number of credits earned, CPE program sponsors must monitor group learning activities to assign the correct number of CPE credits.

(iv) For university or college credit courses that meet these CPE Standards, each unit of college credit shall equal the following CPE credits: semester system 15 credits; quarter system 10 credits.

(v) For university or college non-credit courses that meet these CPE standards, CPE credits shall be awarded only for the actual classroom time spent in the non-credit course.

(vi) Credit is not granted to participants for preparation time.

(vii) Only the portions of committee or staff meetings that are designed as programs of learning and comply with these standards qualify for CPE credit.

(m) Standard No. 13. CPE credit for self-study learning activities must be based on a pilot test of the average completion time.

(i) A sample of intended professional participants should be selected to test program materials in an environment and manner similar to that in which the program is to be presented. The sample group of at least three individuals must be independent of the program development group and possess the appropriate level of knowledge before taking the program.

(ii) The sample does not have to ensure statistical validity. CPE credits should be recommended based on the average completion time for the sample. If substantive changes are subsequently made to program materials, further pilot tests of the revised program materials should be conducted to affirm or amend, as appropriate, the average completion time.

(n) Standard No. 14. Instructors or discussion leaders of learning activities should receive CPE credit for both their preparation and presentation time to the extent the activities maintain or improve their professional competence and meet the requirements of these CPE standards.

(i) Instructors, discussion leaders, or speakers who present a learning activity for the first time should receive CPE credit for actual preparation time up to two times the number of CPE credits to which participants would be entitled, in addition to the time for presentation. For example, for learning activities in which participants could receive 8 CPE credits, instructors may receive up to 24 CPE credits (16 for preparation plus 8 for presentation).

(ii) For repeat presentations, CPE credit can be claimed only if it can be demonstrated that the learning activity content was substantially changed and such change required significant additional study or research.

(iii) The maximum credit for instructors, discussion leaders or speakers cannot exceed 50 percent of the CPE requirement.

(o) Standard No. 15. Writers of published articles, books, or CPE programs should receive CPE credit for their research and writing time to the extent it maintains or improves their professional competence.

(i) Writing articles, books, or CPE programs for publication is a structured activity that involves a process of learning. For the writer to receive CPE credit, the article, book, or CPE program must be formally reviewed by an independent party. CPE credits should be claimed only upon publication.

(ii) The maximum credit for books or articles cannot exceed 25 percent of the CPE requirement.

(p) Standard No. 16. CPE credits recommended by a CPE program sponsor of independent study must not exceed the time the participant devoted to complete the learning activities specified in the learning contract.

(i) The credits to be recommended by an independent study CPE program sponsor should be agreed upon in advance and should be equated to the effort expended to improve professional competence. The credits cannot exceed the time devoted to the learning activities and may be less than the actual time involved.

(q) Standard No. 17. CPE program sponsors must provide program participants with documentation of their participation, which includes the following: CPE program sponsor name and contact information, participant's name, course title, course field of study, date offered or completed, if applicable, location, the name of the CPE registry issuing approval, and the approval number assigned to that program by the Registry, type of instructional/delivery method used, amount of CPE credit recommended, verification by CPE program sponsor representative.

(i) CPE program sponsors should provide participants with documentation to support their claims of CPE credit. Acceptable evidence of completion includes:

(A) For group and independent study programs, a certificate or other verification supplied by the CPE program sponsor.

(B) For self-study programs, a certificate supplied by the CPE program sponsor after satisfactory completion of an examination.

(C) For instruction credit, a certificate or other verification supplied by the CPE program sponsor.

(D) For a university or college course that is successfully completed for credit, a record or transcript of the grade the participant received.

(E) For university or college non-credit courses, a certificate of attendance issued by a representative of the university or college.

(F) For published articles, books, or CPE programs: (1) a copy of the publication (or in the case of a CPE program, course development documentation) that names the writer as author or contributor, (2) a statement from the writer supporting the number of CPE hours claimed, and (3) the name and contact information of the independent reviewer(s) or publisher.

(r) Standard No. 18. CPE program sponsors must retain adequate documentation for five years to support their compliance with these standards and the reports that may be required of participants.

(i) Evidence of compliance with responsibilities set forth under these Standards which is to be retained by CPE program sponsors includes, but is not limited to: records of participation, dates and locations, instructor names and credentials, number of CPE credits earned by participants, and results of program evaluations.

(ii) Information to be retained by developers includes copies of program materials, evidence that the program materials were developed and reviewed by qualified parties, and a record of how CPE credits were determined.

(iii) For CPE program sponsors offering self-study programs, appropriate pilot test records must be retained regarding the following:

(A) When the pilot test was conducted.

(B) The intended participant population.

(C) How the sample was determined.

(D) Names and profiles of sample participants.

(E) A summary of participants' actual completion time.

(4) Programs or Activities Which Do Not Qualify. The following activities do not satisfy the standards for programs of this section and are not eligible for satisfaction of CPE requirements:

(a) Personal study: personal study includes reading professional journals and publications, studying and researching matters such as tax code revisions, practicing software programs on a computer and watching video movies of a conference; and

(b) Committee meetings, dinner and luncheon meetings, firm meetings or other activities that do not meet the standards outlined in this section.

(5) Reporting Requirements. Each licensee applying for license renewal shall report, by January 31 of each even numbered year, demonstrating completion of at least the minimum number of credits required in Section 58-26a-304 for qualified continuing professional education hours completed for the preceding two calendar years. Each person applying for license reinstatement shall file a report at the time of application demonstrating completion of the CPE required under Subsection R156-26a-307.

(a) Such report shall be by means of one of the following:

(i) certification from an approved continuing professional education registry of the hours of qualified continuing education completed; or

(ii) a report to the Division for review and approval of continuing professional education.

(b) It is the responsibility of the applicant or licensee to demonstrate to the Division that the applicant or licensee successfully completed all CPE reported and meets the requirements of this section or that the CPE has been approved by an approved continuing professional education registry and that reported courses maintained or increased the professional competence of the applicant or licensee.

(6) Continuing Professional Education Registry. To obtain approval as a continuing professional education registry, an organization shall:

(a) be a professional association primarily consisting of individuals licensed as certified public accountants;

(b) be organized and in good standing according to the laws of the state;

(c) enter into a written agreement with the Division under which the organization agrees to:

(i) review and approve only those programs which meet the standards set forth under this section;

(ii) publish and disseminate to their members or other CPAs on request, listings of continuing professional education programs which meet the standards and are approved for qualified continuing professional education credit;

(iii) maintain accurate records of qualified continuing professional education completed by each of its registrants and provide each of its registrants with a certificate on a timely basis to permit the registrant to file that certificate with the registrant's application to the [~~d~~]Division for renewal or reinstatement of his license as a certified public accountant. The certificate shall contain the name of the instructor, the date of the program, location of the program, title of the program, the name of the sponsor, the name of the CPE registry issuing approval, and the approval number assigned to that program by the Registry, and the number of CPE hours granted; and

(iv) make records of approved of qualified continuing professional education programs and records of qualified continuing professional education completed by registrants available for audit by representatives of the [~~d~~]Division, the [~~b~~]Board or peer advisory committees of the board.

(7) Fees. A registry may charge a reasonable fee to registrants for services provided for approval of courses. Sponsors of approved courses may charge a lower fee to members of the sponsoring association for participation as a registrant than it charges to non-members of the association.

(8) Other CPE requirements and failure to complete CPE requirements.

(a) Interim Licensure CPE requirements. Those individuals who become licensed or certified between renewal periods shall be required to complete CPE based upon ten hours per calendar quarter for the remaining quarters of the reporting period.

(b) Carry Forward Provision. A licensee who completes more than 80 hours of CPE during the two year reporting period may carry forward up to 40 hours to the next succeeding reporting period.

(c) Failure to comply with CPE requirements.

(i) Failure to meet the 80 hour requirement. An individual holding a current Utah license who fails to complete the required 80 hours of CPE by the reporting deadline will not be allowed to renew their license unless they complete and report to the [~~d~~]Division at least 30 days prior to their expiration date two times the number of CPE hours the license holder was short for the reporting period (penalty hours). The penalty hours shall not be considered to satisfy

in whole or part any of the CPE hours required for subsequent renewal of the license.

(ii) Non-Qualifying or Disqualified CPE hours. An individual who reports nonqualifying hours or who has hours disqualified by the Utah Board of Accountancy shall not be allowed to renew their license unless they complete and report to the [~~d~~]Division, within 60 days of receiving notification by the [~~d~~]Division of their shortage and the relevant penalty hours requirement under R156-26-303b(8)(c)(i).

(iii) Waiver for Medical Reasons. A licensee may request the [~~b~~]Board to waive the requirements or grant an extension for continuing professional education on the basis that the licensee was not able to complete the continuing professional education due to medical or related conditions confirmed by a qualified health care provider. Such medical confirmation shall include the beginning and ending dates during which the medical condition would have prevented the licensee from completing the continuing professional education, the extent of the medical condition and the effect that the medical condition had upon the ability of the licensee to continue to engage in the practice of accountancy. The [~~b~~]Board in determining whether the waiver is appropriate shall consider whether or not the licensee continued to be engaged in the practice of accountancy practice on a full or part time basis during the period specified by the medical confirmation. Granting a waiver of meeting the minimum CPE hours shall not be construed as a waiver of a CPA being required to provide services in a competent manner with current knowledge, skill and ability. When medical or other conditions prevent the CPA from providing services in a competent manner, the CPA shall refrain from providing such services.

R156-26a-307. Reinstatement of Licenses.

(1) An individual having held a Utah license which has expired for failure to renew for nonpayment of fees, or an individual applying for reinstatement from emeritus status, may be relicensed upon satisfactory completion of:

(a) submission of an application on forms supplied by the [~~d~~]Division which shall contain information as to why the person allowed their license to lapse;

(b) 80 hours of acceptable CPE, completed within the 12 months preceding the submission of an application for reinstatement, which shall include a minimum of 16 hours in accounting or auditing or both and shall include successful completion of the AICPA Ethics Self-Study Examination and the Utah Law and Rules Examination with a minimum score of at least the minimum score required for initial licensure. Successful completion of the two examinations will count as eight hours of CPE towards the 80 hour requirement.

(i) The requirements in Subsection R156-26-307(1)(b) are waived if the reinstatement applicant has not been practicing within the state of Utah since the expiration of the license being reinstated, the reinstatement applicant has continuously since the expiration been licensed and practicing in another state and the reinstatement applicant demonstrates that the applicant has met all the CPE requirements that would have been applicable in the state of Utah during the time the license was expired in the state of Utah.

(ii) The requirements in Subsection R156-26a-307(1)(b) are waived, if the applicant failed to renew because of inadvertent failure to pay the renewal fees, to sign application documents, or to meet similar technical application requirements and the application for reinstatement is filed with the Division within 24 months after expiration date of the license and at time of application for reinstatement the applicant demonstrates by proof of attendance at acceptable CPE courses that at all times the applicant was in full compliance with the CPE requirements.

(2) A licensee who reinstates their license must obtain ten hours of CPE per full calendar quarter remaining in the current CPE reporting period after reinstatement is granted.

(3) The number of hours required to reinstate the license shall not be considered to satisfy in whole or part any of the 80 hours of CPE required for subsequent renewal of the license.

KEY: accountants, licensing, peer review, continuing professional education
Date of Enactment or Last Substantive Amendment: [~~June 21, 2005~~]2008
Notice of Continuation: February 1, 2007
Authorizing, and Implemented or Interpreted Law: 58-26a-101; 58-1-106(1)(a); 58-1-202(1)(a)

♦ ♦

Commerce, Occupational and Professional Licensing

R156-38a

Residence Lien Restriction and Lien Recovery Fund Rules

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 30654
FILED: 11/05/2007, 10:44

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The amendments are proposed to include in the rule precedents which have been established by the Residence Lien Recovery Fund Advisory Board and to clarify statutory amendments which were made during the 2007 General Session of the Legislature in H.B. 259. It should be noted that the statutory amendments added a definition for "real estate developer" to Subsection 38-11-102(21). However, the statutory amendments did not mandate rulemaking as a result of those amendments. (DAR NOTE: H.B. 259 (2007) is found at Chapter 84, Laws of Utah 2007, and was effective 04/30/2007.)

SUMMARY OF THE RULE OR CHANGE: Throughout the rule the term "rules" has been replaced with "rule" where applicable. In Section R156-38a-102, added a definition for "written contract". In Subsection R156-38a-204a(2)(c), added language applying to applications for a Certificate of Compliance that involve a homeowner who contracted with a real estate developer who is also a licensed contractor on the construction project.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 38-11-101 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

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

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

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The division anticipates no costs or savings to either small businesses or other persons as a result of the proposed amendments. The amendments are only defining the term "written contract" which appears in the statute and indicating what documentation is required for a homeowner who contracted with a real estate developer who is also a licensed contractor on the construction project to provide the division for the issuance of a Certificate of Compliance related to the Residence Lien Recovery Fund.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The division anticipates no costs or savings to either small businesses or other persons as a result of the proposed amendments. The amendments are only defining the term "written contract" which appears in the statute and indicate what documentation is required for a homeowner who contracted with a real estate developer who is also a licensed contractor on the construction project to provide the division for the issuance of a Certificate of Compliance related to the Residence Lien Recovery Fund.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated with this rule filing as it codifies a definition for "written contract" pursuant to a ruling of the agency, and brings the rule into compliance with a recent statutory amendment regarding real estate developers who are general contractors on the subject residence. 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:

Rich Oborn at the above address, by phone at 801-530-6104, by FAX at 801-530-6511, or by Internet E-mail at roborn@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 12/31/2007

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 12/12/2007 at 10:00 AM, 160 East 300 South, North Conference Room (1st floor), Salt Lake CIty, Utah.

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2008

AUTHORIZED BY: F. David Stanley, Director

R156. Commerce, Occupational and Professional Licensing.
R156-38a. Residence Lien Restriction and Lien Recovery Fund Rule[~~s~~].
R156-38a-101. Title.

Th[~~ese~~]is rule[~~s are~~] is known as the "Residence Lien Restriction and Lien Recovery Fund Act Rule[~~s~~]."

R156-38a-102. Definitions.

In addition to the definitions in Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery Fund Act; Title 58, Chapter 1, Division of Occupational and Professional Licensing Act; and Rule R156-1, General Rules of the Division of Occupational and Professional Licensing, which shall apply to th[~~ese~~]is rule[~~s~~], as used in th[~~ese~~]is rule[~~s~~]:

(1) "Applicant" means either a claimant, as defined in Subsection (2), or a homeowner, as defined in Subsection (5), who submits an application for a certificate of compliance.

(2) "Claimant" means a person who submits an application or claim for payment from the fund.

(3) "Construction project", as used in Subsection 38-11-203(4), means all qualified services related to the written contract required by Subsection 38-11-204(4)(a).

(4) "Contracting entity" means an original contractor, a factory built housing retailer, or a real estate developer that contracts with a homeowner.

(5) "Homeowner" means the owner of an owner-occupied residence.

(6) "Licensed or exempt from licensure", as used in Subsection 38-11-204(4) means that, on the date the written contract was entered into, the contractor held a valid, active license issued by the Division pursuant to Title 58, Chapter 55 of the Utah Code in any classification or met any of the exemptions to licensure given in Title 58, Chapters 1 and 55.

(7) "Necessary party" includes the division, on behalf of the fund, and the applicant.

(8) "Owner", as defined in Subsection 38-11-102(17), does not include any person or developer who builds residences that are offered for sale to the public.

(9) "Permissive party" includes:

(a) with respect to claims for payment: the nonpaying party, the homeowner, and any entity who may be required to reimburse the fund if a claimant's claim is paid from the fund;

(b) with respect to an application for a certificate of compliance: the original contractor and any entity who has demanded from the homeowner payment for qualified services.

(10) "Qualified services", as used in Subsection 38-11-102(20) do not include:

(a) services provided by the claimant to cure a breach of the contract between the claimant and the nonpaying party; or

(b) services provided by the claimant under a warranty or similar arrangement.

(11) "Written contract", as used in Subsection 38-11-204(4)(a)(i), means one or more documents for the same construction project which collectively contain all of the following:

(a) an offer or agreement conveyed for qualified services that will be performed in the future;

(b) an acceptance of the offer or agreement conveyed prior to the commencement of any qualified services; and

(c) identification of the residence, the parties to the agreement, the qualified services that are to be performed, and an amount to be paid for the qualified services that will be performed.

R156-38a-103a. Authority - Purpose - Organization.

(1) Th[~~ese~~]is rule[~~s are~~] is adopted by the division under the authority of Section 38-11-103 to enable the division to administer Title 38, Chapter 11, the Residence Lien Restriction and Lien Recovery Fund Act.

(2) The organization of th[~~ese~~]is rule[~~s~~] is patterned after the organization of Title 38, Chapter 11.

R156-38a-103b. Duties, Functions, and Responsibilities of the Division.

The duties, functions and responsibilities of the division with respect to the administration of Title 38, Chapter 11, shall, to the extent applicable and not in conflict with the Act or th[~~ese~~]is rule[~~s~~], be in accordance with Section 58-1-106.

R156-38a-105a. Adjudicative Proceedings.

(1) Except as provided in Subsection 38-1-11(4)(d), the classification of adjudicative proceedings initiated under Title 38, Chapter 11 is set forth at Sections R156-46b-201 and R156-46b-202.

(2) The identity and role of presiding officers for adjudicative proceedings initiated under Title 38, Chapter 11, is set forth in Sections 58-1-109 and R156-1-109.

(3) Issuance of investigative subpoenas under Title 38, Chapter 11 shall be in accordance with Subsection R156-1-110.

(4) Adjudicative proceedings initiated under Title 38, Chapter 11, shall be conducted in accordance with Title 63, Chapter 46b, Utah Administrative Procedures Act, and Rules R151-46b and R156-46b, Utah Administrative Procedures Act Rules for the Department of Commerce and the Division of Occupational and Professional Licensing, respectively, except as otherwise provided by Title 38, Chapter 11 or th[~~ese~~]is rule[~~s~~].

(5) Claims for payment and applications for a certificate of compliance shall be filed with the division and served upon all necessary and permissive parties.

(6) Service of claims, applications for a certificate of compliance, or other pleadings by mail to a qualified beneficiary of the fund addressed to the address shown on the division's records with a certificate of service as required by R151-46b-8, shall constitute proper service. It shall be the responsibility of each applicant or registrant to maintain a current address with the division.

(7) A permissive party is required to file a response to a claim or application for certificate of compliance within 30 days of notification by the division of the filing of the claim or application for certificate of compliance, to perfect the party's right to participate in the adjudicative proceeding to adjudicate the claim or application.

(8)(a) For claims wherein the claimant has had judgment entered against the nonpaying party, findings of fact and conclusions of law entered by a civil court or state agency submitted in support of or in opposition to a claim against the fund shall not be subject to readjudication in an adjudicative proceeding to adjudicate the claim.

(b) For claims wherein the nonpaying party's bankruptcy filing precluded the claimant from having judgment entered against the nonpaying party, a claim or issue resolved by a prior judgment, order, findings of fact, or conclusions of law entered in by a civil court or a state agency submitted in support of or in opposition to a claim against the fund shall not be subject to readjudication with respect to the parties to the judgment, order, findings of fact, or conclusions of law.

(9) A party to the adjudication of a claim against the fund may be granted a stay of the adjudicative proceeding during the pendency of a judicial appeal of a judgment entered by a civil court or the administrative or judicial appeal of an order entered by an administrative agency provided:

(a) the administrative or judicial appeal is directly related to the adjudication of the claim; and

(b) the request for the stay of proceedings is filed with the presiding officer conducting the adjudicative proceeding and concurrently served upon all parties to the adjudicative proceeding, no later than the deadline for filing the appeal.

(10) Notice pursuant to Subsection 38-1-11(4)(f) shall be accomplished by sending a copy of the division's order by first class, postage paid United States Postal Service mail to each lien claimant listed on the application for certificate of compliance. The address for the lien claimant shall be:

(a) if the lien claimant is a licensee of the division or a registrant of the fund, the notice shall be mailed to the current mailing address shown on the division's records; or

(b) if the lien claimant is not a licensee of the division or a registrant of the fund, the notice shall be mailed to the registered agent address shown on the records of the Division of Corporations and Commercial Code.

R156-38a-204a. Applications for Certificate of Compliance by Homeowners - Supporting Documents and Information.

The following supporting documents shall, at a minimum, accompany each homeowner application for a certificate of compliance:

(1) a copy of the written contract between the homeowner and the contracting entity;

(2)(a) if the homeowner contracted with an original contractor, documentation issued by the division that the original contractor was licensed or exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, on the date the contract was entered into;

(b) if the homeowner contracted with a real estate developer:

(i) credible evidence that the real estate developer had an ownership interest in the property;

(ii) a copy of the contract between the real estate developer and the licensed contractor with whom the real estate developer contracted for construction of the residence or other credible evidence showing the existence of such a contract and setting forth a description of the services provided to the real estate developer by the contractor;

(iii) credible evidence that the real estate developer offered the residence for sale to the public; and

(iv) documentation issued by the division that the contractor with whom the real estate developer contracted for construction of the residence was licensed or exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, on the date the contract was entered into;

(c) if the real estate developer is a licensed contractor under Title 58, Chapter 55, Utah Construction Trades Licensing Act who

engages in the construction of a residence that is offered for sale to the public:

(i) credible evidence that the contractor real estate developer has an ownership interest in the property;

(ii) a copy of the contract between the homeowner and the contractor real estate developer;

(iii) credible evidence that the contractor real estate developer offered the residence for sale to the public; and

(iv) documentation issued by the Division showing that the contractor real estate developer with whom the homeowner contracted for construction of the residence was licensed or exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, on the date the contract was entered into;

([~~e~~]d) if the homeowner contracted with a manufactured housing retailer, a copy of the completed retail purchase contract;

(3) one of the following:

(a) except as provided in Subsection (5), an affidavit from the contracting entity acknowledging that the homeowner paid the contracting entity in full in accordance with the written contract and any amendments to the contract; or

(b) other credible evidence establishing that the homeowner paid the contracting entity in full in accordance with the written contract and any amendments to the contract; and

(4) an affidavit from the homeowner establishing that he is an owner as defined in Subsection 38-11-102(17) and that the residence is an owner-occupied residence as defined in Subsection 38-11-102(18).

(5) If any of the following apply, the affidavit described in Subsection (3)(a) shall not be accepted as evidence of payment in full unless that affidavit is accompanied by independent, credible evidence substantiating the statements made in the affidavit:

(a) the affiant is the homeowner;

(b) the homeowner is an owner, member, partner, shareholder, employee, or qualifier of the contracting entity;

(c) the homeowner has a familial relationship with an owner, member, partner, shareholder, employee, or qualifier of the contracting entity;

(d) the homeowner has a familial relationship with the affiant;

(e) an owner, member, partner, shareholder, employee, or qualifier of the contracting entity is also an owner, member, partner, shareholder, employee, or qualifier of the homeowner;

(f) the contracting entity is an owner, member, partner, shareholder, employee, or qualifier of the homeowner; or

(g) the affiant stands to benefit in any way from approval of the claim or application for certificate of compliance.

KEY: licensing, contractors, liens
Date of Enactment or Last Substantive Amendment: [~~August 2, 2005~~]2008
Notice of Continuation: March 15, 2005
Authorizing, and Implemented or Interpreted Law: 38-11-101; 58-1-106(1)(a); 58-1-202(1)(a)

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Commerce, Occupational and Professional Licensing

R156-76

Professional Geologist Licensing Act Rules

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 30694
FILED: 11/08/2007, 09:24

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The division and Professional Geologists Licensing Board are proposing amendments to clarify the scope of practice provisions and to add the administrative fine schedule to the rule.

SUMMARY OF THE RULE OR CHANGE: Throughout the rule, the term "rules" has been replaced with "rule". In Subsection R156-76-102(4), amendments are proposed to clarify nonprofessional activities that may be performed without holding a professional geologist license. The definition of the practice of geology in the statute (Title 58, Chapter 76) is so broadly worded that it appears to include functions that can be performed by unlicensed persons. Section R156-76-501 is being added to incorporate the fine schedule into the rule in order to be current and consistent with the fine schedules for other occupations and professions regulated by the division.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-76-101 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The division will incur minimal costs of approximately $50 to reprint the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the division's current budget.

❖ LOCAL GOVERNMENTS: The proposed amendments do not apply to local governments; therefore no costs or savings are anticipated. The proposed amendments only apply to licensed professional geologists, applicants for licensure as a professional geologist and unlicensed persons who are allowed to engage in certain aspects of the practice of geology without a license. The proposed fine schedule only affects persons who violate the specified sections of Title 58, Chapter 76, as outlined in the fine schedule.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The proposed fine schedule amendment will affect persons (both licensed and unlicensed) who violate the specified sections of Title 58, Chapter 76. The division is unable to

determine how many fines in the future may be issued to persons violating the specified sections of Title 58, Chapter 76. The proposed fine schedule will also have an impact on fines collected through stipulated or written agreements; but it is expected this impact would be minimal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The division is not able to determine an exact compliance cost to persons affected by the proposed fine schedule amendment as it would depend on what violation they had committed and if the violation was a first, second, or third offense.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated from the clarification of the definition of "the practice of geology before the public". This rule filing also codifies the agency's fine schedule. This schedule is still within the ranges permitted by Section 58-76-502, and is in line with the fine schedule for other licensed professions. Thus, violators of the applicable laws and rules will be paying more per violation, but no other fiscal impact to businesses is anticipated. Francine A. Giani, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/31/2007

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 12/06/2007 at 10:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2008

AUTHORIZED BY: F. David Stanley, Director

R156. Commerce, Occupational and Professional Licensing.
R156-76. Professional Geologist Licensing Act Rule[~~s~~].
R156-76-101. Title.

Th[~~ese~~]is rule[~~s are~~] is known as the "Professional Geologist Licensing Act Rule[~~s~~]".

R156-76-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 76, as used in Title 58, Chapters 1 and 76, or th[~~ese~~]is rule[~~s~~]:

(1) "ASBOG" means Association of State Boards of Geology.

(2) "Geosciences", as used in Subsection 58-76-302(4)(a), means an earth science degree, which results in sufficient geological knowledge to enable the practice of geology before the public.

(3) "Qualified individual", as used in Section R156-76-302c, means a person who is licensed as a professional geologist in a recognized jurisdiction, or who otherwise meets the requirements for licensure as defined in Sections 58-76-302 and R156-76-302b and R156-76-302c.

(4) "Practice of geology before the public", as used in Subsection 58-76-102(3) does not include the following activities:

(a) routine sampling, laboratory work or geological drafting, where the elements of initiative, scientific judgment, and decision-making are lacking;

(b) data acquisition where geological interpretation is minimal and incidental (for example mud-logging, wireline logging, rock property measurements, dating, and geochemical, geophysical and biological surveys);

(c) [~~does not include~~]the following aspects of paleontology:

([~~a~~]i) taxonomy;

([~~b~~]ii) biologic analysis of organisms; or

([~~c~~]iii) investigation and reporting of deposits which may be fossiliferous, including incidental geological analysis[~~.~~]; or

([~~5~~]d) [~~"Practice of geology before the public" does not include~~]the following aspects of the practice of anthropology and archeology:

([~~a~~]i) archeological survey, excavation, and reporting;

([~~b~~]ii) production of archeological plan views, profiles, and regional overviews; or

([~~c~~]iii) investigation and reporting of artifacts or deposits that are modified or affected by past human behavior.

([~~6~~]5) "Principal", as used in Subsection 58-76-603(2), means the licensee assigned to and personally accountable for the production of specified professional geologic projects within an organization.

([~~7~~]6) "Recognized jurisdiction", as used in Subsection R156-76-302d(2), means any state, district or territory of the United States that issues a license for a professional geologist, and whose licensure requirements include:

(a) a bachelors or post graduate degree in the geosciences from an accredited institution or equivalent foreign education as determined by the International Credentialing Association and the Division in collaboration with the board;

(b) documented qualifying experience requirements similar to the experience requirements found in Subsection 58-76-302(5) and Section R156-76-302; and

(c) passing the ASBOG Fundamentals of Geology (FG) and the ASBOG Principles and Practice of Geology (PG) Examination.

([~~8~~]7) "Unprofessional conduct", as defined in Title 58, Chapters 1 and 76, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-76-[~~501~~]502.

R156-76-103. Authority - Purpose.

Th[~~ese~~]is rule[~~s are~~] is adopted by the division under the authority of Subsection 58-1-106(1) to enable the division to administer Title 58, Chapter 76.

R156-76-304. Exemption from Licensure.

The exemption from licensure in Subsection 58-76-304(1) is defined or clarified as follows: An "employee" or "subordinate", as

used therein and elsewhere in Title 58, Chapter 76, or th[~~ese~~]is rule[~~s~~], means an individual who:

(1) is not licensed as a professional geologist;

(2) works with, for, or provides professional geologic services on work initiated by a person licensed as a professional geologist; and

(3) works only under the administration, charge, control, command, authority, oversight, guidance, jurisdiction, regulation, management, and authorization of a person licensed as a professional geologist.

R156-76-501. Administrative Penalties - Unlawful Conduct.

In accordance with Sections 58-76-501 and 58-76-502 and Subsections 58-1-501(1)(a) through (d), unless otherwise ordered by the presiding officer, the following fine schedule shall apply.

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

First Offense: $800

Second Offense: $1,600

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

First Offense: $800

Second Offense: $1,600

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

First Offense: $1,000

Second Offense: $2,000

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

First Offense: $1,000

Second Offense: $2,000

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

First Offense: $1,000

Second Offense: $2,000

(6) Citations shall be issued for third offenses, except in extraordinary circumstances approved by the investigative supervisor. If a citation is issued for a third offense, the fine is double the second offense amount, with a maximum amount not to exceed the maximum fine allowed under Subsection 58-76-502(1)(i).

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

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

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

R156-76-[~~501~~]502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) submitting an incomplete final plan, specification, report or set of plans to:

(a) a client, when the licensee represents, or could reasonably expect the client to consider the plan, specification, report or set of plans to be complete and final; or

(b) to a government official for the purpose of obtaining a permit;

(2) failing as a principal to exercise responsible charge;

(3) failing as a supervisor to exercise supervision of an employee, subordinate, associate or drafter; or

(4) failing to conform to the accepted and recognized standards and ethics of the profession including those stated in the "American Geological Institute's Guidelines for Ethical Professional Conduct", April 2, 1999, which is hereby incorporated by reference.

KEY: licensing, professional geologists, geology
Date of Enactment or Last Substantive Amendment: [~~January 20, 2004~~]2008
Notice of Continuation: May 1, 2007
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-76-101

Corrections, Administration
R251-112
Americans With Disabilities Act Implementation and Complaint Process

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 30713
FILED: 11/13/2007, 06:29

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R251-112 defines the implementation of the Americans with Disabilities Act (ADA) within the Utah Department of Corrections (UDC). The rule refers to a bureau and a complaint process which no longer exist. The rule has been amended to reflect current department organization and processes.

SUMMARY OF THE RULE OR CHANGE: Current rule language names the Corrections Bureau of Human Resource Management. Human resources for Corrections is now conducted by a field office of the Department of Human Resources Management. The rule refers to a 1992 complaint process which is no longer necessary.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63-46a-3(2), 28 CFR 35.107 (1992 ed.), 29 CFR 1630, 42 U.S.C. 12101 through 12213

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The changes to this rule would not create any anticipated costs or savings to the state budget because these amendments do not affect any monetary aspects of ADA implementation in the UDC.

❖ LOCAL GOVERNMENTS: The changes to this rule would not create any anticipated costs or savings to the local government because these amendments do not affect any monetary aspects of ADA implementation in the UDC.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The changes to this rule would not create any anticipated costs or savings to small businesses or persons other than businesses because these amendments do not affect any monetary aspects of ADA implementation in the UDC.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The changes to this rule would not create any compliance costs for affected persons because these amendments do not affect any monetary aspects of ADA implementation in the UDC.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule would have no impact on businesses. Tom Patterson, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gary Ogilvie at the above address, by phone at 801-545-5514, by FAX at 801-545-5523, or by Internet E-mail at gogilvie@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/07/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 01/14/2008

AUTHORIZED BY: Thomas E. Patterson, Executive Director

R251. Corrections, Administration.
R251-112. Americans With Disabilities Act Implementation and Complaint Process.
R251-112-2. Definitions.

(1) "ADA" means Americans With Disabilities Act.

(2) "ADA Coordinator" means the Department designee who has the responsibility for the Department's compliance with ADA.

(3) "ADA State Coordinating Committee" means that committee with representatives designated by the directors of the following agencies:

(a) Department of Human Resource Management;

(b) Division of Risk Management;

(c) Division of Facilities Construction Management; and

(d) Office of the Attorney General.

(4) "Department" means the Department of Corrections.

(5) "Disability" means with respect to an individual with a physical or mental impairment that substantially limits one or more major life activities as defined by ADA.

(6) "HRM Representative" means the Director or designee of the [~~Bureau~~]Department of Human Resource Management (DHRM) field office within the Department who has responsibility for the Department's compliance with ADA as it relates to employees.

(7) "Qualified person with a disability" means an individual with a disability who meets the skill, experience, education, and other job-related requirements of a position held or desired, and who, with or without reasonable accommodation, is able to perform the essential functions of a job or meets the criteria established for visiting offenders or accessing other programs and services offered.

R251-112-3. Filing of Complaints.

(1) Any qualified individual with a disability should file a complaint with the Department no later than 60 days of the alleged act of discrimination in order to expedite resolution of the complaint.[~~Any complaint alleging an act of discrimination occurring between January 26, 1992, and the effective date of this rule should be filed within 60 days of the effective date of this rule.~~]

(2) The complaint shall be filed with the Department's ADA Coordinator in writing or in another accessible format suitable to the individual.

(3) Each complaint [~~shall~~]should:

(a) include the individual's name, address, and phone number;

(b) include the nature and extent of the individual's disability;

(c) describe the Department's alleged discriminatory action in sufficient detail to inform the Department of the nature and date of the alleged violation;

(d) describe the action and any accommodation desired; and

(e) be signed by the individual or by the individual's representative.

(4) Complaints filed on behalf of classes of third parties [~~shall~~]should describe or identify by name, if possible, the alleged victims of discrimination.

R251-112-4. Investigation of Complaint.

(1) The ADA Coordinator or designee and the HRM representative shall use reasonable diligence to investigate complaints received and obtain and document all relevant facts. This may include gathering all information listed in Section R251-112-3(3), if it is not made available by the individual.

(2) When conducting the investigation, the ADA Coordinator or designee may seek assistance from the Department's legal, human resource, budget staff and division directors in determining what action, if any, shall be taken on the complaint. The ADA Coordinator or designee may also consult with the Executive Director in reaching a recommendation.

(3) The ADA Coordinator or designee and the DHRM representative shall consult with the ADA State Coordinating Committee before making any decision that would involve:

(a) an expenditure of funds which is not absorbable within the Department's budget and would require appropriation authority;

(b) facility modifications which require an expenditure of funds which is not absorbable within the Department's budget and would require appropriation authority; or

(c) reclassification or reallocation in grade.

R251-112-5. Issuance of Decision.

(1) Within 30 working days after receiving the complaint, the ADA Coordinator or designee or the DHRM representative or designee shall issue a decision outlining in writing or in another accessible format suitable to the individual stating what action, if any, shall be taken on the complaint.

(2) If the ADA Coordinator or designee or the DHRM representative or designee is unable to reach a decision within the 30 working day period, the ADA Coordinator or the DHRM

representative or designee shall notify the individual in writing, or by another accessible format suitable to the individual, why the decision is being delayed and what additional time is needed to reach a decision.

R251-112-6. Appeals.

(1) The individual may appeal the decision of the ADA Coordinator or designee or the DHRM representative or designee by filing an appeal within ten working days from the receipt of the decision.

(2) The appeal shall be filed in writing or another accessible format suitable to the individual with the Executive Director of the Department. The Executive Director may name a designee other than the ADA Coordinator to assist on the appeal.

(3) The appeal shall describe in sufficient detail why the ADA Coordinator's decision does not meet the individual's needs without undue hardship to the Department, is incomplete or ambiguous, is not supported by the evidence, or is otherwise improper.

(4) The Executive Director or designee shall review the decision and the appeal. The Executive Director may direct additional investigation as necessary before arriving at an independent conclusion.

(5) The Executive Director or designee may consult with the State ADA Coordinating Committee prior to making any decision that would involve:

(a) an expenditure of funds which is not absorbable and would require appropriation authority;

(b) facility modifications; or

(c) reclassification or reallocation in grade;

(6) The decision shall be issued within ten working days after receiving the appeal and shall be in writing or in another accessible format suitable to the individual.

(7) If the Executive Director or designee is unable to reach a decision within the ten working day period, the Executive Director shall notify the individual in writing or by another accessible format suitable to the individual why the decision is being delayed and the additional time needed to reach a decision.

R251-112-7. Classification of Records.

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 Executive Director, ADA Coordinator, DHRM representative, 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 Executive Director, ADA Coordinator, HRM representative, or their designees shall be classified as public information.~~]

KEY: complaint procedures, disabled persons
Date of Enactment or Last Substantive Amendment: [~~December 2, 2002~~]2008
Notice of Continuation: December 23, 2002
Authorizing, and Implemented or Interpreted Law: 67-19-32; 34A-5-101 to 34A-5-108; 63-46a-3(2)

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Environmental Quality, Air Quality
R307-101
General Requirements

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 30697
FILED: 11/08/2007, 15:28

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the change is to update the incorporation by reference of 40 Code of Federal Regulation (CFR) Part 51.100(s)(1), in Section R307-101-2 to the most recent version of the CFR, and to update the definition of Acute Hazardous Air Pollutant, Carcinogenic Hazardous Air Pollutant, and Chronic Hazardous Air Pollutant to reference the 2007 version of the American Conference of Governmental Industrial Hygienists "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices." The Utah Air Quality Board is also proposing to add a new Subsection R307-101-3 that will contain the date of the version of the CFR that is incorporated throughout Title R307. This amendment is part of an overall revision to rules related to updating the incorporation by reference throughout Title R307 (see separate filings on Rules R307-115, R307-170, R307-215, R307-221, R307-222, R307-223, R307-224, R307-310, R307-417, R307-801, and R307-840 in this issue). If requested, a public hearing will be held Wednesday, 12/19/2007 at 2:00 p.m. in the Main Conference Room of the Environmental Quality Building located at 150 N 1950 W in Salt Lake City. If no request for a public hearing is received by 12/17/2007, the hearing will be canceled. After 12/17/2007, you may go to http://www.airquality.utah.gov/Public-Interest/Public-Commen-Hearings/Pubrule.htm or call 801-536-4136 to determine if the public hearing has been canceled. A request for a public hearing may be submitted by electronic mail to mcarlile@utah.gov or by calling 801-536-4136. (DAR NOTE: The proposed amendment for Rule R307-115 is under DAR No. 30698; the proposed amendment for Section R307-170-7 is under DAR No. 30699; the proposed repeal of Rule R307-215 is under DAR No. 30700; the proposed amendment for Rule R307-221 is under DAR No. 30701; the proposed amendment for Rule R307-222 is under DAR No. 30702; the proposed amendment for Rule R307-223 is under DAR No. 30703; the proposed amendment for Section R307-224-2 is under DAR No. 30704; the proposed amendment for Section R307-310-2 is under DAR No. 30705; the proposed amendment for Rule R307-417 is under DAR No. 30706; the proposed amendment for Rule R307-801 is under DAR No. 30707; and the proposed amendment for Rule R307-840 is under DAR No. 30708 all in this issue, December 1, 2007, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: EPA revised the definition of "volatile organic compound" (VOC) to include the exemption of 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane. EPA has determined to exclude HFE-7300 from the definition of VOC on the basis that this

compound makes a negligible contribution to tropospheric ozone formation (see 72 FR 2193, January 18, 2007). The Utah Air Quality Board is also proposing to create a new Section R307-101-3 that will contain the date of the version of 40 CFR incorporated throughout the rules of the Board. This will allow the Board to change the date in one rule instead of changing each rule individually, and will decrease the administrative rulemaking paperwork. There may be cases where an earlier version of 40 CFR is appropriate, and in those cases, the rule will identify a specific version of 40 CFR rather than referring to the version referenced in Section R307-101-3. Individual rules will still identify the specific sections of 40 CFR that are included or excluded, and Section R307-101-3 will be used solely to identify the most recent version of 40 CFR referenced in Title R307. Finally, the Utah Air Quality Board is proposing to update the definition of Acute Hazardous Air Pollutant, Carcinogenic Hazardous Air Pollutant, and Chronic Hazardous Air Pollutant to reference the 2007 version of the American Conference of Governmental Industrial Hygienists "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices".

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 51.100(s)(1), July 1, 2007

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Because these revisions do not create new requirements, no change in costs is expected for the state budget.

❖ LOCAL GOVERNMENTS: Because this revision does not create new requirements, no change in costs is expected for local governments.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: SMALL BUSINESSES: Because this revision does not create new requirements, no change in costs is expected for small businesses. OTHER PERSONS: Because this revision does not create new requirements, no change in costs is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this revision does not create new requirements, no change in costs is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment does not create new requirements. Therefore, no additional costs are expected. Richard W. Sprott, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@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 12/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2008

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

R307. Environmental Quality, Air Quality.
R307-101. General Requirements.
R307-101-2. Definitions.

Except where specified in individual rules, definitions in R307-101-2 are applicable to all rules adopted by the Air Quality Board.

"Actual Emissions" means the actual rate of emissions of a pollutant from an emissions unit determined as follows:

(1) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operations. The Executive Secretary shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(2) The Executive Secretary may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(3) For any emission unit, other than an electric utility steam generating unit specified in (4), which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

(4) For an electric utility steam generating unit (other than a new unit or the replacement of an existing unit) actual emissions of the unit following the physical or operational change shall equal the representative actual annual emissions of the unit, provided the source owner or operator maintains and submits to the executive secretary, on an annual basis for a period of 5 years from the date the unit resumes regular operation, information demonstrating that the physical or operational change did not result in an emissions increase. A longer period, not to exceed 10 years, may be required by the executive secretary if the executive secretary determines such a period to be more representative of normal source post-change operations.

"Acute Hazardous Air Pollutant" means any noncarcinogenic hazardous air pollutant for which a threshold limit value - ceiling (TLV-C) has been adopted by the American Conference of Governmental Industrial Hygienists (ACGIH) in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, [~~pages 15 - 72 (2000)~~](2007)."

"Air Contaminant" means any particulate matter or any gas, vapor, suspended solid or any combination of them, excluding steam and water vapors (Section 19-2-102(1)).

"Air Contaminant Source" means any and all sources of emission of air contaminants whether privately or publicly owned or operated (Section 19-2-102(2)).

"Air Pollution" means the presence in the ambient air of one or more air contaminants in such quantities and duration and under conditions and circumstances, as is or tends to be injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or use of property as determined by the standards, rules and regulations adopted by the Air Quality Board (Section 19-2-104).

"Allowable Emissions" means the emission rate of a source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the emission limitation established pursuant to R307-401-8.

"Ambient Air" means the surrounding or outside air (Section 19-2-102(4)).

"Appropriate Authority" means the governing body of any city, town or county.

"Atmosphere" means the air that envelops or surrounds the earth and includes all space outside of buildings, stacks or exterior ducts.

"Authorized Local Authority" means a city, county, city-county or district health department; a city, county or combination fire department; or other local agency duly designated by appropriate authority, with approval of the state Department of Health; and other lawfully adopted ordinances, codes or regulations not in conflict therewith.

"Board" means Air Quality Board. See Section 19-2-102(6)(a).

"Breakdown" means any malfunction or procedural error, to include but not limited to any malfunction or procedural error during start-up and shutdown, which will result in the inoperability or sudden loss of performance of the control equipment or process equipment causing emissions in excess of those allowed by approval order or Title R307.

"BTU" means British Thermal Unit, the quantity of heat necessary to raise the temperature of one pound of water one degree Fahrenheit.

"Calibration Drift" means the change in the instrument meter readout over a stated period of time of normal continuous operation when the VOC concentration at the time of measurement is the same known upscale value.

"Carbon Adsorption System" means a device containing adsorbent material (e.g., activated carbon, aluminum, silica gel), an inlet and outlet for exhaust gases, and a system for the proper disposal or reuse of all VOC adsorbed.

"Carcinogenic Hazardous Air Pollutant" means any hazardous air pollutant that is classified as a known human carcinogen (A1) or suspected human carcinogen (A2) by the American Conference of Governmental Industrial Hygienists (ACGIH) in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, [~~pages 15 - 72 (2000)~~](2007)."

"Chargeable Pollutant" means any regulated air pollutant except the following:

(1) Carbon monoxide;

(2) Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated or established by Title VI of the Act, Stratospheric Ozone Protection;

(3) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under Section 112(r) of the Act, Prevention of Accidental Releases.

"Chronic Hazardous Air Pollutant" means any noncarcinogenic hazardous air pollutant for which a threshold limit value - time weighted average (TLV-TWA) having no threshold limit value - ceiling (TLV-C) has been adopted by the American Conference of Governmental Industrial Hygienists (ACGIH) in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, [~~pages 15 - 72 (2000)~~](2007)."

"Clean Air Act" means federal Clean Air Act as amended in 1990.

"Clean Coal Technology" means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

"Clean Coal Technology Demonstration Project" means a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology," up to a total amount of $2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency. The Federal contribution for a qualifying project shall be at least 20 percent of the total cost of the demonstration project.

"Clearing Index" means an indicator of the predicted rate of clearance of ground level pollutants from a given area. This number is provided by the National Weather Service.

"Commence" as applied to construction of a major source or major modification means that the owner or operator has all necessary pre-construction approvals or permits and either has:

(1) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(2) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

"Compliance Schedule" means a schedule of events, by date, which will result in compliance with these regulations.

"Construction" means any physical change or change in the method of operation including fabrication, erection, installation, demolition, or modification of a source which would result in a change in actual emissions.

"Control Apparatus" means any device which prevents or controls the emission of any air contaminant directly or indirectly into the outdoor atmosphere.

"Department" means Utah State Department of Environmental Quality. See Section 19-1-103(1).

"Electric Utility Steam Generating Unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

"Emission" means the act of discharge into the atmosphere of an air contaminant or an effluent which contains or may contain an air contaminant; or the effluent so discharged into the atmosphere.

"Emissions Information" means, with reference to any source operation, equipment or control apparatus:

(1) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics related to air quality of any air contaminant which has been emitted by the source operation, equipment, or control apparatus;

(2) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any air contaminant which, under an applicable

standard or limitation, the source operation was authorized to emit (including, to the extent necessary for such purposes, a description of the manner or rate of operation of the source operation), or any combination of the foregoing; and

(3) A general description of the location and/or nature of the source operation to the extent necessary to identify the source operation and to distinguish it from other source operations (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source operation).

"Emission Limitation" means a requirement established by the Board or the Administrator, EPA, which limits the quantity, rate or concentration of emission of air pollutants on a continuous emission reduction including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction (Section 302(k)).

"Emissions Unit" means any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under the Clean Air Act.

"Enforceable" means all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within the State Implementation Plan and R307, any permit requirements established pursuant to 40 CFR 52.21 or R307-401.

"EPA" means Environmental Protection Agency.

"EPA Method 9" means 40 CFR Part 60, Appendix A, Method 9, "Visual Determination of Opacity of Emissions from Stationary Sources," and Alternate 1, "Determination of the opacity of emissions from stationary sources remotely by LIDAR."

"Executive Director" means the Executive Director of the Utah Department of Environmental Quality. See Section 19-1-103(2).

"Executive Secretary" means the Executive Secretary of the Board.

"Existing Installation" means an installation, construction of which began prior to the effective date of any regulation having application to it.

"Facility" means machinery, equipment, structures of any part or accessories thereof, installed or acquired for the primary purpose of controlling or disposing of air pollution. It does not include an air conditioner, fan or other similar device for the comfort of personnel.

"Fireplace" means all devices both masonry or factory built units (free standing fireplaces) with a hearth, fire chamber or similarly prepared device connected to a chimney which provides the operator with little control of combustion air, leaving its fire chamber fully or at least partially open to the room. Fireplaces include those devices with circulating systems, heat exchangers, or draft reducing doors with a net thermal efficiency of no greater than twenty percent and are used for aesthetic purposes.

"Fugitive Dust" means particulate, composed of soil and/or industrial particulates such as ash, coal, minerals, etc., which becomes airborne because of wind or mechanical disturbance of surfaces. Natural sources of dust and fugitive emissions are not fugitive dust within the meaning of this definition.

"Fugitive Emissions" means emissions from an installation or facility which are neither passed through an air cleaning device nor vented through a stack or could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"Garbage" means all putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food, including wastes attendant thereto.

"Gasoline" means any petroleum distillate, used as a fuel for internal combustion engines, having a Reid vapor pressure of 4 pounds or greater.

"Hazardous Air Pollutant (HAP)" means any pollutant listed by the EPA as a hazardous air pollutant in conformance with Section 112(b) of the Clean Air Act. A list of these pollutants is available at the Division of Air Quality.

"Household Waste" means any solid or liquid material normally generated by the family in a residence in the course of ordinary day-to-day living, including but not limited to garbage, paper products, rags, leaves and garden trash.

"Incinerator" means a combustion apparatus designed for high temperature operation in which solid, semisolid, liquid, or gaseous combustible wastes are ignited and burned efficiently and from which the solid and gaseous residues contain little or no combustible material.

"Installation" means a discrete process with identifiable emissions which may be part of a larger industrial plant. Pollution equipment shall not be considered a separate installation or installations.

"LPG" means liquified petroleum gas such as propane or butane.

"Maintenance Area" means an area that is subject to the provisions of a maintenance plan that is included in the Utah state implementation plan, and that has been redesignated by EPA from nonattainment to attainment of any National Ambient Air Quality Standard.

(a) The following areas are considered maintenance areas for ozone:

(i) Salt Lake County, effective August 18, 1997; and

(ii) Davis County, effective August 18, 1997.

(b) The following areas are considered maintenance areas for carbon monoxide:

(i) Salt Lake City, effective March 22, 1999;

(ii) Ogden City, effective May 8, 2001; and

(iii) Provo City, effective January 3, 2006.

(c) The following areas are considered maintenance areas for PM10:

(i) Salt Lake County, effective on the date that EPA approves the maintenance plan that was adopted by the Board on July 6, 2005; and

(ii) Utah County, effective on the date that EPA approves the maintenance plan that was adopted by the Board on July 6, 2005; and

(iii) Ogden City, effective on the date that EPA approves the maintenance plan that was adopted by the Board on July 6, 2005.

(d) The following area is considered a maintenance area for sulfur dioxide: all of Salt Lake County and the eastern portion of Tooele County above 5600 feet, effective on the date that EPA approves the maintenance plan that was adopted by the Board on January 5, 2005.

"Major Modification" means any physical change in or change in the method of operation of a major source that would result in a significant net emissions increase of any pollutant. A net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone. Within Salt Lake and Davis Counties or any nonattainment area for ozone, a net emissions increase that is significant for nitrogen oxides shall be considered significant for ozone. Within areas of nonattainment for PM10, a significant net emission increase for any PM10 precursor is also a significant net emission increase for PM10. A physical change or change in the method of operation shall not include:

(1) routine maintenance, repair and replacement;

(2) use of an alternative fuel or raw material by reason of an order under section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(3) use of an alternative fuel by reason of an order or rule under section 125 of the federal Clean Air Act;

(4) use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(5) use of an alternative fuel or raw material by a source:

(a) which the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any enforceable permit condition; or

(b) which the source is otherwise approved to use;

(6) an increase in the hours of operation or in the production rate unless such change would be prohibited under any enforceable permit condition;

(7) any change in ownership at a source

(8) the addition, replacement or use of a pollution control project at an existing electric utility steam generating unit, unless the executive secretary determines that such addition, replacement, or use renders the unit less environmentally beneficial, or except:

(a) when the executive secretary has reason to believe that the pollution control project would result in a significant net increase in representative actual annual emissions of any criteria pollutant over levels used for that source in the most recent air quality impact analysis in the area conducted for the purpose of Title I of the Clean Air Act, if any, and

(b) the executive secretary determines that the increase will cause or contribute to a violation of any national ambient air quality standard or PSD increment, or visibility limitation.

(9) the installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

(a) the Utah State Implementation Plan; and

(b) other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

"Major Source" means, to the extent provided by the federal Clean Air Act as applicable to R307:

(1) any stationary source of air pollutants which emits, or has the potential to emit, one hundred tons per year or more of any pollutant subject to regulation under the Clean Air Act; or

(a) any source located in a nonattainment area for carbon monoxide which emits, or has the potential to emit, carbon monoxide in the amounts outlined in Section 187 of the federal Clean Air Act with respect to the severity of the nonattainment area as outlined in Section 187 of the federal Clean Air Act; or

(b) any source located in Salt Lake or Davis Counties or in a nonattainment area for ozone which emits, or has the potential to emit, VOC or nitrogen oxides in the amounts outlined in Section 182 of the federal Clean Air Act with respect to the severity of the nonattainment area as outlined in Section 182 of the federal Clean Air Act; or

(c) any source located in a nonattainment area for PM10 which emits, or has the potential to emit, PM10 or any PM10 precursor in the amounts outlined in Section 189 of the federal Clean Air Act with respect to the severity of the nonattainment area as outlined in Section 189 of the federal Clean Air Act.

(2) any physical change that would occur at a source not qualifying under subpart 1 as a major source, if the change would constitute a major source by itself;

(3) the fugitive emissions and fugitive dust of a stationary source shall not be included in determining for any of the purposes of these R307 rules whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

(a) Coal cleaning plants (with thermal dryers);

(b) Kraft pulp mills;

(c) Portland cement plants;

(d) Primary zinc smelters;

(e) Iron and steel mills;

(f) Primary aluminum or reduction plants;

(g) Primary copper smelters;

(h) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(i) Hydrofluoric, sulfuric, or nitric acid plants;

(j) Petroleum refineries;

(k) Lime plants;

(l) Phosphate rock processing plants;

(m) Coke oven batteries;

(n) Sulfur recovery plants;

(o) Carbon black plants (furnace process);

(p) Primary lead smelters;

(q) Fuel conversion plants;

(r) Sintering plants;

(s) Secondary metal production plants;

(t) Chemical process plants;

(u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British Thermal Units per hour heat input;

(v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(w) Taconite ore processing plants;

(x) Glass fiber processing plants;

(y) Charcoal production plants;

(z) Fossil fuel-fired steam electric plants of more than 250 million British Thermal Units per hour heat input;

(aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the federal Clean Air Act.

"Modification" means any planned change in a source which results in a potential increase of emission.

"National Ambient Air Quality Standards (NAAQS)" means the allowable concentrations of air pollutants in the ambient air specified by the Federal Government (Title 40, Code of Federal Regulations, Part 50).

"Net Emissions Increase" means the amount by which the sum of the following exceeds zero:

(1) any increase in actual emissions from a particular physical change or change in method of operation at a source; and

(2) any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable. For purposes of determining a "net emissions increase":

(a) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date five years before construction on the particular change commences; and the date that the increase from the particular change occurs.

(b) An increase or decrease in actual emissions is creditable only if it has not been relied on in issuing a prior approval for the source which approval is in effect when the increase in actual emissions for the particular change occurs.

(c) An increase or decrease in actual emission of sulfur dioxide, nitrogen oxides or particulate matter which occurs before an applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available. With respect to particulate matter, only PM10 emissions will be used to evaluate this increase or decrease.

(d) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(e) A decrease in actual emissions is creditable only to the extent that:

(i) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) It is enforceable at and after the time that actual construction on the particular change begins; and

(iii) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(iv) It has not been relied on in issuing any permit under R307-401 nor has it been relied on in demonstrating attainment or reasonable further progress.

(f) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

"New Installation" means an installation, construction of which began after the effective date of any regulation having application to it.

"Nonattainment Area" means an area designated by the Environmental Protection Agency as nonattainment under Section 107, Clean Air Act for any National Ambient Air Quality Standard. The designations for Utah are listed in 40 CFR 81.345.

"Offset" means an amount of emission reduction, by a source, greater than the emission limitation imposed on such source by these regulations and/or the State Implementation Plan.

"Opacity" means the capacity to obstruct the transmission of light, expressed as percent.

"Open Burning" means any burning of combustible materials resulting in emission of products of combustion into ambient air without passage through a chimney or stack.

"Owner or Operator" means any person who owns, leases, controls, operates or supervises a facility, an emission source, or air pollution control equipment.

"PSD" Area means an area designated as attainment or unclassifiable under section 107(d)(1)(D) or (E) of the federal Clean Air Act.

"PM10" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by an EPA reference or equivalent method.

"PM10 Precursor" means any chemical compound or substance which, after it has been emitted into the atmosphere, undergoes chemical or physical changes that convert it into particulate matter, specifically PM10.

"Part 70 Source" means any source subject to the permitting requirements of R307-415.

"Person" means an individual, trust, firm, estate, company, corporation, partnership, association, state, state or federal agency or entity, municipality, commission, or political subdivision of a state. (Subsection 19-2-103(4)).

"Pollution Control Project" means any activity or project at an existing electric utility steam generating unit for purposes of reducing emissions from such unit. Such activities or projects are limited to:

(1) The installation of conventional or innovative pollution control technology, including but not limited to advanced flue gas desulfurization, sorbent injection for sulfur dioxide and nitrogen oxides controls and electrostatic precipitators;

(2) An activity or project to accommodate switching to a fuel which is less polluting than the fuel used prior to the activity or project, including, but not limited to natural gas or coal reburning, or the cofiring of natural gas and other fuels for the purpose of controlling emissions;

(3) A permanent clean coal technology demonstration project conducted under Title II, sec. 101(d) of the Further Continuing Appropriations Act of 1985 (sec. 5903(d) of title 42 of the United States Code), or subsequent appropriations, up to a total amount of $2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency; or

(4) A permanent clean coal technology demonstration project that constitutes a repowering project.

"Potential to Emit" means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

"Process Level" means the operation of a source, specific to the kind or type of fuel, input material, or mode of operation.

"Process Rate" means the quantity per unit of time of any raw material or process intermediate consumed, or product generated, through the use of any equipment, source operation, or control apparatus. For a stationary internal combustion unit or any other fuel burning equipment, this term may be expressed as the quantity of fuel burned per unit of time.

"Reactivation of a Very Clean Coal-Fired Electric Utility Steam Generating Unit" means any physical change or change in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation where the unit:

(1) Has not been in operation for the two-year period prior to the enactment of the Clean Air Act Amendments of 1990, and the emissions from such unit continue to be carried in the emission inventory at the time of enactment;

(2) Was equipped prior to shutdown with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85 percent and a removal efficiency for particulates of no less than 98 percent;

(3) Is equipped with low-NOx burners prior to the time of commencement of operations following reactivation; and

(4) Is otherwise in compliance with the requirements of the Clean Air Act.

"Reasonable Further Progress" means annual incremental reductions in emission of an air pollutant which are sufficient to provide for attainment of the NAAQS by the date identified in the State Implementation Plan.

"Refuse" means solid wastes, such as garbage and trash.

"Regulated air pollutant" means any of the following:

(a) Nitrogen oxides or any volatile organic compound;

(b) Any pollutant for which a national ambient air quality standard has been promulgated;

(c) Any pollutant that is subject to any standard promulgated under Section 111 of the Act, Standards of Performance for New Stationary Sources;

(d) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act, Stratospheric Ozone Protection;

(e) Any pollutant subject to a standard promulgated under Section 112, Hazardous Air Pollutants, or other requirements established under Section 112 of the Act, including Sections 112(g), (j), and (r) of the Act, including any of the following:

(i) Any pollutant subject to requirements under Section 112(j) of the Act, Equivalent Emission Limitation by Permit. If the Administrator fails to promulgate a standard by the date established pursuant to Section 112(e) of the Act, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to Section 112(e) of the Act;

(ii) Any pollutant for which the requirements of Section 112(g)(2) of the Act (Construction, Reconstruction and Modification) have been met, but only with respect to the individual source subject to Section 112(g)(2) requirement.

"Repowering" means replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the Administrator, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

(1) Repowering shall also include any oil and/or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.

(2) The executive secretary shall give expedited consideration to permit applications for any source that satisfies the requirements of this definition and is granted an extension under section 409 of the Clean Air Act.

"Representative Actual Annual Emissions" means the average rate, in tons per year, at which the source is projected to emit a pollutant for the two-year period after a physical change or change in the method of operation of unit, (or a different consecutive two-year period within 10 years after that change, where the executive secretary determines that such period is more representative of source operations), considering the effect any such change will have on increasing or decreasing the hourly emissions rate and on projected capacity utilization. In projecting future emissions the executive secretary shall:

(1) Consider all relevant information, including but not limited to, historical operational data, the company's own representations, filings with the State of Federal regulatory authorities, and compliance plans under title IV of the Clean Air Act; and

(2) Exclude, in calculating any increase in emissions that results from the particular physical change or change in the method of operation at an electric utility steam generating unit, that portion of the unit's emissions following the change that could have been accommodated during the representative baseline period and is attributable to an increase in projected capacity utilization at the unit that is unrelated to the particular change, including any increased utilization due to the rate of electricity demand growth for the utility system as a whole.

"Residence" means a dwelling in which people live, including all ancillary buildings.

"Residential Solid Fuel Burning" device means any residential burning device except a fireplace connected to a chimney that burns solid fuel and is capable of, and intended for use as a space heater, domestic water heater, or indoor cooking appliance, and has an air-to-fuel ratio less than 35-to-1 as determined by the test procedures prescribed in 40 CFR 60.534. It must also have a useable firebox volume of less than 6.10 cubic meters or 20 cubic feet, a minimum burn rate less than 5 kilograms per hour or 11 pounds per hour as determined by test procedures prescribed in 40 CFR 60.534, and weigh less than 800 kilograms or 362.9 pounds. Appliances that are described as prefabricated fireplaces and are designed to accommodate doors or other accessories that would create the air starved operating conditions of a residential solid fuel burning device shall be considered as such. Fireplaces are not included in this definition for solid fuel burning devices.

"Road" means any public or private road.

"Salvage Operation" means any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, including but not limited to metals, chemicals, shipping containers or drums.

"Secondary Emissions" means emissions which would occur as a result of the construction or operation of a major source or major modification, but do not come from the major source or major modification itself.

Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the source or modification which causes the secondary emissions. Secondary emissions include emissions from any off-site support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

Fugitive emissions and fugitive dust from the source or modification are not considered secondary emissions.

"Significant" means:

(1) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Carbon monoxide: 100 ton per year (tpy);

Nitrogen oxides: 40 tpy;

Sulfur dioxide: 40 tpy;

PM10: 15 tpy;

Particulate matter: 25 tpy;

Ozone: 40 tpy of volatile organic compounds;

Lead: 0.6 tpy.

"Solid Fuel" means wood, coal, and other similar organic material or combination of these materials.

"Solvent" means organic materials which are liquid at standard conditions (Standard Temperature and Pressure) and which are used as dissolvers, viscosity reducers, or cleaning agents.

"Source" means any structure, building, facility, or installation which emits or may emit any air pollutant subject to regulation under the Clean Air Act and which is located on one or more continuous or adjacent properties and which is under the control of the same person or persons under common control. A building, structure, facility, or installation means all of the pollutant-emitting activities which belong to the same industrial grouping. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the

same "Major Group" (i.e. which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (US Government Printing Office stock numbers 4101-0065 and 003-005-00176-0, respectively).

"Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

"Standards of Performance for New Stationary Sources" means the Federally established requirements for performance and record keeping (Title 40 Code of Federal Regulations, Part 60).

"State" means Utah State.

"Temporary" means not more than 180 calendar days.

"Temporary Clean Coal Technology Demonstration Project" means a clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the Utah State Implementation Plan and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

"Threshold Limit Value - Ceiling (TLV-C)" means the airborne concentration of a substance which may not be exceeded, as adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, pages 15 - 72 (2000)."

"Threshold Limit Value - Time Weighted Average (TLV-TWA)" means the time-weighted airborne concentration of a substance adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, pages 15 - 72 (2000)."

"Total Suspended Particulate (TSP)" means minute separate particles of matter, collected by high volume sampler.

"Toxic Screening Level" means an ambient concentration of an air contaminant equal to a threshold limit value - ceiling (TLV- C) or threshold limit value -time weighted average (TLV-TWA) divided by a safety factor.

"Trash" means solids not considered to be highly flammable or explosive including, but not limited to clothing, rags, leather, plastic, rubber, floor coverings, excelsior, tree leaves, yard trimmings and other similar materials.

"Volatile Organic Compound (VOC)" means VOC as defined in 40 CFR 51.100(s)(1), [~~as effective on July 1, 2004, and amended on November 29, 2004, by 69 FR 69290 and 69 FR 69298~~]effective as of the date referenced in R307-101-3, is hereby adopted and incorporated by reference.

"Waste" means all solid, liquid or gaseous material, including, but not limited to, garbage, trash, household refuse, construction or demolition debris, or other refuse including that resulting from the prosecution of any business, trade or industry.

"Zero Drift" means the change in the instrument meter readout over a stated period of time of normal continuous operation when the VOC concentration at the time of measurement is zero.

R307-101-3. Version of Code of Federal Regulations Incorporated by Reference.

Except as specifically identified in an individual rule, the version of the Code of Federal Regulations (CFR) incorporated throughout R307 is dated July 1, 2007.

KEY: air pollution, definitions
Date of Enactment or Last Substantive Amendment: [~~March 9, 2007~~]2008
Notice of Continuation: March 15, 2007
Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)

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Environmental Quality, Air Quality
R307-115
General Conformity

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 30698
FILED: 11/08/2007, 15:28

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the change is to remove the specific version date for the Code of Federal Regulations (CFR) found in Rule R307-115. The rule will now default to Section R307-101-3 that establishes the version of the CFR that is incorporated throughout Title R307. In a separate rulemaking, the version of the CFR reference in Section R307-101-3 is being updated to the July 1, 2007, version. This amendment is part of an overall revision to rules that will streamline the process of updating the incorporation by reference of the CFR throughout Title R307 (see separate filings on Rules R307-101, R307-170, R307-215, R307-221, R307-222, R307-223, R307-224, R307-310, R307-417, R307-801, and R307-840 in this issue). If requested, a public hearing will be held Wednesday, 12/19/2007 at 2:00 p.m. in the Main Conference Room of the Environmental Quality Building located at 150 N 1950 W in Salt Lake City. If no request for a public hearing is received by 12/17/2007, the hearing will be canceled. After 12/17/2007, you may go to http://www.airquality.utah.gov/Public-Interest/Public-Commen-Hearings/Pubrule.htm or call 801-536-4136 to determine if the public hearing has been canceled. A request for a public hearing may be submitted by electronic mail to mcarlile@utah.gov or by calling 801-536-4136. (DAR NOTE: The proposed amendment for Rule R307-101 is DAR No. 30697; the proposed amendment for Section R307-170-7 is under DAR No. 30699; the proposed repeal of Rule R307-215 is under DAR No. 30700; the proposed amendment for Rule R307-221 is under DAR No. 30701; the proposed amendment for Rule R307-222 is under DAR No. 30702; the proposed amendment for Rule R307-223 is under DAR No. 30703; the proposed amendment for Section R307-224-2 is under DAR No. 30704; the proposed amendment for Section R307-310-2 is under DAR No. 30705; the proposed amendment for Rule R307-417 is under DAR No. 30706; the proposed amendment for Rule R307-801 is under DAR No. 30707; and the proposed amendment for Rule R307-840 is under DAR No. 30708 all in this issue, December 1, 2007, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: The General Conformity program in 40 CFR Part 93, Subpart B is incorporated by reference into Rule R307-115. The intent of the general conformity requirement is to prevent the air quality impacts of federal actions from causing or contributing to a violation of

the National Ambient Air Quality Standards (NAAQS) or interfering with the purpose of a State Implementation Plan (SIP). This amendment removes the specific version date for the CFR in Rule R307-115. The rule will now default to Section R307-101-3 that establishes the version of the CFR that is incorporated throughout Title R307. In a separate rulemaking, the version of the CFR reference in Section R307-101-3 is being updated to the July 1, 2007, version. The following change to 40 CFR Part 93 will be included as the result of the change in Section R307-101-3. The EPA added de minimis emission levels for PM2.5 to the general conformity requirements (see 71 FR 40427 July 17, 2006).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR Part 93, Subpart B, July 1, 2007

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: No costs or savings are expected because the cost of Air Quality's reviews are covered by fees paid by applicants.

❖ LOCAL GOVERNMENTS: No adverse economic impact is expected to occur as a result of updating the incorporation by reference of the CFR because these provisions are already federally enforceable.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: SMALL BUSINESSES: No adverse economic impact is expected to occur as a result of updating the incorporation by reference of the CFR because these provisions are already federally enforceable. OTHER PERSONS: No adverse economic impact is expected to occur as a result of updating the incorporation by reference of the CFR, because these provisions are already federally enforceable.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No adverse economic impact is expected to occur as a result of updating the incorporation by reference of the CFR because these provisions are already federally enforceable.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No adverse economic impact is expected to occur as a result of updating the incorporation by reference of the Code of Federal Regulations, because these provisions are already federally enforceable. Richard W. Sprott, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@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 12/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2008

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

R307. Environmental Quality, Air Quality.
R307-115. General Conformity.
R307-115-1. Determining Conformity.

The provisions of 40 CFR Part 93, Subpart B, Determining Conformity of General Federal Actions to State or Federal Implementation Plans, [~~published at 58 FR 63214 on November 30, 1993, and effective on January 31, 1994~~]effective as of the date referenced in R307-101-3, are hereby incorporated by reference into these rules.

KEY: environmental protection, air pollution, general conformity[~~*~~]
Date of Enactment or Last Substantive Amendment: [~~September 15, 1998~~]2008
Notice of Continuation: July 7, 2005
Authorizing, and Implemented or Interpreted Law: 19-2-104

Environmental Quality, Air Quality
R307-170-7
Performance Specification Audits

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 30699
FILED: 11/08/2007, 15:28

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the change is to remove the specific version date for the Code of Federal Regulations (CFR) found in Section R307-170-7. The rule will now default to Section R307-101-3 that establishes the version of the CFR that is incorporated throughout Title R307. In a separate rulemaking, the version of the CFR reference in Section R307-101-3 is being updated to the July 1, 2007 version. This amendment is part of an overall revision to that will streamline the process of updating the incorporation by reference of the CFR throughout Title R307 (see separate filings on Rules R307-101, R307-115, R307-215, R307-221, R307-222, R307-223, R307-224, R307-310, R307-417, R307-801, and R307-840 in this issue). If requested, a public hearing will be held Wednesday, 12/19/2007 at 2:00 p.m. in the Main Conference Room of the Environmental Quality Building located at 150 N 1950 W in Salt Lake City. If no request for a public hearing is received by 12/17/2007, the hearing will be canceled. After 12/17/2007, you may go to http://www.airquality.utah.gov/Public-Interest/Public-Commen-Hearings/Pubrule.htm or call 801-

536-4136 to determine if the public hearing has been canceled. A request for a public hearing may be submitted by electronic mail to mcarlile@utah.gov or by calling 801-536-4136. (DAR NOTE: The proposed amendment for Rule R307-101 is DAR No. 30697; the proposed amendment for Rule R307-115 is under DAR No. 30698; the proposed repeal of Rule R307-215 is under DAR No. 30700; the proposed amendment for Rule R307-221 is under DAR No. 30701; the proposed amendment for Rule R307-222 is under DAR No. 30702; the proposed amendment for Rule R307-223 is under DAR No. 30703; the proposed amendment for Section R307-224-2 is under DAR No. 30704; the proposed amendment for Section R307-310-2 is under DAR No. 30705; the proposed amendment for Rule R307-417 is under DAR No. 30706; the proposed amendment for Rule R307-801 is under DAR No. 30707; and the proposed amendment for Rule R307-840 is under DAR No. 30708 all in this issue, December 1, 2007, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: This amendment removes the specific version date for the CFR in R307-170-7. The rule will now default to R307-101-3 that establishes the version of the CFR that is incorporated throughout R307. In a separate rulemaking, the version of the CFR reference in R307-101-3 is being updated to the July 1, 2007 version.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-101, Subsections 19-2-104(1)(c) and 19-2-115(3)(b), and 40 CFR 60, July 1, 2007

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Because these revisions do not create new requirements, no change in costs is expected for the state budget.

❖ LOCAL GOVERNMENTS: Because these revisions do not create new requirements, no change in costs is expected for local governments.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Because these revisions do not create new requirements, no change in costs is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment does not change current requirements; therefore, no change in costs is expected.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment does not create new requirements. Therefore, no additional costs are expected. Richard W. Sprott, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@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 12/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2008

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

R307. Environmental Quality, Air Quality.
R307-170. Continuous Emission Monitoring Program.
R307-170-7. Performance Specification Audits.

(1) Quarterly Audits.

Unless otherwise stipulated for sources subject to the Acid Rain Provisions of the Clean Air Act in 40 CFR Part 75 CEM, Appendix A, Section 6.2, [~~as in effect on July 1, 2005~~]effective as of the date referenced in R307-101-3, each continuous emissions monitoring system shall be audited at least once each calendar quarter. Successive quarterly audits shall be conducted at least two months apart. A relative accuracy test audit shall be conducted at least once every four calendar quarters as described in the applicable performance specification of 40 CFR 60, Appendix B.

(a) Relative accuracy shall be determined in units of the applicable emission limit.

(b) An alternative relative accuracy test (cylinder gas audit or relative accuracy audit) may be conducted in three of the four calendar quarters in place of conducting a relative accuracy test audit, but in no more than three quarters in succession.

(c) Each range of a dual range monitor shall be audited using an alternative relative accuracy audit procedure.

(d) Minor deviations from the reference method test must be submitted to the executive secretary for approval.

(e) Performance specification tests and audits shall be conducted so that the entire continuous monitoring system is concurrently tested.

(2) Notification.

The source shall notify the executive secretary of its intention to conduct a relative accuracy test audit by submitting a pretest protocol or by scheduling a pretest conference if directed to do so by the executive secretary. Each source shall notify the executive secretary no less than 45 days prior to testing.

(3) Audit Procedure.

A source may stop a relative accuracy test audit before the commencement of the fourth run to perform repairs or adjustments on the continuous emissions monitoring system. If the audit is stopped to make repairs or adjustments, the audit must be started again from the beginning. If the fourth test run is started, testing shall be conducted until the completion of the ninth acceptable test run or the source may declare the monitor out-of-control and stop the test. If the system does not meet its applicable relative accuracy performance specification outlined in 40 CFR 60, Appendix B, its data may not be used in determining emissions rates until the system is successfully recertified.

(4) Performance Specification Tests.

(a) Except as listed in (b) below, all reference method testing equipment shall be totally independent of the continuous emissions monitoring system equipment undergoing a performance specification test.

(b) Reference method tests conducted on fuel gas lines, vapor recovery units, or other equipment as approved by the executive secretary may use a common probe, when the reference method sample line ties into the continuous emission monitor's probe or sample line as close to the probe inlet as possible.

(5) Submittal of Audit Results.

The source shall submit all relative accuracy performance specification test reports to the executive secretary no later than 60 days after completion of the test.

(a) Test reports shall include all raw reference method calibration data, raw reference method emission data with date and time stamps, and raw source continuous monitoring data with date and time stamps. All data shall be reported in concentration and units of the applicable emission limit.

(b) Relative accuracy performance specification test or audit reports shall include the company name, plant manager's name, mailing address, phone number, environmental contact's name, the monitor manufacturer, the model and serial number, the monitor range, and its location.

(6) Daily Drift Test.

Each source operating a continuous monitoring system shall conduct a daily zero and span calibration drift test as required in 40 CFR 60.13(d). The zero and span drifts shall be determined by using raw continuous monitoring system responses to a known value of the reference standard. Computer enhancements may be used to correct continuous monitoring system emission data that has been altered by monitor drift, but may not be used to determine daily zero and span drift.

(a) A monitor used for compliance that fails the daily calibration drift test as outlined in 40 CFR 60 Appendix F, Subpart 4, shall be declared out-of-control, and the out-of-control period shall be documented in the state electronic data report. The source shall make corrective adjustments to the system promptly. Continuous emission monitoring system data collected during the out-of-control period may not be used for monitor availability.

(b) Each source operating a continuous monitoring system that exceeds the calibration drift limit as outlined in 40 CFR 60 and the applicable performance specification shall make corrective adjustments promptly.

KEY: air pollution, monitoring, continuous monitoring
Date of Enactment or Last Substantive Amendment: [~~January 5, 2006~~]2008
Notice of Continuation: November 3, 2005
Authorizing, and Implemented or Interpreted Law: 19-2-101; 19-2-104(1)(c); 19-2-115(3)(b); 40 CFR 60

♦ ♦

Environmental Quality, Air Quality
R307-215
Acid Rain Requirements

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 30700
FILED: 11/08/2007, 15:29

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the change is to move the incorporation by reference of 40 Code of Federal Regulations (CFR) Part 76 in Rule R307-215 to Rule R307-417, so that all rules that deal with the Acid Rain program are in one rule (see separate filing on Rule R307-417 in this issue). This amendment is part of an overall revision to rules that will streamline the process of updating the incorporation by reference of the CFR throughout Title R307 (see separate filings on Rules R307-101, R307-115, R307-170, R307-221, R307-222, R307-223, R307-224, R307-310, R307-417, R307-801, and R307-840 in this issue). If requested, a public hearing will be held Wednesday, 12/19/2007 at 2:00 p.m. in the Main Conference Room of the Environmental Quality Building located at 150 N 1950 W in Salt Lake City. If no request for a public hearing is received by 12/17/2007, the hearing will be canceled. After 12/17/2007, you may go to http://www.airquality.utah.gov/Public-Interest/Public-Commen-Hearings/Pubrule.htm or call 801-536-4136 to determine if the public hearing has been canceled. A request for a public hearing may be submitted by electronic mail to mcarlile@utah.gov or by calling 801-536-4136. (DAR NOTE: The proposed amendment for Rule R307-101 is DAR No. 30697; the proposed amendment for Rule R307-115 is under DAR No. 30698; the proposed amendment for Section R307-170-7 is under DAR No. 30699; the proposed amendment for Rule R307-221 is under DAR No. 30701; the proposed amendment for Rule R307-222 is under DAR No. 30702; the proposed amendment for Rule R307-223 is under DAR No. 30703; the proposed amendment for Section R307-224-2 is under DAR No. 30704; the proposed amendment for Section R307-310-2 is under DAR No. 30705; the proposed amendment for Rule R307-417 is under DAR No. 30706; the proposed amendment for Rule R307-801 is under DAR No. 30707; and the proposed amendment for Rule R307-840 is under DAR No. 30708 all in this issue, December 1, 2007, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: The Utah Air Quality Board is proposing to move the incorporation by reference of 40 CFR Part 76 in Rule R307-215 to Rule R307-417, so that all rules that deal with the Acid Rain program are in one rule. This rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: No costs or savings are expected because the cost of Air Quality's reviews are covered by fees paid by applicants.

❖ LOCAL GOVERNMENTS: No adverse economic impact is expected to occur, because these provisions will be adopted under another rule.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: SMALL BUSINESSES: No adverse economic impact is expected to occur, because these provisions will be adopted under another rule. OTHER PERSONS: No adverse economic impact is expected to occur, because these provisions will be adopted under another rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No adverse economic impact is expected to occur, because these provisions will be adopted under another rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No adverse economic impact is expected to occur, because these provisions will be adopted under another rule. Richard W. Sprott, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@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 12/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2008

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

R307. Environmental Quality, Air Quality.
[~~R307-215. Emission Standards: Acid Rain Requirements.~~
~~R307-215-1. Part 76 Requirements.~~

~~The provisions of 40 CFR Part 76, as in effect on December 19, 1996, for purposes of implementing an acid rain program that meets the requirements of Title IV of the Clean Air Act, are incorporated into these rules by reference. The term "permitting authority" shall mean the executive secretary of the Air Quality Board, and the term "Administrator" shall mean the Administrator of the Environmental Protection Agency. If the provisions or requirements of 40 CFR Part 76 conflict with or are not included in R307-415, Operating Permit Requirements, provisions and requirements of 40 CFR Part 76 shall apply and take precedence.~~

~~KEY: acid rain, air quality, permitting authority*, operating permits*~~
~~Date of Enactment or Last Substantive Amendment: September 15, 1998~~
~~Notice of Continuation: June 8, 2004~~
~~Authorizing, and Implemented or Interpreted Law: 19-2-101; 19-2-104(3)(q)~~]

♦ ♦

Environmental Quality, Air Quality
R307-221
Emission Standards: Emission Controls for Existing Municipal Solid Waste Landfills

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 30701
FILED: 11/08/2007, 15:29

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the change is to remove the specific version date for the Code of Federal Regulations (CFR) found in Rule R307-221. The rule will now default to Section R307-101-3 that establishes the version of the CFR that is incorporated throughout R307. In a separate rulemaking, the version of the CFR referenced in Section R307-101-3 is being updated to the July 1, 2007, version. This amendment is part of an overall revision to rules that will streamline the process of updating the incorporation by reference of the CFR throughout Title R307 (see separate filings on Rules R307-101, R307-115, R307-170, R307-215, R307-222, R307-223, R307-224, R307-310, R307-417, R307-801, and R307-840 in this issue). If requested, a public hearing will be held Wednesday, 12/19/2007 at 2:00 p.m. in the Main Conference Room of the Environmental Quality Building located at 150 N 1950 W in Salt Lake City. If no request for a public hearing is received by 12/17/2007, the hearing will be canceled. After 12/17/2007, you may go to http://www.airquality.utah.gov/Public-Interest/Public-Commen-Hearings/Pubrule.htm or call 801-536-4136 to determine if the public hearing has been canceled. A request for a public hearing may be submitted by electronic mail to mcarlile@utah.gov or by calling 801-536-4136. (DAR NOTE: The proposed amendment for Rule R307-101 is DAR No. 30697; the proposed amendment for Rule R307-115 is under DAR No. 30698; the proposed amendment for Section R307-170-7 is under DAR No. 30699; the proposed repeal of Rule R307-215 is under DAR No. 30700; the proposed amendment for Rule R307-222 is under DAR No. 30702; the proposed amendment for Rule R307-223 is under DAR No. 30703; the proposed amendment for Section R307-224-2 is under DAR No. 30704; the proposed amendment for Section R307-310-2 is under DAR No. 30705; the proposed amendment for Rule R307-417 is under DAR No. 30706; the proposed amendment for Rule R307-801 is under DAR No. 30707; and the proposed amendment for Rule R307-840 is under DAR No. 30708 all in this issue, December 1, 2007, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: This amendment removes the specific version date for the CFR. The rule will now default to Section R307-101-3 that establishes the version of the CFR that is incorporated throughout Title R307. In a separate rulemaking, the version of the CFR referenced in Section R307-101-3 is being updated to the July 1, 2007, version. The following changes to 40 CFR Part 60.751, 40 CFR 60.752 through 60.759, including Appendix A, and 40 CFR Part 60.18 will be included as the result of the change in Section R307-101-3. 06/16/1998 (63 FR 32751) In this revision to the CFR, EPA made several changes throughout 40 CFR Part 60 to clarify the requirements of the designated facility plan for Municipal Solid Waste Landfills and did not change the overall approach of the program. The only substantive change was the addition of the methane generation rate constant (k) for geographical areas with low precipitation found in Section 60.754(a)(1); however, we had already included this in our plan. The following is a detailed summary of these changes: 1) DEFINITIONS. A definition of "modification" is being added. The definition of "design capacity" is being amended to clarify that the design capacity is determined by the most recent permit issued by the state, local, or tribal agency responsible for regulating the landfill plus any in-place waste not accounted for in that permit. The phrase "construction or operating permit" has also been deleted and substituted with the word "permit". The definition of "closed landfill" and wording in section 60.752(b) are being revised to delete references to section 258.60. This reference is not appropriate for all landfills because some landfills closed prior to the October 1993 effective date of part 258 and are not subject to part 258. Section 60.752(b)(2)(v)(A) is being revised for clarification to refer to the definition of "closed landfill" in section 60.751 instead of the requirements of section 258.60. The definition of "interior well" is being revised to clarify that an interior well is located inside the perimeter of the landfilled waste. The definition of "radii of influence" is being added parenthetically in section 60.759(a)(3)(ii) for clarification. This definition makes it clear that the radii of influence is the distance from the well center to a point in the landfill where the pressure gradient applied by the blower or compressor approaches zero; 2) DESIGNATION OF AFFECTED FACILITY. Section 60.750(a) of subpart WWW is being revised to clarify which landfills are subject to the new source performance standards (NSPS). The words "or began accepting waste" have been deleted. A definition for "modification" is being added to subpart WWW, and "reconstruction" is described in section 60.15 of the NSPS General Provisions. Section 60.750(b) of subpart WWW is being revised to clarify that authority for test methods are retained by the Administrator and shall not be transferred to the state. The wording "or" in several places in section 60.752 has been changed to "and" to clarify that if a landfill design capacity is less than either 2.5 million Mg or 2.5 million cubic meters, the landfill is exempt from all provisions except the design capacity report; whereas if the capacity is equal to or greater than 2.5 million Mg and 2.5 million cubic meters, the additional requirements of the rule apply; 3) COMPLIANCE DATES. The compliance time in section 60.752(b)(2)(ii) is being revised to make it clear that landfills have 30 months to install a collection and control system once the landfill becomes affected (i.e., the annual report shows nonmethane organic compounds (NMOC) emissions equal to or greater than 50 Mg/yr). Section 60.755(b) is being revised to clarify that an affected landfill must install each well no later than 60 days after the date on which the initial solid waste has been in place (1) for five years or more if the area is active or (2) two years or more if the area is closed or at final grade. The only change is to specify "no later than 60 days after" instead of "within 60 days"; 4) CLARIFICATION OF TITLE V PERMITTING REQUIREMENTS. The paragraphs on part 70 permitting requirements are being revised to refer to both parts 70 and 71. Sentences have been added to section 60.752 and section 60.32c(c) to clarify the date the landfill becomes subject to title V. The permit provisions originally included as sentences within paragraphs (a) and (b) of section 60.752 have been moved to separate paragraphs (c) and (d) so that the detailed permit provisions are in one location. The wording has also been revised to clarify that landfills smaller than 2.5 million Mg or 2.5 million cubic meters do not require a part 70 or part 71 operating permit unless they are subject to part 70 or part 71 for some other reason. Section 60.752(d) (formerly the last sentence in section 60.752(b)) is being revised. The phrase "if the landfill is not otherwise subject to the requirements of either part 70 or 71" has been added. Subpart Cc is being amended by adding paragraphs (c) and (d) to section 60.32c. These paragraphs, which cover when existing Municipal Solid Waste (MSW) landfills require part 70 or 71 operating permits, were excluded from the promulgated emission guidelines through an oversight. Part 70 permit provisions were included in the NSPS, but the Emission Guidelines inadvertently did not reference this section of the NSPS; 5) EQUATIONS. Section 60.754(a)(1) is being revised to clarify that both the equation in section 60.754(a)(1)(i) and the equation in section 60.754(a)(1)(ii) may be used when the actual year-to-year solid waste acceptance rate is known for only part of the life of the landfill. This is the technically correct way to calculate emissions and was the intent of the rule. Section 60.754(a)(1) is being amended by the addition of the methane generation rate constant (k) for geographical areas with low precipitation. A k value of 0.02 per year is provided for the tier 1 calculation for landfills located in geographical areas with a 30-year annual average precipitation of less than 25 inches, as measured at the nearest representative official meteorologic site. Sections 60.754(a)(1)(i) and (ii) are also being revised to clarify that only documentation of the nature and amount of nondegradable waste needs to be maintained when subtracting the mass of nondegradable waste from the total mass of waste when calculating the NMOC emission rate. The previous language specified that the documentation provisions of section 60.758(d)(2) were to be followed; however, these provisions are related to segregated areas within the landfill excluded from collection pursuant to section 60.759(a)(3)(i) or (ii) because asbestos or other nondegradable wastes were disposed of in those areas or because the area is nonproductive. For the purposes of estimating emissions, only documentation of the nature and amount of nondegradable waste needs to be maintained to justify the subtraction of the mass of nondegradable waste; 6) TEST METHODS AND PROCEDURES. Section 60.754(a)(4)(ii) is revised to clarify that the site-specific methane generation rate constant is calculated only once and

that this value is to be used in all subsequent annual NMOC emission rate calculations. Section 60.752(b)(2)(iii)(B) is being revised to clarify that the initial performance test required under section 60.8 must be completed no later than 180 days after the initial startup of the approved control system. The promulgated regulation already required under section 60.757(f) that the initial performance test report must be submitted within 180 days of start-up of the collection system. This is being reiterated in section 60.752(b)(2)(iii)(B) for clarification. Section 60.759(a)(3)(ii), which required the use of the values of k and concentration of nonmethane organic compounds (CNMOC) determined by field testing, if performed to determine the NMOC emission rate or radii of influence, is being revised to also refer to alternative means for determining k or CNMOC allowed by section 60.754(a)(5). The reference to using Lo values from testing is deleted because it was incorrect; 7) PREVENTION OF SIGNIFICANT DETERMINATION. Section 60.754(c) is being revised to clarify that the intent of this provision was to establish the method by which prevention of significant deterioration determinations should be made, not to require a prevention of significant deterioration determination; 8) MONITORING. Section 60.756(a) is being revised to clarify that a temperature measuring device does not need to be permanently installed at each wellhead. Section 60.756(b)(2) is also being revised to clarify that the device for monitoring gas flow need only record the flow or bypass, not necessarily measure the rate at which gas is flowing to the control device; 9) COMPLIANCE PROVISIONS. Section 60.755(a)(3) is being revised to allow an alternative time line to be proposed for correcting an exceedance in collection header pressure at each well. Consistent with section 60.755(c)(4)(v), a sentence is being added to sections 60.755(a)(3) and 60.755(a)(5) to allow an alternate time line to be proposed to the Administrator for correcting an exceedance. This revision makes the sections consistent. Section 60.755(c)(1) is being revised slightly to indicate that surface monitoring of methane shall be performed along the entire perimeter of the collection area and along a pattern that traverses the landfill at 30-meter intervals. This change makes the wording consistent with other sections of the rule (e.g., section 60.753(d)); 10) RECORDKEEPING AND REPORTING. Sections 60.757(a)(1) and (b)(1)(i) are being revised to clarify that subject landfills that commenced construction, modification, or reconstruction after 05/30/1991 (date of proposal) but before the date of promulgation had until 06/10/1996 (90 days from the promulgation date) to submit an initial design capacity report and an initial NMOC emission rate report to the Administrator. Also paragraphs (a)(1)(i) and (ii) in the promulgated rule were somewhat repetitive and contradictory. Paragraph (a)(1)(iii) reflected an unrealistic scenario in that this date would always occur later than the date in paragraphs (a)(1)(i) and (ii). For this reason, the previous paragraph (a)(1)(iii) was unnecessary and confusing. Therefore, that paragraph has been deleted, and paragraphs (a)(1)(i) and (ii) have been revised to state that the report is due on June 10, 1996 or within 90 days after the date of commencement of construction, modification, or reconstruction, depending on when the construction, modification, or reconstruction commenced. The wording of section 60.757(a)(2)(ii) is being revised to require calculation of design capacity submitted as part of the design capacity report to include "relevant parameters" rather than the specific list of parameters in the promulgated rule. Some of the previously listed parameters (e.g., compaction practices) would not apply to landfills that calculate design capacity on a volumetric rather than mass basis. Other parameters that were not listed will be needed to perform the calculation in some cases. The wording of section 60.757(a)(3), which requires amended design capacity reports, is being revised for clarity and consistency with the definitions of modification and design capacity discussed under I.A. It also clarifies that a report is required only if capacity increases above 2.5 million Mg and 2.5 million cubic meters. Several paragraphs in section 60.758 are being revised to clarify that the recordkeeping requirements in paragraphs (b), (c), (d), and (e) do not apply if an alternative to the operational standards, test methods, procedures, compliance measures, monitoring, or reporting provisions has been submitted with the design plan and approved by the Administrator; 11) CROSS-REFERENCING AND TYPOGRAPHICAL ERRORS. Errors in cross-referencing one section to another within subpart WWW are being corrected. Typographical errors are also being corrected; and 12) CORRECTIONS TO PROMULGATION PREAMBLE. Tables 3 and 5 in the promulgation preamble contained typographical errors. The units for the small size cutoff (column 1) are stated to be in millions of megagrams (millions Mg); however, the values presented are actually in megagrams. 04/10/2000 (65 FR 18908) EPA corrected several typographical and formatting errors throughout Part 60. 754 through 759. 10/17/2000 (65 FR 61778) A revision was made to Section 6.6 of Method 21 of Part 60 to clarify the VOC monitoring instrument specifications. The requirement for the instrument to be intrinsically safe for Classes 1 and 2, Division 1 conditions has been amended to require it to be intrinsically safe for Class 1 and/or Class 2, Division 1 conditions, as appropriate. The performance test provisions of section 60.754(d) for determining control device efficiency when combusting landfill gas were amended to allow the use of Method 25 as an alternative to Methods 18 and 25C. The tester has the option of using either Method 18, 25, or 25C in this case. These amendments were not published in the proposed rule. 09/21/2006 (71 FR 55127) Municipal Solid Waste Landfills (Subpart WWW). In section 60.752(b)(2)(iii)(A) of the municipal solid waste landfill NSPS, open flares are required to comply with the general flare provisions of section 60.18. This amendment makes Method 3C the required test method for methane and removes the requirement to measure hydrogen by the American Society of Testing and Materials D1946.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR Part 60.751, 40 CFR 60.752 through 60.759, including Appendix A, and 40 CFR Part 60.18, July 1, 2007

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Because these revisions do not create new requirements, no change in costs is expected for the state budget.

❖ LOCAL GOVERNMENTS: Because these revisions do not create new requirements, no change in costs is expected for local governments.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: SMALL BUSINESSES: Because these revisions do not create new requirements, no change in costs is expected for small businesses. OTHER PERSONS: Because these revisions do not create new requirements, no change in costs is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment does not change current requirements; therefore, no change in costs is expected.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment does not create new requirements. Therefore, no additional costs are expected. Richard W. Sprott, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@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 12/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2008

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

R307. Environmental Quality, Air Quality.
R307-221. Emission Standards: Emission Controls for Existing Municipal Solid Waste Landfills.
R307-221-2. Definitions and References.

Definitions found in 40 CFR Part 60.751, [~~effective March 12, 1996~~]effective as of the date referenced in R307-101-3, are adopted and incorporated by reference, with the exclusion of the definitions of closed landfill, design capacity, and NMOC. The following additional definitions apply to R307-221:

"Closed Landfill" means a landfill in which solid waste is no longer being placed, and in which no additional solid wastes will be placed. A landfill is considered closed after meeting the criteria specified in Subsection R315-301-2[~~(12)~~]13.

"Design Capacity" means the maximum amount of solid waste a landfill can accept, as specified in an operating permit issued under R307-415 or a solid waste permit issued under Rule R315-310.

"Modification" means an increase in the landfill design capacity through a physical or operational change, as reported in the initial Design Capacity Report.

"NMOC" means nonmethane organic compounds.

R307-221-3. Emission Restrictions.

(1) The requirements found in 40 CFR 60.752 through 60.759, including Appendix A, [~~effective March 12, 1996~~]effective as of date referenced in R307-101-3, are adopted and incorporated by reference, with the following exceptions and the substitutions listed in R307-221-3(2) through (5):

(a) Substitute "executive secretary" for all federal regulation references to "Administrator."

(b) Substitute "State of Utah" for all federal regulation references to "State, local or Tribal agency."

(c) Substitute "R307-221" for all references to "This subpart" or "this part."

(d) Substitute "40 CFR" for all references to "This title."

(e) Substitute "Title 19, Chapter 6" for all references to "RCRA" or the "Resource Conservation and Recovery Act," 42 U.S.C. 6921, et seq.

(f) Substitute "Rules R315-301 through 320" for all references to 40 CFR 258.

(2) Instead of 40 CFR 60.757(a)(1),substitute the following: The initial design capacity report must be submitted within 90 days after the date on which EPA approves the state plan incorporated by reference under R307-220-2.

(3) Instead of 40 CFR 60.757(a)(3), substitute the following: An amended design capacity report shall be submitted to the Executive Secretary providing notification of any increase in the design capacity of the landfill, whether the increase results from an increase in the permitted area or depth of the landfill, a change in the operating procedures, or any other means which results in an increase in the maximum design capacity of the landfill. The amended design capacity report shall be submitted within 90 days of the earliest of the following events:

(a) the issuance of an amended operating permit;

(b) submittal of application for a solid waste permit under R315-310; or

(c) the change in operating procedures which will result in an increase in design capacity.

(4) Instead of 40 CFR 60.757(b)(1)(i), substitute the following: The initial emission rate report for nonmethane organic compounds must be submitted within 90 days after EPA approval of the state plan incorporated by reference under R307-220-2.

(5) Instead of 40 CFR 60.752(b)(2)(ii)(B)(2), substitute the following: The liner shall be installed with liners on the bottom and all sides in all areas in which gas is to be collected, or as approved by the executive secretary. The liner shall meet the requirements of Subsection R315-303-[~~4~~]3(3).

R307-221-4. Control Device Specifications.

Control devices meeting the following requirements, shall be used to control collected municipal solid waste landfill emissions:

(1) an open flare designed and operated in accordance with the parameters established in Section 40 CFR Part 60.18, effective as of date referenced in R307-101-3, which is adopted and incorporated by reference into this rule; or

(2) a control system designed and operated to reduce nonmethane organic compounds by 98 weight percent; or

(3) an enclosed combustor designed and operated to reduce the outlet nonmethane organic compounds concentration to 20 parts per million as hexane by volume, dry basis at 3 percent oxygen, or less.

KEY: air pollution, municipal landfills[~~*~~]
Date of Enactment or Last Substantive Amendment: [~~January 7, 1999~~]2008
Notice of Continuation: March 15, 2007
Authorizing, and Implemented or Interpreted Law: 19-2-104

Environmental Quality, Air Quality
R307-222
Emission Standards: Existing Incinerators for Hospital, Medical, Infectious Waste

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 30702
FILED: 11/08/2007, 15:30

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the change is to remove the specific version date for the Code of Federal Regulations (CFR) found in Rule R307-222. The rule will now default to Section R307-101-3 that establishes the version of the CFR that is incorporated throughout Title R307. In a separate rulemaking, the version of the CFR referenced in Section R307-101-3 is being updated to the July 1, 2007, version. This amendment is part of an overall revision to rules that will streamline the process of updating the incorporation by reference of the CFR throughout Title R307 (see separate filings on Rules R307-101, R307-115, R307-170, R307-215, R307-221, R307-223, R307-224, R307-310, R307-417, R307-801, R307-840 in this issue). If requested, a public hearing will be held Wednesday, 12/19/2007 at 2:00 p.m. in the Main Conference Room of the Environmental Quality Building located at 150 N 1950 W in Salt Lake City. If no request for a public hearing is received by 12/17/2007, the hearing will be canceled. After 12/17/2007, you may go to http://www.airquality.utah.gov/Public-Interest/Public-Commen-Hearings/Pubrule.htm or call 801-536-4136 to determine if the public hearing has been canceled. A request for a public hearing may be submitted by electronic mail to mcarlile@utah.gov or by calling 801-536-4136. (DAR NOTE: The proposed amendment for Rule R307-101 is DAR No. 30697; the proposed amendment for Rule R307-115 is under DAR No. 30698; the proposed amendment for Section R307-170-7 is under DAR No. 30699; the proposed repeal of Rule R307-215 is under DAR No. 30700; the proposed amendment for Rule R307-221 is under DAR No. 30701; the proposed amendment for Rule R307-223 is under DAR No. 30703; the proposed amendment for Section R307-224-2 is under DAR No. 30704; the proposed amendment for Section R307-310-2 is under DAR No. 30705; the proposed amendment for Rule R307-417 is under DAR No. 30706; the proposed amendment for Rule R307-801 is under DAR No. 30707; and the proposed amendment for Rule R307-840 is under DAR No. 30708 all in this issue, December 1, 2007, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: This amendment removes the specific version date for the CFR in Rule R307-222. The rule will now default to Section R307-101-3 that establishes the version of the CFR that is incorporated throughout Title R307. In a separate rulemaking, the version of the CFR referenced in Section R307-101-3 is being updated to the July 1, 2007, version. The following change the incorporated materials will be included as the result of the change in Section R307-101-3. 10/17/2000 (65 FR 61778) The EPA added two additional reference methods ("3B" and "26A") to 40 CFR 60.56c. The Board is also proposing to remove Subsections R307-222-3(2) and (3) because these subsections are no longer needed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 60.31e; 40 CFR 60.58c(c) through (f); emissions limitations of Table 1 in 40 CFR Part 60, Subpart Ce, 40 CFR 60.57c; 40 CFR 60.56c excluding 56c(b)(12) and 56c(c)(3); emission limits of Table 2 in 40 CFR Part 60, Subpart Ce; 40 CFR 60.36e(a)(1) and (a)(2); 40 CFR 60.37e(b)(1) through (b)(5); 40 CFR 60.37e(d)(1) through (d)(3); and 40 CFR 60.38e(b)(1) and (b)(2), July 1, 2007

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: Because these revisions do not create new requirements, no change in costs is expected for the state budget.
❖ LOCAL GOVERNMENTS: Because these revisions do not create new requirements, no change in costs is expected for local governments.
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: SMALL BUSINESSES: Because these revisions do not create new requirements, no change in costs is expected for small businesses. OTHER PERSONS: Because these revisions do not create new requirements, no change in costs is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment does not change current requirements; therefore, no change in costs is expected.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment does not create new requirements. Therefore, no additional costs are expected. Richard W. Sprott, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W

SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@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 12/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2008

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

R307. Environmental Quality, Air Quality.
R307-222. Emission Standards: Existing Incinerators for Hospital, Medical, Infectious Waste.
R307-222-2. Definitions and References.

(1) The following definitions apply only to R307-222. Definitions found in 40 CFR 60.31e, [~~effective November 14, 1997~~]effective as of the date referenced in R307-101-3, and 40 CFR 60.51c, [~~effective March 16, 1998~~]effective as of the date referenced in R307-101-3, are adopted and incorporated by reference, with the following substitutions.

(a) Substitute "executive secretary" for all federal regulation references to "Administrator."

(b) Substitute "State of Utah" for all federal regulation references to "State agency" or "State regulatory agency."

(c) Substitute "Rule R307-222" for all references to "this subpart."

(d) Substitute "40 CFR Part 60" for all references to "this part."

(e) Substitute "40 CFR" for all references to "This title."

R307-222-3. All Incinerators.

[~~(1)~~]Each incinerator subject to R307-222 must comply with the requirements of 40 CFR 60.52c(b) for emission limits, 40 CFR 60.53c for operator training and qualification, 40 CFR 60.55c for a waste management plan, 40 CFR 60.58c(b) excluding (b)(2)(ii) and (b)(7) for recordkeeping, and 40 CFR 60.58c(c) through (f) for reporting. These provisions, effective as of the date referenced in R307-101-3, are adopted and incorporated by reference.[

~~(2) Each incinerator subject to R307-222 must submit by February 1, 1999, an initial emissions inventory for inclusion in the Plan.~~

~~(3) Compliance dates.~~

~~(a) Except as provided in (b) and (c), each incinerator must be in compliance with all requirements of R307-222 on or before the date one year after federal approval of the State Plan.~~

~~(b) The owner or operator may petition the executive secretary to extend the compliance date as late as three years after EPA approval of the State Plan or September 15, 2002, whichever is earlier. The petition must meet the requirements set forth in (c) below.~~

~~(c) The petition must be submitted by January 2, 2000 and must include the following documentation:~~

~~(i) analysis supporting the need for an extension;~~

~~(ii) an evaluation of the option to transport waste offsite to a commercial medical waste treatment and disposal facility on a temporary or permanent basis;~~

~~(iii) measurable and enforceable incremental steps of progress to be taken towards compliance;~~

~~(iv) a compliance plan as set forth in (d) below.~~

~~(d) The compliance plan must include compliance dates for either:~~

~~(i) disposal of waste offsite or installation of equipment other than an incinerator to treat waste at the earliest possible date, or~~

~~(ii) each activity to retrofit the incinerator, including the following intermediate steps:~~

~~(A) The owner or operator must award the contract for retrofitting no later than March 1, 2000.~~

~~(B) The owner or operator must begin installation of air pollution control devices no later than June 1, 2000.~~

~~(C) The owner or operator must complete installation of the air pollution control devices no later than February 2, 2002.~~

~~(D) The owner or operator must conduct initial compliance testing of each air pollution control device by April 2, 2002.~~

~~(E) The owner or operator must complete all requirements to show compliance no later than three years following EPA approval of the Plan or September 15, 2002, whichever is earlier.~~

~~(e) If the petition is granted, the owner or operator must comply with the schedule in the compliance plan.~~]

R307-222-4. Large, Medium and Urban Small Incinerators.

Except as provided in Section R307-222-5, each incinerator must comply with the emissions limitations of Table 1 in 40 CFR Part 60, Subpart Ce, 40 CFR 60.57c, and 40 CFR 60.56c excluding 56c(b)(12) and 56c(c)(3), effective as of the date referenced in R307-101-3, which are adopted and incorporated by reference.

R307-222-5. Small Rural Incinerators.

(1) A small rural incinerator is a small incinerator as defined in Section R307-222-2 that:

(a) is located more than 50 miles from the boundary of the nearest Standard Metropolitan Statistical Area listed in OMB bulletin No. 93-17 entitled "Revised Statistical definitions for Metropolitan Areas," June 30, 1993; and

(b) burns less than 2000 pounds per week of hospital, medical or infectious waste or any combination of them. The 2000 pounds per week limitation does not apply during performance tests.

(2) Each small rural incinerator must comply with the emission limits of Table 2 in 40 CFR Part 60, Subpart Ce, effective as of the date referenced in R307-101-3, which are adopted and incorporated by reference.

(3) Each small incinerator must comply with the inspection requirements of 40 CFR 60.36e(a)(1) and (a)(2), effective as of the date referenced in R307-101-3, which are adopted and incorporated by reference. An inspection meeting these requirements must be conducted within one year after federal approval of the Plan incorporated by reference in R307-220-3, and annually no more than 12 months following the previous annual inspection.

(4) Each small incinerator must comply with the compliance and performance testing requirements of 40 CFR 60.37e(b)(1) through (b)(5), effective as of the date referenced in R307-101-3, which are adopted and incorporated by reference.

(5) Each small incinerator must comply with the monitoring requirements of 40 CFR 60.37e(d)(1) through (d)(3), effective as of the

date referenced in R307-101-3, which are adopted and incorporated by reference.

(6) Each small incinerator must comply with the recordkeeping and reporting requirements of 40 CFR 60.38e(b)(1) and (b)(2), effective as of the date referenced in R307-101-3, which are adopted and incorporated by reference.

KEY: air pollution, hospitals, medical incinerator[~~*~~], infectious waste[~~*~~]
Date of Enactment or Last Substantive Amendment: [~~November 25, 1998~~]2008
Notice of Continuation: March 15, 2007
Authorizing, and Implemented or Interpreted Law: 19-2-104

Environmental Quality, Air Quality
R307-223
Existing Incinerators for Hospital, Medical, Infectious Waste

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 30703
FILED: 11/08/2007, 15:30

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the change is to remove the specific version date for the Code of Federal Regulations (CFR) found in Rule R307-223. The rule will now default to Section R307-101-3 that establishes the version of the CFR that is incorporated throughout Title R307. In a separate rulemaking, the version of the CFR referenced in Section R307-101-3 is being updated to the July 1, 2007, version. This amendment is part of an overall revision to rules that will streamline the process of updating the incorporation by reference of the CFR throughout Title R307 (see separate filings on Rules R307-101, R307-115, R307-170, R307-215, R307-221, R307-222, R307-224, R307-310, R307-417, R307-801, and R307-840 in this issue). If requested, a public hearing will be held Wednesday, 12/19/2007 at 2:00 p.m. in the Main Conference Room of the Environmental Quality Building located at 150 N 1950 W in Salt Lake City. If no request for a public hearing is received by 12/17/2007, the hearing will be canceled. After 12/17/2007, you may go to http://www.airquality.utah.gov/Public-Interest/Public-Commen-Hearings/Pubrule.htm or call 801-536-4136 to determine if the public hearing has been canceled. A request for a public hearing may be submitted by electronic mail to mcarlile@utah.gov or by calling 801-536-4136. (DAR NOTE: The proposed amendment for Rule R307-101 is DAR No. 30697; the proposed amendment for Rule R307-115 is under DAR No. 30698; the proposed amendment for Section R307-170-7 is under DAR No. 30699; the proposed repeal of Rule R307-215 is under DAR No. 30700; the proposed amendment for Rule R307-221 is under DAR No. 30701; the proposed amendment for Rule R307-222 is under DAR No. 30702; the proposed amendment for Section R307-224-2 is under DAR No. 30704; the proposed amendment for Section R307-310-2 is under DAR No. 30705; the proposed amendment for Rule R307-417 is under DAR No. 30706; the proposed amendment for Rule R307-801 is under DAR No. 30707; and the proposed amendment for Rule R307-840 is under DAR No. 30708; all in this issue, December 1, 2007, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: This amendment removes the specific version date for the CFR in Rule R307-223. The rule will now default to Section R307-101-3 that establishes the version of the CFR that is incorporated throughout Title R307. In a separate rulemaking, the version of the CFR reference in Section R307-101-3 is being updated to the July 1, 2007, version. There have been no changes to the incorporated since they were incorporated by reference into Rule R307-223.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 60.1555(a) through (k); 40 CFR 60.1940; 40 CFR 60.1935; 40 CFR 60.1540 and 60.1585 through 60.1905, and the requirements and schedules set forth in Tables 2 through 8 that are found following 40 CFR 60.1940, July 1, 2007

ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: Because these revisions do not create new requirements, no change in costs is expected for the state budget.
- LOCAL GOVERNMENTS: Because this revision does not create new requirements, no change in costs is expected for local governments.
- SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: SMALL BUSINESSES: Because this revision does not create new requirements, no change in costs is expected for small businesses. OTHER PERSONS: Because this revision does not create new requirements, no change in costs is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this revision does not create new requirements, no change in costs is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment does not create new requirements. Therefore, no additional costs are expected. Richard W. Sprott, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@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 12/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2008

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

R307. Environmental Quality, Air Quality.
R307-223. Emission Standards: Existing Small Municipal Waste Combustion Units.
R307-223-1. Purpose and Applicability.

(1) R307-223 regulates emissions from existing small municipal waste combustion units. The purpose of R307-223 is to reduce the emissions of particulate matter, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins and furans from small municipal waste combustion units. Reductions are required by 42 U.S.C. 7411(d) and 7429 and 40 CFR Part 60, subpart BBBB[~~, published at 63 FR 76378, December 6, 2000~~], and by the Plan for Existing Small Municipal Waste Combustion Units that is incorporated by reference at R307-220-4.

(2) R307-223 applies to each existing small municipal waste combustion unit that has the capacity to combust at least 35 tons per day but no more than 250 tons per day of municipal solid waste or refuse-derived fuel and commenced construction on or before August 30, 1999. A list of facilities not subject to R307-223 is found in 40 CFR 60.1555(a) through (k), [~~and~~]effective as of the date referenced in R307-101-3, which is hereby adopted and incorporated by reference.

(3) If an owner or operator of a municipal waste combustion unit makes physical or operational changes to an existing municipal waste combustion unit primarily to comply with the Plan for Existing Small Municipal Waste Combustion Units that is incorporated by reference at R307-220-4, then R307-210 does not apply to that unit. Such changes do not constitute modifications or reconstructions under R307-210.

(4) The owner or operator of any source subject to R307-223 also is required to submit an application for an operating permit under R307-415.[~~and must notify the executive secretary that the source is subject to CFR Part 60, Subpart BBBB no later than January 1, 2002.~~]

R307-223-2. Definitions and Equations.

(1) The following definitions apply only to R307-223. Definitions found in 40 CFR 60.1940, [~~effective February 5, 2001, and published at 65 FR 76378,~~]effective as of the date referenced in R307-101-3, are adopted and incorporated by reference, with the following substitutions.

(a) Substitute "executive secretary" for all federal regulation references to "Administrator" or "EPA Administrator."

(b) Substitute "State of Utah" for all federal regulation references to "State," "State agency" or "State regulatory agency."

(c) "State plan" means the Plan for Existing Small Municipal Waste Combustion Units that is incorporated by reference at R307-220-4.

(d) "You" means the owner or operator of a small municipal waste combustion unit.

(e) Substitute "Rule R307-223" for all references to "this subpart."

(f) Substitute "40 CFR Part 60" for all references to "this part."

(g) Substitute "40 CFR" for all references to "This title."

(2) Equations found in 40 CFR 60.1935, [~~effective February 5, 2001, and published at 65 FR 76378~~]effective as of the date referenced in R307-101-3, are adopted and incorporated by reference.

R307-223-3. Requirements.

(1) Each incinerator owner or operator subject to R307-223 must comply with the requirements of 40 CFR 60.1540 and 60.1585 through 60.1905, and with the requirements and schedules set forth in Tables 2 through 8 that are found following 40 CFR 60.1940 for operator training and certification, operating requirements, emission limits, continuous emission monitoring, stack testing, other monitoring requirements, record keeping, and reporting. These provisions and table, effective as of the date referenced in R307-101-3, are adopted and incorporated by reference with the exceptions listed below.

(a) In 40 CFR 60.1650(a), delete "or state."

(b) In 40 CFR 60.1675(a), delete "or a current provisional operator certification from your State certification program."

(c) In 40 CFR 1675 (c), change "three" to "two," and delete 40 CFR 1675(c)(3).

(2) Compliance dates. Each incinerator must be in compliance with the dates in Section III of the Plan.

KEY: air pollution, municipal waste incinerator[*], waste to energy plant[*]
Date of Enactment or Last Substantive Amendment: [~~September 10, 2001~~]2008
Notice of Continuation: March 15, 2007
Authorizing, and Implemented or Interpreted Law: 19-2-104

♦ ♦

Environmental Quality, Air Quality
R307-224-2
Emission Guidelines and Compliance Times for Coal-Fired Electric Generating Units

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 30704
FILED: 11/08/2007, 15:30

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the change is to remove the specific version date for the Code of Federal Regulations (CFR) found in Rule R307-224. The rule will now default to Section R307-101-3 that establishes the version of the CFR that is incorporated throughout Title R307. In a separate rulemaking, the version of the CFR referenced in Section R307-101-3 is being updated to the July 1, 2007, version. This amendment is part of an overall revision to rules that will streamline the process of updating the incorporation by reference of the CFR throughout Title R307 (see separate filings on Rules R307-

101, R307-115, R307-170, R307-215, R307-221, R307-222, R307-223, R307-310, R307-417, R307-801, and R307-840 in this issue). If requested, a public hearing will be held Wednesday, 12/19/2007 at 2:00 p.m. in the Main Conference Room of the Environmental Quality Building located at 150 N 1950 W in Salt Lake City. If no request for a public hearing is received by 12/17/2007, the hearing will be canceled. After 12/17/2007, you may go to http://www.airquality.utah.gov/Public-Interest/Public-Commen-Hearings/Pubrule.htm or call 801-536-4136 to determine if the public hearing has been canceled. A request for a public hearing may be submitted by electronic mail to mcarlile@utah.gov or by calling 801-536-4136. (DAR NOTE: The proposed amendment for Rule R307-101 is DAR No. 30697; the proposed amendment for Rule R307-115 is under DAR No. 30698; the proposed amendment for Section R307-170-7 is under DAR No. 30699; the proposed repeal of Rule R307-215 is under DAR No. 30700; the proposed amendment for Rule R307-221 is under DAR No. 30701; the proposed amendment for Rule R307-222 is under DAR No. 30702; the proposed amendment for Rule R307-223 is under DAR No. 30703; the proposed amendment for Section R307-310-2 is under DAR No. 30705; the proposed amendment for Rule R307-417 is under DAR No. 30706; the proposed amendment for Rule R307-801 is under DAR No. 30707; and the proposed amendment for Rule R307-840 is under DAR No. 30708 all in this issue, December 1, 2007, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: This amendment removes the specific version date for the CFR in Rule R307-224. The rule will now default to Section R307-101-3 that establishes the version of the CFR that is incorporated throughout Title R307. In a separate rulemaking, the version of the CFR referenced in Section R307-101-3 is being updated to the July 1, 2007, version. There have been no changes to Part 60, subpart HHHH since it was incorporated by reference into Rule R307-224.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(3)(q)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR Part 60, subpart HHHH, July 1, 2007

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Because these revisions do not create new requirements, no change in costs is expected for the state budget.

❖ LOCAL GOVERNMENTS: Because this revision does not create new requirements, no change in costs is expected for local governments.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: SMALL BUSINESSES: Because this revision does not create new requirements, no change in costs is expected for small businesses. OTHER PERSONS: Because this revision does not create new requirements, no change in costs is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this revision does not create new requirements, no change in costs is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment does not create new requirements. Therefore, no additional costs are expected. Richard W. Sprott, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@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 12/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2008

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

R307. Environmental Quality, Air Quality.
R307-224. Mercury Emission Standards: Coal-Fired Electric Generating Units.
R307-224-2. Emission Guidelines and Compliance Times for Coal-Fired Electric Generating Units.

(1) The following sections of 40 CFR Part 60, subpart HHHH[~~effective on June 9, 2006~~], effective as of the date referenced in R307-101-3, are adopted and incorporated by reference into these rules:

(a) Sections 60.4101 through 60.4124;

(b) Sections 60.4142 paragraph (c)(2) through paragraph (c)(4);

(c) Sections 60.4150 through 60.4176.

KEY: air pollution, electric generating unit, mercury
Date of Enactment or Last Substantive Amendment: [~~March 15, 2007~~]2008
Authorizing, and Implemented or Interpreted Law: 19-2-104(3)(q); 40 CFR Part 60, Subparts Da and HHHH

♦ ♦

Environmental Quality, Air Quality
R307-310-2
Definitions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 30705
FILED: 11/08/2007, 15:31

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the change is to remove the specific version date for the Code of Federal Regulations (CFR) found in Rule R307-310. The rule will now default to Section R307-101-3 that establishes the version of the CFR that is incorporated throughout Title R307. In a separate rulemaking, the version of the CFR referenced in Section R307-101-3 is being updated to the July 1, 2007, version. This amendment is part of an overall revision to rules that will streamline the process of updating the incorporation by reference of the CFR throughout Title R307 (see separate filings on Rules R307-101, R307-115, R307-170, R307-215, R307-221, R307-222, R307-223, R307-224, R307-417, R307-801, and R307-840 in this issue). If requested, a public hearing will be held Wednesday, 12/19/2007 at 2:00 p.m. in the Main Conference Room of the Environmental Quality Building located at 150 N 1950 W in Salt Lake City. If no request for a public hearing is received by 12/17/2007, the hearing will be canceled. After 12/17/2007, you may go to http://www.airquality.utah.gov/Public-Interest/Public-Commen-Hearings/Pubrule.htm or call 801-536-4136 to determine if the public hearing has been canceled. A request for a public hearing may be submitted by electronic mail to mcarlile@utah.gov or by calling 801-536-4136. (DAR NOTE: The proposed amendment for Rule R307-101 is DAR No. 30697; the proposed amendment for Rule R307-115 is under DAR No. 30698; the proposed amendment for Section R307-170-7 is under DAR No. 30699; the proposed repeal of Rule R307-215 is under DAR No. 30700; the proposed amendment for Rule R307-221 is under DAR No. 30701; the proposed amendment for Rule R307-222 is under DAR No. 30702; the proposed amendment for Rule R307-223 is under DAR No. 30703; the proposed amendment for Section R307-224-2 is under DAR No. 30704; the proposed amendment for Rule R307-417 is under DAR No. 30706; the proposed amendment for Rule R307-801 is under DAR No. 30707; and the proposed amendment for Rule R307-840 is under DAR No. 30708 all in this issue, December 1, 2007, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: This amendment removes the specific version date for the CFR in Rule R307-310. The rule will now default to Section R307-101-3 that establishes the version of the CFR that is incorporated throughout Title R307. In a separate rulemaking, the version of the CFR referenced in Section R307-101-3 is being updated to the July 1, 2007, version. There have been four revisions to Part 93 since it was incorporated into Utah's rules: 08/06/2002, 07/01/2004, 05/06/2005, and 03/10/2006. These changes to the federal regulation affect the underlying transportation conformity process, but they do not affect the purpose and implementation of Rule R307-310 that is focused on how to apply the conformity budget in the PM10 SIP for Salt Lake County. In addition, the changes to Part 93 were considered during the adoption of Part XII of the SIP, Transportation Conformity Consultation that was adopted by the Board on 05/02/2007. Therefore, those changes are not described in detail here.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 93.101, July 1, 2007

ANTICIPATED COST OR SAVINGS TO:
- ❖ THE STATE BUDGET: Because these revisions do not create new requirements, no change in costs is expected for the state budget.
- ❖ LOCAL GOVERNMENTS: Because this revision does not create new requirements, no change in costs is expected for local governments.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: SMALL BUSINESSES: Because this revision does not create new requirements, no change in costs is expected for small businesses. OTHER PERSONS: Because this revision does not create new requirements, no change in costs is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this revision does not create new requirements, no change in costs is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment does not create new requirements. Therefore, no additional costs are expected. Richard W. Sprott, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@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 12/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2008

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

R307. Environmental Quality, Air Quality.
R307-310. Salt Lake County: Trading of Emission Budgets for Transportation Conformity.
R307-310-2. Definitions.

The definitions contained in 40 CFR 93.101, [~~effective as of July 1, 2001~~]effective as of the date referenced in R307-101-3, are

incorporated into this rule by reference. The following additional definitions apply to this rule.

"Budget" means the motor vehicle emission projections used in the attainment demonstration in the Salt Lake County portion of Section IX, Part A of the State Implementation Plan, "Fine Particulate Matter (PM10)."

"NOx" means oxides of nitrogen.

"Primary PM10" means PM10 that is emitted directly by a source. Primary PM10 does not include particulate matter that is formed when gaseous emissions undergo chemical reactions in the ambient air.

"Transportation Conformity" means a demonstration that a transportation plan, transportation improvement program, or project conforms with the emissions budgets in a state implementation plan, as outlined in 40 CFR, Chapter 1, Part 93, "Determining Conformity of Federal Actions to State or Federal Implementation Plans."

KEY: air pollution, transportation conformity, PM10
Date of Enactment or Last Substantive Amendment: [~~July 7, 2005~~]2008
Notice of Continuation: September 7, 2005
Authorizing, and Implemented or Interpreted Law: 19-2-104

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Environmental Quality, Air Quality
R307-401-14
Used Oil Fuel Burned for Energy Recovery

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 30709
FILED: 11/08/2007, 15:31

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the change is to ensure the definition of "boiler" is consistent in the Air Quality rules an in the Solid and Hazardous Waste rules. If requested, a public hearing will be held Wednesday, 12/19/2007 at 2:00 p.m. in the Main Conference Room of the Environmental Quality Building located at 150 N 1950 W in Salt Lake City. If no request for a public hearing is received by 12/17/2007, the hearing will be canceled. After 12/17/2007, you may go to http://www.airquality.utah.gov/Public-Interest/Public-Commen-Hearings/Pubrule.htm or call 801-536-4136 to determine if the public hearing has been canceled. A request for a public hearing may be submitted by electronic mail to mcarlile@utah.gov or by calling 801-536-4136.

SUMMARY OF THE RULE OR CHANGE: The Utah Air Quality Board is proposing to reference the Solid and Hazardous Waste definition of "boiler" that is used in Subsection R315-1-1(b) rather than referencing the Code of Federal Regulations to ensure the Air Quality rules are consistent with the Solid and Hazardous Waste rules. It is the intent of the Board to be consistent with the definition found in Section R315-1-1.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: No costs or savings are expected because the cost of Air Quality's reviews are covered by fees paid by applicants.
❖ LOCAL GOVERNMENTS: Because this revision does not create new requirements, no change in costs is expected for local governments.
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: SMALL BUSINESSES: Because this revision does not create new requirements, no change in costs is expected for small businesses. OTHER PERSONS: Because this revision does not create new requirements, no change in costs is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this revision does not create new requirements, no change in costs is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment does not create new requirements. Therefore, no additional costs are expected. Richard W. Sprott, Executive Director

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AIR QUALITY
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SALT LAKE CITY UT 84116-3085, or
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Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@utah.gov

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THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2008

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

R307. Environmental Quality, Air Quality.
R307-401. Permit: New and Modified Sources.
R307-401-14. Used Oil Fuel Burned for Energy Recovery.

(1) Definitions.

"Boiler" means boiler as defined in R315-1-1(b)[~~ that incorporates by reference the term "boiler" in 40 CFR 260.10, 2000 ed., as amended by 67 FR 2962, January 22, 2002~~].

"Used Oil" is defined as any oil that has been refined from crude oil, used, and, as a result of such use contaminated by physical or chemical impurities.

(2) Boilers burning used oil for energy recovery are exempted from the requirement to obtain an approval order in R307-401-5 through 8 if the following requirements are met:

(a) the heat input design is less than one million BTU/hr;

(b) contamination levels of all used oil to be burned do not exceed any of the following values:

(i) arsenic - 5 ppm by weight,

(ii) cadmium - 2 ppm by weight,

(iii) chromium - 10 ppm by weight,

(iv) lead - 100 ppm by weight,

(v) total halogens - 1,000 ppm by weight,

(vi) Sulfur - 0.50% by weight; and

(c) the flash point of all used oil to be burned is at least 100 degrees Fahrenheit.

(3) Testing. The owner or operator shall test each load of used oil received or generated as directed by the executive secretary to ensure it meets these requirements. Testing may be performed by the owner/operator or documented by test reports from the used fuel oil vendor. The flash point shall be measured using the appropriate ASTM method as required by the executive secretary. Records for used oil consumption and test reports are to be kept for all periods when fuel-burning equipment is in operation. The records shall be kept on site and made available to the executive secretary or the executive secretary's representative upon request. Records must be kept for a three-year period.

KEY: air pollution, permits, approval orders
Date of Enactment or Last Substantive Amendment: [~~June 16, 2006~~]2008
Notice of Continuation: July 13, 2007
Authorizing, and Implemented or Interpreted Law: 19-2-104(3)(q); 19-2-108

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Environmental Quality, Air Quality
R307-417
Acid Rain Sources

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 30706
FILED: 11/08/2007, 15:31

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the change is to remove the specific version date for the Code of Federal Regulations (CFR) found in Rule R307-417. The rule will now default to Section R307-101-3 that establishes the version of the CFR that is incorporated throughout Title R307. The Utah Air Quality Board is also proposing to add two new sections that will incorporate by reference 40 CFR Part 75 and Part 76, so that all rules that deal with the Acid Rain program are in one rule. This amendment is part of an overall revision to rules that will streamline the process of updating the incorporation by reference of the CFR throughout Title R307 (see separate filings on Rules R307-101, R307-115, R307-170, R307-215, R307-221, R307-222, R307-223, R307-224, R307-310, R307-801, and R307-840 in this issue). If requested, a public hearing will be held Wednesday, 12/19/2007 at 2:00 p.m. in the Main Conference Room of the Environmental Quality Building located at 150 N 1950 W in Salt Lake City. If no request for a public hearing is received by 12/17/2007, the hearing will be canceled. After 12/17/2007, you may go to http://www.airquality.utah.gov/Public-Interest/Public-Commen-Hearings/Pubrule.htm or call 801-536-4136 to determine if the public hearing has been canceled. A request for a public hearing may be submitted by electronic mail to mcarlile@utah.gov or by calling 801-536-4136. (DAR NOTE: The proposed amendment for Rule R307-101 is DAR No. 30697; the proposed amendment for Rule R307-115 is under DAR No. 30698; the proposed amendment for Section R307-170-7 is under DAR No. 30699; the proposed repeal of Rule R307-215 is under DAR No. 30700; the proposed amendment for Rule R307-221 is under DAR No. 30701; the proposed amendment for Rule R307-222 is under DAR No. 30702; the proposed amendment for Rule R307-223 is under DAR No. 30703; the proposed amendment for Section R307-224-2 is under DAR No. 30704; the proposed amendment for Section R307-310-2 is under DAR No. 30705; the proposed amendment for Rule R307-801 is under DAR No. 30707; and the proposed amendment for Rule R307-840 is under DAR No. 30708 all in this issue, December 1, 2007, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: This amendment removes the specific version date for the CFR in Rule R307-417. The rule will now default to Section R307-101-3 that establishes the version of the CFR that is incorporated throughout Title R307. In a separate rulemaking, the version of the CFR referenced in Section R307-101-3 is being updated to the July 1, 2007, version. The following changes to 40 CFR Part 72 will be included as the result of the change in Section R307-101-3. 05/13/1999 (64 FR 25842) This action revised certain provisions in the regulations concerning the deduction of allowances for determining compliance. The revisions improved the operation of the Allowance Tracking System and the allowance market generally, while still preserving the Act's environmental goals. This action allowed excess emissions to be reduced at a unit by allowing deductions of up to a certain number of allowances for that unit from the allowance accounts of other units at the same source that had unused allowances. This revision included a formula for calculating the allowance deductions allowed from other units' accounts. This revision allowed the authorized account representative to specify, within 15 days of receiving notice from the Agency of a unit's failure to hold sufficient allowances, the serial numbers of the allowances to deduct and the compliance sub-accounts from which to deduct those allowances. 05/26/1999 (64 FR 28588) This revision involved the following matters: 1) revised definitions of gas-fired, oil-fired, and peaking unit to allow for changes in the unit fuel usage and/or operation; 2) revised the applicability provisions in part 72 by making a minor wording correction; 3) added new QA/QC requirements for quantifying stack gas moisture content; 4) clarified the certification and recertification process; 5) revised substitute data requirements for CO2 heat input and moisture; 6) revised the petition provisions for alternatives to part 75 requirements; 7) clarified the span and range requirement; 8) clarified the general QA/QC requirement; 9) added calibration error test

requirements; 10) added linearity test requirement; 11) added a new flow-to-load QA test for flow monitors; 12) added reductions in and/or clarifications to the Relative Accuracy Test Audit (RATA) and bias test requirements; 13) clarified the procedures for continuous emissions monitoring (CEM) data validation; 14) clarified the SO2 emission data protocol for gas-fired and oil-fired units; 15) revised the determination of CO2 emissions under Appendix G; 16) revised the recordkeeping and reporting to reflect the other proposed revisions; 17) revised the traceability protocol for calibration gases, and 18) revised NOx mass emission recordkeeping and reporting provisions, and revised the NOx mass monitoring requirement. 03/01/2001 (66 FR 12978) This action removed the industrial utility units exemption from the existing rules. Industrial utility units are not affected utility units under Title IV of the Act and therefore do not need an exemption from requirements of Title IV. 05/12/2005 (70 FR 25334) This action promulgated requirements that are not relevant to Utah. 04/28/2006 (71 FR 25378) This action promulgated requirements for Clean Air Interstate Rule (CAIR), which does not apply to western states. The Utah Air Quality Board is also proposing to add two sections to Rule R307-417 that will incorporate by reference 40 CFR Part 75 and 40 CFR Part 76. Although Part 75 is referenced throughout R307, it was never actually incorporated by reference into R307. Part 75 establishes the monitoring, recordkeeping, and reporting requirements for the Acid Rain Program, and should have been incorporated by reference years ago. Therefore, the Board is proposing to adopt a change to Rule R307-417 that incorporates 40 CFR 75 into Title R307. The Board is also proposing to move 40 CFR Part 76 from Rule R307-215 to Rule R307-417, so that all rules that deal with the Acid Rain program are in one rule (see separate filing on Rule R307-215 in this issue). The EPA has made several changes to 40 CFR Part 76 since it was last incorporated by reference. The following is a summary of these changes: 01/23/1997 (62 FR 3464) This action corrected the effective date and other inadvertent typographical and administrative errors in the 12/19/1996 final rule. The effective date was revised to 02/17/1997, which was 60 days after the 12/19/1996 publication date, as required by Small Business Regulatory Enforcement Fairness Act. The several other corrections involved correcting the amendatory instructions in the 12/19/1996 rule. The amendatory instruction adding defined terms to the definitions section (76.2) and included terms for which no definition was actually provided or intended to be provided. The incorrectly listed terms were removed from the amendatory instructions. The remaining corrections involved typographical or similar errors in the rule language itself. 10/15/1999 (64 FR 55838) This action defined any boiler subject to the limits starting in 2000, constructed as a cell burner boiler, and converted to the burner configuration of a wall-fired boiler as a cell burner boiler. A cell burner boiler must meet an annual average NOx emission limit of 0.68 lb/mmBTU.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR Part 72, 40 CFR Part 75, and 40 CFR Part 76, July 1, 2007

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: No costs or savings are expected because the cost of Air Quality's reviews are covered by fees paid by applicants.

❖ LOCAL GOVERNMENTS: No adverse economic impact is expected to occur as a result of updating the incorporation by reference of the CFR because these provisions are already federally enforceable.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: SMALL BUSINESSES: No adverse economic impact is expected to occur as a result of updating the incorporation by reference of the CFR because these provisions are already federally enforceable. OTHER PERSONS: No adverse economic impact is expected to occur as a result of updating the incorporation by reference of the CFR because these provisions are already federally enforceable.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No adverse economic impact is expected to occur as a result of updating the incorporation by reference of the CFR because these provisions are already federally enforceable.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No adverse economic impact is expected to occur as a result of updating the incorporation by reference of the CFR because these provisions are already federally enforceable. Richard W. Sprott, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@utah.gov

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THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2008

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

R307. Environmental Quality, Air Quality.
R307-417. Permits: Acid Rain Sources.
R307-417-1. Part 72 Requirements.

The provisions of 40 CFR Part 72, [~~as in effect on July 1, 1998~~]effective as of the date referenced in R307-101-3, for purposes of implementing an acid rain program that meets the requirements of Title IV of the Clean Air Act, are incorporated into these rules by reference. The term "permitting authority" shall mean the Executive Secretary of the Air Quality Board, and the term "Administrator" shall mean the Administrator of the Environmental Protection Agency. If the provisions or requirements of 40 CFR Part 72 conflict with or are not included in R307-415, Permits: Operating Permit Requirements, provisions and requirements of 40 CFR Part 72 shall apply and take precedence.

R307-417-2. Part 75 Requirements.

The provisions of 40 CFR Part 75, effective as of the date referenced in R307-101-3, for purposes of implementing an acid rain program that meets the requirements of Title IV of the Clean Air Act, are incorporated into these rules by reference. The term "permitting authority" shall mean the executive secretary of the Air Quality Board, and the term "Administrator" shall mean the Administrator of the Environmental Protection Agency. If the provisions or requirements of 40 CFR Part 75 conflict with or are not included in R307-415, Operating Permit Requirements, provisions and requirements of 40 CFR Part 75 shall apply and take precedence.

R307-417-3. Part 76 Requirements.

The provisions of 40 CFR Part 76, effective as of the date referenced in R307-101-3, for purposes of implementing an acid rain program that meets the requirements of Title IV of the Clean Air Act, are incorporated into these rules by reference. The term "permitting authority" shall mean the executive secretary of the Air Quality Board, and the term "Administrator" shall mean the Administrator of the Environmental Protection Agency. If the provisions or requirements of 40 CFR Part 76 conflict with or are not included in R307-415, Operating Permit Requirements, provisions and requirements of 40 CFR Part 76 shall apply and take precedence.

KEY: acid rain, air quality, permitting authority[~~*~~], operating permit[~~*~~]
Date of Enactment or Last Substantive Amendment: [~~March 5, 1999~~]2008
Notice of Continuation: July 13, 2007
Authorizing, and Implemented or Interpreted Law: 19-2-101; 19-2-104(3)(q)

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Environmental Quality, Air Quality
R307-801
Asbestos

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 30707
FILED: 11/08/2007, 15:31

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the change is to remove the specific version date for the Code of Federal Regulations (CFR) found in Rule R307-801. The rule will now default to Section R307-101-3 that establishes the version of the CFR that is incorporated throughout Title R307. In a separate rulemaking, the version of the CFR referenced in Section R307-101-3 is being updated to the July 1, 2007, version. This amendment is part of an overall revision to the rules that will streamline the process of updating the incorporation by reference of the CFR throughout Title R307 (see separate filings on Rules R307-101, R307-115, R307-170, R307-215, R307-221, R307-222, R307-223, R307-224, R307-310, R307-417, and R307-840 in this issue). If requested, a public hearing will be held Wednesday, 12/19/2007 at 2:00 p.m. in the Main Conference Room of the Environmental Quality Building located at 150 N 1950 W in Salt Lake City. If no request for a public hearing is received by 12/17/2007, the hearing will be canceled. After 12/17/2007, you may go to http://www.airquality.utah.gov/Public-Interest/Public-Commen-Hearings/Pubrule.htm or call 801-536-4136 to determine if the public hearing has been canceled. A request for a public hearing may be submitted by electronic mail to mcarlile@utah.gov or by calling 801-536-4136. (DAR NOTE: The proposed amendment for Rule R307-101 is DAR No. 30697; the proposed amendment for Rule R307-115 is under DAR No. 30698; the proposed amendment for Section R307-170-7 is under DAR No. 30699; the proposed repeal of Rule R307-215 is under DAR No. 30700; the proposed amendment for Rule R307-221 is under DAR No. 30701; the proposed amendment for Rule R307-222 is under DAR No. 30702; the proposed amendment for Rule R307-223 is under DAR No. 30703; the proposed amendment for Section R307-224-2 is under DAR No. 30704; the proposed amendment for Section R307-310-2 is under DAR No. 30705; the proposed amendment for Rule R307-417 is under DAR No. 30706; and the proposed amendment for Rule R307-840 is under DAR No. 30708 all in this issue, December 1, 2007, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: This amendment removes the specific version date for the CFR in Rule R307-801. The rule will now default to Section R307-101-3 that establishes the version of the CFR that is incorporated throughout Title R307. In a separate rulemaking, the version of the CFR referenced in Section R307-101-3 is being updated to the July 1, 2007, version. The following changes to 40 CFR Part 763, Subpart E will be included as the result of the change in Section R307-101-3. 11/15/2000 (65 FR 69216) This action amends both the Asbestos Worker Protection Rule (WPR) and the Asbestos-in-Schools Rule. The WPR amendment protects state and local government employees from the health risks of exposure to asbestos to the same extent as private sector workers by adopting for these employees the Asbestos Standards of the Occupational Safety and Health Administration (OSHA). The WPR's coverage is extended to state and local government employees who are performing construction work, custodial work, and automotive brake and clutch repair work. This action cross-references the OSHA

Asbestos Standards for Construction and for General Industry, so that future amendments to these OSHA standards are directly and equally effective for employees covered by the WPR. This action also amends the Asbestos-in-Schools Rule to provide coverage under the WPR for employees of public local education agencies who perform operations, maintenance and repair activities. EPA issued this final rule under section 6 of the Toxic Substances Control Act (TSCA). 10/13/2005 (70 FR 59889) This action established the framework by which the EPA will accept electronic reports from regulated entities in satisfaction of certain document submission requirements in EPAs regulations. EPA will provide public notice when the Agency is ready to receive direct submissions of certain documents from regulated entities in electronic form consistent with this rulemaking via an EPA electronic document receiving system. This rule does not mandate that regulated entities utilize electronic methods to submit documents in lieu of paper-based submissions. In addition, EPA did not take final action on electronic recordkeeping requirements. States, tribes, and local governments will be able to seek EPA approval to accept electronic documents to satisfy reporting requirements under environmental programs that EPA has delegated, authorized, or approved them to administer. This rule includes performance standards against which a state's, tribe's, or local government's electronic document receiving system will be evaluated before EPA will approve changes to the delegated, authorized or approved program to provide electronic reporting, and establishes a streamlined process that states, tribes, and local governments can use to seek and obtain such approvals.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR Part 763, Subpart E, July 1, 2007

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: No costs or savings are expected because the cost of Air Quality's reviews are covered by fees paid by applicants.

❖ LOCAL GOVERNMENTS: No adverse economic impact is expected to occur as a result this rule, because these provisions are already federally enforceable.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: SMALL BUSINESSES: No adverse economic impact is expected to occur as a result this rule, because these provisions are already federally enforceable. OTHER PERSONS: No adverse economic impact is expected to occur as a result this rule, because these provisions are already federally enforceable.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No adverse economic impact is expected to occur as a result this rule, because these provisions are already federally enforceable.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No adverse economic impact is expected to occur as a result of this rule, because these provisions are already federally enforceable. Richard W. Sprott, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@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 12/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2008

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

R307. Environmental Quality, Air Quality.
R307-801. Asbestos.
R307-801-3. Definitions.

The following definitions apply to R307-801:

"Adequately Wet" means sufficiently mix or penetrate with liquid to prevent the release of particulates. If visible emissions are observed coming from asbestos-containing material, then that material has not been adequately wetted. However, the absence of visible emissions is not sufficient evidence of being adequately wet.

"Amended Water" means a mixture of water and a chemical wetting agent that provides control of asbestos fiber release.

"AHERA" means the federal Asbestos Hazard Emergency Response Act of 1986 and the Environmental Protection Agency implementing regulations, 40 CFR Part 763, Subpart E - Asbestos-Containing Materials in Schools.

"Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), anthophyllite, and actinolite-tremolite.

"Asbestos Containing Material (ACM)" means any material containing more than one percent (1%) asbestos by the method specified in Appendix A, Subpart F, 40 CFR Part 763 Section 1, Polarized Light Microscopy (PLM), or, if the asbestos content is less than 10%, the asbestos concentration must be determined by point counting using PLM procedure.

"Asbestos Inspection" means any activity undertaken to determine the presence or location, or to assess the condition, of asbestos-containing material or suspected asbestos-containing material, whether by visual or physical examination, or by taking samples of the material. This term includes re-inspections of the type described in AHERA, 40 CFR 763.85(b), of known or assumed asbestos-containing material which has been previously identified. The term does not include the following:

(a) Periodic surveillance of the type described in AHERA, 40 CFR 763.92(b), solely for the purpose of recording or reporting a

change in the condition of known or assumed asbestos-containing material;

(b) Inspections performed by employees or agents of federal, state, or local government solely for the purpose of determining compliance with applicable statutes or regulations; or

(c) Visual inspections of the type described in AHERA, 40 CFR 763.90(i), solely for the purpose of determining completion of response actions.

"Asbestos Project" means any activity involving the removal, renovation, repair, demolition, salvage, disposal, cleanup, or other disturbance of regulated asbestos-containing material greater than small scale short duration.

"Asbestos Removal" means the stripping of friable asbestos-containing material from surfaces or components of a structure or taking out structural components that contain or are covered with friable ACM from a structure.

"Asbestos Survey Report" means a written report as specified in R307-801-10(6) describing an asbestos inspection performed by a certified asbestos inspector.

"Asbestos Waste" means any waste that contains asbestos. This term includes filters from control devices, friable asbestos-containing waste material, and bags or other similar packaging contaminated with asbestos. As applied to demolition and renovations, this term includes materials contaminated with asbestos including disposable equipment and clothing.

"Containerized" means sealed in a leak-tight and durable container.

"Debris" means asbestos-containing material that has been dislodged and has fallen from its original substrate and position or which has fallen while remaining attached to substrate sections or fragments, and is friable or regulated in its current condition.

"Demolition" means the wrecking, salvage, or removal of any load-supporting structural member of a structure together with any related handling operations, or the intentional burning of any structure. This includes the moving of an entire building.

"Disturb" means to disrupt the matrix of ACM or regulated asbestos-containing material, crumble or pulverize ACM or regulated asbestos-containing material, or generate visible debris from ACM or regulated asbestos-containing material.

"Division" means the Division of Air Quality.

"Emergency Renovation Operation" means any asbestos project which was not planned and results from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, is necessary to protect equipment from damage, or is necessary to avoid imposing an unreasonable financial burden as determined by the Division. This term includes operations necessitated by non-routine failure of equipment and does not include situations caused by the lack of planning.

"Encapsulant" means a permanent coating applied to the surface of friable ACM for the purpose of preventing the release of asbestos fibers. The encapsulant creates a membrane over the surface (bridging encapsulant) or penetrates the material and binds its components together (penetrating encapsulant).

"Facility" means any institutional, commercial, public, industrial, or residential structure, installation, or building, including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential co-operative; any ship; and any active or inactive waste disposal site. For purposes of this definition, any building, structure, or installation that contains a loft used as a dwelling is not considered a residential structure, installation, or building. Any structure, installation or building that was previously subject to the NESHAP is not excluded, regardless of its current use or function. Public building and commercial building have the same meanings as they do in TSCA Title II.

"Friable Asbestos Containing Material (Friable ACM)" means any asbestos-containing material that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure.

"Glovebag" means an impervious plastic bag-like enclosure, not more than a 60 x 60 inches, affixed around an asbestos-containing material, with glove-like appendages through which material and tools may be handled.

"HEPA Filtration" means the high efficiency particulate air filtration found in respirators and vacuum systems capable of filtering particles greater than 0.3 micron in diameter with 99.97% efficiency, designed for use in asbestos-contaminated environments.

"Inaccessible" means in a physically restricted or obstructed area or covered in such a way that detection or removal is prevented or severely hampered.

"Management Plan" means a document that meets the requirements of AHERA for management plans for asbestos in schools.

"Management Planner" means a person who prepares a management plan for a school building subject to AHERA.

"Model Accreditation Plan (MAP)" means 40 CFR Part 763, Subpart E, Appendix C, Asbestos Model Accreditation Plan.

"NESHAP" means the National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, Subpart M, the National Emission Standard for Asbestos.

"NESHAP Amount" means combined amounts in a project that total:

(a) 260 linear feet (80 meters) of pipe covered with RACM;

(b) 160 square feet (15 square meters) of RACM used to cover or coat any duct, boiler, tank, reactor, turbine, equipment, structure, structural member, or structural component; or

(c) 35 cubic feet (one cubic meter) of RACM removed from structural members or components where the length and area could not be measured previously.

"NESHAP-Sized Asbestos Project" means any asbestos project that involves at least a NESHAP amount of ACM.

"Regulated Asbestos-Containing Material (RACM)" means friable ACM, Category I nonfriable ACM that has become friable, Category I nonfriable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading, or Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations.

"Renovation" means the alteration in any way of one or more structural components, excluding demolition.

"Small-Scale, Short-Duration (SSSD) Asbestos Project" means an asbestos project that removes or disturbs less than 3 square feet or 3 linear feet of RACM in a facility or structure.

"Strip" means to take off ACM from any part of a structure or structural component.

"Structural Component" means any pipe, duct, boiler, tank, reactor, turbine, or furnace at or in a structure, or any structural member of the structure.

"Structural Member" means any load-supporting member of a structure, such as beams and load-supporting walls or any non-load-supporting member, such as ceilings and non-load-supporting walls.

"Structure" means, for the purposes of R307-801, any institutional, commercial, residential, or industrial building, equipment, building component, installation, or other construction.

"TSCA Accreditation" means successful completion of training as an inspector, management planner, project designer, contractor-supervisor, or worker, as specified in the TSCA Title II.

"TSCA Title II" means 15 U.S.C. 2601 et seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response[~~; and 40 CFR Part 763, Subpart E - Asbestos-Containing Materials in Schools, including appendices, as in effect on July 1, 1999~~].

"Unrestrained Access" means without fences, closed doors, personnel, or any other method intended to restrict public entry.

"Waste Generator" means any owner or operator of an asbestos project covered by R307-801 whose act or process produces asbestos waste.

"Working Day" means Monday through Friday and includes holidays that fall on any of the days Monday through Friday.

R307-801-4. Adoption and [~~Implementation of TSCA Title II~~]Incorporation of 40 CFR 763 Subpart E.

(1) The provisions of 40 CFR 763 Subpart E, including appendices[~~TSCA Title II~~] effective as of the date referenced in R307-101-3 are hereby adopted and incorporated [~~herein~~]by reference.

(2) Implementation of the provisions of 40 CFR Part 763, Subpart E, except for the Model Accreditation Plan, shall be limited to those provisions for which the EPA has waived its requirements in accordance with 40 CFR Subpart 763.98, Waiver; delegation to State, as published at 52 FR 41826, (October 30, 1987).

R307-801-7. Denial and Cause for Suspension and Revocation of Company and Individual Certifications.

(1) An application for certification may be denied if the individual, applicant company, or any principle officer of the applicant company has a documented history of noncompliance with the requirements, procedures, or standards established by R307-801, R307-214-1, which incorporates 40 CFR Part 61, Subpart M, the National Emission Standard for Asbestos, AHERA, or with the requirements of any other entity regulating asbestos activities and training programs.

(2) The executive secretary may revoke or suspend any certification based upon documented violations of any requirement of R307-801, AHERA, or 40 CFR Part 61, Subpart M, including but not limited to:

(a) Falsification of or knowing omission in any written submittal required by those regulations;

(b) Permitting the duplication or use of a certificate or TSCA accreditation for the purpose of preparing a falsified written submittal; or

(c) Repeated work practice violations.

KEY: air pollution, asbestos, asbestos hazard emergency response, schools
Date of Enactment or Last Substantive Amendment: [~~June 16, 2006~~]2008
Notice of Continuation: June 16, 2006
Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(d); 19-2-104(3)(r) through (t); 40 CFR Part 61, Subpart M; 40 CFR Part 763, Subpart E

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Environmental Quality, Air Quality
R307-840
Lead-Based Paint Accreditation, Certification and Work Practice Standards

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 30708
FILED: 11/08/2007, 15:31

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the change is to remove the specific version date for the Code of Federal Regulations (CFR) found in Rule R307-840. The rule will now default to Section R307-101-3 that establishes the version of the CFR that is incorporated throughout Title R307. In a separate rulemaking, the version of the CFR referenced in Section R307-101-3 is being updated to the July 1, 2007, version. This amendment is part of an overall revision to rules that will streamline the process of updating the incorporation by reference of the CFR throughout Title R307 (see separate filings on Rules R307-101, R307-115, R307-170, R307-215, R307-221, R307-222, R307-223, R307-224, R307-310, R307-417, and R307-801 in this issue). If requested, a public hearing will be held Wednesday, 12/19/2007 at 2:00 p.m. in the Main Conference Room of the Environmental Quality Building located at 150 N 1950 W in Salt Lake City. If no request for a public hearing is received by 12/17/2007, the hearing will be canceled. After 12/17/2007, you may go to http://www.airquality.utah.gov/Public-Interest/Public-Commen-Hearings/Pubrule.htm or call 801-536-4136 to determine if the public hearing has been canceled. A request for a public hearing may be submitted by electronic mail to mcarlile@utah.gov or by calling 801-536-4136. (DAR NOTE: The proposed amendment for Rule R307-101 is DAR No. 30697; the proposed amendment for Rule R307-115 is under DAR No. 30698; the proposed amendment for Section R307-170-7 is under DAR No. 30699; the proposed repeal of Rule R307-215 is under DAR No. 30700; the proposed amendment for Rule R307-221 is under DAR No. 30701; the proposed amendment for Rule R307-222 is under DAR No. 30702; the proposed amendment for Rule R307-223 is under DAR No. 30703; the proposed amendment for Section R307-224-2 is under DAR No. 30704; the proposed amendment for Section R307-310-2 is under DAR No. 30705; the proposed amendment for Rule R307-417 is under DAR No. 30706; and the proposed amendment for Rule R307-801 is under DAR No. 30707 all in this issue, December 1, 2007, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: This amendment removes the specific version date for the CFR in Rule R307-840. The rule will now default to Section R307-101-3 that establishes the version of the CFR that is incorporated throughout Title R307. In a separate rulemaking, the version of the CFR reference in Section R307-101-3 is being updated to the July 1, 2007, version. There have been no changes to the incorporated materials since they were last incorporated by reference into Rule R307-840.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 745.63, 40 CFR 745.83, 40 CFR 745.223, 40 CFR 745.61, 40 CFR 745.65, 40 CFR 745.80, 40 CFR 745.81, 40 CFR 745.82, 40 CFR 745.85, 40 CFR 745.86, 40 CFR 745.88, 40 CFR 745.225(a) through (g) and (i), 40 CFR 745.226 (a) through (h), 40 CFR 745.227, and 40 CFR 745.233, July 1, 2007

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Because these revisions do not create new requirements, no change in costs is expected for the state budget.

❖ LOCAL GOVERNMENTS: Because this revision does not create new requirements, no change in costs is expected for local governments.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: SMALL BUSINESSES: Because this revision does not create new requirements, no change in costs is expected for small businesses. OTHER PERSONS: Because this revision does not create new requirements, no change in costs is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this revision does not create new requirements, no change in costs is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment does not create new requirements. Therefore, no additional costs are expected. Richard W. Sprott, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@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 12/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2008

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

R307. Environmental Quality, Air Quality.
R307-840. Lead-Based Paint Accreditation, Certification and Work Practice Standards.
R307-840-2. Definitions.

(1) Definitions found in 40 CFR 745.63, 40 CFR 745.83, and 40 CFR 745.223, [~~in effect as of July 1, 2005~~]effective as of the date referenced in R307-101-3, are hereby adopted and incorporated by reference, with the substitutions found in (2) below and the modifications found in (3) below.

(2) Substitutions.

(a) Substitute "the Executive Secretary" for all references to "EPA" except in the definition of "Pamphlet" found in 40 CFR 745.83 and in the definition of "Recognized laboratory" found in 40 CFR 745.223.

(b) Substitute "the Executive Secretary" for all references to "Administrator".

(3) Modifications.

(a) Delete the definition of "Administrator" found in 40 CFR 745.83.

(b) Modify the definition of "Pamphlet" found in Sec. 745.83 by deleting ", or any State or Tribal pamphlet approved by EPA pursuant to 40 CFR 745.326 that is developed for the same purpose".

(c) Delete the definition of "Lead-based paint hazard" found in 40 CFR 745.223.

(d) Modify the definition of "Business day" found in Sec. 745.223 by including "and State of Utah" before "holidays".

R307-840-3. Accreditation, Certification and Work Standards: Target Housing and Child-Occupied Facilities.

(1) The following requirements, [~~in effect as of July 1, 2005~~]effective as of date referenced in R307-101-3, are hereby adopted and incorporated by reference, with the substitutions found in (2) below and the modifications found in (3) below:

(a) 40 CFR 745.61, 745.65, 745.80, 745.81, 745.82, 745.85, 745.86, 745.88, 745.225(a) through (g) and (i), 745.226 (a) through (h), 745.227, and 745.233.

(2) Substitutions.

(a) Substitute "the Executive Secretary" for all references to "EPA" with the following exceptions:

(i) Sec. 745.65(d).

(ii) Sec. 745.86(b)(1).

(iii) Sec. 745.225(b)(1)(iii), Sec. 745.225(b)(1)(iv), Sec. 745.225(c)(2)(ii), Sec. 745.225(c)(10), Sec. 745.225(e)(5)(iii), and Sec. 745.225(e)(5)(iv).

(iv) The last reference to EPA in Sec. 745.226(a)(1)(ii) and the second reference to EPA in Sec. 745.226(d)(1).

(v) The first three references to EPA in Sec. 745.227(a)(3), and the reference to EPA in Sec. 745.227(a)(4), Sec. 745.227(e)(4)(vi)(D), Sec. 745.227(e)(4)(vi)(I), and Sec. 745.227(f)(2).

(b) Substitute "the Executive Secretary or the Executive Secretary's authorized representative" for references to "EPA" in Sec. 745.225(c)(12), Sec. 745.225(f)(4), and Sec. 745.225(i)(1).

(c) Substitute "the Executive Secretary" for all references to "Administrator".

(d) Substitute "R307-840" for "either Federal regulations at Sec. 745.226 or a State or Tribal certification program authorized pursuant to Sec. 745.324" in Sec. 745.82(b)(3).

(e) Substitute "R307-840" for "either Federal regulations at Sec. 745.226 or an EPA-authorized State or Tribal certification program" in Sec. 745.86(b)(1).

(f) Substitute "Sec. 745.82(b)(3)" for "Sec. 745.82(b)(iv)" in 40 CFR 745.86(b)(1).

(g) Substitute sample certification language found in Sec. 745.88(b)(2)(ii) with that found in Sec. 745.88(b)(2)(i).

(h) Substitute sample certification language found in Sec. 745.88(b)(2)(i) with that found in Sec. 745.88(b)(2)(ii).

(i) Substitute "the current Department of Environmental Quality Fee Schedule" for references to "Sec. 745.238" in Sec. 745.225(b)(4), Sec. 745.225(f)(3)(v), Sec. 745.226(a)(6), Sec. 745.226(e)(3), Sec. 745.226(f)(6), and Sec. 745.226(f)(7).

(j) Substitute "Utah Division of Air Quality electronic notification system" for "Agency's central data exchange (CDX)" in Sec. 745.225(c)(13)(vi), Sec. 745.225(c)(14)(iii), and Sec. 745.227(e)(4)(vii).

(k) Substitute "Notification Form" for "Schedule" in Sec. 745.225(c)(13)(vi).

(l) Substitute "Utah Division of Air Quality Lead-Based Paint Program web site" for "NLIC at 1-800-424-LEAD(5323), or on the Internet at http://www.epa.gov/lead" in Sec. 745.225(c)(13)(vi), Sec. 745.225(c)(14)(iii), and Sec. 745.227(e)(4)(vii).

(m) Substitute "Verification Form" for "Course Follow-up" in Sec. 745.225(c)(14)(iii).

(n) Substitute "Utah lead-based paint firm" for "EPA" in Sec. 745.227(e)(4)(vi)(D).

(o) Substitute "Utah lead-based paint individual" for "EPA" in Sec. 745.227(e)(4)(vi)(I).

(p) Substitute "Lead-Based Paint Abatement Project Notification" for "Notification of Lead-Based Paint Abatement Activities" in Sec. 745.227(e)(4)(vii).

(q) Substitute "Sec 745.65(b)" for "Sec 745.227(b)" in 40 CFR 745.227(h)(2)(i).

(3) Modifications.

(a) Change the date in Sec. 745.81 to October 1, 2005.

(b) Change the date in Sec. 745.226(a)(5), Sec. 745.226(d)(2), Sec. 745.226(f)(1), and Sec. 745.227(a)(1) to August 30, 1999.

(c) Modify Sec. 745.225(b)(1)(iii) by deleting "or training materials approved by a State or Indian Tribe that has been authorized by EPA under subpart Q of this part,".

(d) Modify Sec. 745.225(b)(1)(iv) by deleting "or training materials approved by an authorized State or Indian Tribe".

(e) Modify Sec. 745.225(c)(2)(ii) by including "Executive Secretary-accredited," before "EPA-accredited".

(f) Modify Sec. 745.225(c)(13)(v)(B) and Sec. 745.225(c)(14)(ii)(A) by deleting "EPA accreditation number,".

(g) Modify Sec. 745.225(c)(14)(ii)(F) to include "Utah Division of Air Quality Lead-Based Paint Program training verification statement".

(h) Modify Sec. 745.225(e)(5)(iii) by deleting "or training materials approved by a State or Indian Tribe that has been authorized by EPA under Sec. 745.324 to develop its refresher training course materials,".

(i) Modify Sec. 745.225 (e)(5)(iv) by deleting "or training materials approved by an authorized State or Indian Tribe".

(j) Modify Sec. 745.226 (a)(1)(ii) by including "EPA or" after the word "from".

(k) Modify Sec. 745.226(f)(7) by deleting "every 3 years".

(l) Modify Sec. 745.227 (a)(3) by deleting "Regulations, guidance, methods, or protocols issued by States and Indian Tribes that have been authorized by EPA;".

KEY: air pollution, paint, lead-based paint
Date of Enactment or Last Substantive Amendment: [~~November 3, 2005~~]2008
Notice of Continuation: May 5, 2003
Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(i)

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Health, Health Care Financing, Coverage and Reimbursement Policy
R414-21
Physical and Occupational Therapy

NOTICE OF PROPOSED RULE
(Repeal and Reenact)
DAR FILE NO.: 30653
FILED: 11/05/2007, 08:49

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Based on internal agency review, this change is to update and clarify the provision of physical and occupational therapy services. It also clarifies definitions, program access requirements, coverage, limitations, and reimbursement for physical and occupational therapy.

SUMMARY OF THE RULE OR CHANGE: The new rule clarifies and specifies program access requirements for physical and occupational therapy. It removes from the old rule prior authorization and reauthorization procedures as these are contained in the provider manuals. The new rule increases the number of physical or occupational therapy visits allowed without prior authorization from 10 to 20 and amends the limitations for treatment. It expands the deadline for recipients to seek treatment to 90 days following a cerebral vascular accident (CVA). The new rule clarifies reimbursement for physical and occupational therapy, and clarifies criteria for services provided through home health agencies.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-18-3 and 26-1-5; and 42 CFR 440.110(a)(1)(2) and 42 CFR 440.110(b)(1)(2)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no budget impact expected because the majority of physical and occupational therapy recipients currently complete 20 visits per calendar year, when authorization is requested after the first ten. The administrative efficiencies achieved because of this rulemaking will allow the department to use staff to review other services provided to Medicaid recipients.

❖ LOCAL GOVERNMENTS: There is no budget impact because local governments do not fund physical therapy or occupational therapy services and there is no expected

change in the number of physical and occupation therapy visits covered.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: It is expected that there will be no actual impact to small business or any persons because the majority of physical and occupational therapy recipients currently complete 20 visits per calendar year, when prior authorization is requested after ten visits.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance cost to a single Medicaid recipient or to a provider because coverage without prior authorization is expanded.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change expands coverage without prior authorization. Most patients complete their care in 20 or less visits, so there should not be an impact on the majority of Medicaid recipients. Business impact should be minimal. David N. Sundwall, MD, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
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 12/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2008

AUTHORIZED BY: David N. Sundwall, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-21. Physical and Occupational Therapy.
[~~R414-21-1. Policy Statement.~~

~~(1) "Qualified" physical therapists and occupational therapists may provide services for Medicaid eligible individuals upon the order of a doctor of medicine, osteopathy, dentistry or podiatry.~~

~~(2) Non-licensed therapists, although they may have received the required academic training, may not provide services for Medicaid eligible recipients with the expectation of reimbursement from Medicaid.~~

~~R414-21-2. Authority and Purpose.~~

~~(1) Authority~~

~~(a) The provision of physical therapy and occupational therapy evaluation and treatment is authorized under the authority of the 42 CFR in the following Sections:~~

~~(i) 405.1718a Medicare Standard, Nursing Home patients;~~

~~(ii) 405.1718b Medicare Standard, Nursing Home equipment;~~

~~(iii) 405.1718c Medicare Standard, Nursing Home personnel;~~

~~(iv) 440.70(b)(4) Home health provisions of service;~~

~~(v) 440.110(a)(1)(2) Physical Therapy and 440.110(b)(1)(2)Occupational Therapy definitions and qualifications;~~

~~(vi) 442.486 Physical Therapy services, ICF/MR;~~

~~(vii) 442.487 ICF/MR records and evaluation.~~

~~(2) Purpose~~

~~(a) The purpose of the physical therapy and occupational therapy program is to increase the functioning ability of each handicapped Medicaid recipient whether the handicap is temporary or permanent.~~

~~(b) The rehabilitation goals must include evaluation of the potential of each individual patient, the factual statement of the level of functions present, the identification of the goal that may reasonably be achieved, and the predetermined space of time and concentration of services that would achieve the goal.~~

~~(c) The Medicaid program is designed to provide services within financial limitations. A desired level of function must be balanced with an achievable level of function within a defined length of time. The objectives of the program are to provide a scope of service, supplementary information, limitations, and instructions concerning prior authorizations, billing, and utilization which clearly direct the provider to accomplish the goals he has identified for the patient.~~

~~(d) The goal of the physical therapist and the occupational therapist is to improve the ability of the patient, through the rehabilitative process, to function at a maximum level.~~

~~(e) The objectives of the provider must include:~~

~~(i) The evaluation and identification of the existing problem, not an anticipated problem;~~

~~(ii) The evaluation of the potential level of function actually achievable;~~

~~(iii) The restoration, to the level reasonably possible, of functions which have been lost due to accident or illness;~~

~~(iv) The establishment, to the level reasonably possible, of functions which are lacking due to defects of birth.~~

~~(v) The eventual termination or transfer of the responsibility for identified procedures to family, guardians, or other care-givers.~~

~~R414-21-3. Definitions.~~

~~(1) Physical Therapy: means the treatment of a human being by the use of exercise, massage, heat or cold, air, light, water, electricity, or sound for the purpose of correcting or alleviating any physical or mental condition or preventing the development of any physical or mental disability, or the performance of tests of neuromuscular function as an aid to the diagnosis or treatment of any human condition, provided, however, that physical therapy shall not include radiology or electrosurgery.~~

~~(2) Physical Therapist: means a person who practices physical therapy. "Physical therapist," "physiotherapist" and "physical therapy technician" are equivalent terms and reference to any one of them in this rule shall include the others.~~

~~(3) Qualified Physical Therapist: means an individual who is:~~

~~(a) a graduate of a program of physical therapy approved by both the Council on Medical Education of the American Medical Association and the American Physical Therapy Association, or its equivalent;~~

~~(b) licensed by the State of Utah; and~~
~~(c) a provider for Medicaid.~~
~~(4) Occupational Therapy means treatment of a human being by the use of therapeutic exercise, ADL activities, patient education, family training, home environment evaluation, equipment measurement and fitting, and fine motor skills.~~
~~(5) Occupational therapist means a person who practices occupational therapy.~~
~~(6) Qualified Occupational Therapist means an individual who is:~~
~~(a) registered by the American Occupational Therapy Association: or~~
~~(b) a graduate of a program in occupational therapy approved by the committee on Allied Health Education and Accreditation of the American Medical Association and engaged in the supplemental clinical experience required before registration by the American Occupational Therapy Association. 42 CFR 440.110.~~
~~(c) licensed by the State of Utah; and~~
~~(d) a provider for Medicaid~~
~~(7) Rehabilitation: means the process of treatment that leads the disabled individual to attainment of maximum function.~~
~~(8) Rehabilitation Services: means the delivery of rehabilitative medical or remedial services recommended by a physician or other licensed practitioner of the healing arts, within the scope of his practice under state law, for maximum reduction of physical or mental disability and restoration of a recipient to his best possible functional level. (42 CFR 440.130 (d).)~~

~~R414-21-4. Eligibility Requirements/Coverage.~~
~~Physical and occupational therapy services are available to categorically and medically needy individuals under Medicaid.~~

~~R414-21-5. Program Access Requirements.~~
~~Physical and occupational therapy services are available to categorically and medically needy individuals under Medicaid.~~

~~R414-21-6. Service Coverage.~~
~~(1) Providers of physical therapy shall offer an adequate program that provides services which utilize therapeutic exercise and the modalities of heat, cold, water, air, sound, massage and electricity; recipient evaluations and tests; and measurements of strength, balance, endurance, range of motion, and activities.~~
~~(a) Patients in need of physical therapy services are accepted for evaluation with a referral or recommendation by a physician, dentist, podiatrist or osteopath.~~
~~(b) Provision of services is with the expectation that the condition under treatment will improve in a reasonable and predictable time. Continuation of treatment beyond the maximum rehabilitative potential within a specified time will not be approved. Length of time and number of treatments will be predicated by Physical Therapy Association guidelines.~~
~~(c) All therapy services after the first ten sessions per client per provider per calendar year require prior authorization.~~
~~(2) Providers of occupational therapy shall offer an adequate program that provides services which utilize therapeutic modalities approved by the American Occupational Therapy Association.~~
~~(a) Patients in need of occupational therapy services are accepted for evaluation with a referral or recommendation by a physician, dentist, podiatrist or osteopath.~~
~~(b) Provision of services is with the expectation that the condition under treatment will improve in a reasonable and predictable time. Continuation of treatment beyond the maximum rehabilitative potential within a specified time will not be approved. Length of time and number of treatments will be predicated by Physical Therapy Association guidelines.~~

~~R414-21-7. Standards of Care.~~
~~(1) The services must be considered under accepted standards of medical practice to be a specific and effective treatment for the recipient's conditions.~~
~~(2) The services must be of a level of complexity and sophistication, or the condition of the recipient must be such, that services required can be safely and effectively performed only by a qualified physical therapist. To constitute physical therapy, a service must, among other things, be reasonable and necessary to the treatment of the individual's illness. If an individual's expected rehabilitative potential would be insignificant in relation to the extent and duration of the physical therapy, it would not be considered reasonable and necessary. There must be an expectation that the recipient's condition will improve significantly in a reasonable (and generally predictable) period of time. If, at any point in the treatment of an illness, it is determined that the expectation will not materialize, the services will no longer be considered reasonable and necessary.~~
~~(3) The amount, frequency, and duration of the services must be reasonable. Requests will be reviewed and a determination made by Health Care Financing, Utilization Management Staff using guidelines provided by the American Physical Therapy Association and the American Occupational Therapy Association.~~

~~R414-21-8. Programs.~~
~~(1) Independent Physical Therapist licensed by Utah and practicing according to the provisions of this rule.~~
~~(2) Independent Occupational Therapist licensed by Utah and practicing according to the provisions of this rule.~~
~~(3) Physical Therapists and Occupational Therapists associated with a professional group in a hospital or clinic or rehabilitation center. This clinic situation will allow the physical therapy and occupational therapy programs to overlap. The clinic or rehabilitation center under the direction a physician will determine which therapy, P.T. or O.T., will be given. The total treatments for any diagnosis will be determined by the provisions of this rule.~~

~~R414-21-9. Limitations.~~
~~(1) General Limitations~~
~~(a) More than ten physical therapy services per calendar year per client per provider are not reimbursable without prior approval following the evaluation. All other services by the same billing provider require prior authorization.~~
~~(b) Physical therapy or occupational therapy treatments are limited to one per day.~~
~~(c) Independent Occupational Therapist: all services after the initial evaluation require prior authorization.~~
~~(d) Clinic or Rehabilitation Center Occupational Therapists: the first ten visits (combination of P.T./O.T. visits) do not require prior authorization. All other services beyond the initial ten visits require prior approval.~~
~~(e) The following services are not covered:~~
~~(i) Treatment for social or educational needs;~~
~~(ii) Treatment for patients who have stable chronic conditions which cannot benefit from physical therapy services;~~
~~(iii) Treatment for recipients where there is no documented potential for improvement;~~

(iv) Treatment for recipients who have reached maximum potential for improvement;

(v) Treatment for recipients who have achieved stated goals;

(vi) Treatment for non-diagnostic, non-therapeutic, routine, repetitive or reinforced procedures;

(vii) Treatment for CVA which begins more than 60 days after onset of the CVA;

(viii) Treatment for residents of ICF/MR;

(ix) Treatment in excess of one session or service per day.

(2) Specifications. Various physical therapy and occupational therapy modalities are included in the therapy procedure code. There are no specific procedure codes in the Medicaid program for such procedures as heat, cold, whirlpool, massage, air and sound therapy. Any modality the therapist chooses is acceptable under the one procedure code.

(a) Hot Pack, Hydrocollator, Infra-Red Treatments, Parafin Baths and Whirlpool Baths. Heat treatments of this type, including whirlpool baths, do not ordinarily require the skills of a qualified physical therapist. However, in a particular case, the skills, knowledge, and judgment of a qualified physical therapist might be required for such treatments as baths where the recipient's condition is complicated by circulatory deficiency, areas of desensitization, open wounds, or other complications. Also, if such treatments are given prior to, but as an integral part of, a skilled physical therapy procedure, they would be considered part of the physical therapy service.

(b) Gait Training. Gait evaluation and training furnished a recipient whose ability to walk has been impaired by neurological, muscular, or skeletal abnormality, require the skills of a qualified physical therapist. However, if gait evaluation and training cannot reasonably be expected to improve significantly the patient's ability to walk, such services would not be considered reasonable or medically necessary. Repetitious exercises to improve gait or maintain strength and endurance and assist in walking are appropriately provided by supportive personnel such as aides or nursing personnel and do not require the skills of a qualified physical therapist.

(c) Ultrasound, shortwave, and microwave treatments. These modalities must always be performed by a qualified physical therapist.

(d) Range of Motion Tests. Therapeutic exercises which must be performed by or under the supervision of a qualified physical therapist, due either to the type of exercise employed or condition of the recipient, would constitute physical therapy. Range of motion exercises require the skills of a qualified physical therapist only when they are part of active treatment of a specific disease which has resulted in the loss or restriction of mobility (as evidenced by physical therapy notes showing the degree of motion lost and the degree to be restored). Such exercises, either because of their nature or condition of the recipient, may be performed safely and effectively by a qualified physical therapist briefly. Generally, range of motion exercises related to the maintenance of function do not require the skills of a qualified physical therapist and are not reimbursable.

(3) Home Health Limitations

(a) In a home health agency where the physical therapist is an employee of the agency or where there is a contractual arrangement with the therapist, the home health agency must follow the Medicaid guidelines.

(b) All therapy services, including the evaluation, require prior authorization.

(c) Occupational therapy is not a benefit in the home health program.

R414-21-10. Prior Authorization.

(1) Ten services per calendar year per client are reimbursable without prior approval following the evaluation.

(a) All other services by the same provider require prior authorization.

(b) All physical therapy treatment, therapies, or sessions require a prior approval beginning after the first ten services per client per calendar year per billing provider.

(2) Process. The evaluation does not require prior approval. The first ten services per patient per billing provider per calendar year do not require prior approval. Prior approval for therapy services after the first ten services per provider per calendar year require prior approval before the services begin. The request for prior approval for treatment should include a copy of the plan of treatment for the patient or a document which includes:

(a) the diagnosis, and the severity of the condition;

(b) the prognosis for progress;

(c) the expected goals and objectives for the recipient to attain;

(d) the detail of the method(s) of treatment;

(e) the frequency of treatment sessions, length of each session, and duration of the program.

(3) Prior Approval Procedure

(a) Prior approval requests will be evaluated for the number, frequency, and duration of treatments.

(i) The number of services approved will be based on the documented diagnosis, history and goals.

(ii) The frequency of services will be determined by the provider not to exceed one treatment per day.

(b) Reauthorization will require review by the patient's primary physician and will be dependent upon the medical necessity of the patient. Medicaid physician consultants will review and evaluate requests for continued service.

(4) Prior Approval Criteria

(a) Prior approval requests for treatment will be reviewed and approved or denied based on the following criteria:

(i) Services are for treatment of medically oriented disorders and disabilities.

(ii) Services are professionally appropriate under standards in the field, utilizing professionally appropriate methods and materials, in a professionally appropriate environment.

(iii) Services are provided with the expectation that the condition under treatment will improve in a reasonable and predictable time to the identified level.

(iv) Services are provided with a plan that explicitly states the methods to be used and the termination conditions.

(v) Services are requested for a patient suffering from CVA within 60 days of the CVA.

(5) Reauthorization

(a) When a reauthorization is necessary after the initial prior-approved sessions, a medical evaluation and documentation from the physician, as well as the therapist, must be attached to the prior authorization request. A new treatment plan is necessary defining the new goals. A new medical summary from the physician must also be attached. Additional requests should also include any supplemental data such as past treatment, progress made, family problems that may hinder progress, and a definite termination date. Medicaid physician consultants will review and evaluate requests for continued service in accordance with the process and criteria set forth in R414-21.

~~**R414-21-11. Reimbursement for Services.**~~

~~Physical therapy reimbursement procedure codes and instructions are found in the Physical Therapy Provider Manual.~~

]

R414-21-1. Introduction and Authority.

(1) This rule governs physical and occupational therapy services provided to Medicaid clients. It implements the provision of physical therapy and occupational therapy evaluation and treatment as authorized by 42 CFR 440.110(a)(1)(2), 440.110(b)(1)(2), and 440.70(b)(4).

(2) Physical and occupational therapy are optional services for adults.

R414-21-2. Eligibility Requirements.

Physical therapy and occupational therapy services are available to categorically and medically needy individuals under Medicaid.

R414-21-3. Program Access Requirements.

(1) Physical therapy may be provided only by a licensed physical therapist. The physical therapist may have a physical therapy assistant or aide under the physical therapist's immediate supervision provide the direct service so long as the physical therapist is present in the area where the person supervised is performing services and immediately available to assist the person being supervised in the services being performed.

(2) Occupational therapy may be provided only by a licensed occupational therapist. The occupational therapist may have a occupational therapy assistant under the occupational therapist's immediate supervision provide the direct service so long as the occupational therapist is present in the area where the person supervised is performing services and immediately available to assist the person being supervised in the services being performed.

R414-21-4. Service Coverage.

(1) Medicaid covers the following physical therapy services:

(a) therapeutic exercise;

(b) the application of heat, cold, water, air, sound, massage, and electricity;

(c) recipient evaluations and tests;

(d) measurements of strength, balance, endurance, range of motion and activities.

(2) Medicaid covers occupational therapy services to treat the following:

(a) traumatic brain injury;

(b) traumatic spinal cord injury;

(c) traumatic hand injury;

(d) congenital anomalies or developmental disabilities resulting in neurodevelopmental deficits; or

(e) cerebral vascular accident (CVA), but only if treatment begins within 90 days after the onset of the CVA.

(3) In exercising its best professional judgement to determine the amount, duration, and scope of optional services sufficient to reasonably achieve the purpose of the physical therapy or occupational therapy service, the Department uses the guidelines provided by the American Physical Therapy Association and the American Occupational Therapy Association to determine the number of visits allowed for the diagnosis.

(4) Medicaid does not cover:

(a) services for social or educational needs only;

(b) services to a recipient with a stable chronic condition whose function cannot be improved by the application physical therapy services;

(c) service to a recipient with no documented potential for improvement or who has reached maximum potential for improvement;

(d) non-diagnostic, non-therapeutic, repetitive or reinforcing procedures or other maintenance services, except for services that are both:

(i) to children under the age of 20 years; and

(ii) are limited to one therapy visit per month to train the caregiver to provide routine care, and repetitive or reinforced procedures in the residence.

(5) Medicaid pays for only one physical therapy session per day. Medicaid pays for only one occupational therapy session per day.

(6) Services to a resident of an Intermediate Care Facility for the Mentally Retarded are paid as part of the per diem payment for the recipient. Medicaid does not pay separately for those services.

(7) Physical therapy is limited to 20 visits annually without obtaining prior authorization to assure that the sessions are within the amount, duration, and scope limits established by the Department.

(8) Occupational therapy is limited to 20 visits annually without prior authorization to assure that the visits are within the amount, duration, and scope limits established by the Department.

R414-21-5. Services Provided Through Home Health Agencies.

(1) If a physical therapy service is provided outside of the physical therapists treatment facility, the provider must obtain prior authorization from the Department for each physical therapy session, including the evaluation. to assure that the sessions are within the amount, duration, and scope limits established by the Department and that the recipient could not obtain the service at the physical therapist's treatment facility.

(2) The Department does not cover occupational therapy services that are not provided at the occupational therapist's treatment facility.

R414-21-6. Reimbursement.

(1) Physical and occupational therapy is reimbursed using the fee schedule established in the Utah Medicaid State Plan and incorporated by reference in Section R414-1-5.

(2) Services provided by a physical therapy assistant or aide or by an occupational therapy assistant must be billed as part of the services provided by the supervising physical or occupational therapist.

KEY: Medicaid
Date of Enactment or Last Substantive Amendment: [~~July 2, 2003~~]2008
Notice of Continuation: April 16, 2007
Authorizing, and Implemented or Interpreted Law: 26-1-4.1; 26-1-5; 26-18-3

♦ ♦

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-304
Income and Budgeting

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 30652
FILED: 11/05/2007, 08:40

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment is necessary to comply with a new federal requirement that prohibits a state Medicaid agency from accepting payments of a recipient's Medicaid spenddown if the funds come from a Medicaid provider's own funds.

SUMMARY OF THE RULE OR CHANGE: This amendment states that the Medicaid agency cannot accept payment of a recipient's spenddown amount if the source of the funds are a Medicaid provider's own funds or from funds that a Medicaid provider loans to a recipient. (DAR NOTE: A corresponding 120-day (emergency) rule that is effective 12/01/2007 is under DAR No. 30651 in this issue, December 1, 2007, of the Bulletin.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-18-3; and Sections 1128A(a)(5) and 1128B(b)(2)(B) of the Social Security Act

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Department estimates annual savings of $167,156 to the General Fund and savings of $422,044 in federal funds because some clients will not qualify for Medicaid services.

❖ LOCAL GOVERNMENTS: This change does not affect local governments because they are not Medicaid clients or providers.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The cost to Medicaid clients who cannot make their spenddown and must pay for their own medical services may range up to approximately $100,000 depending on how many of the services they seek without Medicaid funding and how much of the cost for those services is absorbed by health care providers. There may also be a cost to providers that choose to absorb the cost of services they provide without compensation. How much will be able to spend down to become eligible and how much they will pay for their own services is uncertain. How much health care providers will absorb is also uncertain. However, the department estimates that, in the aggregate, health care providers will receive approximately $675,000 less gross revenue from Medicaid payments because of this change. Of that amount, the decrease in gross revenues for mental health centers is approximately $100,000, for hospitals it is approximately $245,000, for physicians it is approximately $140,000, and for pharmacies it is approximately $90,000.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The mean average annual cost to a single Medicaid client who cannot make his spenddown is approximately $1,100, the mean average loss in revenues for a single mental health center is approximately $2,200, for a single hospital it is approximately $911, for a single physician it is approximately $41, and for a single pharmacy it is approximately $160.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change is required to keep the Medicaid program in compliance with federal interpretations. There will be some impact on business if patients are unable to qualify by paying the spenddown from their own funds. This care would then be denied or be uncompensated care. The costs are detailed above. 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 12/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2008

AUTHORIZED BY: David N. Sundwall, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-304. Income and Budgeting.
R414-304-7. A, B and D Medicaid and Family Medicaid Income Deductions.

(1) This section sets forth income deductions for non-institutional aged, blind, disabled and family Medicaid programs, except for the Medicaid Work Incentive program.

(2) The Department applies the financial methodologies required by 42 CFR 435.601, and the deductions defined in 42 CFR 435.831, 2005 ed., which are incorporated by reference. Any additional income deductions or limitations are described in this rule.

(3) For aged, blind and disabled individuals eligible under 42 CFR 435.301(b)(2)(iii), (iv), and (v), described more fully in 42 CFR 435.320, .322 and .324, the Department deducts from income an amount equal to the difference between 100% of the federal poverty guideline and the current BMS income standard for the applicable household size to determine the spenddown amount.

(4) To determine eligibility for and the amount of a spenddown under medically needy programs, the Department deducts from income health insurance premiums the client or a financially responsible family member pays providing coverage for the client or any family members living with the client in the month of payment. The Department also deducts from income the amount of a health insurance premium the month it is due when the Department pays the premium on behalf of the client as authorized by Section 1905(a)

of Title XIX of the Social Security Act, 2005 ed., except no deduction is allowed for Medicare premiums the Department pays for or reimburses to recipients.

(a) The Department deducts the entire payment in the month it is due and does not prorate the amount.

(b) The Department does not deduct health insurance premiums to determine eligibility for the poverty-related medical assistance programs or 1931 Family Medicaid.

(5) To determine the spenddown under medically needy programs, the Department deducts from income health insurance premiums the client or a financially responsible family member paid in the application month or during the three month retroactive period. The deduction is allowed either in the month paid or in any month after the month paid to the extent the full amount was not deducted in the month paid, but only through the month of application.

(6) To determine eligibility for medically needy coverage groups, the Department deducts from income medically necessary medical expenses that the client verifies only if the expenses meet all of the following conditions:

(a) The medical service was received by the client, a client's spouse, a parent of a dependent client or a dependent sibling of a dependent client, a deceased spouse or a deceased dependent child.

(b) The medical bill will not be paid by Medicaid and is not payable by a third party.

(c) The medical bill remains unpaid, or the medical service was received and paid during the month of application or during the three-month time-period immediately preceding the date of application. The date the medical service was provided on an unpaid expense does not matter if the client still owes the provider for the service. Bills for services received and paid during the application month or the three-month time-period preceding the date of application can be used as deductions only through the month of application.

(7) A medical expense cannot be allowed as a deduction more than once.

(8) A medical expense allowed as a deduction must be for a medically necessary service. The Department decides if services are medically necessary.

(9) The Department deducts medical expenses in the order required by 42 CFR 435.831(h)(1). When expenses have the same priority, the Department deducts paid expenses before unpaid expenses.

(10) A client who pays a cash spenddown may present proof of medical expenses paid during the coverage month and request a refund of spenddown paid up to the amount of bills paid by the client. The following criteria apply:

(a) Expenses for which a refund can be made include medically necessary medical expenses not covered by Medicaid or any third party, co-payments required for prescription drugs covered under a Medicare Part D plan, and co-payments or co-insurance amounts for Medicaid-covered services as required under the State Medicaid Plan.

(b) The expense must be for a service received during the benefit month.

(c) The Department will not refund any portion of any medical expense the client uses to meet a Medicaid spenddown because the client assumes responsibility to pay any expenses used to meet a spenddown.

(d) A refund cannot exceed the actual cash spenddown amount paid by the client.

(e) The Department does not refund spenddown amounts paid by a client based on unpaid medical expenses for services the client receives during the benefit month. The client may present to the agency any unpaid bills for non-Medicaid-covered services that the client receives during the coverage month. The unpaid bills may be used to meet or reduce the spenddown the client owes for a future month of Medicaid coverage to the extent such bills remain unpaid at the beginning of such future month.

(f) The Department will reduce a refund by the amount of any unpaid obligation the client owes the Department.

(11) For poverty-related medical assistance, an individual or household is ineligible if countable income exceeds the applicable income limit. Medical costs cannot be deducted from income to determine eligibility for poverty-related medical assistance programs. Individuals cannot pay the difference between countable income and the applicable income limit to become eligible for poverty-related medical assistance programs.

(12) When a client must meet a spenddown to become eligible for a medically needy program, the client must sign a statement that says:

(a) the agency told the client how spenddown can be met[~~,~~];

(b) the client expects his or her medical expenses to exceed the spenddown amount[~~, and~~];

(c) whether the client intends to pay cash or use medical expenses to meet the spenddown[~~-~~]; and

(d) that the agency told the client that the Medicaid provider cannot use the provider's funds to pay the client's spenddown and that the provider cannot loan the client money for the client to pay the spenddown.

(13) A client may meet the spenddown by paying the agency the amount with cash or check, or by providing proof to the agency of medical expenses the client owes equal to the spenddown amount.

(a) The client may elect to deduct from countable income unpaid medical expenses for services received in non-Medicaid covered months to meet or reduce the spenddown.

(b) Expenses must meet the criteria for allowable medical expenses.

(c) Expenses cannot be payable by Medicaid or a third party.

(d) For each benefit month, the client can choose to change the method of meeting spenddown by either presenting proof of allowable medical expenses to the agency or by presenting a cash or check payment to the agency equal to the spenddown amount.

(14) The Department cannot accept spenddown payments from a Medicaid provider if the source of the funds is the Medicaid provider's own funds. The Department cannot accept spenddown payments from a client if the funds were loaned to the client by a Medicaid provider.

([~~14~~]15) The Department deducts only the amount of pre-paid medical expenses that equals the cost of services actually received in the month such expenses are paid. Payments a client makes for medical services in a month before the month services are actually received cannot be deducted from income.

([~~15~~]16) For non-institutional Medicaid programs, the Department deducts institutional medical expenses the client owes only if the expenses are medically necessary. The Department decides if services for institutional care are medically necessary.

([~~16~~]17) The Department does not require a client to pay a spenddown of less than $1.

([~~17~~]18) Medicaid covered medical costs incurred in a current benefit month cannot be used to meet spenddown when the client is enrolled in a Medicaid Health Plan. Bills for mental health services

incurred in a benefit month cannot be used to meet spenddown if Medicaid contracts with a single mental health provider to provide mental health services to all recipients in the client's county of residence. Bills for mental health services received in a retroactive or application month that the client has fully-paid during that time can be used to meet spenddown only if the services were not provided by the Medicaid-contracted, mental health provider.

R414-304-9. A, B, and D Institutional Medicaid and Family Institutional Medicaid Income Deductions.

(1) This section sets forth income deductions for aged, blind, disabled and family institutional Medicaid programs.

(2) The Department applies the financial methodologies required by 42 CFR 435.601 and the deductions defined in 42 CFR 435.725, 435.726, and 435.832, 2005 ed., which are incorporated by reference. The Department applies Subsection 1902(r)(1) and 1924(d) of the Compilation of the Social Security Laws, which are incorporated by reference. Any additional income deductions or limitations are described in this rule.

(3) The following definitions apply to this section:

(a) "Family member" means a son, daughter, parent, or sibling of the client or the client's spouse who lives with the spouse.

(b) "Dependent" means earning less than $2,000 a year, not being claimed as a dependent by any other individual, and receiving more than half of one's annual support from the client or the client's spouse.

(4) Health insurance premiums:

(a) For institutionalized and waiver eligible clients, the Department deducts from income health insurance premiums only for the institutionalized or waiver eligible client and only if paid with the institutionalized or waiver eligible client's funds. Health insurance premiums are deducted in the month due. The payment is not pro-rated. The Department deducts the amount of a health insurance premium for the month it is due if the Department is paying the premium on behalf of the client as authorized by Section 1905(a) of Title XIX of the Social Security Act, except no deduction is allowed for Medicare premiums the Department pays for or reimburses to recipients.

(b) The Department deducts from income the portion of a combined premium, attributable to the institutionalized or waiver-eligible client if the combined premium includes a spouse or dependent family member and is paid from the funds of the institutionalized or waiver eligible client.

(5) The Department deducts medical expenses from income only if the expenses meet all of the following conditions:

(a) the medical service was received by the client;

(b) the unpaid medical bill will not be paid by Medicaid or by a third party;

(c) a paid medical bill can be deducted only through the month it is paid. No portion of any paid bill can be deducted after the month of payment.

(6) The Department does not deduct medical or remedial care expenses that the Department is prohibited from paying because the expenses are incurred during a penalty period imposed due to a transfer of assets for less than fair market value. The Department does not deduct medical or remedial care expenses that the Department is prohibited from paying under Section 6014 of Pub. L. 109-171 because the equity value of the individual's home exceeds the limit set by such law. The Department will not deduct such expenses during the month the services are received nor for any month after the month services are received even when such expenses remain unpaid.

(7) The Department does not allow a medical expense as an income deduction more than once.

(8) A medical expense allowed as an income deduction must be for a medically necessary service. The Department of Health decides if services are medically necessary.

(9) The Department deducts only the amount of pre-paid medical expenses that equals the cost of services actually received in the month such expenses are paid. Payments a client makes for medical services in a month before the month the services are actually received cannot be deducted from income.

(10) When a client must meet a spenddown to become eligible for a medically needy program or receive Medicaid under a home and community based care waiver, the client must sign a statement that says:

(a) the agency told the client how spenddown can be met[,];

(b) the client expects his or her medical expenses to exceed the spenddown amount[~~, and~~];

(c) whether the client intends to pay cash or use medical expenses to meet the spenddown[~~-~~]; and

(d) that the agency told the client that the Medicaid provider cannot use the provider's funds to pay the client's spenddown and that the provider cannot loan the client money for the client to pay the spenddown.

(11) A client may meet the spenddown by paying the agency the amount with cash or check, or by providing to the agency proof of medical expenses the client owes equal to the spenddown amount.

(a) The client may elect to deduct from countable income unpaid medical expenses for services received in non-Medicaid covered months to meet or reduce the spenddown.

(b) Expenses must meet the criteria for allowable medical expenses.

(c) Expenses cannot be payable by Medicaid or a third party.

(d) For each benefit month, the client may choose to change the method of meeting spenddown by either presenting proof of allowable medical expenses to the agency or by presenting a cash or check payment to the agency equal to the spenddown amount.

(12) The Department cannot accept spenddown payments from a Medicaid provider if the source of the funds is the Medicaid provider's own funds. The Department cannot accept spenddown payments from a client if the funds were loaned to the client by a Medicaid provider.

([~~12~~]13) Institutionalized clients are required to pay all countable income remaining after allowable income deductions to the institution in which they reside as their contribution to the cost of their care.

([~~13~~]14) A client who pays a cash spenddown, or a liability amount to the medical facility in which he resides, may present proof of medical expenses paid during the coverage month and request a refund of spenddown or liability paid up to the amount of bills paid by the client. The following criteria applies:

(a) Expenses for which a refund can be made include medically necessary medical expenses not covered by Medicaid or any third party, co-payments required for prescription drugs covered under a Medicare Part D plan, and co-payments or co-insurance amounts for Medicaid-covered services as required under the State Medicaid Plan.

(b) The expense must be for a service received during the benefit month.

(c) The Department will not refund any portion of any medical expense the client uses to meet a Medicaid spenddown or to reduce the liability owed to the institution because the client assumes responsibility to pay any expenses used to meet a spenddown or reduce a liability.

(d) A refund cannot exceed the actual cash spenddown or liability amount paid by the client.

(e) The Department does not refund spenddown or liability amounts paid by a client based on unpaid medical expenses for services the client receives during the benefit month. The client may present to the agency any unpaid bills for non-Medicaid-covered services that the client receives during the coverage month. The unpaid bills may be used to meet or reduce the spenddown the client owes for a future month of Medicaid coverage to the extent such bills remain unpaid at the beginning of such future month.

(f) The Department reduces a refund by the amount of any unpaid obligation the client owes the Department.

([~~14~~]15) The Department deducts a personal needs allowance for residents of medical institutions equal to $45.

([~~15~~]16) When a doctor verifies that a single person, or a person whose spouse resides in a medical institution is expected to return home within six months of entering a medical institution or nursing home, the Department deducts a personal needs allowance equal to the current Medicaid Income Limit (BMS) for one person, defined in R414-304-11(6), for up to six months to maintain the individual's community residence.

([~~16~~]17) Except for an individual eligible for the Personal Assistance Waiver, an individual receiving assistance under the terms of a Home and Community-Based Services Waiver is eligible to receive a deduction for a non-institutionalized, non-waiver-eligible spouse and dependent family member as if that individual were institutionalized. The Department applies the provisions of Section 1924(d) of the Compilation of Social Security Laws, or the provisions of 42 U.S.C. 435.726 or 435.832 to determine the deduction for a spouse and family members.

([~~17~~]18) A client is not eligible for Medicaid coverage if medical costs are not at least equal to the contribution required towards the cost of care.

([~~18~~]19) Medicaid covered medical costs incurred in a current benefit month cannot be used to meet spenddown when the client is enrolled in a Medicaid Health Plan. Bills for mental health services incurred in a benefit month cannot be used to meet spenddown if Medicaid contracts with a single mental health provider to provide mental health services to all recipients in the client's county of residence. Bills for mental health services received in a retroactive or application month that the client has fully-paid during that time can be used to meet spenddown only if the services were not provided by the Medicaid-contracted, mental health provider.

KEY: financial disclosures, income, budgeting
Date of Enactment or Last Substantive Amendment: [~~November 28, 2006~~]2008
Notice of Continuation: January 31, 2003
Authorizing, and Implemented or Interpreted Law: 26-18-1

♦ ♦

Human Services, Child and Family Services

R512-20

Protective Payee for Recipients of Cash Assistance from the Department of Workforce Services

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 30716
FILED: 11/13/2007, 08:58

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The division no longer serves as representative payee for the Department of Workforce Services.

SUMMARY OF THE RULE OR CHANGE: This rule will be repealed in its entirety and will no longer be effective.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 62A-4a-102 and 62A-4a-105, and 45 CFR 234.60 (1994)

ANTICIPATED COST OR SAVINGS TO:

- THE STATE BUDGET: There will be no costs or savings to the state budget because services will be provided within the current budget.
- LOCAL GOVERNMENTS: There will be no cost or savings to local government because this rule does not apply to local government.
- SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There will be no cost or savings to small businesses and persons other than businesses because it was determined that the families affected by this rule change will not see an increase in costs or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The families affected by this rule change will not see an increase in costs or savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no impact on businesses. Lisa-Michele Church, Executive Director

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
Room 225
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carol Miller at the above address, by phone at 801-538-4451, by FAX at 801-538-3993, or by Internet E-mail at CAROLMILLER@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 12/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/08/2008

AUTHORIZED BY: Duane Betournay, Director

R512. Human Services, Child and Family Services.

[~~R512-20. Protective Payee for Recipients of Cash Assistance from the Department of Workforce Services.~~

~~R512-20-1. Reason to Set Up a Payee.~~

~~The Division of Child and Family Services (DCFS) Regional Director, as authorized by 45 CFR 234.60 (1994), shall designate protective payees and request the eligibility worker to make protective payments directly to other individuals when consumers have demonstrated an inability to manage funds; have not used financial assistance in their best interest; or are physically or mentally incapable of expending their grant money in accordance with acceptable standards as evidenced through an evaluation by the DCFS worker.~~

~~R512-20-2. Assessment of Payee Request.~~

~~DCFS staff will be responsible to assess the request and the need for protective payments. The Supervisor shall review the facts and the conclusions in the decision to use a protective payee, and initial and date.~~

~~R512-20-3. List of Payees.~~

~~DCFS staff will develop a list of protective payees who are willing to participate in a protective payee plan with DCFS and the consumer. DCFS staff may act as payee if this is the best plan to protect the consumer.~~

~~R512-20-4. Criteria for Using Protective Payments for Recipients of Cash Assistance from the Department of Workforce Services.~~

~~The DCFS record shall contain all facts upon which the need for protective payments is decided. The following should be used as a guideline to situations which may require protective payment.~~

~~1. Observation, by the DCFS worker, of family problems in money management.~~

~~2. Observation by any social worker from a community agency.~~

~~3. Complaints by neighbors and relatives about the consumer's inability to manage money.~~

~~4. Failure of the client to assume any responsibility for legitimate debts and contractual obligations.~~

~~5. Use of assistance funds for sole benefit of adult payee without regard for the needs of the children.~~

~~6. Diagnosed alcoholism.~~

~~7. Improperly clothed children and inadequate family diet in comparison to comparable consumer families.~~

~~8. Complaints by:~~

~~a. Law enforcement officials.~~

~~b. Public Health officials.~~

~~c. Schools and teachers.~~

~~d. Church and civic groups.~~

~~e. Members of the household, including the children.~~

~~f. Relatives not in the household.~~

~~g. Other social service agencies.~~

~~h. Neighbors.~~

~~i. Other Department of Human Services staff.~~

~~9. A medical determination of mental or physical inadequacies by a psychiatrist or physician.~~

~~10. A psychological evaluation by a licensed psychologist.~~

~~11. Other reports of gross conditions of physical or mental disability, including observation of extension paralysis, mental retardation, or continued disorientation.~~

~~R512-20-5. Payee Plan.~~

~~A DCFS worker should develop the best plan of protective payments for the family or individuals. The recipient must be involved in developing the plan and in choosing the payee.~~

~~R512-20-6. Selection of Protective Payee for Cash Assistance Recipients Unable to Manage Funds.~~

~~A. The protective payee must be a person who:~~

~~1. is interested in or concerned with the consumer's welfare;~~

~~2. is selected with the participation and consent of the consumer whenever possible;~~

~~3. is able to act for the consumer in receiving and managing the assistance grant; and~~

~~4. will perform as a protective payee without pay.~~

~~B. A protective payee cannot be selected if he is the consumer's landlord, grocer, or other vendor of goods and services that would be purchased by the consumer in normal living.~~

~~C. An employee of the Department may act as payee if no other appropriate person is available.~~

~~D. The payee may not be the executive head of the agency administering public assistance; the person determining financial eligibility; special investigative or resource staff or staff handling fiscal processes.~~

~~R512-20-7. Setting Up Protective Payment.~~

~~A. The DCFS worker chooses payee and gains payee's agreement to act in this capacity. The decision of who should be payee must be made with input from the consumer if possible.~~

~~B. If there is no other suitable person available, the DCFS worker sets DCFS up as payee. This should be done with consumer's agreement if possible.~~

~~C. The DCFS worker, payee, and consumer discuss family's needs and make a budget.~~

~~D. The DCFS worker, payee, and consumer make a plan detailing the steps to be undertaken and accomplished by the consumer in order to terminate the protective payment.~~

~~E. A written explanation shall be placed in the DCFS record, explaining the reasons for the appointment of a protective payee, the steps taken in the selection of the appointed protective payee, the needs and budget of the family, and the plan to be followed to terminate protective payment.~~

~~F. The DCFS worker notifies the Department of Workforce Services (DWS) eligibility worker of the protective payment plan, and requests a protective payment status.~~

~~G. The DWS eligibility worker, after receiving the above information, will order the check in the name of the protective payee.~~

~~H. A Form 522, with a full explanation of the action being taken, must be sent to the consumer.~~

~~**R512-20-8. Protective Payments Accounting Procedures for Non-DCFS Staff Payees.**~~

~~A. Form 481-A-S, Protective Payee's Monthly Report, shall be forwarded monthly from the protective payee to the DCFS staff member. In the review, the DCFS worker shall ascertain if the protective payee is controlling the consumer's grant money wisely and in accordance with the service plan.~~

~~B. In some instances, a protective payee may be used for disbursing only part of the grant money and the balance is expended by the consumer. The disbursement must be made by check. When this situation occurs, the protective payee will account for only his expenditures on behalf of the consumer. The financial procedures do not permit the issuance of the grant in several checks and the DCFS worker must make the decision whether a protective payee needs to be appointed.~~

~~C. The worker is responsible for evaluating the progress toward the goals stated in the plan concerning money management, including monitoring, and auditing the expenditures made by the protective payee on behalf of the consumer.~~

~~D. All clients who are placed on a protective status plan will have the food stamps, medical ID card, re-evaluation form, and other DCFS documents sent to the address of the protective payee. It will be the responsibility of the protective payee, along with the worker, to see that these ID cards and authorization forms are given to the consumer.~~

~~E. If the entire amount of the grant is not spent, a savings account, like those for people with trust funds, must be set up. This money is to be accounted for as trust account savings and is to be used for family's special needs. These funds must be reported on eligibility reviews.~~

~~**R512-20-9. Protective Payments Accounting Procedures for DCFS Staff Payees.**~~

~~Protective payments for recipients of cash assistance from the Department of Workforce Services will be handled as they are for other protective payee cases.~~

~~**R512-20-10. Review of Protective Payments.**~~

~~A. The client will receive a monthly accounting of the expenditure of funds which can be in any form the region chooses.~~

~~B. If the family has money in a savings account, this must be accounted for.~~

~~C. At least every three months the DCFS worker and consumer review progress in the service plan and determine if the protective payment can be altered or terminated.~~

~~D. The decision to terminate protective payment must relate to the specific identified problems which led to the protective payment being set up and to the specific behavioral goals stated in the service plan.~~

~~E. It may be useful to gradually move from full protective payment to none, by gradually shifting fiscal responsibility to the consumer on a planned basis.~~

~~**R512-20-11. Termination of Protective Payment.**~~

~~A. When consumers can manage the grant, the DCFS worker must notify the DWS eligibility worker to end the protective payment.~~

~~B. A final accounting plus the total amount of money remaining must be given to the consumer.~~

~~C. The final case recording must clearly state the outcome of the protective payment service.~~

~~D. If the need for protective payment continues, or is likely to continue for more than two years, because the parent continues to be unable to use the grant for needs of the children despite social services, the DCFS worker must request that the court appoint a guardian.~~

~~E. When a legal guardian has been appointed by a court of law, protective payments shall be made to that guardian and the services of any other person serving as protective payee shall be terminated.~~

~~F. When the DCFS worker and consumer are in disagreement about the continuance of protective payments, the supervisor should review the case to determine whether they should continue.~~

~~**KEY: income distribution, child abuse, child welfare**~~
~~**Date of Enactment or Last Substantive Amendment: 1987**~~
~~**Notice of Continuation: December 13, 2002**~~
~~**Authorizing, and Implemented or Interpreted Law: 62A-4a-105; 45 CFR 234.60(1994)**~~**]**

♦ ♦

Human Services, Child and Family Services
R512-50
Fee Collection for Clients Served by Pre-School Day Treatment Contract

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 30718
FILED: 11/13/2007, 09:04

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being repealed because it pertained to one specific program and contract which is no longer valid because that program has been discontinued.

SUMMARY OF THE RULE OR CHANGE: This rule will be repealed in its entirety and will no longer be effective.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 62A-1-111 and 62A-4a-102

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be no costs or savings to the state budget because services will be provided within the current budget.

❖ LOCAL GOVERNMENTS: There will be no cost or savings to local government because this rule does not apply to local government.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There will be no cost or savings to small businesses and persons other than businesses because it was determined that the families affected by this rule change will not see an increase in costs or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The families affected by this rule change will not see an increase in costs or savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no impact on businesses. Lisa-Michele Church, Executive Director

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
Room 225
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carol Miller at the above address, by phone at 801-538-4451, by FAX at 801-538-3993, or by Internet E-mail at CAROLMILLER@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 12/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/08/2008

AUTHORIZED BY: Duane Betournay, Director

R512. Human Services, Child and Family Services.

[~~R512-50. Fee Collection for Clients Served by Pre-School Day Treatment Contract.~~

~~R512-50-1. Fee Collection for Clients Served by Pre-School Day Treatment Contract.~~

~~A. It is the responsibility of the Regional Offices to collect fees from the parents or guardians receiving services funded by the Division.~~

~~B. The first and last month's fee will be pro-rated if the client receives less than a full month's service.~~

~~C. The fee shall be pro-rated when the Individual Program Plan stipulates that a client receive less than a full service, as defined in the contract.~~

~~D. After the first month of service, a parent or guardian is responsible to pay the entire assessed fee, regardless of the number of days the client attends. However, the fee collected shall not be in excess of the actual cost of the service. Only one fee for Title XX Services will be paid by the family even though they receive various services from several agencies. Generally, the first fee assessed will be collected. If there is a choice, the highest fee assessed will be collected.~~

~~E. In the event a request is made for a fee waiver, the following information should be submitted to the Director of the Division of Child and Family Services (DCFS) for approval with appeal to the DCFS Board:~~

~~1. Number in family and ages.~~

~~2. Verified net income.~~

~~3. Verified medical expenses.~~

~~4. Any other extenuating circumstances.~~

~~F. Regional Offices are not required to issue monthly statements.~~

~~G. Parents or guardians who claim to be financially unable to pay assessed fee may request waiver or reduction of the fee. The request shall be processed through the Regional Director to the Director of DCFS. The reasons for the request shall be in writing and shall include all supporting information.~~

~~H. Regions will use the following procedures if the parent or guardian fails to pay the fee:~~

~~1. Fee payments are due the first day of each month for the previous month's services.~~

~~2. If fee payment is not received by the 15th of the month, a notice is mailed to parent or guardian, informing them their case will be referred to the Office of Recovery Services (ORS) if they do not bring their fee current or make arrangements to bring the fee current within ten days.~~

~~3. If fee payment is 30 days past due, the case will be referred to ORS for collection. Service shall not be interrupted.~~

~~4. After closure, any remaining balance will be referred to ORS and the case will be closed in the Regional Office.~~

~~I. An appeal of any decision shall follow existing policy for Fair Hearings. If a parent or guardian is in process of making an appeal, services shall not be terminated.~~

~~KEY: social services, fees, eligibility*~~
~~Date of Enactment or Last Substantive Amendment: 1990~~
~~Notice of Continuation: December 13, 2002~~
~~Authorizing, and Implemented or Interpreted Law: 62A-1-111~~]

Natural Resources, Wildlife Resources

R657-13

Taking Fish and Crayfish

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 30676
FILED: 11/05/2007, 14:18

RULE ANALYSIS

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

SUMMARY OF THE RULE OR CHANGE: The proposed revisions to the above listed rule: 1) add definitions for "camp", "commercially prepared and chemically treated baitfish", "filleting", "spear", and "underwater spearfishing"; 2) clarify bait and possession restrictions; and 3) make technical corrections for consistency and accuracy.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This amendment clarifies stipulations currently in place. The Division of Wildlife Resources (DWR) determines that these amendments do not create a cost or savings impact to the state budget or DWR's budget, since the changes will not increase workload and can be carried out with existing budget.

❖ LOCAL GOVERNMENTS: Since this amendment only clarifies restrictions already in place this should have little to no effect on the local government. This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: These amendments clarify requirements for fishing. Therefore, this rule does not impose any additional financial requirements on persons, nor generate a cost or saving impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR determines that because these amendments simply clarify restrictions already in place they do not create a cost or savings impact to individuals who participate in fishing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since this amendment only clarifies restrictions already in place, the amendments to this rule do not create an impact on businesses. Michael R. Styler, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Staci Coons at the above address, by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2008

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.
R657-13. Taking Fish and Crayfish.
R657-13-1. Purpose and Authority.

(1) Under authority of Sections 23-14-18 and 23-14-19 of the Utah Code, the Wildlife Board has established this rule for taking fish and crayfish.

(2) Specific dates, areas, methods of take, requirements and other administrative details which may change annually and are pertinent are published in the proclamation of the Wildlife Board for taking fish and crayfish.

R657-13-2. Definitions.

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

(2) In addition:

(a) "Aggregate" means the combined total of two or more species of fish or two or more size classes of fish which are covered by a limit distinction.

(b) "Angling" means fishing with a rod, pole, tipup, handline, or trollboard that has a single line with legal hooks, baits, or lures attached to it, and is held in the hands of, or within sight (not to exceed 100 feet) of, the person fishing.

(c)(i) "Artificial fly" means a fly made by the method known as fly tying.

(ii) "Artificial fly" does not mean a weighted jig, lure, spinner, attractor blade, or bait.

([~~c~~]d) "Artificial lure" means a device made of rubber, wood, metal, glass, fiber, feathers, hair, or plastic with a hook or hooks attached. Artificial lures, including artificial flies, do not include fish eggs or other chemically treated or processed natural baits or any natural or human-made food, or any lures that have been treated with a natural or artificial fish attractant or feeding stimulant.

([~~d~~]e) "Bag limit" means the maximum limit, in number or amount, of protected wildlife that one person may legally take during one day.

([~~e~~]f) "Bait" means a digestible substance, including worms, cheese, salmon eggs, marshmallows, or manufactured baits including human-made items that are chemically treated with food stuffs, chemical fish attractants or feeding stimulants.

(g) "Camp" means, for the purposes of this rule, any place providing temporary overnight accommodation for anglers including a camper, campground, tent, trailer, cabin, houseboat, boat, or hotel.

([~~f~~]h) "Chumming" means dislodging or depositing in the water any substance not attached to a hook, line, or trap, which may attract fish.

(i) "Commercially prepared and chemically treated baitfish" means any fish species or fish parts which have been processed using a chemical or physical preservation technique other than freezing including irradiation, salting, cooking, or oiling and are marketed, sold or traded for financial gain as bait.

([~~g~~]j) "Dipnet" means a small bag net with a handle that is used to scoop fish or crayfish from the water.

(k) "Filleting" means the processing of fish for human consumption typically done by cutting away flesh from bones, skin, and body.

([~~h~~]l) "Fishing contest" means any organized event or gathering where anglers are awarded prizes, points or money for their catch.

([~~i~~]m) "Float tube" means an inflatable floating device less than 48 inches in any dimension, capable of supporting one person.

(n) "Free Shafting" means to release a pointed shaft that is not tethered or attached by physical means to the diver in an attempt to take fish while engaged in underwater spearfishing.

([~~j~~]o) "Gaff" means a spear or hook, with or without a handle, used for holding or lifting fish.

([~~k~~]p) "Game fish" means Bonneville cisco; bluegill; bullhead; channel catfish; crappie; green sunfish; largemouth bass; northern pike; Sacramento perch; smallmouth bass; striped bass, trout (rainbow, albino, cutthroat, brown, golden, brook, lake/mackinaw, kokanee salmon, and grayling or any hybrid of the foregoing); tiger muskellunge; walleye; white bass; whitefish; wiper; and yellow perch.

([~~l~~]q) "Handline" means a piece of line held in the hand and not attached to a pole used for taking fish or crayfish.

([~~m~~]r) "Immediately Released" means that the fish should be quickly unhooked and released back into the water where caught.

Fish that must be immediately released cannot be held on a stringer, or in a live well or any other container or restraining device.

([~~r~~]s) "Lake" means the standing water level existing at any time within a lake basin. Unless posted otherwise, a stream flowing inside or within the high water mark is not considered part of the lake.

([~~s~~]t) "Length measurement" means the greatest length between the tip of the head or snout and the tip of the caudal (tail) fin when the fin rays are squeezed together. Measurement is taken in a straight line and not over the curve of the body.

([~~t~~]u) "Liftnet" means a small net that is drawn vertically through the water column to take fish or crayfish.

([~~u~~]v) "Motor" means an electric or internal combustion engine.

([~~v~~]w) "Nongame fish" means species of fish not listed as game fish.

([~~w~~]x) "Possession limit" means, for purposes of this rule only, one bag limit, including fish at home, in a cooler, camper, tent, freezer, livewell or any other place of storage.

([~~x~~]y) "Protected aquatic wildlife" means, for purposes of this rule only, all species of fish, crustaceans, or amphibians.

([~~y~~]z) "Reservoir" means the standing water level existing at any time within a reservoir basin. Unless posted otherwise, a stream flowing inside or within the high water mark is not considered part of the reservoir.

([~~z~~]aa) "Second pole" means fishing with one additional rod, pole, tipup, handline, or trollboard that has a single line with legal hooks, bait, or lures attached to it and is held in the hands of, or within sight of the person fishing.

([~~aa~~]bb) "Seine" means a small mesh net with a weighted line on the bottom and float line on the top that is drawn through the water. This type of net is used to enclose fish when its ends are brought together.

([~~bb~~]cc) "Setline" means a line anchored to a non-moving object and not attached to a fishing pole.

([~~cc~~]dd) "Single hook" means a hook or multiple hooks having a common shank.

([~~dd~~]ee) "Snagging" or "gaffing" means to take a fish in a manner that the fish does not take the hook voluntarily into its mouth.

(ff) "Spear" means a long-shafted, sharply pointed, hand held instrument with or without barbs used to spear fish from above the surface of the water.

(gg) "Spearfishing (underwater)" means fishing by a person swimming, snorkeling, or diving and using a mechanical device held in the hand, which uses a rubber band, spring, pneumatic power, or other devise to propel a pointed shaft to take fish from under the surface of the water.

([~~ee~~]hh) "Tributary" means a stream flowing into a larger stream, lake, or reservoir.

([~~ff~~]ii)(i) "Trout" means species of the family Salmonidae, including rainbow, albino, cutthroat, brown, golden, brook, tiger, lake (mackinaw), splake, kokanee salmon, and grayling or any hybrid of the foregoing.

(ii) "Trout" does not include whitefish or Bonneville cisco.

[~~(bb) "Underwater Spearfishing" means, fishing by a person swimming or diving and using a mechanical device held in the hand, which uses a rubberband, spring, or pneumatic power to propel a spear to take fish.~~

]

R657-13-5. Interstate Waters And Reciprocal Fishing Permits.

(1) Bear Lake

(a) The holder of a valid Utah or Idaho fishing or combination license may fish within both the Utah and Idaho boundaries of Bear Lake[-] with one fishing pole. With the purchase of a valid Utah fishing or combination license and a Utah second pole permit, or a valid Idaho fishing or combination license and an Idaho two-pole permit, an angler may fish with two poles anywhere on Bear Lake that is open to fishing. A second pole or two-pole permit must be purchased from the state of original license purchase.

(b) Only one bag limit may be taken and held in possession even if licensed in both states.

(2) Reciprocal Fishing Permits[-]

(a) The purchase of a reciprocal fishing permit allows a person to fish across state boundaries of interstate waters.

(b) Reciprocal fishing permits are offered for Lake Powell and Flaming Gorge Reservoir (See Subsections (3) and (4).)

(c) Utah residents may obtain reciprocal fishing permits by contacting the state of Arizona for Lake Powell and the state of Wyoming for Flaming Gorge.

(d) Nonresidents may obtain reciprocal fishing permits through the division's web site, from online license agents and division offices.

(e) The reciprocal fishing permit must be:

(i) used in conjunction with a valid unexpired fishing or combination license from a reciprocating state; and

(ii) signed by the holder as the holder's name appears on the valid unexpired fishing or combination license from the reciprocating state.

(f) Reciprocal fishing permits are valid for 365 days from the date of purchase.

(g) Anglers are subject to the laws and rules of the state in which they are fishing.

(h) Only one bag limit may be taken and held in possession even if licensed in both states.

(3) Lake Powell Reservoir

(a) Any person qualifying as an Arizona resident and having in their possession a valid resident Arizona fishing license and a Utah reciprocal fishing permit for Lake Powell can fish within the Utah boundaries of Lake Powell.

(b) Any person who is not a resident of Utah or Arizona must purchase the appropriate nonresident licenses for Utah and Arizona to fish both sides of Lake Powell.

(c) Only Utah and Arizona residents are allowed to purchase reciprocal permits to fish both sides of Lake Powell.

(4) Flaming Gorge Reservoir

Any person possessing a valid Wyoming fishing license and a Utah reciprocal fishing permit for Flaming Gorge is permitted to fish within the Utah waters of Flaming Gorge Reservoir.

R657-13-9. Underwater Spearfishing.

(1) Underwater spearfishing is permitted from official sunrise to official sunset.

(2) Use of artificial light is unlawful while engaged in underwater spearfishing.

(3) Free shafting is prohibited while engaged in underwater spearfishing.

([~~3~~]4) Causey Reservoir, Deer Creek Reservoir, Fish Lake, Flaming Gorge Reservoir, [~~Joe's Valley~~]Jordanelle Reservoir, Ken's Lake, Lake Powell, Lost Creek Reservoir, Pineview Reservoir (with the exception of tiger muskie), Red Fleet Reservoir, Steinaker Reservoir, Starvation Reservoir, [~~and~~]Willard Bay Reservoir and Yuba Reservoir are open to taking game and nongame fish by means of underwater spearfishing from June 1 through [~~September~~]November 30. These are the only waters open to underwater spearfishing for game [~~fish~~]and nongame fish, except as provided in Subsection (8) below.

[(~~4~~)](5) Lake Powell is open to taking carp and striped bass by means of underwater spearfishing from January 1 through December 31.

([~~5~~]6) The bag and possession limit for underwater spearfishing is [~~two game fish. No more than one fish greater than 20 inches may be taken, except at Flaming Gorge Reservoir only one lake trout (mackinaw) greater than 28 inches may be taken.~~]the same as the bag and possession limit applied to anglers using other techniques in the waters listed in Subsection (4) above and as identified in the annual Utah Fishing Proclamation issued by the Utah Wildlife Board.

([~~6~~]7) Nongame fish may be taken by underwater spearfishing only in the waters listed in [~~Subsections (3) and~~]Subsection (4) above and as provided in Section R657-13-14.

([~~7~~]8) Carp may be taken by means of underwater spearfishing from any water open to angling during the open angling season set for a given body of water.

R657-13-12. Bait.

(1)[~~(a) Fishing is permitted with any bait, except~~] Use or possession of corn, hominy, or live [~~fish~~]baitfish while fishing is unlawful.

([~~b) Possession or use of corn or hominy~~]2) Use or possession of tiger salamanders (live or dead) while fishing is unlawful.

([~~2~~]3) Use or possession of any bait while fishing on waters designated artificial fly and lure only is unlawful.

[~~(3) Game fish or their parts may not be used, except for the following:~~](4) Use or possession of artificial baits which are commercially imbedded or covered with fish or fish parts while fishing is unlawful.

(5) Use or possession of bait in the form of fresh or frozen fish or fish parts while fishing is unlawful, except as provided below and in Subsections (7) and (8).

(a) Dead Bonneville cisco may be used as bait only in Bear Lake.

(b) Dead yellow perch may be used as bait only in: Deer Creek, Echo, Fish Lake, Gunnison, Hyrum, Johnson, Jordanelle, Mantua, Mill Meadow, Newton, Pineview, Rockport, Starvation, Utah Lake[~~, and~~], Willard Bay and Yuba reservoirs.

(c) Dead white bass may be used as bait only in Utah Lake and the Jordan River.

(d) Dead shad, from Lake Powell, may be used as bait only in Lake Powell. Dead shad must not be removed from the Glen Canyon National Recreation Area.

(e) Dead fresh or frozen salt water species including sardines and anchovies may be used as bait in any water where bait is permitted.

(f) Dead mountain sucker, white sucker, Utah sucker, redside shiner, speckled dace, mottled sculpin, fat head minnow, Utah chub, and common carp may be used as bait in any water where bait is permitted.

(6) Commercially prepared and chemically treated baitfish or their parts may be used as bait in any water where bait is permitted.

([~~e~~]7) The eggs of any species of fish caught in Utah, except prohibited fish, may be used in any water where bait is permitted. However, eggs may not be taken or used from fish that are being released.

([4]8) Use of live crayfish for bait is legal only on the water where the crayfish is captured. It is unlawful to transport live crayfish away from the water where captured.

([~~5~~]9) Manufactured, human-made items that may not be digestible, that are chemically treated with food stuffs, chemical fish attractants, or feeding stimulants may not be used on waters where bait is prohibited.

R657-13-14. Taking Nongame Fish.

(1)(a) Except as provided in Subsections (b) and (c), a person possessing a valid Utah fishing or combination license may take nongame fish for personal, noncommercial purposes during the open fishing season set for the given body of water.

(b) A person may not take any species of fish designated as prohibited in Section R657-13-13.

(c) Nongame fish may not be taken in the following waters, except carp may be taken by angling, archery, spear, or underwater spearfishing:

(i) San Juan River;

(ii) Colorado River;

(iii) Green River (from confluence with Colorado River upstream to Colorado state line in Dinosaur National Monument);

(iv) Green River (from Colorado state line in Brown's Park upstream to Flaming Gorge Dam, including Gorge Creek, a tributary entering the Green River at Little Hole);

(v) White River (Uintah County);

(vi) Duchesne River (from Myton to confluence with Green River);

(vii) Virgin River (Main stem, North, and East Forks).

(viii) Ash Creek;

(ix) Beaver Dam Wash;

(x) Fort Pierce Wash;

(xi) La Verkin Creek;

(xii) Santa Clara River (Pine Valley Reservoir downstream to the confluence with the Virgin River);

(xiii) Diamond Fork;

(xiv) Thistle Creek;

(xv) Main Canyon Creek (tributary to Wallsburg Creek);

(xvi) South Fork of Provo River (below Deer Creek Dam); and

(xvii) Snake Valley waters (west and north of US-6 and that part of US-6 and US-50 in Millard and Juab counties).

(2) Nongame fish, except those species listed in Section R657-13-13, may be taken by angling, traps, bow and arrow, liftnets, dipnets, seine, spear or underwater spearfishing in the waters specified in Subsection R657-13-9([~~3~~]4).

(3) Seines shall not exceed 10 feet in length or width.

(4) Cast nets must not exceed 10 feet in diameter.

(5) Lawfully taken nongame fish shall be either released or killed immediately upon removing them from the water, however, they may not be left or abandoned on the shoreline.

R657-13-16. Possession and Transportation of Dead Fish and Crayfish.

[~~(1) Fish held in possession in the field or in transit shall be kept in such a manner that:~~

~~(a) the species of fish can be readily identified;~~](1)(a) At all waters except Strawberry Reservoir, Panguitch Lake and Jordanelle Reservoir, game fish may be dressed, filleted, have heads and/or tails removed, or otherwise be physically altered after completing the act of fishing or reaching a fish cleaning station, camp, or principal means of land transportation. It is unlawful to possess fish while engaged in the act of fishing that have been dressed or filleted. This shall not apply to fish that are processed for immediate consumption or to fish held from a previous day's catch.

(b) Trout and/or salmon taken at Strawberry Reservoir and Panguitch Lake, and smallmouth bass taken at Jordanelle may not be filleted and the heads or tails may not be removed in the field or in transit.

([~~b) the number of fish can be readily counted;~~

~~(c) the size of the fish can be readily measured when the fish are taken from waters where size limits apply and the fish taken from those waters may not be filleted and the heads or tails may not be removed; and~~

~~(d) fillets shall have attached sufficient skin to include the conspicuous markings so species may be identified.~~

~~(~~]2) A legal limit of game fish or crayfish may accompany the holder of a valid fishing or combination license within Utah or when leaving Utah.

(3) A person may possess or transport a legal limit of game fish or crayfish for another person when accompanied by a donation letter.

(4) A person may not take more than one bag limit in any one day or possess more than one bag limit of each species or species aggregate regardless of the number of days spent fishing.

(5) A person may possess or transport dead fish on a receipt from a registered commercial fee fishing installation, a private pond owner, or a short-term fishing event. This receipt shall specify:

(a) the number and species of fish;

(b) date caught;

(c) the certificate of registration number of the installation, pond, or short-term fishing event; and

(d) the name, address, telephone number of the seller.

KEY: fish, fishing, wildlife, wildlife law
Date of Enactment or Last Substantive Amendment: August 7, 2007
Notice of Continuation: October 11, 2007
Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19; 23-19-1; 23-22-3

♦ ♦

Regents (Board Of), University of Utah, Parking and Transportation Services

R810-1

University of Utah Parking Regulations

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 30712
FILED: 11/09/2007, 11:16

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Subsequent to the five-year review and during the course of the review, it was determined the amendments needed to be made to update verbiage and eliminate excessive verbiage.

SUMMARY OF THE RULE OR CHANGE: The rule is staying the same, but the excessive verbiage has been eliminated and the outdated verbiage has been updated.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 53B-3-103 and 53B-3-107

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: As the rule amendment simply changes outdated verbiage and eliminates excessive verbiage, but not the cost associated with each action, there are no costs or savings.

❖ LOCAL GOVERNMENTS: As the rule amendment simply changes outdated verbiage and eliminates excessive verbiage, but not the cost associated with each action, there are no costs or savings.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: As the rule amendment simply changes outdated verbiage and eliminates excessive verbiage, but not the cost associated with each action, there are no costs or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: As the rule amendment simply changes outdated verbiage and eliminates excessive verbiage, but not the cost associated with each action, there are no costs or savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As the rule amendment simply changes outdated verbiage and eliminates excessive verbiage, but not the cost associated with each action, there are no costs or savings. Alma Allred, Director

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

REGENTS (BOARD OF)
UNIVERSITY OF UTAH,
PARKING AND TRANSPORTATION SERVICES
Room 101
1910 E SOUTH CAMPUS DR
SALT LAKE CITY UT 84112-9350, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Patti Trulli Ibholm at the above address, by phone at 801-587-9883, by FAX at 801-581-5253, or by Internet E-mail at patti.trulli-ibholm@ucs.utah.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2008

AUTHORIZED BY: Patti Trulli Ibholm, Associate Director

R810. Regents (Board of), University of Utah, Parking and Transportation Services.
R810-1. University of Utah Parking Regulations.
R810-1-1. Authority.

The University's parking system is authorized by Utah Code, Title 53B, Chapter 3, Sections 103 and 107.

R810-1-2. Motor Vehicle Parking On Campus.

A motor vehicle is defined under Utah State Code, Unannotated 41-1a-102(66).

A vehicle is defined under Utah State Code, Unannotated 41-1a-102(65).

Anyone parking a vehicle on campus must [~~comply with the following regulations:~~]purchase and display a parking permit from Commuter Services or park the vehicle in a metered area or pay lot and pay the appropriate fee. Payment for the use of campus meters or pay lots is required whether or not the vehicle displays a current University parking permit.

[~~A. Register the vehicle with Parking Services and pay the annual, quarterly or daily parking fee for the right to park in designated areas, or~~

~~B. Park the vehicle in a metered area or pay lot and pay the appropriate fee.~~

]

R810-1-3. Parking Areas.

Parking is permitted only in designated areas and only in accordance with all posted signs. Vehicles[~~Cars~~] must be parked properly within marked stalls. Tickets are issued to vehicles parked contrary to posted signs.

R810-1-4. Restrictions.

Parking is prohibited 24 hours daily at red curbs, "no parking" areas, bus zones, crosswalks, driveways, sidewalks, on the wrong side of the street, in front of fire hydrants and dumpsters, and designated areas such as disabled and[~~other prohibited or~~] reserved [~~parking~~]areas[~~as designated~~]. Parking is also prohibited in and on unmarked roadways and other unmarked areas.[~~Parking tickets will be issued for noncompliance.~~]

R810-1-5. Vehicle Operator Responsibilities.

Parking area designations are subject to change, and it is the motorist's responsibility to be cognizant of such changes. The responsibility for finding an authorized parking space rests with the motor vehicle operator.[~~Lack of a parking space in any desired area is not a valid excuse for failure to comply with these regulations.~~]

R810-1-6. Parking for Drivers with Disabilities.

Parking[~~Stalls~~] for drivers with disabilities is[~~are~~] reserved for [~~qualified~~]students, faculty, [~~and~~]staff and visitors who must purchase and display a parking permit or park in a metered area or pay lot and pay the appropriate fee.[~~Vehicles parked in these stalls must display a valid permit issued by Parking and Transportation Services for the use of drivers with disabilities. Special stalls in visitor areas have been identified for the use of visitors to the University with disabilities. Vehicles parked in these stalls must display appropriate license plates or a state issued parking permit designating an individual with a disability.~~]

[~~**R810-1-7. Residence Halls.**~~

~~Residence halls parking is restricted to residence halls residents and meal ticket permit holders except in areas designated for other permits. A special "S" permit is required and must designate the hall in which the individual resides.~~

~~Residence halls visitors parking a vehicle without a valid University permit must obtain special day passes.~~

]

R810-1-8. University Vehicle Parking.

University owned vehicles are to be parked in maintenance stalls when available or other stalls when necessary and shall not violate "No Parking," "Tow Away," or "Disabled" zones. Drivers of improperly parked University vehicles will be responsible for tickets received.[~~In emergency situations where maintenance vehicles must park in spaces other than those listed above, marker cones must be displayed in the front and rear of the vehicle; or emergency flashers must be activated.~~]

R810-1-9. Motorcycle Parking.

Motorcycles, motorbikes, scooters and mopeds must be parked in areas designated for such vehicles and display an appropriate parking permit. Motorcycle permits must be attached near the license plate in a clearly visible manner.

R810-1-11. University Student Apartments Parking.

University Student Apartment parking lots are restricted to apartment residents, housing employees, resident guests, applicants for apartment assignment, and visitors.

Parking is permitted only in designated areas and only in accordance with all posted signs.[~~Each parking area is marked by signs at the entrance of the lot, or within the lot, or at individual stalls designating the type of parking allowed. Vehicles must be parked properly within marked stalls.~~]

A. Vehicle Registration and Permit Issuance. Residents and employees are required to register all vehicles parked in University Student Apartment parking areas and to purchase and display a [~~use~~]permit in accordance with the schedule of approved fees through the Main Office, University Student Apartments. [~~Motorcycle/moped permits are to be attached near the license plate in a clearly visible manner.~~]A current vehicle registration is required to obtain and maintain a parking permit.

B. Additional Vehicle Registration. [~~Due to limited parking availability, parking permits for additional vehicles, recreational vehicles, boats, trailers, and passenger cars exceeding 2 per apartment, will be authorized only after application, review and approval of the University Student Apartments Special Hearings Committee. Applications for additional vehicle registration and permits should be made during the week of late vehicle registration or upon apartment residency or change of status. Only a limited number of additional vehicle parking permit applications will be approved due to the limited space available in University Student Apartment parking lots.~~]Parking permits for additional vehicles will be issued on a space available basis. Boats, trailers, and recreational vehicles are prohibited from parking at University Student Apartments. Motorcycles, scooters and mopeds must display the appropriate permit near the license plate and park in designated motorcycle areas.[~~may be parked only in designated areas.~~]

C. Parking for Drivers with Disabilities. Residents must display a Student Apartments Disabled parking permit or a Student Apartment permit with a state-issued disabled plate or placard or University of Utah disabled permit.[~~Special stalls for qualified drivers with disabilities and additional stalls are assigned as needed upon request and written verification of an individual's disability by a physician~~.]

D. Visitor Parking. Visitors must park in areas marked Visitor Parking. Temporary University Student Apartment permits may be purchased for longer term visitor parking, up to two weeks.[~~Short term visitor parking of four hours or less is available without a special permit in designated visitor parking areas. Longer term visitor parking, up to 2 weeks, requires a special visitor parking permit.~~]

E. Inoperable vehicles will be considered abandoned and will be removed for Student Apartments property at the owner's expense. Vehicles which remain in one place for a period of twenty-one (21) days may be required to be moved to another space in order to verify that it is operable.[~~E. Parking Permits. All parking permits are the property of University Student Apartments. Residents must return permits upon vacating the apartment. Failure to do so will result in an assessment of $25 for each permit not returned.~~]

F. Enforcement of parking regulations is twenty-four (24) hours per day, seven (7) days per week.

R810-1-12. Extended Parking Privileges.

Vehicles occupying the same lot or stall for 48 hours or longer [~~without a special permit issued by Parking Services~~]will be ticketed and may also be removed at the expense of the owner if their presence interferes with regular University functions or maintenance. Vehicles parked in the residence halls lot and displaying a valid and appropriate parking permit are exempted from the 48 hour limitations.[

~~When vehicles need to be stored on campus for 48 hours or more, arrangements must be made with Parking Services and an appropriate fee paid. Arrangements expire on the regular permit year basis.~~]

R810-1-13. Abandoned Vehicles.

Vehicles which do not display current Utah or out-of-state vehicle registration and a valid University of Utah parking permit and have not been moved for a period of seven days will be considered as abandoned and may be removed from University property at owner's expense.

R810-1-14. Living In A Motor Vehicle On Campus.

In accordance with state health law, campers, trailers, and motor homes cannot be used for sleeping or living purposes while parked on campus except in stalls designated by Commuter[~~Parking~~] Services which provide for utilities and sanitary facilities.[~~Violators will be ticketed.~~]

R810-1-15. University Responsibility For Vehicle Damage.

The University is not responsible for the care and protection of or damage to any vehicle or its contents when operated or parked on University property. Acceptance of a permit shall constitute an acknowledgement and acceptance of this condition as the privilege to use the University's parking facilities.

R810-1-16. Special Parking.

Commuter[~~Parking~~] Services reserves the right to change the designated use of lots or roadways at any time to provide for special parking needs. During [~~athletic or special~~]events, Commuter[~~Parking~~] Services reserves the right to charge for the use of University parking lots. Vehicles with a current University permit will not be charged except for off-campus sponsored special events.[~~After 6 p.m. and on Saturdays, Sundays and University recognized holidays, campus parking lots are available for parking without a permit except in reserved, handicapped and other specifically designated lots or spaces.~~]

R810-1-17. Lost or Stolen Permits.

Responsibility[~~Parking Services is not responsible~~] for lost or stolen [~~parking~~]permits is the permit holder's, who must file a lost or stolen permit report with Commuter Services.[~~It is the responsibility of the permit holder to report lost or stolen permits to Parking and Transportation Services.~~] [~~Any t~~]Tickets received on the lost or stolen permit are the holder's responsibility if a report is not filed.[~~will be the responsibility of the permit holder if a report is not made.~~] Replacement permits may be obtained once a report is made and a replacement fee paid. Vehicles displaying a lost or stolen permit are subject to impoundment at the owner's expense.

KEY: parking facilities
Date of Enactment or Last Substantive Amendment: [~~1992~~]2008
Notice of Continuation: October 5, 2007
Authorizing, and Implemented or Interpreted Law: 53B-3-103; 53B-3-107

♦ ♦

Regents (Board Of), University of Utah, Parking and Transportation Services

R810-2

Parking Meters

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 30722
FILED: 11/14/2007, 13:13

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Subsequent to the five-year review and during the course of the review, it was determined the amendment needed to made to include additional information and take out unnecessary verbiage.

SUMMARY OF THE RULE OR CHANGE: The change adds that continuous parking in a metered space longer than the designated length of time is prohibited.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 53B-3-103 and 53B-3-107

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: As the rule amendment simply adds detail and eliminates unnecessary verbiage, but not the cost associated with each action, there are no costs or savings.

❖ LOCAL GOVERNMENTS: As the rule amendment simply adds detail and eliminates unnecessary verbiage, but not the cost associated with each action, there are no costs or savings.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: As the rule amendment simply adds detail and eliminates unnecessary verbiage, but not the cost associated with each action, there are no costs or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: As the rule amendment simply adds detail and eliminates unnecessary verbiage, but not the cost associated with each action, there are no costs or savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As the rule amendment simply adds detail and eliminates unnecessary verbiage, but not the cost associated with each action, there are no costs or savings. Alma Allred, Director

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

REGENTS (BOARD OF)
UNIVERSITY OF UTAH,
PARKING AND TRANSPORTATION SERVICES
Room 101
1910 E SOUTH CAMPUS DR
SALT LAKE CITY UT 84112-9350, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Patti Trulli Ibholm at the above address, by phone at 801-587-9883, by FAX at 801-581-5253, or by Internet E-mail at patti.trulli-ibholm@ucs.utah.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2008

AUTHORIZED BY: Patti Trulli Ibholm, Associate Director

R810. Regents (Board of), University of Utah, Parking and Transportation Services.
R810-2. Parking Meters.
R810-2-1. Parking Meters.

Payment for the use of meters is required whether or not the vehicle displays a current University permit.

Parking at a broken meter is restricted to the time shown on the meter. Parking in a metered space for a continuous period longer than that designated on the meter or at an expired meter is prohibited.[~~Violators will be ticketed~~.] Enforcement hours for University parking meters are 8 a.m. to 6 p.m. Monday through Friday, or from 9:00 a.m. to 10:00 p.m. Monday through Friday where posted.

KEY: parking facilities
Date of Enactment or Last Substantive Amendment: [~~July 10, 2002~~]2008
Notice of Continuation: February 21, 2007
Authorizing, and Implemented or Interpreted Law: 53B-3-103; 53B-3-107

♦ ♦

Tax Commission, Administration

R861-1A-20

Time of Appeal Pursuant to Utah Code Ann. Sections 59-1-301, 59-1-501, 59-2-1007, 59-7-517, 59-10-532,9-10-533, 59-10-535, 59-12-114, 59-13-210, 63-46b-3, 63-46b-14

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 30688
FILED: 11/07/2007, 13:13

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment is necessary to provide deadlines for electronically-filed appeals.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment indicates that an electronically-filed document for a redetermination of tax is timely filed if received no later than midnight of the time frame provided by statute.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-1-301, 59-1-501, 59-2-1007, 59-7-517, 59-10-532, 59-10-533, 59-10-535, 59-12-114, 59-13-210, 63-46b-3, and 63-46-14

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--The proposed amendment clarifies a filing deadline for electronically-filed appeals.
❖ LOCAL GOVERNMENTS: None--The proposed amendment clarifies a filing deadline for electronically-filed appeals.
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--The proposed amendment clarifies a filing deadline for electronically-filed appeals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The proposed amendment clarifies a filing deadline for electronically-filed appeals.

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 12/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2008

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R861. Tax Commission, Administration.
R861-1A. Administrative Procedures.
R861-1A-20. Time of Appeal Pursuant to Utah Code Ann. Sections 59-1-301, 59-1-501, 59-2-1007, 59-7-517, 59-10-532, 59-10-533, 59-10-535, 59-12-114, 59-13-210, 63-46b-3, [~~and~~]63-46b-14, 68-3-7, and 68-3-8.5.

(1) A request for a hearing to correct a property tax assessment pursuant to Section 59-2-1007 must be in writing. The request is deemed to be timely if:

(a) it is received in the commission offices on or before the close of business of the last day of the time frame provided by statute; or

(b) the date of the postmark on the envelope or cover indicates that the request was mailed on or before June 1.

(2) Except as provided in Subsection (3), a petition for redetermination must be received in the commission offices no later than 30 days from the date of a notice that creates the right to appeal. The petition is deemed to be timely if:

(a) in the case of mailed or hand-delivered documents:

[~~(a)~~](i) the petition is received in the commission offices on or before the close of business of the last day of the 30-day period; or

[~~(b)~~](ii) the date of the postmark on the envelope or cover indicates that the request was mailed on or before the last day of the 30-day period; or

(b) in the case of electronically-filed documents, the petition is received no later than midnight of the last day of the 30-day period.

(3) A petition for redetermination filed in accordance with Sections 59-10-532 or 59-10-533 is deemed to be timely if:

(a) in the case of mailed or hand-delivered documents:

[~~(a)~~](i) the petition is received in the commission offices on or before the close of business of the last day of the time frame provided by statute; or

[~~(b)~~](ii) the date of the postmark on the envelope or cover indicates that the request was mailed on or before the last day of the time frame provided by statute; or

(b) in the case of electronically-filed documents, the petition is received no later than midnight of the last day of the time frame provided by statute.

(4) Any party adversely affected by an order of the commission may seek judicial review within the time frame provided by statute. Copies of the appeal shall be served upon the commission and upon the Office of the Attorney General.

KEY: developmentally disabled, grievance procedures, taxation, disclosure requirements
Date of Enactment or Last Substantive Amendment: [~~September 24, 2007~~]2008
Notice of Continuation: March 20, 2007
Authorizing, and Implemented or Interpreted Law: 59-1-301; 59-1-501; 59-2-1007; 59-7-517; 59-10-532; 59-10-533; 59-10-535; 59-12-114; 59-13-210; 63-46b-3; 63-46b-14; 68-3-7; 68-3-8.5

♦ ——————————————— ♦

Tax Commission, Administration
R861-1A-26
Procedures for Formal Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-501 and 63-46b-6 and 63-46b-11

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 30717
FILED: 11/13/2007, 09:00

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment codifies commission practice and ensures that the officer presiding over a tax appeal is aware that he or she may inform a party of the party's rights under the Utah Rules of Civil Procedure.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment indicates that the officer presiding over a tax appeal may inform a party of its rights under the Utah Rules of Civil Procedure.

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 amendment codifies commission practice.
❖ LOCAL GOVERNMENTS: None--Proposed amendment codifies commission practice.
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--Proposed amendment codifies commission practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Proposed amendment ensures that an officer presiding over a tax appeal is aware that he or she may inform a party of the party's rights under the Utah Rules of Civil Procedure.

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 12/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2008

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.

(1) A prehearing, scheduling, or status conference may be held.

(a) At the conference, the parties and the presiding officer may:

(i) establish deadlines and procedures for discovery;

(ii) discuss scheduling;

(iii) clarify other issues;

(iv) determine whether to refer the action to a mediation process; and

(v) determine whether the initial hearing will be waived.

(b) The prehearing, scheduling, or status conference may be converted to an initial hearing upon agreement of the parties.

(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.

(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.

(4) Representation.

(a) A party may pursue 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.

(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.

(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.

(iii) 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. 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.

(b) Any division of the commission named as party to the proceeding may be represented by the Attorney General's Office upon an attorney of that office submitting an entry of appearance.

(5) Subpoena Power.

(a) 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.

(ii) In all other cases, the party requesting the subpoena must prepare it and submit it to the presiding officer for review and, if appropriate, signature. The presiding officer may inform a party of its rights under the Utah Rules of Civil Procedure.

(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.

(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.

(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.

(c) Default. The presiding officer may enter an order of default against a party in accordance with Section 63-46b-11.

(i) The default order shall include a statement of the grounds for default and shall be delivered to all parties.

(ii) A defaulted party may seek to have the default set aside according to procedures set forth in the Utah Rules of Civil Procedure.

(d) Ruling on Motions. Motions may be made during the hearing or by written motion.

(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.

(ii) Upon the filing of any motion, the presiding officer may:

(A) grant or deny the motion; or

(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: [~~September 24, 2007~~]2008
Notice of Continuation: March 20, 2007
Authorizing, and Implemented or Interpreted Law: Sections 59-1-501; 63-46b-6 through 63-46b-11

♦ ♦

Tax Commission, Auditing
R865-6F-28
Enterprise Zone Corporate Franchise Tax Credits Pursuant to Utah Code Ann. Sections 9-2-401, 9-2-415

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 30690
FILED: 11/07/2007, 13:36

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the amendment is to more clearly state the commission's interpretation of the enterprise zone investment tax credit.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment clarifies that, for purposes of the investment tax credit, the plant, equipment, or other depreciable property for which the credit is taken is located within the boundaries of the enterprise zone and is used exclusively in business operations conducted within the enterprise zone.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 63-38f-401 through 63-38f-414

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--The proposed amendment clarifies the current Tax Commission practice.
❖ LOCAL GOVERNMENTS: None--The proposed amendment clarifies the current Tax Commission practice.
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--The proposed amendment clarifies the current Tax Commission practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The proposed amendments clarify current Tax 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
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2008

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R865. Tax Commission, Auditing.
R865-6F. Franchise Tax.
R865-6F-28. Enterprise Zone Corporate Franchise Tax Credits Pursuant to Utah Code Ann. Sections [~~9-2-401~~]63-38f-401 through [~~9-2-415~~]63-38f-414.

[~~A.~~](1) Definitions:

[~~1.~~](a) "Business engaged in retail trade" means a business that makes a retail sale as defined in Section 59-12-102.

[~~2.~~](b) "Construction work" does not include facility maintenance or repair work.

[~~3.~~](c) "Employee" means a person who qualifies as an employee under Internal Revenue Service Regulation 26 CFR 31.3401(c)(1).

[~~4.~~](d) "Public utilities business" means a public utility under Section 54-2-1.

[~~5.~~](e) "Qualifying investment" in the case of a business firm that is a member of a unitary group, does not include an investment

made by that business firm in plant, equipment, or other depreciable property of another member of the unitary group.

[~~6.~~](f) "Transfer" pursuant to Section [~~9-2-411~~]63-38f-411, means the relocation of assets and operations of a business, including personnel, plant, property, and equipment.

[~~7.~~](g) "Unitary group" is as defined in Section 59-7-101.

[~~B.~~](2) For purposes of the investment tax credit, an investment is a qualifying investment if the plant, equipment, or other depreciable property for which the credit is taken is:

[~~1.~~](a) [~~The plant, equipment, or other depreciable property for which the credit is taken is~~]located within the boundaries of the enterprise zone[~~.~~]; and

[~~2.~~](b) [~~The plant, equipment, or other depreciable property for which the investment tax credit is taken is in a business that is operational~~]used exclusively in business operations conducted within the enterprise zone.

(3) Plant, equipment, or other depreciable property used in operations conducted outside the enterprise zone do not qualify for the credit, even though those operations may be related to operations conducted within an enterprise zone that qualify for the credit.

(4) The following examples relate to the investment tax credit.

(a) A furniture manufacturer operates a manufacturing facility that is located in an enterprise zone. The manufacturer purchases two trucks that are based at the facility and used to pick up raw materials from suppliers, some or all of whom may be outside the enterprise zone, and to deliver finished product to final customers, some or all of whom may be outside the enterprise zone. The trucks qualify for the investment tax credit because they are used exclusively in a business operation, the furniture manufacturing facility, that is located within the enterprise zone.

(b) If the same manufacturer described in Subsection (4)(a) had two facilities, one located within the enterprise zone, and one located outside the enterprise zone, and used the same two trucks for the same purposes for both facilities, the trucks would not qualify for the investment tax credit because they are not used exclusively in the facility located within the enterprise zone.

(c) A business consists of a mine office located in an enterprise zone and a mine located outside the enterprise zone. The business may claim the investment tax credit for plant, equipment, or other depreciable property located in the mine office, but not for plant, equipment, or other depreciable property used in the mine outside the enterprise zone.

[~~C.~~](5) The calculation of the number of full-time positions for purposes of the credits allowed under [~~Section 9-2-413(1)(a)~~]Subsections 63-38f-413(1)(a) through (d) shall be based on the average number of employees reported to the Department of Workforce Services for the four quarters prior to the area's designation as an enterprise zone.

[~~D.~~](6) To determine whether at least 51 percent of the business firm's employees reside in the county in which the enterprise zone is located, the business firm shall consider every employee reported to the Department of Workforce Services for the tax year for which an enterprise zone credit is sought.

[~~E.~~](7) A business firm that conducts non-retail operations and is engaged in retail trade qualifies for the credits under Section [~~9-2-413~~]63-38f-413 if the retail trade operations constitute a de minimis portion of the business firm's total operations.

[~~F.~~](8) An employee whose duties include both non-construction work and construction work does not perform a construction job if the construction work performed by the employee constitutes a de minimis portion of the employee's total duties.

[~~G.~~](9) Corporate franchise tax credits may not be used to offset or reduce the $100 minimum tax per corporation.

[~~H.~~](10) Records and supporting documentation shall be maintained for three years after the date any returns are filed to support the credits taken. For example: If credits are originally taken in 1988 and unused portions are carried forward to 1992, records to support the original credits taken in 1988 must be maintained for three years after the date the 1992 return is filed.

[~~I.~~](11) If an enterprise zone designation is revoked prior to the expiration of the period for which it was designated, only tax credits earned prior to the loss of that designation will be allowed.

KEY: taxation, franchises, historic preservation, trucking industries
Date of Enactment or Last Substantive Amendment: [~~April 16, 2007~~]2008
Notice of Continuation: March 8, 2007
Authorizing, and Implemented or Interpreted Law: [~~9-2-401~~]63-38f-401 through [~~9-2-415~~]63-38f-414

♦ ♦

Tax Commission, Auditing
R865-9I-37
Enterprise Zone Individual Income Tax Credits Pursuant to Utah Code Ann. Sections 9-2-401 through 9-2-414

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 30689
FILED: 11/07/2007, 13:19

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the amendment is to more clearly state the commission's interpretation of the enterprise zone investment tax credit.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment clarifies that, for purposes of the investment tax credit, the plant, equipment, or other depreciable property for which the credit is taken is located within the boundaries of the enterprise zone and is used exclusively in business operations conducted within the enterprise zone.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 63-38f-401 through 63-38f-414

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--The proposed amendment clarifies the current Tax Commission practice.

❖ LOCAL GOVERNMENTS: None--The proposed amendment clarifies the current Tax Commission practice.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--The proposed amendment clarifies the current Tax Commission practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The proposed amendments clarify current Tax 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
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2008

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R865. Tax Commission, Auditing.
R865-9I. Income Tax.
R865-9I-37. Enterprise Zone Individual Income Tax Credits Pursuant to Utah Code Ann. Sections 63-38f-401 through 63-38f-414.

(1) Definitions:

(a) "Business engaged in retail trade" means a business that makes a retail sale as defined in Section 59-12-102.

(b) "Construction work" does not include facility maintenance or repair work.

(c) "Employee" means a person who qualifies as an employee under Internal Revenue Service Regulation 26 CFR 31.3401(c)(1).

(d) "Public utilities business" means a public utility under Section 54-2-1.

(e) "Transfer" pursuant to Section 63-38f-411, means the relocation of assets and operations of a business, including personnel, plant, property, and equipment.

(2) For purposes of the investment tax credit, an investment is a qualifying investment if the plant, equipment, or other depreciable property for which the credit is taken is:

(a) [~~The plant, equipment, or other depreciable property for which the credit is taken is~~]located within the boundaries of the enterprise zone[~~,~~]; and

(b) [~~The plant, equipment, or other depreciable property for which the investment tax credit is taken is in a business that is operational~~]used exclusively in business operations conducted within the enterprise zone.

(3) Plant, equipment, or other depreciable property used in operations conducted outside the enterprise zone do not qualify for the credit, even though those operations may be related to operations conducted within an enterprise zone that qualify for the credit.

(4) The following examples relate to the investment tax credit.

(a) A furniture manufacturer operates a manufacturing facility that is located in an enterprise zone. The manufacturer purchases two trucks that are based at the facility and used to pick up raw materials from suppliers, some or all of whom may be outside the enterprise zone, and to deliver finished product to final customers, some or all of whom may be outside the enterprise zone. The trucks qualify for the investment tax credit because they are used exclusively in a business operation, the furniture manufacturing facility, that is located within the enterprise zone.

(b) If the same manufacturer described in Subsection (4)(a) had two facilities, one located within the enterprise zone, and one located outside the enterprise zone, and used the same two trucks for the same purposes for both facilities, the trucks would not qualify for the investment tax credit because they are not used exclusively in the facility located within the enterprise zone.

(c) A business consists of a mine office located in an enterprise zone and a mine located outside the enterprise zone. The business may claim the investment tax credit for plant, equipment, or other depreciable property located in the mine office, but not for plant, equipment, or other depreciable property used in the mine outside the enterprise zone.

[~~(3)~~](5) The calculation of the number of full-time positions for purposes of the credits allowed under Subsections 63-38f-413(1)(a) through (d) shall be based on the average number of employees reported to the Department of Workforce Services for the four quarters prior to the area's designation as an enterprise zone.

[~~(4)~~](6) To determine whether at least 51 percent of the business firm's employees reside in the county in which the enterprise zone is located, the business firm shall consider every employee reported to the Department of Workforce Services for the tax year for which an enterprise zone credit is sought.

[~~(5)~~](7) A business firm that conducts non-retail operations and is engaged in retail trade qualifies for the credits under Section 63-38f-413 if the retail trade operations constitute a de minimis portion of the business firm's total operations.

[~~(6)~~](8) An employee whose duties include both non-construction work and construction work does not perform a construction job if the construction work performed by the employee constitutes a de minimis portion of the employee's total duties.

[~~(7)~~](9) Records and supporting documentation shall be maintained for three years after the date any returns are filed to support the credits taken. For example: If credits are originally taken in 1988 and unused portions are carried forward to 1992, records to support the original credits taken in 1988 must be maintained for three years after the date the 1992 return is filed.

[~~(8)~~](10) If an enterprise zone designation is revoked prior to the expiration of the period for which it was designated, only tax credits earned prior to the loss of that designation will be allowed.

KEY: historic preservation, income tax, tax returns, enterprise zones
Date of Enactment or Last Substantive Amendment: [~~April 16, 2007~~]2008
Notice of Continuation: March 20, 2007
Authorizing, and Implemented or Interpreted Law: 63-38f-401 through 63-38f-414

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NOTICES OF
120-DAY (EMERGENCY) RULES

An agency may file a 120-DAY (EMERGENCY) RULE when it finds that the regular rulemaking procedures would:

(a) cause an imminent peril to the public health, safety, or welfare;
(b) cause an imminent budget reduction because of budget restraints or federal requirements; or
(c) place the agency in violation of federal or state law (Subsection 63-46a-7(1)).

As with a PROPOSED RULE, a 120-DAY RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the 120-DAY RULE including the name of a contact person, justification for filing a 120-DAY RULE, anticipated cost impact of the rule, and legal cross-references. A row of dots in the text (· · · · ·) indicates that unaffected text was removed to conserve space.

A 120-DAY RULE is effective at the moment the Division of Administrative Rules receives the filing, or on a later date designated by the agency. A 120-DAY RULE is effective for 120 days or until it is superseded by a permanent rule.

Because 120-DAY RULES are effective immediately, the law does not require a public comment period. However, when an agency files a 120-DAY RULE, it usually files a PROPOSED RULE at the same time, to make the requirements permanent. Comment may be made on the proposed rule. Emergency or 120-DAY RULES are governed by Section 63-46a-7; and Section R15-4-8.

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-304
Income and Budgeting

NOTICE OF 120-DAY (EMERGENCY) RULE
DAR FILE NO.: 30651
FILED: 11/05/2007, 08:32

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment is necessary to comply with a new federal requirement that prohibits a state Medicaid agency from accepting payments of a recipient's Medicaid spenddown if the funds come from a Medicaid provider's own funds.

SUMMARY OF THE RULE OR CHANGE: This amendment provides that the Medicaid agency cannot accept payment of a recipient's spenddown amount if the source of the funds are a Medicaid provider's own funds or from funds that a Medicaid provider loans to a recipient. (DAR NOTE: A corresponding amendment is under DAR No. 30652 in this issue, December 1, 2007, of the Bulletin.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-18-3; and Sections 1128A(a)(5) and 1128B(b)(2)(B) of the Social Security Act

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Department estimates annual savings of $167,156 to the General Fund and savings of $422,044 in federal funds because some clients will not qualify for Medicaid services.

❖ LOCAL GOVERNMENTS: This change does not affect local governments because they are not Medicaid clients or providers.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The cost to Medicaid clients who cannot make their spenddown and must pay for their own medical services may range up to approximately $100,000 depending on how many of the services they seek without Medicaid funding and how much of the cost for those services is absorbed by health care providers. There may also be a cost to providers that choose to absorb the cost of services they provide without compensation. How much will be able to spend down to become eligible and how much they will pay for their own services is uncertain. How much health care providers will absorb is also uncertain. However, the department estimates that, in the aggregate, health care providers will receive approximately $675,000 less gross revenue from Medicaid payments because of this change. Of that amount, the decrease in gross revenues for mental health centers is approximately $100,000, for hospitals it is approximately $245,000, for physicians it is approximately $140,000, and for pharmacies it is approximately $90,000.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The mean average annual cost to a single Medicaid client who cannot make his spenddown is approximately $1,100, the mean average loss in revenues for a single mental health center is approximately $2,200, for a single hospital it is approximately $911, for a single physician it is approximately $41, and for a single pharmacy it is approximately $160.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change is required to keep the Medicaid program in compliance with federal interpretations. There will be some impact on business if

patients are unable to qualify by paying the spenddown from their own funds. This care would then be denied or be uncompensated care. The costs are detailed above. David N. Sundwall, MD, Executive Director

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.
The Centers for Medicare and Medicaid Services (CMS) requires that Utah Medicaid not accept spenddown payments from Medicaid providers. This is to comply with federal requirements.

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

THIS RULE IS EFFECTIVE ON: 12/01/2007

AUTHORIZED BY: David N. Sundwall, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-304. Income and Budgeting.
R414-304-7. A, B and D Medicaid and Family Medicaid Income Deductions.

(1) This section sets forth income deductions for non-institutional aged, blind, disabled and family Medicaid programs, except for the Medicaid Work Incentive program.

(2) The Department applies the financial methodologies required by 42 CFR 435.601, and the deductions defined in 42 CFR 435.831, 2005 ed., which are incorporated by reference. Any additional income deductions or limitations are described in this rule.

(3) For aged, blind and disabled individuals eligible under 42 CFR 435.301(b)(2)(iii), (iv), and (v), described more fully in 42 CFR 435.320, .322 and .324, the Department deducts from income an amount equal to the difference between 100% of the federal poverty guideline and the current BMS income standard for the applicable household size to determine the spenddown amount.

(4) To determine eligibility for and the amount of a spenddown under medically needy programs, the Department deducts from income health insurance premiums the client or a financially responsible family member pays providing coverage for the client or any family members living with the client in the month of payment. The Department also deducts from income the amount of a health insurance premium the month it is due when the Department pays the premium on behalf of the client as authorized by Section 1905(a) of Title XIX of the Social Security Act, 2005 ed., except no deduction is allowed for Medicare premiums the Department pays for or reimburses to recipients.

(a) The Department deducts the entire payment in the month it is due and does not prorate the amount.

(b) The Department does not deduct health insurance premiums to determine eligibility for the poverty-related medical assistance programs or 1931 Family Medicaid.

(5) To determine the spenddown under medically needy programs, the Department deducts from income health insurance premiums the client or a financially responsible family member paid in the application month or during the three month retroactive period. The deduction is allowed either in the month paid or in any month after the month paid to the extent the full amount was not deducted in the month paid, but only through the month of application.

(6) To determine eligibility for medically needy coverage groups, the Department deducts from income medically necessary medical expenses that the client verifies only if the expenses meet all of the following conditions:

(a) The medical service was received by the client, a client's spouse, a parent of a dependent client or a dependent sibling of a dependent client, a deceased spouse or a deceased dependent child.

(b) The medical bill will not be paid by Medicaid and is not payable by a third party.

(c) The medical bill remains unpaid, or the medical service was received and paid during the month of application or during the three-month time-period immediately preceding the date of application. The date the medical service was provided on an unpaid expense does not matter if the client still owes the provider for the service. Bills for services received and paid during the application month or the three-month time-period preceding the date of application can be used as deductions only through the month of application.

(7) A medical expense cannot be allowed as a deduction more than once.

(8) A medical expense allowed as a deduction must be for a medically necessary service. The Department decides if services are medically necessary.

(9) The Department deducts medical expenses in the order required by 42 CFR 435.831(h)(1). When expenses have the same priority, the Department deducts paid expenses before unpaid expenses.

(10) A client who pays a cash spenddown may present proof of medical expenses paid during the coverage month and request a refund of spenddown paid up to the amount of bills paid by the client. The following criteria apply:

(a) Expenses for which a refund can be made include medically necessary medical expenses not covered by Medicaid or any third party, co-payments required for prescription drugs covered under a Medicare Part D plan, and co-payments or co-insurance amounts for Medicaid-covered services as required under the State Medicaid Plan.

(b) The expense must be for a service received during the benefit month.

(c) The Department will not refund any portion of any medical expense the client uses to meet a Medicaid spenddown because the client assumes responsibility to pay any expenses used to meet a spenddown.

(d) A refund cannot exceed the actual cash spenddown amount paid by the client.

(e) The Department does not refund spenddown amounts paid by a client based on unpaid medical expenses for services the client receives during the benefit month. The client may present to the agency any unpaid bills for non-Medicaid-covered services that the client receives during the coverage month. The unpaid bills may be used to meet or reduce the spenddown the client owes for a future month of Medicaid coverage to the extent such bills remain unpaid at the beginning of such future month.

(f) The Department will reduce a refund by the amount of any unpaid obligation the client owes the Department.

(11) For poverty-related medical assistance, an individual or household is ineligible if countable income exceeds the applicable income limit. Medical costs cannot be deducted from income to determine eligibility for poverty-related medical assistance programs. Individuals cannot pay the difference between countable income and the applicable income limit to become eligible for poverty-related medical assistance programs.

(12) When a client must meet a spenddown to become eligible for a medically needy program, the client must sign a statement that says:

(a) the agency told the client how spenddown can be met[~~,~~];

(b) the client expects his or her medical expenses to exceed the spenddown amount[~~, and~~];

(c) whether the client intends to pay cash or use medical expenses to meet the spenddown[~~-~~]; and

(d) that the agency told the client that the Medicaid provider cannot use the provider's funds to pay the client's spenddown and that the provider cannot loan the client money for the client to pay the spenddown.

(13) A client may meet the spenddown by paying the agency the amount with cash or check, or by providing proof to the agency of medical expenses the client owes equal to the spenddown amount.

(a) The client may elect to deduct from countable income unpaid medical expenses for services received in non-Medicaid covered months to meet or reduce the spenddown.

(b) Expenses must meet the criteria for allowable medical expenses.

(c) Expenses cannot be payable by Medicaid or a third party.

(d) For each benefit month, the client can choose to change the method of meeting spenddown by either presenting proof of allowable medical expenses to the agency or by presenting a cash or check payment to the agency equal to the spenddown amount.

(14) The Department cannot accept spenddown payments from a Medicaid provider if the source of the funds is the Medicaid provider's own funds. The Department cannot accept spenddown payments from a client if the funds were loaned to the client by a Medicaid provider.

([~~14~~]15) The Department deducts only the amount of pre-paid medical expenses that equals the cost of services actually received in the month such expenses are paid. Payments a client makes for medical services in a month before the month services are actually received cannot be deducted from income.

([~~15~~]16) For non-institutional Medicaid programs, the Department deducts institutional medical expenses the client owes only if the expenses are medically necessary. The Department decides if services for institutional care are medically necessary.

([~~16~~]17) The Department does not require a client to pay a spenddown of less than $1.

([~~17~~]18) Medicaid covered medical costs incurred in a current benefit month cannot be used to meet spenddown when the client is enrolled in a Medicaid Health Plan. Bills for mental health services incurred in a benefit month cannot be used to meet spenddown if Medicaid contracts with a single mental health provider to provide mental health services to all recipients in the client's county of residence. Bills for mental health services received in a retroactive or application month that the client has fully-paid during that time can be used to meet spenddown only if the services were not provided by the Medicaid-contracted, mental health provider.

R414-304-9. A, B, and D Institutional Medicaid and Family Institutional Medicaid Income Deductions.

(1) This section sets forth income deductions for aged, blind, disabled and family institutional Medicaid programs.

(2) The Department applies the financial methodologies required by 42 CFR 435.601 and the deductions defined in 42 CFR 435.725, 435.726, and 435.832, 2005 ed., which are incorporated by reference. The Department applies Subsection 1902(r)(1) and 1924(d) of the Compilation of the Social Security Laws, which are incorporated by reference. Any additional income deductions or limitations are described in this rule.

(3) The following definitions apply to this section:

(a) "Family member" means a son, daughter, parent, or sibling of the client or the client's spouse who lives with the spouse.

(b) "Dependent" means earning less than $2,000 a year, not being claimed as a dependent by any other individual, and receiving more than half of one's annual support from the client or the client's spouse.

(4) Health insurance premiums:

(a) For institutionalized and waiver eligible clients, the Department deducts from income health insurance premiums only for the institutionalized or waiver eligible client and only if paid with the institutionalized or waiver eligible client's funds. Health insurance premiums are deducted in the month due. The payment is not pro-rated. The Department deducts the amount of a health insurance premium for the month it is due if the Department is paying the premium on behalf of the client as authorized by Section 1905(a) of Title XIX of the Social Security Act, except no deduction is allowed for Medicare premiums the Department pays for or reimburses to recipients.

(b) The Department deducts from income the portion of a combined premium, attributable to the institutionalized or waiver-eligible client if the combined premium includes a spouse or dependent family member and is paid from the funds of the institutionalized or waiver eligible client.

(5) The Department deducts medical expenses from income only if the expenses meet all of the following conditions:

(a) the medical service was received by the client;

(b) the unpaid medical bill will not be paid by Medicaid or by a third party;

(c) a paid medical bill can be deducted only through the month it is paid. No portion of any paid bill can be deducted after the month of payment.

(6) The Department does not deduct medical or remedial care expenses that the Department is prohibited from paying because the expenses are incurred during a penalty period imposed due to a transfer of assets for less than fair market value. The Department does not deduct medical or remedial care expenses that the Department is prohibited from paying under Section 6014 of Pub. L. 109-171 because the equity value of the individual's home exceeds the limit set by such law. The Department will not deduct such expenses during the month the services are received nor for any

month after the month services are received even when such expenses remain unpaid.

(7) The Department does not allow a medical expense as an income deduction more than once.

(8) A medical expense allowed as an income deduction must be for a medically necessary service. The Department of Health decides if services are medically necessary.

(9) The Department deducts only the amount of pre-paid medical expenses that equals the cost of services actually received in the month such expenses are paid. Payments a client makes for medical services in a month before the month the services are actually received cannot be deducted from income.

(10) When a client must meet a spenddown to become eligible for a medically needy program or receive Medicaid under a home and community based care waiver, the client must sign a statement that says:

(a) the agency told the client how spenddown can be met[,];

(b) the client expects his or her medical expenses to exceed the spenddown amount[~~, and~~];

(c) whether the client intends to pay cash or use medical expenses to meet the spenddown[~~-~~]; and

(d) that the agency told the client that the Medicaid provider cannot use the provider's funds to pay the client's spenddown and that the provider cannot loan the client money for the client to pay the spenddown.

(11) A client may meet the spenddown by paying the agency the amount with cash or check, or by providing to the agency proof of medical expenses the client owes equal to the spenddown amount.

(a) The client may elect to deduct from countable income unpaid medical expenses for services received in non-Medicaid covered months to meet or reduce the spenddown.

(b) Expenses must meet the criteria for allowable medical expenses.

(c) Expenses cannot be payable by Medicaid or a third party.

(d) For each benefit month, the client may choose to change the method of meeting spenddown by either presenting proof of allowable medical expenses to the agency or by presenting a cash or check payment to the agency equal to the spenddown amount.

(12) The Department cannot accept spenddown payments from a Medicaid provider if the source of the funds is the Medicaid provider's own funds. The Department cannot accept spenddown payments from a client if the funds were loaned to the client by a Medicaid provider.

([~~12~~]13) Institutionalized clients are required to pay all countable income remaining after allowable income deductions to the institution in which they reside as their contribution to the cost of their care.

([~~13~~]14) A client who pays a cash spenddown, or a liability amount to the medical facility in which he resides, may present proof of medical expenses paid during the coverage month and request a refund of spenddown or liability paid up to the amount of bills paid by the client. The following criteria applies:

(a) Expenses for which a refund can be made include medically necessary medical expenses not covered by Medicaid or any third party, co-payments required for prescription drugs covered under a Medicare Part D plan, and co-payments or co-insurance amounts for Medicaid-covered services as required under the State Medicaid Plan.

(b) The expense must be for a service received during the benefit month.

(c) The Department will not refund any portion of any medical expense the client uses to meet a Medicaid spenddown or to reduce the liability owed to the institution because the client assumes responsibility to pay any expenses used to meet a spenddown or reduce a liability.

(d) A refund cannot exceed the actual cash spenddown or liability amount paid by the client.

(e) The Department does not refund spenddown or liability amounts paid by a client based on unpaid medical expenses for services the client receives during the benefit month. The client may present to the agency any unpaid bills for non-Medicaid-covered services that the client receives during the coverage month. The unpaid bills may be used to meet or reduce the spenddown the client owes for a future month of Medicaid coverage to the extent such bills remain unpaid at the beginning of such future month.

(f) The Department reduces a refund by the amount of any unpaid obligation the client owes the Department.

([~~14~~]15) The Department deducts a personal needs allowance for residents of medical institutions equal to $45.

([~~15~~]16) When a doctor verifies that a single person, or a person whose spouse resides in a medical institution is expected to return home within six months of entering a medical institution or nursing home, the Department deducts a personal needs allowance equal to the current Medicaid Income Limit (BMS) for one person, defined in R414-304-11(6), for up to six months to maintain the individual's community residence.

([~~16~~]17) Except for an individual eligible for the Personal Assistance Waiver, an individual receiving assistance under the terms of a Home and Community-Based Services Waiver is eligible to receive a deduction for a non-institutionalized, non-waiver-eligible spouse and dependent family member as if that individual were institutionalized. The Department applies the provisions of Section 1924(d) of the Compilation of Social Security Laws, or the provisions of 42 U.S.C. 435.726 or 435.832 to determine the deduction for a spouse and family members.

([~~17~~]18) A client is not eligible for Medicaid coverage if medical costs are not at least equal to the contribution required towards the cost of care.

([~~18~~]19) Medicaid covered medical costs incurred in a current benefit month cannot be used to meet spenddown when the client is enrolled in a Medicaid Health Plan. Bills for mental health services incurred in a benefit month cannot be used to meet spenddown if Medicaid contracts with a single mental health provider to provide mental health services to all recipients in the client's county of residence. Bills for mental health services received in a retroactive or application month that the client has fully-paid during that time can be used to meet spenddown only if the services were not provided by the Medicaid-contracted, mental health provider.

KEY: financial disclosures, income, budgeting
Date of Enactment or Last Substantive Amendment: December 1, 2007
Notice of Continuation: January 31, 2003
Authorizing, and Implemented or Interpreted Law: 26-18-1

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).

Commerce, Occupational and Professional Licensing

R156-22

Professional Engineers and Professional Land Surveyors Licensing Act Rule

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 30725

FILED: 11/15/2007, 11:01

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 22, provides for the licensure of professional engineers, professional structural engineers, and professional land surveyors. Subsection 58-1-106(1)(a) provides that the division may adopt and enforce rules to administer Title 58. Subsection 58-22-201(3) provides that the Professional Engineers and Professional Land Surveyors Licensing Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the division director. This rule was enacted to clarify the provisions of Title 58, Chapter 22, with respect to professional engineers, professional structural engineers, and professional land surveyors.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in January 2003, it has been amended several times. The division received a 03/28/2005 written comment from Benjamin D. Miner, a licensed professional engineer, opposing a proposed amendment with respect to continuing education requirements and the use of Internet courses. Mr. Miner's comments suggested that continuing education that is obtained by Internet or by home study courses not require testing of the material to verify that the licensee has obtained the education. He noted that live seminars do not require testing. The division did not follow Mr. Miner's suggestion because all continuing education requires adequate evidence of obtaining the education and the manner of verifying that must vary depending on how the education is obtained. Live seminars verify attendance at the seminar by having certificates of attendance passed out at the end of the seminar. Without testing at the end of the continuing education course, Internet and home study courses could only verify if a person has paid the fee for the course. Mr. Miner's comment was reviewed by the division and board and it was determined that the wording as proposed would stand. The division also received an e-mail, date unknown but received sometime in November 2003, from Win Packer opposing a proposed amendment affecting Subsection R156-22-202(1)(a)(i) regarding qualifying experience. Mr. Packer suggested that one year of qualifying experience that can be obtained while enrolled in an engineering education program be limited to three to six months. The division did not believe additional restrictions on this education was necessary to assure the quality of the experience necessary to obtain licensure. The division and board reviewed Mr. Packer's comments and determined that the proposed amendment would stand as written.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 22, with respect to professional engineers, professional structural engineers, and professional land surveyors. The rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dan S. Jones at the above address, by phone at 801-530-6720, by FAX at 801-530-6511, or by Internet E-mail at dansjones@utah.gov

AUTHORIZED BY: F. David Stanley, Director

EFFECTIVE: 11/15/2007

Community and Culture, Housing and Community Development, Community Services
R202-100
Community Services Block Grant Rules

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30687
FILED: 11/07/2007, 10:43

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 9-4-202 allows for the division to receive and administer federal funds. Section 9-4-1404 states that the duties of the State Community Services Office is to "make rules in conjunction with the division pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act, to carry out the purposes of this part" when referring to the Community Services Block Grant.

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 law continues to require the administration of this grant and providing for administrative rules associated with its administration. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
COMMUNITY AND CULTURE
HOUSING AND COMMUNITY DEVELOPMENT,
COMMUNITY SERVICES
Room 500
324 S STATE ST
SALT LAKE CITY UT 84111-2388, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jonathan Hardy at the above address, by phone at 801-538-8650, by FAX at 801-538-8888, or by Internet E-mail at jhardy@utah.gov

AUTHORIZED BY: Ally Isom, Deputy Director

EFFECTIVE: 11/07/2007

Corrections, Administration
R251-112
Americans With Disabilities Act Implementation and Complaint Process

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30714
FILED: 11/13/2007, 06:47

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: The Department of Corrections, as a public entity that employs more than 50 persons, is required under 28 CFR 35.107 (1992 ed.) to comply with the complaint procedures and applicable provisions of the Americans With Disabilities Act. This rule is promulgated pursuant to Section 63-46a-3.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule should be continued because it helps provide for employment services, programs and activities for qualified persons with a disability.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER UT 84020-9549, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gary Ogilvie at the above address, by phone at 801-545-5514, by FAX at 801-545-5523, or by Internet E-mail at gogilvie@utah.gov

AUTHORIZED BY: Thomas E. Patterson, Executive Director

EFFECTIVE: 11/13/2007

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Health, Health Care Financing, Coverage and Reimbursement Policy
R414-2A
Inpatient Hospital Services

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30692
FILED: 11/08/2007, 08:17

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 26-18-3 requires the department to enact administrative rules to implement Medicaid programs. Section 26-1-5 authorizes the department to adopt, amend, or rescind rules, and Section 1905(a)(1) of the Social Security Act authorizes the Department to provide inpatient hospital services.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Utah Hospital Association (UHA) requested that the proposed rule not list "cost effectiveness" as a primary factor in combining Diagnosis Related Group (DRG) payments for 30-day readmissions. The Division of Health Care Financing (DHCF), therefore, amended the rule to state that cost effectiveness is not a primary factor in making this determination, but may be part of the determination process. UHA also pointed out that physician services paid by a hospital are inpatient services billed on a 1500 form and not under the DRG. DHCF, therefore, amended the rule accordingly. The American Osteopathic Association (AOA) pointed out that osteopathic surgeons and physicians are defined as "physicians" under Utah law, and requested that DHCF remove the phrase "a doctor of osteopathy" from the proposed rule's definition of "Other Practitioner of the Healing Arts." DHCF, therefore, removed the phrase.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary because it establishes eligibility, hospital admission requirements, service coverage, limitations, and reimbursement methodology for inpatient hospital services. Therefore, this rule should be continued.

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

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 11/08/2007

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Health, Health Care Financing, Coverage and Reimbursement Policy
R414-3A
Outpatient Hospital Services

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30693
FILED: 11/08/2007, 08:20

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 26-18-3 requires the department to enact administrative rules to implement Medicaid programs. Section 26-1-5 authorizes the department to adopt, amend, or rescind rules, and 42 CFR 440.20 authorizes the department to provide outpatient hospital services.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: LDS Hospital requested an amendment to the rule to allow a "diplomate" to provide sleep study services. According to the hospital, the inclusion of diplomates would allow several hospitals to comply with sleep study program criteria, and would increase statewide access to services. The Division of Health Care Financing, therefore, removed staffing restrictions from the rule, and

included language to allow any sleep disorder center accredited by the American Academy of Sleep Medicine to provide sleep study services.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary because it establishes eligibility, program access requirements, prior authorization, copayment, and reimbursement methodology for outpatient hospital services. It also requires recipients residing in a county with a prepaid mental health contractor to obtain psychiatric services from that contractor. Therefore, this rule should be continued.

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

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 11/08/2007

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Human Services, Administration, Administrative Services, Licensing
R501-8
Outdoor Youth Programs

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30677
FILED: 11/05/2007, 16:06

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 62A-2-106 directs the office to write rules governing basic health and safety standards for its licensees.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: In the past five years, the Office of Licensing has not received any written comments on 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 statutory provisions of Section 62A-2-106 still exist and the fact that there have been recent incidents in the outdoor youth programs indicate the continued need for this rule. Upon review of this rule, the division recognizes that there are some updates for citations and typographical errors that need to be corrected.

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

HUMAN SERVICES
ADMINISTRATION, ADMINISTRATIVE SERVICES, LICENSING
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Bohi or Ken Stettler at the above address, by phone at 801-538-4153 or 801-538-4235, by FAX at 801-538-4553 or 801-538-4553, or by Internet E-mail at janbohi@utah.gov or kstettler@utah.gov

AUTHORIZED BY: Ken Stettler, Director

EFFECTIVE: 11/05/2007

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Human Services, Administration, Administrative Services, Licensing
R501-12
Child Foster Care

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30723
FILED: 11/15/2007, 10:25

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-2-101 et seq. and Section 62A-2-106 authorize the Office of Licensing to make rules to establish basic standards for licensees. In addition, it states that child foster care services shall be licensed to establish the minimum requirements for foster homes and proctor homes for children in the custody of the Human Services Department.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: In the past five years, the Office of Licensing has received no written comments on 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 statutory provisions of Section 62A-2-101 et seq. dealing with child foster care still exist and the rule should be continued because of the ongoing need for minimum standards in foster homes. Upon review of this rule, the division recognizes that there are some updates for citations and typographical errors that need to be corrected.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
ADMINISTRATION, ADMINISTRATIVE SERVICES,
LICENSING
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Bohi or Ken Stettler at the above address, by phone at 801-538-4153 or 801-538-4235, by FAX at 801-538-4553 or 801-538-4553, or by Internet E-mail at janbohi@utah.gov or kstettler@utah.gov

AUTHORIZED BY: Ken Stettler, Director

EFFECTIVE: 11/15/2007

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Human Services, Administration, Administrative Services, Licensing
R501-13
Adult Foster Care

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30678
FILED: 11/05/2007, 16:14

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-2-106 directs the office to write rules governing basic health and safety standards for its licensees.

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 Licensing has not received any written comments on this rule during the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The statutory provisions of Section 62A-2-101 dealing with Adult Day Care still exist. This rule is necessary because of the continued need of programs to deal with functionally-impaired adults in a protected setting and should be continued. Upon review of this rule, the division recognizes that there are some updates for citations and typographical errors that need to be corrected.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
ADMINISTRATION, ADMINISTRATIVE SERVICES,
LICENSING
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Ken Stettler or Jan Bohi at the above address, by phone at 801-538-4235 or 801-538-4153, by FAX at 801-538-4553 or 801-538-4553, or by Internet E-mail at kstettler@utah.gov or janbohi@utah.gov

AUTHORIZED BY: Ken Stettler, Director

EFFECTIVE: 11/05/2007

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Insurance, Administration
R590-141
Individual and Agency License Lapse and Reinstatement

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30680
FILED: 11/06/2007, 12:30

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsections 31A-23-216(3) and now 31A-23a-111(10), authorize the commissioner to prescribe by rule, license renewal and reinstatement procedures for agents, consultants, and brokers. This code reference was changed in 2003 by H.B. 374, which changed the numbering of the chapter and sections within. Subsection 31A-26-213(3) authorizes the commissioner to prescribe by rule, license renewal and reinstatement procedures for adjusters. Section R590-141-3 of the rule provides renewal instructions in Subsection R590-141-3(A) and reinstatement procedures in Subsection R590-141-3(B). This rule is in the process of being changed and will be finalized sometime within the first half of 2008. (DAR NOTE: H.B. 374 (2003) is found at Chapter 298, Laws of Utah 2003, and was effective 05/05/2003.)

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments received regarding this rule within the last five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes procedures for the renewal of insurance licenses, as well as procedures and penalties for dealing with licensees who do not renew their insurance licenses as required. Without the rule, it is anticipated that more licensees would allow their licenses to lapse. Agents would not know the process to reinstate their licenses and they would have little incentive to do so if there were no penalties. 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: 11/06/2007

♦ ♦

Insurance, Administration
R590-152
Health Discount Programs and Value Added Benefit Rule

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 30719
FILED: 11/13/2007, 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: Subsection 31A-8a-210 specifically authorizes the commissioner to issue rules to enforce Title 31A, Chapter 8a, and to protect the public interest. The rule allows the commissioner to license, examine, audit, or investigate an individual or entity operating or selling health discount programs.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: In the past five years, this rule has been revised twice. The first revision was completed 07/16/2003. The only comment received was regarding grammatical changes, which were made to the rule. During the second revision, completed 10/09/2007, the department went through two comment periods. The changes made in the second comment period took care of many of the concerns from the first comment period. During the second comment period, additional suggestions were received. The nonsubstantive changes were implemented into the rule. With the approval of those suggesting substantive changes, those changes will be added to the rule after the legislative session in 2008 along with other anticipated changes.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule allows the department to license and regulate health discount programs and those who market and operate them. It also allows the department to review the forms of these programs to make sure they comply with the law and avoid using words and terms that would give the purchaser the impression that the program is insurance. This should reduce fraud and uncertainty in this market. The rule also requires managers of health discount programs to provide a website so members can view a current list of health discount plan providers. 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: 11/13/2007

♦ ♦

Insurance, Administration
R590-153
Unfair Inducements and Marketing Practices in Obtaining Title Insurance Business

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30711
FILED: 11/09/2007, 11:08

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: Subsection 31A-2-201(3) gives the commissioner the authority to make rules to implement the provisions of Title 31A. Subsection 31A-23-302(8) gives the commissioner the authority to make rules, after a finding, to define unfair, deceptive, discriminatory or misleading marketing practices. Sections R590-153-5 and R590-153-6 of this rule specify material and unfair inducement to obtaining title insurance business and what constitutes an unfair method of competition in the business of title insurance.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: This rule has been revised a number of times over the past five years. Changes were put into effect 01/13/2004 after going through three comment periods and one hearing. On 08/08/2007, changes to this rule were again put into effect after a comment period. During the latter comment period, no comments were received. During the 2003 and 2004 comment periods, many comments were received but none during the last comment period. The department tried to work with the title industry to accommodate their needs without adversely impacting the public good. It should be noted that the department, Title and Escrow Commissioner, and members of the industry and public are in the process of revising this rule now. It needs to be updated to adapt to the changing environment in the title and escrow industry.

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 supportive of title insurance agencies and the public. Real estate agents and mortgage brokers make many requests of title agencies to provide marketing materials, food, education, etc., at the cost of the title agency. These costs are then passed on to the consumer. Without regulation, title agencies would be asked to provide services and goods other than those related to title services in an effort to compete for business. 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: 11/09/2007

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Labor Commission, Occupational Safety and Health
R614-1
General Provisions

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30644
FILED: 11/02/2007, 14:39

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: Title 34A, Chapter 6, establishes the Utah Occupational Safety and Health Division. For the purposes of 1) preserving human resources by providing for the safety and health of workers, and 2) providing a coordinated state plan "as effective as" the Federal OSHA program, Subsection 34A-6-105(1)(c) authorizes the Labor Commission to make all necessary and reasonable rules to implement Title 34A, Chapter 6.

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 during or since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This specific rule establishes definitions, incorporates federal standards, establishes other basic safety rules, and addresses inspections, confidentiality of information, and penalties. This rule remains necessary to implement the legislative intent underlying enactment of the Utah Occupational Safety and Health Act, set forth in Section 34A-6-102, of providing for the safety and health of workers and establishing a coordinated state plan as effective as the federal Occupational Safety and Health program. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
LABOR COMMISSION
OCCUPATIONAL SAFETY AND HEALTH
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:
William Adams at the above address, by phone at 801-530-6897, by FAX at 801-530-7606, or by Internet E-mail at wadams@utah.gov

AUTHORIZED BY: Sherrie Hayashi, Commissioner

EFFECTIVE: 11/02/2007

Labor Commission, Occupational Safety and Health
R614-2
Drilling Industry

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30645
FILED: 11/02/2007, 14:40

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 34A, Chapter 6, establishes the Utah Occupational Safety and Health Division. For the purposes of 1) preserving human resources by providing for the safety and health of workers, and 2) providing a coordinated state plan "as effective as" the Federal OSHA program, Subsection 34A-6-105(1)(c) authorizes the Labor Commission to make all necessary and reasonable rules to implement Title 34A, Chapter 6.

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 during or since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to establish specific safety and health standards in the drilling industry and related services. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
LABOR COMMISSION
OCCUPATIONAL SAFETY AND HEALTH
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:
William Adams at the above address, by phone at 801-530-6897, by FAX at 801-530-7606, or by Internet E-mail at wadams@utah.gov

AUTHORIZED BY: Sherrie Hayashi, Commissioner

EFFECTIVE: 11/02/2007

Labor Commission, Occupational Safety and Health
R614-3
Farming Operations Standards

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30646
FILED: 11/02/2007, 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: Title 34A, Chapter 6, establishes the Utah Occupational Safety and Health Division. For the purposes of 1) preserving human resources by providing for the safety and health of workers, and 2) providing a coordinated state plan "as effective as" the Federal OSHA program, Subsection 34A-6-105(1)(c) authorizes the Labor Commission to make all necessary and reasonable rules to implement Title 34A, Chapter 6.

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 during or since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to establish specific safety standards for farming operations and the safety of employees working in them. Therefore, this rule should be continued.

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

LABOR COMMISSION
OCCUPATIONAL SAFETY AND HEALTH
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:
William Adams at the above address, by phone at 801-530-6897, by FAX at 801-530-7606, or by Internet E-mail at wadams@utah.gov

AUTHORIZED BY: Sherrie Hayashi, Commissioner

EFFECTIVE: 11/02/2007

Labor Commission, Occupational Safety and Health

R614-4

Hazardous Materials

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 30647
FILED: 11/02/2007, 14:42

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 34A, Chapter 6, establishes the Utah Occupational Safety and Health Division. For the purposes of 1) preserving human resources by providing for the safety and health of workers, and 2) providing a coordinated state plan "as effective as" the Federal OSHA program, Subsection 34A-6-105(1)(c) authorizes the Labor Commission to make all necessary and reasonable rules to implement Title 34A, Chapter 6.

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 during or since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to establish specific safety standards for hazardous materials and the safety of employees working with them. Therefore, this rule should be continued.

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

LABOR COMMISSION
OCCUPATIONAL SAFETY AND HEALTH
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:
William Adams at the above address, by phone at 801-530-6897, by FAX at 801-530-7606, or by Internet E-mail at wadams@utah.gov

AUTHORIZED BY: Sherrie Hayashi, Commissioner

EFFECTIVE: 11/02/2007

Labor Commission, Occupational Safety and Health

R614-5

Materials Handling and Storage

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 30648
FILED: 11/02/2007, 14:42

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 34A, Chapter 6, establishes the Utah Occupational Safety and Health Division. For the purposes of 1) preserving human resources by providing for the safety and health of workers, and 2) providing a coordinated state plan "as effective as" the Federal OSHA program, Subsection 34A-6-105(1)(c) authorizes the Labor Commission to make all necessary and reasonable rules to implement Title 34A, Chapter 6.

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 during or since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to establish specific safety standards for conveyors and the safety of employees using them. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
LABOR COMMISSION
OCCUPATIONAL SAFETY AND HEALTH
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:
William Adams at the above address, by phone at 801-530-6897, by FAX at 801-530-7606, or by Internet E-mail at wadams@utah.gov

AUTHORIZED BY: Sherrie Hayashi, Commissioner

EFFECTIVE: 11/02/2007

Labor Commission, Occupational Safety and Health
R614-6
Other Operations

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30649
FILED: 11/02/2007, 14:43

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 34A, Chapter 6, establishes the Utah Occupational Safety and Health Division. For the purposes of 1) preserving human resources by providing for the safety and health of workers, and 2) providing a coordinated state plan "as effective as" the Federal OSHA program, Subsection 34A-6-105(1)(c) authorizes the Labor Commission to make all necessary and reasonable rules to implement Title 34A, Chapter 6.

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 during or since the last five-year review of 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 identifies safety procedures for operations such as "crushing, screening, and grinding equipment", "window cleaning", and "industrial railroads" (items that are not covered by federal standards). This rule is necessary to ensure the safety of employees in workplaces that involve these operations. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
LABOR COMMISSION
OCCUPATIONAL SAFETY AND HEALTH
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:
William Adams at the above address, by phone at 801-530-6897, by FAX at 801-530-7606, or by Internet E-mail at wadams@utah.gov

AUTHORIZED BY: Sherrie Hayashi, Commissioner

EFFECTIVE: 11/02/2007

Labor Commission, Occupational Safety and Health
R614-7
Construction Standards

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30650
FILED: 11/02/2007, 14:44

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 34A, Chapter 6, establishes the Utah Occupational Safety and Health Division. For the purposes of 1) preserving human resources by providing for the safety and health of workers, and 2) providing a coordinated state plan "as effective as" the Federal OSHA program, Subsection 34A-6-105(1)(c) authorizes the Labor Commission to make all necessary and reasonable rules to implement Title 34A, Chapter 6.

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 during or since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to establish specific safety standards for operations in hazardous construction areas such as "roofing", and "tar-asphalt operations" and the protection of employees engaged in these operations. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
LABOR COMMISSION
OCCUPATIONAL SAFETY AND HEALTH
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:
William Adams at the above address, by phone at 801-530-6897, by FAX at 801-530-7606, or by Internet E-mail at wadams@utah.gov

AUTHORIZED BY: Sherrie Hayashi, Commissioner

EFFECTIVE: 11/02/2007

Money Management Council, Administration
R628-18
Conditions and Procedures for Use of Interest Rate Contracts

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30681
FILED: 11/06/2007, 14:35

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The Utah Money Management Act, at Subsection 51-7-17(3), allows public entities to enter into investment rate contracts that comply with the requirements in council rule. The council has rulewriting authority in Subsection 51-7-18(2)(x) specific for providing the conditions and procedures that public entities need to follow for interest rate contracts.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments on this rule 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: The Money Management Act in Subsection 51-7-17(3) states that public entities may enter into investment rate contracts per council rule. This rule needs to be in place to allow public entities to utilize these contracts, if needed, in a safe and consistent way. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
MONEY MANAGEMENT COUNCIL
ADMINISTRATION
Room E315 EAST OFFICE BLDG
STATE CAPITOL COMPLEX
PO BOX 142315
SALT LAKE CITY UT 84114-2315, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Ann Pedroza at the above address, by phone at 801-538-1883, by FAX at 801-538-1465, or by Internet E-mail at apedroza@utah.gov

AUTHORIZED BY: Bruce B. Cohne, Chair

EFFECTIVE: 11/06/2007

Natural Resources; Oil, Gas and Mining Board
R641-100
General Provisions

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30656
FILED: 11/05/2007, 11:56

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized under Subsection 40-6-10(1) which requires the Board to enact rules governing its practice and procedure that are not inconsistent with the Administrative Procedures 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 should be continued so that the rules for practice and procedure for proceedings before the Board of Oil, Gas and Mining remain in place for use by petitioners, respondents, the Board, and other parties.

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

NATURAL RESOURCES
OIL, GAS AND MINING BOARD
Room 1210
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve Schneider at the above address, by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 11/05/2007

♦ ♦

Natural Resources; Oil, Gas and Mining Board

R641-101

Parties

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 30657
FILED: 11/05/2007, 11:56

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized under Subsection 40-6-10(1) which requires the Board to enact rules governing its practice and procedure that are not inconsistent with the Administrative Procedures 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 should be continued so that the rules for practice and procedure for proceedings before the Board of Oil, Gas and Mining remain in place for use by petitioners, respondents, the Board, and other parties.

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

NATURAL RESOURCES
OIL, GAS AND MINING BOARD
Room 1210
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve Schneider at the above address, by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 11/05/2007

♦ ♦

Natural Resources; Oil, Gas and Mining Board

R641-102

Appearances and Representations

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 30658
FILED: 11/05/2007, 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: This rule is authorized under Subsection 40-6-10(1) which requires the Board to enact rules governing its practice and procedure that are not inconsistent with the Administrative Procedures 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 should be continued so that the rules for practice and procedure for proceedings before the Board of Oil, Gas and Mining remain in place for use by petitioners, respondents, the Board, and other parties.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
OIL, GAS AND MINING BOARD
Room 1210
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve Schneider at the above address, by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 11/05/2007

Natural Resources; Oil, Gas and Mining Board
R641-103
Intervention

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30659
FILED: 11/05/2007, 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: This rule is authorized under Subsection 40-6-10(1) which requires the Board to enact rules governing its practice and procedure that are not inconsistent with the Administrative Procedures 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 should be continued so that the rules for practice and procedure for proceedings before the Board of Oil, Gas and Mining remain in place for use by petitioners, respondents, the Board, and other parties.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
OIL, GAS AND MINING BOARD
Room 1210
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve Schneider at the above address, by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 11/05/2007

Natural Resources; Oil, Gas and Mining Board
R641-104
Pleadings

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30660
FILED: 11/05/2007, 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: This rule is authorized under Subsection 40-6-10(1) which requires the Board to enact rules governing its practice and procedure that are not inconsistent with the Administrative Procedures 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 should be continued so that the rules for practice and procedure for proceedings before the Board of Oil, Gas and Mining remain in place for use by petitioners, respondents, the Board, and other parties.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
OIL, GAS AND MINING BOARD
Room 1210
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve Schneider at the above address, by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 11/05/2007

♦ ♦

Natural Resources; Oil, Gas and Mining Board
R641-105
Filing and Service

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30661
FILED: 11/05/2007, 11:59

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: This rule is authorized under Subsection 40-6-10(1) which requires the Board to enact rules governing its practice and procedure that are not inconsistent with the Administrative Procedures 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 should be continued so that the rules for practice and procedure for proceedings before the Board of Oil, Gas and Mining remain in place for use by petitioners, respondents, the Board, and other parties.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
OIL, GAS AND MINING BOARD
Room 1210
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve Schneider at the above address, by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 11/05/2007

♦ ♦

Natural Resources; Oil, Gas and Mining Board
R641-106
Notice and Service

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30662
FILED: 11/05/2007, 11:59

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: This rule is authorized under Subsection 40-6-10(1) which requires the Board to enact rules governing its practice and procedure that are not inconsistent with the Administrative Procedures 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 should be continued so that the rules for practice and procedure for proceedings before the Board of Oil, Gas and Mining remain in place for use by petitioners, respondents, the Board, and other parties.

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

NATURAL RESOURCES
OIL, GAS AND MINING BOARD
Room 1210
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve Schneider at the above address, by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 11/05/2007

Natural Resources; Oil, Gas and Mining Board

R641-107

Prehearing Conference

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30663
FILED: 11/05/2007, 11:59

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: This rule is authorized under Subsection 40-6-10(1) which requires the Board to enact rules governing its practice and procedure that are not inconsistent with the Administrative Procedures 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 should be continued so that the rules for practice and procedure for proceedings before the Board of Oil, Gas and Mining remain in place for use by petitioners, respondents, the Board, and other parties.

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

NATURAL RESOURCES
OIL, GAS AND MINING BOARD
Room 1210
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve Schneider at the above address, by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 11/05/2007

Natural Resources; Oil, Gas and Mining Board

R641-108

Conduct of Hearings

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30664
FILED: 11/05/2007, 12:00

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: This rule is authorized under Subsection 40-6-10(1) which requires the Board to enact rules governing its practice and procedure that are not inconsistent with the Administrative Procedures 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 should be continued so that the rules for practice and procedure for proceedings before the Board of Oil, Gas and Mining remain in place for use by petitioners, respondents, the Board, and other parties.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
OIL, GAS AND MINING BOARD
Room 1210
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve Schneider at the above address, by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 11/05/2007

Natural Resources; Oil, Gas and Mining Board
R641-109
Decisions and Orders

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30665
FILED: 11/05/2007, 12:00

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: This rule is authorized under Subsection 40-6-10(1) which requires the Board to enact rules governing its practice and procedure that are not inconsistent with the Administrative Procedures 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 should be continued so that the rules for practice and procedure for proceedings before the Board of Oil, Gas and Mining remain in place for use by petitioners, respondents, the Board, and other parties.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
OIL, GAS AND MINING BOARD
Room 1210
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve Schneider at the above address, by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 11/05/2007

Natural Resources; Oil, Gas and Mining Board
R641-110
Rehearing and Modification of Existing Orders

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30666
FILED: 11/05/2007, 12:01

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized under Subsection 40-6-10(1) which requires the Board to enact rules governing its practice and procedure that are not inconsistent with the Administrative Procedures 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 should be continued so that the rules for practice and procedure for proceedings before the Board of Oil, Gas and Mining remain in place for use by petitioners, respondents, the Board, and other parties.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
OIL, GAS AND MINING BOARD
Room 1210
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve Schneider at the above address, by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 11/05/2007

Natural Resources; Oil, Gas and Mining Board
R641-111
Declaratory Rulings

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30667
FILED: 11/05/2007, 12:01

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized under Subsection 40-6-10(1) which requires the Board to enact rules governing its practice and procedure that are not inconsistent with the Administrative Procedures 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 should be continued so that the rules for practice and procedure for proceedings before the Board of Oil, Gas and Mining remain in place for use by petitioners, respondents, the Board, and other parties.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
OIL, GAS AND MINING BOARD
Room 1210
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve Schneider at the above address, by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 11/05/2007

Natural Resources; Oil, Gas and Mining Board
R641-112
Rulemaking

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30668
FILED: 11/05/2007, 12:01

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized under Subsection 40-6-10(1) which requires the Board to enact rules governing its practice and procedure that are not inconsistent with the Administrative Procedures 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 should be continued so that the rules for practice and procedure for proceedings before the Board of Oil, Gas and Mining remain in place for use by petitioners, respondents, the Board, and other parties.

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

NATURAL RESOURCES
OIL, GAS AND MINING BOARD
Room 1210
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve Schneider at the above address, by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 11/05/2007

Natural Resources; Oil, Gas and Mining Board

R641-113

Hearing Examiners

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30669
FILED: 11/05/2007, 12:02

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized under Subsection 40-6-10(1) which requires the Board to enact rules governing its practice and procedure that are not inconsistent with the Administrative Procedures Act.

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NATURAL RESOURCES
OIL, GAS AND MINING BOARD
Room 1210
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve Schneider at the above address, by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 11/05/2007

Natural Resources; Oil, Gas and Mining Board

R641-114

Exhaustion of Administrative Remedies

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30670
FILED: 11/05/2007, 12:02

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized under Subsection 40-6-10(1) which requires the Board to enact rules governing its practice and procedure that are not inconsistent with the Administrative Procedures 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 should be continued so that the rules for practice and procedure for proceedings before the Board of Oil, Gas and Mining remain in place for use by petitioners, respondents, the Board, and other parties.

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NATURAL RESOURCES
OIL, GAS AND MINING BOARD
Room 1210
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve Schneider at the above address, by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 11/05/2007

Natural Resources; Oil, Gas and Mining Board

R641-115

Deadline for Judicial Review

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30671
FILED: 11/05/2007, 12:02

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized under Subsection 40-6-10(1) which requires the Board to enact rules governing its practice and procedure that are not inconsistent with the Administrative Procedures 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.

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OIL, GAS AND MINING BOARD
Room 1210
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve Schneider at the above address, by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 11/05/2007

Natural Resources; Oil, Gas and Mining Board

R641-116

Judicial Review of Formal Adjudicative Proceedings

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30672
FILED: 11/05/2007, 12:03

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized under Subsection 40-6-10(1) which requires the Board to enact rules governing its practice and procedure that are not inconsistent with the Administrative Procedures 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 should be continued so that the rules for practice and procedure for proceedings before the Board of Oil, Gas and Mining remain in place for use by petitioners, respondents, the Board, and other parties.

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NATURAL RESOURCES
OIL, GAS AND MINING BOARD
Room 1210
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve Schneider at the above address, by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 11/05/2007

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Natural Resources; Oil, Gas and Mining Board
R641-117
Civil Enforcement

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30673
FILED: 11/05/2007, 12:03

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized under Subsection 40-6-10(1) which requires the Board to enact rules governing its practice and procedure that are not inconsistent with the Administrative Procedures 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 should be continued so that the rules for practice and procedure for proceedings before the Board of Oil, Gas and Mining remain in place for use by petitioners, respondents, the Board, and other parties.

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NATURAL RESOURCES
OIL, GAS AND MINING BOARD
Room 1210
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve Schneider at the above address, by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 11/05/2007

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Natural Resources; Oil, Gas and Mining Board
R641-118
Waivers

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30674
FILED: 11/05/2007, 12:03

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized under Subsection 40-6-10(1) which requires the Board to enact rules governing its practice and procedure that are not inconsistent with the Administrative Procedures 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 should be continued so that the rules for practice and procedure for proceedings before the Board of Oil, Gas and Mining remain in place for use by petitioners, respondents, the Board, and other parties.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
OIL, GAS AND MINING BOARD
Room 1210
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve Schneider at the above address, by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 11/05/2007

Natural Resources; Oil, Gas and Mining Board
R641-119
Severability

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30675
FILED: 11/05/2007, 12:04

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized under Subsection 40-6-10(1) which requires the Board to enact rules governing its practice and procedure that are not inconsistent with the Administrative Procedures 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 should be continued so that the rules for practice and procedure for proceedings before the Board of Oil, Gas and Mining remain in place for use by petitioners, respondents, the Board, and other parties.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
OIL, GAS AND MINING BOARD
Room 1210
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Steve Schneider at the above address, by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 11/05/2007

Public Safety, Highway Patrol
R714-158
Vehicle Safety Inspection Program Requirements

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30679
FILED: 11/06/2007, 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: This rule is authorized by Subsection 53-8-204(5), which directs the division to make rules establishing safety inspection station and inspector 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: Safety inspection needs to have all of the program requirements written out for the safety inspection stations and inspectors. This rule consists of all those requirements that a station and inspector are required to meet. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PUBLIC SAFETY
HIGHWAY PATROL
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5994, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Joseph Vasquez at the above address, by phone at 801-965-4889, by FAX at 801-322-1817, or by Internet E-mail at jvasquez@utah.gov

AUTHORIZED BY: Lance Davenport, Superintendant

EFFECTIVE: 11/06/2007

Public Safety, Highway Patrol
R714-200
Standards for Vehicle Lights and Illuminating Devices

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30682
FILED: 11/06/2007, 17:21

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 41-6a-1620 and Subsection 41-6a-1601(2), which states that the department shall make rules setting minimum equipment standards of lighting equipment and approve or disapprove of any lighting device for motor 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: There are a lot of after market lighting devices being sold, which most of them do not meet Federal Motor Vehicle Standards. Also included in this rule are the lighting equipment restrictions. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PUBLIC SAFETY
HIGHWAY PATROL
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5994, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Joseph Vasquez at the above address, by phone at 801-965-4889, by FAX at 801-322-1817, or by Internet E-mail at jvasquez@utah.gov

AUTHORIZED BY: Lance Davenport, Superintendant

EFFECTIVE: 11/06/2007

Public Safety, Highway Patrol
R714-220
Standards for Protective Headgear

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30684
FILED: 11/06/2007, 18:16

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: This rule is authorized by Section 41-6a-1505 and Subsection 53-1-106(1)(a) which state that the department shall make rules adopting the standards for protective headgear to be used by those operating motorcycles or motor-driven cycles on a highway.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is needed to ensure that protective headgear standards meeting federal requirements are used by those operating motorcycles or motor-driven cycles. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PUBLIC SAFETY
HIGHWAY PATROL
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5994, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Joseph Vasquez at the above address, by phone at 801-965-4889, by FAX at 801-322-1817, or by Internet E-mail at jvasquez@utah.gov

AUTHORIZED BY: Lance Davenport, Superintendant

EFFECTIVE: 11/06/2007

Public Safety, Highway Patrol
R714-230
Standards and Specifications for Vehicle Seat Belts and Safety Harnesses

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30686
FILED: 11/06/2007, 18:57

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: This rule is authorized by Section 41-6a-1628 and Subsection 53-1-106(1)(a) which state that the department shall make rules outlining the standards and specifications for vehicle seat belts and safety harnesses in motor 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: There need to be standards and specifications for vehicle seat belts and safety harnesses that are used in motor vehicles traveling on our highways. This rule shows that Utah adopts the federal regulations. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PUBLIC SAFETY
HIGHWAY PATROL
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5994, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Joseph Vasquez at the above address, by phone at 801-965-4889, by FAX at 801-322-1817, or by Internet E-mail at jvasquez@utah.gov

AUTHORIZED BY: Lance Davenport, Superintendant

EFFECTIVE: 11/06/2007

Public Safety, Highway Patrol
R714-550
Rule for Spending Fees Provided under Section 53-1-117

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30691
FILED: 11/07/2007, 14:24

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: Pursuant to Section 53-1-117, this rule establishes criteria and procedures for the Utah Department of Public Safety to administer revenues from the "Public Safety Restricted Account" established by Subsection 53-3-106(1); which accrue from fee income pursuant to Section 41-6-44.30, and Subsections 53-3-105(29) and 53-3-106(5). Accordingly, these funds shall be used to: a) purchase equipment for law enforcement agencies of the state and its political subdivisions to assist them in enforcing alcohol or drug related driving laws; b) train peace officers; c) provide peace officer overtime; and d) fund the managing of DUI-related motor vehicles. This rule is authorized by Section 53-1-117 which requires the department to make rules establishing criteria and procedures for alcohol or drug enforcement funding.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is still necessary due to Section 53-1-117, which authorizes the rule. There is a seven member committee which oversees the spending of this money on DUI overtime shifts, DUI equipment for agencies statewide based on their DUI enforcement, and support of the Breath Alcohol Testing program. Therefore, this rule should be continued.

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

PUBLIC SAFETY
HIGHWAY PATROL
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5994, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Kellie Oaks at the above address, by phone at 801-256-2412, by FAX at 801-256-2449, or by Internet E-mail at koaks@utah.gov

AUTHORIZED BY: Lance Davenport, Superintendant

EFFECTIVE: 11/07/2007

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School and Institutional Trust Lands, Administration

R850-83

Administration of Previous Sales to Subdivisions of the State

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30643
FILED: 11/02/2007, 09:35

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: Subsections 53C-1-302(1)(a)(ii) and 53C-4-101(1) authorize the director to establish rules for sales of land to subdivisions of the state. Rule R850-83 addresses the process for administering lands previously sold under Section 65-1-29 and Subsection 65A-7-4(5), both of which have been repealed, when the provisions of the sale have been violated and the lands revert back to the Trust.

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 agency for this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Under Section 65-1-29 and Subsection 65A-7-4(5), both of which have since been repealed, trust lands were sold to subdivisions of the state under a determinable fee process whereby the subdivision could purchase the land at appraised value for a specified purpose. If for any reason, the use of the land changed from the specified purpose, it was a breach of the sale terms and the land automatically reverted back to the Trust. Rule R850-83 outlines the process whereby a breach of the sale terms is determined and the remedies available to the subdivision of the state and the Trust. Therefore, this rule should be continued.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION
Room 500
675 E 500 S
SALT LAKE CITY UT 84102-2818, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Kim S. Christy at the above address, by phone at 801-538-5183, by FAX at 801-355-0922, or by Internet E-mail at kimchristy@utah.gov

AUTHORIZED BY: Kevin S. Carter, Director

EFFECTIVE: 11/02/2007

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Technology Services, Administration

R895-12

Telecommunications Services and Requirements

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 30710
FILED: 11/09/2007, 09:02

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: Pursuant to Section 63F-1-206, all state agencies are required to coordinate with and adhere to the service requirements established by the Department of Technology Services regarding telecommunications systems and telecommunication services.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department of Technology Services has not received any 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 must be continued because it provides the requirements state agencies must follow when obtaining or modifying a telecommunication system and/or service. This rule also requires state agencies to provide notification to the Department of Technology Services whenever a change to a telecommunication system and/or service is required.

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

TECHNOLOGY SERVICES
ADMINISTRATION
Room 6000 STATE OFFICE BUILDING
450 N STATE ST
SALT LAKE CITY UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
William Shiflett at the above address, by phone at 801-538-3548, by FAX at 801-538-9787, or by Internet E-mail at williams@utah.gov

AUTHORIZED BY: J Stephen Fletcher, CIO and Executive Director

EFFECTIVE: 11/09/2007

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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).

Human Services

Child and Family Services

No. 30720: R512-20. Protective Payee for Recipients of Cash Assistance from the Department of Workforce Services.
ENACTED OR LAST REVIEWED: 12/13/2002 (No. 25793, 5YR, filed 12/13/2002 at 9:31 a.m., published 01/01/2003).
EXTENDED DUE DATE: 04/11/2008

No. 30721: R512-50. Fee Collection for Clients Served by Pre-School Day Treatment Contract.
ENACTED OR LAST REVIEWED: 12/13/2002 (No. 25800, 5YR, filed 12/13/2002 at 11:06 a.m., published 01/01/2003).
EXTENDED DUE DATE: 04/11/2008

End of the Notices of Five-Year Review Extensions Section

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. Statute permits an agency to make a rule effective "on any date specified by the agency that is no fewer than seven calendar days after the close of the public comment period . . . , nor more than 120 days after the publication date." Subsection 63-46a-4(9).

Abbreviations
AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Agriculture and Food
Animal Industry
No. 30450 (AMD): R58-10-3. Federal Regulations Adopted by Reference.
Published: October 1, 2007
Effective: November 8, 2007

No. 30449 (AMD): R58-11. Slaughtering of Livestock.
Published: October 1, 2007
Effective: November 8, 2007

Commerce
Occupational and Professional Licensing
No. 30438 (NEW): R156-59. Professional Employer Organization Registration Act Rule.
Published: October 1, 2007
Effective: November 8, 2007

Education
Administration
No. 30447 (AMD): R277-473. Testing Procedures.
Published: October 1, 2007
Effective: November 7, 2007

No. 30448 (AMD): R277-484-9. Disclosure of Data For Research.
Published: October 1, 2007
Effective: November 7, 2007

Environmental Quality
Air Quality
No. 30284 (AMD): R307-415-4. Applicability.
Published: September 1, 2007
Effective: November 9, 2007

Health
Administration
No. 30400 (NEW): R380-300. Community Spay and Neuter Grants.
Published: October 1, 2007
Effective: November 7, 2007

Health Care Financing, Coverage and Reimbursement Policy
No. 30368 (AMD): R414-502-8. Criteria for Intermediate Care for the Mentally Retarded.
Published: September 15, 2007
Effective: November 15, 2007

Human Services
Child and Family Services
No. 30394 (NEW): R512-51. Fee Collection for Criminal Background Screening for Prospective Foster and Adoptive Parents and for Employees of Other Department of Human Services Licensed Programs.
Published: October 1, 2007
Effective: November 7, 2007

Services for People with Disabilities
No. 30426 (AMD): R539-1-11. Social Security Numbers.
Published: October 1, 2007
Effective: November 14, 2007

No. 30399 (NEW): R539-11. Family Preservation Pilot Program.
Published: October 1, 2007
Effective: November 14, 2007

Workforce Services
Unemployment Insurance
No. 30442 (AMD): R994-402-207. Systematic and Sustained Work Search.
Published: October 1, 2007
Effective: November 15, 2007

No. 30441 (AMD): R994-403-108b. Deferral of Work Registration and Work Search.
Published: October 1, 2007
Effective: November 15, 2007

No. 30440 (AMD): R994-405-107. Examples of Reasons for Voluntary Separations.
Published: October 1, 2007
Effective: November 15, 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 November 15, 2007, the effective dates of which are no later than December 1, 2007. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: Due to space constraints, the Keyword (subject) index is not included in this Bulletin.

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
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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Administrative Services					
Administration					
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
Administrative Rules					
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
R15-4-10	Estimates of Anticipated Cost or Savings, and Compliance Costs	30112	AMD	08/24/2007	2007-14/3
Debt Collection					
R21-1	Transfer of Collection Responsibility of State Agencies (5YR EXTENSION)	29917	NSC	08/29/2007	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R21-1	Transfer of Collection Responsibility of State Agencies	30374	5YR	08/29/2007	2007-18/70
R21-2	Office of State Debt Collection Administrative Procedures (5YR EXTENSION)	29918	NSC	08/29/2007	Not Printed
R21-2	Office of State Debt Collection Administrative Procedures	30375	5YR	08/29/2007	2007-18/71
R21-3	Debt Collection Through Administrative Offset (5YR EXTENSION)	29919	NSC	08/29/2007	Not Printed
R21-3	Debt Collection Through Administrative Offset	30376	5YR	08/29/2007	2007-18/71
Facilities Construction and Management					
R23-1	Procurement of Construction	29965	5YR	05/24/2007	2007-12/59
R23-12	Building Code Appeals Process	30525	5YR	10/03/2007	2007-21/78
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
R23-25	Administrative Rules Adjudicative Proceedings	29474	AMD	04/11/2007	2007-4/2
Finance					
R25-7	Travel-Related Reimbursements for State Employees	29910	AMD	07/03/2007	2007-10/3
R25-7-6	Travel-Related Reimbursements for State Employees	29953	AMD	08/20/2007	2007-12/6
R25-14	Payment of Attorneys Fees in Death Penalty Cases	29424	5YR	01/17/2007	2007-4/54
Fleet Operations					
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
Fleet Operations, Surplus Property					
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
Purchasing and General Services					
R33-1	Utah State Procurement Rules Definitions	30750	5YR	11/23/2007	Not Printed
R33-2	Procurement Organization	30751	5YR	11/23/2007	Not Printed
R33-3	Source Selection and Contract Formation	30755	5YR	11/23/2007	Not Printed
R33-4	Specifications	30752	5YR	11/23/2007	Not Printed
R33-5	Construction and Architect-Engineer Selection	30754	5YR	11/23/2007	Not Printed
R33-8	Property Management	30753	5YR	11/23/2007	Not Printed
Records Committee					
R35-2-2	Declining Requests for Hearings	29081	AMD	01/05/2007	2006-20/2
Risk Management					
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
R37-4	Adjusted Utah Governmental Immunity Act Limitations on Judgment	30565	5YR	10/09/2007	2007-21/78

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Agriculture and Food					
Administration					
R51-2	Administration Procedures for Informal Proceedings Before the Utah Department of Agriculture and Food	29405	5YR	01/11/2007	2007-3/56
Animal Industry					
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
R58-10-3	Federal Regulations Adopted by Reference	30450	AMD	11/08/2007	2007-19/2
R58-11	Slaughtering of Livestock	30449	AMD	11/08/2007	2007-19/2
R58-18	Elk Farming	29505	5YR	02/08/2007	2007-5/20
R58-19	Compliance Procedures	30439	5YR	09/12/2007	2007-19/45
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
Marketing and Development					
R65-11	Utah Sheep Marketing Order	30457	5YR	09/17/2007	2007-20/65
Plant Industry					
R68-15	Quarantine Pertaining to Japanese Beetle, (Popillia Japonica)	30475	5YR	09/20/2007	2007-20/65
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
Regulatory Services					
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
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					
Administration					
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
R81-1-6	Violation Schedule	30166	AMD	08/27/2007	2007-14/4
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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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					
Administration					
R105-2	Records Access and Management	30037	5YR	06/05/2007	2007-13/142
Auditor					
Administration					
R123-3	State Auditor Adjudicative Proceedings	30616	5YR	10/24/2007	2007-22/90
R123-4	Public Petitions for Declaratory Orders	30617	5YR	10/24/2007	2007-22/90
R123-5	Audit Requirements for Audits of Political Subdivisions and Nonprofit Organizations	30623	5YR	10/26/2007	2007-22/91
R123-5	Audit Requirements for Audits of Political Subdivisions and Nonprofit Organizations	30615	NSC	11/13/2007	Not Printed
Capitol Preservation Board (State)					
Administration					
R131-3	Use of Magnetometers on Capitol Hill	29952	5YR	05/16/2007	2007-12/60
Commerce					
Administration					
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
Consumer Protection					
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	NEW	05/22/2007	2007-3/5
R152-42	Uniform Debt-Management Services Act Rules	29413	CPR	05/22/2007	2007-8/114
Corporations and Commercial Code					
R154-1	Central Filing System for Agriculture Product Liens	30592	5YR	10/16/2007	2007-22/91
Occupational and Professional Licensing					
R156-1	General Rules of the Division of Occupational and Professional Licensing	29586	5YR	03/01/2007	2007-6/37

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R156-1-102	Definitions	29555	NSC	03/09/2007	Not Printed
R156-3a	Architect Licensing Act Rules	30113	AMD	08/23/2007	2007-14/7
R156-9-302a	Qualifications for Licensure - Examination Requirements	29391	AMD	03/13/2007	2007-3/6
R156-11a	Cosmetologist/Barber, Esthetician, Electrologist and Nail Technician Licensing Act Rules	29013	AMD	01/11/2007	2006-19/5
R156-11a	Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rules	29013	CPR	01/11/2007	2006-23/87
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
R156-11a	Cosmetologist/Barber, Esthetician, Electrologist and Nail Technician Licensing Act Rule	30158	AMD	08/21/2007	2007-14/10
R156-11a	Barber, Cosmetologist/Barber, Esthetician, Electrologist and Nail Technician Licensing Act Rule	30463	NSC	10/18/2007	Not Printed
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
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rule	30725	5YR	11/15/2007	2007-23/80
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
R156-26a-302b	Qualifications for Licensure - Experience Requirements	30365	NSC	09/13/2007	Not Printed
R156-28	Veterinary Practice Act Rules	29472	5YR	02/01/2007	2007-4/57
R156-31b	Nurse Practice Act Rules	30248	AMD	09/25/2007	2007-16/4
R156-37	Utah Controlled Substance Act Rules	29696	5YR	03/15/2007	2007-7/150
R156-37-610	Controlled Substance Database - Limitations on Access to Database Information -Standards and Procedures for Identifying Individuals Requesting Information	30360	AMD	10/22/2007	2007-18/10
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
R156-55a	Utah Construction Trades Licensing Act Rules	30172	CPR	11/26/2007	2007-20/58
R156-55a	Utah Construction Trades Licensing Act Rules	30172	AMD	11/26/2007	2007-15/3
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	29863	AMD	07/01/2007	2007-10/21
R156-56	Utah Uniform Building Standard Act Rules	30132	NSC	07/01/2007	Not Printed
R156-56	Utah Uniform Building Standard Act Rules	29866	AMD	07/01/2007	2007-10/10

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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
R156-59	Professional Employer Organization Registration Act Rule	30438	NEW	11/08/2007	2007-19/5
R156-60d	Substance Abuse Counselor Act Rules	30369	AMD	10/29/2007	2007-18/12
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
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
Real Estate					
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
R162-3-5	Activation	30162	AMD	10/18/2007	2007-14/20
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
R162-5-1	Definition	30203	NSC	08/14/2007	Not Printed
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
R162-102-1	Application	30199	AMD	09/27/2007	2007-16/15
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
R162-104-5	Experience Requirement	30253	AMD	09/27/2007	2007-16/16

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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
R162-204-1	Residential Mortgage Record Keeping Requirements	30200	AMD	10/02/2007	2007-16/18
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
Securities					
R164-1	Fraudulent Practices	30258	5YR	07/30/2007	2007-16/57
R164-4	Licensing Requirements	30259	5YR	07/30/2007	2007-16/58
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	2007-16/62
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	2007-16/63
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 (5YR EXTENSION)	29983	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
R195-4	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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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
Housing and Community Development					
R199-8	Permanent Community Impact Fund Board Review and Approval of Applications for Funding Assistance	30443	5YR	09/13/2007	2007-19/45
R199-9	Policy Concerning Enforceability and Taxability of Bonds Purchased	30444	5YR	09/13/2007	2007-19/46
R199-10	Procedures in Case of Inability to Formulate Contract for Alleviation of Impact	30445	5YR	09/13/2007	2007-19/46
Housing and Community Development, Community Services					
R202-100	Community Services Block Grant Rules	30687	5YR	11/07/2007	2007-23/81
Energy Services					
R203-4	Utah Public Building Energy Loan and Grant Programs (EXPIRED RULE)	30477	NSC	09/21/2007	Not Printed
R203-5	Utah Energy Technology Demonstration Program (EXPIRED RULE)	30476	NSC	09/20/2007	Not Printed
Fine Arts					
R207-1	Utah Arts Council General Program Rules	29528	NSC	03/08/2007	Not Printed
Arts and Museums					
R207-1	Utah Arts Council General Program Rules	30288	5YR	08/03/2007	2007-17/56
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
Arts and Museums					
R207-2	Policy for Commissions, Purchases, and Donations to, and Loans from, the Utah State Art Collections	30287	5YR	08/03/2007	2007-17/56
History					
R212-1	Adjudicative Proceedings	30201	5YR	07/17/2007	2007-16/64
R212-12	Computerized Record of Cemeteries, Burial Locations and Plots, and Granting Matching Funds	30202	5YR	07/17/2007	2007-16/64
Library					
R223-1	Adjudicative Procedures	30079	5YR	06/13/2007	2007-13/143
Corrections					
Administration					
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
R251-112	Americans With Disabilities Act Implementation and Complaint Process	30714	5YR	11/13/2007	2007-23/81
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
R251-401-3	Policy	30039	AMD	10/25/2007	2007-13/10
R251-707	Legal Access	29464	5YR	01/31/2007	2007-4/59
R251-710	Search	29465	5YR	01/31/2007	2007-4/59

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Crime Victim Reparations					
Administration					
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					
Administration					
R277-101	Public Participation in Utah State Board of Education Decisions	30402	5YR	09/06/2007	2007-19/47
R277-103	USOE Government Records and Management Act	30403	5YR	09/06/2007	2007-19/47
R277-108	Annual Assurance of Compliance by Local School Boards	30562	5YR	10/05/2007	2007-21/79
R277-110	Legislative Supplemental Salary Adjustment	30086	NEW	08/07/2007	2007-13/11
R277-110-4	Reports	30294	NSC	08/31/2007	Not Printed
R277-112	Prohibiting Discrimination in the Public Schools	30404	5YR	09/06/2007	2007-19/48
R277-115	Copyrighting Material Developed with Funds that Flow Through the Board	30405	5YR	09/06/2007	2007-19/48
R277-116	USOE Internal Audit Procedure	30406	5YR	09/06/2007	2007-19/49
R277-400	School Emergency Response Plans	30407	5YR	09/06/2007	2007-19/49
R277-401	Child Abuse-Neglect Reporting by Education Personnel	30408	5YR	09/06/2007	2007-19/49
R277-402	Online Testing	30482	AMD	11/26/2007	2007-20/7
R277-407	School Fees	30409	5YR	09/06/2007	2007-19/50
R277-410	Accreditation of Schools	30410	5YR	09/06/2007	2007-19/50
R277-411	Elementary School Accreditation	30411	5YR	09/06/2007	2007-19/51
R277-412	Junior High and Middle School Accreditation	30412	5YR	09/06/2007	2007-19/51
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
R277-419	Pupil Accounting	30561	5YR	10/05/2007	2007-21/79
R277-420	Aiding Financially Distressed School Districts	30560	5YR	10/05/2007	2007-21/80
R277-422	State Supported Voted Leeway, Local Board-Approved Leeway and Local Board Leeway for Reading Improvement Programs	30559	5YR	10/05/2007	2007-21/80
R277-423	Delivery of Flow Through Money	30558	5YR	10/05/2007	2007-21/81
R277-424	Indirect Costs for State Programs	30557	5YR	10/05/2007	2007-21/81
R277-426	Definition of Private and Non-Profit Schools for Federal Programs	30556	5YR	10/05/2007	2007-21/82
R277-433	Disposal of Textbooks in the Public Schools	30413	5YR	09/06/2007	2007-19/52
R277-437	Student Enrollment Options	30330	AMD	10/10/2007	2007-17/6
R277-437-1	Definitions (EXPIRED - Section R277-437-1, Legislative Nonreauthorization)	29902	NSC	05/01/2007	Not Printed
R277-445	Classifying Small Schools as Necessarily Existent	30414	5YR	09/06/2007	2007-19/52
R277-454	Construction Management of School Building Projects	30555	5YR	10/05/2007	2007-21/82
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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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
R277-470-12	Charter School Parental Involvement	30526	NSC	10/31/2007	Not Printed
R277-473	Testing Procedures	30093	AMD	08/07/2007	2007-13/31
R277-473	Testing Procedures	30447	AMD	11/07/2007	2007-19/9
R277-473-9	Standardized Testing Rules and Professional Development Requirement	29478	AMD	03/27/2007	2007-4/12
R277-477-3	Distribution of Funds - Determination of Proportionate Share	30331	AMD	10/10/2007	2007-17/8
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
R277-484-2	Authority and Purpose	30333	NSC	08/31/2007	Not Printed
R277-484-9	Disclosure of Data For Research	30448	AMD	11/07/2007	2007-19/11
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
R277-502	Educator Licensing and Data Retention	30415	5YR	09/06/2007	2007-19/53
R277-503	Licensing Routes	29749	5YR	03/29/2007	2007-8/121
R277-503	Licensing Routes	29692	AMD	05/09/2007	2007-7/14
R277-505	Administrative/Supervisory Certificates and Programs	29477	AMD	03/27/2007	2007-4/13
R277-505	Administrative License Areas of Concentration and Programs	30416	5YR	09/06/2007	2007-19/53
R277-505-5	District-Specific and Charter School-Specific Administrator Standards	29737	NSC	04/12/2007	Not Printed
R277-506	School Psychologists and School Social Workers Licenses and Programs	30417	5YR	09/06/2007	2007-19/53
R277-507	Driver Education Endorsement	29747	5YR	03/29/2007	2007-8/122
R277-509	Certification of Student Teachers and Interns	30554	5YR	10/05/2007	2007-21/83
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
R277-514	Board Procedures: Sanctions for Educator Misconduct	30418	5YR	09/06/2007	2007-19/54
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
R277-522	Entry Years Enhancements (EYE) for Quality Teaching - Level 1 Utah Teachers	30553	5YR	10/05/2007	2007-21/83
R277-602-3	Parent/Guardian Responsibilities	30603	NSC	11/13/2007	Not Printed
R277-603	Basic Skills Education Program	29934	AMD	07/09/2007	2007-11/21
R277-607	Truancy Prevention	30332	R&R	10/10/2007	2007-17/9
R277-607-1	Definitions	30570	NSC	10/31/2007	Not Printed
R277-608	Prohibition of Corporal Punishment in Utah's Public Schools	30419	5YR	09/06/2007	2007-19/54
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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R277-617	Authorization of Student Clubs and Organizations	29937	REP	07/09/2007	2007-11/25
R277-703	Centennial Scholarship for Early Graduation	30420	5YR	09/06/2007	2007-19/55
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
R277-713	Concurrent Enrollment of High School Students in College Courses	30422	5YR	09/06/2007	2007-19/55
R277-720	Child Nutrition Programs	30421	5YR	09/06/2007	2007-19/56
R277-733	Adult Education Programs	30552	5YR	10/05/2007	2007-21/84
R277-746-3	Standards and Procedures	29694	AMD	05/09/2007	2007-7/19
R277-750	Education Programs for Students with Disabilities	30423	5YR	09/06/2007	2007-19/56
R277-911	Secondary Career and Technical Education	30424	5YR	09/06/2007	2007-19/57
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
R305-2	Electronic Meeting	30765	5YR	11/28/2007	Not Printed
Air Quality					
R307-101	General Requirements	29661	5YR	03/15/2007	2007-7/150
R307-101-2	Definitions	29000	AMD	03/09/2007	2006-19/27
R307-101-2	Definitions	29000	CPR	03/09/2007	2007-3/39
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	AMD	03/09/2007	2006-19/30
R307-110-13	Section IX, Control Measures for Area and Point Sources, Part D, Ozone	29001	CPR	03/09/2007	2007-3/40
R307-110-20	Section XII, Transportation Conformity Consultation	29801	NSC	05/02/2007	Not Printed
R307-110-20	Section XII, Involvement	29514	AMD	05/02/2007	2007-5/13
R307-110-36	Section XXII, Interstate Transport	29293	NSC	02/09/2007	Not Printed
R307-110-36	Section XXII, Interstate Transport	29227	AMD	02/09/2007	2006-23/7
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
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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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
R307-122	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
R307-130	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	AMD	05/09/2007	2006-23/12
R307-220	Emission Standards: Plan for Designated Facilities	29229	CPR	05/09/2007	2007-7/136
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	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	29002	CPR	03/09/2007	2007-3/40
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
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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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
R307-405	Permits: Major Sources in Attainment or Unclassified Areas (PSD)	29796	AMD	09/07/2007	2007-9/18
R307-405	Permits: Major Sources in Attainment or Unclassified Areas (PSD)	29796	CPR	09/07/2007	2007-15/58
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
R307-415-4	Applicability	30284	AMD	11/09/2007	2007-17/12
R307-417	Permits: Acid Rain Sources	30192	5YR	07/13/2007	2007-15/67
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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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
Drinking Water					
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
Environmental Response and Remediation					
R311-200	Underground Storage Tanks: Definitions (5YR EXTENSION)	29567	NSC	04/18/2007	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R311-200	Underground Storage Tanks: Definitions	29838	5YR	04/18/2007	2007-10/112
R311-201	Underground Storage Tanks: Certification Programs	29839	5YR	04/18/2007	2007-10/113
R311-201	Underground Storage Tanks: Certification Programs (5YR EXTENSION)	29568	NSC	04/18/2007	Not Printed
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	29841	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
R311-204	Underground Storage Tanks: Closure and Remediation (5YR EXTENSION)	29571	NSC	04/18/2007	Not Printed
R311-204	Underground Storage Tanks: Closure and Remediation	29842	5YR	04/18/2007	2007-10/115
R311-205	Underground Storage Tanks: Site Assessment Protocol	29843	5YR	04/18/2007	2007-10/116
R311-205	Underground Storage Tanks: Site Assessment Protocol (5YR EXTENSION)	29572	NSC	04/18/2007	Not Printed
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	29845	5YR	04/18/2007	2007-10/117
R311-207	Accessing the Petroleum Storage Tank Trust Fund for Leaking Petroleum Storage Tanks (5YR EXTENSION)	29574	NSC	04/18/2007	Not Printed
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	29460	NEW	03/26/2007	2007-4/18
R311-600	Hazardous Substances Mitigation Act: Enforceable Written Assurances	29585	NSC	03/26/2007	Not Printed
Radiation Control					
R313-15	Standards for Protection Against Radiation	30298	AMD	10/19/2007	2007-17/14
R313-16-230	Registration of Radiation Machines	30157	AMD	09/14/2007	2007-14/21
R313-19-100	Transportation	30302	AMD	10/08/2007	2007-17/17
R313-22	Specific Licenses	30297	AMD	10/19/2007	2007-17/20

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R313-24	Uranium Mills and Source Material Mill Tailings and Disposal Facility Requirements	30434	5YR	09/07/2007	2007-19/57
R313-25	License Requirements for Land Disposal of Radioactive Waste - General Provisions	29333	AMD	03/16/2007	2007-1/9
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	29595	5YR	03/05/2007	2007-7/169
R313-35	Requirements for X-Ray Equipment Used for Non-Medical Applications (5YR EXTENSION)	29310	NSC	03/05/2007	Not Printed
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
Solid and Hazardous Waste					
R315-15	Standard for the Management of Used Oil	30534	5YR	10/04/2007	2007-21/84
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
Water Quality					
R317-1	Definitions and General Requirements	30521	5YR	10/02/2007	2007-21/85
R317-1-2	General Requirements	29186	AMD	01/19/2007	2006-22/21

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R317-1-7	TMDLs	29098	AMD	01/19/2007	2006-20/54
R317-1-7	TMDLs	30382	AMD	10/22/2007	2007-18/16
R317-2	Standards of Quality for Waters of the State	30520	5YR	10/02/2007	2007-21/85
R317-3	Design Requirements for Wastewater Collection, Treatment and Disposal Systems	30518	5YR	10/02/2007	2007-21/86
R317-4-9	Absorption Systems	30383	AMD	10/23/2007	2007-18/17
R317-5	Large Underground Wastewater Disposal Systems	30517	5YR	10/02/2007	2007-21/86
R317-6	Ground Water Quality Protection	29294	AMD	01/23/2007	2006-24/23
R317-6	Ground Water Quality Protection	30519	5YR	10/02/2007	2007-21/87
R317-6-6	Implementation	29185	AMD	01/19/2007	2006-22/23
R317-8	Utah Pollutant Discharge Elimination System (UPDES)	30535	5YR	10/04/2007	2007-21/87
R317-10	Certification of Wastewater Works Operators	30516	5YR	10/02/2007	2007-21/88
R317-10	Certification of Wastewater Works Operators	30381	AMD	10/22/2007	2007-18/19
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
R317-100	Utah State Project Priority System for the Utah Wastewater Project Assistance Program	30522	5YR	10/02/2007	2007-21/88
R317-101	Utah Wastewater Project Assistance Program	30387	AMD	10/22/2007	2007-18/23
R317-102	Utah Wastewater State Revolving Fund (SRF) Program	30384	AMD	10/22/2007	2007-18/29
R317-550	Rules for Waste Disposal By Liquid Scavenger Operations	30515	5YR	10/02/2007	2007-21/89
R317-560	Rules for the Design, Construction, and Maintenance of Vault Privies and Earthen Pit Privies	30514	5YR	10/02/2007	2007-21/89
Financial Institutions					
Administration					
R331-3	Rule to Govern Persons Soliciting Savings or Share Accounts, Deposit Accounts, or Similar Evidence of Indebtedness or Participation Interests Therein from Residents of this State	30483	5YR	09/24/2007	2007-20/66
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	2007-16/65
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	2007-16/66
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	2007-16/67
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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R331-17	Publication and Disclosure of Acquisition of Control, Merger, or Consolidation Applications to the Department of Financial Institutions	30484	5YR	09/24/2007	2007-21/1
R331-22	Rule Governing Reimbursement of Costs of Financial Institutions for Production of Records	29818	5YR	04/16/2007	2007-9/35
R331-23	Lending Limits for Banks, Industrial Loan Corporations	30500	5YR	09/28/2007	2007-20/66
Banks					
R333-5	Discount Securities Brokerage Service by Banks	30458	5YR	09/17/2007	2007-20/67
R333-7	Investment by a State-Chartered Bank in Shares of Open-End Investment Companies	30436	5YR	09/10/2007	2007-19/58
R333-8	Authority for Banks to Issue Subordinated Capital Notes or Debentures	30459	5YR	09/17/2007	2007-20/67
R333-9	Indemnification of Directors, Officers, and Employees	30460	5YR	09/17/2007	2007-20/68
R333-10	Securities Activities of Subsidiaries and Affiliates of State-Chartered Banks	30461	5YR	09/17/2007	2007-20/68
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
R333-12	Investment by State-Chartered Bank in Real Property Other Than Bank Premises	30485	5YR	09/24/2007	2007-20/69
Consumer Credit					
R335-1	Rule Prohibiting Negative Amortizing Wrap Loans	30480	5YR	09/21/2007	2007-20/69
R335-2	Rule Prescribing Allowable Terms and Disclosure Requirements for Variable and Adjustable Interest Rates in Consumer Credit Contracts	30486	5YR	09/24/2007	2007-20/70
R335-4	Notice Concerning Refund of Unearned Credit Insurance Premiums Upon Prepayment of a Consumer Debt	30481	5YR	09/21/2007	2007-20/71
Credit Unions					
R337-2	Conversion from a Federal to a State-Chartered Credit Union	30397	5YR	09/05/2007	2007-19/58
R337-5	Allowance for Loan and Lease Losses - Credit Unions	30398	5YR	09/05/2007	2007-19/59
R337-7	Discount Securities Brokerage Service by State-Chartered Credit Unions	30501	5YR	09/28/2007	2007-20/71
R337-8	Accounts for Parties Other Than Individual Members in State-Chartered Credit Unions	30502	5YR	09/28/2007	2007-20/72
R337-9	Schedule for Retention or Destruction of Records of Credit Unions Under the Jurisdiction of the Department of Financial Institutions	30503	5YR	09/28/2007	2007-20/72
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
Industrial Loan Corporations					
R339-4	Authority for Industrial Loan Corporations to Issue Subordinated Capital Notes or Debentures	30487	5YR	09/24/2007	2007-20/73
R339-6	Rule Clarifying Industrial Loan Corporation Investments	30488	5YR	09/24/2007	2007-20/73
R339-11	Discount Securities Brokerage Service by Industrial Loan Corporations	30504	5YR	09/28/2007	2007-20/74
Nondepository Lenders					
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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Governor					
Administration					
R355-1	Records Access and Management	30252	REP	09/27/2007	2007-16/21
R355-1	Records Access and Management (5YR EXTENSION)	30250	NSC	09/27/2007	Not Printed
Planning and Budget					
R361-2	Rules of Procedure for the Utah Federal Assistance and Activity Review System	30335	REP	10/22/2007	2007-18/32
Health					
Administration					
R380-1	Petitions for Department Declaratory Orders	30336	5YR	08/20/2007	2007-18/72
R380-5	Petitions for Declaratory Orders on Orders Issued by Committees	30337	5YR	08/20/2007	2007-18/72
R380-10	Informal Adjudicative Proceedings	30338	5YR	08/20/2007	2007-18/72
R380-20	Government Records Access and Management	29867	5YR	04/26/2007	2007-10/121
R380-50	Local Health Department Funding Allocation Formula	30756	5YR	11/26/2007	Not Printed
R380-100	Americans with Disabilities Act Grievance Procedures	30339	5YR	08/20/2007	2007-18/73
R380-200	Patient Safety Sentinel Event Reporting	29538	AMD	04/26/2007	2007-6/14
R380-300	Community Spay and Neuter Grants	30400	NEW	11/07/2007	2007-19/18
Children's Health Insurance Program					
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
Epidemiology and Laboratory Services, Epidemiology					
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
Epidemiology and Laboratory Services; HIV/AIDS, Tuberculosis Control/Refugee Health					
R388-801	AIDS Testing and Reporting for Emergency Medical Services Providers Rule	30206	5YR	07/19/2007	2007-16/68
R388-801	AIDS Testing and Reporting for Emergency Medical Services Providers Rule	30282	REP	10/25/2007	2007-17/21
R388-802	HIV Positive Student or School Employee Rule	30207	5YR	07/19/2007	2007-16/69
R388-802	HIV Positive Student or School Employee Rule	30283	REP	10/25/2007	2007-17/23
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
R388-805	Ryan White Program	30171	NEW	10/17/2007	2007-15/13
R388-805-1	Authority and Purpose	30380	NSC	10/17/2007	Not Printed
Epidemiology and Laboratory Services, Environmental Services					
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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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	2007-16/69
R392-510	Utah Indoor Clean Air Act	29856	5YR	04/23/2007	2007-10/124
R392-510	Utah Indoor Clean Air Act	30377	AMD	10/31/2007	2007-18/35
Community and Family Health Services, Immunization					
R396-100	Immunization Rule for Students	29547	AMD	05/07/2007	2007-6/19
Community and Family Health Services, WIC Services					
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
Health Care Financing					
R410-14	Administrative Hearing Procedures	30625	5YR	10/29/2007	2007-22/92
Health Care Financing, Coverage and Reimbursement Policy					
R414-1	Utah Medicaid Program	29819	5YR	04/16/2007	2007-9/36
R414-1-5	State Plan	30175	AMD	09/07/2007	2007-15/15
R414-1A	Medicaid Policy for Experimental, Investigational or Unproven Medical Practices	29960	5YR	05/21/2007	2007-12/62
R414-2A	Inpatient Hospital Services	30692	5YR	11/08/2007	2007-23/82
R414-2A-7	Limitations	29868	AMD	06/26/2007	2007-10/32
R414-2B	Inpatient Hospital Intensive Physical Rehabilitation Services	30628	5YR	10/30/2007	2007-22/92
R414-3A	Outpatient Hospital Services	30693	5YR	11/08/2007	2007-23/82
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
R414-15	Residents Personal Needs Fund	30473	5YR	09/20/2007	2007-20/74
R414-21	Physical and Occupational Therapy	29816	5YR	04/16/2007	2007-9/37
R414-29	Client Review/Education and Restriction Policy	30629	5YR	10/30/2007	2007-22/93
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
R414-60A-3	Responsibilities and Functions	30198	AMD	09/07/2007	2007-15/16
R414-60B	Preferred Drug List	29808	CPR	08/14/2007	2007-12/51

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R414-60B	Preferred Drug List	29808	NEW	08/14/2007	2007-9/23
R414-60B	Preferred Drug List	30281	AMD	09/21/2007	2007-16/22
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
R414-61-2	Incorporation by Reference	30312	NSC	08/31/2007	Not Printed
R414-70	Medical Supplies, Durable Medical Equipment, and Prosthetic Devices	29535	CPR	10/10/2007	2007-12/52
R414-70	Medical Supplies, Durable Medical Equipment, and Prosthetic Devices	29535	NEW	10/10/2007	2007-6/21
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	Coverage Groups	30133	CPR	11/21/2007	2007-20/62
R414-303	Coverage Groups	30133	AMD	11/21/2007	2007-14/22
R414-303-17	Personal Assistance Waiver for Adults with Physical Disabilities	29543	AMD	05/01/2007	2007-6/23
R414-304	Income and Budgeting	30651	EMR	12/01/2007	2007-23/76
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
R414-502-8	Criteria for Intermediate Care for the Mentally Retarded	30368	AMD	11/15/2007	2007-18/43
R414-504	Nursing Facility Payments	29907	AMD	07/01/2007	2007-10/36
R414-504	Nursing Facility Payments	30176	AMD	09/07/2007	2007-15/17
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
Health Care Financing, Medical Assistance Program					
R420-1	Utah Medical Assistance Program	29909	REP	07/01/2007	2007-10/40
Health Systems Improvement, Emergency Medical Services					
R426-2	Air Medical Services Rules	30622	5YR	10/26/2007	2007-22/93
R426-5	Statewide Trauma System Standards	30205	5YR	07/18/2007	2007-16/70
R426-6	Emergency Medical Services Competitive Grants Program Rules	30630	5YR	10/31/2007	2007-22/94
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
Center for Health Data, Health Care Statistics					
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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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
Health Systems Improvement, Child Care Licensing					
R430-2	General Licensing Provisions, Child Care Facilities	30249	5YR	07/27/2007	2007-16/71
R430-3	General Child Care Facility Rules Inspection and Enforcement	30311	5YR	08/13/2007	2007-17/57
R430-6	Background Screening	30308	5YR	08/13/2007	2007-17/57
R430-30	Adjudicative Procedure	30309	5YR	08/13/2007	2007-17/58
R430-100	Child Care Centers	30310	5YR	08/13/2007	2007-17/58
Health Systems Improvement, Licensing					
R432-2-6	Application	29750	AMD	05/29/2007	2007-8/82
R432-31	Transferable Physician Order for Life-Sustaining Treatment	30749	5YR	11/21/2007	Not Printed
R432-40	Long-Term Care Facility Immunizations	30748	5YR	11/21/2007	Not Printed
R432-100	General Hospital Standards	30542	5YR	10/04/2007	2007-21/90
R432-100-33	General Hospital Standards	29525	AMD	04/11/2007	2007-5/14
R432-101	Specialty Hospital - Psychiatric	30531	5YR	10/03/2007	2007-21/91
R432-102	Specialty Hospital - Chemical Dependency/Substance Abuse	30529	5YR	10/03/2007	2007-21/91
R432-103	Specialty Hospital - Rehabilitation	30536	5YR	10/04/2007	2007-21/92
R432-104	Specialty Hospital - Long Term Acute Care	30543	5YR	10/04/2007	2007-21/92
R432-105	Specialty Hospital - Orthopedic	30533	5YR	10/03/2007	2007-21/93
R432-150	Nursing Care Facility Rules	30497	5YR	09/27/2007	2007-20/75
R432-151	Mental Disease Facility	30747	5YR	11/21/2007	Not Printed
R432-152	Mental Retardation Facility	30532	5YR	10/03/2007	2007-21/93
R432-200	Small Health Care Facility (Four to Sixteen beds)	30530	5YR	10/03/2007	2007-21/94
R432-201	Mental Retardation Facility: Supplement "A" to the Small Health Care Facility Rule	30537	5YR	10/04/2007	2007-21/94
R432-300	Small Health Care Facility - Type N	30493	5YR	09/27/2007	2007-20/75
R432-500	Freestanding Ambulatory Surgical Center Rules	30541	5YR	10/04/2007	2007-21/95
R432-550	Birthing Center (Five or Less Birth Rooms)	30539	5YR	10/04/2007	2007-21/95
R432-600	Abortion Clinic Rule	30540	5YR	10/04/2007	2007-21/96
R432-650	End Stage Renal Disease Facility Rules	30495	5YR	09/27/2007	2007-20/76
R432-700	Home Health Agency Rule	30494	5YR	09/27/2007	2007-20/76
R432-750	Hospice Rule	30496	5YR	09/27/2007	2007-20/77
R432-950	Mammography Quality Assurance	30538	5YR	10/04/2007	2007-21/96
Center for Health Data, Vital Records and Statistics					
R436-1	Duties of the Department of Health	30733	5YR	11/21/2007	Not Printed
R436-2	Infants of Unknown Parentage; Foundling Registration	30734	5YR	11/21/2007	Not Printed
R436-3	Amendment of Vital Records	30735	5YR	11/21/2007	Not Printed
R436-4	Delayed Registration of Birth	30736	5YR	11/21/2007	Not Printed
R436-7	Death Registration	30737	5YR	11/21/2007	Not Printed
R436-8	Authorization for Final Disposition of Deceased Persons	30738	5YR	11/21/2007	Not Printed
R436-9	Persons and Institutions Required to Keep Monthly Listings of Vital Statistics Events	30739	5YR	11/21/2007	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R436-10	Registration and Transmittal of Certificates by Local Registrar to the State Registrar	30740	5YR	11/21/2007	Not Printed
R436-12	Certified Copies of Vital Statistics Records	30741	5YR	11/21/2007	Not Printed
R436-13	Disclosure of Records	30742	5YR	11/21/2007	Not Printed
R436-14	Copies of Data From Vital Records	30743	5YR	11/21/2007	Not Printed
R436-15	Fees	30744	5YR	11/21/2007	Not Printed
R436-16	Penalties	30745	5YR	11/21/2007	Not Printed
R436-17	Review and Approval of Research Requests	30746	5YR	11/21/2007	Not Printed
Epidemiology and Laboratory Services, Laboratory Services					
R438-12	Rules for the Authorization of Individuals Other Than Physicians, Registered Nurses, or Practical Nurses to Withdraw Blood for Alcoholic or Drug Determinations When Requested by a Peace Officer, and for Issuance of Permits to Such Individuals	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
Epidemiology and Laboratory Services, Laboratory Improvement					
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
Housing Corporation (Utah)					
Administration					
R460-1	Authority and Purpose	30581	5YR	10/15/2007	2007-21/97
R460-2	Definitions of Terms Used Throughout R460	30588	5YR	10/15/2007	2007-21/97
R460-3	Programs of UHC	30584	5YR	10/15/2007	2007-21/98
R460-4	Additional Servicing Rules	30586	5YR	10/15/2007	2007-21/98
R460-5	Termination of Eligibility to Participate in Programs	30585	5YR	10/15/2007	2007-21/99
R460-6	Adjudicative Proceedings	30583	5YR	10/15/2007	2007-21/99
R460-7	Public Petition for Declaratory Orders	30582	5YR	10/15/2007	2007-21/100
R460-8	Americans with Disabilities Act (ADA) Complaint Procedures	30587	5YR	10/15/2007	2007-21/100
Human Resource Management					
Administration					
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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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
R477-8-5	Overtime	30524	EMR	10/03/2007	2007-21/75
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
R477-100	Americans With Disabilities Act (ADA) Complaint Procedure	30170	REP	10/24/2007	2007-15/21
R477-100	Americans With Disabilities Act (ADA) Complaint Procedure (5YR EXTENSION)	30209	NSC	10/24/2007	Not Printed
Human Services					
Administration					
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
Administration, Administrative Services, Licensing					
R501-1	General Provisions	30730	5YR	11/21/2007	Not Printed
R501-2	Core Rules	30731	5YR	11/21/2007	Not Printed
R501-7	Child Placing Adoption Agencies	30732	5YR	11/21/2007	Not Printed
R501-8	Outdoor Youth Program	29874	NSC	05/14/2007	Not Printed
R501-8	Outdoor Youth Programs	30677	5YR	11/05/2007	2007-23/83
R501-11	Social Detoxification Programs	30729	5YR	11/21/2007	Not Printed
R501-12	Child Foster Care	30723	5YR	11/15/2007	2007-23/83
R501-13	Adult Foster Care	30678	5YR	11/05/2007	2007-23/84
R501-14	Background Screening	30178	AMD	09/15/2007	2007-15/42
Aging and Adult Services					
R510-1	Authority and Purpose	30340	5YR	08/21/2007	2007-18/73
R510-100	Funding Formulas	30342	5YR	08/21/2007	2007-18/74
R510-101	Carryover Policy for Title III: Grants for State and Community Programs on Aging	30343	5YR	08/21/2007	2007-18/74
R510-102	Amendments to Area Plan and Management Plan	30341	5YR	08/21/2007	2007-18/75
R510-103	Use of Senior Centers by Long-Term Care Facility Residents Participating in Activities Outside Their Planning and Service Area	30344	5YR	08/21/2007	2007-18/75

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R510-106	Minimum Percentages of Older Americans Act, Title III Part B: State and Supportive Services Funds	30345	5YR	08/21/2007	2007-18/76
R510-107	Title V Senior Community Service Employment Program Standards and Procedures	30346	5YR	08/21/2007	2007-18/76
R510-108	Definition of Rural for Title III: Grants for State and Community Programs on Aging Reporting under the Older Americans Act	30347	5YR	08/21/2007	2007-18/77
R510-109	Definition of Significant Population of Older Native Americans	30348	5YR	08/21/2007	2007-18/77
R510-110	Policy Regarding Contractual Involvements of Area Agencies on Aging for Private Eldercare and Case Management Services	30349	5YR	08/21/2007	2007-18/78
R510-111	Policy on Use of State Funding for Travel Expenses to Assist the National Senior Service Corps (NSSC)	30350	5YR	08/21/2007	2007-18/78
R510-200	Long-Term Care Ombudsman Program Policy	30351	5YR	08/21/2007	2007-18/79
R510-302	Adult Protective Services	30352	5YR	08/21/2007	2007-18/79
R510-400	Home and Community Based Alternatives Services Policy and Procedures	30353	5YR	08/21/2007	2007-18/80
Child and Family Services					
R512-1	Description of Division Services, Eligibility, and Service Access	30289	5YR	08/07/2007	2007-17/59
R512-2	Title IV-B Child Welfare/Family Preservation and Support Services and Title I-VE Foster Care, Adoption, and Independent Living	30290	5YR	08/07/2007	2007-17/59
R512-10	Youth Advocate Program	29387	5YR	01/03/2007	2007-3/58
R512-31	Foster Parent Due Process	30291	5YR	08/07/2007	2007-17/60
R512-32	Children with Reportable Communicable Diseases	30467	5YR	09/19/2007	2007-20/77
R512-40	Adoptive Home Studies, Recruitment, Approval	30292	5YR	08/07/2007	2007-17/60
R512-42	Adoption by Relatives	30293	5YR	08/07/2007	2007-17/61
R512-43	Adoption Assistance	29388	5YR	01/03/2007	2007-3/59
R512-43	Adoption Assistance	30468	AMD	11/21/2007	2007-20/18
R512-51	Fee Collection for Criminal Background Screening for Prospective Foster and Adoptive Parents and for Employees of Other Department of Human Services Licensed Programs	30393	EMR	09/05/2007	2007-19/43
R512-51	Fee Collection for Criminal Background Screening for Prospective Foster and Adoptive Parents and for Employees of Other Department of Human Services Licensed Programs	30394	NEW	11/07/2007	2007-19/23
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
R512-300	Out of Home Services	30373	AMD	10/25/2007	2007-18/45
Substance Abuse and Mental Health					
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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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
Substance Abuse and Mental Health, State Hospital					
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
Recovery Services					
R527-3	Definitions	30390	5YR	09/04/2007	2007-19/59
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
R527-37	Closure Criteria for Support Cases	30432	5YR	09/07/2007	2007-19/60
R527-201	Medical Support Services	29418	5YR	01/16/2007	2007-3/62
R527-253	Collection of Child Support Judgments	30428	5YR	09/07/2007	2007-19/60
R527-255	Substantial Change in Circumstances	30391	5YR	09/04/2007	2007-19/61
R527-257	Enforcing Child Support When the Obligor is Incarcerated	30354	5YR	08/22/2007	2007-18/80
R527-258	Enforcing Child Support When the Obligor is an Ex-Prisoner or in a Treatment Program	30355	5YR	08/22/2007	2007-18/81
R527-300	Income Withholding	30429	5YR	09/07/2007	2007-19/61
R527-330	Posting Priority of Payments Received	30356	5YR	08/22/2007	2007-18/82
R527-378	Withholding of Social Security Benefits	30395	5YR	09/05/2007	2007-19/62
R527-412	Intercept of Unemployment Compensation	30396	5YR	09/05/2007	2007-19/62
R527-450-1	Certification Criteria	30357	AMD	10/25/2007	2007-18/48
R527-550	Assessment	30614	5YR	10/24/2007	2007-22/94
R527-601	Establishing or Modifying an Administrative Award for Child Support	30433	5YR	09/07/2007	2007-19/63
Services for People with Disabilities					
R539-1-4	Non-Waiver Services for People with Mental Retardation or Related Conditions	30295	NSC	08/31/2007	Not Printed
R539-1-11	Social Security Numbers	30426	AMD	11/14/2007	2007-19/24
R539-5	Self-Administered Services	29625	AMD	05/11/2007	2007-7/70
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
R539-11	Family Preservation Pilot Program	30399	NEW	11/14/2007	2007-19/25
Juvenile Justice Services					
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
R547-10	Ex-Offender Policy	30507	5YR	09/28/2007	2007-20/78
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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R547-14	Possession of Prohibited Items in Juvenile Detention Facilities	29897	5YR	04/30/2007	2007-10/128
Public Guardian (Office of)					
R549-1	Eligibility and Services Priority	29950	NEW	07/09/2007	2007-11/50
Insurance					
Administration					
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
R590-91-13	Unfair Marketing Practices	30220	NSC	08/14/2007	Not Printed
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
R590-96	Rule to Recognize New Annuity Mortality Tables for Use in Determining Reserve Liabilities for Annuities	30453	5YR	09/14/2007	2007-19/63
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
R590-118	Licensing Examination Rule	30446	REP	11/16/2007	2007-19/26
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
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
R590-131	Accident and Health Coordination of Benefits Rule	30635	5YR	10/31/2007	2007-22/95
R590-133	Variable Contracts	29411	5YR	01/12/2007	2007-3/64
R590-136	Title Insurance Agents' Annual Reports	30286	NSC	08/31/2007	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R590-141	Individual and Agency License Lapse and Reinstatement	30680	5YR	11/06/2007	2007-23/85
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	2007-16/71
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	2007-16/72
R590-152	Medical Discount Program Rule	29875	AMD	10/09/2007	2007-10/74
R590-152	Health Discount Programs and Value Added Benefit Rule	29875	CPR	10/09/2007	2007-16/51
R590-152	Health Discount Programs and Value Added Benefit Rule	30572	NSC	10/31/2007	Not Printed
R590-152	Health Discount Programs and Value Added Benefit Rule	30719	5YR	11/13/2007	2007-23/85
R590-153	Unfair Inducements and Marketing Practices in Obtaining Title Insurance Business	30711	5YR	11/09/2007	2007-23/86
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
R590-216	Standards for Safeguarding Customer Information	30427	5YR	09/06/2007	2007-19/64
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	28767	CPR	01/22/2007	2006-24/44
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
R590-228-5	General Filing Information	30274	NSC	08/14/2007	Not Printed
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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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
R590-240-3	Definitions	30228	NSC	08/14/2007	Not Printed
R590-240-5	Exemption Requirements	30102	AMD	08/08/2007	2007-13/54
R590-241	Rule to Recognize the Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities	30082	NEW	08/08/2007	2007-13/56
R590-242	Military Sales Practices	30452	NEW	11/16/2007	2007-19/28
Title and Escrow Commission					
R592-4-5	Charges	29725	NSC	04/12/2007	Not Printed
R592-5	Title Insurance Product or Service Approval for a Dual Licensed Title Licensee	29994	NEW	10/26/2007	2007-12/37
R592-5	Title Insurance Product or Service Approval for a Dual Licensed Title License	29994	CPR	10/26/2007	2007-16/54
Judicial Conduct Commission					
Administration					
R595-2-1	Executive Committee	29924	AMD	09/01/2007	2007-11/70
Labor Commission					
Administration					
R600-2	Operations	30316	5YR	08/15/2007	2007-17/61
Adjudication					
R602-1	General Provisions	30317	5YR	08/15/2007	2007-17/61
R602-2	Adjudication of Workers' Compensation and Occupational Disease Claims	30318	5YR	08/15/2007	2007-17/62
R602-2-4	Attorney Fee	29957	AMD	07/24/2007	2007-12/40
R602-3	Procedure and Standards for Approval of Assignment of Benefits	30456	NEW	11/21/2007	2007-20/29
Antidiscrimination and Labor, Labor					
R610-1-3	Coverage	30008	AMD	09/08/2007	2007-12/41
R610-1-3	Coverage	30008	CPR	09/08/2007	2007-15/59
R610-1-3	Coverage	30598	NSC	11/13/2007	Not Printed
Industrial Accidents					
R612-1	Workers' Compensation Rules - Procedures	30320	5YR	08/15/2007	2007-17/62
R612-1-3	Official Forms	30319	NSC	08/31/2007	Not Printed
R612-2-5	Regulation of Medical Practitioner Fees	30334	AMD	10/09/2007	2007-17/25
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
Occupational Safety and Health					
R614-1	General Provisions	30644	5YR	11/02/2007	2007-23/86
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
R614-1-4	Incorporation of Federal Standards	30315	NSC	08/31/2007	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R614-2	Drilling Industry	30645	5YR	11/02/2007	2007-23/87
R614-3	Farming Operations Standards	30646	5YR	11/02/2007	2007-23/88
R614-4	Hazardous Materials	30647	5YR	11/02/2007	2007-23/88
R614-5	Materials Handling and Storage	30648	5YR	11/02/2007	2007-23/89
R614-6	Other Operations	30649	5YR	11/02/2007	2007-23/89
R614-7	Construction Standards	30650	5YR	11/02/2007	2007-23/90
Safety					
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	29581	AMD	04/24/2007	2007-6/25
R616-2-3	Safety Codes and Rules for Boilers and Pressure Vessels	29527	AMD	04/24/2007	2007-6/26
Lieutenant Governor					
Administration					
R622-2	Use of the Great Seal of the State of Utah	30509	AMD	11/21/2007	2007-20/32
Money Management Council					
Administration					
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
R628-2-4	Investment of Funds	30563	NSC	10/31/2007	Not Printed
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
R628-18	Conditions and Procedures for Use of Interest Rate Contracts	30681	5YR	11/06/2007	2007-23/90
Natural Resources					
Energy and Resource Planning					
R637-1	Utah Energy Saving Systems Tax Credit (ESSTC) Rules (EXPIRED RULE)	30597	NSC	10/17/2007	Not Printed
Geological Survey					
R638-2	Renewable Energy Systems Tax Credits	30103	NEW	08/31/2007	2007-13/58
R638-2	Renewable Energy Systems Tax Credits	30385	AMD	10/23/2007	2007-18/49
R638-2-13	Investment Tax Credit, Eligible Costs for Commercial and Residential Systems, Hydroenergy	30613	NSC	11/13/2007	Not Printed
R638-3	Energy Efficiency Fund	30159	NEW	08/31/2007	2007-14/24
R638-3-3	Definitions	30372	NSC	09/13/2007	Not Printed
Oil, Gas and Mining Board					
R641-100	General Provisions	30656	5YR	11/05/2007	2007-23/91
R641-101	Parties	30657	5YR	11/05/2007	2007-23/91
R641-102	Appearances and Representations	30658	5YR	11/05/2007	2007-23/92
R641-103	Intervention	30659	5YR	11/05/2007	2007-23/92
R641-104	Pleadings	30660	5YR	11/05/2007	2007-23/93
R641-105	Filing and Service	30661	5YR	11/05/2007	2007-23/93
R641-106	Notice and Service	30662	5YR	11/05/2007	2007-23/94
R641-107	Prehearing Conference	30663	5YR	11/05/2007	2007-23/94

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R641-108	Conduct of Hearings	30664	5YR	11/05/2007	2007-23/95
R641-109	Decisions and Orders	30665	5YR	11/05/2007	2007-23/95
R641-110	Rehearing and Modification of Existing Orders	30666	5YR	11/05/2007	2007-23/96
R641-111	Declaratory Rulings	30667	5YR	11/05/2007	2007-23/96
R641-112	Rulemaking	30668	5YR	11/05/2007	2007-23/97
R641-113	Hearing Examiners	30669	5YR	11/05/2007	2007-23/97
R641-114	Exhaustion of Administrative Remedies	30670	5YR	11/05/2007	2007-23/98
R641-115	Deadline for Judicial Review	30671	5YR	11/05/2007	2007-23/98
R641-116	Judicial Review of Formal Adjudicative Proceedings	30672	5YR	11/05/2007	2007-23/99
R641-117	Civil Enforcement	30673	5YR	11/05/2007	2007-23/99
R641-118	Waivers	30674	5YR	11/05/2007	2007-23/100
R641-119	Severability	30675	5YR	11/05/2007	2007-23/100
Oil, Gas and Mining; Administration					
R642-100	Records of the Division and Board of Oil, Gas and Mining	29596	5YR	03/07/2007	2007-7/170
Oil, Gas and Mining; Abandoned Mine Reclamation					
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
Oil, Gas and Mining; Coal					
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
Oil, Gas and Mining; Oil and Gas					
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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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
Parks and Recreation					
R651-102	Government Records Access Management Act	30245	5YR	07/26/2007	2007-16/72
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
R651-227	Boating Safety Course Fees	30605	5YR	10/22/2007	2007-22/96
R651-301	State Recreation Fiscal Assistance Programs	30247	5YR	07/26/2007	2007-16/73
R651-410	Off-Highway Vehicle Safety Equipment	30604	5YR	10/22/2007	2007-22/96
R651-611	Fee Schedule	29914	AMD	07/09/2007	2007-11/73
R651-611-2	Day Use Entrance Fees	30156	AMD	08/21/2007	2007-14/28
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
Forestry, Fire and State Lands					
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
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
R652-121	Wildland Fire Suppression Fund	30523	5YR	10/02/2007	2007-21/101
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
Water Rights					
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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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
R655-6	Administrative Procedures for Informal Proceedings Before the Division of Water Rights	30401	5YR	09/06/2007	2007-19/64
R655-15	Administrative Procedures for Distribution Systems and Water Commissioners	30246	NEW	10/05/2007	2007-16/24
R655-15-9	Distribution System Committee	30370	NSC	10/05/2007	Not Printed
Wildlife Resources					
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
R657-9	Taking Waterfowl, Common Snipe and Coot	30470	AMD	11/21/2007	2007-20/33
R657-10	Taking Cougar	30066	AMD	08/07/2007	2007-13/90
R657-11	Taking Furbearers	30366	AMD	10/22/2007	2007-18/57
R657-12	Hunting and Fishing Accommodations for Disabled People	29637	AMD	05/08/2007	2007-7/73
R657-12	Hunting and Fishing Accommodations for People with Disabilities	30435	5YR	09/10/2007	2007-19/65
R657-13	Taking Fish and Crayfish	30067	AMD	08/07/2007	2007-13/93
R657-13	Taking Fish and Crayfish (5YR EXTENSION)	30465	NSC	10/09/2007	Not Printed
R657-13	Taking Fish and Crayfish	30571	5YR	10/11/2007	2007-21/101
R657-14	Commercial Harvesting of Protected Aquatic Wildlife	30173	5YR	07/09/2007	2007-15/70
R657-16	Aquaculture and Fish Stocking (5YR EXTENSION)	30466	NSC	10/09/2007	Not Printed
R657-16	Aquaculture and Fish Stocking	30568	5YR	10/09/2007	2007-21/101
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
R657-18	Wood Products on Division of Wildlife Resources Lands (5YR EXTENSION)	30035	NSC	08/07/2007	Not Printed
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
R657-28	Use of Division Lands	30313	5YR	08/14/2007	2007-17/63
R657-28	Use of Division Lands - Rights-of-Way, Leases, and Special Use Permits (5YR EXTENSION)	30036	NSC	08/14/2007	Not Printed
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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R657-33	Taking Bear	29402	AMD	03/12/2007	2007-3/24
R657-33	Taking Bear	30069	AMD	08/07/2007	2007-13/111
R657-37	Cooperative Wildlife Management Units for Big Game or Turkey	30471	AMD	11/21/2007	2007-20/35
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 (5YR EXTENSION)	29580	NSC	03/13/2007	Not Printed
R657-43	Landowner Permits	29639	5YR	03/13/2007	2007-7/183
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	29530	REP	04/23/2007	2007-6/27
R657-51	Youth Permits (5YR EXTENSION)	29536	NSC	04/23/2007	Not Printed
R657-52	Commercial Harvesting of Brine Shrimp and Brine Shrimp Eggs (5YR EXTENSION)	30392	NSC	10/09/2007	Not Printed
R657-52	Commercial Harvesting of Brine Shrimp and Brine Shrimp Eggs	30569	5YR	10/09/2007	2007-21/12
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
R657-54	Taking Wild Turkey	30472	AMD	11/21/2007	2007-20/41
R657-55	Wildlife Convention Permits	30075	AMD	08/07/2007	2007-13/128
R657-55	Wildlife Convention Permits	30474	AMD	11/21/2007	2007-20/42
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	2007-16/73
R671-102	Americans with Disabilities Act complaint Procedure Rule	30214	5YR	07/25/2007	2007-16/74
R671-102	Americans with Disabilities Act Complaint Procedure Rule	30268	AMD	09/27/2007	2007-16/34
R671-201	Original Parole Grant Hearing Schedule and Notice	30216	5YR	07/25/2007	2007-16/74
R671-202	Notification of Hearings	30217	5YR	07/25/2007	2007-16/75
R671-202	Notification of Hearings	30321	AMD	10/10/2007	2007-17/27
R671-203	Victim Input and Notification	30218	5YR	07/25/2007	2007-16/75
R671-203	Victim Input and Notification	30270	AMD	09/27/2007	2007-16/36
R671-205	Credit for Time Served	30219	5YR	07/25/2007	2007-16/75

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R671-206	Competency of Offenders	30221	5YR	07/25/2007	2007-16/76
R671-206	Competency of Offenders	30271	AMD	09/27/2007	2007-16/39
R671-207	Mentally Ill and Deteriorated Offender Custody Transfer	30222	5YR	07/25/2007	2007-16/76
R671-301	Personal Appearance	30223	5YR	07/25/2007	2007-16/77
R671-302	News Media and Public Access to Hearings	30224	5YR	07/25/2007	2007-16/77
R671-303	Offender Access to Information	30225	5YR	07/25/2007	2007-16/78
R671-304	Hearing Record	30226	5YR	07/25/2007	2007-16/78
R671-305	Notification of Board Decision	30227	5YR	07/25/2007	2007-16/78
R671-308	Offender Hearing Assistance	30229	5YR	07/25/2007	2007-16/79
R671-308	Offender Hearing Assistance	30272	AMD	09/27/2007	2007-16/40
R671-309	Impartial Hearings	30230	5YR	07/25/2007	2007-16/79
R671-310	Rescission Hearings	30232	5YR	07/25/2007	2007-16/80
R671-311	Special Attention Hearings and Reviews	30231	5YR	07/25/2007	2007-16/80
R671-311-1	General	30362	AMD	10/25/2007	2007-18/60
R671-315	Pardons	30233	5YR	07/25/2007	2007-16/80
R671-315	Pardons	30361	AMD	10/25/2007	2007-18/61
R671-316	Redetermination	30234	5YR	07/25/2007	2007-16/81
R671-402	Special Conditions of Parole	30235	5YR	07/25/2007	2007-16/81
R671-403	Restitution	30273	AMD	09/27/2007	2007-16/40
R671-405	Parole Termination	30236	5YR	07/25/2007	2007-16/82
R671-517	Evidentiary Hearings and Proceedings	30363	AMD	10/25/2007	2007-18/62
R671-519	Proceedings When Criminal Charges Result in Acquittal	30364	AMD	10/25/2007	2007-18/63
R671-520	Treatment of Confidential Testimony	30322	AMD	10/10/2007	2007-17/28
R671-522-1	Continuance Due to Pending Criminal Charges	30326	AMD	10/10/2007	2007-17/28
Professional Practices Advisory Commission					
Administration					
R686-104	Utah Professional Practices Advisory Commission Denial of License Due to Background Check Offenses	30551	5YR	10/05/2007	2007-21/102
Public Education Job Enhancement Program					
Job Enhancement Committee					
R690-100	Public Education Job Enhancement Program Participant Eligibility and Requirements	30099	AMD	08/07/2007	2007-13/132
Public Safety					
Administration					
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	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 (5YR EXTENSION)	29331	NSC	04/02/2007	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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
Driver License					
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
R708-39	Physical and Mental Fitness Testing	30580	5YR	10/15/2007	2007-21/103
R708-43	YES or NO Notification	29805	AMD	06/08/2007	2007-9/27
Fire Marshal					
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
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
R710-6	Liquefied Petroleum Gas Rules	30314	AMD	10/09/2007	2007-17/29
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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Highway Patrol					
R714-110	Permit to Operate a Motor Vehicle in Violation of Equipment Laws	30549	5YR	10/05/2007	2007-21/103
R714-110-2	Purpose of Rule	30550	NSC	10/31/2007	Not Printed
R714-158	Vehicle Safety Inspection Program Requirements	30679	5YR	11/06/2007	2007-23/101
R714-159	Vehicle Safety Inspection Apprenticeship Program Guidelines.	30764	5YR	11/27/2007	Not Printed
R714-200	Standards for Vehicle Lights and Illuminating Devices	30682	5YR	11/06/2007	2007-23/101
R714-210	Standards for Motor Vehicle Air Conditioning Equipment	30577	5YR	10/12/2007	2007-21/104
R714-210	Standards for Motor Vehicle Air Conditioning Equipment	30578	NSC	10/31/2007	Not Printed
R714-220	Standards for Protective Headgear	30684	5YR	11/06/2007	2007-23/102
R714-230	Standards and Specifications for Vehicle Seat Belts and Safety Harnesses	30686	5YR	11/06/2007	2007-23/102
R714-240	Standards and Specifications for Child Restraint Devices and Safety Belts.	30759	5YR	11/27/2007	Not Printed
R714-300	Standards for Motor Vehicle Braking Systems.	30761	5YR	11/27/2007	Not Printed
R714-550	Rule for Spending Fees Provided under Section 53-1-117	30691	5YR	11/07/2007	2007-23/103
Criminal Investigations and Technical Services, Criminal Identification					
R722-300	Concealed Firearm Permit Rule	30371	EMR	08/28/2007	2007-18/68
R722-300	Concealed Firearm Permit Rule	30379	AMD	10/22/2007	2007-18/64
Peace Officer Standards and Training					
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
R728-404	Basic Training Basic Academy Rules	30388	AMD	12/01/2007	2007-19/32
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
R728-406-3	Policy and Procedures for Course Validation	30275	AMD	10/01/2007	2007-16/42
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
R728-410-2	Suspension for Failure to Obtain Annual Statutory Training	30280	NSC	08/14/2007	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R728-411	Guidelines Regarding Administrative Action Taken Against Individuals Functioning As Peace Officers Without Peace Officer Certification Or Powers	30211	5YR	07/23/2007	2007-16/82
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
R728-500	Utah Peace Officer Standards and Training In-Service Training Certification Procedures	29565	5YR	02/27/2007	2007-6/45
R728-500	Utah Peace Officer Standards and Training In-Service Training Certification Procedures	30389	AMD	12/03/2007	2007-19/34
R728-501	Career Development Courses	30454	AMD	12/01/2007	2007-19/36
R728-502	Procedure for POST Instructor Certification	30455	AMD	12/03/2007	2007-19/37
R728-505	Service Dog Program Rules	30576	5YR	10/12/2007	2007-21/104
Public Service Commission					
Administration					
R746-310	Uniform Rules Governing Electricity Service by Electric Utilities	30513	AMD	11/26/2007	2007-20/45
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
R746-420-2	Requests for Waiver of a Solicitation Process	30115	AMD	08/28/2007	2007-14/29
R746-430	Procedural and Informational Requirements for Review of Utility's Action Plan	29377	CPR	05/17/2007	2007-7/145
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 Action Plans and Significant Energy Resource Review and Approval	30114	AMD	08/28/2007	2007-14/31
R746-440	Significant Energy Resource Solicitation	29378	NEW	03/19/2007	2007-2/111
Regents (Board Of)					
Administration					
R765-134	Informal Adjudicative Procedures Under the Utah Administrative Procedures Act	30607	5YR	10/23/2007	2007-22/96
R765-607	Utah Higher Education Tuition Assistance Program	30165	AMD	08/22/2007	2007-14/32
R765-607	Utah Higher Education Tuition Assistance Program	30498	NSC	10/18/2007	Not Printed
R765-993	Records Access and Management	30606	5YR	10/23/2007	2007-22/97
College of Eastern Utah					
R767-1	Government Records Access and Management Act	30108	5YR	06/19/2007	2007-14/52
R767-1	Government Records Access and Management Act	30143	AMD	10/29/2007	2007-14/35
University of Utah, Parking and Transportation Services					
R810-1	University of Utah Parking Regulations	30544	5YR	10/05/2007	2007-21/105
R810-2	Parking Meters	29532	5YR	02/21/2007	2007-6/46
R810-3	Visitor Parking	30545	5YR	10/05/2007	2007-21/105
R810-4	Registration Policies	30546	5YR	10/05/2007	2007-21/106

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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
R810-7	Nonresidents and Out-of-State Plates	30547	5YR	10/05/2007	2007-21/106
R810-8	Vendor Regulations	30548	5YR	10/05/2007	2007-21/107
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					
Administration					
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
R850-30	Special Use Leases	30323	AMD	10/09/2007	2007-17/33
R850-40	Easements	30151	5YR	06/27/2007	2007-14/56
R850-40	Easements	30499	AMD	11/21/2007	2007-20/47
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
R850-80	Sale of Trust Lands	30324	AMD	10/09/2007	2007-17/38
R850-80-700	Certificates of Sale	30599	NSC	11/13/2007	Not Printed
R850-83	Administration of Previous Sales to Subdivisions of the State	30643	5YR	11/02/2007	2007-23/103
R850-90	Land Exchanges	29408	5YR	01/12/2007	2007-3/66
R850-100	Trust Land Management Planning	30325	5YR	08/15/2007	2007-17/63
R850-120	Beneficiary Use of Institutional Trust Lands.	29409	5YR	01/12/2007	2007-3/67
Science Technology and Research Governing Auth.					
Administration					
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					
Administration					
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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R861-1A-24	Formal Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-502.5, 63-46b-8, and 63-46b-10	30278	AMD	09/24/2007	2007-16/43
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	30279	AMD	09/24/2007	2007-16/44
R861-1A-29	Agency Review and Reconsideration Pursuant to Utah Code Ann. Section 63-46b-13	30277	AMD	09/24/2007	2007-16/46
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
Auditing					
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
R865-6F-38	Renewable Energy Credit Amount Pursuant to Utah Code Ann. Section 59-7-614	30478	AMD	11/27/2007	2007-20/50
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
R865-9I-54	Renewable Energy Credit Amount Pursuant to Utah Code Ann. Sections 59-10-1014 and 59-10-1106	30479	AMD	11/27/2007	2007-20/51
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
R865-12L-9	Determination of Point of Sale or Use for Sellers and Purchasers Who Make Sales or Purchases From a Location Other Than a Fixed Place of Business in Utah Pursuant to Utah Code Ann. Section 59-12-207	30328	AMD	10/12/2007	2007-17/44
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-38	Isolated and Occasional Sales Pursuant to Utah Code Ann. Section 59-12-104	30137	AMD	08/21/2007	2007-14/36
R865-19S-38	Isolated or Occasional Sales and Use Tax Exemption Pursuant to Utah Code Ann. Section 59-12-104	30464	NSC	10/09/2007	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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
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
Motor Vehicle					
R873-22M	Motor Vehicle	29631	5YR	03/12/2007	2007-7/194
Motor Vehicle Enforcement					
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-7	Misleading Advertising Pursuant to Utah Code Ann. Section 41-3-210	30327	AMD	10/12/2007	2007-17/45
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
Property Tax					
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-33	2007 Personal Property Valuation Guides and Schedules Pursuant to Utah Code Ann. Section 59-2-301	30329	AMD	10/12/2007	2007-17/48
R884-24P-53	2007 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515	30512	AMD	11/27/2007	2007-20/52
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					
Administration					
R895-3	Computer Software Licensing, Copyright, Control, Retention, and Transfer	29978	5YR	05/29/2007	2007-12/68
R895-12	Telecommunications Services and Requirements	30710	5YR	11/09/2007	2007-23/104
Transportation					
Administration					
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
Motor Carrier					
R909-1-1	Adoption of Federal Regulations	29338	AMD	02/08/2007	2007-1/45

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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
Motor Carrier, Ports of Entry					
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
Operations, Aeronautics					
R914-1	Rules and Regulations of the Utah State Aeronautical Committee	30608	5YR	10/23/2007	2007-22/98
R914-1	Rules and Regulations of the Utah State Aeronautical Committee (5YR EXTENSION)	30000	NSC	10/23/2007	Not Printed
R914-2	Safety Rules and Procedures for Aircraft Operations on Roads (5YR EXTENSION)	30001	NSC	10/23/2007	Not Printed
R914-2	Safety Rules and Procedures for Aircraft Operations on Roads	30609	5YR	10/23/2007	2007-22/98
Operations, Construction					
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
Operations, Maintenance					
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	2007-17/64
Operations, Traffic and Safety					
R920-1	Manual of Uniform Traffic Control Devices	30306	5YR	08/13/2007	2007-17/64
R920-1	Manual of Uniform Traffic Control Devices (5YR EXTENSION)	30002	NSC	08/13/2007	Not Printed
R920-2	Traffic Control Systems for Railroad-Highway Grade Crossings (5YR EXTENSION)	30003	NSC	10/23/2007	Not Printed
R920-2	Traffic Control Systems for Railroad-Highway Grade Crossings	30610	5YR	10/23/2007	2007-22/99
R920-3	Manual of Uniform Traffic Control Devices, Part VI	30299	5YR	08/10/2007	2007-17/65
R920-4	Permit for Special Road Use or Event	30300	5YR	08/10/2007	2007-17/65
R920-5	Manual and Specifications on School Crossing Zones. Supplemental to Part VII of the Manual on Uniform Traffic Control Devices	30301	5YR	08/10/2007	2007-17/66
R920-6	Snow Tire and Chain Requirements	30303	5YR	08/13/2007	2007-17/66
R920-50	Ropeway Operation Safety Rules	30304	5YR	08/13/2007	2007-17/67
R920-50-1	Utah Ropeway Rules for Passenger Ropeways	29340	AMD	02/13/2007	2007-1/50
R920-51	Safety Regulations for Railroads	30305	5YR	08/13/2007	2007-17/67
Program Development					
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
Preconstruction, Right-of-Way Acquisition					
R933-5	Utah-Federal Agreement for the Control of Outdoor Advertising (5YR EXTENSION)	30004	NSC	10/01/2007	Not Printed
R933-5	Utah-Federal Agreement for the Control of Outdoor Advertising	30511	5YR	10/01/2007	2007-20/78
Treasurer					
Unclaimed Property					
R966-1	Requirements for Claims where no Proof of Stock Ownership Exists	30624	5YR	10/26/2007	2007-22/99

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Workforce Services					
Administration					
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
Employment Development					
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	Family Employment Program	30276	AMD	10/25/2007	2007-16/47
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
Unemployment Insurance					
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
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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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
R994-402-207	Systematic and Sustained Work Search	30442	AMD	11/15/2007	2007-19/38
R994-403	Claim for Benefits	30141	5YR	06/26/2007	2007-14/60
R994-403-108b	Deferral of Work Registration and Work Search	30441	AMD	11/15/2007	2007-19/39
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
R994-405-107	Examples of Reasons for Voluntary Separations	30440	AMD	11/15/2007	2007-19/40
R994-406	Fraud, Fault and Nonfault Overpayments	29963	5YR	05/22/2007	2007-12/71
R994-508-401	Jurisdiction and Reconsideration of Decisions	30285	NSC	08/31/2007	Not Printed