UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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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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SPECIAL NOTICES

Governor's Proclamation: Calling the Fifty-Seventh Legislature into a Eighth Extraordinary Session

P R O C L A M A T I O N

WHEREAS, since the close of the 2008 General Session of the 57th Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

WHEREAS, Article VII, Section 6 of the Constitution of the State of Utah provides that the Governor may, by proclamation, convene the Legislature in Extraordinary Session;

NOW, THEREFORE, I, JON M. HUNTSMAN, JR., Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and Laws of the State of Utah, do by this Proclamation call the Senate only of the 57th Legislature into the Eighth Extraordinary Session at the State Capitol in Salt Lake City, Utah, on the 16th day of April 2008, at 12:00 noon, for the following purpose:

For the Senate to consent to appointments made by the Governor to positions within state government of the State of Utah since the close of the 2008 General Session of the Legislature of the State of Utah.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the Utah State Capitol in Salt Lake City, Utah, this 15th day of April, 2008.

(State Seal)

Jon M. Huntsman, Jr.
Governor

Gary R. Herbert
Lieutenant Governor

Health
Epidemiology and Laboratory Services, Environmental Services

Correction for the Filing on Rule R392-302 in the April 15, 2008, Bulletin

It has come to the attention of the Division of Epidemiology and Laboratory Services, Environmental Services that the rule analysis for the changes to Rule R392-302, "Design, Construction, and Operation of Public Pools" (DAR No. 31097), published in the April 15, 2008, issue of the Utah State Bulletin (2008-8, pg. 6), contained an error. In the "summary of the rule or change" paragraph, the word "or" was used instead of "and" in item 4 of the list of additions which regarded the requirement for young children and those who cannot control evacuative bodily functions to wear swim diapers and waterproof swimwear. The text of the published proposed amendment correctly indicates that both swim diapers and waterproof swimwear are required.

Direct any questions regarding this notice or Rule R392-302 to: RONALD MARSDEN, ENVIRONMENTAL SANITATION PROGRAM, PO BOX 142104, SALT LAKE CITY UT 84116-3231; or by phone at 801-538-6191; or by FAX at 801-538-6540; or by Internet e-mail at: rmarsden@utah.gov

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 April 2, 2008, 12:00 a.m., and April 15, 2008, 11:59 p.m. are included in this, the May 1, 2008, 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 June 2, 2008. 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 August 29, 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.

Administrative Services, Fleet Operations
R27-3
Vehicle Use Standards

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31137
FILED: 04/11/2008, 15:03

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule change is to revise the process for utilizing commuter and take-home vehicles. It also updates language regarding daily motor pools

SUMMARY OF THE RULE OR CHANGE: This rule change updates the process for take-home and commute vehicle requests. Form names and locations have been updated as well as the process for submitting said forms.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 63A-9-401(1)(d)(ii) and 63A-9-401(1)(d)(viii)

ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: This rule amendment updates the language and procedure and will have no cost effect on the state budget.
- LOCAL GOVERNMENTS: This rule amendment updates the language and procedure and will have no cost effect on local government.
- SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: This rule amendment updates the language and procedure and will have no cost effect on small businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance costs for affected persons. This is an update to procedures.

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

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ADMINISTRATIVE SERVICES
FLEET OPERATIONS
Room 4120 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Brian Fay at the above address, by phone at 801-538-3502, by FAX at 801-538-1773, or by Internet E-mail at bfay@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 06/02/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 06/16/2008

AUTHORIZED BY: Kimberly K Hood, Executive Director

R27. Administrative Services, Fleet Operations.
R27-3. Vehicle Use Standards.
R27-3-6. Application for Commute or Take Home Use.

(1) Each petitioning agency shall, for each driver being given commute or take home privileges, annually complete and submit [~~either a completed and agency approved commute form (MP-2) to DFO, or complete the proper~~]an online take home form from the DFO website. Submitted take home information will generate a new form that must be signed by the employee, direct supervisor of the employee, and the executive director of the agency.

[~~(2) Approval for commute or take home privileges must be obtained from the executive director of the agency.~~

~~——~~](2)[~~(3)~~] DFO shall enter the approved commute or take home request into the fleet information system and provide an identification number to both the driver and the agency.

(3)[~~(4)~~] All approvals for commute or take home privileges shall expire at the end of the calendar year on which they were issued and DFO shall notify the agency of said expiration. Agencies shall be responsible for submitting any request for annual renewal of commute or take home use privileges.

(4)[~~(5)~~] Commute use is, unless specifically exempted under R27-3-8, infra, considered a taxable fringe benefit as outlined in IRS publication 15-B. All approved commute use drivers will be assessed the IRS imputed daily fringe benefit rate while using a state vehicle for commute use.

(5)[~~(6)~~] For each individual with commute use privileges, the employing agency shall, pursuant to Division of Finance Policy FIACCT 10-01.00, prepare an Employee Reimbursement/Earnings Request Form and enter the amount of the commute fringe benefit into the payroll system on a monthly basis.

R27-3-7. Criteria for Commute or Take Home Privilege Approval.

(1) Commute or Take Home use may be approved when one or more of the following conditions exist:

(a) 24-hour "On-Call." Where the agency clearly demonstrates that the nature of a potential emergency is such that an increase in response time, if a commute or take home privilege is not authorized, could endanger a human life or cause significant property damage. [~~In the event that emergency response is the sole purpose of the commute or take home privilege, each~~]Each driver is required to keep a complete list of all call-outs [~~on the monthly DF-61 form for audit purposes~~]for renewal of the take home privilege the following year. Agencies may use DFO's online forms to track [~~commute or~~]take home mileage.

(b) Virtual office. Where an agency clearly demonstrates that an employee is required to work at home or out of a vehicle, a minimum of 80 percent of the time and the assigned vehicle is required to perform critical duties in a manner that is clearly in the best interest of the state.

(c) When the agency clearly demonstrates that it is more practical for the employee to go directly to an alternate work-site rather than report to a specific office to pick-up a state vehicle.

(d) When a vehicle is provided to appointed or elected government officials who are specifically allowed by law to have an assigned vehicle as part of their compensation package.[~~Individuals using this criterion must cite the appropriate section of the Utah Code on the MP-2 form.~~]

(2) The trip log must be created for the first and last trip of the day for all take-home vehicles.

R27-3-9. Enforcement of Commute Use Standards.

(1) Agencies with drivers who have been granted commute or take home privileges shall establish internal policies to enforce the commute use, take home use and personal use standards established in this rule. Agencies shall not adopt policies that are less stringent than the standards established in these rules.

(2) Commute or take home use that is unauthorized shall result in the suspension or revocation of the commute use privilege by the agency. Additional instances of unauthorized commute or take home use may result in the suspension or revocation of the state driving privilege by the agency.

R27-3-10. Use Requirements for Monthly Lease Vehicles.

(1) Agencies that have requested, and received monthly lease options on state vehicles shall:

(a) Ensure that only authorized drivers whose names and all other information required by R27-3-3(1) have been entered into DFO's fleet information system, completed all the training and/or safety programs, and met the age restrictions for the type of vehicle being operated, shall operate monthly lease vehicles.

(b) Report the correct odometer reading when refueling the vehicle. In the event that an incorrect odometer reading is reported, agencies shall be assessed a fee whenever the agency fails to correct the mileage within three (3) business days of the agency's receipt of the notification that the incorrect mileage was reported. When circumstances indicate that there was a blatant disregard of the vehicle's actual odometer reading at the time of refueling, a fee shall be assessed to the agency even though the agency corrected the error within three (3) days of the notification.

(c) Return the vehicle in good repair and in clean condition at the completion of the replacement cycle period or when the vehicle has met the applicable mileage criterion for replacement, reassignment or reallocation.

(i) Agencies shall be assessed a detailing fee for vehicles returned that are in need of extensive cleaning.

(ii) Agencies shall pay the insurance deductible associated with repairs made to a vehicle that is damaged when returned.

(d) Return the vehicle unaltered and in conformance with the manufacturer's specifications.

(e) Pay the applicable insurance deductible in the event that monthly lease vehicle in its possession or control is involved in an accident.

(f) Not place advertising or bumper stickers on state vehicles without prior approval of DFO.

(2) The provisions of Rule R27-4-6 shall govern agencies when requesting a monthly lease.

(3) Under no circumstances shall the total number of occupants in a monthly lease full-size [~~15-~~]passenger van exceed ten (10) individuals, the maximum number recommended by the Division of Risk Management.

R27-3-11. Use Requirements for Daily Motor Pool Vehicles.

(1) DFO offers state vehicles for use on a daily basis at an approved daily rental rate. Drivers of a state vehicle offered through the daily pool shall:

[~~(a) Provide DFO with at least 24 hours notice when requesting vehicles such as 15 passenger vans, sports utility vehicles and wheelchair accessible vehicles. Agencies should be aware that while DFO will attempt to accommodate all requests for vehicles, the limited number of vehicles in the daily pool not only requires that reservations be granted on a first come, first served basis, but also places DFO in a position of being unable to guarantee vehicle availability in some cases, even where the requesting driver or agency provides at least 24 hours notice.~~

~~—~~](a)[~~(b)~~] Be an authorized driver whose name and all other information required by R27-3-3(1) have been entered into DFO's fleet information system, completed all the training and/or safety programs, and met the age restrictions for the type of vehicle being operated. In the event that any of the information required by R27-3-3(1) has not been entered in DFO's fleet information system, the rental vehicle will not be released.

(b)[~~(c)~~] Read the handouts, provided by DFO, containing information regarding the safe and proper operation of the vehicle being leased.

(c)[~~(d)~~] Verify the condition of, and acknowledge responsibility for the care of, the vehicle prior to rental by filling out the daily motor pool rental[~~MP-98~~] form provided by daily rental personnel.

(d)[~~(e)~~] Report the correct odometer reading when refueling the vehicle at authorized refueling sites, and when the vehicle is returned. In the event that incorrect odometer reading is reported, agencies shall be assessed a fee whenever the agency fails to correct the mileage within three (3) business days of the agency's receipt of the notification that the incorrect mileage was reported. When circumstances indicate that there was a blatant disregard of the vehicle's actual odometer reading at the time of refueling, a fee shall be assessed to the agency even though the agency corrected the error within three (3) days of the notification.

(e)[~~(f)~~] Return vehicles with a full tank of fuel[~~at least 3/4 tank of fuel left. In the event that the vehicle has less than 3/4 of a tank of fuel left, the driver shall, prior to returning the vehicle, refuel the vehicle~~]. Agencies shall be assessed a fee for vehicles that are returned with less than [~~3/4 of~~]a full tank of fuel.

(f)[~~(g)~~] Return rental vehicles in good repair and in clean condition.

(i) Agencies shall be assessed a detailing fee for vehicles returned that are in need of extensive cleaning.

(ii) Agencies shall pay the insurance deductible associated with repairs made to a vehicle that is damaged when returned.

(g)[~~(h)~~] Call to extend the reservation in the event that they need to keep rental vehicles longer than scheduled. Agencies shall be assessed a late fee, in addition to applicable daily rental fees, for vehicles that are not returned on time.

(h)[~~(i)~~] Use their best efforts to return rented vehicles during regular office hours. Agencies may be assessed a late fee equal to one day's rental for vehicles that are not returned on time.

(i)[~~(j)~~] Call the daily pool location[~~where they made reservations~~], at least one hour before the scheduled pick-up time, to cancel the reservation. Agencies shall be assessed a fee for any unused reservation that has not been canceled.

(j)[~~(k)~~] Not place advertising or bumpers stickers on state vehicles without prior approval from DFO.

(2) The vehicle shall be inspected upon its return. The agency shall either be held responsible for any damages not acknowledged prior to rental, or any applicable insurance deductibles associated with any repairs to the vehicle.

(3) Agencies are responsible for paying all applicable insurance deductibles whenever a vehicle operated by an authorized driver is involved in an accident.

(4) The DFO shall hold items left in daily rental vehicles for ten days. Items not retrieved within the ten-day period shall be turned over to the Surplus Property Office for sale or disposal.

R27-3-12. Daily Motor Pool Sedans, Four Wheel Drive Sport Utility Vehicle (4x4 SUV), Cargo Van, Multi-Passenger Van and Alternative Fuel Vehicle Lease Criteria.

(1) The standard state vehicle is a compact sedan, and shall be the vehicle type most commonly used when conducting state business.

(2) Requests for vehicles other than a compact sedan may be honored in instances where the agency and/or driver is able to identify a specific need.

(a) Requests for a four wheel drive sport utility vehicle (4x4 SUV) may be granted with written approval from an employee's supervisor.

(b) Requests for a seven-passenger van may be granted in the event that the driver is going to be transporting more than three authorized passengers.

(c) Requests for [~~a fifteen (15)~~]full-size passenger [~~van~~]vans may be granted in the event that the driver is going to be transporting more than six authorized passengers. Under no circumstances shall the total number of occupants exceed the maximum number of passengers recommended by the Division of Risk Management.

(3) Cargo vans shall be used to transport cargo only. Passengers shall not be transported in cargo area of said vehicles.

(4) Non-traditional (alternative) fuel shall be the primary fuel used when driving a bi-fuel or dual- fuel state vehicle. Drivers shall, when practicable, use an alternative fuel when driving a bi-fuel or dual-fuel state vehicle.

R27-3-16. Driver Training.

(1) Any individual shall, prior to the use of a state vehicle, complete all training required by DFO or the Division of Risk Management, including, but not limited to, the defensive driver training program offered through the Division of Risk Management.

(2) Each agency shall coordinate with the Division of Risk Management, specialty training for vehicles known to possess unique safety concerns.[~~, like 15 passenger vans and sport utility vehicles.~~]

(3) Each agency shall require that all employees who operate a state vehicle, or their own vehicles, on state business as an essential function of the job, or all other employees who operate vehicles as part of the performance of state business, comply with the requirements of Division of Risk Management rule R37-1-8(5).

(4) Agencies shall maintain a list of all employees who have completed the training courses required by DFO, Division of Risk Management and their respective agency.

(5) Employees operating state vehicles must have the correct license required for the vehicle they are operating and any special endorsements required in order to operate specialty vehicles.

KEY: state vehicle use
Date of Enactment or Last Substantive Amendment: [~~October 3, 2005~~]2008
Notice of Continuation: January 30, 2006
Authorizing, and Implemented or Interpreted Law: 53-13-102; 63A-9-401(1)(c)(viii)

♦ ♦

Administrative Services, Risk Management

R37-4

Adjusted Utah Governmental Immunity Act Limitations on Judgments

NOTICE OF PROPOSED RULE
(Repeal and Reenact)
DAR FILE NO.: 31150
FILED: 04/15/2008, 11:22

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Subsection 63G-7-604(4)(b) (formerly Subsection 63-30d-604(4)(b)) requires the Utah State Risk Manager to calculate and establish, every other year, new limitations on judgments based on increases or decreases to the Consumer Price Index (CPI) and to submit these changes in administrative rule. The rule reflects the calculations of the changes in the CPI. The increase in the CPI is reflected in an increase in the maximum dollar amounts that the courts can award in cases involving the State of Utah and local government entities. A 6.3% increase in the CPI is reflected in this rule.

SUMMARY OF THE RULE OR CHANGE: The substantive difference between the old rule and the new rule are as follows: This rulemaking changes the calendar years that the CPI is based upon to 2005 and 2007. Also, the rulemaking will increase the maximum dollar amount that the courts can award in judgments against a Utah governmental entity. The increase is 6.3%. This increase means that one person in any one occurrence can be awarded $620,700. If the case involves two or more persons in any one occurrence the maximum amount that can be awarded is $2,126,000.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63G-7-604(4)(b) (formerly Subsection 63-30d-604(4)(b))

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The implementation of this rule will result in the maximum amount that a court can award for one person in any one occurrence to increase by $36,800 or a maximum of $620,700. The implementation of this rule will also result in an increase of $126,000 to the maximum that a court can award to two or more persons in any one occurrence. The maximum will increase from $2,000,000 to $2,126,000. These changes will result in higher costs to the state.

❖ LOCAL GOVERNMENTS: The increases for local governments will be the same as for state government. The caps on awards will increase from $583,900 for one person in any one occurrence to $620,700 and from $2,000,000 for two or more persons in any one occurrence to $2,126,000. These changes will likely result in higher cost to local governments.
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: No impact because the rule only applies to entities covered by the Utah Governmental Immunity Act.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No impact because the rule only applies to entities covered by the Utah Governmental Immunity Act.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule would have no material impact on business. Kimberly Hood, Executive Director

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

ADMINISTRATIVE SERVICES
RISK MANAGEMENT
Room 5120 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:
Stephen Hewlett at the above address, by phone at 801-538-9572, by FAX at 801-538-9597, or by Internet E-mail at SHEWLETT@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 06/14/2008.

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

AUTHORIZED BY: Roger Livingston, Director

R37. Administrative Services, Risk Management.
R37-4. Adjusted Utah Governmental Immunity Act Limitations on Judgments.
[~~R37-4-1. Authority and Calculation Process.~~
~~Pursuant to UCA 63-30d-604(4)(b) the Risk Manager hereby establishes a new limitation of judgment.~~
~~Accordingly, the Risk Manager has calculated the consumer price index (CPI) for calendar years 2003 and 2005 using the standards provided in Sections 1(f)(4) and 1 (f)(5) of the Internal Revenue Code. Section 1(f)(4) has defined the CPI for any calendar year to mean the average of the consumer price index as of the close of the 12-month period ending on August 31 of such calendar year. Section 1(f)(5) has defined "consumer price index" to mean the index used for all-urban consumers published by the Department of Labor. By applying these standards, the consumer price index for the calendar year 2003 is calculated to be 182.75 and the index for 2005 is 192.77. The percentage difference between the 2003 index and the 2005 index was then computed to be 5.5%.~~

~~**R37-4-2. New Limitation of Judgment Amounts.**~~
~~As a result of the above required calculations, the new limitation of judgment amounts currently required by UCA 63-30d-604(1)(a) has been increased as follows, and is effective July 1, 2006:~~
~~1) In accordance with UCA 63-30d-604(1)(a), the limit for damages for personal injury against a governmental entity, or an employee who a governmental entity has a duty to indemnify is $583,900 for one person in any one occurrence (instead of $553,500), or $1,167,900 for two or more persons in any one occurrence (instead of $1,107,000);~~
~~2) In accordance with UCA 63-30d-604(1)(b), the limit for damages for injury or death is $583,900, (instead of $553,500) regardless of whether or not the function giving rise to the injury is characterized as governmental; and~~
~~3) In accordance with UCA 63-30d-604(1)(c), the limit for property damages (excluding damages awarded as compensation when a governmental entity has taken or damaged private property for public use without just compensation) against a governmental entity, or an employee whom a governmental entity has a duty to indemnify is $233,600 in any one occurrence (instead of $221,400).~~

~~**R37-4-3. Limitations of Judgments by Calendar Date.**~~
~~The limitation on judgments are established by the date of the occurrence. The dates and dollar amounts are as follows:~~
~~1) Incident(s) occurring before July 1, 2001 - $250,000 for one person in an occurrence, $500,000 for two or more persons in an occurrence; and $100,000 for property damage for any one occurrence as explained in R37-4-2(3).~~
~~2) Incident(s) occurring on or after July 1, 2001 - $500,000 for one person in an occurrence, $1,000,000 for two or more persons in an occurrence; and $200,000 for property damage for any one occurrence as explained in R37-4-2(3).~~
~~3) Incident(s) occurring on or after July 1, 2002 - $532,000 for one person in an occurrence, $1,065,000 for two or more persons in an occurrence; and $213,000 for property damage for any one occurrence as explained in R37-4-2(3).~~
~~4) Incident(s) occurring on or after July 1, 2004 - $553,500 for one person in an occurrence, $1,107,000 for two or more persons in an occurrence, and $221,400 for property damage for any one occurrence as explained in R37-4-2(3).~~
~~5) Incident(s) occurring on or after July 1, 2006 - $583,900 for one person in an occurrence, $1,167,900 for two or more persons in an occurrence, and $233,600 for property damage for any one occurrence as explained in R37-4-2(3).~~]

R37-4-1. Authority and Calculation Process.
Pursuant to UCA 63G-7-604(4)(b) (formerly 63-30d-604(4)(b)) the Risk Manager hereby establishes a new limitation of judgment.
Accordingly, the Risk Manager has calculated the consumer price index (CPI) for calendar years 2005 and 2007 using the standards provided in Sections 1(f)(4) and 1 (f)(5) of the Internal Revenue Code. Section 1(f)(4) has defined the CPI for any calendar year to mean the average of the consumer price index as of the close of the 12-month period ending on August 31 of such calendar year. Section 1(f)(5) has defined "consumer price index" to mean the index used for all-urban consumers published by the Department of Labor. By applying these standards, the consumer price index for the calendar year 2005 is calculated to be 192.77 and the index for 2007 is 204.87. The percentage difference between the 2005 index and the 2007 index was then computed to be 6.3%.

R37-4-2. New Limitation of Judgment Amounts.

As a result of the above required calculations, the new limitation of judgment amounts currently required by UCA 63G-7-604(1) has been increased as follows, and is effective July 1, 2008:

1) The limit for damages for personal injury against a governmental entity, or an employee who a governmental entity has a duty to indemnify, is $620,700 for one person in any one occurrence (instead of $583,900), and $2,126,000 aggregate amount of individual awards that be may awarded in relation to a single occurrence (instead of $2,000,000); and

2) The limit for property damages (excluding damages awarded as compensation when a governmental entity has taken or damaged private property for public use without just compensation) against a governmental entity, or an employee whom a governmental entity has a duty to indemnify is $248,300 in any one occurrence (instead of $233,600).

R37-4-3. Limitations of Judgments by Calendar Date.

The limitation on judgments are established by the date of the occurrence. The dates and dollar amounts are as follows:

1) Incident(s) occurring before July 1, 2001 - $250,000 for one person in an occurrence, $500,000 aggregate for two or more persons in an occurrence; and $100,000 for property damage for any one occurrence as explained in R37-4-2(2).

2) Incident(s) occurring on or after July 1, 2001 - $500,000 for one person in an occurrence, $1,000,000 aggregate for two or more persons in an occurrence; and $200,000 for property damage for any one occurrence as explained in R37-4-2(2).

3) Incident(s) occurring on or after July 1, 2002 - $532,500 for one person in an occurrence, $1,065,000 aggregate for two or more persons in an occurrence; and $213,000 for property damage for any one occurrence as explained in R37-4-2(2).

4) Incident(s) occurring on or after July 1, 2004 - $553,500 for one person in an occurrence, $1,107,000 aggregate for two or more persons in an occurrence, and $221,400 for property damage for any one occurrence as explained in R37-4-2(2).

5) Incident(s) occurring on or after July 1, 2006 - $583,900 for one person in an occurrence, $1,167,900 aggregate for two or more persons in an occurrence, and $233,600 for property damage for any one occurrence as explained in R37-4-2(2).

6) Incident(s) occurring on or after July 1, 2007 - $583,900 for one person in an occurrence, $2,000,000 aggregate for two or more persons in an occurrence, and $233,600 for property damage for any one occurrence as explained in R37-4-2(2).

7) Incident(s) occurring on or after July 1, 2008 - $620,700 for one person in an occurrence, $2,126,000 aggregate for two or more persons in an occurrence, and $248,300 for property damage for any one occurrence as explained in R37-4-2(2).

KEY: limitation on judgments, risk management, governmental immunity act caps
Date of Enactment or Last Substantive Amendment: [~~July 1, 2006~~]2008
Notice of Continuation: October 9, 2007
Authorizing, and Implemented or Interpreted Law: 63-30-34(4)(b)

♦ ♦

Agriculture and Food, Plant Industry

R68-8-2

Noxious Weed Seeds and Weed Seed Restrictions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31127
FILED: 04/04/2008, 14:57

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These changes correspond with the noxious weed rule identifying the nine weeds to the current Noxious Weed Rule R68-9. (DAR NOTE: the proposed amendment to Rule R68-9 is under DAR No. 31128 in this issue, May 1, 2008, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: The State Weed Board proposed to create three noxious weed categories. The new noxious weeds are: 1) Blackhenbane, 2) Dalmation toadflax, 3) Houndstongue, 4) Oxeye daisy, 5) Poison hemlock, 6) Salt Cedar, 7) St. Johnsworts, 8) Sulfur cinquefoil, and 9) Yellow toadflax. Replace Whitetop Cardaria spp. with Hoary Cadadia spp. which is the correct scientific name.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 4-2-2, 4-16-3, and 4-17-3

ANTICIPATED COST OR SAVINGS TO:

- THE STATE BUDGET: There is no additional cost to the state associated with the proposed rule changes because this is just identifying noxious weeds, not control.
- LOCAL GOVERNMENTS: There is no additional cost to local government associated with the proposed rule changes because this is just identifying noxious weeds, not control.
- SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There is no additional cost to small business associated with the proposed rule changes because this is just identifying noxious weeds, not control.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no cost to individuals associated with the proposed rule changes because this is just identifying noxious weeds, not control.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The state agrees with the State Weed Committee, Utah Weed Control Association, and Utah Weed Supervisor's Association boards on making these changes in the noxious weed rule. These additions and changes make the noxious weed rule more representative of the noxious weeds in Utah and the classes will make them easier to enforce violations. Leonard M. Blackham, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Clair Allen or Kathleen Mathews at the above address, by phone at 801-538-7180 or 801-538-7103, by FAX at 801-538-7189 or 801-538-7126, or by Internet E-mail at ClairAllen@utah.gov or kmathews@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 06/02/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 06/09/2008

AUTHORIZED BY: Leonard M. Blackham, Commissioner

R68. Agriculture and Food, Plant Industry.
R68-8. Utah Seed Law.
R68-8-2. Noxious Weed Seeds and Weed Seed Restrictions.

It shall be unlawful for any person, firm, or corporation to sell, offer, or expose for sale or distribute in the State of Utah any agricultural, vegetable, flower, tree and shrub seeds, or seeds for sprouting for seeding purposes which:

A. Contain, either in part or in whole, any prohibited noxious weed seeds.

1. "Prohibited" noxious weed seeds are the seeds of any plant determined by Utah Commissioner of Agriculture and Food to be injurious to public health, crops, livestock, land, or other property and which is especially troublesome and difficult to control.

2. Utah prohibited noxious weed seeds are as follows:

TABLE

Bermudagrass (Except in Washington County)	Cynodon dactylon (L.) Pers.
Bindweed (Wild Morning-glory)	Convolvulus spp.
Black henbane	Hyoscyamus niger (L.)
Broad-leaved Peppergrass (Tall Whitetop)	Lepidium latifolium L.
Canada Thistle	Cirsium arvense (L.) Scop.
Dalmation Toadflax	Linaria dalmatica (L.) Miller
Diffuse Knapweed	Centaurea diffusa (Lam.)
Hoary cress	Cardadia spp.
Houndstongue	Cynoglossum officinale (L.)
Dyers Woad	Isatis Tinctoria L.
Oxeye daisy	Chrysanthemum leucanthemum (L.)
Perennial Sorghum spp.	including but not limited to Johnson Grass (Sorghum halepense (L.) Pers.) and Sorghum Almum (Sorghum almum, Parodi).
Poison Hemlock	Conium maculatum (L.)
Leafy Spurge	Euphorbia esula L.
Medusahead	Taeniatherum caput-medusae (L.) Nevski)
Musk Thistle	Carduus nutans L.
Purple Loosestrife	Lythrum salicaria L.
Quackgrass	Agropyron repens (L.) Beauv.
Russian Knapweed	Centaurea repens L.
SaltCedar (Tamarix)	Tamarix ramosissima Ledeb.
Scotch Thistle (Cotton Thistle)	Onopordum acanthium L.
Spotted Knapweed	Centaurea maculosa Lam.
Squarrose Knapweed	Centaurea virgata Lam. Ssp squarrosa Gugle.
St. Johnswort, common	Hypericum perforatum (L.)
Sulfur cinquefoil	potentilla recta L.
~~[Whitetop~~	~~Cardaria spp.]~~
Yellow Starthistle	Centaurea solstitialis L.
Yellow toadflax	Linaria vulgaris (Mill.)

B. Contain any restricted weed seeds in excess of allowable amounts:

1. The following weed seeds shall be allowed in all crop seed, but shall be restricted not to exceed a maximum of 27 such seeds per pound, either as a single species or in combination:

TABLE

Dodder	Cuscuta app.
Halogeton	Halogeton glomeratus (M. Bieb.)
Jointed goatgrass	Aegilops cylindrica (Host.)
Poverty Weed	Iva axillaris Pursh.
Wild Oats	Avena fatua L.

2. The following maximum percentage of weed seeds by weight shall be allowed:

a. Two percent (2.0%) of Cheat (Bromus secalinus), Chess (Bromus brizaformis), (B. commutatus), (B. mollis), Japanese Brome (Bromus japonicus) and Downy Brome (Bromus tectorum) either as a single species or in combination in grass seeds.

b. One percent (1.0%) of any weed seeds not listed in 2.a. above in grass, flower, tree and shrub seeds.

c. One half of one percent (0.50%) in all other kinds or types of seeds.

KEY: inspections
Date of Enactment or Last Substantive Amendment: [~~May 30, 2000~~]2008
Notice of Continuation: January 9, 2006
Authorizing, and Implemented or Interpreted Law: 4-2-2; 4-16-3; 4-17-3

Agriculture and Food, Plant Industry
R68-9
Utah Noxious Weed Act

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31128
FILED: 04/07/2008, 11:16

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The State Weed Board proposes to create three noxious weed categories. The division is adding nine new weeds to the current noxious weed list. These additions and changes affect Rule R68-8, Utah Seed Law. (DAR NOTE: the proposed amendment to Section R68-8-2 is under DAR No. 31127 in this issue, May 1, 2008, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: The State Weed board proposes to create three noxious weed categories. These classes are: Class A: Early Detection Rapid Response (EDRR); Class B: (Control); and Class C: (Containment). The new noxious weeds are: 1) Blackhenbane, 2) Dalmation toadflax, 3) Houndstongue, 4) Oxeye daisy, 5) Poison hemlock, 6) Salt Cedar, 7) St. Johnsworts, 8) Sulfur cinquefoil, and 9) Yellow toadflax. Additional changes are added to Subsection R68-9-4(6)(a) dealing with hay, straw, or other material of similar nature, and that any person cannot alter, change, or falsify in any way information contained on a phytosanitary certificate. Also, replaces Whitetop cress spp, with Hoary cress spp. which is the correct scientific name.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 4-2-2 and 4-17-3

ANTICIPATED COST OR SAVINGS TO:
- ❖ THE STATE BUDGET: There are no additional costs to the state associated with the proposed rule changes because this is just identifying noxious weeds, not control.
- ❖ LOCAL GOVERNMENTS: There are no additional costs to local government associated with the proposed rule changes because this is just identifying noxious weeds, not control.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no additional costs to small businesses associated with the proposed rule changes because this is just identifying noxious weeds, not control.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no additional costs to individuals associated with the proposed rule changes because this is just identifying noxious weeds, not control.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The department agrees with the recommendations of the State Weed Committee, Utah Weed Control Association, and the Utah Weed Supervisor's Association boards on making these changes in the noxious weed rule. These changes update and are more representative of the noxious weeds actually found in Utah. Establishing the class designations will make it easier to enforce violations. Implementation of these changes will have no additional fiscal impact on businesses. Leonard M. Blackham, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
AGRICULTURE AND FOOD
PLANT INDUSTRY
350 N REDWOOD RD
SALT LAKE CITY UT 84116-3034, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Clair Allen or Kathleen Mathews at the above address, by phone at 801-538-7180 or 801-538-7103, by FAX at 801-538-7189 or 801-538-7126, or by Internet E-mail at ClairAllen@utah.gov or kmathews@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 06/02/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/13/2008

AUTHORIZED BY: Leonard M. Blackham, Commissioner

R68. Agriculture and Food, Plant Industry.
R68-9. Utah Noxious Weed Act.
R68-9-2. Designation and Publication of State Noxious Weeds.

A. The following weeds are hereby officially designated and published as noxious for the State of Utah, as per the authority vested in the Commissioner of Agriculture and Food under Section 4-17-3:
[

~~TABLE~~

~~Bermudagrass*~~	~~Cynodon dactylon (L.) Pers.~~
~~Bindweed (Wild Morning glory)~~	~~Convolvulus spp.~~
~~Broad-leaved Peppergrass (Tall Whitetop)~~	~~Lepidium latifolium L.~~
~~Canada Thistle~~	~~Cirsium arvense (L.) Scop.~~
~~Diffuse Knapweed~~	~~Centaurea diffusa (Lam.)~~
~~Dyers Woad~~	~~Isatis tinctoria L.~~
~~Perennial Sorghum spp.~~	~~including but not limited to Johnson Grass (Sorghum halepense (L.) Pers.) and Sorghum Almum (Sorghum almum, Parodi).~~
~~Leafy Spurge~~	~~Euphorbia esula L.~~
~~Medusahead~~	~~Taeniatherum caput-medusae (L.) Nevski~~
~~Musk Thistle~~	~~Carduus nutans L.~~
~~Purple Loosestrife~~	~~Lythrum salicaria L.~~
~~Quackgrass~~	~~Agropyron repens (L.) Beauv.~~
~~Russian Knapweed~~	~~Centaurea repens L.~~
~~Scotch Thistle (Cotton Thistle)~~	~~Onopordium acanthium L.~~
~~Spotted Knapweed~~	~~Centaurea maculosa Lam.~~
~~Squarrose Knapweed~~	~~Centaurea virgata Lam. ssp squarrosa Gugle.~~
~~Whitetop~~	~~Cardaria spp.~~
~~Yellow Starthistle~~	~~Centaurea solstitialis L.~~

~~* Bermudagrass (Cynodon dactylon) shall not be a noxious weed in Washington County and shall not be subject to provisions of the Utah Noxious Weed Law within the boundaries of that county. It shall be a noxious weed throughout all other areas of the State of Utah and shall be subject to the laws therein.~~

] There are hereby designated three classes of noxious weeds in the state: Class A (EDRR) Class B (Control) and Class C (Containment).

TABLE

Class A: Early Detection Rapid Response (EDRR) Declared noxious weeds not native to the sate of Utah that pose a serious threat to the state and should be considered as a very high priority.

Blackhenbane	Hyoseyamus niger (L.)
Diffuse Knapweed	Centaurea diffusa (Lam.)
Leafy Spurge	Euphorbia esula L.
Medusahead	Taeniatherum caput-medusae
Oxeye daisy	Chrysanthemum leucanthemum L.
Perennial Sorghum spp.	including but not limited to Johnson Grass (Sorghum halepense (L.) Pers.and Sorghum Almum (Sorghum Almum,Parodi).
Purple Loosestrife	Lythrum salicaria L.
Spotted Knapweed	Centaurea maculosa Lam.
Squarrose Knapweed	Centaurea Squarrosa Gugle.
St. Johnsworts	Hypericum perforatum L.
Sulfur cinquefoil	Potentilla recta L.
Yellow Starthistle	Centaurea solstitialis L.
Yellow Toadflax	Linaria vulgaris Mill.

Class B: (Control) Declared noxious weeds not native to the state of Utah, that pose a threat to the state and should be considered a high priority for control.

Bermudagrass*	Cynodon dactylon (L.) Pers.
Broad-leaved Peppergrass (Tall Whitetop)	Lepidium latifolium L.
Dalmation Toadflax	Linaria dalmatica (L.) Mill
Dyers Woad	Isatis tinctoria L.
Hoary cress	Cardaria spp.
Musk Thistle	Carduus nutans L.
Poison Hemlock	Conium maculatum L.
Russian Knapweed	Centaurea repens L.
Scotch Thistle (Cotton Thistle)	Onopordium acanthium L.
Squarrose Knapweed	Centaurea virgata Lam. ssp

Class C: (Containment) Declared noxious weeds not native to the sate of Utah that are widely spread but pose a threat to the agricultural industry and agricultural products with a focus on stopping expansion.

Field Bindweed (Wild Morning-glory)	Convolvulus spp.
Canada Thistle	Cirsium arvense (L.) Scop.
Houndstounge	Cynoglossum officianale L.
Saltcedar	Tamarix ramosissima Ledeb.
Quackgrass	Agropyron repens (L.) Beauv.

* Bermudagrass (Cynodon dactylon) shall not be a noxious weed in Washington County and shall not be subject to provisions of the Utah Noxious Weed Law within the boundaries of that county. It shall be a noxious weed throughout all other areas of the State of Utah and shall be subject to the laws therein.

R68-9-4. Prescribed Treatment for Articles.

A. As provided in Section 4-17-3, the Commissioner has determined that the following treatments shall be considered minimum to prevent dissemination of noxious weed seeds or such parts of noxious weed plants that could cause new growth by contaminated articles:

1. Machinery and Equipment.

a. It shall be unlawful for any person, company or corporation to

(1) bring any harvesting or threshing machinery, portable feed grinders, portable seed cleaners or other farm vehicles or machinery into the state without first cleaning such equipment free from all noxious weed seed and plant parts; or

(2) move any harvesting or threshing machinery, portable feed grinders or portable seed cleaners from any farm infested with any noxious weed without first cleaning such equipment free from all noxious weed seed and plant parts.

(a) Immediately after completing the threshing of grain or seed which is contaminated with noxious weeds, such machine is to be cleaned by:

(1) removing all loose material from the top and side of the machine by sweeping with a blower

(2) opening the lower end of elevator, return and measuring device and removing infested material from shakers, sieves, and other places of lodgement;

(3) running the machine empty for not less than five minutes, alternately increasing and retarding the speed; and

(4) following the manufacturer's detailed suggestions for cleaning the machine.

2. Farm Trucks and Common Carriers.

It shall be unlawful for any person, company or corporation to transport seed, screenings or feed of any kind containing noxious weed seed over or along any highway in this State or on any railroad operating in this State unless the same is carried or transported in such vehicles or containers which will prevent the leaking or scattering thereof. All common carriers shall thoroughly clean and destroy any noxious weed seeds or plant parts in cars, trucks, vehicles or other receptacles used by them after each load shall have been delivered to consignee before again placing such car, truck, vehicle or receptacle into service.

3. Seed.

a. It shall be unlawful for any person, firm or corporation to sell, offer or expose for sale or distribute in Utah any agricultural, vegetable, flower or tree and shrub seeds for seeding purposes which contain any seeds of those weeds declared noxious by the Commissioner of Agriculture and Food.

b. It shall be the duty of the State Agricultural Inspector to remove from sale any lots of seeds offered for sale which are found to contain noxious weed seeds. Such seed may be recleaned under the supervision of the inspector and, if found to be free from noxious weed seeds, the same may be released for sale or distribution; otherwise, such seed shall be returned to point of origin, shipped to another state where such weed shall be returned to point of origin, shipped to another state where such weed seed is not noxious, or destroyed or processed in such a manner as to destroy viability of the weed seeds.

4. Screenings Sold for Livestock Feed.

a. All screenings or by-products of cleaning grains or other seeds containing noxious weed seeds, when used in commercial feed or sold as such to the ultimate consumer, shall be ground fine enough or otherwise treated to destroy such weed seeds so that the finished product contains not more than six whole noxious weed seeds per pound.

b. All mills and plants cleaning or processing any grains or other seeds shall be required to grind or otherwise treat all screenings containing noxious weed seeds so as to destroy such weed seeds to the extent that the above stated tolerance is not exceeded before allowing the same to be removed from the mill or plant. Such screenings may be moved to another plant for grinding and treatment; provided that: each container or shipment is labeled with the words "screenings for

processing - not for seeding or feeding" and with the name and address of the consignor and the consignee.

5. Livestock Feed Material.

a. It shall be unlawful for any person, company or corporation to sell or offer for sale, barter or give away to the ultimate consumer any livestock feed material, including whole grains, which contain more than six whole noxious weed seeds per pound. Whole feed grain which exceeds this tolerance of noxious weed seeds may be sold to commercial processors or commercial feed mixers where the manner of processing will reduce the number of whole noxious weed seed to no more than six per pound.

6. Hay, Straw or Other Material of Similar Nature.

a. It shall be unlawful for any person, company or corporation to sell or offer for sale, barter or give away any hay, straw, or other material of similar nature, which is contaminated with mature noxious weed seeds or such parts of noxious weed plants which could cause new growth, or to alter, change or falsify in anyway information contained on a phytosanitary certificate.

7. Manure.

a. Manure produced from grain, hay, or other forage infested with noxious weeds shall not be applied or dumped elsewhere than upon the premises of the owner thereof.

8. Soil, Sod and Nursery Stock.

a. No soil, sod or nursery stock which contains or is contaminated with noxious weed seeds, or such parts of the plant that could cause new growth, shall be removed from the premises upon which it is located until cleaned of such weed seed or plant parts, except that such contaminated soil may be used for restrictive non-planting purposes upon permission and under direction of the county weed supervisor or a representative of the Utah Department of Agriculture and Food.

9. Noxious Weeds Distributed or Sold for Any Purpose.

a. It shall be unlawful for any person, company or corporation to sell, barter or give away any noxious weed plants or seeds for any purpose.

10. Livestock.

a. No livestock to which grain, hay, or other forage containing noxious weed seeds has been fed shall be permitted to range or graze upon fields other than those upon which they have been so fed for a period of 72 hours following such feeding. During such period, they shall be fed materials which are not contaminated with noxious weed seeds.

KEY: weed control
Date of Enactment or Last Substantive Amendment: [~~November 3, 1997~~]2008
Notice of Continuation: June 13, 2003
Authorizing, and Implemented or Interpreted Law: 4-2-2; 4-17-3

♦ ♦

Agriculture and Food, Plant Industry
R68-16
Quarantine Pertaining to Pine Shoot Beetle, Tomicus piniperda

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31126
FILED: 04/04/2008, 14:43

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment adds states and counties that are currently infested with pine shoot beetles. This list is the same as other western states. The restrictions are changing and two new sections are added, certification and treatment and management methods.

SUMMARY OF THE RULE OR CHANGE: New infested states and counties were added. The division is changing restrictions sections, and adding two new sections, certification and treatment and management methods.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 4-2-2(1)(k) and Section 4-35-9

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no additional costs to the state associated with the proposed rule change because this is just identifying insect pests and origin, not control.

❖ LOCAL GOVERNMENTS: There are no costs to local government associated with the proposed rule changes because this is just identifying insect pests and origin, not control.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no costs to small businesses associated with the proposed rule changes because this is just identifying insect pests and origin, not control.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no costs to individuals associated with the proposed rule changes because this is just identifying insect pests and origin, not control.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Pine shoot beetle is on the Federal Domestic Quarantine list. These changes better represent the infested states and counties in those states that have pine shoot beetles. Utah considers this insect a threat to our nursery and fruit industries. The pine shoot beetles have not been found in Utah. It is the goal of the Utah Department of Agriculture and Food to prevent an introduction in the state of any invasive species. Making these changes will reinforce that goal. Leonard M. Blackham, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Kathleen Mathews or Clair Allen at the above address, by phone at 801-538-7103 or 801-538-7180, by FAX at 801-538-7126 or 801-538-7189, or by Internet E-mail at kmathews@utah.gov or ClairAllen@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 06/02/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 06/09/2008

AUTHORIZED BY: Leonard M. Blackham, Commissioner

R68. Agriculture and Food, Plant Industry.
R68-16. Quarantine Pertaining to Pine Shoot Beetle, Tomicus piniperda.
R68-16-3. Areas Under Quarantine.

[~~A. The counties in the states listed below are hereby considered quarantined areas due to the confirmed presence of the Pine Shoot Beetle, Tomicus piniperda (Linnaeus):~~

~~1. Illinois: Kane County~~

~~2. Indiana: Allen, Elkhart, Fulton, Jasper, Kosciusko, LaGrange, Lake, Laporte, Marshall, Newton, Noble Porter, Pulaski, St. Joseph, Starke, Stueben, Wells and Whitley counties.~~

~~3. Michigan: Cass, Monroe, St. Joseph and Barrien counties.~~

~~4. New York: Erie and Niagara counties.~~

~~5. Ohio: Ashland, Ashtabula, cuyahoga, Geauga, Huron, Lake, Lorain, Mahoning, Medina, Portage, Richland, Summit, Trumbull, and Wayne counties.~~

~~6. Pennsylvania: Crawford, Erie, and Lawrence counties.~~

~~B. Any areas not mentioned above and subsequently found to be infested.~~]All areas of the United States and Canada that are declared high risk by the United States Department of Agriculture, Animal and Plant Health Inspection Service, plant protection and quarantine or Utah Commissioner of Agriculture and Food.

R68-16-4. Articles and Commodities Under Quarantine.

The following are hereby declared to be regulated articles, hosts, and possible carriers of the Pine Shoot Beetle:

A. The Pine Shoot Beetle, Tomicus piniperda (Linnaeus), in any living stage of development.

B. Plants of the genus Pinus spp. whether balled and burlapped or cut live for use as Christmas trees.

C. Timber pine bark products or whole log forms of the genus Pinus spp., Abies spp., Larix spp., and Picea spp. with any bark intact.

D. Ornamental foliage from the genus Pinus spp. including pine wreaths and garlands, raw materials for wreaths and garlands, bark nuggets and bark chips.

E. Any other plant, plant part, article, or means of conveyance when it is determined by the Commissioner of the Department of Agriculture and Food or the Commissioner's duly authorized agent to present a hazard of spreading live Pine Shoot Beetle due to infestation or exposure to infestation by Pine Shoot Beetle.

R68-16-5. Restrictions.

A. All articles and commodities under quarantine are prohibited entry into Utah from an area under quarantine with the following exceptions:

1. From uninfested areas of the states listed in R68-16-3 when accompanied by a certificate of origin stating the origin of the material and that the plant material originated from an area not known to be infested with the Pine Shoot Beetle.

[~~2. Regulated logs and lumber may be permitted entry only when such articles are certified by an authorized state or federal inspector to have been fumigated in accordance with the following schedule: Logs and lumber may be treated with methyl bromide at normal atmospheric pressure with 48 g/m3 (3 lbs/1000 ft.3) for 16 hours at 21 C (70 F), or above, or 80 g/m3 (5 lb./1000 ft. 3) for 16 hours at 4.5 - 22.5 C (40 - 69 F). Additionally, such treated articles shall be protected from reinfestation prior to shipping and an official fumigation certificate signed by or bearing a facsimile signature of the authorized agricultural inspection official of the state of origin shall accompany each load or lot of regulated articles so fumigated. Such certificate shall include, but not be limited to the following information: Verification that the articles were fumigated, the date, the exact location or place of fumigation and the dosage of the fumigant used.~~]2. Regulated articles as listed in 7 CFR Chapter III 301.51-2.

R68-16-6. [~~Disposition of Violations~~]Treatment and Management Methods.

All treatment shall follow procedures as described in 7 CFR Chapter III 301.50-10.

R68-16-7. Disposition of Violations.

Any or all shipments or lots of quarantined articles or commodities listed in R68-16-4, arriving in Utah in violation of this quarantine shall immediately be sent out of the state, destroyed, or treated by a method and in a manner as directed by the Commissioner of the Utah Department of Agriculture and Food or his agent. Treatment shall be performed at the expense of the owner, or owners, or their duly authorized agent.

KEY: quarantine
Date of Enactment or Last Substantive Amendment: [~~1994~~]2008
Notice of Continuation: June 13, 2003
Authorizing, and Implemented or Interpreted Law: 4-2-2(1)(k); 4-35-9

Commerce, Administration
R151-46b
Department of Commerce
Administrative Procedures Act Rules

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31138
FILED: 04/11/2008, 15:45

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These changes are intended to clarify existing procedures and to establish procedures for the prompt resolution of adjudicative proceedings.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment would change several provisions that govern adjudicative proceedings in this department. Sections R151-46b-5 and R151-46b-8 clarify that filing and service may be accomplished by electronic means and standards are established for such filing or service. Sections R151-46b-5, R151-46b-7, R151-46b-9, R151-46b-10, and R151-46b-11 establish time frames for the completion of adjudicative proceedings. Subsection R151-46b-10(12) states that in informal adjudicative proceedings, a hearing record may be transcribed by a certified court reporter or one who is not a party in interest, contains a definition of "a party in interest", and requires an affidavit when a person other than a certified court reporter prepares the transcript. Finally, language in Section R151-46b-12 is clarified; references are updated based upon recent statutory amendments; the reference to the Pete Suazo Utah Athletic Commission is removed, because that Commission is no longer housed within the department; and based upon statutes of the Division of Corporations and Commercial Code, provisions are added clarifying when agency review is not available as to that division's adjudicative proceedings.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 13-1-6 and Title 63, Chapter 46b

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: These changes do not appear to affect the state budget in any measurable fashion, because they are largely intended to clarify administrative procedures and to speed up adjudicative proceedings before the department. It is not expected that the more prompt completion of adjudications could be more costly to the Department or its various divisions.

❖ LOCAL GOVERNMENTS: This rule does not apply to local governments, because local governments are not parties to administrative proceedings within the department.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: It is possible that the regulated professionals and their small businesses could benefit from speedier process and from the alternatives to preparing a hearing transcript in an informal adjudicative proceeding. However, that savings is difficult to estimate.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It is possible that the regulated professionals could benefit from speedier process and from the alternatives to preparing a hearing transcript in an informal adjudicative proceeding. However, that savings is difficult to estimate.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is foreseen from this rule filing beyond those discussed above. Francine A. Giani, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Masuda Medcalf at the above address, by phone at 801-530-7663, by FAX at 801-530-6446, or by Internet E-mail at mmedcalf@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 06/02/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 06/09/2008

AUTHORIZED BY: Francine Giani, Executive Director

R151. Commerce, Administration.
R151-46b. Department of Commerce Administrative Procedures Act Rules.
R151-46b-2. Definitions.

In addition to the definitions in Title 63, Chapter 46b, Administrative Procedures Act, which apply to these rules:

(1) "Agency head" means the executive director of the department, the director of a division, or the [~~administrative secretary of the~~]committee's residential and small commercial representative, respectively, as used in context.

(2) "Applicant" means a person who submits an application.

(3) "Application" means a request for licensure, certification, registration, permit, or other right or authority granted by the department.

(4) "Committee" means the Committee of Consumer Services of the department.

(5) "Department" means the department, a division, or the committee, respectively or collectively, as used in context.

(6) "Division" means a division of the department.

(7) "Intervenor" means a person permitted to intervene in an adjudicative proceeding before the department.

(8) "Motion" means a request for any action or relief submitted to the presiding officer in an adjudicative proceeding.

(9) "Petition" means the charging document, typically incorporated by reference into a notice of agency action, setting forth a statement of jurisdiction, statement of allegations, statement of legal authority, and prayer for relief.

(10) "Pleadings" include the notice of agency action or request for agency action, any response filed thereto, the petition, motions, briefs or other documents filed by the parties to an adjudicative proceeding, any request for agency review or agency reconsideration, any response filed thereto, and any motions, briefs or other documents filed by the parties on agency review.

(11) "Record" means the record of a hearing in an adjudicative proceeding or the record of the entire adjudicative proceeding, as used in context.

R151-46b-5. General Provisions.

(1) Liberal Construction.

These rules shall be liberally construed to secure the just, speedy, and economical determination of all issues presented in adjudicative proceedings before the department.

(2) Deviation from Rules.

The presiding officer may permit or require a deviation from these rules upon a determination that compliance therewith is impractical or unnecessary.

(3) Utah Rules of Civil Procedure.

The Utah Rules of Civil Procedure and case law thereunder may be looked to as persuasive authority upon these rules, but shall not, except as otherwise provided by Title 63, Chapter 46b, Administrative Procedures Act, or by these rules, be considered controlling authority.

(4) Computation of Time.

(a) Periods of time prescribed or allowed by these rules, by any applicable statute or by an order of a presiding officer shall be computed as to exclude the first day of the act, event, or default from which the designated period of time begins to run. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. Whenever a party has the right or is required to do some act or take some action within a prescribed period after the service of a notice or other paper upon him and service is by mail, three days shall be added to the prescribed period. No additional time is provided if service is accomplished by facsimile or other electronic means.

(b) [~~For~~]Subject to the provisions of Subsections R151-46b -5(5)(b) and -9(9)(c)(ii), for good cause shown, the presiding officer may extend a time period under these rules on his own motion or upon written application from either party.

(5) Extension of Time; Continuance of Hearing.

(a) When a statute, or these rules, authorizes the presiding officer to extend a time period or grant a continuance of a hearing, the presiding officer shall consider the following factors, and such other factors as may be appropriate, in determining whether to grant such extension or continuance:

(i[~~a~~]) whether there is good cause for granting the extension or continuance;

(ii[~~b~~]) the number of extensions or continuances the requesting party has already received;

(iii[~~c~~]) whether the extension or continuance will work a significant hardship upon the other party;

(iv[~~d~~]) whether the extension or continuance will be prejudicial to the health, safety or welfare of the public; and

(v[~~e~~]) whether the other party objects to the extension or continuance.

(b)(i) Notwithstanding the provisions of Subsection R151-46b-5(2) or any other provision of these rules, and except as provided in Subsection (5)(b)(ii), an extension of a time period or a continuance of a hearing may not result in the hearing being concluded more than 240 calendar days after the day on which:

(A) the notice of agency action was issued; or

(B) the initial decision with respect to a request for agency action was issued.

(ii) Notwithstanding the provisions of Subsection (5)(b)(i), an extension of a time period or a continuance may exceed the time restriction outlined in Subsection (5)(b)(i) only if:

(A) a party provides an affidavit or certificate signed by a licensed physician verifying that the party's illness precludes the party's presence at the hearing; and

(B) the presiding officer finds that injustice would result from failing to grant the extension or continuance.

(iii) The failure of the presiding officer to comply with the requirements of this Subsection (5)(b) is not a basis for dismissal of the matter.

(6) Conflict.

In the event of a conflict between these rules and any statutory provision, the statute shall govern.

(7) Necessity of Compliance with GRAMA.

To the extent that the Utah Government Records Access and Management Act ("GRAMA") would impose a restriction on the ability of a party to disclose any record which would otherwise have to be disclosed under these rules, such record shall not be disclosed except upon compliance with the requirements of that Act.

R151-46b-7. Pleadings.

(1) Docket Number and Title.

The department shall assign a docket number to each notice of agency action and request for agency action. The docket number shall consist of a letter code identifying the division or committee in which the matter originated (CORP-Corporations; CP-Consumer Protection; CCS-Committee of Consumer Services; DOPL-Occupational and Professional Licensing; RE-Real Estate, AP-Real Estate Appraisers; SD-Securities), a numerical code indicating the year the matter arose, and another number indicating chronological position among notices of agency action or requests for agency action filed during the year. The department shall give each adjudicative proceeding a title that shall be in substantially the following form:

TABLE I

BEFORE THE (DIVISION/COMMITTEE) OF THE DEPARTMENT OF COMMERCE OF THE STATE OF UTAH	
In the Matter of (the application, petition or license of John Doe)	(Notice of Agency Action) (Request for Agency Action) No. AA-2000-001

(2) Content and Size of Pleadings.

Pleadings shall be double-spaced, typewritten and presented on standard 8 1/2 x 11 inch white paper. Pleadings shall contain a clear and concise statement of the allegations or facts relied upon as the basis for the pleading, together with an appropriate prayer for relief when relief is sought.

(3) Signing of Pleadings.

Pleadings shall be signed by the party or the party's representative and shall show the signer's address. The signature shall be deemed to be a certification that the signer has read the pleading and that, to the best of his knowledge and belief, there is good ground to support it.

(4) Amendments to Pleadings.

A party may amend a pleading once as a matter of course at any time before a responsive pleading is served. Otherwise, a party may amend a pleading only by leave of the presiding officer or by written consent of the adverse party. Leave shall be freely given when justice so requires. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within ten days after service of the amended pleading, whichever period may be longer, unless the presiding officer otherwise orders. Defects in a pleading that do not affect substantial rights of a party need not be amended and shall be disregarded.

(5) Response to a Notice of Agency Action.

(a) Formal Adjudicative Proceedings.

In accordance with Subsection 63-46b-3(2)(a)(vi), a respondent in a formal adjudicative proceeding shall file a response to the notice of agency action.

(b) Informal Adjudicative Proceedings.

(i) In accordance with Subsection 63-46b-5(1)(a), a respondent in an informal adjudicative proceeding may file, but is not required to file except as provided in Subsection (ii), a response to a notice of agency action.

(ii) The presiding officer may, upon a determination of good cause, require a person against whom an informal adjudicative proceeding has been initiated to submit a response by so ordering in the notice of agency action or the notice of receipt of request for agency action.

(c) Time Period for Filing a Response.

Unless a different date is established by law, rule, or by the presiding officer, a response to a notice of agency action or a notice of receipt of request for agency action shall be filed within 30 days of the mailing date of the notice.

(6) Motions.

(a) General. Any motion that is relevant to an adjudicative proceeding and is timely may be filed. All motions shall be filed in writing, unless the necessity for a motion arises at a hearing and could not have been anticipated prior to the hearing. Subsection 63-46b-1(4)(b) shall not be construed to prohibit a presiding officer from granting a timely motion to dismiss for failure to prosecute, failure to comply with these rules, failure to establish a claim upon which relief may be granted, or any other good cause basis.

(b) Time for Filing Motions to Dismiss.

Any motion to dismiss on a ground described in Rule 12(b)(1) through (7) of the Utah Rules of Civil Procedure shall be filed prior to filing a responsive pleading if such a pleading is permitted unless, subject to Subsections R151-46b-5(5)(b) and -9(9)(c)(ii), the presiding officer allows additional time upon a determination of good cause.

(c) Memoranda and Affidavits.

The presiding officer shall permit and may require memoranda and affidavits in support or contravention of a motion. Unless otherwise governed by a scheduling order issued by the presiding officer, any memorandum or affidavits in support of a motion shall be filed concurrently with the motion, any memorandum or affidavits in response to a motion shall be filed no later than ten days after service of the motion, and any final reply shall be filed no later than five days after service of the response.

(d) Oral Argument.

(i) The presiding officer may permit or require oral argument on a motion.

(ii) Any oral argument on a motion shall be scheduled to take place no more than 21 calendar days after the day on which the final submission on the motion is filed.

(e) Ruling on a motion.

(i) The presiding officer shall rule on a motion at the conclusion of oral argument whenever possible.

(ii) If the presiding officer does not rule on a motion at the conclusion of oral argument, the presiding officer shall issue an order on the motion no more than 30 calendar days after:

(A) oral argument; or

(B) if there was no oral argument, the final submission on the motion.

(iii) The failure of the presiding officer to comply with the requirements of this Subsection (6)(e) is not a basis for dismissal of the matter, and may not be considered an automatic denial or grant of the motion.

R151-46b-8. Filing and Service.

(1) Filing.

(a) Pleadings shall be filed with the agency[~~division or committee~~] in which the adjudicative proceeding is being conducted. If an administrative law judge is conducting part of the adjudicative proceeding, then the party shall cause a courtesy copy of such pleadings to be filed with the administrative law judge. The filing of discovery documents is governed by Subsection R151-46b-9(11)(a).

(b) Manner and time of filing. A filing may be accomplished by hand delivery or by mail to the agency in which the adjudicative proceeding is being conducted. A filing may also be accomplished by facsimile or other electronic means, so long as the original document is also mailed to the agency the same day. Filing by electronic means is complete upon transmission if transmission is completed during normal business hours at the place receiving the filing; otherwise, filing is complete on the next business day. A filing by electronic means is not effective unless the agency receives all pertinent pages of the document transmitted. The burden is on the party filing the document to ensure that a transmission is properly completed.

(2) Service.

Pleadings filed by the parties and documents issued by the presiding officer shall be served upon the parties to the adjudicative proceeding concurrently with the filing or issuance thereof. The party who files the pleading shall be responsible for service of the pleading. The presiding officer who issues a document shall be responsible for service of the document.

(a) Service may be made upon any person upon whom a summons may be served in accordance with the Utah Rules of Civil Procedure and may be made personally or upon the agent of the person being served. If a party is represented by an attorney, service may be made upon the attorney.

(b) Service may be accomplished by hand delivery or by mail to the last known address of the intended recipient. Service by mail is complete upon mailing. Service may also be accomplished by facsimile or other electronic means. Service by electronic means is complete on transmission if transmission is completed during normal business hours at the place receiving the service; otherwise, service is complete on the next business day.

(c) There shall appear on all documents required to be served a certificate of service in substantially the following form:

TABLE II

CERTIFICATE OF SERVICE
I hereby certify that I have this day served the foregoing document upon the parties of record in this proceeding set forth below (by delivering a copy thereof in person) (by mailing a copy thereof, properly addressed by first class mail with postage prepaid, to) (by facsimile/electronic means and first class mail to):

(Name(s) of parties of record)
(Address(es))

Dated this (day) day of (month), (year).

(Signature)
(Title)

R151-46b-9. Discovery - Formal Proceedings Only.

This rule applies only to formal adjudicative proceedings. Discovery is prohibited in informal adjudicative proceedings.

(1) Scope of discovery.

(a) Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the proceeding, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party.

(b) Subject to the provisions of Subsections R151-46b-9(1)(c) and R151-46b-9(3)(a), a party may obtain discovery of documents and tangible things otherwise discoverable under Subsection R151-46b-9(1)(a) and prepared in anticipation of litigation or for hearing by or for another party or by or for that party's representative, including his attorney, consultant, insurer or other agent, only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of his case and that he is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the presiding officer shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation.

(c) Discovery of facts known and opinions held by experts, otherwise discoverable under the provisions of Subsection R151-46b-9(1)(a) and acquired or developed in anticipation of litigation or for hearing, may be obtained only through the disclosures required by Subsection R151-46b-9(3)(a).

(2) Disclosures Required By Initial Prehearing Order.

(a) Pursuant to the initial prehearing order issued in accordance with Subsection R151-46b-9(9)(c), the presiding officer may require each party to disclose:

(i) the name and, if known, the address and telephone number of each individual likely to have discoverable information supporting its claims or defenses, identifying the subjects of the information; and

(ii) a copy of, or a description by category and location of, and reasonable access to, all discoverable documents, data compilations, and tangible things which are in its possession, custody, or control and which support its claims or defenses.

(b) The order shall not require disclosure of expert testimony, which is governed by Subsection R151-46b-9(3)(a). The order also shall not require the disclosure of information regarding persons or things intended to be used solely for impeachment.

(c) The disclosures required by Subsection R151-46b-9(2)(a) shall be made within 14 days after the written initial prehearing order is issued unless that order provides otherwise. A party joined after the initial prehearing conference shall make these disclosures within 30 days after being served unless otherwise stipulated by the parties or ordered by the presiding officer. A party shall make initial disclosures based on the information then reasonably available and is not excused from making disclosures because the party has not fully completed the investigation of the case or because the party challenges the sufficiency of another party's disclosures or because another party has not made disclosures.

(3) Disclosures Otherwise Required.

(a) Expert Testimony.

A party shall disclose the name, address and telephone number of any person who may be called as an expert witness at the hearing.

(i) Except as otherwise stipulated by the parties or ordered by the presiding officer, this disclosure shall, with respect to a witness who is retained or specially employed to provide expert testimony in the case or whose duties as an employee of the party regularly involve giving expert testimony, be accompanied by a written report prepared and signed by the witness. The report shall contain a complete statement of all opinions to be expressed and the basis and reasons therefore; the data or other information considered by the witness in forming the opinions; any exhibits to be used as a summary of or support for the opinions; the qualifications of the witness, including a list of all publications authored by the witness within the preceding ten years; the compensation to be paid for the study and testimony; and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.

(ii) Unless otherwise stipulated by the parties or ordered by the presiding officer, the disclosures required by Subsection R151-46b-9(3)(a) shall be made within 30 days after the expiration of discovery as provided by Subsection R151-46b-9(7)(b) or, if the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party under Subsection R151-46b-9(3)(a)(i), within 60 days after the disclosure made by the other party.

(b) Prehearing Disclosures.

In addition to the disclosures required pursuant to Subsection R151-46b-9(3)(a), a party shall disclose the following information regarding the evidence that it may present at trial other than solely for impeachment purposes:

(i) the name and, if not previously provided, the address and telephone number of each witness, including the general scope of their anticipated testimony, separately identifying those whom the party expects to present and those whom the party may call if the need arises;

(ii) the designation of those witnesses whose testimony is expected to be presented by means of a deposition and, if not taken stenographically, a transcript of the pertinent portions of the deposition testimony; and

(iii) an appropriate identification of each document or other exhibit, including summaries of other evidence, separately identifying those which the party expects to offer and those which the party may offer if the need arises.

These disclosures shall be made at least 30 days before the hearing unless otherwise ordered by the presiding officer. A party may serve and file any objection to the use under Subsection R151-46b-9(13)(i) of a deposition designated by another party under Subsection R151-46b-9(3)(b)(ii) and any objection, together with the grounds therefore, as to the admissibility of materials identified under Subsection R151-46b-9(3)(b)(iii). Any such objections shall be made within 14 days after service of the disclosures required by Subsection R151-46b-9(3)(b) unless a different time is specified by the presiding officer. Objections not timely made under this Subsection, other than objections on grounds of relevancy, shall be deemed waived unless excused by the presiding officer for good cause shown.

(c) Form of Disclosures.

Unless otherwise stipulated by the parties or ordered by the presiding officer, all disclosures under Subsections R151-46b-9(2) through (3)(b) shall be made in writing, signed and served.

(4) Other Discovery Methods.

Parties may also obtain discovery by one or more of the following methods: depositions upon oral examination as provided in these rules, production of documents or things, permission to enter upon land or other property for inspection and other purposes, and physical and mental examinations.

(5) Limits on Use of Discovery.

The frequency and extent of use of the discovery methods set forth in Subsection R151-46b-9(4) shall be limited by the presiding officer if it is determined that:

(a) the discovery sought is unreasonably cumulative, duplicative or is obtainable from some other source that is more convenient, less burdensome, or less expensive;

(b) the party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought; or

(c) the discovery is unduly burdensome or expensive, taking into account the needs of the case, the amount in controversy, limitations on the parties' resources, and the importance of the issues at stake in the litigation. The presiding officer may act on his own motion after reasonable notice or pursuant to a motion under Subsection R151-46b-9(6).

(6) Protective Orders.

Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the presiding officer may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(a) that the discovery not be had;

(b) that the discovery may be had only on specified terms and conditions, including a designation of the time or place;

(c) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery;

(d) the certain matters not be inquired into, or that the scope of the discovery be limited to certain matters;

(e) that discovery be conducted with no one present except persons designated by the presiding officer;

(f) that a deposition after being sealed be opened only by order of the presiding officer;

(g) that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way;

(h) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the presiding officer.

If the motion for a protective order is denied in whole or in part, the presiding officer may, on such terms and conditions as are just, order that any party or person provide or permit discovery.

(7) Timing, Completion and Sequence of Discovery.

(a) A party may not use any of the discovery methods described in Subsection R151-46b-9(4) prior to the date that the disclosures required in the initial prehearing order are received unless otherwise stipulated by the parties or ordered by the presiding officer. If the initial prehearing order does not require the parties to make disclosures, then the parties may use those discovery methods at any time after the date of the initial prehearing conference.

(b) Unless otherwise stipulated by the parties or ordered by the presiding officer for good cause shown, all discovery, except for prehearing disclosures governed by Subsection R151-46b-9(3), shall be completed within 120 days after the date of the initial prehearing conference. Factors the presiding officer shall consider in determining whether a party has demonstrated good cause to shorten this time period include whether that party's interests will be prejudiced if the time period is not shortened, whether the relative simplicity or nonexistence of factual issues justifies a shortening of discovery time, and whether the health, safety or welfare of the public will be prejudiced if the time period is not shortened. Factors the presiding officer shall consider in determining whether a party has demonstrated good cause to extend this time period include, in addition to those set forth in R151-46b-5(5), whether the complexity of the case warrants additional discovery time, and whether that party has made reasonable and prudent use of the discovery time that has already been available to the party since the proceeding commenced.

(c) Unless the presiding officer upon motion, for the convenience of parties and witnesses and in the interests of justice, orders otherwise, and except as otherwise provided by these rules, methods of discovery described in Subsection R151-46b-9(4) may be used in any sequence. The fact that a party is conducting discovery shall not operate to delay any other party's discovery.

(8) Supplemented Disclosures and Amended Responses. A party who has made a disclosure under Subsections (2) or (3) or responded to a request for discovery with a response that was complete when made shall supplement the disclosure or amend the response to include information thereafter acquired if ordered by the presiding officer or in the following circumstances:

(a) A party shall supplement at appropriate intervals disclosures under Subsections R151-46b-9(2) and (3) if the party learns that in some material respect the information disclosed is incomplete or incorrect and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing. With respect to testimony of an expert from whom a report is required under Subsection R151-46b-9(3)(a), the duty extends to information contained in the report, and any additions or other changes to this information shall be disclosed by the time the party's disclosures under Subsection R151-46b-9(3)(b) are due.

(b) A party shall amend a prior response to a request for production within a reasonable time after the party learns that the response is in some material respect incomplete or incorrect and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing.

(9) Initial Prehearing Conference.

(a) The party initiating the adjudicative proceeding shall file a written request for the scheduling of an initial prehearing conference and provide a copy to the presiding officer within 10 days after the filing of the response to the notice of agency action or within 10 days after the filing of the request for agency action in a case commenced by such a request. The presiding officer shall contact the parties upon receiving that request for the scheduling of the conference and arrange for that conference to be held at the earliest feasible time. Nothing in this rule shall limit the ability of the presiding officer to contact the parties and schedule the conference on his own initiative.

(b) The conference may be conducted either in person or telephonically. All parties, or their counsel, shall participate in the conference. The conference shall include discussion of discovery, prehearing motions and other matters pertaining to the orderly management of the proceeding.

(c) During the initial prehearing conference, the presiding officer shall issue a verbal order regarding the following matters, and shall issue a written order to the same effect after the conference is concluded:

(i) scheduling any additional prehearing conferences;

(ii) setting a deadline for the filing of all prehearing motions and cross-motions, including motions for summary judgment, which deadline shall allow for all motions to be submitted and ruled on prior to the hearing date;

(iii) modifying, if appropriate, any of the deadlines for disclosures under Subsection R151-46b-9(3);

(iv) resolving any discovery issues;

(v) scheduling a tentative hearing date, which notwithstanding the provisions of Subsection R151-46b-5(2), shall provide for the hearing to be concluded not more than 180 calendar days after the day on which:

(A) the notice of agency action was issued; or

(B) the initial decision with respect to a request for agency action was issued; and

(vi) dealing with any other matters appropriate in the circumstances of the case.

(d) A party joined after the initial prehearing conference is bound by the order issued as a result of that conference, unless the presiding officer orders on stipulation or motion a modification of that order. Any such stipulation or motion shall be filed within a reasonable time after joinder.

. . . . . .

(13) Depositions Upon Oral Examination: General provision; Persons who may be deposed.

Under the limited circumstances prescribed in this Subsection, a party may with leave of the presiding officer take the testimony by deposition upon oral examination of certain persons, including parties, who have knowledge of facts relevant to the claims or defenses of any party in the proceeding. The attendance of witnesses may be compelled by subpoena as provided in Subsection R151-46b-9(12). Depositions of expert witnesses shall not be permitted.

(a) Before a party may request leave to take a person's deposition, the party must first make diligent efforts to obtain discovery from that person by means of an informal interview. A party shall not be granted leave to take a deposition unless the party, upon motion, demonstrates to the satisfaction of the presiding officer that the person has knowledge of facts relevant to the claims or defenses of any party in the proceeding and:

(i) has refused a reasonable request by the moving party for an informal interview;

(ii) after having notice of at least two reasonable requests by that party for an informal interview, has failed to respond to those requests;

(iii) has refused to answer reasonable questions propounded to him by that party in an informal interview; or

(iv) will be unavailable to testify at the hearing.

In deciding whether to issue such an order, the presiding officer shall take into consideration the probative value which the testimony of that witness is likely to have in the proceeding. The burden of demonstrating the need for a deposition shall be upon the party requesting the deposition.

(b) Notice of Examination: General Requirements; Notice; Non-Stenographic Recording; Production of Documents and Things; Deposition of Organization; Deposition by Telephone.

(i) A party permitted to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced, as set forth in the subpoena, shall be attached to or included in the notice.

(ii) The parties may stipulate in writing or, upon motion, the presiding officer may order the testimony at a deposition be recorded by other than stenographic means. The stipulation or order shall designate the person before whom the deposition shall be taken, the manner of recording, preserving and filing the deposition, and may include other provisions to assure that the recorded testimony will be accurate and trustworthy. A party may arrange to have a stenographic transcription made at his own expense. Any objections under Subsection R151-46b-9(13)(c), any changes made by the witness, his signature identifying the deposition as his own or the statement of the officer that is required if the witness does not sign, as provided in this rule, and the certification of the officer required by Subsection R151-46b-9(13)(f), shall be set forth in a writing to accompany a deposition recorded by non-stenographic means.

(iii) The notice to a party deponent may be accompanied by a request made in compliance with Subsection R151-46b-9(14) for the production of documents and tangible things at the taking of the deposition.

(iv) A party may, in his notice and in a subpoena, name as the deponent a public or private corporation or a partnership or association or governmental agency and describe with reasonable particularity the matters on which examination is requested. In that event, the organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which he will testify. A subpoena shall advise a non-party organization of its duty to make such a designation. The persons so designated shall testify as to matters known or reasonably available to the organization. This subsection does not preclude taking a deposition by any other procedure authorized in these rules.

(v) The parties may stipulate in writing or, upon motion, the presiding officer may order a deposition be taken by telephone.

(c) Examination and Cross-Examination; Record of Examination; Oath; Objections.

Examination and cross-examination of witnesses may proceed as permitted at the hearing under the provisions of the Utah Administrative Procedures Act and the Utah Rules of Evidence. The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically or recorded by any other means ordered in accordance with Subsection R151-46b-9(13)(b)(ii) of this rule. If requested by one of the parties, the testimony shall be transcribed. All objections made at the time of the examination to the qualifications of the officer taking the deposition, to the manner of taking it, to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, parties may serve written questions in a sealed envelope on the party taking the deposition and he shall transmit them to the officer, who shall propound them to the witness and record the answer verbatim.

(d) Motion to Terminate or Limit Examination.

At any time during the taking of the deposition, on motion of either a party or the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the presiding officer may order the officer conducting the examination to cease forthwith from taking the deposition or may limit the scope and manner of the taking of the deposition, as provided in Subsection R151-46b-9(6). If the order made terminates the examination, it shall be resumed thereafter only upon the order of the presiding officer. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order.

(e) Submission to Witness; Changes; Signing.

When the testimony is fully transcribed, the deposition shall be submitted to the witness for examination and shall be read to or by him, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or

refuses to sign. If the deposition is not signed by the witness within 30 days of its submission to him, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefore. The deposition may then be used as though signed, unless a motion to suppress is filed pursuant to Subsection R151-46b-9(13)(i)(c)(v) and the presiding officer holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(f) Certification and Filing by Officer; Exhibits; Copies; Notice of Filing.

(i) The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness. Unless otherwise ordered by the presiding officer, he shall then securely seal the deposition in an envelope indorsed with the title of the action and marked "Deposition of (here insert name of witness)" and shall promptly send the sealed transcript of the deposition to the attorney who arranged for the transcript to be made. If the party taking the deposition is not represented by an attorney, the transcript of the deposition shall be filed with the division or committee before which the proceeding is being held unless otherwise ordered by the presiding officer. An attorney receiving the transcript of the deposition shall store it under conditions that will protect it against loss, destruction, tampering or deterioration. The officer shall file, and serve upon all parties, a certificate indicating to whom he delivered the transcript, and the date he did so.

Documents and things produced for inspection during the examination of the witness shall, upon the request of a party, be marked for identification and annexed to the deposition, and may be inspected and copied by any party, except that if the person producing the materials desires to retain them, he may either offer copies to be marked for identification and annexed to the deposition and to serve thereafter as originals, if he affords to all parties fair opportunity to verify the copies by comparison with the originals, or offer the originals to be marked for identification, after giving to each party an opportunity to inspect and copy them, in which event the materials may then be used in the same manner as if annexed to the deposition. Any party may move for an order that the original be annexed to the original transcript of the deposition pending final disposition of the case.

(ii) Upon payment of reasonable charges therefore, the officer shall furnish a copy of the deposition to any party or to the deponent.

(g) Failure to Attend or to Serve Subpoena; Expenses.

(i) If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the presiding officer may order the party giving the notice to pay to such other party the reasonable expenses incurred by him and his attorney in attending, including reasonable attorney's fees.

(ii) If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon him and the witness because of such failure does not attend, and if another party attends in person or by attorney because he expects the deposition of that witness to be taken, the presiding officer may order the party giving the notice to pay to such other party the reasonable expenses incurred by him and his attorney in attending, including reasonable attorney's fees.

(h) Persons Before Whom Depositions May Be Taken.

(i) Within the United States or within a territory or insular possession subject to the jurisdiction of the United States, depositions shall be taken before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held, or before a person appointed by the presiding officer in which the action is pending. A person so appointed has power to administer oaths and take testimony.

(ii) In a foreign country, depositions may be taken:

(A) on notice before a person authorized to administer oaths in the place in which the examination is held, either by the law thereof or by the law of the United States; or

(B) before a person commissioned by the presiding officer. The person so commissioned shall have the power, by virtue of his commission, to administer any necessary oath and take testimony. A commission shall be issued on application and notice and on terms that are just and appropriate. It is not requisite to the issuance of a commission that the taking of the deposition in any other manner in impracticable or inconvenient; and a commission may be issued in proper cases. A notice or commission may designate the person before whom the deposition is to be taken either by name or descriptive title.

(iii) No deposition shall be taken before a person who is a relative or employee or attorney or counsel of any of the parties, or is a relative or employee of such attorney or counsel, or is financially interested in the proceeding.

(i) Use of Depositions in Agency Adjudicative Proceedings.

(a) Use of Depositions.

At a hearing or upon argument of a motion or an interlocutory proceeding, any part or all of a deposition, so far as admissible under the rules of evidence applied as though the witness were then present and testifying, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice thereof, in accordance with any of the following provisions:

(i) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of the deponent as a witness, or for any other purpose permitted by the Utah Rules of Evidence.

(ii) The deposition of either a party or anyone who, at the time of taking the deposition, was an officer, director, or managing agent, or a person designated under Subsection R151-46b-9(13)(b)(iv) to testify on behalf of a public or private corporation, partnership or association or governmental agency which is a party, may be used by an adverse party for any purpose.

(iii) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the presiding officer finds that:

(A) the witness is dead;

(B) the witness is at a greater distance than 100 miles from the place of hearing, or is out of the United States, unless it appears that the absence of the witness was procured by the party offering the deposition;

(C) the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment;

(D) the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or

(E) upon application and notice, such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court, to allow the deposition to be used.

(iv) If only part of a deposition is offered in evidence by a party, an adverse party may require him to introduce any other part which ought, in fairness, to be considered with the part introduced, and any party may introduce any other parts.

All depositions lawfully taken and duly filed in any court or another agency of this state may be used as if originally taken in the pending proceeding. A deposition previously taken may also be used as permitted by the Utah Rules of Evidence.

(b) Objections to Admissibility.

Subject to the provisions of Subsection R151-46b-9(13)(i)(c), objection may be made at the hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

(c) Effect of Errors and Irregularities in Depositions.

(i) All errors and irregularities in the notice for taking a deposition are waived unless written objection is promptly served upon the party giving the notice.

(ii) Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

(iii) Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.

(iv) Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties, and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless seasonable objection thereto is made at the taking of the deposition.

(v) Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, indorsed, transmitted, filed, or otherwise dealt with are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained.

. . . . . .

R151-46b-10. Hearings.

(1) Hearings Required or Permitted.

A hearing shall be held in all adjudicative proceedings in which a hearing is:

(a) required by statute or rule and not waived by the parties; or

(b) permitted by statute or rule and timely requested.

(2) Time to Request Permissive Hearing.

A request for a hearing permitted by statute or rule must be received no later than:

(a) the time period for filing a response to a notice of agency action if a response is required or permitted;

(b) twenty days following the issuance of a notice of agency action if a response is not required or permitted; or

(c) the filing of the request for agency action.

(3) Scheduling of Hearings.

(a)(i) The date, time, and place of a hearing shall be set forth in the notice of agency action or the notice of receipt of request for agency action, or, if not known at the time of the notice, in a separate notice of hearing.

(ii) Notwithstanding the provisions of Subsection R151-46b-5(2), the date of a hearing shall provide for the hearing to be concluded not more than 180 calendar days after the day on which:

(A) the notice of agency action was issued; or

(B) the initial decision with respect to a request for agency action was issued.

(b) Subject to the provisions of Subsection R151-46b-5(5)(b), t[~~T~~]he presiding officer may, upon a determination of good cause, issue an order modifying the date, time, or place of a hearing.

(4) Hearings Open to Public; Exceptions.

(a) Any hearing in an adjudicative proceeding is open to the public unless closed by the presiding officer conducting the hearing, pursuant to Title 63, Chapter 46b, the Administrative Procedures Act, or by a presiding officer who is a public body, pursuant to Title 52, Chapter 4, the Open and Public Meetings Act.

(b) The deliberative process of an adjudicative proceeding is a quasi-judicial function exempt from the Open and Public Meetings Act. Deliberations are closed to the public.

(5) Bifurcation of Hearing.

The presiding officer, good cause appearing, may order a hearing bifurcated into a findings phase relative to the allegations set forth in the petition, and a sanctions phase, if required, based upon the findings.

(6) Order of Presentation in Hearings.

The order of presentation of evidence in hearings in formal adjudicative proceedings shall normally be as follows:

(a) opening statement of the party with the burden of proof;

(b) opening statement of the opposing party, unless the party reserves the opening statement until the presentation of its case-in-chief;

(c) case-in-chief of the party which has the burden of proof and cross examination of witnesses by opposing party;

(d) case-in-chief of the opposing party and cross examination of witnesses by the party with the burden of proof;

(e) rebuttal case by the party which has the burden of proof;

(f) surrebuttal case by the opposing party;

(g) further rebuttal or surrebuttal as permitted by the presiding officer;

(h) closing argument by the party which has the burden of proof;

(i) closing argument by the opposing party; and

(j) final argument by the party which has the burden of proof.

(7) Testimony Under Oath.

All testimony presented at a hearing, if offered as evidence to be considered in reaching a decision on the merits, shall be given under oath administered by the presiding officer.

(8) Telephonic Testimony.

(a) Telephonic testimony is only permissible in a formal adjudicative proceeding upon the consent of the parties or if warranted by exigent circumstances. Normally, expenses which would be incurred by a party to produce in-person testimony do not constitute an exigent circumstance as to justify telephonic testimony in a formal adjudicative proceeding. Telephonic testimony is generally permissible in an informal proceeding upon the request of any party.

(b) When telephonic testimony is to be presented, the presiding officer shall require that the identity of any witness so testifying be established. The presiding officer shall also provide safeguards to assure the witness does not refer to documents improperly and to reduce the possibility the witness may be coached or influenced during their testimony.

(9) Standard of Proof.

The standard of proof in all proceedings under these rules, whether initiated by a notice of agency action or request for agency action, shall be a preponderance of the evidence.

(10) Burden of Proof.

The department has the burden of proof in any proceeding initiated by a notice of agency action. The party who seeks action from the department has the burden of proof in any proceeding initiated by a request for agency action.

(11) Default Procedures.

(a) Order entering the default of a party.

(i) The presiding officer may enter the default of a party in accordance with Section 63-46b-11, sua sponte or upon motion of a party.

(ii) A party filing a motion for entry of default shall also file an affidavit substantiating the grounds for the motion.

(iii) If the submissions establish a basis for entry of default, the presiding officer may enter the default without notice to the defaulting party or a hearing.

(b) Additional proceedings.

(i) Following the entry of default, the presiding officer may, sua sponte or upon motion of a party, conduct further proceedings and enter a final order based on the submissions filed without notice to or participation by the defaulting party when:

(A) the relief sought against the party is specifically set forth in the pleadings that were served upon that party;

(B) the factual allegations contained in those pleadings are supported by affidavit or by a verified petition; and

(C) those factual allegations, and applicable law, support the granting of the relief sought against that party.

(ii) In all other cases, the presiding officer shall not enter a final order without conducting a hearing in which the party seeking relief may submit proffers, evidence, or legal arguments in support of the relief it requests against the defaulting party. The hearing may be held without notice to or participation by the defaulting party if the pleadings served upon the defaulting party set forth the potential relief which could be obtained against such party.

(c) The order of default and the final order may be concurrently issued.

(12) Record of Hearing.

(a) Record Requirement.

The presiding officer shall cause a record to be made of all prehearing conferences and all hearings which are conducted.

(b) Record Methods.

(i) Formal Adjudicative Proceedings.

The presiding officer shall cause the record of a hearing in a formal adjudicative proceeding to be made by means of a certified [~~shorthand~~]court reporter pursuant to Title 58, Chapter 74, Certified Court Reporters Licensing Act, unless the presiding officer determines it to be unnecessary or impracticable, in which case he shall cause the record to be made by means of an audio or video cassette recorder or other recording device.

(ii) Informal Adjudicative Proceedings.

The presiding officer may cause a record of a hearing in an informal adjudicative proceeding to be made by a method set forth in Subsection (i) or by minutes prepared or adopted by the presiding officer.

(c) Record Expense.

The hearing in an adjudicative proceeding shall be recorded at the expense of the agency.

(d) Transcription of Record.

(i) [~~The record of a hearing is not required to be transcribed. However, a party may elect to have the record of a hearing transcribed by the reporter who reported the hearing or by a person approved by the presiding officer.~~]If a party is required by Subsection R151-46b-12(3)(d) regarding agency review proceedings to obtain a transcript of a hearing, the party must ensure that the record is transcribed:

(A) in a formal adjudicative proceeding, by the certified court reporter who reported the hearing; or

(B) in an informal adjudicative proceeding, by any certified court reporter or by a person who is not a party in interest. For purposes of this Subsection, "a party in interest" is defined to include a party or a relative of the party. Neither a party's counsel nor an employee of a party's counsel is considered "a party in interest" for purposes of this Subsection.

(ii) Where a transcript is prepared by someone other than a certified court reporter, a party shall file an affidavit of the transcriber stating under penalty of perjury that the [~~A~~]transcript [~~of a hearing record shall contain the certification of the transcriber, stating that the transcript~~]is a correct and accurate transcription of the hearing record.

(iii) Pages and lines in a transcript shall be numbered for referencing purposes.

(iv[~~i~~]) The party requesting the transcript shall bear the cost of the transcription.

(v[~~iii~~]) The original transcript of a record of a hearing shall be filed with the presiding officer.

(13) Fees.

(a) Witness Fees.

Witnesses appearing upon the demand or at the request of a party shall be entitled to receive payment from that party in the amount of $18.50 for each day in attendance and, if traveling more than 50 miles to attend and return from the hearing, shall be entitled to receive 25 cents per mile for each mile thus actually and necessarily traveled. Any witness subpoenaed by a party other than the department may, at the time of service of the subpoena, demand one day's witness fee and mileage in advance and unless such fee is tendered, the witness shall not be required to appear.

(b) Interpreter and Translator Fees.

Interpreters and translators, including those skilled in foreign languages and communication with the deaf, shall be allowed such compensation for their services as the presiding officer may allow.

(c) Officers and Employees not Entitled to Fees - Exception.

No officer or employee of the United States, or of the State of Utah, or of any county, incorporated city or town within the State of Utah, shall receive any witness fee when testifying in an adjudicative proceeding unless the officer or employee is required to testify at a time other than during his normal working hours.

(d) Only One Fee Per Day Allowed.

No witness shall receive fees in more than one adjudicative proceeding on the same day.

R151-46b-11. Orders.

(1) Requirements.

(a) All orders issued by a presiding officer shall comply with the requirements of Subsection 63-46b-5(1)(i) or Section 63-46b-10, respectively. In the case of default orders and orders issued subsequent to a default order, the requirements of Subsections 63-46b-5(1)(i)(iii) and (iv) and 63-46b-10(1)(e),(f) and (g) are satisfied if the order includes a notice of the right to seek to set aside the order as provided in Subsection 63-46b-11(3).

(b) The presiding officer shall issue an order within 30 calendar days after the day on which the hearing concludes.

(c) If the presiding officer permits the filing of any post-hearing documents, that filing shall be scheduled in a way that allows the presiding officer to issue an order within 30 calendar days after the day on which the hearing concludes.

(d) The failure of the presiding officer to comply with the requirements of this Subsection (1) is not a basis for dismissal of the matter, and may not be considered an automatic denial or grant of any motion.

(2) Effective Date.

The effective date of the final order in an adjudicative proceeding shall be 30 days after the issuance thereof unless otherwise provided in the order.

(3) Clerical Mistakes.

Clerical mistakes in orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the department on its own initiative or on the motion of any party and after such notice, if any, as the department orders. Such mistakes may be so corrected at any time prior to the docketing of a petition for judicial review or as governed by Rule 11(h) of the Utah Rules of Appellate Procedure.

R151-46b-12. Agency Review.

(1) Availability of Agency Review.

Except as otherwise provided in Subsection 63-46b-11(3)(c), an aggrieved party may obtain agency review of a final order issued in an adjudicative proceeding by filing a request with the executive director of the department within thirty days following the issuance of the order.

(2) When Agency Review Is Not Available.

(a) Agency review is not available as to any order or decision entered by the following agencies:

(i) the Real Estate Appraiser Licensing and Certification Board;

(ii) the Utah Motor Vehicle Franchise Advisory Board; and

(iii) the Utah Powersport Vehicle Franchise Advisory Board[~~; and~~

~~(iv) the Pete Suazo Utah Athletic Commission~~].

(b) Agency review is not available for any decisions or orders entered by the Division of Occupational and Professional Licensing as to the following matters:

(i) Prelitigation proceedings conducted pursuant to Title 78B, Chapter 3[~~14~~], the Utah Health Care Malpractice Act;

(ii) Requests for modification to disciplinary orders issued by the Division of Occupational and Professional Licensing; and

(iii) Requests for entry into the Diversion Program pursuant to Section 58-1-404(4).

(c) Agency review is not available for any decisions or orders entered by the Division of Corporations and Commercial Code as to the following matters:

(i) refusal to file a document under the Utah Revised Business Corporations Act pursuant to Section 16-10a-126;

(ii) revocation of a foreign corporation's authority to transact business pursuant to Section 16-10a-1532;

(iii) refusal to file a document under the Utah Revised Limited Liability Company Act pursuant to Section 48-2c-211; and

(iv) revocation of a foreign limited liability company's authority to transact business pursuant to Section 48-2c-1614.

(d)(i) Agency reconsideration is available for orders or decisions exempt from agency review under Subsections R151-46b-12(2)(a),[~~and~~] (b)(ii), and (c) pursuant to R151-46b-13.

(ii) Agency reconsideration is not available for orders or decisions exempt from agency review under Subsections (b)(i) and (b)(iii), pursuant to Subsections 58-1-404(4) and [~~78-14-12~~]78B-3-416(1)(c).

(3) Content of a Request for Agency Review - Transcript of Hearing - Service.

(a) The content of a request for agency review shall be in accordance with Subsection 63-46b-12(1)(b). The request for agency review shall include a copy of the order that is the subject of the request.

(b) A party requesting agency review shall set forth any factual or legal basis in support of that request, including adequate supporting arguments and citation to appropriate legal authority and to the relevant portions of the record developed during the adjudicative proceeding.

(c) If a party challenges a finding of fact in the order subject to review, the party must demonstrate, based on the entire record, that the finding is not supported by substantial evidence. A party challenging the facts bears the burden to marshal or gather all of the evidence in support of a finding and to show that despite such evidence, the finding is not supported by substantial evidence. The failure to so marshal the evidence permits the executive director to accept a division's findings of fact as conclusive. A party challenging a legal conclusion must support the argument with citation to any relevant authority and also cite to those portions of the record that are relevant to that issue.

(d) If the grounds for agency review include any challenge to a determination of fact or conclusion of law as unsupported by or contrary to the evidence, the party seeking agency review shall order and cause a transcript of the record relevant to such finding or conclusion to be prepared. When a request for agency review is filed under such circumstances, the party seeking review shall certify that a transcript has been ordered and shall notify the department when the transcript will be available for filing with the department. The party seeking agency review shall bear the cost of the transcript.

(e) A party seeking agency review shall, in the manner described in R151-46b-8, file and serve upon all other parties copies of correspondence, pleadings, and other submissions. If an attorney enters an appearance on behalf of a party, service shall thereafter be made upon that attorney, instead of directly to the party.

(f) Failure to comply with this rule may result in dismissal of the request for agency review.

(4) Stay Pending Agency Review.

(a) Upon the timely filing of a request for agency review, the party seeking review may request that the effective date of the order subject to review be stayed pending the completion of review. If a stay is not timely requested and subsequently granted, the order subject to review shall take effect according to its terms.

(b) The division or committee that issued the order subject to review may oppose the request for a stay in writing within ten days from the date the stay is requested. Failure to oppose a timely request for a stay shall result in an order granting the stay unless the department determines that a stay would not be in the best interest of the public. The department may also enter an interim order granting a stay pending a decision on the motion for a stay.

(c) In determining whether to grant a request for a stay or a motion opposing that request, the department shall review the division's or committee's findings of fact, conclusions of law and order to determine whether granting a stay would, or might reasonably be expected to, pose a significant threat to the public health, safety and welfare. The department may also issue a conditional stay by imposing terms, conditions or restrictions on a party pending agency review.

(5) Memoranda.

(a) The department may order or permit the parties to file memoranda to assist in conducting agency review. Any memoranda shall be filed consistent with these rules or as otherwise governed by any scheduling order entered by the department.

(b) When no transcript is necessary to conduct agency review, any memoranda supporting a request for such review shall be concurrently filed with the request. If a transcript is necessary to conduct agency review, any supporting memoranda shall be filed no later than 15 days after the filing of the transcript with the department.

(c) Any response to a request for agency review and any memoranda supporting that response shall be filed no later than 15 days from the filing of the request for agency review or no later than 15 days

from the service of any subsequent memoranda supporting that request. Any final reply memoranda shall be filed no later than five days after the service of a response to the request for agency review.

(6) Oral Argument.

The request for agency review or the response thereto shall state whether oral argument is sought in conjunction with agency review. The department may order or permit oral argument if the department determines such argument is warranted to assist in conducting agency review.

(7) Standard of Review.

The standards for agency review correspond to the standards for judicial review of formal adjudicative proceedings, as set forth in Subsection 63-46b-16(4).

(8) Type of Relief.

The type of relief available on agency review shall be the same as the type of relief available on judicial review, as set forth in Subsection 63-46b-17(1)(b).

(9) Order on Review.

The order on review shall comply with the requirements of Subsection 63-46b-12(6).

KEY: administrative procedures, adjudicative proceedings, government hearings
Date of Enactment or Last Substantive Amendment: [~~February 15, 2005~~]2008
Notice of Continuation: May 3, 2006
Authorizing, and Implemented or Interpreted Law: 13-1-6; 63-46b-1(6)

♦ ♦

Commerce, Occupational and Professional Licensing

R156-56

Utah Uniform Building Standard Act Rules

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 31139
FILED: 04/14/2008, 11:04

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The division is proposing changes to the rule to adopt amendments to the building codes approved by the Uniform Building Code Commission after review by various subcommittees. Amendments are also being proposed as a result of legislation passed during the 2008 General Session in H.B. 63 and H.B. 184. (DAR NOTE: H.B. 63 (2008) is found at Chapter 382, Laws of Utah 2008, and will be effective 05/05/2008. H.B. 184 (2008) is found at Chapter 328, Laws of Utah 2008, and will be effective 07/01/2008.)

SUMMARY OF THE RULE OR CHANGE: It should be noted that due to several rule filings affecting this rule once the division and Uniform Building Code Commission have determined which of the filings will be made effective, the Division will file a nonsubstantive rule change to correct paragraph numbering throughout the rule. Statutory citations to Title 63 have been updated throughout the rule, as well as other statutory citations have been updated where needed. In Section R156-56-202, amendments are proposed to increase the number of members of the Education Advisory Committee from seven to nine and also to define the composition of this Committee. This proposed amendment will more appropriately represent various segments of the construction community needing code training. In Section R156-56-402, an amendment is proposed so the rule is consistent with statutory amendments in H.B. 184 with respect to standardized building permit content. In Section R156-56-701, the National Electrical Code is being updated from the 2005 edition to the 2008 edition effective 01/01/2009. In Section R156-56-801, an amendment to Section 504.2 is being added. This proposed amendment will allow assisted living centers to be two stories in height if the building has a full fire sprinkler system and if persons less able to exit the building on their own are located on the first floor of the building. This proposed amendment will allow two story construction rather than only permitting one story construction in these facilities. This will result in a substantial saving in land costs. This proposed amendment has been endorsed by the Utah Department of Health which regulates assisted living facilities. (DAR NOTE: the other proposed amendments are: to Section R156-56-803 under DAR No. 31140; to Rule R156-56 under DAR No. 31141; and to Section R156-56-701 under DAR No. 31142 all in this issue, May 1, 2008, of the Bulletin.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 58-56-1 and 58-56-19, and Subsections 58-1-106(1)(a), 58-1-202(1)(a), 58-56-4(2), and 58-56-6(2)(a)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Updates the 2005 edition of the National Electrical Code (NEC) to the 2008 edition, effective 01/01/2009

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The division has determined that affected state agencies will need to purchase the 2008 edition of the National Electrical Code at a cost of $75 per book as a result of these proposed amendments. Also affected state agencies may see minimal costs to print the rule for their own use once the proposed amendments are made effective. The division is unable to determine an aggregate cost to due to the unknown number of state agencies affected by these rule amendments.

❖ LOCAL GOVERNMENTS: The division has determined that affected agencies in local governments will need to purchase the 2008 edition of the National Electrical Code at a cost of $75 per book as a result of these proposed amendments. Also affected agencies in local governments may see minimal costs to print the rule for their own use once the proposed amendments are made effective. The division is unable to determine an aggregate cost to due to the unknown number of local government agencies affected by these rule amendments.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The division has determined that affected persons, which may include small businesses, will need to purchase the 2008 edition of the National Electrical Code at a cost of $75 per book as a result of these proposed amendments. Also affected persons/small businesses may see minimal costs to print the rule for their own use once the proposed amendments are made effective. The division is unable to determine an aggregate cost to due to the unknown number of persons/small businesses affected by these rule amendments. The cost savings in the construction of assisted living facilities is impossible to determine because it would vary by the number of facilities built and the square footage of the buildings, but is estimated by the industry to be a savings of $28 per square foot of facility costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The division has determined that affected persons will need to purchase the 2008 edition of the National Electrical Code at a cost of $75 per book as a result of these proposed amendments. Also affected persons may see minimal costs to print the rule for their own use once the proposed amendments are made effective. The cost savings in the construction of assisted living facilities is impossible to determine because it would vary by the number of facilities built and the square footage of the buildings, but is estimated by the industry to be a savings of $28 per square foot of facility costs.

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 beyond those discussed in the rule summary. Francine A. Giani, Executive Director

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

COMMERCE
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 06/02/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 5/15/2008 at 9:00 AM, Sandy City Hall, Room 341, 10000 S Centennial Parkway, Sandy, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 06/09/2008

AUTHORIZED BY: F. David Stanley, Director

R156. Commerce, Occupational and Professional Licensing.
R156-56. Utah Uniform Building Standard Act Rules.
R156-56-105. Board of Appeals.

If the commission is required to act as an appeals board in accordance with the provisions of Subsection 58-56-8(3), the following shall regulate the convening and conduct of the special appeals board:

(1) If a compliance agency refuses to establish a method of appeal regarding a uniform building standard issue, the appealing party may petition the commission to act as the board of appeals.

(2) The person making the appeal shall file the request to convene the commission as an appeals board in accordance with the requirements for a request for agency action, as set forth in Subsection [~~63-46b~~]63G-4-[~~3~~]201(3)(a) and Section R151-46b-7. A request by other means shall not be considered. Any request received by the commission or division by any other means shall be returned to the appellant with appropriate instructions.

(3) A copy of the final written decision of the compliance agency interpreting or applying a code which is the subject of the dispute shall be submitted as an attachment to the request. If the person making the appeal requests, but does not timely receive a final written decision, the person shall submit an affidavit to this effect in lieu of the final written decision.

(4) The request shall be filed with the division no later than 30 days following the issuance of the disputed written decision by the compliance agency.

(5) The compliance agency shall file a written response to the request not later than 20 days after the filing of the request. The request and response shall be provided to the commission in advance of any hearing in order to properly frame the disputed issues.

(6) Except with regard to the time period specified in Subsection (7), the time periods specified in this section may, upon a showing of good cause, be modified by the presiding officer conducting the proceeding.

(7) The commission shall convene as an appeals board within 45 days after a request is properly filed.

(8) Upon the convening of the commission as an appeals board, the board members shall review the issue to be considered to determine if a member of the board has a conflict of interest which would preclude the member from fairly hearing and deciding the issue. If it is determined that a conflict does exist, the member shall be excused from participating in the proceedings.

(9) The hearing shall be a formal hearing held in accordance with the Utah Administrative Procedures Act, Title 63G, Chapter 4[~~6b~~].

(10) Decisions relating to the application and interpretation of the code made by a compliance agency board of appeals shall be binding for the specific individual case and shall not require commission approval.

R156-56-202. Advisory Peer Committees Created - Membership - Duties.

(1) There is created in accordance with Subsection 58-1-203(1)(f) and 58-56-5(10)(d), the following committees as advisory peer committees to the Uniform Building Codes Commission:

(a) the Education Advisory Committee consisting of [~~seven~~]nine members, which shall include a design professional, a general contractor, an electrical contractor, a mechanical or plumbing contractor, an educator, and four inspectors (one from each of the specialties of plumbing, electrical, mechanical and general building);

(b) the Plumbing and Health Advisory Committee consisting of nine members;

(c) the Structural Advisory Committee consisting of seven members;

(d) the Architectural Advisory Committee consisting of seven members;

(e) the Fire Protection Advisory Committee consisting of five members;

(i) This committee shall join together with the Fire Advisory and Code Analysis Committee of the Utah Fire Prevention Board to form the Unified Code Analysis Council.

(ii) The Unified Code Analysis Council shall meet as directed by the Utah Fire Prevention Board or as directed by the Uniform Building Code Commission or as needed to review fire prevention and building code issues that require definitive and specific analysis.

(iii) The Unified Code Analysis Council shall select one of its members to act in the position of chair and another to act as vice chair. The chair and vice chair shall serve for one year terms on a calendar year basis. Elections for chair and vice chair shall occur at the meeting conducted in the last quarter of the calendar year.

(iv) The chair or vice chair shall report to the Utah Fire Prevention Board or Uniform Building Code Commission recommendations of the council with regard to the review of fire and building codes;

(f) the Mechanical Advisory Committee consisting of seven members; and

(g) the Electrical Advisory Committee consisting of seven members.

(2) The committees shall be appointed and serve in accordance with Section R156-1-205. The membership of each committee shall be made up of individuals who have direct knowledge or involvement in the area of code involved in the title of that committee.

(3) The duties and responsibilities of the committees shall include:

(a) review of requests for amendments to the adopted codes as assigned to each committee by the division with the collaboration of the commission;

(b) submission of recommendations concerning the requests for amendment; and

(c) the Education Advisory Committee shall review and make recommendations regarding funding requests which are submitted, and review and make recommendations regarding budget, revenue and expenses of the education fund established pursuant to Subsection 58-56-9(4).

R156-56-302. Licensure of Inspectors.

In accordance with Subsection 58-56-9(1), the licensee classifications, scope of work, qualifications for licensure, and application for license are established as follows:

(1) License Classifications. Each inspector required to be licensed under Subsection 58-56-9(1) shall qualify for licensure and be licensed by the division in one of the following classifications:

(a) Combination Inspector; or

(b) Limited Inspector.

(2) Scope of Work. The scope of work permitted under each inspector classification is as follows:

(a) Combination Inspector.

(i) Inspect the components of any building, structure or work for which a standard is provided in the specific edition of the codes adopted under these rules or amendments to these codes as included in these rules.

(ii) Determine whether the construction, alteration, remodeling, repair or installation of all components of any building, structure or work is in compliance with the adopted codes.

(iii) After determination of compliance or noncompliance with the adopted codes take appropriate action as is provided in the aforesaid codes.

(b) Limited Inspector.

(i) A Limited Inspector may only conduct activities under Subsections (ii), (iii) or (iv) for which the Limited Inspector has maintained current certificates under the adopted codes as provided under Subsections R156-56-302(3)(b) and R156-56-302(2)(c)(ii).

(ii) Subject to the limitations of Subsection (i), inspect the components of any building, structure or work for which a standard is provided in the specific edition of the codes adopted under these rules or amendments to these codes as included in these rules.

(iii) Subject to the limitations under Subsection (i), determine whether the construction, alteration, remodeling, repair or installation of components of any building, structure or work is in compliance with the adopted codes.

(iv) Subject to the limitations under Subsection (i), after determination of compliance or noncompliance with the adopted codes, take appropriate action as is provided in the adopted codes.

(3) Qualifications for Licensure. The qualifications for licensure for each inspector classification are as follows:

(a) Combination Inspector.

Has passed the examination for and maintained as current the following national certifications for codes adopted under these rules:

(i) the "Combination Inspector Certification" issued by the International Code Council; or

(ii) all of the following certifications:

(A) the "Building Inspector Certification" issued by the International Code Council or both the "Commercial Building Inspector Certification" and the "Residential Building Inspector Certification" issued by the International Code Council;

(B) the "Electrical Inspector Certification" issued by the International Code Council or the "General Electrical Certification" issued by the International Association of Electrical Inspectors, or both the "Commercial Electrical Inspector Certification" and the "Residential Electrical Inspector Certification" issued by the International Code Council;

(C) the "Plumbing Inspector Certification" issued by the International Code Council, or both the "Commercial Plumbing Inspector Certification" and the "Residential Plumbing Inspector Certification" issued by the International Code Council; and

(D) the "Mechanical Inspector Certification" issued by the International Code Council or both the "Commercial Mechanical Inspector Certification" and the "Residential Mechanical Inspector Certification" issued by the International Code Council.

(b) Limited Inspector.

Has passed the examination for and maintained as current one or more of the following national certifications for codes adopted under these rules:

(i) the "Building Inspector Certification" issued by the International Code Council;

(ii) the "Electrical Inspector Certification" issued by the International Code Council or the "General Electrical Certification" issued by the International Association of Electrical Inspectors;

(iii) the "Plumbing Inspector Certification" issued by the International Code Council;

(iv) the "Mechanical Inspector Certification" issued by the International Code Council;

(v) the "Residential Combination Inspector Certification" issued by the International Code Council;

(vi) the "Commercial Combination Certification" issued by the International Code Council;

(vii) the "Commercial Building Inspector Certification" issued by the International Code Council;

(viii) the "Commercial Electrical Inspector Certification" issued by the International Code Council;

(ix) the "Commercial Plumbing Inspector Certification" issued by the International Code Council;

(x) the "Commercial Mechanical Inspector Certification issued by the International Code Council;

(xi) the "Residential Building Inspector Certification" issued by the International Code Council;

(xii) the "Residential Electrical Inspector Certification" issued by the International Code Council;

(xiii) the "Residential Plumbing Inspector Certification" issued by the International Code Council;

(xiv) the "Residential Mechanical Inspector Certification" issued by the International Code Council;

(xv) any other special or otherwise limited inspector certifications used by the International Code Council which certifications cover a part of the codes adopted under these rules including but not limited to each of the following: Reinforced Concrete Special Inspector, Prestressed Concrete Special Inspector, Structural Masonry Special Inspector, Structural Steel and Bolting Special Inspection, Structural Welding Special Inspection, Spray Applied Fire Proofing Special Inspector, Residential Energy Inspector, Commercial Energy Inspector;

(xvi) the Certified Welding Inspector Certification issued by the American Welding Society;

(xvii) any other certification issued by an agency specified in Chapter 17 of the IBC or an agency specified in the referenced standards; or

(xviii) any combination certification which is based upon a combination of one or more of the above listed certifications.

(c) If no qualification is listed in the IBC for a special inspector, the special inspector may submit his qualifications to the licensing board for approval.

(4) Application for License.

(a) An applicant for licensure shall:

(i) submit an application in a form prescribed by the division; and

(ii) pay a fee determined by the department pursuant to Section [~~63-38-3.2~~]63J-1-303.

(5) Code transition provisions.

(a) If an inspector or applicant obtains a new, renewal or recertification or replacement national certificate after a new code or code edition is adopted, the inspector or applicant is required to obtain that certification under the currently adopted code or code edition.

(b) After a new code or new code edition is adopted under these rules, the inspector is required to re-certify their national certification to the new code or code edition at the next available renewal cycle of the national certification.

(c) If a licensed inspector fails to obtain the national certification as required in Subsection (a) or (b), their authority to inspect for the area covered by the national certification automatically expires at the expiration date of the national certification that was not obtained as required.

(d) If an inspector recertifies a national certificate on a newer edition of the codes adopted before that newer edition is adopted under these rules, such recertification shall be considered as a current national certification as required by these rules.

(e) If an inspector complies with these transition provisions, the inspector shall be considered to have a current national certification as required by these rules.

R156-56-401. Standardized Building Permit Number.

As provided in Section 58-56-[~~18~~]19, beginning on January 1, 2007, any agency issuing a permit for construction within the state of Utah shall use the standardized building permit numbering which includes the following:

(1) The permit number shall consist of 12 digits with the following components in the following order:

(a) digits one, two and three shall be alphabetical characters identifying the compliance agency issuing the permit as specified in the table in Subsection (3);

(b) digits four and five shall be numerical characters indicating the year of permit issuance;

(c) digits six and seven shall be numerical characters indicating the month of permit issuance;

(d) digits eight and nine shall be numerical characters indicating the day of the month on which the permit is issued; and

(e) digits ten, eleven and twelve shall be numerical characters used to distinguish between permits issued by the agency on the same day.

(2) When used in addition to a different permit numbering system, as provided for in Subsection 58-56-[~~18~~]19(3)(b), the standardized building permit number shall be clearly identified and labeled as the "state permit number" or "Utah permit number".

. . . . . .

R156-56-402. Standardized Building Permit Content.

As provided in Section 58-56-[~~18~~]19, beginning January 1, 2007, any agency issuing a permit for construction within the state of Utah shall use a permit form that incorporates standardized building permit content as follows:

(1) permit number, as set forth in Subsection R156-56-401(1), shall be printed by typewriter, computer printer or rubber stamp in the upper right-hand corner of the building permit in at least 12-point type;

(2) the name of the owner of the project;

(3) the name of the original contractor or owner-builder for the project;

(4) whether the permit applicant is an original contractor or owner-builder; and

(5) street address of the project or a general description of the project.

R156-56-701. Specific Editions of Uniform Building Standards.

(1) In accordance with Subsection 58-56-4(3), and subject to the limitations contained in Subsection (6), (7), and (8), the following codes are hereby incorporated by reference, which codes together with any amendments specified under these rules, are adopted as the construction standards to be applied to building construction, alteration, remodeling and repair and in the regulation

of building construction, alteration, remodeling and repair in the state:

(a) the 2006 edition of the International Building Code (IBC), including Appendix J promulgated by the International Code Council shall become effective on January 1, 2007;

(b) the [~~2005~~]2008 edition of the National Electrical Code (NEC) promulgated by the National Fire Protection Association, to become effective January 1, [~~2006~~]2009;

(c) the 2006 edition of the International Plumbing Code (IPC) promulgated by the International Code Council shall become effective on January 1, 2007;

(d) the 2006 edition of the International Mechanical Code (IMC) promulgated by the International Code Council shall become effective on January 1, 2007;

(e) the 2006 edition of the International Residential Code (IRC) promulgated by the International Code Council shall become effective on January 1, 2007;

(f) the 2006 edition of the International Energy Conservation Code (IECC) promulgated by the International Code Council shall become effective on January 1, 2007;

(g) the 2006 edition of the International Fuel Gas Code (IFGC) promulgated by the International Code Council shall become effective on January 1, 2007;

(h) subject to the provisions of Subsection (4), the Federal Manufactured Housing Construction and Safety Standards Act (HUD Code) as promulgated by the Department of Housing and Urban Development and published in the Federal Register as set forth in 24 CFR parts 3280 and 3282 as revised April 1, 1990;

(i) subject to the provisions of Subsection (4), Appendix E of the 2006 edition of the International Residential Code promulgated by the International Code Council shall become effective on January 1, 2007; and

(j) subject to the provisions of Subsection (4), the 2005 edition of the NFPA 225 Model Manufactured Home Installation Standard promulgated by the National Fire Protection Association shall become effective January 1, 2007.

. . . . . .

R156-56-801. Statewide Amendments to the IBC.

The following are adopted as amendments to the IBC to be applicable statewide:

(1) All references to the ICC Electrical Code are deleted and replaced with the National Electrical Code adopted under Subsection R156-56-701(1)(b).

(2) Section 101.4.1 is deleted and replaced with the following:

101.4.1 Electrical. The provisions of the National Electrical Code (NEC) shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.

. . . . . .

(16) A new section 421 is added as follows:

Section 421 Group E Child Day Care Centers. Group E child day care centers shall comply with Section 421.

421.1 Location at grade. Group E child day care centers shall be located at the level of exit discharge.

Exception: Child day care spaces for children over the age of 24 months may be located on the second floor of buildings equipped with automatic fire protection throughout and an automatic fire alarm system.

421.2 Egress. All Group E child day care spaces with an occupant load of more than 10 shall have a second means of egress. If the second means of egress is not an exit door leading directly to the exterior, the room shall have an emergency escape and rescue window complying with Section 1026.

(17) In Section 504.2 a new section is added as follows:

504.2.1 Notwithstanding the exceptions to Section 504.2, Group I-2 Assisted Living Facilities shall be allowed to be two stories of Type V-A construction when all of the following apply:

1. All secured units are located at the level of exit discharge in compliance with Section 1008.1.8.3 as amended;

2. The total combined area of both stories shall not exceed the total allowable area for a one-story building; and

3. All other provisions that apply in Section 407 have been provided.

(17) In Section 707.14.1 Exception 4 is deleted.

(18) In Section (F)902, the definition for record drawings is deleted and replaced with the following:

(F)RECORD DRAWINGS. Drawings ("as builts") that document all aspects of a fire protection system as installed.

. . . . . .

KEY: contractors, building codes, building inspection, licensing
Date of Enactment or Last Substantive Amendment: [~~January 1, ~~]2008
Notice of Continuation: March 29, 2007
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-56-1; 58-56-4(2); 58-56-6(2)(a); 58-56-18; 58-56-19

Commerce, Occupational and Professional Licensing

R156-56

Utah Uniform Building Standard Act Rules

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 31141
FILED: 04/14/2008, 11:12

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The division is proposing changes to the rule to adopt amendments to the building codes approved by the Uniform Building Code Commission after review by various subcommittees. This proposed amendment is filed as a separate rule filing because it is anticipated that the proposed amendment may be controversial and therefore, if it is changed or not implemented, it will not affect the implementation of other proposed amendments in other filings that need to go forward. Primarily electricians involved in performing construction are in favor of this proposed amendment because they are trained

directly from the National Electrical Code (NEC) and very rarely from the International Residential Code (IRC) because the IRC electrical provisions are derived from the NEC. However, many persons want the IRC to stand on its own. The problem with that approach is the IRC itself does not stand on its own but provides that if more complicated or larger capacity electrical equipment is installed in a residence, the NEC applies because they are not provided for in the IRC. (DAR NOTE: the other proposed amendments are: to Rule R156-56 under DAR No. 31139; to Section R156-56-803 under DAR No. 31140; and to Section R156-56-701 under DAR No. 31142 all in this issue, May 1, 2008, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: In Section R156-56-302, an amendment is proposed to clarify the scope of practice of a residential electrical inspector who is certified by the International Code Council (ICC) under the IRC and will allow them to complete inspections of the comparable provisions in the NEC. This clarification is needed as a result of how the resolution of conflicting code provisions is resolved as discussed below. A new subsection R156-56-802(2) was created and added that in addition to all references to the ICC Electrical Code being deleted and replaced with the National Electrical Code (NEC), all electrical provisions of Part VIII are also deleted and replaced with the NEC. This proposed amendment eliminates a conflict between the IRC and the NEC codes. The IRC electrical code provisions are taken from the NEC but are stated in a simplified version that is only required for simple residential construction. The conflict results because the IRC is updated a year after the updates to the NEC are made. A year after the NEC is updated, the IRC is updated by following the latest NEC code. Once the IRC is updated, the codes no longer conflict. With the three-year cycle for each code and the IRC cycle being one year behind the NEC changes, this results in a conflict of adopted codes for one year out of each three-year cycle. It is not practical to delay implementation of the NEC code for an additional year because the NEC has many updates for nonresidential construction which is the bulk of the NEC. Additionally, practically all electricians are trained out of the NEC rather than the IRC. This is because the IRC electrical provisions are the more simplified parts of the NEC. Therefore, the most efficient training for electricians is to simply train on the NEC. Delaying implementation of the NEC would also not be prudent because it would put Utah out of sync with most surrounding states and states across the nation. The elimination of the electrical provisions of the IRC and replacing it with the NEC is being proposed in order to implement the NEC changes that are applicable to residential construction at the same time the NEC is adopted for all other construction.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-56-1 and Subsections 58-1-106(1)(a), 58-1-202(1)(a), 58-56-4(2), and 58-56-6(2)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The division anticipates any cost impact of this proposed amendment will be minimal. If a resolution of the conflicting codes is not adopted, all parties affected may have problems determining which code provisions are applicable and could result in higher costs in simply determining which codes apply.

❖ LOCAL GOVERNMENTS: The division anticipates any cost impact of this proposed amendment will be minimal. If a resolution of the conflicting codes is not adopted, all parties affected may have problems determining which code provisions are applicable and could result in higher costs in simply determining which codes apply.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Small business and persons: the division anticipates any cost impact of this proposed amendment will be minimal. If a resolution of the conflicting codes is not adopted, all parties affected may have problems determining which code provisions are applicable and could result in higher costs in simply determining which codes apply.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The division anticipates any cost impact of this proposed amendment will be minimal. If a resolution of the conflicting codes is not adopted, all parties affected may have problems determining which code provisions are applicable and could result in higher costs in simply determining which codes apply.

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 clears up a conflict between two building codes. 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 06/02/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 5/15/2008 at 9:00 AM, Sandy City Hall, Room 341, 10000 S Centennial Parkway, Sandy, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 06/09/2008

AUTHORIZED BY: F. David Stanley, Director

R156. Commerce, Occupational and Professional Licensing.
R156-56. Utah Uniform Building Standard Act Rules.
R156-56-302. Licensure of Inspectors.

In accordance with Subsection 58-56-9(1), the licensee classifications, scope of work, qualifications for licensure, and application for license are established as follows:

(1) License Classifications. Each inspector required to be licensed under Subsection 58-56-9(1) shall qualify for licensure and be licensed by the division in one of the following classifications:

(a) Combination Inspector; or

(b) Limited Inspector.

(2) Scope of Work. The scope of work permitted under each inspector classification is as follows:

(a) Combination Inspector.

(i) Inspect the components of any building, structure or work for which a standard is provided in the specific edition of the codes adopted under these rules or amendments to these codes as included in these rules.

(ii) Determine whether the construction, alteration, remodeling, repair or installation of all components of any building, structure or work is in compliance with the adopted codes.

(iii) After determination of compliance or noncompliance with the adopted codes take appropriate action as is provided in the aforesaid codes.

(b) Limited Inspector.

(i) A Limited Inspector may only conduct activities under Subsections (ii), (iii) or (iv) for which the Limited Inspector has maintained current certificates under the adopted codes as provided under Subsections R156-56-302(3)(b) and R156-56-302(2)(c)(ii).

(ii) Subject to the limitations of Subsection (i), inspect the components of any building, structure or work for which a standard is provided in the specific edition of the codes adopted under these rules or amendments to these codes as included in these rules.

(iii) Subject to the limitations under Subsection (i), determine whether the construction, alteration, remodeling, repair or installation of components of any building, structure or work is in compliance with the adopted codes.

(iv) Subject to the limitations under Subsection (i), after determination of compliance or noncompliance with the adopted codes, take appropriate action as is provided in the adopted codes.

(c) The scope of practice for a Residential Electrical Inspector who is certified by the International Code Council under the International Residential Code (IRC) is clarified to include residential inspections made under comparable provisions of the National Electrical Code (NEC).

(3) Qualifications for Licensure. The qualifications for licensure for each inspector classification are as follows:

(a) Combination Inspector.

Has passed the examination for and maintained as current the following national certifications for codes adopted under these rules:

(i) the "Combination Inspector Certification" issued by the International Code Council; or

(ii) all of the following certifications:

(A) the "Building Inspector Certification" issued by the International Code Council or both the "Commercial Building Inspector Certification" and the "Residential Building Inspector Certification" issued by the International Code Council;

(B) the "Electrical Inspector Certification" issued by the International Code Council or the "General Electrical Certification" issued by the International Association of Electrical Inspectors, or both the "Commercial Electrical Inspector Certification" and the "Residential Electrical Inspector Certification" issued by the International Code Council;

(C) the "Plumbing Inspector Certification" issued by the International Code Council, or both the "Commercial Plumbing Inspector Certification" and the "Residential Plumbing Inspector Certification" issued by the International Code Council; and

(D) the "Mechanical Inspector Certification" issued by the International Code Council or both the "Commercial Mechanical Inspector Certification" and the "Residential Mechanical Inspector Certification" issued by the International Code Council.

(b) Limited Inspector.

Has passed the examination for and maintained as current one or more of the following national certifications for codes adopted under these rules:

(i) the "Building Inspector Certification" issued by the International Code Council;

(ii) the "Electrical Inspector Certification" issued by the International Code Council or the "General Electrical Certification" issued by the International Association of Electrical Inspectors;

(iii) the "Plumbing Inspector Certification" issued by the International Code Council;

(iv) the "Mechanical Inspector Certification" issued by the International Code Council;

(v) the "Residential Combination Inspector Certification" issued by the International Code Council;

(vi) the "Commercial Combination Certification" issued by the International Code Council;

(vii) the "Commercial Building Inspector Certification" issued by the International Code Council;

(viii) the "Commercial Electrical Inspector Certification" issued by the International Code Council;

(ix) the "Commercial Plumbing Inspector Certification" issued by the International Code Council;

(x) the "Commercial Mechanical Inspector Certification issued by the International Code Council;

(xi) the "Residential Building Inspector Certification" issued by the International Code Council;

(xii) the "Residential Electrical Inspector Certification" issued by the International Code Council;

(xiii) the "Residential Plumbing Inspector Certification" issued by the International Code Council;

(xiv) the "Residential Mechanical Inspector Certification" issued by the International Code Council;

(xv) any other special or otherwise limited inspector certifications used by the International Code Council which certifications cover a part of the codes adopted under these rules including but not limited to each of the following: Reinforced Concrete Special Inspector, Prestressed Concrete Special Inspector, Structural Masonry Special Inspector, Structural Steel and Bolting Special Inspection, Structural Welding Special Inspection, Spray Applied Fire Proofing Special Inspector, Residential Energy Inspector, Commercial Energy Inspector;

(xvi) the Certified Welding Inspector Certification issued by the American Welding Society;

(xvii) any other certification issued by an agency specified in Chapter 17 of the IBC or an agency specified in the referenced standards; or

(xviii) any combination certification which is based upon a combination of one or more of the above listed certifications.

(c) If no qualification is listed in the IBC for a special inspector, the special inspector may submit his qualifications to the licensing board for approval.

(4) Application for License.

(a) An applicant for licensure shall:

(i) submit an application in a form prescribed by the division; and

(ii) pay a fee determined by the department pursuant to Section 63-38-3.2.

(5) Code transition provisions.

(a) If an inspector or applicant obtains a new, renewal or recertification or replacement national certificate after a new code or code edition is adopted, the inspector or applicant is required to obtain that certification under the currently adopted code or code edition.

(b) After a new code or new code edition is adopted under these rules, the inspector is required to re-certify their national certification to the new code or code edition at the next available renewal cycle of the national certification.

(c) If a licensed inspector fails to obtain the national certification as required in Subsection (a) or (b), their authority to inspect for the area covered by the national certification automatically expires at the expiration date of the national certification that was not obtained as required.

(d) If an inspector recertifies a national certificate on a newer edition of the codes adopted before that newer edition is adopted under these rules, such recertification shall be considered as a current national certification as required by these rules.

(e) If an inspector complies with these transition provisions, the inspector shall be considered to have a current national certification as required by these rules.

R156-56-802. Statewide Amendments to the IRC.

The following are adopted as amendments to the IRC to be applicable statewide:

(1) All statewide amendments to the IBC under Section R156-56-801, the NEC under Section R156-56-806, the IPC under Section R156-56-803, the IMC under Section R156-56-804, the IFGC under Section R156-56-805 and the IECC under Section R156-56-807 which may be applied to detached one and two family dwellings and multiple single family dwellings shall be applicable to the corresponding provisions of the IRC.

(2) All references to the ICC Electrical Code and all electrical provisions of Part VIII are deleted and replaced with the National Electrical Code adopted under Section R156-56-701(1)(b).

(2) Section 106.3.2 is deleted and replaced with the following:

106.3.2 Previous approval. If a lawful permit has been issued and the construction of which has been pursued in good faith within 180 days after the effective date of the code and has not been abandoned, then the construction may be completed under the code in effect at the time of the issuance of the permit.

(3) In Section 109, a new section is added as follows:

R109.1.5 Weather-resistive barrier and flashing inspections. An inspection shall be made of the weather-resistive barrier as required by Section R703.1 and flashings as required by Section R703.8 to prevent water from entering the weather-resistant exterior wall envelope.

The remaining sections are renumbered as follows:

R109.1.6 Other inspections

R109.1.6.1 Fire-resistance-rated construction inspection

R109.1.6.2 Reinforced masonry, insulating concrete form (ICF) and conventionally formed concrete wall inspection

R109.1.7 Final inspection.

. . . . . .

KEY: contractors, building codes, building inspection, licensing
Date of Enactment or Last Substantive Amendment: [~~January 1,~~]2008
Notice of Continuation: March 29, 2007
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-56-1; 58-56-4(2); 58-56-6(2)(a); 58-56-18

Commerce, Occupational and Professional Licensing

R156-56-701

Specific Editions of Uniform Building Standards

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31142
FILED: 04/14/2008, 11:14

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The division is proposing changes to the rule to adopt amendments to the building codes approved by the Uniform Building Code Commission after review by various subcommittees. This proposed amendment is filed as a separate rule filing because it is anticipated that the proposed amendment may be controversial and therefore, if it is changed or not implemented, it will not affect the implementation of other proposed amendments in other filings that need to go forward. (DAR NOTE: the other proposed amendments are: to Rule R156-56 under DAR No. 31139; to Section R156-56-803 under DAR No. 31140; and to Rule R156-56 under DAR No. 31141 all in this issue, May 1, 2008, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: The 2006 edition of the Utah Wildland Urban Interface Code (UWUI) is being added as an additional building code. The adoption of the UWUI is required because it is required by other state agencies and most counties in Utah because of compliance with other Utah laws such as the requirements in Rule R652-122. The adoption of the UWUI is also needed because this code has provisions which may not come under the authority of the Uniform Building Code Commission under Subsection 58-56-4(3) such as the area between the building and the wildlands. Regulation of that area is either under the authority of the Utah Division of Forestry or the local compliance agency.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-56-1 and Subsections 58-1-106(1)(a), 58-1-202(1)(a), 58-56-4(2), and 58-56-6(2)(a)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Adds 2006 Utah Wildland Urban Interface Code (UWUI) as promulgated by the International Code Council

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: This proposed amendment should not result in any significant impact because these requirements are already in place as a result of other Utah laws. It should be noted that for any affected agencies or persons needing to purchase the UWUI code, there is a cost of $10.
❖ LOCAL GOVERNMENTS: This proposed amendment should not result in any significant impact because these requirements are already in place as a result of other Utah laws. It should be noted that for any affected agencies or persons needing to purchase the UWUI code, there is a cost of $10.
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Small businesses and persons: this proposed amendment should not result in any significant impact because these requirements are already in place as a result of other Utah laws. It should be noted that for any affected agencies, small businesses or persons needing to purchase the UWUI code, there is a cost of $10.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This proposed amendment should not result in any significant impact because these requirements are already in place as a result of other Utah laws. It should be noted that for any affected persons needing to purchase the UWUI code, there is a cost of $10.

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 refers to other relevant standards within the authority of the Utah Division of Forestry or local compliance agencies. 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 06/02/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 5/15/2008 at 9:00 AM, Sandy City Hall, Room 341, 10000 S Centennial Parkway, Sandy, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 06/09/2008

AUTHORIZED BY: F. David Stanley, Director

R156. Commerce, Occupational and Professional Licensing.
R156-56. Utah Uniform Building Standard Act Rules.
R156-56-701. Specific Editions of Uniform Building Standards.

(1) In accordance with Subsection 58-56-4(3), and subject to the limitations contained in Subsection (6), (7), and (8), the following codes are hereby incorporated by reference, which codes together with any amendments specified under these rules, are adopted as the construction standards to be applied to building construction, alteration, remodeling and repair and in the regulation of building construction, alteration, remodeling and repair in the state:

(a) the 2006 edition of the International Building Code (IBC), including Appendix J promulgated by the International Code Council shall become effective on January 1, 2007;

(b) the 2005 edition of the National Electrical Code (NEC) promulgated by the National Fire Protection Association, to become effective January 1, 2006;

(c) the 2006 edition of the International Plumbing Code (IPC) promulgated by the International Code Council shall become effective on January 1, 2007;

(d) the 2006 edition of the International Mechanical Code (IMC) promulgated by the International Code Council shall become effective on January 1, 2007;

(e) the 2006 edition of the International Residential Code (IRC) promulgated by the International Code Council shall become effective on January 1, 2007;

(f) the 2006 edition of the International Energy Conservation Code (IECC) promulgated by the International Code Council shall become effective on January 1, 2007;

(g) the 2006 edition of the International Fuel Gas Code (IFGC) promulgated by the International Code Council shall become effective on January 1, 2007;

(h) subject to the provisions of Subsection (4), the Federal Manufactured Housing Construction and Safety Standards Act (HUD Code) as promulgated by the Department of Housing and Urban Development and published in the Federal Register as set forth in 24 CFR parts 3280 and 3282 as revised April 1, 1990;

(i) subject to the provisions of Subsection (4), Appendix E of the 2006 edition of the International Residential Code promulgated by the International Code Council shall become effective on January 1, 2007;[~~ and~~]

(j) subject to the provisions of Subsection (4), the 2005 edition of the NFPA 225 Model Manufactured Home Installation Standard promulgated by the National Fire Protection Association shall become effective January 1, 2007; and

(k) the 2006 edition of the Utah Wildland Urban Interface Code (UWUI) promulgated by the International Code Council together with alternatives or amendments approved by the Utah Division of Forestry shall be effective July 1, 2008 as an approved code that may be adopted by the local compliance agency by local

ordinance or other similar action as a local amendment to the codes listed in this Subsection.

(2) In accordance with Subsection 58-56-4(4), and subject to the limitations contained in Subsection 58-56-4(5), the following codes or standards are hereby incorporated by reference and approved for use and adoption by a compliance agency as the construction standards which may be applied to existing buildings in the regulation of building alteration, remodeling, repair, removal, seismic evaluation and rehabilitation in the state:

(a) the 1997 edition of the Uniform Code for the Abatement of Dangerous Buildings (UCADB) promulgated by the International Code Council;

(b) the 2006 edition of the International Existing Building Code (IEBC), including its appendix chapters, promulgated by the International Code Council;

(c) ASCE 31-03, Seismic Evaluation of Existing Buildings, promulgated by the American Society of Civil Engineers;

(d) Pre-standard and Commentary for the Seismic Rehabilitation of Buildings (FEMA 356) published by the Federal Emergency Management Agency (November 2000).

(3) Amendments adopted by rule to prior editions of the Uniform Building Standards shall remain in effect until specifically amended or repealed.

(4) In accordance with Subsection 58-56-4(2), the following are hereby adopted as the installation standard for manufactured housing for new installations or for existing manufactured or mobile homes which are subject to relocation, building alteration, remodeling or rehabilitation in the state:

(a) The manufacturer's installation instruction for the model being installed shall be the primary standard.

(b) If the manufacturer's installation instruction for the model being installed is not available or is incomplete, the following standards shall be applicable:

(i) Appendix E of the 2006 edition of the International Residential Code as promulgated by the International Code Council for installations defined in Section AE101 of Appendix E; or

(ii) If an installation is beyond the scope of the 2006 edition of the International Residential Code as defined in Section AE101 of Appendix E, then the 2005 edition of the NFPA 225 Model Manufactured Home Installation Standard promulgated by the National Fire Protection Association shall apply.

(c) The manufacturer, dealer or homeowner shall be permitted to design for unusual installation of a manufactured home not provided for in the manufacturer's standard installation instruction Appendix E of the 2006 edition of the International Residential Code, or the 2005 edition of the NFPA 225, provided the design is approved in writing by a professional engineer or architect licensed in Utah.

(d) For mobile homes built prior to June 15, 1976, the home shall also comply with the additional installation and safety requirements specified in Section R156-56-808.

(5) Pursuant to the Federal Manufactured Home Construction and Safety Standards Section 604(d), a manufactured home may be installed in the state of Utah which does not meet the local snow load requirements as specified in Subsection R156-56-801; however all such homes which fail to meet the standards of Subsection R156-56-801 shall have a protective structure built over the home which meets the International Building Code and the snow load requirements under Subsection R156-56-801.

(6) To the extent that the building codes adopted under Subsection (1) establish local administrative functions or establish a method of appeal which pursuant to Section 58-56-8 are designated to be established by the compliance agency, such provisions are not included in the codes adopted hereunder but authority over such provisions are reserved to the compliance agency to establish such provisions.

(7) To the extent that the building codes adopted under Subsection (1) establish provisions, standards or references to other codes which by state statutes are designated to be established or administered by other state agencies or local city, town or county jurisdictions, such provisions are not included in the codes adopted herein but authority over such provisions are reserved to the agency or local government having authority over such provisions. Provisions excluded under this Subsection include but are not limited to:

(a) the International Property Maintenance Code;

(b) the International Private Sewage Disposal Code, authority over which would be reserved to the Department of Health and the Department of Environmental Quality;

(c) the International Fire Code which pursuant to Section 53-7-106 authority is reserved to the Utah Fire Prevention Board;[~~ and~~]

(d) day care provisions which are in conflict with the Child Care Licensing Act, authority over which is designated to the Utah Department of Health; and

(e) wildland urban interface provisions which go beyond the authority of Subsection 58-56-4(3), authority over which is designated to the Utah Division of Forestry or to the local compliance agencies.

(8) To the extent that the codes adopted under Subsection (1) establish provisions that exceed the authority granted to the Division, under the Utah Uniform Building Standards Act, to adopt codes or amendments to such codes by rulemaking procedures, such provisions, to the extent such authority is exceeded, are not included in the codes adopted.

KEY: contractors, building codes, building inspection, licensing
Date of Enactment or Last Substantive Amendment: [~~January 1,~~]2008
Notice of Continuation: March 29, 2007
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-56-1; 58-56-4(2); 58-56-6(2)(a); 58-56-18

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Commerce, Occupational and Professional Licensing

R156-56-803

Statewide Amendments to the IPC

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31140
FILED: 04/14/2008, 11:09

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The division is proposing changes to the rule to adopt amendments to the building codes approved by the Uniform Building Code Commission after review by various subcommittees. This

proposed amendment is filed as a separate rule filing because it is anticipated that the proposed amendment may be controversial and therefore, if it is changed or not implemented, it will not affect the implementation of other proposed amendments in other filings that need to go forward. (DAR NOTE: the other proposed amendments are: to Rule R156-56 under DAR No. 31139; to Rule R156-56 under DAR No. 31141; and to Section R156-56-701 under DAR No. 31142 all in this issue, May 1, 2008, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: A new amendment regarding Section 604.4.2 is being added with respect to water conservation zones. The proposed amendment will allow a local compliance agency to designate areas where water capacity or water delivery infrastructure is limited and require that additional water saving equipment be placed in buildings in that area. The water saving equipment would include dual flush toilets, low flow showers and low flow lavatory faucets. Proponents of this proposed amendment report that Utah needs to aggressively address its limited water resource. The Governor's report on growth indicates a 30% population increase by 2020 and projects the population will double by 2050. Recent studies indicate conservation of water as the single greatest opportunity to provide for the future. This proposed amendment would allow local compliance agencies to require greater water conservation. Opponents of the proposed amendment believe this requirement has been inadequately studied and the inside use of water by these measures may not be as significant as claimed and the greatest waste of water is not inside a building but in watering lawns and landscapes. They also claim that the low flush toilets often require multiple flushes and therefore may not result in any savings at all.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-56-1 and Subsections 58-1-106(1)(a), 58-1-202(1)(a), 58-56-4(2), and 58-56-6(2)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The division has determined that there should be no direct effect on the state budget as a result of this proposed amendment as the amendment applies to local compliance agencies.

❖ LOCAL GOVERNMENTS: The proposed amendment would only apply in zones identified by the local compliance agency. The proponents of the amendment estimate it would cost a townhouse approximately $500 more for the water conserving equipment and that cost would increase accordingly as larger structures with more bathrooms are added. The proponents claim the cost of water in the long term may offset the increased cost of the equipment. They also claim that impact fees to create the water delivery infrastructure to new construction may also be lower if they can reduce the water demands per household. Any anticipated cost savings to local governments cannot be determined at this time. The local government proponents claim that this proposed amendment could result in substantial savings of infrastructure needed to deliver water. It is impossible to estimate the savings that could result.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Small businesses and persons: The proposed amendment would only apply in zones identified by the local compliance agency. The proponents of the amendment estimate it would cost a townhouse approximately $500 more for the water conserving equipment and that cost would increase accordingly as larger structures with more bathrooms are added. The proponents claim the cost of water in the long term may offset the increased cost of the equipment. They also claim that impact fees to create the water delivery infrastructure to new construction may also be lower if they can reduce the water demands per household. It is impossible for the division to estimate the aggregate impact because it would vary by the number of buildings affected by the proposed amendment and how much the short term costs are offset by long term savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendment would only apply in zones identified by the local compliance agency. The proponents of the amendment estimate it would cost a townhouse approximately $500 more for the water conserving equipment and that cost would increase accordingly as larger structures with more bathrooms are added. The proponents claim the cost of water in the long term may offset the increased cost of the equipment. They also claim that impact fees to create the water delivery infrastructure to new construction may also be lower if they can reduce the water demands per household. It is impossible for the division to estimate costs or savings of this proposed amendment because it would vary by the number of buildings affected and how much the short term costs are offset by long term savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated beyond those discussed in the rule summary. Francine A. Giani, Executive Director

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

COMMERCE
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 06/02/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 5/15/2008 at 9:00 AM, Sandy City Hall, Room 341, 10000 S Centennial Parkway, Sandy, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 06/09/2008

AUTHORIZED BY: F. David Stanley, Director

R156. Commerce, Occupational and Professional Licensing.
R156-56. Utah Uniform Building Standard Act Rules.
R156-56-803. Statewide Amendments to the IPC.

The following are adopted as amendments to the IPC to be applicable statewide:

(1) In Section 202, the definition for "Backflow Backpressure, Low Head" is deleted in its entirety.

(2) In Section 202, the definition for "Backsiphonage" is deleted and replaced with the following:

Backsiphonage. The backflow of potentially contaminated, polluted or used water into the potable water system as a result of the pressure in the potable water system falling below atmospheric pressure of the plumbing fixtures, pools, tanks or vats connected to the potable water distribution piping.

(3) In Section 202, the following definition is added:

Certified Backflow Preventer Assembly Tester. A person who has shown competence to test Backflow prevention assemblies to the satisfaction of the authority having jurisdiction under Subsection 19-4-104(4), Utah Code Ann. (1953), as amended.

(4) In Section 202, the definition for "Cross Connection" is deleted and replaced with the following:

Cross Connection. Any physical connection or potential connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam, gas or chemical, whereby there exists the possibility for flow from one system to the other, with the direction of flow depending on the pressure differential between the two systems (see "Backflow").

(5) In Section 202, the following definition is added:

Heat Exchanger (Potable Water). A device to transfer heat between two physically separated fluids (liquid or steam), one of which is potable water.

(6) In Section 202, the definition for "Potable Water" is deleted and replaced with the following:

Potable Water. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the Titles 19-4 and 19-5, Utah Code Ann. (1953), as amended and the regulations of the public health authority having jurisdiction.

(7) In Section 202, the following definition is added:

S-Trap. A trap having its weir installed above the inlet of the vent connection.

(8) In Section 202, the definition for "Water Heater" is deleted and replaced with the following:

Water Heater. A closed vessel in which water is heated by the combustion of fuels or electricity and is withdrawn for use external to the system at pressures not exceeding 160 psig (1100 kPa (gage)), including the apparatus by which heat is generated, and all controls and devices necessary to prevent water temperatures from exceeding 210 degrees Fahrenheit (99 degrees Celsius).

(9) Section 304.3 Meter Boxes is deleted.

(10) Section 305.5 is deleted and replaced with the following:

305.5 Pipes through or under footings or foundation walls. Any pipe that passes under or through a footing or through a foundation wall shall be protected against structural settlement.

(11) Section 305.8 is deleted and replaced with the following:

305.8 Protection against physical damage. In concealed locations where piping, other than cast-iron or galvanized steel, is installed through holes or notches in studs, joists, rafters or similar members less than 1 1/2 inches (38 mm) from the nearest edge of the member, the pipe shall be protected by shield plates. Protective shield plates shall be minimum of 1/16 inch-thick (1.6 mm) steel, shall cover the area of the pipe where the member is notched or bored, and shall be at least the thickness of the framing member penetrated.

(12) Section 305.10 is added as follows:

Section 305.10 Improper Connections. No drain, waste, or vent piping shall be drilled and tapped for the purpose of making connections.

(13) Section 311.1 is deleted.

(14) Section 312.9 is deleted in its entirety and replaced with the following:

312.9 Backflow assembly testing. The premise owner or his designee shall have backflow prevention assemblies operation tested at the time of installation, repair and relocation and at least on an annual basis thereafter, or more frequently as required by the authority having jurisdiction. Testing shall be performed by a Certified Backflow Preventer Assembly Tester. The assemblies that are subject to this paragraph are the Spill Resistant Vacuum Breaker, the Pressure Vacuum Breaker Assembly, the Double Check Backflow Prevention Assembly, the Double Check Detector Assembly Backflow Preventer, the Reduced Pressure Principle Backflow Preventer, and Reduced Pressure Detector Assembly.

(15) In Section 403.1 footnote e is added as follows:

FOOTNOTE: e. When provided, in public toilet facilities there shall be an equal number of diaper changing facilities in male toilet rooms and female toilet rooms.

(16) In Section 406.3, an exception is added as follows:

Exception: Gravity discharge clothes washers, when properly trapped and vented, shall be allowed to be directly connected to the drainage system or indirectly discharge into a properly sized catch basin, trench drain, or other approved indirect waste receptor installed for the purpose of receiving such waste.

(17) A new section 406.4 is added as follows:

406.4 Automatic clothes washer metal safe pans. Metal safe pans, when installed under automatic clothes washers, shall only be allowed to receive the unintended discharge from a leaking appliance, valve, supply hose, or overflowing waste water from the clothes washer standpipe. Clothes washer metal safe pans shall not be used as indirect waste receptors to receive the discharge of waste water from any other equipment, appliance, appurtenance, drain pipe, etc. Each safe pan shall be provided with an approved trap seal primer, conforming to ASSE 1018 or 1044 or a deep seal trap. The sides of the safe pan shall be no less than 1 1/2" high and shall be soldered at the joints to provide a water tight seal.

406.4.1 Safe pan outlet. The safe pan outlet shall be no less than 1 1/2" in diameter and shall be located in a visible and accessible location to facilitate cleaning and maintenance. The outlet shall be flush with the surface of the pan so as not to allow water retention within the pan.

(18) Section 412.1 is deleted and replaced with the following:

412.1 Approval. Floor drains shall be made of ABS, PVC, cast-iron, stainless steel, brass, or other approved materials that are listed for the use.

(19) Section 412.5 is added as follows:

412.5 Public toilet rooms. All public toilet rooms shall be equipped with at least one floor drain.

(20) Section 418.1 is deleted and replaced with the following:

418.1 Approval. Sinks shall conform to ANSI Z124.6, ASME A112.19.1M, ASME A112.19.2M, ASME A112.19.3M, ASME A112.19.4M, ASME A112.19.9M, CSA B45.1, CSA B45.2, CSA B45.3, CSA B45.4 or NSF 2.

(21) Section 504.6.2 is deleted and replaced with the following:

504.6.2 Material. Relief valve discharge piping shall be of those materials listed in Tables 605.4 and 605.5 and meet the requirements for Sections 605.4 and 605.5 or shall be tested, rated and approved for such use in accordance with ASME A112.4.1. Piping from safety pan drains shall meet the requirements of Section 804.1 and be constructed of those materials listed in Section 702.

(22) Section 504.7.2 is deleted and replaced with the following:

504.7.2 Pan drain termination. The pan drain shall extend full-size and terminate over a suitably located indirect waste receptor, floor drain or extend to the exterior of the building and terminate not less than 6 inches (152 mm) and not more than 24 inches (610 mm) above the adjacent ground surface. When permitted by the administrative authority, the pan drain may be directly connected to a soil stack, waste stack, or branch drain. The pan drain shall be individually trapped and vented as required in Section 907.1. The pan drain shall not be directly or indirectly connected to any vent. The trap shall be provided with a trap primer conforming to ASSE 1018 or ASSE 1044.

(23) A new section 504.7.3 is added as follows:

504.7.3 Pan Designation. A water heater pan shall be considered an emergency receptor designated to receive the discharge of water from the water heater only and shall not receive the discharge from any other fixtures, devises or equipment.

(24) Section 602.3 is deleted and replaced with the following:

602.3 Individual water supply. Where a potable public water supply is not available, individual sources of potable water supply shall be utilized provided that the source has been developed in accordance with Sections 73-3-1, 73-3-3, and 73-3-25, Utah Code Ann. (1953), as amended, as administered by the Department of Natural Resources, Division of Water Rights. In addition, the quality of the water shall be approved by the local health department having jurisdiction. The source shall supply sufficient quantity of water to comply with the requirements of this chapter.

(25) Sections 602.3.1, 602.3.2, 602.3.3, 602.3.4, 602.3.5 and 602.3.5.1 are deleted in their entirety.

(26) Section 604.4.1 is added as follows:

604.4.1 Metering faucets. Self closing or metering faucets shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet.

(27) Section 604.4.2 is added as follows:

604.4.2 Water conservation zones. In areas where existing water supply , waste water capacity or infrastructure is limited or where a local regulator determines a need for conservation to meet reasonable future demand requirements, the local regulator is permitted to designate zones that have been adopted by local ordinances in which specific water conversing fixtures are required. Such fixtures shall include, but are not limited to, dual flush water closets and low flow showers and low flow lavatory faucets which cannot be adjusted or modified.

(27) Section 606.5 is deleted and replaced with the following:

606.5 Water pressure booster systems. Water pressure booster systems shall be provided as required by Section 606.5.1 through 606.5.11.

. . . . . .

KEY: contractors, building codes, building inspection, licensing
Date of Enactment or Last Substantive Amendment: [~~January 1,~~]2008
Notice of Continuation: March 29, 2007
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-56-1; 58-56-4(2); 58-56-6(2)(a); 58-56-18

Commerce, Occupational and Professional Licensing

R156-69

Dentist and Dental Hygienist Practice Act Rules

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 31136
FILED: 04/10/2008, 17:32

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During the 2008 General Session, the Legislature passed S.B. 174 which amended Title 58, Chapter 69. The legislation eliminated licensure by equivalency of dentists or dental hygienists educated in programs located outside of the United States. The elimination of Section R156-69-302a is in response to the changes made in the governing statute. Also, during a routine review of the rule language, a mistake was found in Subsection R156-69-603(11)(a) dealing with the requirements a dental assistant must meet to expose radiographs. Currently, the rule requires the assistant to complete a dental assisting course and pass an examination. Members of the Dentist and Dental Hygienist Board indicated the correct wording should be complete a dental assisting course or pass an examination. At the end of 2007, this change was submitted as a nonsubstantive change, but was rejected and found to be a substantive change in that it changes the requirements to practice a specific task, exposing radiographs. (DAR NOTE: S.B. 174 (2008) is found at Chapter 269, Laws of Utah 2008, and will be effective 05/05/2008.)

SUMMARY OF THE RULE OR CHANGE: The term "rules" has been replaced with "rule" throughout the rule. Section R156-69-302a is deleted because the statute changed and now requires all schools to be accredited by the Commission on Dental Accreditation of the American Dental Association. In Section R156-69-603, changes the "and" between Subsections R156-69-603(11)(a) and (b) to an "or" thus only

requiring a dental assistant to complete a dental assisting course or pass an examination to be able to expose radiographs.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-69-101 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 applicants for licensure as a dentist or dental hygienist and unlicensed dental assistants who want to expose radiographs.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: A dental office may save money when utilizing a dental assistant under the proposed rule change because the assistant would not be required to complete both the course and the examination, thus saving the cost of one of those requirements, which would be approximately $30 to $60. However, the division has been informed that few dentists are following the current rule because they recognized it was an error and went beyond the standards established nationally for an assistant to take dental x-rays. Given that information, the proposed rule change should have little effect on a dental practice. The division is unable to determine an aggregate savings amount since dental assistants are not licensed by the division and we do not know how many dental assistants are working within the state. The division is unaware of any individual who has or would have qualified for licensure by equivalency under the old statute provision. Therefore, this rule amendment should not have any effect on the profession or anyone who utilizes those professional services.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Unlicensed individuals working for a dentist as a dental assistant will only be required to complete a course or take an examination for a cost savings of approximately $30 to $60 per dental assistant.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated beyond that considered in passage of recent statutory amendments. A positive fiscal impact to businesses could result from the simplification of the requirement regarding dental assistants exposing radiographs. Francine A. Giani, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Laura Poe at the above address, by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at lpoe@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 06/02/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 06/09/2008

AUTHORIZED BY: F. David Stanley, Director

R156. Commerce, Occupational and Professional Licensing.
R156-69. Dentist and Dental Hygienist Practice Act Rule[~~s~~].
R156-69-101. Title.

Th[~~ese~~]is rule[~~s are~~] is known as the "Dentist and Dental Hygienist Practice Act Rule[~~s~~]."

R156-69-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 69, as used in Title 58, Chapters 1 and 69 or th[~~ese~~]is rule[~~s~~]:

(1) "ACLS" means Advanced Cardiac Life Support.

(2) "ADA" means the American Dental Association.

(3) "ADA CERP" means American Dental Association Continuing Education Recognition Program.

(4) "BCLS" means Basic Cardiac Life Support.

(5) "ADHA" means the American Dental Hygienists' Association.

(6) "CPR" means cardiopulmonary resuscitation.

(7) "CRDTS" means the Central Regional Dental Testing Service, Inc.

(8) "Competency" means displaying special skill or knowledge derived from training and experience.

(9) "Conscious sedation" means a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal command, produced by a pharmacologic or non-pharmacologic method, or a combination thereof.

(10) "DANB" means the Dental Assisting National Board, Inc.

(11) "Deep sedation" means a controlled state of depressed consciousness, accompanied by partial loss of protective reflexes, including inability to respond purposefully to verbal command, produced by a pharmacologic or non-pharmacologic method, or combination thereof.

(12) "General anesthesia" means a controlled state of unconsciousness accompanied by partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic or non-pharmacologic method or a combination thereof.

(13) "NERB" means Northeast Regional Board of Dental Examiners, Inc.

(14) "SRTA" means Southern Regional Testing Agency, Inc.

(15) "Unprofessional conduct," as defined in Title 58 Chapters 1 and 69, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-69-502.

(16) "UDA" means Utah Dental Association.
(17) "UDHA" means Utah Dental Hygienists' Association.
(18) "WREB" means the Western Regional Examining Board.

R156-69-103. Authority - Purpose.

Th[~~ese~~]is rule[~~s are~~] is adopted by the division under the authority of Subsection 58-1-106(1)(a) to enable the division to administer Title 58, Chapter 69.

[~~**R156-69-302a. Qualifications for Licensure - Education Requirements for Graduates of Dental or Dental Hygiene Schools Located Outside the United States.**~~

~~The satisfactory documentation of compliance with the licensure requirement set forth in Subsections 58-69-302(1)(d)(ii) and 58-69-302(3)(d)(ii) shall be a report submitted to the division by the International Credentialing Associates, Inc. confirming that the applicant's dental school or dental hygiene school has met the accreditation standards.~~

]

R156-69-603. Use of Unlicensed Individuals as Dental Assistants.

In accordance with Section 58-69-803, the standards regulating the use of unlicensed individuals as dental assistants are that an unlicensed individual shall not, under any circumstance:

(1) render definitive treatment diagnosis;

(2) place, condense, carve, finish or polish restorative materials, or perform final cementation;

(3) cut hard or soft tissue or extract teeth;

(4) remove stains, deposits, or accretions, except as is incidental to polishing teeth coronally with a rubber cup;

(5) initially introduce nitrous oxide and oxygen to a patient for the purpose of establishing and recording a safe plane of analgesia for the patient, except under the direct supervision of a licensed dentist;

(6) remove bonded materials from the teeth with a rotary dental instrument or use any rotary dental instrument within the oral cavity except to polish teeth coronally with a rubber cup;

(7) take jaw registrations or oral impressions for supplying artificial teeth as substitutes for natural teeth, except for diagnostic or opposing models for the fabrication of temporary or provisional restorations or appliances;

(8) correct or attempt to correct the malposition or malocclusion of teeth, or make an adjustment that will result in the movement of teeth upon an appliance which is worn in the mouth;

(9) perform sub-gingival instrumentation;

(10) render decisions concerning the use of drugs, their dosage or prescription; or

(11) expose radiographs without meeting the following criteria:

(a) completing a dental assisting course accredited by the ADA Commission on Dental Accreditation; [~~and~~]or

(b) passing one of the following examinations:

(i) the DANB Radiation Health and Safety Examination (RHS); or

(ii) a radiology exam approved by the board that meets the criteria established in Section R156-69-604.

KEY: licensing, dentists, dental hygienists
Date of Enactment or Last Substantive Amendment: [~~August 22, 2006~~]2008
Notice of Continuation: June 19, 2006
Authorizing, and Implemented or Interpreted Law: 58-69-101; 58-1-106(1)(a); 58-1-202(1)(a)

♦ ♦

Governor, Economic Development
R357-3
Refundable Economic Development Tax Credit

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 31153
FILED: 04/15/2008, 16:35

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to specify the conditions whereby a business entity may qualify for a refundable economic development tax credit, as required by the Legislature in S.B. 185. (DAR NOTE: S.B. 185 (2008) is found at Chapter 372, Laws of Utah 2008, and will be effective 05/05/2008.)

SUMMARY OF THE RULE OR CHANGE: The rule establishes conditions whereby a business entity may qualify for a refundable economic development tax credit, including: being located and making direct investment within an economic development zone; bringing new jobs to Utah; having significant capital investment, creating high-paying jobs, or making significant purchases from Utah vendors; and generating new state revenues.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 63M-1-2404, 59-7-614.2, 59-10-1107, 59-10-1, 59-10-2, and 59-10-4, and Title 59, Chapter 7

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The refundable economic development tax credit program establishes that the tax credit be limited to a maximum of 30 percent of new state tax revenue generated by the qualifying project. Because the tax credit is based on a portion of the new state tax revenue, qualified projects will always result in a net gain to the state budget.

❖ LOCAL GOVERNMENTS: The refundable economic development tax credit does not directly impact local government budgets. Qualified projects will likely generate local tax revenue from secondary economic impacts of the business activity. The rule establishes criteria under which business entities apply to the state for tax credits. Local governments are not involved in evaluating the application nor are they eligible to apply.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Small businesses which qualify for the tax credit would benefit from the incentive. A firm estimate on the benefit received by small business cannot be provided: 1) because this is a new program and there is not sufficient data to allow a prediction on how many businesses will apply for the credit; and 2) because the amount of the tax credit may vary.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs include the cost associated with the time and paperwork for applying for an refundable economic development tax credit. Those application costs are negligible. There are no application fees.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Qualified businesses will have the fiscal benefit of the tax credit and reduced corporate income tax liability. Jason Perry, Executive Director

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

GOVERNOR
ECONOMIC DEVELOPMENT
324 S State
5th Floor
SALT LAKE CITY UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Michael Sullivan at the above address, by phone at 801-538-8811, by FAX at 801-538-8888, or by Internet E-mail at mgsullivan@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 06/02/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 06/09/2008

AUTHORIZED BY: Jason Perry, Director

R357. Governor, Economic Development.
R357-3. Refundable Economic Development Tax Credit.
R357-3-1. Authority.

(1) Subsection 63M-1-2404 requires the office to make rules establishing the conditions that a business entity must meet to qualify for a tax credit under Part 24 of the Utah Code Annotated.

R357-3-2. Definitions.

(1) Terms in these rules are used as defined in UCA 63M-1-2403.

R357-3-3. Conditions.

(1) To qualify for an economic development tax credit a business entity must have a new commercial project which:

(a) must be within an economic development zone created under UCA 63M-1-2404;

(b) Includes direct investment within the geographic boundaries of the development zone created under UCA 63M-1-2404;

(c) brings new incremental jobs to Utah;

(d) includes significant capital investment, the creation of high paying jobs, or significant purchases from Utah vendors and providers, or any combination of these three economic factors;

(e) generates new state revenues; and

(2) The business entity must follow the procedure in UCA 63M-1-2405 for obtaining a tax credit certificate.

(3) The office, with advice from the board, may enter into an agreement with a business entity authorizing a tax credit if the business entity meets the standards under subsections (1) and (2).

(4) A business entity is eligible for an economic development tax credit only if the office has entered into an agreement under subsection (3) with the business entity.

KEY: economic development, tax credit, jobs
Date of Enactment or Last Substantive Amendment: 2008
Authorizing, and Implemented or Interpreted Law: 63M-1-2404

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Health, Health Care Financing
R410-14-17
Agency Review

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31129
FILED: 04/08/2008, 08:56

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change is necessary to comply with "superior agency" provisions found under the Utah Administrative Procedures Act (UAPA).

SUMMARY OF THE RULE OR CHANGE: This amendment adds a provision to the rule that explains the procedure for review of Department of Workforce Services (DWS) final agency orders. (DAR NOTE: A corresponding 120-day (emergency) rule was published under DAR No. 30981 in the March 1, 2008, issue of the Bulletin and was effective as of 02/15/2008.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 63-46b-12 and 63-46b-13

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no budget impact because this change only complies with agency review provisions found under UAPA. It does not affect costs for Medicaid services or payments to Medicaid providers.

❖ LOCAL GOVERNMENTS: There is no budget impact because local governments do not conduct administrative review procedures for Medicaid clients.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There is no impact to other persons and small businesses because this change only complies with agency review provisions found under UAPA. It does not affect costs for Medicaid services or payments to Medicaid providers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this change only complies with agency review provisions found under UAPA. It does not affect costs for Medicaid services or payments to Medicaid providers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This clarification of agency review process should have no fiscal impact on business. David N. Sundwall, MD, Executive Director

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

HEALTH
HEALTH CARE FINANCING
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 06/02/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 06/09/2008

AUTHORIZED BY: David N. Sundwall, Executive Director

R410. Health, Health Care Financing.
R410-14. Administrative Hearing Procedures.
R410-14-17. Agency Review.

An aggrieved person may move for reconsideration of DHCF's final administrative action, in accordance with Section 63-46b-12 and 13. A person may seek review of a DWS final agency order concerning eligibility for medical assistance by filing a written request for review with DHCF in accordance with Section 63-46b-12.

KEY: [~~m~~]Medicaid
Date of Enactment or Last Substantive Amendment: [~~January 7, 1999~~]2008
Notice of Continuation: October 29, 2007
Authorizing, and Implemented or Interpreted Law: 26-1-24; 26-1-5; 26-18-2.3; 63-46b-1

♦ ♦

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-40
Nursing Service

NOTICE OF PROPOSED RULE
(Repeal and Reenact)
DAR FILE NO.: 31135
FILED: 04/10/2008, 16:38

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The current rule is repealed because it is necessary to delete inaccurate references to the Nurse Practitioner Prescriptive Practice Act and Nurse Practice Act. The new rule is reenacted to clarify authority, prior authorization, eligibility, access requirements, service coverage, and reimbursement for private duty nursing services to Medicaid recipients. The new rule allows for a better allocation of private duty nursing services among Medicaid recipients.

SUMMARY OF THE RULE OR CHANGE: The repealed rule contains antiquated references and citations. The new rule updates and restates the existing program in clearer, simpler language. For example, it clarifies prior authorization requirements and details coverage, limitations, and exclusions for private duty nursing service and establishes reimbursement methodology. The reenacted rule also clarifies that private duty nursing service is available to children under the age of 21 who are either in transition from the hospital to the home or who are ventilator dependent. The new rule further clarifies consultation procedures before the private duty nurse attempts to wean the patient from a device or service and identifies new problems.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-18-3 and 26-1-5, and Title 58, Chapter 31b, and 42 CFR 440.80

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: Medicaid currently hires all the private duty services available to it in the marketplace. This rule does not reduce or increase the amount of private duty nursing provided by Medicaid to the public. There is no budget impact because there is only a redistribution of resources to cover Medicaid recipients who do not have access to private duty nursing services. The amendments allow Medicaid to provide enhanced assessments and service to a greater number of Medicaid recipients and their families. The allocation of resources to provide these services is ongoing and there is no cost or savings to the state.
❖ LOCAL GOVERNMENTS: There is no budget impact because local governments do not fund or provide private duty nursing services in the home.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Medicaid currently hires all the private duty services available to it in the marketplace. There is no impact to other persons and small businesses in the aggregate because the amendment only redistributes resources to cover Medicaid recipients who do not have access to private duty nursing services. This will require that some Medicaid recipients will receive less hours of private duty nursing than they currently receive. The amended rule allows Medicaid to provide enhanced assessments and service to a greater number of Medicaid recipients and their families. Some Medicaid recipients will receive less private duty services while others will receive more. The allocation of resources to provide these services is ongoing and there is no increase or loss in revenue to providers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because there is only a redistribution of resources to cover Medicaid recipients who do not have access to private duty nursing services. Some Medicaid recipients will receive less private duty services while others will receive more. The individual impact on any particular Medicaid recipient is highly variable and dependent on the recipient's medical condition and the ability of family caregivers to supplement the private duty nursing services currently provided. Medicaid believes that no Medicaid recipient will need to hire any independent private duty nurse to provide services that Medicaid reallocates because of the new rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses providing private duty nursing are not expected to see a negative fiscal impact, but this will be carefully evaluated after public comment is received. 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 06/02/2008.

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 5/29/2008 at 3:00 PM, Cannon Health Bldg, 288 N 1460 W, Room 125, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 06/09/2008

AUTHORIZED BY: David N. Sundwall, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-40. Private Duty Nursing Service.
[~~R414-40-1. Policy Statement.~~

~~A. Nursing encompasses care and services necessary to maintain or restore health; prevent illness; care for the sick, injured, infirm; and provide support and comfort for the dying patient and his family.~~

~~B. General and specialized nursing service is provided consistent with nursing practice as defined in Title 58, Chapter 31 and 31a, Utah Code Annotated, and with all relevant federal statutes, rules and regulations.~~

~~R414-40-2. Authority and Purpose.~~

~~A. Authority~~

~~1. Private duty nursing service is an optional Title XIX program authorized by Section 1901 et seq., of the Social Security Act, Section 1905(a)(8) of the Social Security Act and 42 CFR 440.80.~~

~~2. Nursing Service provided to an eligible pregnant woman or a child under the age of 21 by a certified pediatric or family nurse practitioner practicing within the scope of practice as defined by State Law is a mandatory Title XIX program authorized by The Omnibus Budget Reconciliation Act of 1989 (OBRA-89) section 6401 (H.R. 3299, P.L. 101-329).~~

~~3. This rule is also authorized by Utah Code Annotated (1953) Sections 26-1-5 and 26-18-3.~~

~~B. Purpose~~

~~1. Private Duty nursing service is designed to prevent prolonged institutionalization and meet the needs of a special group of ventilator dependent, EPSDT (CHEC) eligible children by providing this service in the home for a period of time essential to meet medically necessary care needs, and to supervise and develop confidence in family caregivers responsible for care of the child. The quality and cost effectiveness of home care and private duty nursing must be considered in relation to other alternatives for care.~~

~~2. Pediatric or family nurse practitioner services are authorized for the purpose of expanding the pool of obstetric and pediatric care providers to assure that adequate numbers of ambulatory (non-institutional) obstetric and pediatric care providers will be available to provide appropriate care to those pregnant women mandated for Medicaid coverage at specified poverty levels, and to children eligible to receive EPSDT (CHEC) services.~~

~~R414-40-3. Definitions.~~

~~A. In addition to the definitions related to nursing and nursing practice specified in the Nurse Practice Act and the Nurse Practitioner Prescriptive Practice Act, Title 58, chapters 31 and 31a, Utah Code Annotated, the following definitions apply specifically to this rule:~~

~~1. "Obstetric care" means ambulatory, non-institutional services covered by the State Plan which are provided to a pregnant woman by a certified family nurse practitioner.~~

~~2. "Pediatric care" means ambulatory, non-institutional services covered by the State Plan which are provided to a child under age 21 by a certified pediatric or family nurse practitioner.~~

~~3. "Pediatric or family nurse practitioner services" means service provided by a certified nurse practitioner who by reason of advanced education, experience, and licensure has an enhanced degree of~~

knowledge, skill and competence necessary to provide specialized health care to women and children.

4. "Prescriptive Practice" means the ability to 'prescribe', within criteria established in protocols, during the course of diagnosis and treatment of common health problems. Prescriptive practice is authorized by Title 58, Section 31a Utah Code Annotated, and is a specialized nursing function which can be performed by an advance practice registered nurse licensed under Title 58 Section 31-9.1. Prescriptive practice is based on advanced education, experience, and licensure of the nurse practitioner; an agreement and consultive relationship with a physician who has agreed to provide direction and review on a continuing basis; and on protocols jointly developed by a nurse practitioner and the consulting physician.

5. "Private duty nursing service" means nursing services for patients who require more individual and continuous care than is available from a visiting nurse.

6. "Ventilator dependent" means reliance on a mechanical ventilator to compensate for decreased lung function as a result of respiratory distress syndrome requiring mechanical ventilation soon after birth. The infant is then unable to be weaned from the assisted ventilation during the first month after birth because a more complicated lung problem known as bronchopulmonary dysplasia (BPD) develops. The ventilator dependence is assumed to be prolonged, perhaps up to and beyond two years of age.

7. "Prior authorization" means that degree of approval of payment of services required to be obtained from the Division of Health Care Financing by a licensed provider before the service is provided.

R414-40-4. Eligibility Requirements/Coverage.

A. Private duty nursing service is available to categorically and medically needy children.

B. Pediatric or family nurse practitioner services are available to categorically eligible and medically needy children eligible to receive EPSDT (CHEC) services and to categorically eligible and medically needy pregnant women.

R414-40-5. Program Access Requirements.

A. Recipients seeking private duty nursing service must be Medicaid eligible, ventilator dependent children under age 21 who meet the criteria established and approved by the Division of Health Care Financing staff and physician consultants.

B. Recipients seeking ambulatory obstetrical care from a family nurse practitioner who is an accepted Medicaid provider must have a verifiable pregnancy and be in need of prenatal care.

C. Recipients seeking ambulatory pediatric care from a pediatric nurse practitioner or a family nurse practitioner who is an accepted Medicaid provider, must be under the age of 21.

R414-40-6. Service Coverage.

A. Private duty nursing provides for service to a special group of ventilator dependent, Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Child Health Evaluation and Care (CHEC) eligible children under age 21 who meet established criteria. A highly technical level of skilled nursing care based on specialized training, knowledge, judgment and skill is required to meet the needs of such children. However, such nursing care can be provided in the home by parents or other trained caregivers after learning and providing hands-on care while the child is hospitalized and after a period of orientation and supervision by a private duty nurse in the home.

B. Private duty nursing may be provided:

1. in the individual's home in order to prevent prolonged institutionalization. The service shall be based on a physician's order and a written plan of care specific to needs of the individual, and will be reviewed and recertified every 60 days consistent with Home Health requirements in 42 CFR 440.70, dated October 1988, hereby adopted and incorporated by reference;

2. for a period of time essential to meet medically necessary care needs and develop confidence in family caregivers. Private duty nursing service needs are expected to decrease over time to minimal, intermittent levels consistent with those in the regular home health program.

C. Certified Pediatric and family nurse practitioners are authorized to perform expanded role functions in addition to all functions appropriate for registered nurses. Pediatric and family nurse practitioner services include a broad range of primary health care services for the promotion and maintenance of health. Appropriate intervention for the management of patient care needs is essential, shall be based on established nursing or health care standards, and shall include but not be limited to:

1. establishing a medical, family and social history;

2. completing a physical examination;

3. ordering diagnostic and laboratory procedures;

4. assessing findings and complaints;

5. evaluating health status;

6. identifying problems;

7. establishing a diagnosis;

8. planning, implementing, and evaluating a treatment program according to established standards of health care;

9. prescribing drug therapy according to standard medical practice and in accordance with the Nurse Practitioner Prescriptive Practices Act;

10. providing emergency care;

11. collaborating with other health care professionals;

12. assisting clients to access community resources;

13. initiating and maintaining medical and legal records;

14. supporting and counseling clients on compliance with treatment plans; and

15. making appropriate referrals to meet client needs.

D. Pediatric and family nurse practitioners may provide service as independent or private practitioners or as part of a group practice in a private office, a community health center, or a local health department.

E. Prescriptive practice privileges must be part of the licensure of the pediatric nurse practitioner or the family nurse practitioner providing service in this program to assure a comprehensive level of service.

R414-40-7. Standards of Care.

A. Private duty nursing service shall be provided in accordance with 42 CFR 440.80, dated October 1988, which is hereby adopted and incorporated by reference.

B. High quality, cost-effective care and safe environment for the child in the home may be provided only through adequate training, knowledge, judgment, and skill of the registered nurse or licensed practical nurse licensed in the State of Utah in accordance with Title 58, Chapter 31 Utah Code Annotated.

C. Pediatric nurse practitioner and family nurse practitioner services shall be provided in accordance with standards of practice defined in the rules promulgated pursuant to the provisions of the Utah

~~Nurse Practice Act, Title 58, Chapters 31 and 31a, Utah Code Annotated, "and to protect the public in relation to the practice of nursing."~~

~~R414-40-8. Limitations.~~

~~A. Private duty nursing service may be provided only through a certified home health agency or by a nurse properly licensed by the State of Utah and enrolled as a provider for the Utah Medicaid Program.~~

~~B. Private duty nursing service may be provided only to ventilator dependent, EPSDT (CHEC) eligible individuals under age 21 who meet established criteria.~~

~~C. Private duty nursing service may be provided only through a physician's written orders on which a plan of care specific to the needs of the individual is developed and prior authorized.~~

~~D. Private duty nursing service may be provided in the home for a period of time essential to meet medically necessary care needs, supervise and develop confidence in family caregivers.~~

~~E. Private duty nursing service may be provided on the basis of a reasonable expectation that the care and the service needs of the child can be met adequately by the private duty nurse in the recipient's home.~~

~~F. Private duty nursing hours will be monitored and approved through a weekly utilization review and evaluation, by telephone, with Division of Health Care Financing staff, the private duty nurse/home health agency and in consultation with the primary care pediatrician responsible for medical management of the patient.~~

~~G. Only approved services essential to the care of pregnant women and the care of children under the age of 21 may be provided as covered Medicaid services by pediatric and family nurse practitioners in private practice.~~

~~R414-40-9. Prior Authorization.~~

~~A. Prior authorization is required for private duty nursing service provided after January 1, 1989.~~

~~B. Prior authorization requests shall be evaluated through the use of criteria developed and approved by the Division of Health Care Financing staff and physician consultants.~~

~~R414-40-10. Reimbursement of Services.~~

~~A. Reimbursement for nursing services shall be provided as documented in the Utah State Medicaid Plan, Attachment 4.19-B.~~

~~B. When service is provided by a certified licensed nurse practitioner working under supervision in a group practice, in a private office, community health center, or local health department, the supervising provider shall bill according to his authorized fee schedule.~~

~~C. When service is provided by a certified licensed nurse practitioner working in a private or independent practice, the certified licensed nurse practitioner shall bill according to his authorized fee schedule.~~]

R414-40-1. Introduction and Authority.

(1) This rule outlines eligibility, access requirements, coverage, limitations, and reimbursement for private duty nursing. This rule is authorized by Sections 26-1-5 and 26-18-3.

(2) Private duty nursing service is an optional Title XIX program authorized by 42 U.S.C. Sec. 1396 et seq., 42 U.S.C. Sec. 1396d(a)(8) and 42 CFR 440.80.

R414-40-2. Recipient Eligibility Requirements.

ESPDT eligible children who are under age 21 and who are either in transition from the hospital to the home or who are ventilator dependent are eligible for private duty nursing service. The recipient must require greater than four hours of continuous skilled nursing care per day.

R414-40-3. Program Access Requirements.

(1) Only a licensed home health agency enrolled as a Medicaid provider may be reimbursed for private duty nursing service.

(2) A recipient must have a written physician order establishing the need for private duty nursing service. The private duty nursing provider must develop a plan of care consistent with the recipient diagnosis, severity of illness, and intensity of service. The patient must require more than four hours of skilled nursing service. If medically necessary nursing service requires four hours or less of skilled nursing, the service is covered under the home health program.

(3) Medicaid providers shall submit an initial prior authorization request with medical documentation that demonstrates the need for nursing service. The home health agency shall submit an initial certification and a recertification at least every 60 days as required by 42 CFR 440.70.

(4) Private duty nursing is only available if a parent, guardian, or primary caregiver is committed to and capable of performing the medical skills necessary to ensure quality care.

(5) The home health agency shall verify that the hospital has provided specialized training for the caregiver before patient discharge to enable the caregiver to provide hands-on care in the home. The private duty nurse initially supervises the caregiver who provides this care to ensure that training has been assimilated to ensure safe, quality patient care.

R414-40-4. Service Coverage for Private Duty Nursing.

(1) Private duty nursing service is a limited benefit that is provided with the expectation that the patient's need for private duty nursing service will decrease over time.

(2) Medicaid covers private duty nursing service for a limited time to provide skilled nursing care in the home. Medicaid provides private duty nursing service while the private duty nursing service provider trains the recipient's caregivers to provide the necessary care. Once the caregivers have been given sufficient training for the recipient's needs, the private duty nursing service ends. However, a client who still requires more than four hours of ongoing skilled nursing service may receive private duty nursing service as provided in this rule. Ventilator dependent recipients who require frequent ventilator checks may receive up to eight hours per day of continued private duty nursing. Ventilator dependency means the recipient requires at least eight continuous hours on the ventilator per day to compensate for decreased lung function.

(3) Medicaid covers medically necessary and appropriate private duty nursing for the following. To receive these services, a patient must be in transition from the hospital, be ventilator dependent, or be a patient with a tracheostomy who is unable to manage secretions:

(a) tracheostomy care;

(b) total parenteral nutrition;

(c) intravenous therapy where a single intravenous therapy infusion takes at least four continuous hours and requires monitoring and treatment by a skilled nurse;

(d) decubitus ulcer care for stage three or four ulcers;

(e) colostomy or ileostomy care;

(f) suprapubic catheter care;

(g) continuous nasogastric or gastrostomy tube feeding;

(h) mechanical ventilator support;

(i) monitoring a patient on oxygen who experiences frequent oxygen desaturation.

(4) After informing the recipient's family or similar representatives who live with the recipient and in coordination and consultation with the physician, the private duty nurse shall attempt to wean the patient from a device or service and identify new problems.

(5) Private duty nursing is not covered to provide services solely for the following:

(a) custodial or sitter care to ensure the patient is compliant with treatment;

(b) respite care;

(c) monitoring behavioral or eating disorders; and

(d) observation or monitoring medical conditions that do not require skilled nursing care.

(6) Private duty nursing service is not covered if the service is available from another funding source, agency, or program.

R414-40-5. Reimbursement of Services.

(1) Medicaid reimburses nursing service in accordance with the Utah Medicaid State Plan, Attachment 4.19-B.

(2) A private duty nurse caring for two patients in the home shall bill with the UN modifier.

(3) A provider shall not charge the Department a fee that exceeds the provider's usual and customary charges for the provider's private pay patients.

KEY: [~~m~~]Medicaid
Date of Enactment or Last Substantive Amendment: [~~1991~~]2008
Notice of Continuation: November 22, 2005
Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3

♦ ♦

Human Services, Recovery Services
R527-34
Non-IV-A Services

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31151
FILED: 04/15/2008, 12:09

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to add the department's authority for rulemaking and the purpose of the rule. Also to clarify when the Office of Recovery Services/Child Support Services (ORS/CSS) will only collect spousal support after the child has emancipated, if income withholding is already in place and the child resides with the obligee.

SUMMARY OF THE RULE OR CHANGE: The changes: add a new Section R527-34-1 to show the department authority for rulemaking and include the purpose for this rule; move and renumber the current Section R527-34-1 to Section R527-34-2; and add clarification to Subsection R527-34-2(1)(d) regarding the continued collection of spousal support after the child has emancipated. "Income withholding is already in effect" has been moved to Subsection R527-34-2(i) and a new Subsection R527-34-2(ii) is added with the words "the child(ren) still resides with the obligee."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-11-107

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: The proposed changes to the rule are for clarification purposes only and do not affect the current procedures; therefore, no additional financial impact on any state programs is anticipated.
❖ LOCAL GOVERNMENTS: Administrative rules of the ORS/CSS do not apply to local government; therefore, there will not be any financial impact on the local government.
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The basic requirements of the current rule will not change when the proposed amendment becomes effective. Consequently, there should not be any additional financial impact on those individuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No person or entity affected by this rule should incur any additional costs as a result of the proposed changes because the basic procedures remain the same.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses are not addressed in the rule or the proposed changes and it is not anticipated the changes will create any fiscal impact on them. Lisa-Michelle Church, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
RECOVERY SERVICES
515 E 100 S
SALT LAKE CITY UT 84102-4211, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
LeAnn Wilber at the above address, by phone at 801-536-8950, by FAX at 801-536-8833, or by Internet E-mail at lwilber@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 06/02/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 06/09/2008

AUTHORIZED BY: Mark Brasher, Director

R527. Human Services, Recovery Services.
R527-34. Non-IV-A Services.
R527-34-1. Authority and Purpose.

1. The Department of Human Services is authorized to create rules necessary for the provision of social services by Section 62A-11-107.

2. The purpose of this rule is to outline the services that the Office of Recovery Services/Child Support Services (ORS/CSS) will provide to all Non-IV-A Recipients of child support services.

R527-34-2. Non-IV-A Services.

1. [~~The~~]ORS/CSS[~~Office of Recovery Services/Child Support Services (ORS/CSS)~~] will provide the following services to recipients of child support services:

a. Attempt to locate the obligor;

b. Attempt to collect the current child support amount;

c. Attempt to collect past-due child support which is owed on behalf of a child, regardless of whether the child is a minor;

d. Attempt to enforce court-ordered spousal support if the minor child of the parties resides with the obligee and ORS/CSS is enforcing the child support order; ORS/CSS will only continue to collect spousal support after the child has emancipated if:

i. income withholding is already in effect; and,

ii. the child(ren) still resides with the obligee;

e. Attempt to collect child care expenses if the past-due amount has been reduced to a sum-certain judgment;

f. Attempt to collect ongoing child care expenses if all of the following criteria are met:

i. the obligor or the obligee made a specific request for ORS/CSS to collect ongoing child care;

ii. the child care obligation is included as a specific monthly dollar amount in a court order along with a child support obligation; and,

iii. neither parent is disputing the monthly child care amount;

g. Attempt to collect medical support if the amount is specified as a monthly amount due in the order or has been reduced to a sum-certain judgment;

h. Attempt to enforce medical insurance if either parent has been ordered to maintain insurance;

i. Attempt to establish paternity;

j. Review the support order for possible adjustment of the support amount, in compliance with R527-231.

2. ORS/CSS adopts the federal regulations as published in 45 CFR 302.33 (2001) which are incorporated by reference. 45 CFR 302.33 provides options which ORS/CSS may elect to implement. ORS/CSS elected to implement the following options:

a. ORS/CSS has elected to charge no application fee to applicants for child support enforcement services.

b. ORS/CSS has elected to recover costs from the individual receiving child support enforcement services. The costs which will be recovered are listed in R527-35-1.

c. ORS/CSS has elected not to recover from the non-custodial parent the costs listed in R527-35-1 which are paid by the individual receiving child support services.

KEY: child support
Date of Enactment or Last Substantive Amendment: [~~March 24, 2000~~]2008
Notice of Continuation: January 16, 2007
Authorizing, and Implemented or Interpreted Law: 62A-11-107

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Human Services, Recovery Services
R527-56
In-Kind Support

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31134
FILED: 04/10/2008, 15:01

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to add the department authority and purpose of the rule.

SUMMARY OF THE RULE OR CHANGE: The change adds the first section to show the rulemaking authority of the Office of Recovery Services/Child Support Services (ORS/CSS) and states the purpose of the rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-11-307.2 and Subsection 62A-11-104(1)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The proposed changes to the rule are for clarification purposes only and do not affect the current procedures. Therefore, no additional financial impact on any state programs is anticipated.

❖ LOCAL GOVERNMENTS: Administrative rules of ORS/CSS do not apply to local government.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The basic requirements of the current rule will not change when the proposed amendment becomes effective. Consequently, there should not be any additional financial impact on those individuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No person or entity affected by this rule should incur any additional costs as a result of the proposed changes because the basic procedures remain the same.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule addresses the conditions for granting or denying an obligor credit for support paid in-kind when a court or administrative authority has previously ordered cash support payments, and the right of ORS/CSS to recover the amount of in-kind support from the obligee when the obligee continues to accept it after signing an assignment or other similar document. Businesses are not addressed in the rule or the proposed changes and it is not anticipated the changes will create any fiscal impact on them.
Lisa-Michele Church, Executive Director

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

HUMAN SERVICES
RECOVERY SERVICES
515 E 100 S

SALT LAKE CITY UT 84102-4211, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
LeAnn Wilber at the above address, by phone at 801-536-8950, by FAX at 801-536-8833, or by Internet E-mail at lwilber@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 06/02/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 06/09/2008

AUTHORIZED BY: Mark Brasher, Director

R527. Human Services, Recovery Services.
R527-56. In-Kind Support.
R527-56-1. [~~In-Kind Support~~]Authority and Purpose.

1. Section 62A-11-107 authorizes the Office of Recovery Services is to adopt, amend and enforce rules.

2. The purpose of this rule is to specify the responsibility and procedures for the Office of Recovery Services, Child Support Services teams (ORS/CSS) to grant or deny credit for support paid in-kind when a court or administrative authority has previously ordered cash support payments. This rule also specifies the right of ORS/CSS to recover the amount of in-kind support from the obligee when they continue to accept payments after signing an assignment or similar document.

R527-56-2. Requirements and Procedures.

1. "In-kind" support is support provided by the obligor to the obligee in lieu of payment of a cash support amount.

2. In cases where the obligee is receiving financial public assistance, [~~the Office of Recovery Services/Child Support Services (ORS/CSS)~~]ORS/CSS shall give credit to obligors for in-kind support payments when cash support is court-ordered and there is an in-kind support agreement between the obligee and obligor meeting the following criteria:

a. Both the obligor and the obligee shall have agreed to the in-kind support.

b. The agreement shall be in writing.

c. The agreement pre-dates the obligee receiving financial public assistance.

d. The agreement shall have been filed with the court.

e. The value of the in-kind support is undisputed.

f. The in-kind support is easily valued.

g. The value of the in-kind support provided in a month equals or exceeds the monthly amount of cash support ordered by the court.

h. ORS/CSS shall have received written notice of the agreement and registered no objection to the agreement when the obligee applied for public assistance.

3. If the criteria listed above are met, ORS/CSS shall give the obligor credit for the monthly court-ordered amount for each month that the agreement was in effect and the in-kind support was provided.

4. ORS/CSS may take whatever action is necessary to require prospective payment of the court-ordered cash support during the time period that the obligee receives financial public assistance.

5. If the obligee signed an assignment or other document from the Department of Workforce Services or ORS/CSS which specified that upon receipt of financial public assistance by the obligee ORS/CSS requires prospective payment of cash support as ordered by the court, and the obligor and obligee continue to act in accordance with the in-kind support agreement, the obligee is considered to be retaining support in violation of the assignment of support rights, and the office may recover the amount of in-kind support from the obligee.

6. If the obligee did not sign an assignment or other document as described in (5.), but otherwise received written notice from ORS/CSS that upon receipt of financial public assistance by the obligee ORS/CSS requires prospective payment of cash support as ordered by the court, and the obligor and obligee continue to act in accordance with the in-kind support agreement, the obligee is considered to be retaining support in violation of the assignment of support rights, and ORS/CSS may recover the amount of in-kind support from the obligee.

7. Once an obligor receives written notice that an assignment of support rights is in effect and that ORS/CSS requires payment of cash support as ordered by the court, the obligor may be held responsible to pay directly to ORS/CSS any prospective support payments which are due under a support order, in the manner provided in the support order.

KEY: child support
Date of Enactment or Last Substantive Amendment: [~~April 5, 1999~~]2008
Notice of Continuation: January 31, 2008
Authorizing, and Implemented or Interpreted Law: 62A-11-307.2; 62A-11-104(1)

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Human Services, Recovery Services
R527-257
Enforcing Child Support When the Obligor is Incarcerated

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 31133
FILED: 04/10/2008, 14:55

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is no longer necessary because the Office of Recovery Services/Child Support Services (ORS/CSS) is required to establish a support order, regardless of whether or not the noncustodial parent is incarcerated or not, pursuant to 45 CFR 302.50, 45 CFR 302.31, 45 CFR 302.33, 45 CFR 302.56, 45 CFR 303.4, 45 CFR 303.8, 45 CFR 303.101, and Section 78B-12-105. Sections 78B-12-210 through 78B-12-217 contain the procedures which the office must use and apply for a rebuttable presumption to any judicial or administrative support order established or modified on or after 07/01/1989. Federal regulation, 45 CFR 303.6 requires that state IV-D Agencies provide enforcement services.

SUMMARY OF THE RULE OR CHANGE: The purpose of this proposed filing is to repeal the rule in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 45 CFR 302.50, 302.31, 302.33, 302.56, 303.4, 303.6, 303.8, and 303.101, and Sections 78B-12-105 and 78B-12-210 through 78B-12-7.217

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs or savings to the state because there will be no new changes to the office procedures. The office has been and is still required to provide these same services pursuant to federal regulations and state law.

❖ LOCAL GOVERNMENTS: There are no anticipated costs to the local government because the administrative rules of the ORS/CSS do not apply to local government.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small business because there are no new changes to the office procedures. The office has been and is still required to provide these same services pursuant to federal regulations and state law.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated costs or savings to small business because there are no changes to the office procedures. The office has been and is still required to provide these same services pursuant to federal regulations and state law.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The repeal of this rule will not have a fiscal impact on businesses because there will not be any changes to the office procedures. The office has been and is still required to provide these same services pursuant to federal regulations and state law. Lisa-Michelle Church, Executive Director

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

HUMAN SERVICES
RECOVERY SERVICES
515 E 100 S
SALT LAKE CITY UT 84102-4211, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
LeAnn Wilber at the above address, by phone at 801-536-8950, by FAX at 801-536-8833, or by Internet E-mail at lwilber@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 06/02/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 06/09/2008

AUTHORIZED BY: Mark Brasher, Director

R527. Human Services, Recovery Services.

[~~R527-257. Enforcing Child Support When the Obligor is Incarcerated.~~

~~R527-257-1. Enforcing Child Support When the Obligor is Incarcerated.~~

~~1. If at the time of assessment, the obligor is incarcerated in prison, jail, or in a halfway house and has income or assets:~~

~~a. If there is no order for support, the office shall establish a support order using the child support guidelines pursuant to Section 78-45-7.~~

~~b. If a court order for child support exists, the debt shall accrue as ordered.~~

~~2. The Office of Recovery Services caseworker shall review the obligor's circumstances with a Department of Corrections caseworker before taking steps to collect the child support.~~

~~KEY: administrative law, child support, halfway houses~~
~~Date of Enactment or Last Substantive Amendment: 1992~~
~~Notice of Continuation: August 22, 2007~~
~~Authorizing, and Implemented or Interpreted Law: 78-45-7; 62A-11-320~~]

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Human Services, Recovery Services
R527-260
Driver License Suspension for Failure to Pay Support

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 31152
FILED: 04/15/2008, 12:15

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to establish and create procedures for the Office of Recovery Services/Child Support Services (ORS/CSS) to order an administrative suspension of a person's driving privileges when the person is in arrears on a child support obligation pursuant to H.B. 15 (2007 General Session), effective 07/01/2008. (DAR NOTE: H.B. 15 (2007) is found at Chapter 338, Laws of Utah 2007, and will be effective 07/01/2008.)

SUMMARY OF THE RULE OR CHANGE: Section R527-260-1 includes the legal authority that has been granted to ORS/CSS. Section R527-260-2 provides a statement describing the purpose of this specific rule. Section R527-260-3 defines the criteria that ORS/CSS will use to identify obligors that may be eligible for the driver license suspension process. Sections R527-260-4 and R527-260-5 define the process ORS/CSS will use to notify the obligor and establish reasonable monthly payments to prevent suspension of his/her license. Section R527-260-6 describes the ORS/CSS Supervisory Review Panel that will review every potential

suspension before the Order to Suspend is issued. Section R527-260-7 addresses the procedures and criteria for rescinding the obligor's license suspension.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 53-3-102, 53-3-221, 53-3-221.5, 62A-11-107, 62A-11-304.2, 62A-11-601, 62A-11-602, 62A-11-603, and 62A-11-604

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Providing the obligor with the Notice of Agency Action will result in a cost to the state budget for personal service charges. Personal service costs vary based on the number of attempts required, the number of miles traveled for each attempt, and the constables or contracted servers available in the obligor's location. Due to varying personal service costs, and the fact that the number of obligor parents who will qualify for this process is currently unknown, it is not possible to anticipate the aggregate cost to the state for personal service. Preparing cases for the process outlined in this rule will result in a personnel cost to the state. While internal ORS/CSS procedures are still under development, the following represents an initial cost estimate for this process based on the time required to complete certain tasks listed within this rule: criteria review and initial preparation of Notice of Agency Action: 2 hours; Preparation for and conducting informal adjudicative hearing: 2 hours; Establishing payment agreement: 1 hour; Case monitoring through 6-month payment agreement: 1 hour; Supervisory Review Panel (5 members minimum, 1/2 hour per member): 2.5 hours; Rescission of order to suspend driver license: 1 hour; Total time for one driver license suspension: 9.5 hours; and Total personnel cost for one driver license suspension: $300.58 (9.5 hours X $31.64 average hourly wage and benefit package). If ORS/CSS is successful in using the driver license suspension process as a tool to obtain either payment-in-full or build a pattern of regular monthly child support payments, some cases may be closed; some cases may require less monitoring and fewer administrative enforcement actions; and some cases will avoid more expensive judicial enforcement actions. The aggregate savings to the state that could result from increased compliance with support obligations is not possible to estimate. There may also be minimal costs incurred by the Driver License Division due to this suspension process; however, this rule addresses the process and procedures for ORS/CSS only. The Driver License Division may commence a separate rulemaking process, if necessary, and the costs to that division will be outlined there.

❖ LOCAL GOVERNMENTS: There are no anticipated costs to the local government because the administrative rules of ORS/CSS do not apply to local government.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The procedures contained in this rule do not affect small business; therefore, there are no anticipated costs or savings for small business due to this rule. Obligated parents who qualify for driver license suspension may incur some costs as a result of this rule and its underlying statutes. After receiving a Notice of Agency Action, an obligor may incur minimal postage costs in returning the request for an informal hearing. Postage costs could start at $0.41 for a first-class letter returning the hearing request, but this cost could increase if substantial documentation contesting the support balance is submitted as a defense. If an obligor's license is suspended, the obligor may be required to make other transportation or work arrangements. Because the cost of one obligor's normal transportation and the cost of alternative transportation will vary widely depending on each obligor's personal circumstances, it is not possible to estimate the anticipated costs or savings for this group. It is anticipated that obligee parents and their children will experience a fiscal benefit in those cases where the procedures outlined in this rule cause an obligor to make regular child support payments; however, those benefits will vary based on the individual child support orders and the associated arrears payment plans and the dollar amount of the benefit is not possible to estimate.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Obligated parents who qualify for driver license suspension may incur some costs as a result of this rule and its underlying statutes. After receiving a Notice of Agency Action, an obligor may incur minimal postage costs in returning the request for an informal hearing. Postage costs could start at $0.41 for a first-class letter returning the hearing request, but this cost could increase if substantial documentation contesting the support balance is submitted as a defense. If an obligor's license is suspended, the obligor may be required to make other transportation or work arrangements. Because the cost of one obligor's normal transportation and the cost of alternative transportation will vary widely depending on each obligor's personal circumstances, it is not possible to estimate the anticipated costs for this group. There are no other anticipated compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses are not addressed in the proposed rule, and it is not anticipated this rule will create any fiscal impact on them. Lisa-Michele Church, Executive Director

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

HUMAN SERVICES
RECOVERY SERVICES
515 E 100 S
SALT LAKE CITY UT 84102-4211, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

LeAnn Wilber at the above address, by phone at 801-536-8950, by FAX at 801-536-8833, or by Internet E-mail at lwilber@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 06/02/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 06/23/2008

AUTHORIZED BY: Mark Brasher, Director

R527. Human Services, Recovery Services.
R527-260. Driver License Suspension for Failure to Pay Support.
R527-260-1. Authority.

(1) Section 62A-11-107 authorizes the Office of Recovery Services/Child Support Services (ORS/CSS) to adopt, amend and enforce rules.

(2) Sections 53-3-102, 53-3-221, 53-3-221.5, 62A-11-601, 62A-11-602, 62A-11-603, and 62A-11-604 provide for suspension of an individual's driver license for failure to pay child support.

R527-260-2. Purpose.

The purpose of this rule is to provide procedures and criteria for ORS/CSS to suspend an obligor parent's driver license for failure to pay child support.

R527-260-3. Driver License Suspension Criteria.

ORS/CSS may begin procedures for driver license suspension on an obligor if all other administrative enforcement actions have been exhausted and the obligor:

(1) has a valid Utah driver license;

(2) is delinquent in child support payment pursuant to Section 62A-11-602(2);

(3) is working, but ORS/CSS is unable to send a Notice to Withhold Income for Child Support; and,

(4) has the ability to pay child support.

R527-260-4. Notice of Agency Action.

(1) ORS/CSS will notify the obligor of the possibility of suspending his/her driver license for failure to pay child support by sending a Notice of Agency Action (NAA) pursuant to Sections 62A-11-304.2 and 63G-4-102 et seq. The NAA will be personally served upon the obligor.

(2) Once the obligor has been personally served, s/he has thirty days to respond to the NAA and request an informal adjudicative hearing with ORS/CSS. If the obligor fails to respond to the NAA, the obligor's case(s) will be sent to the ORS/CSS Supervisory Review Panel for approval to proceed with the driver license suspension.

R527-260-5. Repayment Agreement to Stop Driver License Suspension.

(1) Upon receipt of the NAA, the obligor may enter into a repayment agreement with ORS/CSS to temporarily stop the suspension process. The repayment agreement must include both current support, if appropriate, and an arrears payment for six consecutive months. ORS/CSS will determine the obligor's monthly arrears payment by reviewing his/her actual income and necessary debts to arrive at a reasonable monthly amount.

(2) If the obligor makes the full required payment each month for six consecutive months, ORS/CSS will dismiss the NAA.

(3) If the obligor fails to comply with the terms of the repayment agreement at any time during the six consecutive months, his/her case will immediately be sent to the ORS/CSS Supervisory Review Panel to determine the next appropriate action on the case; for example, to proceed with suspension of the obligor's driver license.

R527-260-6. ORS/CSS Supervisory Review Panel.

(1) The ORS/CSS Supervisory Review Panel consists of the ORS Director, the CSS Director and other members as designated by the ORS and CSS Directors.

(2) The panel is responsible to review the case and determine if it is appropriate to proceed with suspension of the obligor's driver license.

(3) If the ORS/CSS Supervisory Review Panel determines it is appropriate to proceed with the driver license suspension, the ORS or CSS Director will sign the Order to Suspend, which will be sent to the Driver License Division for enforcement.

(4) If the ORS/CSS Supervisory Review Panel determines it is not appropriate to suspend the obligor's license, the case will be sent back to the team to take the next appropriate action and/or dismiss the NAA.

R527-260-7. Repayment Agreement to Rescind Driver License Suspension.

(1) Once the Driver License Division has been notified to suspend the obligor's driver license, the obligor may contact ORS/CSS to make arrangements to rescind the Order to Suspend and reinstate his/her driver license. The obligor may enter into a repayment agreement, which includes both current support, if appropriate, and an arrears payment to be paid for six consecutive months. ORS/CSS will determine the obligor's monthly arrears payment by reviewing his/her actual income and necessary debts to arrive at a reasonable monthly amount.

(2) The obligor's license will remain suspended until s/he has successfully complied with the terms of the repayment agreement. Once the terms of the repayment agreement have been met, ORS/CSS will rescind the Order to Suspend and notify the Driver License Division.

KEY: child support, driver license
Date of Enactment or Last Substantive Amendment: July 1, 2008
Authorizing, and Implemented or Interpreted Law: 53-3-102; 53-3-221; 53-3-221.5; 62A-11-107; 62A-11-304.2; 62A-11-601; 62A-11-602; 62A-11-603; 62A-11-604

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Labor Commission, Antidiscrimination and Labor, Labor

R610-1-4

Tips, Gratuities, and Commissions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31149
FILED: 04/14/2008, 14:24

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify standards for payment of minimum wage in situations involving tipped employees and tip pooling.

SUMMARY OF THE RULE OR CHANGE: The amendment clarifies the definition of a "tip" and "tipped employees" and removes redundant references to "gratuities". The amendment also clarifies that employers can mandate tip pooling if prior written notice is provided to employees. Finally, the amendment reorders existing rule sections.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 34-23-101 et seq., 34-28-1 et seq., 34-40-101 et seq., and 63-46B-1 et seq.

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The amendment may minimally increase the Division of Antidiscrimination and Labor's enforcement costs due to the requirement that employers notify employees in writing of any mandatory tip pooling arrangement. State government does not claim any tip credit against minimum wage. Consequently, the substance of this amendment will not impose any additional compliance costs or result in any savings to the State of Utah in its capacity as an employer.

❖ LOCAL GOVERNMENTS: Local governments do not claim any tip credit against minimum wage. Consequently, the substance of this rule amendment will not result in any additional compliance costs for local government and will not result in any costs or savings to local governments.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The amendment requires that employers notify employees in writing of any tip pooling arrangement. This written notice does not require any formality and can be done in a brief written statement. The commission estimates that writing and distributing the required notice will require less than one hour of time for the relatively small number of employers that use tip pooling arrangements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for employees covered by the proposed rule are de minimis. At most, as discussed in "small businesses" above, it will require approximately one hour for those employers using tip pooling arrangements to comply with the rules requirements. Other employers will not incur any compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: By clarifying tip rules for employers, employees, and the Labor Commission itself, the amendment is expected to simplify businesses' compliance with minimum wage requirements as those requirements are affected by tip income. While the amendment does add a requirement that employers notify employees in writing of any mandatory tip pooling arrangement, the commission believes that this requirement is easily complied with and may benefit businesses by bringing additional clarity to the terms of compensation for tipped employees. Sherrie Hayashi, Commissioner

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

LABOR COMMISSION
ANTIDISCRIMINATION AND LABOR, LABOR
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:
Heather Morrison or Brent Asay at the above address, by phone at 801-530-6921 or 801-530-6802, by FAX at 801-530-7601 or 801-530-7601, or by Internet E-mail at hmorrison@utah.gov or basay@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 06/02/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 06/09/2008

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R610. Labor Commission, Antidiscrimination and Labor, Labor.
R610-1. Minimum Wage, Clarify Tip Credit, and Enforcement.
R610-1-4. Tips[~~, Gratuities,~~] and Commissions.

A. An employer may credit the tips, sometimes referred to as gratuities, received by tipped employees (an example would be waiters and waitresses) against the employer's minimum wage obligation. The tips must be received by the employee, reported to the employer, and must reach a threshold of at least $30.00 per month before credit can be allowed.

B. An employer has a cash wage obligation of at least $2.13 per hour in meeting the required minimum wage[~~ of at least $2.13 per hour~~]. If an employee's tips combined with the employer's cash wage obligation of $2.13 per hour do not equal the minimum hourly wage requirement, the employer must increase its cash wage obligation to make up the difference.

C. A compulsory charge for service imposed on a customer by an employer's establishment, is not a tip. Such charges are part of the employer's gross receipts and within its discretion to allocate. Where service charges are imposed and the employee receives no tips, the employer must pay the entire minimum wage and overtime required by law.

D. All tips [~~or gratuities~~]shall be retained by the employee receiving the tips [~~or gratuities~~]. However, this requirement does not preclude tip pooling or sharing arrangements where an employer mandates that tips be pooled and divided or shared among[~~pooling of tips or gratuities to be divided equally between~~] those employees who customarily and regularly receive tips[~~ or gratuities~~].

1. A bona fide tip pooling or sharing arrangement may include employees who customarily and regularly receive tips from customers directly or via a tip pooling or sharing arrangement[~~, such as waiters, bellhops, waitresses, countermen, busboys, and service bartenders~~].

2. [~~Employees such as d~~]Dishwashers, chefs, cooks, and janitors are not [~~considered~~]tipped employees and do not qualify for a tip credit nor are they eligible to[~~ may not~~] participate in an employer mandated tip pooling or sharing arrangement.

[~~D~~]E. Every employer using[~~ intending to exercise~~] the tip [~~or gratuity~~]credit must so inform [~~each~~]the affected employee at the time of hire. Any tip pooling or sharing arrangement must be made in writing and provided to each affected employee at the time of hire or prior to implementation.

[~~E~~]F. Where tips are charged on a credit card, and the employer must pay the credit card company a percentage of the bill for its use, the employer may reduce the amount of the credit card tips paid over to the employee by a percentage no greater than that charged by the credit card company.

[~~F~~]G. In computing the minimum wage, tips[~~, gratuities,~~] and commissions must be counted in the payroll period in which the tip[~~, gratuity~~] or commission is earned.

[~~G~~]H. This section does not apply to tips or commissions as delineated in Section 34-40-104(1)[~~(j)~~].

KEY: wages, minors, labor, time
Date of Enactment or Last Substantive Amendment: [~~September 8, 2007~~|2008
Notice of Continuation: November 30, 2006
Authorizing, and Implemented or Interpreted Law: 34-23-101 et seq.; 34-28-1 et seq.; 34-40-101 et seq.; 63-46b-1 et seq.

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Labor Commission, Antidiscrimination and Labor, Labor

R610-3-10

Attorney Fees

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31148
FILED: 04/14/2008, 14:21

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the amendment is to bring the current rule into compliance with the language of Section 34-28-13. The current rule allows for an award of attorney fees to private counsel for representing a claimant before the commission, and cites Section 34-28-13 as authority for that award. However, Section 34-28-13 of the Payment of Wages Act does not allow for an award of attorney fees to private counsel, and therefore the rule, as currently drafted, is confusing and inaccurate.

SUMMARY OF THE RULE OR CHANGE: The amendment removes obsolete language from the rule, which had allowed for the recovery of attorney fees under Section 34-28-13. That section of the Payment of Wages Act, however, no longer allows an award of attorney fees to private counsel for representing a claimant before the commission.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 34-23-101 et seq., 34-28-1 et seq., 34-40-101 et seq., and 63-46b-1 et seq.

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Because this rule does not impose any additional requirements, it will neither increase the Division of Antidiscrimination and Labor's costs of administering the Payment of Wages Act, nor impose any additional compliance costs on the State of Utah in its capacity as an employer. Consequently, the rule amendment will not result in any costs or savings to the state budget.

❖ LOCAL GOVERNMENTS: Because this rule amendment does not impose any additional requirements, it will not result in any additional compliance costs for local government and will not result in any costs or savings to local governments.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Because this rule amendment does not impose any additional requirements, it will not result in any additional compliance costs for small businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: By eliminating the current rule's attorney fees provision, which no longer has authority in the Payment of Wages Act, the proposed amendment will eliminate confusion and bring the rule into compliance with the statute. It will not result in any cost to affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: By eliminating the current rule's attorney fees provision, which no longer has authority in the Payment of Wages Act, the proposed amendment will eliminate confusion and bring the rule into compliance with the statute. It will not result in any cost to businesses. Sherrie Hayashi, Commissioner

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

LABOR COMMISSION
ANTIDISCRIMINATION AND LABOR, LABOR
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:
Heather Morrison or Brent Asay at the above address, by phone at 801-530-6921 or 801-530-6802, by FAX at 801-530-7601 or 801-530-7601, or by Internet E-mail at hmorrison@utah.gov or basay@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 06/02/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 06/09/2008

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R610. Labor Commission, Antidiscrimination and Labor, Labor.
R610-3. Filing, Investigation, and Resolution of Wage Claims.
R610-3-10. Attorney Fees.

A. Pursuant to Section 34-28-9(4)(b), a[~~A~~]ttorney fees and costs[~~, in addition to the award for wages, shall be allowed in an Order for Payment and in an Order on Default and Order to Pay pursuant to Section 34-28-9(4)(b)~~] shall be allowed to counsel employed by the commission, the attorney general or the county representing the commission in appeals when the plaintiff prevails and in judgment enforcement proceedings. Attorney fees shall be allowed in the amount of $[~~3~~]500 or one-third of the award, whichever is greater.[

~~B. Reasonable attorney fees may be awarded private counsel pursuant to Section 34-28-13 for representing a claimant before the Commission.~~]

KEY: wages, minors, labor, time
Date of Enactment or Last Substantive Amendment: [~~December 17, 2002~~]2008
Notice of Continuation: November 30, 2006
Authorizing, and Implemented or Interpreted Law: 34-23-101 et seq.; 34-28-1 et seq.; 34-40-101 et seq.; 63-46b-1 et seq.

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End of the Notices of Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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

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

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

Administrative Services, Fleet Operations, Surplus Property

R28-3

Utah State Agency for Surplus Property Adjudicative Proceedings

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 31117

FILED: 04/04/2008, 11:03

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: As required by the Utah Administrative Procedures Act, this rule provides the procedures for adjudicating disputes brought before the Utah State Agency for Surplus Property under the authority granted by Section 63A-9-801, which requires the division to make rules establishing the state surplus property program, and Title 63, Chapter 46b, which is 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 comments were received either in support of or opposing this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is in the best interest of surplus customers and the agency to have adjudicative proceedings that are as efficient as possible. Informal proceedings provide for less time and expense. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Brian Fay at the above address, by phone at 801-538-3502, by FAX at 801-538-1773, or by Internet E-mail at bfay@utah.gov

AUTHORIZED BY: Margaret Chambers, Director

EFFECTIVE: 04/04/2008

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Agriculture and Food, Plant Industry

R68-14

Quarantine Pertaining to Gypsy Moth - Lymantria Dispar

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 31125

FILED: 04/04/2008, 14:34

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Promulgated under authority of Sections 4-2-2 and 4-35-9. This rule was written because the gypsy moth is on the national pest list and can cause great damage, and the rule has been effective in containing the gypsy moth.

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. There has been no opposition to this rule because the gypsy moth continues to be on the national pest list.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Because the gypsy moth continues to be on the national pest list and can cause great damage, and because this rule has been effective in containing the gypsy moth, it should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Kathleen Mathews or Clair Allen at the above address, by phone at 801-538-7103 or 801-538-7180, by FAX at 801-538-7126 or 801-538-7189, or by Internet E-mail at kmathews@utah.gov or ClairAllen@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 04/04/2008

Environmental Quality, Water Quality
R317-101
Utah Wastewater Project Assistance Program

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 31103
FILED: 04/02/2008, 12:59

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(f) authorizes the Utah Water Quality Board to adopt rules to implement awarding construction loans to political subdivisions and municipal authorities under Section 11-8-2. Title 73, Chapter 10c, authorizes the board to issue wastewater loans, credit enhancement agreements, interest buy-down agreements, and hardship grants.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received either supporting or opposing the rule during the last five-year review. Additionally, this rule has been amended once since the last five-year review. No comments were received during the public comment period for the rule amendment.

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 policies and procedures for implementing the Utah Wastewater Project Assistance Program. The rule contains definitions, eligibility requirements, application procedures and prioritization procedures central to the Water Quality Board's implementation of their statutory charge and should be continued.

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

ENVIRONMENTAL QUALITY
WATER QUALITY
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:
Dave Wham at the above address, by phone at 801-538-6052, by FAX at 801-538-6016, or by Internet E-mail at dwham@utah.gov

AUTHORIZED BY: Walter Baker, Director

EFFECTIVE: 04/02/2008

Insurance, Administration
R590-94
Rule Permitting Smoker/Nonsmoker Mortality Tables for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 31132
FILED: 04/09/2008, 11:47

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 statutory authority upon which this rule is promulgated are Sections 31A-2-201 and 31A-22-408. Section 31A-2-201 authorizes the commissioner to write rules to implement the provisions of Title 31A. Section 31A-22-408 allows the commissioner to adopt rules interpreting, describing, and clarifying the application of this nonforfeiture law to any form of life insurance for which the interpretation, description, or clarification is deemed necessary by the commissioner, including but not limited to, unusual and new forms of life 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: The department has not received any written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule permits the use of smoker/nonsmoker mortality tables as a reserve standard allowing for a fairer pricing of life insurance products. The rule helps insurers offer lower rates to nonsmokers. 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: 04/09/2008

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Insurance, Administration
R590-154
Unfair Marketing Practices Rule

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 31131
FILED: 04/09/2008, 11:46

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Authority for this rule comes from Subsection 31A-2-201(3), which gives the commissioner authority to write rules to implement the provisions of Title 31A. Also, Subsection 31A-23-302(8) allows the commissioner to find certain practices to be misleading, deceptive, unfairly discriminatory, provide an unfair inducement, or to unreasonably restrain competition, and to prohibit them by rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received in the past five years regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule gives guidelines to producers as to what is considered to be unacceptable market conduct. 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: 04/09/2008

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Natural Resources, Water Rights
R655-5
Maps Submitted to the Division of Water Rights

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 31130
FILED: 04/08/2008, 14:30

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 73-2-1(5) allows the state engineer to make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, consistent with the purposes of this title, governing the "form and content of applications and related documents, maps, and reports." This rule specifically address the form and content of maps to be submitted to the Division of Water Rights. These rules are critical for having maps prepared for the water right files to locate beneficial use of water, to determine appurtenancy to land, to file applications under Sections 73-3-2 and 73-3-3, and to submit proofs of beneficial use under Section 73-3-16.

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: Maps continue to be submitted to the Division of Water Rights to detail where water is being used. It is important to have those maps submitted in compliance with standards so that places of use can easily be identified and water appurtenant to places of use can be determined. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Kaelyn Anfinsen at the above address, by phone at 801-538-7370, by FAX at 801-538-7442, or by Internet E-mail at KAELYNANFINSEN@utah.gov

AUTHORIZED BY: Jerry Olds, Director

EFFECTIVE: 04/08/2008

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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).

Regents (Board of)

Administration

No. 31104: R765-555. Policy on Colleges and Universities Providing Facilities, Goods and Services in Competition with Private Enterprise.
ENACTED OR LAST REVIEWED: 04/02/2003 (No. 26141, 5YR, filed 04/02/2003 at 8:48 a.m., published 05/01/2003).
EXTENDED DUE DATE: 07/31/2008

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
Plant Industry
No. 31009 (REP): R68-17. Quarantine Pertaining to Necrotic Strain of the Potato Virus Y.
Published: March 1, 2008
Effective: April 11, 2008

Commerce
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Published: March 1, 2008
Effective: April 10, 2008

Real Estate
No. 31003 (AMD): R162-2-2. Licensing Procedure.
Published: March 1, 2008
Effective: April 7, 2008

No. 31001 (AMD): R162-8-4. School Conduct and Standards of Practice.
Published: March 1, 2008
Effective: April 7, 2008

No. 31000 (NEW): R162-12. Utah Housing Opportunity Restricted Account.
Published: March 1, 2008
Effective: April 7, 2008

No. 31002 (AMD): R162-207-6. Determining Fitness for Renewal.
Published: March 1, 2008
Effective: April 7, 2008

No. 31004 (AMD): R162-210-4. Rules of Conduct for Certified Schools.
Published: March 1, 2008
Effective: April 7, 2008

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Published: March 1, 2008
Effective: April 11, 2008

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Effective: April 11, 2008

No. 30774 (CPR): R313-12-111. Submission of Electronic Copies.
Published: March 1, 2008
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Published: March 1, 2008
Effective: April 7, 2008

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Published: March 1, 2008
Effective: April 7, 2008

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, 2008, including notices of effective date received through April 15, 2008, the effective dates of which are no later than May 1, 2008. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: The index may contain inaccurate page number references. Also the index is incomplete in the sense that index entries for Changes in Proposed Rules (CPRs) are not preceded by entries for their parent Proposed Rules. These difficulties with the index are related to a new software package used by the Division to create the Bulletin and related publications; we hope to have them resolved as soon as possible. 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

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RULES INDEX - BY KEYWORD (SUBJECT)

ABBREVIATIONS

AMD = Amendment
CPR = Change in proposed rule
EMR = Emergency rule (120 day)
NEW = New rule
EXD = Expired
NSC = Nonsubstantive rule change
REP = Repeal
R&R = Repeal and reenact
5YR = Five-Year Review

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curricula					
Education, Administration	30882	R277-700	5YR	01/08/2008	2008-3/74
	30977	R277-703-6	NSC	02/27/2008	Not Printed
data standards					
Education, Administration	31005	R277-484	AMD	04/11/2008	2008-5/17
deadlines					
Education, Administration	31005	R277-484	AMD	04/11/2008	2008-5/17
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Labor Commission, Administration	31232	R600-1	5YR	04/28/2008	Not Printed
definitions					
Environmental Quality, Air Quality	30697	R307-101	AMD	02/08/2008	2007-23/21
	30959	R307-101	5YR	02/08/2008	2008-5/40
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	30774	R313-12-111	CPR	04/11/2008	2008-5/34
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Tax Commission, Administration	30688	R861-1A-20	AMD	01/11/2008	2007-23/68
	30589	R861-1A-24	AMD	01/11/2008	2007-21/69
	30717	R861-1A-26	AMD	01/11/2008	2007-23/69
	30838	R861-1A-40	AMD	02/25/2008	2008-1/32
	30835	R861-1A-42	AMD	02/25/2008	2008-1/33
	30780	R861-1A-43	AMD	01/25/2008	2007-24/24
dietitians					
Commerce, Occupational and Professional Licensing	31073	R156-49	5YR	03/24/2008	2008-8/52

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	30926	R539-1-8	EMR	01/28/2008	2008-4/38
disabled persons					
Corrections, Administration	30713	R251-112	AMD	03/11/2008	2007-23/19
Natural Resources, Wildlife Resources	30777	R657-12	AMD	01/22/2008	2007-24/19
disables					
Human Services, Aging and Adult Services	31027	R510-105	5YR	02/27/2008	2008-6/26
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	30958	R277-609-5	NSC	02/29/2008	Not Printed
	31016	R686-103	REP	04/21/2008	2008-6/12
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	30589	R861-1A-24	AMD	01/11/2008	2007-21/69
	30717	R861-1A-26	AMD	01/11/2008	2007-23/69
	30838	R861-1A-40	AMD	02/25/2008	2008-1/32
	30835	R861-1A-42	AMD	02/25/2008	2008-1/33
	30780	R861-1A-43	AMD	01/25/2008	2007-24/24
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Education, Administration	30958	R277-609-5	NSC	02/29/2008	Not Printed
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Commerce, Occupational and Professional Licensing	30655	R156-1-102a	AMD	01/08/2008	2007-23/3
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Environmental Quality, Drinking Water	31157	R309-352	5YR	04/18/2008	Not Printed
driver education					
Education, Administration	31039	R277-746	5YR	03/03/2008	2008-7/64
	31040	R277-747	5YR	03/03/2008	2008-7/64
dual employment					
Human Resource Management, Administration	30778	R477-8-5	AMD	01/22/2008	2007-24/16
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Human Services, Substance Abuse and Mental Health	31089	R523-1	5YR	03/31/2008	2008-8/53
	30767	R523-1	NSC	03/31/2008	Not Printed

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	30888	R277-730	5YR	01/08/2008	2008-3/77
education finance					
Education, Administration	30845	R277-423	AMD	02/07/2008	2008-1/8
educational testing					
Education, Administration	30883	R277-702	5YR	01/08/2008	2008-3/74
educator					
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educator licensing					
Education, Administration	30944	R277-502	AMD	03/24/2008	2008-4/6
	30878	R277-518	5YR	01/08/2008	2008-3/72
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effluent standards					
Environmental Quality, Water Quality	30639	R317-1-4	AMD	02/04/2008	2007-22/52
	30637	R317-13	NEW	02/04/2008	2007-22/61
electric generating unit					
Environmental Quality, Air Quality	30965	R307-220	5YR	02/08/2008	2008-5/43
	30969	R307-224	5YR	02/08/2008	2008-5/45
	30704	R307-224-2	AMD	02/08/2008	2007-23/39
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Commerce, Occupational and Professional Licensing	30953	R156-11a	AMD	04/10/2008	2008-5/5
electronic commerce					
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Labor Commission, Safety	30943	R616-3-3	AMD	03/24/2008	2008-4/21
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	30927	R414-308-7	AMD	04/01/2008	2008-4/16
Human Services, Child and Family Services	30718	R512-50	REP	01/07/2008	2007-23/60
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energy					
Natural Resources, Geological Survey	30902	R638-2-6	AMD	03/10/2008	2008-3/35
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Capitol Preservation Board (State), Administration	30591	R131-1	AMD	02/29/2008	2007-21/11
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	30961	R307-115	5YR	02/08/2008	2008-5/41
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Commerce, Occupational and Professional Licensing	30953	R156-11a	AMD	04/10/2008	2008-5/5
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Education, Administration	31041	R277-751	5YR	03/03/2008	2008-7/65
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Environmental Quality, Radiation Control	30774	R313-12-111	AMD	04/11/2008	2007-24/8
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Education, Administration	31036	R277-483	5YR	03/03/2008	2008-7/62
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Corrections, Administration	30803	R251-114	NEW	03/11/2008	2008-1/6
family employment program					
Workforce Services, Employment Development	30864	R986-200-214	AMD	02/26/2008	2008-2/25

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	30767	R523-1	NSC	03/31/2008	Not Printed
Labor Commission, Industrial Accidents	31234	R612-2	5YR	04/28/2008	Not Printed
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	30898	R651-611	AMD	03/10/2008	2008-3/39
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Public Service Commission, Administration	31072	R746-440	NSC	04/11/2008	Not Printed
financial aid					
Regents (Board Of), Administration	30957	R765-607	5YR	02/08/2008	2008-5/60
financial disclosures					
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	30652	R414-304	AMD	01/28/2008	2007-23/54
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Environmental Quality, Air Quality	30963	R307-202	5YR	02/08/2008	2008-5/42
fire prevention					
Public Safety, Fire Marshal	30919	R710-9-6	AMD	03/10/2008	2008-3/52
fire training					
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Natural Resources, Parks and Recreation	30901	R651-612	AMD	03/10/2008	2008-3/42
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Public Safety, Fire Marshal	30918	R710-2-4	AMD	03/10/2008	2008-3/50
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Natural Resources, Parks and Recreation	30899	R651-301	AMD	03/10/2008	2008-3/37
fish					
Natural Resources, Wildlife Resources	30676	R657-13	AMD	01/07/2008	2007-23/61
	30904	R657-13-4	AMD	03/10/2008	2008-3/43
	30903	R657-58	NEW	03/10/2008	2008-3/47
	31052	R657-58	NSC	03/26/2008	Not Printed
fishing					
Natural Resources, Wildlife Resources	30676	R657-13	AMD	01/07/2008	2007-23/61
	30904	R657-13-4	AMD	03/10/2008	2008-3/43
	30903	R657-58	NEW	03/10/2008	2008-3/47
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fleet expansion					
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	30887	R277-722	5YR	01/08/2008	2008-3/76
	31015	R277-722	REP	04/21/2008	2008-6/6
foods					
Education, Administration	30848	R277-719	NEW	02/07/2008	2008-1/12
franchises					
Tax Commission, Auditing	30913	R865-6F-28	AMD	03/14/2008	2008-3/61
	30842	R865-6F-37	AMD	02/25/2008	2008-1/35
fraud					
Human Services, Recovery Services	30982	R527-928	AMD	04/07/2008	2008-5/26
fuel composition					
Environmental Quality, Air Quality	30964	R307-203	5YR	02/08/2008	2008-5/43
fuel oil					
Environmental Quality, Air Quality	30964	R307-203	5YR	02/08/2008	2008-5/43
funding					
Environmental Quality, Drinking Water	31157	R309-352	5YR	04/18/2008	Not Printed
game laws					
Natural Resources, Wildlife Resources	30829	R657-5	AMD	02/07/2008	2008-1/18
	30828	R657-23	AMD	02/07/2008	2008-1/25
	30955	R657-23-5	AMD	04/07/2008	2008-5/31
	30906	R657-33	AMD	03/10/2008	2008-3/44
general conformity					
Environmental Quality, Air Quality	30698	R307-115	AMD	02/08/2008	2007-23/28
	30961	R307-115	5YR	02/08/2008	2008-5/41
geology					
Commerce, Occupational and Professional Licensing	30694	R156-76	AMD	01/08/2008	2007-23/17
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Pardons (Board Of), Administration	30949	R671-403	5YR	02/04/2008	2008-5/59
graduation requirements					
Education, Administration	30977	R277-703-6	NSC	02/27/2008	Not Printed
grants					
Community and Culture, Housing and Community Development	30451	R199-8	AMD	01/01/2008	2007-19/6
grievance procedures					
Tax Commission, Administration	30688	R861-1A-20	AMD	01/11/2008	2007-23/68
	30589	R861-1A-24	AMD	01/11/2008	2007-21/69
	30717	R861-1A-26	AMD	01/11/2008	2007-23/69
	30838	R861-1A-40	AMD	02/25/2008	2008-1/32
	30835	R861-1A-42	AMD	02/25/2008	2008-1/33

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Environmental Quality, Air Quality	30430	R307-214	AMD	01/11/2008	2007-19/12
	30895	R307-214	5YR	01/11/2008	2008-3/77
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Public Safety, Fire Marshal	30893	R710-12	NEW	03/10/2008	2008-3/58
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Environmental Quality, Environmental Response and Remediation	30567	R311-401-2	AMD	01/02/2008	2007-21/59
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Environmental Quality, Solid and Hazardous Waste	31065	R315-3	NSC	04/11/2008	Not Printed
	30907	R315-15-1	AMD	03/13/2008	2008-3/16
	30908	R315-15-10	AMD	03/13/2008	2008-3/19
	30909	R315-15-11	AMD	03/13/2008	2008-3/21
	30910	R315-15-12	AMD	03/13/2008	2008-3/23
	30911	R315-15-17	AMD	03/13/2008	2008-3/29
health					
Health, Center for Health Data, Health Care Statistics	31021	R428-11	NSC	04/21/2008	Not Printed
	31167	R428-11	5YR	04/21/2008	Not Printed
	31022	R428-13	NSC	04/21/2008	Not Printed
	31168	R428-13	5YR	04/21/2008	Not Printed
health facilities					
Health, Health Systems Improvement, Licensing	30975	R432-16	5YR	02/11/2008	2008-5/58
health planning					
Health, Center for Health Data, Health Care Statistics	31021	R428-11	NSC	04/21/2008	Not Printed
	31167	R428-11	5YR	04/21/2008	Not Printed
	31022	R428-13	NSC	04/21/2008	Not Printed
	31168	R428-13	5YR	04/21/2008	Not Printed
health policy					
Health, Center for Health Data, Health Care Statistics	31021	R428-11	NSC	04/21/2008	Not Printed
	31022	R428-13	NSC	04/21/2008	Not Printed
	31168	R428-13	5YR	04/21/2008	Not Printed
hearings					
Environmental Quality, Water Quality	30948	R317-9	5YR	02/01/2008	2008-4/42
Labor Commission, Adjudication	30811	R602-2-4	AMD	02/07/2008	2008-1/14
	30810	R602-3-3	AMD	02/07/2008	2008-1/16
Professional Practices Advisory Commission, Administration	30951	R686-100	5YR	02/04/2008	2008-5/59
higher education					
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	30842	R865-6F-37	AMD	02/25/2008	2008-1/35
	30916	R865-9I-37	AMD	03/14/2008	2008-3/63
	30849	R865-9I-53	AMD	02/25/2008	2008-1/36
hospital policy					
Health, Center for Health Data, Health Care Statistics	31167	R428-11	5YR	04/21/2008	Not Printed
hospitals					
Environmental Quality, Air Quality	30702	R307-222	AMD	02/08/2008	2007-23/36
	30967	R307-222	5YR	02/08/2008	2008-5/44
	30833	R307-222-1	NSC	02/08/2008	Not Printed
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Human Services, Administration, Administrative Services, Licensing	31017	R501-16	5YR	02/22/2008	2008-6/25
	31026	R501-17	5YR	02/27/2008	2008-6/25
Human Services, Services for People with Disabilities	30877	R539-1-8	AMD	04/01/2008	2008-3/32
	30926	R539-1-8	EMR	01/28/2008	2008-4/38
hunter education					
Natural Resources, Wildlife Resources	30828	R657-23	AMD	02/07/2008	2008-1/25
	30955	R657-23-5	AMD	04/07/2008	2008-5/31
impairment ratings					
Labor Commission, Industrial Accidents	31231	R612-7	5YR	04/28/2008	Not Printed
implements of husbandry					
Transportation, Motor Carrier	30783	R909-1-1	AMD	02/15/2008	2007-24/25
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Natural Resources, Wildlife Resources	31047	R657-3	5YR	03/11/2008	2008-7/65
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	30925	R414-303	5YR	01/25/2008	2008-4/44
	30924	R414-304	5YR	01/25/2008	2008-4/44
	30652	R414-304	AMD	01/28/2008	2007-23/54
income distribution					
Human Services, Child and Family Services	30716	R512-20	REP	01/07/2008	2007-23/58
	30720	R512-20	NSC	01/07/2008	Not Printed
income tax					
Tax Commission, Auditing	30916	R865-9I-37	AMD	03/14/2008	2008-3/63
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industrial waste					
Environmental Quality, Water Quality	30639	R317-1-4	AMD	02/04/2008	2007-22/52
	30637	R317-13	NEW	02/04/2008	2007-22/61
infectious waste					
Environmental Quality, Air Quality	30702	R307-222	AMD	02/08/2008	2007-23/36
	30967	R307-222	5YR	02/08/2008	2008-5/44
	30833	R307-222-1	NSC	02/08/2008	Not Printed
inspections					
Agriculture and Food, Plant Industry	31006	R68-5	5YR	02/15/2008	2008-5/39
	30611	R68-7	AMD	01/07/2008	2007-22/11
Environmental Quality, Radiation Control	30774	R313-12-111	AMD	04/11/2008	2007-24/8
	30774	R313-12-111	CPR	04/11/2008	2008-5/34
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Education, Administration	30781	R277-469	AMD	01/22/2008	2007-24/4
	31035	R277-469	5YR	03/03/2008	2008-7/62
insurance					
Insurance, Administration	31131	R590-154	5YR	04/09/2008	2008-9/55
	30508	R590-175	AMD	02/08/2008	2007-20/24
	30897	R590-218	5YR	01/11/2008	2008-3/80
Labor Commission, Industrial Accidents	31229	R612-5	5YR	04/28/2008	Not Printed
insurance fee					
Insurance, Administration	30890	R590-157	5YR	01/10/2008	2008-3/79
insurance law					
Insurance, Administration	31132	R590-94	5YR	04/09/2008	2008-9/54
interstate					
Human Services, Recovery Services	30978	R527-305	5YR	02/12/2008	2008-5/58
	31025	R527-305	AMD	04/21/2008	2008-6/8
job creation					
Governor, Economic Development	30788	R357-2	NEW	01/30/2008	2007-24/9
	30859	R357-2-7	NSC	01/30/2008	Not Printed
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Education, Administration	30884	R277-709	5YR	01/08/2008	2008-3/75
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Labor Commission, Antidiscrimination and Labor, Labor	30942	R610-2-6	AMD	03/24/2008	2008-4/19
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landfills					
Environmental Quality, Air Quality	30965	R307-220	5YR	02/08/2008	2008-5/43
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Commerce, Occupational and Professional Licensing	31074	R156-53	5YR	03/24/2008	2008-8/52
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Public Safety, Fire Marshal	30919	R710-9-6	AMD	03/10/2008	2008-3/52
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Environmental Quality, Air Quality	30973	R307-840	5YR	02/08/2008	2008-5/47
	30708	R307-840	AMD	02/08/2008	2007-23/48
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Natural Resources, Administration	30923	R634-1	5YR	01/25/2008	2008-4/47
	30875	R634-1	NSC	01/25/2008	Not Printed
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Tax Commission, Motor Vehicle	30844	R873-22M-34	AMD	02/25/2008	2008-1/38
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Commerce, Occupational and Professional Licensing	30655	R156-1-102a	AMD	01/08/2008	2007-23/3
	30935	R156-3a-303	AMD	03/27/2008	2008-4/5
	30715	R156-26a	AMD	03/31/2008	2007-23/4
	30715	R156-26a	CPR	03/31/2008	2008-4/35
	31094	R156-31b	5YR	04/01/2008	2008-8/51
	30654	R156-38a	AMD	01/07/2008	2007-23/14
	30853	R156-47b	AMD	02/21/2008	2008-2/4
	31073	R156-49	5YR	03/24/2008	2008-8/52
	31074	R156-53	5YR	03/24/2008	2008-8/52
	30892	R156-55a	AMD	03/11/2008	2008-3/3
	30574	R156-56	AMD	01/01/2008	2007-21/38
	30573	R156-56-420	AMD	01/01/2008	2007-21/57
	31083	R156-68	5YR	03/27/2008	2008-8/53
	30694	R156-76	AMD	01/08/2008	2007-23/17
Human Services, Administration, Administrative Services, Licensing	31017	R501-16	5YR	02/22/2008	2008-6/25
	31026	R501-17	5YR	02/27/2008	2008-6/25
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Commerce, Occupational and Professional Licensing	30654	R156-38a	AMD	01/07/2008	2007-23/14
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	30895	R307-214	5YR	01/11/2008	2008-3/77
maps					
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	30653	R414-21	R&R	01/10/2008	2007-23/50
	30920	R414-27	5YR	01/17/2008	2008-4/42
	31046	R414-27	NSC	03/25/2008	Not Printed
	30775	R414-52	AMD	02/01/2008	2007-24/12
	30776	R414-53	AMD	02/01/2008	2007-24/13
	30378	R414-71	CPR	03/31/2008	2008-3/66
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	30936	R414-301	5YR	01/31/2008	2008-4/43
	30937	R414-305	5YR	01/31/2008	2008-4/45
	30945	R414-305	AMD	04/01/2008	2008-4/9
	30938	R414-308	5YR	01/31/2008	2008-4/46
	30927	R414-308-7	AMD	04/01/2008	2008-4/16
	30917	R414-510	AMD	03/10/2008	2008-3/30
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	30833	R307-222-1	NSC	02/08/2008	Not Printed
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Commerce, Occupational and Professional Licensing	31055	R156-78A	NSC	03/26/2008	Not Printed
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Labor Commission, Industrial Accidents	31234	R612-2	5YR	04/28/2008	Not Printed
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Labor Commission, Antidiscrimination and Labor, Labor	30942	R610-2-6	AMD	03/24/2008	2008-4/19
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Environmental Quality, Air Quality	30962	R307-170	5YR	02/08/2008	2008-5/41
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Commerce, Occupational and Professional Licensing	31094	R156-31b	5YR	04/01/2008	2008-8/51
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Education, Administration	30848	R277-719	NEW	02/07/2008	2008-1/12
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Human Resource Management, Administration	30778	R477-8-5	AMD	01/22/2008	2007-24/16
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	30728	R810-4	REP	03/06/2008	2007-24/22
	30779	R810-5	AMD	03/06/2008	2007-24/23
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	30831	R810-7	REP	03/06/2008	2008-1/27
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	30843	R810-12	NEW	03/06/2008	2008-1/32
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	30901	R651-612	AMD	03/10/2008	2008-3/42
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	30706	R307-417	AMD	02/08/2008	2007-23/43
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Tax Commission, Property Tax	30931	R884-24P-62	AMD	03/28/2008	2008-4/30
PM10					
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Commerce, Occupational and Professional Licensing	31055	R156-78A	NSC	03/26/2008	Not Printed
private schools					
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Capitol Preservation Board (State), Administration	30591	R131-1	AMD	02/29/2008	2007-21/11
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Commerce, Occupational and Professional Licensing	30694	R156-76	AMD	01/08/2008	2007-23/17
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Tax Commission, Property Tax	30931	R884-24P-62	AMD	03/28/2008	2008-4/30
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	31091	R746-332	5YR	04/01/2008	2008-8/55
	31092	R746-342	5YR	04/01/2008	2008-8/56
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Agriculture and Food, Plant Industry	31125	R68-14	5YR	04/04/2008	2008-9/53
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	30933	R645-301	AMD	03/26/2008	2008-4/25
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Public Service Commission, Administration	31072	R746-440	NSC	04/11/2008	Not Printed
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Pardons (Board Of), Administration	30949	R671-403	5YR	02/04/2008	2008-5/59
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Administrative Services, Facilities Construction and Management	31064	R23-14	5YR	03/17/2008	2008-8/50
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Public Service Commission, Administration	31091	R746-332	5YR	04/01/2008	2008-8/55
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	31101	R746-405	5YR	04/01/2008	2008-8/57
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	30859	R357-2-7	NSC	01/30/2008	Not Printed
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Tax Commission, Auditing	30841	R865-19S-121	AMD	02/25/2008	2008-1/37
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Education, Administration	30848	R277-719	NEW	02/07/2008	2008-1/12
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Administrative Services, Facilities Construction and Management	31064	R23-14	5YR	03/17/2008	2008-8/50
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Public Service Commission, Administration	31044	R746-330	5YR	03/07/2008	2008-7/66
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	30926	R539-1-8	EMR	01/28/2008	2008-4/38
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	30721	R512-50	NSC	01/07/2008	Not Printed
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Natural Resources, Geological Survey	30902	R638-2-6	AMD	03/10/2008	2008-3/35
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	30985	R315-306	5YR	02/14/2008	2008-5/51
	30993	R315-307	5YR	02/14/2008	2008-5/51
	30995	R315-308	5YR	02/14/2008	2008-5/52
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Tax Commission, Auditing	30916	R865-9I-37	AMD	03/14/2008	2008-3/63
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taxation					
Tax Commission, Administration	30688	R861-1A-20	AMD	01/11/2008	2007-23/68
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	30838	R861-1A-40	AMD	02/25/2008	2008-1/32
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Tax Commission, Auditing	30913	R865-6F-28	AMD	03/14/2008	2008-3/61
	30842	R865-6F-37	AMD	02/25/2008	2008-1/35
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Public Service Commission, Administration	31092	R746-342	5YR	04/01/2008	2008-8/56
	31045	R746-347	5YR	03/07/2008	2008-7/66
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Labor Commission, Antidiscrimination and Labor, Labor	30942	R610-2-6	AMD	03/24/2008	2008-4/19
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	30941	R610-3-4	AMD	03/24/2008	2008-4/20
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Transportation, Motor Carrier	30785	R909-19	AMD	02/12/2008	2007-24/26
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	30842	R865-6F-37	AMD	02/25/2008	2008-1/35
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	30785	R909-19	AMD	02/12/2008	2007-24/26
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	31029	R859-1-302	AMD	05/01/2008	2008-6/16
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	31071	R994-508-118	NSC	04/14/2008	Not Printed
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	30908	R315-15-10	AMD	03/13/2008	2008-3/19
	30909	R315-15-11	AMD	03/13/2008	2008-3/21
	30910	R315-15-12	AMD	03/13/2008	2008-3/23
	30911	R315-15-17	AMD	03/13/2008	2008-3/29
Utah Housing Opportunity Restricted Account Commerce, Real Estate	31000	R162-12	NEW	04/07/2008	2008-5/11
utility regulation Public Service Commission, Administration	31101	R746-405	5YR	04/01/2008	2008-8/57
variances Environmental Quality, Air Quality	30960	R307-102	5YR	02/08/2008	2008-5/40
vehicle replacement Administrative Services, Fleet Operations	30618	R27-4	AMD	03/06/2008	2007-22/9
vending machines Education, Administration	30848	R277-719	NEW	02/07/2008	2008-1/12
victim compensation Crime Victim Reparations, Administration	30593	R270-1-11	AMD	01/02/2008	2007-22/33

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victims of crimes					
Crime Victim Reparations, Administration	30593	R270-1-11	AMD	01/02/2008	2007-22/33
vocational education					
Education, Rehabilitation	31042	R280-200	5YR	03/03/2008	2008-7/65
wages					
Labor Commission, Antidiscrimination and Labor, Labor	30942	R610-2-6	AMD	03/24/2008	2008-4/19
	30876	R610-3-4	EMR	01/03/2008	2008-3/70
	30941	R610-3-4	AMD	03/24/2008	2008-4/20
waste disposal					
Environmental Quality, Radiation Control	30865	R313-15	AMD	03/17/2008	2008-2/10
Environmental Quality, Solid and Hazardous Waste	30990	R315-301	5YR	02/14/2008	2008-5/48
	30986	R315-302	5YR	02/14/2008	2008-5/49
	30992	R315-303	5YR	02/14/2008	2008-5/49
	30991	R315-305	5YR	02/14/2008	2008-5/50
	30985	R315-306	5YR	02/14/2008	2008-5/51
	30993	R315-307	5YR	02/14/2008	2008-5/51
	30995	R315-308	5YR	02/14/2008	2008-5/52
	30994	R315-309	5YR	02/14/2008	2008-5/52
	30996	R315-310	5YR	02/14/2008	2008-5/53
	30983	R315-311	5YR	02/14/2008	2008-5/53
	30997	R315-312	5YR	02/14/2008	2008-5/54
	30999	R315-314	5YR	02/14/2008	2008-5/55
	30989	R315-315	5YR	02/14/2008	2008-5/55
	30988	R315-316	5YR	02/14/2008	2008-5/56
	30984	R315-317	5YR	02/14/2008	2008-5/57
	30987	R315-318	5YR	02/14/2008	2008-5/57
Environmental Quality, Water Quality	30639	R317-1-4	AMD	02/04/2008	2007-22/52
	30637	R317-13	NEW	02/04/2008	2007-22/61
waste to energy plant					
Environmental Quality, Air Quality	30703	R307-223	AMD	02/08/2008	2007-23/38
	30968	R307-223	5YR	02/08/2008	2008-5/45
wastewater					
Environmental Quality, Water Quality	30638	R317-3-11	AMD	02/04/2008	2007-22/57
	30636	R317-14	NEW	02/04/2008	2007-22/62
	31103	R317-101	5YR	04/02/2008	2008-9/54
water					
Public Service Commission, Administration	31044	R746-330	5YR	03/07/2008	2008-7/66
	31095	R746-331	5YR	04/01/2008	2008-8/55
	31091	R746-332	5YR	04/01/2008	2008-8/55
water funding					
Natural Resources, Water Resources	30855	R653-2	NEW	02/25/2008	2008-2/20
	30940	R653-2	NSC	02/25/2008	Not Printed

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water pollution					
Environmental Quality, Water Quality	30639	R317-1-4	AMD	02/04/2008	2007-22/52
	30638	R317-3-11	AMD	02/04/2008	2007-22/57
	30948	R317-9	5YR	02/01/2008	2008-4/42
	30637	R317-13	NEW	02/04/2008	2007-22/61
water quality					
Environmental Quality, Water Quality	30638	R317-3-11	AMD	02/04/2008	2007-22/57
	31103	R317-101	5YR	04/02/2008	2008-9/54
Public Service Commission, Administration	31044	R746-330	5YR	03/07/2008	2008-7/66
water rights					
Natural Resources, Water Rights	31130	R655-5	5YR	04/08/2008	2008-9/56
weapons					
Natural Resources, Parks and Recreation	31012	R651-612	NSC	03/10/2008	Not Printed
white-collar contests					
Sports Authority (Utah), Pete Suazo Utah Athletic Commission	31028	R859-1	AMD	05/01/2008	2008-6/15
	31029	R859-1-302	AMD	05/01/2008	2008-6/16
wildlife					
Natural Resources, Wildlife Resources	31047	R657-3	5YR	03/11/2008	2008-7/65
	30829	R657-5	AMD	02/07/2008	2008-1/18
	30777	R657-12	AMD	01/22/2008	2007-24/19
	30676	R657-13	AMD	01/07/2008	2007-23/61
	30904	R657-13-4	AMD	03/10/2008	2008-3/43
	30828	R657-23	AMD	02/07/2008	2008-1/25
	30955	R657-23-5	AMD	04/07/2008	2008-5/31
	30906	R657-33	AMD	03/10/2008	2008-3/44
	30903	R657-58	NEW	03/10/2008	2008-3/47
	31052	R657-58	NSC	03/26/2008	Not Printed
wildlife law					
Natural Resources, Wildlife Resources	30777	R657-12	AMD	01/22/2008	2007-24/19
	30676	R657-13	AMD	01/07/2008	2007-23/61
	30904	R657-13-4	AMD	03/10/2008	2008-3/43
	30903	R657-58	NEW	03/10/2008	2008-3/47
	31052	R657-58	NSC	03/26/2008	Not Printed
workers' compensation					
Labor Commission, Adjudication	30811	R602-2-4	AMD	02/07/2008	2008-1/14
	30810	R602-3-3	AMD	02/07/2008	2008-1/16
Labor Commission, Industrial Accidents	31234	R612-2	5YR	04/28/2008	Not Printed
	31230	R612-3	5YR	04/28/2008	Not Printed
	30594	R612-4-2	AMD	01/01/2008	2007-22/76
	31229	R612-5	5YR	04/28/2008	Not Printed
	31231	R612-7	5YR	04/28/2008	Not Printed

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youth					
Human Services, Administration, Administrative Services, Licensing	31017	R501-16	5YR	02/22/2008	2008-6/25
zoological animals					
Natural Resources, Wildlife Resources	31047	R657-3	5YR	03/11/2008	2008-7/65