

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
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Kimberly K. Hood, Executive Director  
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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 63G-3-402, *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.

Division of Administrative Rules, Salt Lake City 84114

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# SPECIAL NOTICES

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## Governor's Executive Order 2008-0004: Wildland Fire Management

### EXECUTIVE ORDER

#### Wildland Fire Management

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

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

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

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

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

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

It is found, determined and declared that a "State of Emergency" exists statewide due to the threat to public safety, property, natural resources and the environment for thirty days, effective as of June 10, 2008 requiring aid, assistance and relief available pursuant to the provisions of state statutes, and the State Emergency Operations Plan, which is hereby activated.

**IN WITNESS, WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 10th day of June 2008.

(State Seal)

**Jon M. Huntsman, Jr.**  
Governor

**ATTEST:**

**Gary R. Herbert**  
Lieutenant Governor

2008/0004

## NOTICES OF PROPOSED RULES

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A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between May 16, 2008, 12:00 a.m., and June 2, 2008, 11:59 p.m. are included in this, the June 15, 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 July 15, 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 October 13, 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 63G-3-301; and Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

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**The Proposed Rules Begin on the Following Page.**



Administrative Services, Purchasing  
and General Services  
**R33-3-4**  
Sole Source Procurement

**NOTICE OF PROPOSED RULE**

(Amendment)  
DAR FILE NO.: 31475  
FILED: 05/23/2008, 14:56

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment provides greater transparency in the procurement process relative to sole source procurements.

SUMMARY OF THE RULE OR CHANGE: This amendment provides for notice and a comment period prior to making a sole source procurement.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 63G-6-202 and 63G-6-410

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--It is not anticipated that this rule will result in an overall positive or negative fiscal impact to the state budget. There is no cost because the additional transparency is accommodated electronically. In fact, the additional transparency may result in savings by identifying potential sources for the product or service. However, it would be impossible to quantify the savings.

❖ LOCAL GOVERNMENTS: None--It is not anticipated that this rule will result in an overall positive or negative fiscal impact to local governments budget. There is no cost because the additional transparency is accomplished electronically through an existing system. In fact, the additional transparency may result in savings by identifying potential sources for the product or service. However, it would be impossible to quantify the savings.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--It is not anticipated that this rule will result in an overall positive or negative fiscal impact to small businesses or other persons. There is no cost because the additional transparency is accomplished electronically through an existing system. In fact, the additional transparency may result in savings by identifying potential sources for the product or service. However, it would be impossible to quantify the savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--There is no cost because the additional transparency is accomplished electronically through an existing system. In fact, the additional transparency may result in savings by identifying potential sources for the product or service. However, it would be impossible to quantify the savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will not have a financial impact on businesses. Kimberly Hood, Executive Director

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

ADMINISTRATIVE SERVICES  
PURCHASING AND GENERAL SERVICES  
Room 3150 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:

Douglas Richins at the above address, by phone at 801-538-3143, by FAX at 801-538-3882, or by Internet E-mail at drichins@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2008

AUTHORIZED BY: Douglas Richins, Director

**R33. Administrative Services, Purchasing and General Services.  
R33-3. Source Selection and Contract Formation.  
R33-3-4. Sole Source Procurement.**

3-401 Conditions For Use of Sole Source Procurement.

Sole source procurement shall be used only if a requirement is reasonably available from a single supplier. A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential bidder or offeror for that item.

Examples of circumstances which could necessitate sole source procurement are:

- (1) where the compatibility of equipment, accessories, replacement parts, or service is the paramount consideration;
- (2) where a sole supplier's item is needed for trial use or testing;
- (3) procurement of items for resale;
- (4) procurement of public utility services.

The determination as to whether a procurement shall be made as a sole source shall be made by the procurement officer. Each request shall be submitted in writing by the using agency. The officer may specify the application of the determination and its duration. In cases of reasonable doubt, competition should be solicited. Any request by a using agency that a procurement be restricted to one potential contractor shall be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need.

3-401.5 Notice of Proposed Sole Source Procurement.

Public notice for sole source procurements exceeding \$50,000 shall be given by the Procurement Officer as provided in R33-3-104 (2). The notice shall be published at least 5 working days in advance of when responses must be received in order that firms have an adequate opportunity to respond to the notice. The notice shall contain a brief statement of the proposed procurement, the proposed sole source supplier and the sole source justification. The notice shall invite comments regarding the proposed sole source and provide for a closing date for comments. The Procurement Officer shall consider the comments received before proceeding with the Sole Source procurement.

3-402 Negotiation in Sole Source Procurement.

The procurement officer shall conduct negotiations, as appropriate, as to price, delivery, and terms.

3-403 Unsolicited Offers.

(1) Definition. An unsolicited offer is any offer other than one submitted in response to a solicitation.

(2) Processing of Unsolicited Offers. If a purchasing agency that receives an unsolicited offer is not authorized to enter into a contract for the supplies or services offered, the head of the agency shall forward the offer to the procurement officer who has authority with respect to evaluation, acceptance, and rejection of the unsolicited offers.

(3) Conditions for Consideration. To be considered for evaluation an unsolicited offer:

(a) must be sufficiently detailed to allow a judgment to be made concerning the potential utility of the offer to the purchasing agency; and

(b) may be subject to testing under terms and conditions specified by the agency.

**KEY: government purchasing**

**Date of Enactment or Last Substantive Amendment:** ~~February 21, 2006~~ **2008**

**Notice of Continuation:** November 23, 2007

**Authorizing, and Implemented or Interpreted Law:** ~~63-56~~ **63G-6**



**Administrative Services, Purchasing  
and General Services  
R33-5-250  
Design-Build or Turnkey: Use**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 31476

FILED: 05/23/2008, 15:13

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Design-Build construction method is a proven effective construction method that is used effectively by the Division of Facilities Management and Construction (DFCM) and the Department of Transportation. This will now make this method available for the balance of procurement units.

SUMMARY OF THE RULE OR CHANGE: Removing this section will allow the use of the Design-Build construction method.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 63G-6-202 and 63G-6-501

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--It is not anticipated that this rule will result in a negative fiscal impact to the state budget. Allowing the use of the design-build construction may provide savings, though it would be impossible to quantify at this time.

❖ LOCAL GOVERNMENTS: None--It is not anticipated that this rule will result in a negative fiscal impact to local governments budget. Allowing the use of the design-build construction may

provide savings, though it would be impossible to quantify at this time.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--It is not anticipated that this rule will result in a negative fiscal impact to small business. Allowing the use of the design-build construction may provide savings, though it would be impossible to quantify at this time.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--It is not anticipated that this rule will result in a negative fiscal impact to any person, and there are no compliance costs associated with this rule. Allowing the use of the design-build construction may provide savings, though it would be impossible to quantify at this time.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will have no financial impact to businesses. Kimberly Hood, Executive Director

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

ADMINISTRATIVE SERVICES  
PURCHASING AND GENERAL SERVICES  
Room 3150 STATE OFFICE BLDG  
450 N MAIN ST  
SALT LAKE CITY UT 84114-1201, or  
at the Division of Administrative Rules.

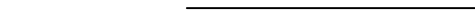
DIRECT QUESTIONS REGARDING THIS RULE TO:

Douglas Richins at the above address, by phone at 801-538-3143, by FAX at 801-538-3882, or by Internet E-mail at drichins@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2008

AUTHORIZED BY: Douglas Richins, Director



**R33. Administrative Services, Purchasing and General Services.  
R33-5. Construction and Architect-Engineer Selection.**

~~**R33-5-250. Design-Build or Turnkey: Use.**~~

~~—The use of design-build or turnkey method is not authorized under R33-5.]~~

**KEY: government purchasing**

**Date of Enactment or Last Substantive Amendment:** ~~May 27, 2003~~

**Notice of Continuation:** November 23, 2007

**Authorizing, and Implemented or Interpreted Law:** ~~63-56-1~~ **63G-6-101 et seq.**



Agriculture and Food, Administration  
**R51-5**  
 Grazing Advisory Boards

**NOTICE OF PROPOSED RULE**

(Repeal)

DAR FILE NO.: 31471

FILED: 05/20/2008, 16:36

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule can be repealed because Title 4, Chapter 20, has been revised by H.B. 145 (2006) and is now titled the Rangeland Improvement Act. (DAR NOTE: H.B. 145 (2006) is found at Chapter 294, Laws of Utah 2006, and was effective 05/01/2006.)

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

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 4, Chapter 20

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The costs associated with implementing this rule were negligible and absorbed within the existing Department's budget.

❖ LOCAL GOVERNMENTS: There are no costs to local government. The cost associated with implementing this rule were negligible and absorbed with the existing state Department's budget.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no costs to small businesses. The cost associated with implementing this rule were negligible and absorbed with the existing state Department's budget.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with repealing this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This administrative rule is no longer needed. H.B. 145 in the 2006 Session of the Legislature created a State Grazing Advisory Board and Regional Grazing Advisory Boards and sets for the requirements and duties of these new boards and replaces the functions of the boards created by this rule. Leonard M. Blackham, Commissioner

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

AGRICULTURE AND FOOD  
 ADMINISTRATION  
 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 Kyle Stephens at the above address, by phone at 801-538-7103 or 801-538-7102, by FAX at 801-538-

7126 or 801-538-7126, or by Internet E-mail at kmathews@utah.gov or kylestephens@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2008

AUTHORIZED BY: Leonard M. Blackham, Commissioner

**R51. Agriculture and Food, Administration.**

**[R51-5. Grazing Advisory Boards.**

**~~R51-5-1. Authority and Purpose.~~**

~~— (A) This rule is promulgated under authority of 4-20-9 and Subsections 4-2-2(1)(f) and 4-2-2(1)(j).~~

~~— (B) By this rule, the Commissioner of Agriculture and Food of the State of Utah hereby reinstates the Grazing Advisory Boards, which the Secretary of the Interior of the United States of America has failed to recharter as of July 1, 1994. The reinstated boards will direct the expenditure of the funds collected by the Secretary of the Interior under the Taylor Grazing Act, as enacted by Congress in Section 43 USC-315.~~

~~— (1) Upon the effective date of this rule, the Commissioner of Agriculture and Food hereby reinstates the grazing advisory boards as presently constituted.~~

~~— (2) The boards shall hereby be chartered as State of Utah Grazing Advisory Boards.~~

~~— (3) If a vacancy occurs during the term of a board member, existing board members shall present to the commissioner nominations to fill that vacancy.~~

~~— (4) Pursuant to section 4-20-9, or until the Secretary of the Interior reinstates the grazing advisory boards, replacement boards shall be appointed in the following way:~~

~~— (a) Legal notice in publication of general circulation soliciting the name of persons who desire a position of board member, and asking for a written request from such persons to be submitted to the existing board.~~

~~— (b) Existing board members of each board will act as a nominating committee for that board. The chairman of each board will thereafter present to the commissioner all nominations for each board position to be filled.~~

~~— (c) The commissioner will review the names and appoint persons to fill the vacancies on the board. The commissioner may ask for other names if needed. The board members will be a group of stockmen and permittees within a particular grazing district, and represent resource areas of that district.~~

~~— (5) Each chartered State Grazing Board shall choose officers to administer the board's functions in the respective grazing districts.~~

~~— (6) The board may appoint affected interested parties as ex-officio members to serve with the board.~~

~~— (7) Pursuant to the requirements of 4-20-5, each State Grazing Board shall direct the expenditures of budgeted funds for each respective grazing district.~~

~~— (8) Within six months of the Secretary of the Interior's resumption of appointments to a state grazing advisory board, the commissioner may repromulgate this rule to provide for an orderly transition.~~

~~KEY: agriculture associations, grazing~~  
~~Date of Enactment or Last Substantive Amendment: September 17, 1996~~  
~~Notice of Continuation: July 30, 2003~~  
~~Authorizing, and Implemented or Interpreted Law: 4-20-9; 4-2-2(1)(f); 4-2-2(1)(j)~~

◆ ————— ◆

## Agriculture and Food, Plant Industry

# R68-3-2

### Registration of Products

#### NOTICE OF PROPOSED RULE

(Amendment)  
 DAR FILE NO.: 31491  
 FILED: 05/27/2008, 16:39

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this amendment is to change the late fee for product registrations from an additional fee of \$5 to an additional fee determined by the Department pursuant to Subsection 4-2-2(2).

**SUMMARY OF THE RULE OR CHANGE:** This amendment changes the late fee for product registrations from an additional fee of \$5 to an additional fee determined by the Department pursuant to Subsection 4-2-2(2).

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 4-2-2 and 4-13-4

**ANTICIPATED COST OR SAVINGS TO:**

- ❖ **THE STATE BUDGET:** There are no additional costs to the state associated with the proposed rule amendment because the appropriation fee schedule is higher and will generate more revenue for the state.
- ❖ **LOCAL GOVERNMENTS:** There are no additional cost to local government associated with the proposed rule amendment because this is a late fee increase for product registration which local government does not have.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** According to the present rule, the Department's late fee for product registration is \$5. However the Department's appropriation fee schedule is \$25. This would be a \$20 increase to the small business who register fertilizer products late in the State of Utah. This will now match the appropriation late fee schedule.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** According to the present rule, the Department's late fee for product registration is \$5. However the Department's appropriation fee schedule is \$25. This would be a \$20 increase to the small business who register fertilizer products late in the State of Utah. This will now match the appropriation late fee schedule.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This change is in agreement

with the fee schedule for late product registrations. The late fee have increased over the years but this rule has stayed the same \$5. To be in compliance with the departments fees, the rule needs to be changed. 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, Clair Allen, or Kyle Stephens at the above address, by phone at 801-538-7103, 801-538-7180, or 801-538-7102, by FAX at 801-538-7126, 801-538-7189, or 801-538-7126, or by Internet E-mail at kmathews@utah.gov, ClairAllen@utah.gov, or kylestephens@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2008.**

**THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2008**

**AUTHORIZED BY: Leonard M. Blackham, Commissioner**

**R68. Agriculture and Food, Plant Industry.**

**R68-3. Utah Fertilizer Act Governing Fertilizers and Soil Amendments.**

**R68-3-2. Registration of Products.**

A. All fertilizer or soil amendment products distributed in Utah shall be officially registered with the Utah Department of Agriculture and Food.

1. Application for registration shall be made to the Department upon forms prescribed and provided by the Department and shall include the following information for each product:

- a. The net weight,
- b. The brand and grade,
- c. The guaranteed analysis,
- d. The name and address and phone number of the registrant.
- e. The label for each product registered.

f. Any waste-derived fertilizer distributed as a single ingredient product or blended with other fertilizer ingredients must be identified as "waste-derived fertilizer" by the registrant in the application for registration. "Waste-derived fertilizer" shall include any commercial fertilizer that is derived from an industrial byproduct, coproduct or other material that would otherwise be disposed of if a market for reuse were not an option, but does not include fertilizers derived from biosolids or biosolids products regulated under Environmental Protection Agency Code of Federal Regulation, Section 503.

g. The registrant of a waste-derived fertilizer shall state in the application for registration the levels of non-nutritive metals (including but not limited to arsenic, cadmium, mercury, lead and selenium). The registrant will provide a laboratory report or other documentation verifying the levels of the non-nutritive metals in the waste-derived fertilizer.

2. The Commissioner may require submission of the complete formula of any fertilizer or soil amendment if it shall be deemed necessary for administration of the Utah Fertilizer Act. If it appears to the Commissioner that the composition of the product is such as to warrant the proposed claims for it, and if the product and its labeling and any other information which may be required to be submitted comply with the requirements of the act, the products shall be registered.

a. Before registering any soil amendment the Commissioner shall require evidence to substantiate the claims made for the soil amendment and proof of the value and usefulness of the soil amendment. Such supportive data shall accompany the application for registration and shall be obtained from one or more State Experiment Stations. Cost for such research shall be the responsibility of the applicant. Final decision concerning registration of a soil amendment shall be made by the Commissioner following evaluation of all evidence presented.

3. The registrant is responsible for the accuracy and completeness of all information submitted concerning application for registration of a fertilizer or soil amendment product.

4. Once a fertilizer or soil amendment is registered under the act, no further registration is required, as long as the label does not differ in any respect.

5. Whenever the name of fertilizer or soil amendment product is changed or there are changes in the product ingredients or guaranteed analysis, a new registration shall be required. Other labeling changes shall not require re-registration, but the registrant shall submit copies of all changes to the Department as soon as they are effective. A reasonable time may be permitted to dispose of properly labeled stocks of the old product.

6. A registration fee determined by the department pursuant to Subsection 4-2-2(2), per product shall be paid by the applicant annually.

7. Each registration is renewable for a period of one year upon payment of the annual renewal fee determined by the department pursuant to Subsection 4-2-2(2), per product which shall be paid on or before December 31 of each year. If the renewal of a fertilizer or soil amendment registration is not filed prior to January 1 of any year, an additional fee determined by the department pursuant to Subsection 4-2-2(2) ~~[an additional fee of \$5.00]~~ shall be assessed per product and added to the original registration fee and shall be paid by the applicant before the registration renewal for that fertilizer or soil amendment shall be issued.

8. A distributor is not required to register each grade of commercial fertilizer or soil amendment formulated by a consumer before mixing, but is required to register the name under which the business of blending or mixing is conducted and to pay an annual blender's license fee determined by the department pursuant to Subsection 4-2-2(2). A blender's license shall expire at midnight on December 31 of the year in which it is issued. A blender's license is renewable for a period of one year upon the payment of an annual license renewal fee. For Each renewal of a fertilizer or soil amendment blender's license not filed prior to January 1 of any one year, an additional fee determined by the department pursuant to Subsection 4-2-2(2) ~~[an additional fee of \$5.00]~~ shall be assessed and added to the original license fee and shall be paid by the applicant before the license shall be issued.

9. Beginning January 1, 1991 and on a semi-annual basis, fertilizer and soil amendment products sold in the State of Utah will be assessed a fee determined by the department pursuant to Subsection 4-2-2(2). This assessment shall be paid by the manufacturer or distributor

on or before February 1st each year for the sales period July 1 through December 31 and again on or before August 1st each year for the sales period January 1 through June 30. The amount of assessment will be determined by records of the previous six month's sales.

**KEY: fertilizers**

**Date of Enactment or Last Substantive Amendment: ~~October 16, 1998~~ 2008**

**Notice of Continuation: January 7, 2005**

**Authorizing, and Implemented or Interpreted Law: 4-2-2**



## Commerce, Occupational and Professional Licensing **R156-74** Certified Court Reporters Licensing Act Rules

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31516

FILED: 06/02/2008, 12:08

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: After review of the rule, the Division and Certified Court Reporters Licensing Board are proposing amendments to establish as an unprofessional conduct the failure by a certified court reporter to comply with the National Court Reporters Association or the National Voice Reporters Association standards and ethics.

SUMMARY OF THE RULE OR CHANGE: Throughout the rule, the term "rules" has been changed to "rule". In Section R156-74-102, definitions have been added. Section R156-74-502 is being added to define unprofessional conduct with respect to certified court reporters.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-74-101 and Subsections 58-74-303(2), 58-1-106(1)(a), and 58-1-202(1)(a)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Adds the National Court Reporters Association Code of Professional Ethics, dated July 1997 and the National Verbatim Reporters Association, Inc. Code of Ethics, April 2005

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division will incur minimal costs of approximately \$25 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: Proposed amendments do not apply to local governments; therefore no costs or savings are anticipated. The proposed amendments only apply to certified court reporters and applicants for certification.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The proposed amendments only apply to applicants for certification as a court reporter and certified court reporters. Certified court reporters may qualify as a "small business" if in private practice or with a smaller size firm. The Division does not anticipate any costs or savings to applicants or certified court reporters as a result of the proposed amendments as the amendments only clarify what professional standards and ethics a certified individual will be held to.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The proposed amendments only apply to applicants for certification as a court reporter and certified court reporters. The Division does not anticipate any costs or savings to applicants or certified court reporters as a result of the proposed amendments as the amendments only clarify what professional standards and ethics a certified individual will be held to which will make the certified individual more accountable to the public and their clients.

**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 defines unprofessional conduct to include the violation of any national standards of practice for the profession. Francine A. Giani, Executive Director

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

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

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2008

AUTHORIZED BY: F. David Stanley, Director

**R156. Commerce, Occupational and Professional Licensing.  
R156-74. Certified Court Reporters Licensing Act Rule[s].  
R156-74-101. Title.**

Th[ese]is rule[s] shall be known as the "Certified Court Reporters Licensing Act Rule[s]."

**R156-74-102. [Reserved]Definitions.**

[Reserved](1) "Unprofessional conduct", as defined in Title 58, Chapters 1 and 74, is further defined, in accordance with Subsections 58-1-203(1)(e), in Section R156-74-502.

**R156-74-103. Authority.**

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 74.

**R156-74-502. Unprofessional Conduct.**

"Unprofessional conduct" includes:

(1) failing, as a certified shorthand reporter to conform to the generally accepted and recognized standards and ethics of the profession including those established by the National Court Reporters Association, Council of the Academy of Professional Reporters, July 1997 edition, which is hereby incorporated by reference; and

(2) failing as a certified voice reporter to conform to the generally accepted and recognized standards and ethics of the profession including those established by the National Verbatim Reporters Association, Council of the Academy of Professional Reporters, April 2005 edition, which is hereby incorporated by reference.

**KEY: court reporting, licensing, shorthand reporter**

**Date of Enactment or Last Substantive Amendment: [February 16, 2006]2008**

**Notice of Continuation: February 2, 2004**

**Authorizing, and Implemented or Interpreted Law: 58-74-101; 58-74-303(2); 58-1-106(1)(a); 58-1-202(1)(a)**

◆ ————— ◆  
**Commerce, Real Estate  
R162-3  
License Status Change**

**NOTICE OF PROPOSED RULE  
(Amendment)**

DAR FILE NO.: 31456

FILED: 05/20/2008, 08:19

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The proposed amendment provides adequate time for continuing education providers, state information technology contractors, and the Division of Real Estate to properly record continuing education completed by real estate licensees.

**SUMMARY OF THE RULE OR CHANGE:** Real estate licensees will be required to complete their continuing education sooner, by the 15th of the month of license expiration, so continuing education providers have time to submit the education to the Division of Real Estate and assign it to the proper licensees. The rule filing also makes other technical changes.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 61-2-5.5(1)(a)

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** The state budget is not impacted by this rule since no new service, employee, or fee is required to implement this rule.

❖ LOCAL GOVERNMENTS: Local governments will experience no cost savings or impacts since no local government has any responsibility under this rule.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: No additional costs to small businesses will be required since licensees will complete the same hours of education currently required. Some brokerages that currently renew employees' licenses before employees' online education courses are submitted will experience a savings of a late fee by completing required education sooner.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No additional costs to affected persons will occur since licensees will complete the same hours of education currently required. Some licensees who currently attempt to renew their license before their online education courses are submitted will experience a savings of a late fee by completing their education sooner.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated from this filing other than a possible savings to licensees as indicated in the rule summary. Francine Giani, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Mark Steinagel at the above address, by phone at 801-530-6744, by FAX at 801-530-6749, or by Internet E-mail at msteinagel@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2008

AUTHORIZED BY: Mark Steinagel, Director

## **R162. Commerce, Real Estate.**

### **R162-3. License Status Change.**

#### **R162-3-1. Status Changes.**

3.1. A licensee must notify the Division within ten working days of any status change. Status changes are effective on the date the properly executed forms and appropriate non-refundable fees are received by the Division. Notice must be on the forms required by the Division.

3.1.1. Change of name requires submission of official documentation such as a marriage or divorce certificate, or driver's license.

3.1.2. Change of business, home address or mailing address requires written notification. A post office box without a street address is unacceptable as a business or home address. The licensee may designate any address to be used as a mailing address.

3.1.3. Change of name of a brokerage must be accompanied by evidence that the new name has been approved by the Division of Corporations, Department of Commerce.

3.1.4. Change of Principal Broker of a real estate brokerage which is a sole proprietorship, requires closure of the registered entity. The new principal broker ~~will~~ shall activate the Registered Company and provide proof from the Division of Corporations of the authorization to use the DBA. Change cards will be required for the terminating Principal Broker, new Principal Broker and all licensees affiliated with the brokerage.

3.1.5. Change of a Principal Broker within an entity which is not a sole proprietorship requires written notice from the entity signed by both the terminating Principal Broker and the new Principal Broker.

#### **R162-3-4. Inactivation.**

3.4. To voluntarily inactivate a license, the licensee must deliver or mail to the Division a written request for the change signed by both the licensee and principal broker.

3.4.1. Prior to placing ~~his~~ a principal broker license on an inactive status, a principal broker must provide written notice to each licensee affiliated with ~~him~~ the principal broker of that licensing status change. Evidence of that written notice must be provided to the Division in order to process the status change. The inactivation of the license of a principal broker will also cause the licenses of all affiliated licensees to be immediately inactivated if they do not transfer their licenses in accordance with R162-3.3 prior to the effective date of the principal broker's status change.

3.4.2. The non-renewal, suspension, or revocation of the license of a principal broker will cause the licenses of all affiliated licensees to be immediately inactivated if they do not transfer their licenses in accordance with R162-3.3 prior to the effective date of the principal broker's status change.

3.4.2.1. When a principal broker is notified that ~~his~~ the principal broker's license will be suspended or revoked, ~~he~~ the principal broker must, prior to the effective date of the suspension or revocation, provide written notice to each licensee affiliated with ~~him~~ the principal broker of that status change. In addition, the Division shall send written notice to each sales agent, associate broker, or branch broker of the effective date of inactivation and the process for transfer.

3.4.3. The principal broker may involuntarily inactivate the license of the sales agent or associate broker by complying with R162-3.2.

#### **R162-3-6. Renewal and Reinstatement.**

3.6.1 Licenses are valid for a period of two years. A license may be renewed by submitting all forms and fees required by the Division prior to the expiration date of the current license. Licenses not properly renewed shall expire on the expiration date.

3.6.1.1 A license may be reinstated ~~for a period of~~ within thirty days after expiration by complying with all requirements for a timely renewal and paying a non-refundable late fee.

3.6.1.2 A license may be reinstated after thirty days and within six months after expiration by complying with all requirements for a timely renewal ~~and~~, paying a non-refundable reinstatement fee and submitting proof of having completed 12 hours of continuing education in addition to the 12 hours of continuing education required to renew a license on active status.

3.6.1.3 A license that has been expired for more than six months may not be reinstated and an applicant must apply for a new license following the same procedure as an original license.

3.6.2 Renewal Requirements.

3.6.2.1 Continuing Education. To renew a license on active status an applicant must submit to the division proof of having completed, during the previous license period and by the 15th day of the month of expiration, 12 hours of continuing education from courses certified by the division.

3.6.2.1.1 During the first license period, a licensee must take the 12-hour "New Sales Agent Course" certified by the division.

3.6.2.1.2 During subsequent license periods, a licensee must take at least 6 hours of continuing education from courses certified by the division as "core" as defined in Rule R162.9.2.1. A licensee must take any remaining hours of continuing education from courses certified by the division as "elective" as defined in Rules R162.9.2.2 - 9.2.2.10.

3.6.2.1.2.1 The division may grant continuing education credit for non-certified courses submitted by a renewal applicant in the form required by the division, if the course was not required by these rules to be certified and the division determines that the course meets the continuing education objectives listed in Rule R162.9.2.

3.6.2.1.3 Licensees must retain original course completion certificates for three years following renewal and produce those certificates when audited by the division.

3.6.2.2 Principal Broker. To renew a principal broker license on active status an applicant must certify that the business name under which the licensee is operating is current and in good standing with the Division of Corporations and that all real estate trust accounts are current and in compliance with Rule R162-4.2.

3.6.2.3 Any misrepresentation in an application for renewal will be considered a separate violation of these rules and separate grounds for disciplinary action against the licensee.

**KEY: real estate business**

**Date of Enactment or Last Substantive Amendment:** ~~October 18, 2007~~**2008**

**Notice of Continuation:** April 18, 2007

**Authorizing, and Implemented or Interpreted Law:** 61-2-5.5



Commerce, Real Estate  
**R162-207**  
License Renewal

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 31457

FILED: 05/20/2008, 08:24

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment provides adequate time for continuing education providers, state information technology contractors, and the Division of Real Estate to properly record continuing education completed by mortgage licensees.

SUMMARY OF THE RULE OR CHANGE: Mortgage licensees will be required to complete their continuing education sooner, by the

15th of the month of license expiration, so continuing education providers have time to submit the education to the Division of Real Estate and assign it to the proper licensees. The rule also makes technical amendments.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 61-2c-104(7)(d) and 61-2c-103(3)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The state budget is not impacted by this rule since no new service, employee, or fee is required to implement this rule.

❖ LOCAL GOVERNMENTS: Local governments will experience no cost savings or impacts since no local government has any responsibility under this rule.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: No additional costs to small businesses will be required since licensees will complete the same hours of education currently required. Some brokerages that currently renew employees' licenses before employees' online education courses are submitted will experience a savings of a late fee by completing required education sooner.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No additional costs to affected persons will occur since licensees will complete the same hours of education currently required. Some licensees who currently attempt to renew their license before their online education courses are submitted will experience a savings of a late fee by completing their education sooner.

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 other than a possible savings to licensees as indicated in the rule summary. Francine Giani, Executive Director

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

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

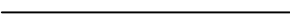
DIRECT QUESTIONS REGARDING THIS RULE TO:

Mark Steinagel at the above address, by phone at 801-530-6744, by FAX at 801-530-6749, or by Internet E-mail at msteinagel@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2008

AUTHORIZED BY: Mark Steinagel, Director





**R162. Commerce, Real Estate.****R162-207. License Renewal.****R162-207-2. Renewal Process.**

207.2.1 Renewal Notice. A license renewal notice shall be sent by the Division to the licensee at the mailing address shown on Division records. The renewal notice shall specify the requirements for renewal and shall require that the licensee document or certify that the requirements have been met. The licensee must apply to renew and pay all applicable fees on or before the expiration date shown on the notice.

207.2.2 Application for Renewal. All applications for renewal must be made in the form required by the division and shall include the following:

- (a) A licensure statement in the form required by the division;
- (b) The renewal fee and the Residential Mortgage Loan Education, Research, and Recovery Fund fee;
- (c) If the applicant is an individual, proof through means approved by the division of having completed during the two years prior to application the continuing education required by the commission under Section 61-2c-104;
- (d) The current home street address and home telephone number of any individual applicant and the current physical street address of any entity applicant;
- (e) A current mailing address for the applicant;
- (f) Answers to a "Licensing Questionnaire" supplying information about events that occurred in the preceding two years related to mortgage licensure in other jurisdictions, license sanctions or surrenders, pending disciplinary actions, pending investigations, criminal convictions or pleas, and/or civil judgments or findings based on fraud, misrepresentation, or deceit;
- (g) If, at the time of application for renewal, an individual applicant, or the principal lending manager, director, executive officer, manager, or a managing partner of an entity applicant, or anyone who occupies a position or performs functions similar to a director, executive officer, manager or managing partner of an entity that has applied for a license, is charged with, or since the last renewal has been convicted of or entered a plea to, any felony or misdemeanor, the following information must be provided on each conviction, plea, or charge: the charging document, the case docket, and the judgment and sentencing document, if applicable; and

(h) If, in the two years preceding application for renewal, an individual or entity applicant or principal lending manager of an entity applicant has had a license or registration suspended, revoked, surrendered, canceled or denied based on misconduct in a professional capacity that relates to good moral character or the competency to transact the business of residential mortgage loans, the applicant must provide the documents stating the sanction taken against the license or registration and the reasons therefore.

207.2.3 Continuing Education Requirement. All active licensees are required to have completed their continuing education requirement prior to applying to renew and by the 15th day of the month of expiration.

207.2.3.1 Documentation of Continuing Education. Any licensee who renews online and certifies that the required continuing education has been completed shall maintain the original course completion certificates supporting that certification for two years following renewal. The licensee shall produce those certificates for audit upon request by the Division.

207.2.3.2 Out of State Courses. Continuing education credit will be given for a course taken in another state provided the course has been certified for continuing education purposes by the licensing

agency in the other state and the subject matter of the course relates to protection of the public, but not to state-specific licensing laws. Evidence must be retained by the licensee, and provided to the Division upon request, that the course was certified by the other state at the time the course was taken.

207.2.3.3 Continuing Education Requirement upon activation of license. As a condition for the activation of an inactive license that was on inactive status at the time of the licensee's most recent renewal, the licensee shall supply the Division with proof of successful completion of the number of hours of continuing education that would have been required to renew had the license been on active status at the time of the licensee's most recent renewal. To qualify as continuing education for activation, all continuing education hours submitted must have been completed within twenty-four months prior to applying to activate.

207.2.4 Late Renewal. If all required renewal forms, fees, and documentation have not been received or postmarked by the expiration date of the license, the license shall expire. When an active license expires, an individual licensee's affiliation with a licensed entity automatically terminates.

207.2.4.1 A licensee may apply to renew an expired license within thirty days after the expiration date of the license by completing all of the renewal requirements, including the continuing education requirement, and paying a non-refundable late fee.

207.2.4.2 After the thirty day period, and until six months after the expiration date of the license, a licensee may apply to reinstate a license by completing all of the renewal requirements, including the continuing education requirement, paying a non-refundable late fee, and providing proof of successful completion of 12 hours of continuing education in addition to that required for a timely renewal on active status.

**R162-207-5. Nonrefundable Fees.**

207.5 All fees required in conjunction with an application for renewal are nonrefundable ~~[and will not be refunded]~~ if the applicant fails to complete an application or if a completed application is denied for failure to meet the renewal criteria.

**R162-207-9. Exemption from Continuing Education Requirement.**

207.9 A licensee may obtain an exemption from the continuing education requirement of R162-208.1 for a period not to exceed four years upon a finding by the Division that there is reasonable cause to grant the exemption.

207.9.1 Exemptions from the continuing education requirement may be granted for reasons including military service, prolonged absence from Utah for religious or secular service, and extended or serious illness.

207.9.2 A licensee seeking an exemption from the continuing education requirement shall apply to the Division for an exemption. An application for an exemption from the continuing education requirement shall set forth with specificity the reasons why the licensee is unable to complete the continuing education and the reasons why the licensee believes that an exemption would be reasonable.

207.9.3 A licensee may not seek a retroactive exemption by applying for the exemption after the time period for renewal and reinstatement of a license has already passed.

207.9.4 All applications for an exemption shall be considered in an informal proceeding before the Division Director or ~~his~~ the Director's designee and shall be based on the information submitted with the application. No hearing will be permitted.

207.9.5 Upon a finding of reasonable cause, the Division shall grant the exemption from the continuing education requirement for a specified period of time, not to exceed four years.

**KEY: residential mortgage loan origination**

**Date of Enactment or Last Substantive Amendment:** ~~May 1, 2007~~ **2008**

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

◆ ————— ◆

**Crime Victim Reparations,  
Administration  
R270-1-23  
Loss of Support Awards**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 31504

FILED: 05/30/2008, 14:35

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This amendment is intended to clarify who is eligible to receive a loss of support award.

**SUMMARY OF THE RULE OR CHANGE:** The amendment specifies that loss of support awards are available only to minor children of the deceased victim and to persons who are not minor children, but were physically and financially dependent on the deceased victim. The current policy of the Office of Crime Victim Reparations is to limit the award only to minor children of the deceased victim.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 63M-7-506(1)(c)

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** The Office of Crime Victim Reparations (CVR) will likely make additional loss of support awards under this amendment because the Board would have authority to approve victims for this award who are currently not receiving the award. CVR is not able to determine the exact impact on the Crime Victim Reparations Fund. During fiscal year 2007, CVR approved 70 claims involving the death of the victim. The maximum loss of support award is \$25,000. If five of those 70 claims involved persons who were not minor children, but were physically and financially dependent on the deceased victim, CVR could have paid an additional \$125,000. It is not likely that the total impact to the CVR Fund would exceed this amount and is quite possible that the total impact would be less. The CVR Fund does not use general fund money.

❖ **LOCAL GOVERNMENTS:** Because loss of support awards are made directly to a parent or guardian and those payments do not involve local governments, it is anticipated that this amendment would have no cost or savings to local government.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** Because loss of support awards are made directly to a parent or guardian, small businesses will have no costs associated with this rule. Recipients of the loss of support award will use the funds for the support of another person and this may provide a benefit to small businesses. However, such benefit cannot be quantified.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The only affected persons are potential recipients of a loss of support award. They will need to file an application with CVR and request the loss of support award. This will involve only minimal costs such as postage.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This proposed change in regulation will have no fiscal impact on business. Robert Yeates, Executive Director

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

CRIME VICTIM REPARATIONS

ADMINISTRATION

Room 200

350 E 500 S

SALT LAKE CITY UT 84111-3347, or

at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

Ronald B Gordon at the above address, by phone at 801-238-2367, by FAX at 801-533-4127, or by Internet E-mail at [rbgordon@utah.gov](mailto:rbgordon@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2008

AUTHORIZED BY: Ronald B Gordon, Director

**R270. Crime Victim Reparations, Administration.**

**R270-1. Award and Reparation Standards.**

**R270-1-23. Loss of Support Awards.**

A. Pursuant to Subsection 63-25a-411(4)(g), loss of support awards shall be covered on death claims only.

B. Except as provided in Subsection (C), loss of support awards are available only to minor children of the deceased victim. Payment of the award may be made to the parent or guardian of the minor child on behalf of the minor child.

C. The Crime Victim Reparations Board may approve loss of support awards to persons who are not minor children, but were physically and financially dependent on the deceased victim.

**KEY: victim compensation, victims of crimes**

**Date of Enactment or Last Substantive Amendment:** ~~January 2,~~ **2008**

**Notice of Continuation: July 3, 2006**  
**Authorizing, and Implemented or Interpreted Law: 63-25a-401 et seq.**

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## Environmental Quality, Environmental Response and Remediation **R311-200** Underground Storage Tanks: Definitions

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE NO.: 31495  
FILED: 05/29/2008, 10:15

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Definitions are added or modified to provide clarification of terms used elsewhere in the proposed rule changes, and to allow for better implementation of those rules.

SUMMARY OF THE RULE OR CHANGE: New definitions are added for Alternative Fuel, Biodiesel, Community Water System, Potable Drinking Water Well, Public Water System, Secondary Containment, and Under-Dispenser Containment. The definition of As-built drawing is modified, and a description of tank system components to be shown in the drawing is moved to the definition from Subsection R311-203-3(e).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105 and 19-6-403

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: No costs or savings are anticipated. The proposed changes only add or modify definitions to clarify and implement changes in other parts of the rules.
- ❖ LOCAL GOVERNMENTS: No costs or savings are anticipated. The proposed changes only add or modify definitions to clarify and implement changes in other parts of the rules.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: No costs or savings are anticipated. The proposed changes only add or modify definitions to clarify and implement changes in other parts of the rules.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None anticipated. The proposed changes only add or modify definitions to clarify and implement changes in other parts of the rules.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There should be no impact on businesses from this rule change. Definitions are added to implement other changes made to the rules. Richard W. Sprott, Executive Director

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

ENVIRONMENTAL QUALITY  
ENVIRONMENTAL RESPONSE AND REMEDIATION  
168 N 1950 W  
SALT LAKE CITY UT 84116-3085, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Astin at the above address, by phone at 801-536-4103, by FAX at 801-359-8853, or by Internet E-mail at [gastin@utah.gov](mailto:gastin@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/16/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/01/2008 at 2:00 PM, Department of Environmental Quality, 168 N 1950 W, Room 101, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/18/2008

AUTHORIZED BY: Brad T Johnson, Director

### **R311. Environmental Quality, Environmental Response and Remediation.**

#### **R311-200. Underground Storage Tanks: Definitions.**

##### **R311-200-1. Definitions.**

(a) Refer to Section 19-6-402 for definitions not found in this rule.

(b) For purposes of underground storage tank rules:

(1) "Actively participated" for the purpose of the certification programs means that the individual applying for certification must have had operative experience for the entire project from start to finish, whether it be an installation or a removal.

(2) "Alternative Fuel" means a petroleum-based fuel containing:

(A) more than ten percent ethanol, or

(B) more than twenty percent biodiesel.

([2]3) "As[-]built drawing" [(as constructed drawing, record drawing)] for purpose of notification [refers to] means a drawing to scale of newly constructed USTs. The USTs shall be referenced to buildings, streets and limits of the excavation. The drawing shall show the locations of tanks, product lines, dispensers, vent lines, cathodic protection systems, and monitoring wells. Drawing size shall be limited to 8-1/2" x 11" if possible, but shall in no case be larger than 11" x 17".

([3]4) "Automatic line leak detector test" means a test that simulates a leak, and causes the leak detector to restrict or shut off the flow of regulated substance through the piping or trigger an audible or visual alarm.

([4]5) "Backfill" means any foreign material, usually pea gravel or sand, which usually differs from the native soil and is used to support or cover the underground storage tank system.

(6) "Biodiesel" means a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100.

(~~5~~<sup>7</sup>) "Burden" means the addition of the percentage of indirect costs which are added to raw labor costs.

(~~6~~<sup>8</sup>) "Certificate" means a document that evidences certification.

(~~7~~<sup>9</sup>) "Certification" means approval by the Executive Secretary or the Board to engage in the activity applied for by the individual.

(~~8~~<sup>10</sup>) "Change-in-service" means the continued use of an UST to store a non-regulated substance.

(11) "Community Water System" means a public water system that serves at least fifteen service connections used by year-round residents or regularly serves at least 25 year-round residents.

(~~9~~<sup>12</sup>) "Confirmation sample" means an environmental sample taken, excluding closure samples as outlined in Section R311-205-2, during soil overexcavation or any other remedial or investigation activities conducted for the purpose of determining the extent and degree of contamination.

(~~10~~<sup>13</sup>) "Customary, reasonable and legitimate expenses" means costs incurred during the investigation, abatement and corrective actions that address a release which are normally charged according to accepted industry standards, and which must be justified in an audit as an appropriate cost. The costs must be directly related to the tasks performed.

(~~11~~<sup>14</sup>) "Customary, reasonable and legitimate work" means work for investigation, abatement and corrective action that is required to reduce contamination at a site to levels that are protective of human health and the environment. Acceptable levels may be established by risk-based analysis and taking into account current or probable land use as determined by the Executive Secretary following the criteria in R311-211.

(~~12~~<sup>15</sup>) "Department" means the Utah Department of Environmental Quality.

(~~13~~<sup>16</sup>) "Eligible exempt underground storage tank" for the purpose of eligibility for the Utah Petroleum Storage Tank Trust Fund means a tank specified in 19-6-415(1).

(~~14~~<sup>17</sup>) "Environmental Consultant" or "Consultant" is an individual who provides or contracts to provide information, an opinion, or advice for a fee, or in conjunction with services for which a fee is charged, relating to underground storage tank management, release abatement, investigation, corrective action, or evaluation.

(~~15~~<sup>18</sup>) "Environmental sample" is a groundwater, surface water, air, or soil sample collected, using appropriate methods, for the purpose of evaluating environmental contamination.

(~~16~~<sup>19</sup>) "EPA" means the United States Environmental Protection Agency.

(~~17~~<sup>20</sup>) "Expediently disposed of" means disposed of as soon as practical so as not to become a potential threat to human health or safety or the environment, whether foreseen or unforeseen as determined by the Executive Secretary.

(~~18~~<sup>21</sup>) "Fiscal year" means a period beginning July 1 and ending June 30 of the following year.

(~~19~~<sup>22</sup>) "Full installation" for the purposes of 19-6-411(2) means the installation of an underground storage tank.

(~~20~~<sup>23</sup>) "Groundwater sample" is a sample of water from below the surface of the ground collected according to protocol established in Rule R311-205.

(~~21~~<sup>24</sup>) "Groundwater and soil sampler" is the person who performs environmental sampling for compliance with Utah underground storage tank rules.

(~~22~~<sup>25</sup>) "In use" means that an operational, inactive or abandoned underground storage tank contains a regulated substance, sludge, dissolved fractions, or vapor which may pose a threat to human

health, safety or the environment as determined by the Executive Secretary.

(~~23~~<sup>26</sup>) "Lapse" in reference to the Certificate of Compliance and coverage under the Petroleum Storage Tank Trust Fund, means to terminate automatically.

(~~24~~<sup>27</sup>) "Native soil" means any soil that is not backfill material, which is naturally occurring and is most representative of the localized subsurface lithology and geology.

(~~25~~<sup>28</sup>) "No Further Action determination" means that the Executive Secretary has evaluated information provided by responsible parties or others about the site and determined detectable petroleum contamination from a particular release does not present an unacceptable risk to public health or the environment based upon Board established criteria in R311. If future evidence indicates contamination from that release may cause a threat, further corrective action may be required.

(~~26~~<sup>29</sup>) "Notice of agency action" means any enforcement notice, notice of violation, notice of non-compliance, order, or letter issued to an individual for the purpose of obtaining compliance with underground storage tank rules and regulations.

(~~27~~<sup>30</sup>) "Occurrence" in reference to Subsection R311-208-4 means a separate petroleum fuel delivery to a single tank.

(~~28~~<sup>31</sup>) "Owners and operators" means either an owner or operator, or both owner and operator.

(~~29~~<sup>32</sup>) "Overexcavation" means any soil removed in an effort to investigate or remediate in addition to the minimum amount required to remove the UST or take environmental samples during UST closure activities as outlined in Section R311-205-2.

(~~30~~<sup>33</sup>) "Permanently closed" means underground storage tanks that are removed from service following guidelines in 40 CFR Part 280 Subpart G adopted by Section R311-202.

(~~31~~<sup>34</sup>) "Petroleum storage tank" means a storage tank that contains petroleum as defined by Section 19-6-402(20).

(~~32~~<sup>35</sup>) "Petroleum storage tank fee" means the fee which capitalizes the Petroleum Storage Tank Trust Fund as established in Section 19-6-409.

(~~33~~<sup>36</sup>) "Petroleum storage tank trust fund" means the fund created by Section 19-6-409.

(37) "Potable Drinking Water Well" means any hole (dug, driven, drilled, or bored) that extends into the earth until it meets groundwater which supplies water for a non-community public water system, or otherwise supplies water for household use (consisting of drinking, bathing, and cooking, or other similar uses). Such well may provide water to entities such as a single-family residence, group of residences, businesses, schools, parks, campgrounds, and other permanent or seasonal communities.

(38) "Public Water System" means a system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. It includes any collection, treatment, storage, and distribution facilities under control of the operator of the system and used primarily in connection with the system; and, any collection or pretreatment storage facilities not under such control which are used primarily in connection with the system.

(~~34~~<sup>39</sup>) "Registration fee" means underground storage tank registration fee.

(~~35~~<sup>40</sup>) "Regulated substance" means any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act "CERCLA" of 1980, but not including

any substance regulated as a hazardous waste under subtitle C, and petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure, 60 degrees Fahrenheit and 14.7 pounds per square inch absolute. The term "regulated substance" includes petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing, and includes motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

(41) "Secondary Containment" means a release prevention and detection system for a tank or piping that has an inner and outer barrier with an interstitial space between them for monitoring. The monitoring of the interstitial space shall meet the requirements of 40 CFR 280.43(g).

(36)42) "Site assessment" or "site check" is an evaluation of the level of contamination at a site which contains or has contained an UST.

(37)43) "Site assessment report" is a summary of relevant information describing the surface and subsurface conditions at a facility following any abatement, investigation or assessment, monitoring, remediation or corrective action activities as outlined in Rule R311-202, Subparts E and F.

(38)44) "Site investigation" is work performed by the owner or operator, or his designee, when gathering information for reports required for Utah underground storage tank rules.

(39)45) "Site plat" for purpose of notification, or reporting, refers to a drawing to scale of USTs in reference to the facility. The scale should be dimensioned appropriately. Drawing size shall be limited to 8-1/2" x 11" if possible, but shall in no case be larger than 11" x 17". The site plat should include the following: property boundaries; streets and orientation; buildings or adjacent structures surrounding the facility; present or former UST(s); extent of any excavation(s) and known contamination and location and volume of any stockpiled soil; locations and depths of all environmental samples collected; locations and total depths of monitoring wells, soil borings or other measurement or data points; type of ground-cover; utility conduits; local land use; surface water drainage; and other relevant features.

(40)46) "Site under control" means that the site of a release has been actively addressed by the owner or operator who has taken the following measures:

(A) Fire and explosion hazards have been abated.

(B) Free flow of the product out of the tank has been stopped.

(C) Free product is being removed from the soil, groundwater or surface water according to a work plan or corrective action plan approved by the Executive Secretary.

(D) Alternative water supplies have been provided to affected parties whose original water supply has been contaminated by the release.

(E) A soil or groundwater management plan or both have been submitted for approval by the Executive Secretary.

(44)47) "Soil sample" is a sample collected following the protocol established in Rule R311-205.

(42)48) "Surface water sample" is a sample of water, other than a groundwater sample, collected according to protocol established in Rule R311-205.

(43)49) "Tank" is a stationary device designed to contain an accumulation of regulated substances and constructed of non-earth materials, such as concrete, steel, or plastic, that provide structural support.

(44)50) "UAPA-exempt orders" are orders that are exempt from requirements of the Utah Administrative Procedures Act under Section 63G-4-102(2)(k), Utah Code Annot.

(51) "Under-Dispenser Containment" means containment underneath a dispenser that will prevent leaks from the dispenser or transitional components that connect the piping to the dispenser (check valves, shear valves, unburied risers or flex connectors, or other components that are beneath the dispenser) from reaching soil or groundwater.

(45)52) "Underground storage tank" or "UST" means any one or combination of tanks, including underground pipes connected thereto and any underground ancillary equipment and containment system, that is used to contain an accumulation of regulated substances, and the volume of which, including the volume of underground pipes connected thereto, is ten percent or more beneath the surface of the ground, regulated under Subtitle I, Resource Conservation and Recovery Act, 42 U.S.C., Section 6991c et seq.

(46)53) "Underground storage tank registration fee" means the fee assessed by Section 19-6-408 on tanks located in Utah.

(47)54) "UST inspection" is the inspection required by state and federal underground storage tank rules and regulations during the installation, testing, repairing, operation or maintenance, and removal of regulated underground storage tank.

(48)55) "UST inspector" is an individual who performs underground storage tank inspections for compliance with state and federal rules and regulations.

(49)56) "UST installation" means the installation of an underground storage tank, including construction, placing into operation, building or assembling an underground storage tank in the field. It includes any operation that is critical to the integrity of the system and to the protection of the environment, which includes:

(A) pre-installation tank testing, tank site preparation including anchoring, tank placement, and backfilling;

(B) vent and product piping assembly;

(C) cathodic protection installation, service, and repair;

(D) internal lining;

(E) secondary containment construction; and

(F) UST repair and service.

(50)57) "UST installation permit fee" means the fee established by Section 19-6-411(2)(a)(ii).

(54)58) "UST installer" means an individual who engages in underground storage tank installation.

(52)59) "UST removal" means the removal of an underground storage tank system, including permanently closing and taking out of service all or part of an underground storage tank.

(53)60) "UST remover" means an individual who engages in underground storage tank removal.

(54)61) "UST tester" means an individual who engages in UST testing.

(55)62) "UST testing" means a testing method which can detect leaks in an underground storage tank system, or testing for compliance with corrosion protection requirements. Testing methods must meet applicable performance standards of 40 CFR 280.40(a)(3), 280.43(c), and 280.44(b) for tank and product piping tightness testing, 280.44(a) for automatic line leak detector testing, and 280.31(b) for cathodic protection testing.

**KEY: petroleum, underground storage tanks**

**Date of Enactment or Last Substantive Amendment: ~~May 15, 2006~~ 2008**

**Notice of Continuation: April 18, 2007**  
**Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-403**

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## Environmental Quality, Environmental Response and Remediation

# R311-203

### Underground Storage Tanks: Notification, New Installations, Registration Fees, and Testing Requirements

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE NO.: 31496  
 FILED: 05/29/2008, 10:16

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Changes (addition of Section R311-203-6) are proposed to implement the "Additional Measures to Protect Groundwater" provision of the 2005 federal Energy Policy Act. State underground storage tank (UST) programs are required to implement one of the two options allowed. Other changes are proposed to help ensure that compatibility problems that may result from the use of alternative fuels in USTs do not occur (Section R311-203-2), clarify the requirements for notification and submittal of as-built drawings when USTs or UST system components are installed (Section R311-203-3), and provide for more accurate testing of UST cathodic protection systems (Section R311-203-5).

**SUMMARY OF THE RULE OR CHANGE:** Section R311-203-2 adds a requirement that UST owner/operators notify the Executive Secretary before using an underground storage tank to store an alternative fuel. The notification shall be made at least 10 days, or another allowed time period, before storing the alternative fuel in the tank. A requirement that owner/operators include the facility latitude and longitude with notifications is removed. Subsections R311-203-3(a) and (b) are reorganized for clarification, and the requirement that UST installers notify the Executive Secretary 30 days before installing USTs or certain components is changed to 10 days, or another approved time period. A requirement for notification before installation of containment sumps and under-dispenser containment is added, and the requirements for notification before installation of automatic line leak detectors and replacement or repair of valves, dispensers, or leak detection system components are removed. The requirement that an UST owner/operator submit an as-built drawing after installation of USTs or certain components is moved from Subsection R311-203-3(e) to R311-203-3(g), and the list of items to be shown in the drawing is moved to the definition of "As-built drawing" in Section R311-200-1. Section R311-203-5 is modified to specify that UST cathodic

protection tests include at least three test points per tank, and require that a follow-up test be performed after any below-grade work that may harm the integrity of the cathodic protection system. Section R311-203-6 is added. It requires that underground storage tanks and piping that are installed after 10/01/2008 have secondary containment and under-dispenser containment if the installation is 1,000 feet or less from a community water system or an existing potable drinking water well. The secondary containment must be monitored for leaks. The rule provides for situations in which less than a complete UST system is installed, and provides exemptions for certain types of piping installations. The rule specifies how an owner/operator may obtain an exemption from the requirements by documenting that the installation is not within 1,000 feet of a community water system or existing potable drinking water well.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105 and 19-6-408, and 42 USC 6991b(i)

#### ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** A state agency acting as an underground storage tank owner could incur an additional cost of up to approximately \$30,000 for a new UST system with secondary containment and under-dispenser containment, compared to the cost of a single-walled system with no containment. The aggregate cost would depend on the number of tanks installed. The cost of an additional cathodic protection test required after work that may harm the integrity of the system is approximately \$125 to \$150 per tank tested. The aggregate cost would depend on the number of tanks tested.

❖ **LOCAL GOVERNMENTS:** A local government acting as an underground storage tank owner could incur an additional cost of up to approximately \$30,000 for a new UST system with secondary containment and under-dispenser containment, compared to the cost of a single-walled system with no containment. The aggregate cost would depend on the number of tanks installed. The cost of an additional cathodic protection test required after work that may harm the integrity of the system is approximately \$125 to \$150 per tank tested. The aggregate cost would depend on the number of tanks tested.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** A business or other affected person acting as an underground storage tank owner could incur an additional cost of up to approximately \$30,000 for a new UST system with secondary containment and under-dispenser containment, compared to the cost of a single-walled system with no containment. The aggregate cost would depend on the number of tanks installed in the state, which has been approximately 70 tanks per year for the past 5 calendar years. The cost of an additional cathodic protection test required after work that may harm the integrity of the system is approximately \$125 to \$150 per tank tested. The aggregate cost would depend on the number of tanks tested.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** It is anticipated that the installation of secondary containment (generally double-walled tanks and piping with containment sumps for the piping) and under-dispenser containment would add up to

approximately \$30,000 to the cost of an underground storage tank system, when compared to the cost of a single-walled system with no containment. This per-tank additional cost would be borne by an UST owner/operator that contracts to install a new UST system. The cost of an additional cathodic protection test to be required after work that may affect the integrity of the cathodic protection system would be approximately \$125 to \$150 per tank. The other proposed changes involve notification requirements and would not involve any significant additional cost. The requirement for submittal of an as-built drawing for new UST installations is already in rule, and is only moved and modified for clarification.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The requirement for secondary containment and under-dispenser containment add a significant amount to the cost of a new underground tank system, but does not represent a significant change from current tank installation trends. The majority of the tanks and piping that are installed today have secondary containment (double-walled) and have dispenser containment. Virtually all installations include an automatic monitoring system capable of providing secondary containment monitoring for leaks. Over the last 5 years, approximately 75% of the tanks and 90% of the piping that have been installed in Utah have been double-walled, and greater than 90% of the tanks installed have containment under the dispensers. The containment and monitoring requirements should prevent many releases of fuel from reaching the environment. This will save the UST owner the cost of cleaning up a significant release, and will help reduce cleanup expenses from the Petroleum Storage Tank Trust Fund. Richard W. Sprott, Executive Director

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

ENVIRONMENTAL QUALITY  
ENVIRONMENTAL RESPONSE AND REMEDIATION  
168 N 1950 W  
SALT LAKE CITY UT 84116-3085, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Astin at the above address, by phone at 801-536-4103, by FAX at 801-359-8853, or by Internet E-mail at gastin@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/16/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/01/2008 at 2:00 PM, Department of Environmental Quality, 168 N 1950 W, Room 101, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/18/2008

AUTHORIZED BY: Brad T Johnson, Director

### **R311. Environmental Quality, Environmental Response and Remediation.**

#### **R311-203. Underground Storage Tanks: ~~Notification, New Installations, Registration Fees, and Testing Requirements~~ Technical Standards.**

##### **R311-203-1. Definitions.**

Definitions are found in ~~Section~~ Rule R311-200.

##### **R311-203-2. Notification.**

(a) The owner or operator of an underground storage tank shall notify the Executive Secretary whenever:

- (1) new USTs are brought into use;
- (2) the owner or operator changes;
- (3) changes are made to the tank or piping system; ~~or~~
- (4) release detection, corrosion protection, or spill or overflow prevention systems are installed, changed or upgraded; ~~and~~
- (5) whenever an alternative fuel is stored in the tank.

(b) All notifications shall be submitted on the current approved notification form ~~within 30 days of the completion of the work or the change of ownership.~~

~~(c) Notifications shall include the latitude and longitude of the facility.~~

(1) Notifications submitted to meet the requirements of R311-203-2(a)(1) through (4) shall be submitted within 30 days of the completion of the work or the change of ownership.

(2) Notifications submitted to meet the requirement of R311-203-2(a)(5) shall be submitted at least 10 days, or another time period approved by the Executive Secretary, prior to storing an alternative fuel in the tank.

~~(d)(c)~~ To satisfy the requirement of Subsection 19-6-407(1)(c) the certified installer shall:

- (1) complete the appropriate section of the notification form to be submitted by the owner or operator, and ensure that the notification form is submitted by the owner or operator within 30 days of completion of the installation; or
- (2) provide separate notification to the Executive Secretary within 60 days of the completion of the installation.

##### **R311-203-3. New Installations, Permits.**

(a) Certified UST installers ~~who intend to perform any of the activities listed in R311-203-3(e) or R311-203-3(d)(1) through (4)~~ shall notify the Executive Secretary at least ~~3~~ 10 days, or another time period approved by the Executive Secretary, before commencing ~~the activity~~ any of the following activities:

- (1) the installation of a full UST system or tank only;
- (2) the installation of underground product piping for one or more tanks at a facility, separate from the installation of one or more tanks at a facility;
- (3) the internal lining of a previously-existing tank;
- (4) the installation of a cathodic protection system on one or more previously-existing tanks at a facility where the structural integrity of the UST was required to be assessed, or where there is no documentation of a properly-working cathodic protection system on the UST within 10 years of the proposed upgrade;
- (5) the installation of a bladder in a tank;
- (6) any retro-fit, replacement, or installation that requires the cutting of a manway into the tank;
- (7) the installation of a spill prevention or overflow prevention device;
- (8) the installation of a leak detection monitoring system; and

~~(9) the installation of a containment sump or under-dispenser containment.~~

~~(b) The UST installation company shall submit to the Executive Secretary an UST installation permit fee of \$200 when any of the activities listed in R311-203-3(a)(1) through (6) is performed on an UST system that has not qualified for a certificate of compliance before the commencement of the work.~~

~~(b)c) The fees assessed under 19-6-411(2)(a)(i) shall be determined based on the number of full UST installations performed by the installation company in the 12 months previous to the fee due date. Installations for which the fee assessed under 19-6-411(2)(a)(ii) and R311-203-3(c) is charged shall count toward the total installations for the 12-month period.]~~

~~(e) The UST installation company shall submit to the Executive Secretary an UST installation permit fee of \$200 when the following work is performed on an UST system that has not qualified for a certificate of compliance before the commencement of the work:~~

~~(1) each full UST system installation;~~

~~(2) the installation of underground product piping for one or more tanks at a facility, separate from the installation of one or more tanks at a facility;~~

~~(3) the internal lining of a previously existing tank;~~

~~(4) the installation of a cathodic protection system on one or more previously existing tanks at a facility where the structural integrity of the UST was required to be assessed, or there is no documentation of a properly working cathodic protection system on the UST within 10 years of the proposed upgrade;~~

~~(5) the installation of a bladder in a tank, or any other retro-fit, replacement, or installation that requires the cutting of a manway into the tank, or~~

~~(6) installation of other UST system components as determined by the Executive Secretary.~~

~~(d) The UST installation permit fee shall not be required when the following activities are performed separately from the activities listed in R311-203-3(e):~~

~~(1) installation of spill prevention devices;~~

~~(2) installation of overfill prevention devices;~~

~~(3) installation of a leak detection monitoring system;~~

~~(4) installation of an automatic line leak detector; or~~

~~(5) replacement or repair of valves, dispensers, or leak detection system components.~~

~~(e) When a new UST system, tank only, or product piping only is installed, the owner or operator shall submit to the Executive Secretary a site plat or an as-built drawing, to scale, which shall include: the excavation, buildings, tanks, product lines, vent lines, cathodic protection systems, tank leak detection systems, and product line leak detection systems.]~~

~~(f)d) For the purposes of Subsections 19-6-411(2)(a)(ii), 19-6-407(1)(c), and R311-203-2(d)c), an installation shall be considered complete when:~~

~~(1) in the case of installation of a new UST system, tank only, or product piping only, the new installation first holds a regulated substance; or~~

~~(2) in the case of installation of the components listed in Subsections R311-203-3(e)a)(3) through [R311-203-3(e)a)(6), the new installation is functional and the UST holds a regulated substance and is operational.~~

~~(g)c) If, before completion of an installation for which an UST installation permit fee is required, the owner or operator decides to install additional UST system components, the installer shall notify the Executive Secretary of the change. When additions are made, the UST~~

installation permit fee shall not be increased unless the original UST installation permit fee would have been higher had the addition been considered at the time the original fee was determined.

~~(h)f) The number of UST installation companies performing work on a particular installation shall not be a factor in determining the UST installation permit fee for that installation. However, each installation company shall identify itself at the time the UST installation permit fee is paid.~~

~~(g) When a new UST system, tank only, product piping only, or new cathodic protection system is installed, the owner or operator shall submit to the Executive Secretary an as-built drawing, to scale, that meets the requirements of R311-200-1(b)(3).~~

### **R311-203-5. UST Testing Requirements.**

(a) Tank tightness testing. The testing method must be able to test the UST system at the maximum level that could contain regulated substances. Tanks with overfill prevention devices that prevent product from entering the upper portion of the tank may be tested at the maximum level allowed by the overfill device.

(b) Automatic line leak detector testing. Line leak detectors shall be tested annually for functionality according to 40 CFR 280.44(a) and R311-200-1(b)(3)4. An equivalent test may be approved by the Executive Secretary. The test shall simulate a leak and provide a determination based on the test whether the leak detector functions properly and meets the requirements of 40 CFR 280.44(a). If a sump sensor is used as an automatic line leak detector, the sensor shall be located as close as is practical to the lowest portion of the sump.

(c) Containment sump testing. When a sump sensor is used as a leak detector, the secondary containment sump shall be tested for tightness annually according to the manufacturer's guidelines or standards, or by another method approved by the Executive Secretary.

(d) Cathodic protection testing. Cathodic protection tests shall meet the inspection criteria outlined in 40 CFR 280.31(b)(2), or other criteria approved by the Executive Secretary. The tester who performs the test shall provide the following information: location of at least three test points per tank, test results in volts or millivolts, pass/fail determination for each tank, line, flex connector, or other UST system component tested, the criteria by which the pass/fail determination is made, and a site plat showing locations of test points. A re-test of any cathodic protection system is required within six months of any below-grade work that may harm the integrity of the system.

(e) UST testers performing tank and line tightness testing shall include the following as part of the test report: pass/fail determination for each tank or line tested, the measured leak rate, the test duration, the product level for tank tests, the pressure used for pressure tests, the type of test, and the test equipment used.

### **R311-203-6. Secondary Containment and Under-dispenser Containment.**

(a) Secondary containment for tanks and piping.

(1) To meet the requirements of Section 42 USC 6991b(i) of the Solid Waste Disposal Act, all tanks and product piping that are installed as part of an underground storage tank system after October 1, 2008 shall have secondary containment if the installation is located 1000 feet or less from an existing community water system or an existing potable drinking water well.

(2) The secondary containment installed under Subsection (a) shall meet the requirements of 40 CFR 280.42(b), and shall be monitored monthly for releases from the tank and piping. Monthly monitoring shall meet the requirements of 40 CFR 280.43(g).



(3) Containment sumps for piping that is installed under Subsection (a) shall be required:

(A) at the submersible pump or other location where the piping connects to the tank;

(B) where the piping connects to a dispenser, or otherwise goes above-ground; and

(C) where double-walled piping that is required under Subsection (a) connects with existing piping.

(4) Containment sumps for piping that is installed under Subsection (a) shall:

(A) contain submersible pumps, check valves, unburied risers, flexible connectors, and other transitional components that connect the piping to the tank, dispenser, or existing piping; and

(B) meet the requirements of Subsections (b)(2)(A) through (C).

(5) In the case of a replacement of tank or piping, only the portion of the UST system being replaced shall be subject to the requirements of Subsection (a). If less than 100 percent of the piping from a tank to a dispenser is replaced, the requirements of Subsection (a) shall apply to all new product piping that is installed. The closure requirements of R311-205 shall apply to all product piping that is taken out of service. When new piping is connected to existing piping that is not taken out of service, the connection between the new and existing piping shall be secondarily contained, and shall be monitored for releases according to 40 CFR 280.43(g).

(6) The requirements of Subsection (a) shall not apply to:

(A) piping that meets the requirements for "safe suction" piping in 40 CFR 280.41(b)(2)(i) through (v), or

(B) piping that connects two or more tanks to create a siphon system.

(7) The requirements of Subsection (a) shall apply to emergency generator USTs installed after October 1, 2008.

(b) Under-dispenser containment.

(1) To meet the requirements of Section 42 USC 6991b(i) of the Solid Waste Disposal Act, all new motor fuel dispenser systems installed after October 1, 2008, and connected to an underground storage tank, shall have under-dispenser containment if the installation is located 1000 feet or less from an existing community water system or an existing potable drinking water well.

(2) The under-dispenser containment shall:

(A) be liquid-tight on its sides, bottom, and at all penetrations;

(B) be compatible with the substance conveyed by the piping; and

(C) allow for visual inspection and access to the components in the containment system, or shall be continuously monitored for the presence of liquids.

(3) If an existing dispenser is replaced, the requirements of Subsection (b) shall apply to the new dispenser if any equipment used to connect the dispenser to the underground storage tank system is replaced. This equipment includes unburied flexible connectors, risers, and other transitional components that are beneath the dispenser and connect the dispenser to the product piping.

(c) The requirements of Subsections (a) and (b) shall not apply if the installation is located more than 1000 feet from an existing community water system or an existing potable drinking water well.

(1) The UST owner or operator shall provide to the Executive Secretary documentation to show that the requirements of Subsections (a) and (b) to not apply to the installation. The documentation shall be provided at least 60 days before the beginning of the installation, and shall include:

(A) a detailed to-scale map of the proposed installation that demonstrates that no part of the installation is within 1000 feet of any

community water system, potable drinking water well, or any well the owner or operator plans to install at the facility, and

(B) a certified statement by the owner or operator explaining who researched the existence of a community water system or potable drinking water well, how the research was conducted, and how the proposed installation qualifies for an exemption from the requirements of Subsections (a) and (b).

(d) To determine whether the requirements of Subsections (a) and (b) apply, the distance from the UST installation to an existing community water system or existing potable drinking water well shall be measured from the closest part of the new underground tank, piping, or motor fuel dispenser system to:

(1) the closest part of the nearest community water system, including:

(A) the location of the wellheads for groundwater and/or the location of the intake points for surface water;

(B) water lines, processing tanks, and water storage tanks; and

(C) water distribution/service lines under the control of the community water system operator, or

(2) the wellhead of the nearest existing potable drinking water well.

(e) If a new underground storage tank facility is installed, and is not within 1000 feet of an existing community water system or an existing potable drinking water well, the requirements of Subsections (a) and (b) apply if the owner or operator installs a potable drinking water well at the facility that is within 1000 feet of the underground tanks, piping, or motor fuel dispenser system, regardless of the sequence of installation of the UST system, dispenser system, and well.

**KEY: fees, hazardous substances, petroleum, underground storage tanks**

**Date of Enactment or Last Substantive Amendment: [~~September 9, 2004~~2008]**

**Notice of Continuation: April 18, 2007**

**Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-408**



## Environmental Quality, Environmental Response and Remediation

### R311-206-3

## Requirements for Issuance of Certificates of Compliance

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31497

FILED: 05/29/2008, 10:17

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed to strengthen the requirement for submittal of an as-built drawing of a new Underground Storage Tank (UST) system by tying it to the issuance of a certificate of compliance, a document that the owner/operator must receive before putting the new UST system into operation. The requirement is already in rule (Subsection R311-203-3(e)) and

is added to the requirements for receiving a certificate of compliance to ensure that the drawings will be submitted.

SUMMARY OF THE RULE OR CHANGE: Section R311-206-3 is modified to add a requirement that an UST owner/operator submit to the Executive Secretary an as-built drawing of a new UST system in order to obtain a certificate of compliance for that UST.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105 and 19-6-428

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: No cost or savings anticipated. The requirement is already in rule and is added to the requirements for receiving a certificate of compliance to strengthen enforcement.
- ❖ LOCAL GOVERNMENTS: No cost or savings anticipated. The requirement is already in rule and is added to the requirements for receiving a certificate of compliance to strengthen enforcement.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: No cost or savings anticipated. The requirement is already in rule and is added to the requirements for receiving a certificate of compliance to strengthen enforcement.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No costs anticipated. The requirement is already in rule and is added to the requirements for receiving a certificate of compliance to strengthen enforcement.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It is not anticipated that this requirement will have any material cost associated with it. Detailed construction drawings are generally made for new UST installations, and a simplified version can be created to meet the requirement. Having the drawing helps in locating tanks, piping, and other parts of the UST system, and is useful for general site assessments, release investigations, and providing information to the public. An acceptable drawing does not have to be overly detailed or complicated, and creating one is not expected to be burdensome. Richard W. Sprott, Executive Director

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

ENVIRONMENTAL QUALITY  
ENVIRONMENTAL RESPONSE AND REMEDIATION  
168 N 1950 W  
SALT LAKE CITY UT 84116-3085, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Astin at the above address, by phone at 801-536-4103, by FAX at 801-359-8853, or by Internet E-mail at [gastin@utah.gov](mailto:gastin@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/16/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/01/2008 at 2:00 PM, Department of Environmental Quality, 168 N 1950 W, Room 101, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/18/2008

AUTHORIZED BY: Brad T Johnson, Director

### **R311. Environmental Quality, Environmental Response and Remediation.**

#### **R311-206. Underground Storage Tanks: Financial Assurance Mechanisms.**

#### **R311-206-3. Requirements for Issuance of Certificates of Compliance.**

(a) The Executive Secretary shall issue a certificate of compliance to an owner or operator for individual petroleum storage tanks at a facility if:

- (1) the owner or operator has a certificate of registration;
- (2) the tank is substantially in compliance with all state and federal statutes, rules and regulations;
- (3) the UST test, conducted within 6 months before the tank was registered or within 60 days after the date the tank was registered, indicates that each individual UST is not leaking;
- (4) the owner or operator has submitted a letter to the Executive Secretary stating that based on customary business inventory practices standards there has been no release from the tank; ~~and~~
- (5) the owner or operator has submitted a completed application according to a form provided and approved by the Executive Secretary, and has declared the financial assurance mechanism that will be used; ~~and~~
- (6) the owner or operator has met all requirements for the financial assurance mechanism chosen, including payment of all applicable fees; ~~and~~
- (7) the owner or operator has submitted an as-built drawing that meets the requirements of R311-200-1(b)(3).

**KEY: hazardous substances, petroleum, underground storage tanks**

**Date of Enactment or Last Substantive Amendment: [~~September 15, 2006~~2008]**

**Notice of Continuation: April 18, 2007**

**Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-428**



Health, Epidemiology and Laboratory  
Services, Environmental Services

## **R392-502**

Hotel, Motel and Resort Sanitation

**NOTICE OF PROPOSED RULE**  
(Amendment)

DAR FILE NO.: 31494

FILED: 05/28/2008, 13:42

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rulemaking is necessary to update the rule to address current industry trends.

SUMMARY OF THE RULE OR CHANGE: Additional definitions regarding "pet friendly" have been added. The conditions under which pets can be allowed in lodging facilities has been addressed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-15-2

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated additional costs or savings to the state budget. Rulemaking costs will be covered by existing budgets.

❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local governments as the proposed modifications to the rule will not require additional action on their part. Inspection costs will be covered by existing budgets.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Each facility will be required to post at a minimum, one sign in the lobby. If a facility chooses to permit pets, more signs would be required on the entry door of each affected room. There are approximately 1,200 public lodging properties in the state at this time. Aggregate costs for the lobby sign would range from \$6,000 (i.e., \$5 x 1,200 properties) to \$120,000 (i.e., \$100 x 1,200 properties). The number of rooms affected cannot be determined. However, it is estimated by the lodging association that 95% of the properties will elect to either prohibit pets throughout the entire facility, or allow pets in the entire facility, and room signage will not be required.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It is anticipated that hotels, motels, and resorts will incur additional costs related to the required signage. The cost of a lobby sign would range approximately \$5 to \$100, or more, depending upon the quality and materials chosen by the operator. If the facility chooses to provide a mixture of guest rooms which are pet friendly and where pets are not allowed, then each room door affected would be approximately \$5 to \$40, or more, again, depending upon the quality and materials chosen.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule is in response to requests from the industry and local government to allow pets in lodging facilities. A facility can choose to allow pets or not to allow pets in the entire facility and simply place one sign to that effect in the lobby. If the facility chooses to allow pets, or not allow pets in a few rooms, more signs will be required. The fiscal impact will be at the business choice of the facility to a large extent and seems appropriate. David N. Sundwall, MD, Executive Director

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

HEALTH  
EPIDEMIOLOGY AND LABORATORY SERVICES,  
ENVIRONMENTAL SERVICES  
CANNON HEALTH BLDG

288 N 1460 W  
SALT LAKE CITY UT 84116-3231, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Ronald Marsden at the above address, by phone at 801-538-6191, by FAX at 801-538-6564, or by Internet E-mail at rmarsden@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2008

AUTHORIZED BY: David N. Sundwall, Executive Director

**R392. Health, Epidemiology and Laboratory Services, Environmental Services.**

**R392-502. Hotel, Motel and Resort Sanitation.**

**R392-502-1. Definitions.**

Director - shall mean the Executive Director of the Utah Department of Health.

Hotel, Motel or Resort - shall include tourist court, motor hotel, resort camps, hostels, lodges, dormitories and similar facilities, and shall mean every building, or structure with all buildings and facilities in connection, kept, used, maintained as, advertised as, or held out to the public to be, a place where living accommodations are furnished to transient guests or to groups normally occupying such facilities on a seasonal or short-term basis.

Hotel, Motel or Resort Units - shall mean accommodations to serve two or more people.

"Pet" means a domesticated companion animal that is not included in the definition of a service animal or support animal under federal or state law that allows access of the animal to hotel, motel, and resort facilities.

"Pet Friendly" means the designation of certain guest rooms or all guest rooms by an owner or operator to allow pets to stay in a guest room with the guest.

Wastewater - shall mean discharges from all plumbing facilities such as rest rooms, kitchen, and laundry fixtures, either separately or in combination.

**R392-502-6. Operation and Maintenance.**

6.1 Each structure made available for occupancy shall comply with the requirements of the Uniform Building Code.

6.2 Comfort of occupants shall be provided for by adequate heating, lighting, and ventilation. Total window area in any room should be equal to at least 10 percent and in no case less than 5 percent of the floor area. For adequate ventilation, windows shall be openable or mechanical ventilation must be provided. Adequate means shall be employed to minimize odors in all rooms intended for overnight use.

6.3 In dormitory type accommodations, beds shall be separated by a horizontal distance of at least 5 feet, reducible to 3 feet, if beds are alternated head to foot, except in case of double deck bunks, which shall have a minimum horizontal separation of 6 feet under all circumstances. If suitable permanent partitions are installed between beds, spacing requirements may be modified upon approval of the Director or director of the local health department having jurisdiction.

6.4 Floors, walls and ceilings shall be so constructed as to be easily cleanable and they shall be kept clean and in good repair.

6.5 Each bed, bunk, cot or sleeping facility for use by occupants shall afford reasonable comfort and be maintained in a sanitary condition. Mattresses, mattress covers, quilts, blankets, pillows, pillow slips, sheets, comforters, and other bedding shall be kept clean and in good repair. Bedding shall be made available to each occupant not furnishing his own. Pillows shall have pillow slips and sheets shall be large enough to completely cover mattresses. Bedding shall be changed daily or in between occupant use.

6.6 All eating and drinking utensils for use by guests in rooms, shall be either single service, or washed and sanitized in a manner prescribed in R392-100 and protected from subsequent contamination.

6.7 All food, food service employees, ice, vending machines, food storage, and preparation and serving facilities shall comply with R392-100.

6.8 The dispensing of ice from storage bins where the general public has free access is prohibited.

6.9 Where occupants are permitted to cook in a hotel, motel, or resort unit, a space for kitchen facilities shall be provided, and shall be equipped with at least a minimum of a kitchen sink installed in accordance with requirements of the Utah Plumbing Code.

6.10 Guest rooms used for sleeping purposes shall be supplied with a lavatory, hand soap, and clean individual towels for each guest. Clean individual towels shall be supplied daily or in between occupant use.

6.11 All buildings, rooms and equipment and ground surrounding them shall be maintained in a clean and operable condition.

6.12 All necessary means shall be employed to eliminate and control infestations of insects and rodents on the premises of any hotel, motel, or resort unit. This shall include approved screening or other approved control of outside openings in structures intended for occupancy or food service facilities.

6.13 ~~[No pets, other than Seeing Eye dogs, shall be allowed in hotel, motel, or resort rooms.]~~ Pets are not permitted in dining areas, or in swimming pool areas. Pets are not permitted in guest rooms that are not designated as pet friendly.

(a) Each operator must make a pet-oriented election for each facility and post at the registration desk one of the following four signs appropriate to the election:

(i) An operator may elect not to allow any pets in the facility. An operator who makes this election shall post a sign at the registration desk that reads: "NO PETS ALLOWED IN THIS FACILITY".

(ii) An operator may elect to allow pets in all guest rooms of the facility. An operator who makes this election shall post a sign at the registration desk that reads: "PETS ALLOWED IN ALL GUEST ROOMS".

(iii) An operator may elect to allow pets in all guest rooms of the facility, except as posted at specific guest rooms. An operator who makes this election shall post a sign at the registration desk that reads: "PETS ALLOWED IN ALL GUEST ROOMS EXCEPT IN ROOMS POSTED WITH 'NO PETS ALLOWED'". An operator who makes this election shall also post a sign at the entrance to the room in a position clearly visible on entry into the room. The sign shall use the words, "NO PETS ALLOWED" in upper case letters at least three-quarters of an inch, 1.9 centimeters, in height

(iv) An operator may elect not to allow pets in any guest room of the facility, except as posted on specific guest rooms. An operator who makes this election shall post a sign at the registration desk that reads: "NO PETS ALLOWED IN GUEST ROOMS EXCEPT IN ROOMS POSTED AS 'PET FRIENDLY'". An operator who makes this

election shall also post a sign at the entrance to the room in a position clearly visible on entry into the room. The sign shall use the words, "PET FRIENDLY ROOM" in upper case letters at least three-quarters of an inch, 1.9 centimeters, in height

(b) The operator shall post the facility election sign required by subsection (a) at the registration desk in clear view to each potential guest who presents at the registration desk. This may require more than one sign to be posted at the registration desk. The sign shall be in upper case letters at least 1 inch, 2.54 centimeters, in height.

(c) The signs at the guest rooms in a facility that allows pets in a limited number of guest rooms shall be placed in a position clearly visible upon entry into the room.

(d) All signs must be easily readable and must not be obscured in any way.

(e) The operator shall ensure that accumulations of pet hair, fur, feathers, feces, and soiled bedding are removed from rooms at least once per day or as often as necessary to prevent unsanitary conditions or odors. Where available, the operator shall designate an outdoor area on the premises of public hotel, motel, and resort facilities for pet walking. The operator shall keep the premises, including pet walking areas, free of pet waste. If an area for pet walking is impractical or not available, the operator shall:

(i) require pet owners to keep pets in portable kennels; or

(ii) keep pets diapered; or

(iii) provide pet waste bags for pet owners to use to dispose of pet waste produced while walking their pets while out of doors.

(f) If an operator of a public hotel, motel or resort facility chooses to modify the status of a room from a pet friendly room to a non-pet friendly room, the operator shall perform a full deep cleaning of the room in a manner likely to remove the allergens. The deep cleaning shall include shampooing of carpets, laundering of bedding, laundering of drapes, washing of all walls, and cleaning of all other objects and surfaces that may harbor allergens.

**KEY: public health, hotels, motels, resorts**

**Date of Enactment or Last Substantive Amendment: [1987]2008**

**Notice of Continuation: July 18, 2007**

**Authorizing, and Implemented or Interpreted Law: 26-15-2**



## Health, Health Care Financing, Coverage and Reimbursement Policy

### R414-1-5

#### State Plan

#### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31506

FILED: 05/30/2008, 15:02

#### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In accordance with Section 26-18-3, this change implements by rule ongoing Medicaid policy for services described in the Utah Medicaid Provider Manual, Medical Supplies Manual and List.

SUMMARY OF THE RULE OR CHANGE: Subsection R414-1-5(2) incorporates by reference the Medical Supplies Manual and List, effective 07/01/2008.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Utah Medicaid Provider Manual, Medical Supplies Manual and List, 07/01/2008

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no impact to the state budget because this change only incorporates by reference ongoing Medicaid policy described in the Medical Supplies Manual and List.

❖ LOCAL GOVERNMENTS: There is no budget impact because local governments do not fund or provide the services described in the Medical Supplies Manual and List.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There is no impact to the other persons and small businesses because this change only incorporates by reference ongoing Medicaid policy described in the Medical Supplies Manual and List.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this change only incorporates by reference ongoing Medicaid policy described in the Medical Supplies Manual and List.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Medicaid manages the provision of medical supplies, durable medical equipment and prosthetics with the manual and list incorporated by reference by this rule. Medicaid providers and recipients should find it easier to understand benefits and the scope of service. No fiscal impact is expected. A. Richard Melton, Acting 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 07/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2008

AUTHORIZED BY: Richard Melton, Deputy Director

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

**R414-1. Utah Medicaid Program.**

**R414-1-5. ~~[State Plan]~~ Incorporations by Reference.**

~~[(1) As a condition for receipt of federal funds under title XIX of the Act, the Utah Department of Health must submit a State Plan contract to the federal government for the medical assistance program, and agree to administer the program in accordance with the provisions of the State Plan, the requirements of Titles XI and XIX of the Act, and all applicable federal regulations and other official issuances of the United States Department of Health and Human Services. A copy of the State Plan is available for public inspection at the Division's offices during regular business hours.~~

—]([2]1) The Department adopts the Utah State Plan Under Title XIX of the Social Security Act Medical Assistance Program effective July 1, 2008. It also incorporates by reference State Plan Amendments that become effective no later than July 1, 2008.

(2) The Department adopts the Medical Supplies Manual and List described in the Utah Medicaid Provider Manual, Section 2, Medical Supplies, with its referenced attachment, Medical Supplies List, July 1, 2008, as applied in Rule R414-70.

**KEY: Medicaid**

**Date of Enactment or Last Substantive Amendment: 2008**

**Notice of Continuation: April 16, 2007**

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

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## Health, Health Care Financing, Coverage and Reimbursement Policy

### R414-6

#### Reduction in Certain Targeted Case Management Services

##### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 31493

FILED: 05/28/2008, 10:02

##### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to update which targeted case management (TCM) programs are not available to Medicaid recipients.

SUMMARY OF THE RULE OR CHANGE: This amendment removes the exclusion of TCM services for the homeless because these services are available to eligible Medicaid recipients.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-18-2.3 and 26-18-3

## ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There is no impact to the state budget because this change only implements current TCM policy into rule.
- ❖ LOCAL GOVERNMENTS: There is no budget impact because local governments do not fund TCM services and they are not Medicaid providers.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There is no impact to other persons and small businesses because this change only implements current TCM policy into rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this change only implements current TCM policy into rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change reflects current policy in Medicaid. Targeted case management services are available to Medicaid recipients including those without an established residence. No negative fiscal impact for business is expected. A. Richard Melton, Acting 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 07/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2008

AUTHORIZED BY: Richard Melton, Deputy Director

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

**R414-6. Reduction in Certain Targeted Case Management Services.**

**R414-6-1. Introduction and Authority.**

This rule describes the Utah Medicaid Program's reduction in certain targeted case management services. Utilization of cost-containment methods is authorized by ~~Title 26, Chapter 18, Section 2.3, UCA~~ Section 26-18-2.3.

**R414-6-2. Definition.**

"Targeted Case Management Services" are a set of planning, coordinating and monitoring activities that assist Medicaid recipients in the target group to access needed housing, employment, medical, nutritional, social, education, and other services to promote independent living and functioning in the community.

~~**R414-6-3. Targeted Case Management Services for Homeless Recipients.**~~

~~Upon the effective date of this rule, targeted case management services for homeless recipients are not available.~~

~~**R414-6-[4]3. Targeted Case Management Services for Recipients with HIV/AIDS.**~~

~~Upon the effective date of this rule, targeted case management services for recipients with HIV/AIDS are not available.~~

~~**R414-6-[5]4. Targeted Case Management Services for Recipients Exposed to Tuberculosis.**~~

~~Upon the effective date of this rule, targeted case management services for recipients exposed to tuberculosis are not available.~~

**KEY: Medicaid, case management**

**Date of Enactment or Last Substantive Amendment:** ~~May 13, 2003~~ **2008**

**Notice of Continuation:** April 21, 2008

**Authorizing, and Implemented or Interpreted Law:** 26-18



Health, Health Care Financing,  
Coverage and Reimbursement Policy

**R414-70**

Medical Supplies, Durable Medical  
Equipment, and Prosthetic Devices

**NOTICE OF PROPOSED RULE**

(Repeal and Reenact)

DAR FILE NO.: 31505

FILED: 05/30/2008, 14:51

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to repeal and reenact Rule R414-70 to clarify mandatory and optional services for medical supplies, durable medical equipment, and prosthetic devices.

SUMMARY OF THE RULE OR CHANGE: The reenacted rule clarifies eligibility requirements for mandatory and optional services. It also refers Medicaid clients to the Medical Supplies Manual and List where the criteria to receive optional services are found. The previous rule listed in general terms some of the services and criteria provided as well as a list of some noncovered items. The reenacted rule also specifies criteria for nursing facility residents. Finally, the Department may

provide, at its discretion, services not described in the Medical Supplies Manual and List based on criteria set forth in the rule.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: No significant impact to the state budget is expected. The rule clarifies ongoing Medicaid policy for medical supplies, durable medical equipment, and prosthetic devices. The majority of Medicaid recipients will receive the same services under this rule. On balance it is expected to be budget neutral.

❖ LOCAL GOVERNMENTS: There is no budget impact because local governments do not fund or provide medical supplies, durable medical equipment, and prosthetic devices to Medicaid clients.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: No significant impact to business is expected. The rule clarifies ongoing Medicaid policy for medical supplies, durable medical equipment, and prosthetic devices. The majority of Medicaid recipients will receive the same services under this rule. Providers and recipients should find it easier to determine what is available.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this change only clarifies ongoing Medicaid policy for medical supplies, durable medical equipment, and prosthetic devices.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Medical supplies, durable medical equipment and prosthetics are an optional service in Medicaid. This rule should make it easier for providers and recipients to know what services are authorized and may have a small positive fiscal impact on business. The current level of authorized funding in this category should not change as a result of this rule. A. Richard Melton, Acting 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  
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DIRECT QUESTIONS REGARDING THIS RULE TO:

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THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2008

AUTHORIZED BY: Richard Melton, Deputy Director

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

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

###### **~~R414-70-1. Introduction and Authority.~~**

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

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

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

~~—(4) Durable Medical Equipment (DME) and medical supplies are mandatory services. Prosthetic devices are optional services as referenced in 42 CFR 440.225.~~

###### **R414-70-2. Definitions.**

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

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

~~—(a) can withstand repeated use;~~

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

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

~~—(d) is appropriate for use in the home.~~

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

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

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

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

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

###### **R414-70-3. Recipient Eligibility Requirements.**

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

###### **R414-70-4. Program Access Requirements.**

~~—(1) Supplies, DME, and prosthetics are covered benefits for recipients who reside at home through medical suppliers and~~

specialty prosthetic vendors. Recipients residing in long term care facilities will receive supplies, DME and prosthetics as described in Section R414-70-9.

—(2) All supplies, DME, and prosthetics require a physician's order, must be documented in the plan of care, and must be medically necessary. A physician must review and verify the continuing need for the items at least annually and more frequently as needed for prior authorization.

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

#### **R414-70-5. Disposable Medical Supplies.**

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

—(2) Disposable supplies include:

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

—(b) ostomy supplies;

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

—(d) urinary Catheters;

—(e) syringes;

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

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

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

—(3) Oxygen and related respiratory equipment are covered.

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

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

#### **R414-70-6. Durable Medical Equipment.**

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

—(2) Medicaid covers repairs to DME.

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

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

—(5) Wheelchairs which are suitable for use in the home are a benefit.

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

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

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

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

—(e) Wheelchair repairs

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

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

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

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

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

#### **R414-70-7. Prosthetic Devices and Appliances.**

—(1) Medicaid covers prosthetic devices that include hearing aids, special orthopedic appliances, prosthetic limbs, prosthetic eyes, braces, and orthoses. Medicaid does not cover prosthetic devices that include special shoes, cochlear implants, augmentative speech devices, and wigs or hair replacement after chemotherapy.

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

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

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

—(5) The Department will pay for a particular item once every five years from the original purchase date. A replacement prosthetic device may be provided more often.

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

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

—(1) oxygen concentrators;

—(2) customized or power wheelchairs;

—(3) repairs to customized or power wheelchairs;

—(4) medically necessary braces and prosthetic devices;

—(5) specialized wound care and decubitus supplies and equipment, including special mattresses and overlays;

—(6) oxygen. Oxygen is limited to the gas product itself. All oxygen equipment or systems to deliver or administer the oxygen is covered under the per diem.



**R414-70-9. Non Covered Items.**

- ~~The following are not benefits:~~
- ~~(1) Items used primarily for hygiene, education, exercise, convenience, cosmetic purposes, social interaction, or comfort of the recipient.~~
- ~~(2) Modifications of DME or supplies for reasons of convenience, cosmetics, or comfort.~~
- ~~(3) DME for use outside the home, including wheelchair, wheelchair attachments, accessories and modifications for use outside the home.~~
- ~~(4) Equipment permanently attached or mounted to a building or a vehicle such as ramps, lifts, and bathroom rails.~~
- ~~(5) Routine maintenance such as cleaning, greasing and oiling of purchased equipment.~~
- ~~(6) Repairs to DME or prosthetic devices if:~~
- ~~(a) the recipient does not own the device or use the device in his home;~~
- ~~(b) the repair or part is for equipment which is not a benefit;~~
- ~~(c) the repair is covered by a warranty; or~~
- ~~(d) the damage is the result of abuse or neglect.~~
- ~~(7) First aid supplies not referenced in Section 5(2)(c).~~
- ~~(8) Non medical supplies, devices, or products that are not primarily and customarily used to serve a medical purpose or generally are not useful to an individual in the absence of an illness or injury~~
- ~~(9) Lifts in furniture to aid a patient to a standing position;~~
- ~~(10) Specialized or non standard tires or wheels on wheelchairs are not a benefit unless medically necessary for use in the patient's home.~~
- ~~(11) Cervical pillows;~~
- ~~(12) Shoes not attached to a brace;~~
- ~~(13) Shoe repair;~~
- ~~(14) Non-prescription braces and supports;~~
- ~~(15) Reflux boards;~~
- ~~(16) Items purchased by the patient through mail order;~~
- ~~(17) A second oxygen system;~~
- ~~(18) Glucose monitors;~~
- ~~(19) Cochlear implants;~~
- ~~(20) Augmentative speech devices; and~~
- ~~(21) Wigs or hair replacement following chemotherapy.~~

**R414-70-10. Reimbursement.**

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

**R414-70-1. Introduction and Authority.**

- (1) This rule governs the provision of medical supplies, durable medical equipment (DME), and prosthetic device services.
- (2) This rule is authorized by Sections 26-18-3 and 26-1-5.
- (3) As required by Section 26-18-2.3, the Department provides these services in an efficient, economical manner, safeguarding against unnecessary, unreasonable, or inappropriate use of these services.

**R414-70-2. Definitions.**

As used in this rule:

- (1) "Durable medical equipment" or "DME" means equipment that:
- (a) can withstand repeated use;
- (b) is primarily and customarily used to serve a medical purpose;

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

(d) is suitable for use in the home.

(2) "Entitled to nursing facility services" means an individual who:

(a) is in a nursing facility and whose nursing facility stay is covered by Medicaid; or

(b) is receiving services in a waiver program for individuals who require nursing facility level of care.

(3) "Individual eligible for optional services" means an individual who is not entitled to nursing facility services.

(4) "Individual entitled to mandatory services" means an individual who is entitled to nursing facility services.

(5) "Medical supplies" means items for medical use that are suitable for use in the home and that are disposable or semi-disposable and are non-reusable.

(6) "Medical Supplies Manual and List" means services described in the Utah Medicaid Provider Manual, Section 2, Medical Supplies, with its referenced Attachment, Medical Supplies List, as incorporated at R414-1-5(2).

(7) "Prosthetic device" means replacement, corrective, or supportive devices that are suitable for use in the home, such as braces, orthoses, or prosthetic limbs prescribed by a physician or other licensed practitioner of the healing arts within the scope of his or her practice as defined by state law to:

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

(b) prevent or correct physical deformities or malfunction; or

(c) support a weak or deformed portion of the body.

**R414-70-3. Services.**

(1) Medical supplies, DME, and prosthetic devices are optional services.

(2) Medical supplies, DME, and prosthetic devices are limited to services described in the Medical Supplies Manual and List.

(3) The Medical Supplies Manual and List specifies the reasonable and appropriate amount, duration, and scope of the service sufficient to reasonably achieve its purpose.

(4) Medical supplies, DME, and prosthetic devices may be provided to an individual only as part of a written plan that is reviewed at least annually by a physician.

**R414-70-4. Services for Individuals Eligible for Optional Services.**

(1) An individual eligible for optional services may receive medical supplies, DME, and prosthetic devices as described in the Medical Supplies Manual and List.

(2) An individual eligible for optional services must meet the criteria established in the Medical Supplies Manual and List and obtain prior approval if required.

**R414-70-5. Services for Individuals Eligible for Mandatory Services.**

(1) An individual entitled to mandatory services may receive medical supplies, DME, and prosthetic devices as described in the Medical Supplies Manual and List.

(2) An individual eligible for mandatory services must meet the criteria established in the Medical Supplies Manual and List and obtain prior approval if required.

(3) An individual entitled to mandatory services may request an agency review to seek medical supplies and DME not listed in the Medical Supplies Manual and List.

**R414-70-6. Services for Individuals Residing in Long Term Care Facilities.**

(1) The Department provides medical supplies, DME, and prosthetic devices to individuals residing in a nursing care facility or an ICF/MR as part of the per diem payment.

(2) An individual residing in a nursing care facility or ICF/MR may receive additional medical supplies, DME, and prosthetic devices only as specifically indicated on the Medical Supplies Manual and List.

(3) An individual residing in a nursing care facility or an ICF/MR may request an agency review to seek medical supplies and DME not listed in the Medical Supplies Manual and List.

**R414-70-7. Less Costly Alternative.**

The Department may provide at its discretion services not described in the Medical Supplies Manual and List as provided in R414-1-6(2)(dd).

**R414-70-8. Reimbursement.**

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

**KEY: Medicaid, medical supplies, durable medical equipment, prosthetics**

**Date of Enactment or Last Substantive Amendment: ~~October 10, 2007~~ 2008**

**Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-2,3, 26-18-3**



**Health, Health Care Financing,  
Coverage and Reimbursement Policy  
R414-71  
Medical Supplies - Parenteral, Enteral,  
and IV Therapy**

**NOTICE OF PROPOSED RULE**

(Repeal)

DAR FILE NO.: 31507

FILED: 05/30/2008, 15:11

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to repeal Rule R414-71 because the services it provides are already implemented in Rule R414-70.

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

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no impact to the state budget because the services that this rule provides are ongoing and implemented in Rule R414-70.

❖ LOCAL GOVERNMENTS: There is no budget impact because local governments do not fund or provide the services described in the rule.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There is no impact to other persons and small businesses because the services that this rule provides are ongoing and implemented in Rule R414-70.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because the services that this rule provides are ongoing and implemented in Rule R414-70.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rule R414-70 now covers this category of service making this rule unnecessary. No fiscal impact. A. Richard Melton, Acting 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  
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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 07/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2008

AUTHORIZED BY: Richard Melton, Deputy Director

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

**~~[R414-71. Medical Supplies — Parenteral, Enteral, and IV Therapy.~~**

**~~R414-71-1. Introduction and Authority.~~**

~~—(1) Eligible Medicaid recipients with chronic physical illnesses, trauma, or terminal disease, who are able to live at home or in a long term care facility but who cannot be sustained with oral feeding, and, therefore rely on total parenteral nutrition (TPN) or enteral nutrition (EN) to sustain life, are covered under this program.~~

~~—(2) Limited coverage is provided for total oral nutrition and supplemental oral or tube nutrition using medical foods. Food and nutrition are not covered as medical assistance under section 1905(a) of the Social Security Act except as listed in Subsection R414-71-4(5).~~

~~—(3) The IV therapy program provides medications, solutions, blood factors, chemicals, or nutrients by injection or infusion for eligible Medicaid recipients who reside at home or in a nursing facility.~~

~~—(4) The provision of services and supplies is under the authority of 42 CFR 440.70 and 42 CFR 441.15, Oct. 2005 ed.~~

**R414-71-2. Definitions.**

— (1) Total Parenteral Nutrition (TPN) means total nutrition administered by intravenous, subcutaneous or mucosal infusion.

— (2) Enteral Nutrition (EN) means by nasogastric, jejunostomy or gastrostomy tube into the stomach or intestines to supply nutrition when a non-functioning gastrointestinal tract is present due to pathology or structure.

— (3) Nutrients means those products with specific formulas used to supply the total nutritional intake of the recipient by gastrostomy, jejunostomy or nasogastric tube.

— (4) Nutritional Supplement means medical foods that are used occasionally to supplement a regular but possibly inadequate diet.

— (5) Cassettes mean prepackaged containers or envelopes of semi-disposable needles and tubing which provide a pathway for the TPN or IV medication to pass from container to vein.

— (6) WIC is the federal nutritional program for women, infants and children.

— (7) Medical food as defined in 21 U.S.C. 360ee(b)(3), means a food which is formulated to be consumed or administered enterally under the supervision of a physician and which is intended for the specific dietary management of a disease or condition for which distinctive nutritional requirements, based on recognized scientific principles are established by medical evaluation. To be considered a medical food, a product must be:

— (a) created for oral or tube feeding;

— (b) labeled for dietary management of a medical disorder, disease, or condition;

— (c) labeled for use under medical supervision; and

— (d) primarily obtained through hospitals, clinics and other medical and long term care facilities.

**R414-71-3. Client Eligibility Requirements.**

— TPN, EN and IV services are provided to categorically and medically needy eligible individuals.

**R414-71-4. Program Access Requirements.**

— (1) TPN and total EN is available to individuals with a:

— (a) missing digestive organ;

— (b) long term or permanently non-functioning gastrointestinal tract; or

— (c) short term non-functioning gastrointestinal tract which may occur following a surgical procedure.

— (2) IV therapy requires a physician's order or prescription and prior authorization.

— (3) TPN, EN or other related nutritional products require a physician's order or prescription which must specify the kilo calories necessary per day. Parenteral infusion is identified and reimbursed per daily kilocalorie requirements.

— (4) Total oral nutrition and supplemental oral or by tube nutrition is available for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) eligible children if it is an integral part of another EPDST service or has a curative or healing effect on the recipient beyond that which would be provided by ordinary food. All total oral nutrition or supplemental nutrition must be a medical food for reimbursement by Medicaid.

**R414-71-5. Service Coverage.**

— (1) TPN and EN systems, related supplies, equipment, and nutrients are covered as prosthetic devices if they replace normal nutritional function of the esophagus, stomach or bowel.

— (2) TPN or EN therapy is a covered benefit for clients residing at home or in a long term care facility.

— (3) The following services are allowed for clients residing at home or in a long term care facility:

— (a) parenteral solutions;

— (b) a monthly parenteral nutrition administration kit which includes all catheters, pump filters, tubing, connectors, and syringes relating to the parenteral infusions;

— (c) IV medications, blood factors, and solutions;

— (d) heparin flush and heparin;

— (e) enteral solutions for total enteral therapy through a tube; and

— (f) enteral administration kits.

— (4) Nutritional supplements are covered for infants and children ages 0 through 5 who live at home and are in the WIC program, for quantities beyond what WIC allows if:

— (a) the target weight of a child cannot be attained with expected oral feedings;

— (b) the oral feedings are present but due to weakness, illness, or disease the child's nutritional level is difficult to maintain; or

— (c) the child is concurrently using a ventilator or oxygen, or has a tracheostomy.

— (5) IV Therapy and treatment which may include injections or infusions are a covered service. IV therapy may include:

— (a) pain medication therapy;

— (b) antibiotics and antimicrobials;

— (c) fluids such as glucose and fluid replacement;

— (d) electrolytes;

— (e) blood products;

— (f) IV supply kit for recipients residing at home;

— (g) extension tubing set for peripheral or midline catheter; or

— (h) solutions used to cleanse or irrigate the catheter for which a national drug code (NDC) code exists.

— (6) Administration supplies, syringes, bags, pumps, tubes, and administration kits for providing TPN, EN and IV therapies are covered with reasonable limitations as to amounts and length of administration as medically indicated and according to current standard medical practices.

— (7) Total nutrition without a feeding tube and supplemental nutrition with a feeding tube are covered for children 0 through 20 years of age if the requirements of subsections (a) through (c) are met. Nutritional supplements are covered for children 5 through 20 years of age if the requirements of subsections (a) through (c) are met.

— (a) The prescribed nutritional product is a medical food.

— (b) Current disease or dysfunction of the digestive tract, including dysphagia, causes nutritional deficiency with insufficient nutrients to maintain body weight by impaired delivery of nutrients to the small bowel or due to impaired digestion and absorption by the small bowel, or both.

— (c) The client's physician provides documentation to the Department:

— (i) that the client has been unable to reach or maintain weight in the 10th percentile for the client's age and sex by taking food orally for the two months prior to the request;

— (ii) that the client's specific diagnosis and current condition require medical food supplementation; and

— (iii) by peer review medical literature that the prescribed medical food will improve body weight, the clinical outcome, and limit disease progression for the client's specific diagnosis and current condition when compared to nonmedical food.

—(8) Oral supplemental nutrition is covered for adults and children to treat inborn errors of metabolism subject to all criteria listed in Subsection R414-71-5(7).

—(9) To reauthorize ongoing care the following is waived:

—(a) The need to document the recipient's weight under the 10th percentile;

—(b) If the client's medical diagnosis has not materially changed, the need to resubmit peer review medical literature if it has been previously submitted.

#### **R414-71-6. Limitations.**

—The specific limitations for TPN, EN, or IV therapy are as follows:

—(1) Cassettes shall be supplied with the parenteral administration kits and not as separate items.

—(2) Enteral nutrients, IV diluents, injectable medications, and solutions are available as allowed in the pharmacy program with the limitations stipulated therein.

—(3) A monthly supply and administration kit containing all supplies except the catheter is a Medicaid benefit only for recipients residing at home. Bags can not be reimbursed separately if a kit is supplied.

—(4) Equipment such as IV poles, disposable swabs, antiseptic solutions and dressings for the catheter are not reimbursable by Medicaid for nursing home patients, but are provided by the nursing home under a per diem rate.

—(5) To begin an infusion, an intravenous catheter may be placed by a home health agency nurse who has been trained for IV catheter placement, a physician, or a physician's assistant whose training and protocols allow for this service.

—(6) Breast milk from breast milk banks and infant formulas such as Similac, Enfamil, or other foods generally used as breast milk substitutes are not medical foods, and are not covered by Medicaid unless formulated for use through a feeding tube.

—(7) Kits, bags and pumps are not covered benefits with nutritional supplements unless administered by a tube.

—(8) Total and supplemental nutrition are not available for persons with an organic nutritional need resulting from psychological problems or a failure to thrive.

—(9) General nutrition is included in the per diem rate paid by Medicaid under a contract with a long term care facility and is not separately reimbursable for its patients.

—(10) Nutritional supplements are not covered for adults residing at home or in a long term care facility. Total nutrition for children ages 0 through 5 is covered under the WIC program as stated in Subsection R414-71-5(4).

—(11) A pharmacy provider may be reimbursed for TPN or EN supplies, nutrients and medications. There is no additional reimbursement to the pharmacist for preparing the medication, such as filling syringes, mixing solutions, or adding drugs to an infusion solution. Pharmacists bill Medicaid using National Drug Codes. Heparin for flushing the infusion catheter is billed through the pharmacy point of sale system using the NDC for heparin.

#### **R414-71-7. Reimbursement.**

—(1) HCPCs coding is used for reimbursement. Reimbursement fees are established by discounting historical charges, by discounting Medicare fees for HCPCs codes for the geographic region, and by professional judgment to encourage efficient, effective and economical

services. Adjustments to the fee schedule are made in accordance with appropriations and to produce efficient and effective services to be in accordance with the provisions of 4.19-B of the State Plan.

—(2) The Department pays the lower of the amount billed and the rate on the schedule. 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.

—(3) Providers must accept the Medicare assignment for clients eligible for both Medicare and Medicaid benefits. All third party payors, including Medicare, must be billed prior to billing Medicaid.

#### **KEY: Medicaid**

**Date of Enactment or Last Substantive Amendment: March 31, 2008**

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



## Human Services, Administration **R495-881** Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule Implementation

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31485

FILED: 05/27/2008, 10:54

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The citations for the Department of Human Services statutory rulemaking authority needed to be updated. There were also a few minor typographical errors.

**SUMMARY OF THE RULE OR CHANGE:** The statutory rulemaking authority was updated to Section 62A-1-111.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 62A-1-111 and 45 CFR Part 164, subpart E

#### 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 financial impact on any state programs is anticipated.

❖ **LOCAL GOVERNMENTS:** The proposed changes to the rule are for clarification purposes only and do not affect the current procedures. Therefore, no financial impact on any local governments is anticipated.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The proposed changes to the rule are for clarification purposes only and do not affect the current procedures. Therefore, no financial impact on any small businesses and persons other than businesses is anticipated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No person or entity affected by this rule should incur any costs as a result of the proposed changes because the changes only correct the rulemaking authority citation and minor typographical errors.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses by the amendment to this rule because the changes only correct the citation for rulemaking authority and minor typographical errors. Lisa-Michele Church, Executive Director

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

HUMAN SERVICES  
ADMINISTRATION  
120 N 200 W  
SALT LAKE CITY UT 84103-1500, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

L Ray Winger at the above address, by phone at 801-538-4319, by FAX at 801-538-4424, or by Internet E-mail at raywinger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2008

AUTHORIZED BY: Lisa-Michele Church, Executive Director

#### **R495. Human Services, Administration.**

##### **R495-881. Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule Implementation.**

###### **R495-881-1. Authority and Purpose.**

(1) This rule implements provisions required by 45 CFR Part 164, subpart E, dealing with the treatment of certain individually identifiable health information held by the Department of Human Services.

(2) This rule is authorized by [~~Utah Code Sections 26-1-5 and 26-1-17~~]Section 62A-1-111.

###### **R495-881-2. Definitions.**

As used in this rule:

(1) "Covered entity" means a program within the Department responsible for carrying out a covered function as that term is used in 45 CFR 164.501.

(2) "HIPAA" means the federal Health Insurance Portability and Accountability Act of 1997 and its implementing regulations.

(3) "Individual" means a natural person. In the case of an individual without legal capacity or a deceased person, the personal representative of the individual.

###### **R495-881-10. Amendment of Protected Health Information.**

(1) An individual may request an amendment to the protected health information about that individual that the individual believes is incorrect as permitted in 45 CFR 164.526 by submitting a written request to the designated privacy officer for the covered entity.

(2) The decision whether to grant the request, the time frames for action by the covered entity, amendment of the record, requirements for denial, and acting on notices of amendment from third parties shall be in accordance with 45 CFR 164.526.

**KEY: HIPAA, privacy**

**Date of Enactment or Last Substantive Amendment:** [~~June 24, 2003~~]2008

**Authorizing, and Implemented or Interpreted Law:** [~~26-1-5; 26-1-17~~]62A-1-111

## Insurance, Administration **R590-186** Bail Bond Surety Business

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31501

FILED: 05/30/2008, 13:35

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The main purpose of the rule change is to amend the instructions for agency renewal and add three additional descriptions of unprofessional conduct. These changes relate to the implementation of a minimum premium for bail bonds. This minimum premium is set in Rule R590-196 "Bail Bond Surety Fee Standards, Collateral Standards, and Disclosure Form". (DAR NOTE: The proposed amendment to Rule R590-196 is under DAR No. 31502 in this issue, June 15, 2008, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: Sections R590-186-1 and R590-186-3 are being combined into a new Section R590-186-2. The rule changes in Sections R590-186-3 and R590-186-5 allow bail bond agencies to discount 12 bonds a year for less than the minimum premium. Section R590-186-7 adds three additional descriptions of unprofessional conduct relating to minimum premiums.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-35-104, 31A-35-301, 31A-35-401, and 31A-35-406

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The proposed changes will have no fiscal impact on the department or the state budget. These changes will not create an increase or decrease in fees received by the department. It could increase the workload of department's market conduct examiners, depending on the number of complaints received regarding discounted bonds. It is very unlikely that this would necessitate the need for an additional department employee.

❖ LOCAL GOVERNMENTS: The changes to this rule will have no impact on local governments since the rule deals solely with the relationship between the department and its licensees, bail bond agencies.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** This rule regulates Utah bail bond agencies, the great majority of which are composed of fewer than 50 employees. The rule also affects what can be charged to those seeking a bail bond. The rule will require bail bond agencies to print new bail bond disclosure forms at a minimal cost.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** This rule regulates Utah bail bond agencies. The rule also affects what can be charged to those seeking a bail bond. The rule will require bail bond agencies to print new bail bond disclosure forms at a minimal cost.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The changes to this rule will have minimal fiscal impact on bail bond agencies. D. Kent Michie, Commissioner

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

INSURANCE  
ADMINISTRATION  
Room 3110 STATE OFFICE BLDG  
450 N MAIN ST  
SALT LAKE CITY UT 84114-1201, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [jwhitby@utah.gov](mailto:jwhitby@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/23/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/16/2008 at 10:00 AM, Capitol Board Room, East end of second floor of the Capitol, 400 N State Street, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/30/2008

AUTHORIZED BY: Jilene Whitby, Information Specialist

**R590. Insurance, Administration.**

**R590-186. Bail Bond Surety Business.**

~~**[R590-186-1. Purpose.**~~

~~This rule establishes uniform criteria and procedures for the initial and renewal licensing of a bail bond surety company, and sets standards of conduct for those in the bail bond surety business in the State of Utah.~~

**[R590-186-2]1. Authority.**

This rule is promulgated pursuant to:

(1) Section 31A-35-104 which requires the commissioner to adopt by rule specific licensure, and certification guidelines and standards of conduct for the bail bond business;

(2) Subsection 31A-35-301(1) which authorizes the commissioner to adopt rules necessary to administer Chapter 35 of Title 31A;

(3) Subsection 31A-35-401(1)(c) which allows the commissioner to adopt rules governing the granting of licenses for bail bond surety companies;

(4) Subsection 31A-35-401(2) which allows the commissioner to require by rule additional information from bail bond applicants applying for licensure;

(5) Subsection 31A-35-406(1)(b) which allows the commissioner to establish by rule the annual renewal date for the renewal of a license as a bail bond surety company.

**R590-186-3]2. Purpose and Scope[and Applicability].**

(1) The purpose of this rule is:

(a) to establish uniform criteria and procedures for the initial and renewal licensing of a bail bond surety company; and

(b) to set standards of conduct for persons doing the business of bail bond surety insurance in Utah.

(2) This rule applies to any person [engaged in the]doing bail bond surety insurance business in Utah.

**R590-186-3. Definitions.**

(1) The definitions in Sections 31A-1-301 and 31A-35-102 apply to this rule.

(2) "Discounted minimum premium" means a total bail amount posted per defendant that is less than 10% of the total bail amount posted per defendant.

(3) In reference to subsection 31A-35-701(5) "Members of their immediate families" means a spouse, a child, a stepchild, a child-in-law, a mother, a father, a brother, a sister, a mother-in-law, a father-in-law, a sister-in-law, a brother-in-law, a step-mother, a step-father, a step-brother, a step-sister, a half-brother, or a half-sister.

**R590-186-5. Company License Renewal.**

A licensed bail bond surety company shall renew its license on or before July 15 of each year by meeting the following requirements:

(1) file with the insurance commissioner a renewal application, pay the required renewal licensing fee set forth in R590-102, Insurance Department Fee Payment Deadlines, and provide the additional information described in this section.

(2) file a list of all discounted minimum premiums charged during the annual licensing period. The list must include the following:

(a) the date the total bail amount per defendant was posted;

(b) the total bail amount posted per defendant;

(c) the total premium charged;

(d) the total discounted minimum premium;

(e) the actual amount collected; and

(f) the date of the last payment made.

~~(2)~~(3) If the applicant relies on the ownership of real or personal property as the financial basis for issuing bail bonds the applicant must include the following with the renewal:

(a) a statement that no material changes have occurred negatively affecting the property's title, including any liens or encumbrances that have occurred since the last license renewal;

(b) a financial statement reviewed by a certified public accountant as of the end of the most current fiscal year showing a net worth of at least \$300,000, at least \$100,000 of which must consist of liquid assets and a copy of the applicant's federal income tax return for the prior year; and

(c) the following items are required as indicated:

(i) renewal in 2002, 2008, and 2014: a preliminary title report dated not more than one month prior to the date of the renewal application for each parcel of real property owned by the applicant and included in the applicant's net worth calculation; or

(ii) renewal in 2005, 2011, and 2017: a preliminary title report and a current appraisal dated not more than one month prior to the date of the renewal application for each parcel of real property owned by the applicant and included in the applicant's net worth calculation.

~~(3)~~(4) Renewal applicants who were licensed as a bail bond surety company prior to December 31, 1999, may opt to apply under the lower limits in effect at that date.

(a) For renewal applicants relying on a letter of credit as the financial basis for issuing bail bonds, the amount is reduced to \$250,000.

(b) For renewal applicants relying on real or personal property as the basis for issuing bail bonds, the amount is reduced to a net worth of at least \$250,000, at least \$50,000 of which must consist of liquid assets.

(c) Renewal applicants opting for lower limits are limited to the 5 to 1 ratio of outstanding bond obligations as shown in R590-186-9.

#### **R590-186-7. Unprofessional Conduct.**

Persons in the bail bond surety business may not engage in unprofessional conduct. For purposes of this rule, unprofessional conduct means the violation of any applicable insurance law, rule, or valid order of the commissioner, or the commission of any of the following acts by bail bond sureties, by bail bond surety agents or by bail bond enforcement agents working for bail bond sureties:

(1) having a license as a surety revoked in this or any other state;

(2) being involved in any transaction which shows unfitness to act in a fiduciary capacity or a failure to maintain the standards of fairness and honesty required of a trustee or other fiduciary;

(3) willfully misstating or negligently reporting any material fact in the initial or renewal application or procuring a misstatement in the documents supporting the initial or renewal application;

(4) being the subject of any outstanding civil judgment which would reduce the surety's net worth below the minimum required for licensure;

(5) being convicted of any felony or of any misdemeanor that involves the misappropriation of money or property, dishonesty or perjury;

(6) failing to report any collateral taken as security on any bond to the principal, indemnitor, or depositor of such collateral;

(7) failing to preserve, or to retain separately, or both, any collateral taken as security on any bond;

(8) failing to return collateral taken as security on any bond to the depositor of such collateral, or the depositor's designee, within ten business days of having been notified of the exoneration of the bond and upon payment of all fees owed to the bail bond agent, whichever is later;

(9) failing to advise the insurance commissioner of any change that has reduced the surety's net worth below the minimum required for licensure;

(10) using a relationship with any person employed by a jail facility or incarcerated in a jail facility to obtain referrals;

(11) offering consideration or gratuities to jail personnel or peace officers or inmates under any circumstances which would permit the inference that said consideration was offered to induce bonding referrals or recommendations;

(12) failing to deliver to the incarcerated person, or the person arranging bail on behalf of the incarcerated person, prior to the time the incarcerated person is released from jail, a one page disclosure form which at a minimum includes:

(a) the amount of the bail;

(b) the amount of the surety's fee, including bail bond premium, preparation fees, and credit transaction fees;

(c) the additional collateral, if any, that will be held by the surety;

(d) the incarcerated person's obligations to the surety and the court;

(e) the conditions upon which the bond may be revoked;

(f) any additional charges or interest that may accrue;

(g) any co-signors or indemnitors that will be required; and

(h) the conditions under which the bond may be exonerated and the collateral returned.

(13) using an unlicensed bail bond agent or unlicensed bail bond enforcement agent;

(14) using a bail bond agent not contracted and appointed by the bail bond surety company;

(15) charging excessive or unauthorized premiums, excessive fees or other unauthorized charges;

(16) requiring unreasonable collateral security;

(17) failing to provide an itemized statement of all expenses deducted from collateral, if any;

(18) requiring as a condition of his executing a bail bond that the principal agree to engage the services of a specified attorney;

(19) preparing or issuing fraudulent or forged bonds or power of attorney;

(20) signing, executing, or issuing bonds by an unlicensed person;

(21) executing bond without countersignature by a licensed agent at time of issue;

(22) failing to account for and to pay any premiums held by the licensee in a fiduciary capacity to the bail bond surety company, bail bond surety insurer or other person who is entitled to receive them;

(23) knowingly violating, advising, encouraging, or assisting the violation of any statute, court order, or injunction in the course of a business regulated under this chapter;

(24) conviction of felony involving illegally using, carrying, or possessing a dangerous weapon;

(25) conviction of any act of personal violence or force against any person or conviction of threatening to commit any act of personal violence or force against any person, including but not limited to violent felonies as defined under Utah Code Annotated Section 76-3-203.5;

(26) soliciting sexual favors as a condition of obtaining, maintaining, or exonerating bail bond, regardless of the identity of the person who performs the favors;

(27) acting as an unlicensed bail bond enforcement agent;~~and~~

(28) failing to comply with the provisions of the Utah statutes and rules regulating the bail bond surety business or order of the insurance commissioner~~[-]~~;

(29) issuing more than a total of 12 discounted minimum premiums in any annual licensing period;

(30) failing to initiate a legal form of collection for an unpaid bond premium after the premium has been unpaid for 180 days including:

(a) filing litigation to recover the unpaid premium debt or assigning the unpaid premium to a collection agency; and

(b) initiation of the collection action must be within 15 days of the expiration of the 180 day period; and

- (31) failing to keep accurate and complete business records of the total bail amount posted per defendant including:
- (a) the date the bail amount per defendant was posted;
- (b) the total bail amount posted per defendant;
- (c) the total premium charged;
- (d) the total discounted minimum premium, if provided;
- (e) the actual amount collected; and
- (f) the date of the last payment made.

**~~R590-186-11. Definition.~~**

~~In reference to subsection 31A-35-701(5) "members of their immediate families" shall be defined as: spouse, children, stepchildren, children in law, mother, father, brother, sister, mother in law, father in law, sister in law, brother in law, step mother, step father, step brother, step sister, half brother, and half sister.~~

**~~R590-186-12~~11. Penalties.**

Violations of this rule are punishable pursuant to Section 31A-2-308.

**~~R590-186-13~~12. Enforcement Date.**

The commissioner will begin enforcing the revised provision of this rule 45 days from the rule's effective date. Non-revised provisions are enforceable as of the effective date.

**~~R590-186-14~~13. Severability.**

If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity may not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this and the provisions of this rule are declared to be severable.

**KEY: insurance**

**Date of Enactment or Last Substantive Amendment:** ~~March 21, 2002~~2008

**Notice of Continuation:** August 29, 2003

**Authorizing, and Implemented or Interpreted Law:** 31A-35-104; 31A-35-301; 31A-35-401; 31A-35-406



**Insurance, Administration  
R590-196**

**Bail Bond Surety Fee Standards,  
Collateral Standards, and Disclosure  
Form**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 31502

FILED: 05/30/2008, 13:37

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to set a minimum and maximum bail bond premium and to allow bail bond agencies to discount a certain number of bonds per year.

SUMMARY OF THE RULE OR CHANGE: Sections R590-196-1 and R590-196-3 are being combined into a new Section R590-196-2. The changes in Sections R590-196-3 and R590-196-5 establishes a minimum bail bond premium of 10% of the bond's face amount. Section R590-196-3 allows bail bond agencies to discount 12 bonds per year. The change also sets a maximum bond premium of 20% of the total bail amount posted per defendant.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-35-104

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The proposed changes will have no fiscal impact on the department or the state's budget. These changes will not create an increase or decrease of fees received by the department. It could increase the workload of department market conduct examiners, depending on the number of complaints received regarding discounted bonds. It is very unlikely that this would necessitate the need for an additional department employee.
- ❖ LOCAL GOVERNMENTS: The changes to this rule will have no impact on local governments since the rule deals solely with the relationship between the department and its licensees, bail bond agencies.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: This rule regulates Utah bail bond agencies, the great majority of which are composed of fewer than 50 employees. The rule sets a minimum bail bond premium limit of not less than a 10% bail bond face amount. The rule also allows agencies to issue 12 bonds a year at less than the 10% minimum limit. For those agencies used to issuing more than 12 bonds a year at less than 10% of the bail bond's face amount, they will experience increased revenues.

COMPLIANCE COSTS FOR AFFECTED PERSONS: All but a very few consumers of bail bonds will be charged between 10% and 20% of their bail bond face amount.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this rule will have minimal fiscal impact on bail bond agencies. It will have no impact on bail bond agencies already charging 10% or more of the bail bond face amount. D. Kent Michie, Commissioner

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

INSURANCE  
ADMINISTRATION  
Room 3110 STATE OFFICE BLDG  
450 N MAIN ST  
SALT LAKE CITY UT 84114-1201, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [jwhitby@utah.gov](mailto:jwhitby@utah.gov)



INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/23/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/16/2008 at 11:00 AM, Capitol Board Room, East end of second floor of the Capitol, 400 N State Street, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/30/2008

AUTHORIZED BY: Jilene Whitby, Information Specialist

**R590. Insurance, Administration.**

**R590-196. Bail Bond Surety Fee Standards, Collateral Standards, and Disclosure Form.**

**R590-196-1. Purpose.**

~~—This rule establishes uniform fee and collateral standards for bail bond surety business in the State of Utah.~~

**R590-196-2. Authority.**

This rule is promulgated pursuant to Section 31A-35-104 which requires the commissioner to adopt by rule standards of conduct for bail bond surety business.

**R590-196-3.2. Purpose and Scope and Applicability.**

(1) ~~The purposes of this rule are to:~~

- ~~(a) establish a minimum and maximum bail bond premium;~~
- ~~(b) set uniform fee standards; and~~
- ~~(c) set collateral standards.~~

(2) This rule applies to any person engaged in bail bond surety business.

**R590-196-4.3. Fee Standards.**

(1) Initial bail bond fees.

(a) Bail bond premium:

(i) ~~minimum [fee] premium: [none]; not less than 10% of the total bail amount posted per defendant;~~

(ii) ~~discounted minimum premium: a bail bond agency may charge a discounted premium of less than 10% of the total bail amount posted per defendant 12 times during any annual licensing period;~~

(iii) ~~maximum [fee] premium: not to exceed 20% of the total bail amount posted per defendant [bond amount].~~

(b) Document preparation fee may not exceed \$20 per set of forms pertaining to one bail bond.

(c) Credit card fee may not exceed 5% of the amount charged to the credit card.

(2) Other fees.

(a) These fees are limited to actual and reasonable expenses incurred by the bail bond surety because:

(i) the defendant fails to appear before the court at any designated dates and times;

(ii) the defendant fails to comply with the court order; or

(iii) the defendant or the co-signer fails to comply with the terms of the bail bond agreement and any promissory notes pertaining to that agreement.

(b) Reasonable expense fee for mileage is the Internal Revenue Service standard for business mileage.

(c) Apprehension expenses such as meals, lodging, commercial travel, communications, whether or not the defendant is apprehended, are limited to actual expenses incurred and must be reasonable, i.e., meals at mid-range restaurants, lodging at mid-range hotels, commercial travel in coach class, etc.

(d) Reasonable collateral expense fees:

(i) actual expenses to obtain collateral; and

(ii) storage expenses if in a secured storage area, limited to actual expenses.

(e) A late payment fee of \$20 or 5% of the delinquent periodic payment which ever is less.

**R590-196-5.4. Collateral Standards.**

(1) Collateral may be provided to secure bail bond fees, the face amount of the bail bond issued, or both.

(2) If the bail bond surety accepts the same collateral to secure the bail bond fees and the face amount of the bail bond issued, then, in the event of a failure to pay bail bond fees when due, the collateral may not be converted until the bail bond is exonerated or judgment entered against the surety and the depositor has been given no less than 15 days to pay any bond fees owing.

(3) If the bail bond surety accepts different collateral to secure the bail bond fee and the face amount of the bail bond issued then:

(i) the collateral securing the bail bond fees may not be converted until payment has been defaulted under the terms of the promissory note for those fees, and the depositor of the collateral has been given no less than 15 days to make the required payment;

(ii) the collateral securing the face amount of the bail bond issued may not be converted until the bond is exonerated or judgment entered against the surety and the depositor of the collateral has been given no less than 15 days to reimburse the bail bond surety for any amounts owed to the bail bond surety.

(4) The bail bond surety, its agents taking possession of collateral, or both, will hold said collateral as a fiduciary until such time as ownership of the collateral passes to the bail bond surety.

(5) Collateral held as a fiduciary may not be used by the bail bond surety or its agents without the specific written permission of the depositor of the collateral.

(6) Should proceeds from converted collateral exceed the outstanding balance due, the bail bond surety will return the excess to the depositor of the collateral.

(7) Notice under the rule shall be deemed proper if it is sent via first class mail to the address provided by the depositor of the collateral.

**R590-196-6.5. Disclosure Form.**

The bail bond surety and its agents will use the following disclosure form or a form that contains similar language.

TABLE

XYZ Bail Bonds Disclosure Form  
1234 South 1234 East, Salt Lake City, UT 84444:  
801-123-4567 fax: 801-098-7654

Defendant.....	Co-Signer.....	
Court.....	Charge.....	
Bond amount \$.....	Bond number.....	
Initial Fees, non-refundable.		
...bond premium, maximum: no more than 20%;		
minimum: <del>[none]</del> 10%.		\$.....
...document preparation, not to exceed \$20		
per set of bond forms.		\$.....
...credit card fee, not to exceed 5% of amount		
charged to credit card		\$.....
	total initial fees	\$.....

Additional Fees.

Limited to actual and reasonable expenses required because the defendant fails to appear before the court at any designated times, or fails to comply with the court order, or fails to comply with the terms of the bail bond agreement or any promissory notes pertaining to that agreement. The following are some reasonable expense fees:

- (1) reasonable expense fee for mileage is IRS mileage reimbursement standard for business miles;
(2) reasonable apprehension expense fees include meals at mid-range restaurants, lodging at mid-range hotels, transportation at no more than coach fares; and
(3) reasonable collateral expense fees: actual expenses to obtain collateral and, actual storage expenses, if collateral is in a secured storage area.
(4) A late payment fee of \$20 or 5% of the delinquent periodic payment which ever is less.

Grounds for revocation of bond.

Should the defendant violate any of the following, the defendant shall be subject to immediate bond revocation and the defendant, or the co-signer, or both, shall be subject to all the costs incurred to return the defendant to the court. Grounds for revocation include the following:

- (a) the defendant or co-signer providing materially false information on bail bond application;
(b) the court's increasing the amount of bail beyond sound underwriting criteria employed by the bail bond agent or bail bond surety;
(c) a material and detrimental change in the collateral posted by the defendant or one acting on defendant's behalf;
(d) the defendant changes their address or telephone number or employer without giving reasonable notice to the bail bond agent or bail bond surety;
(e) the defendant is arrested for another crime, other than a minor traffic violation, while on bail;
(f) the defendant is back in jail in any jurisdiction and revocations can be served prior to the defendant being released;
(g) failure by the defendant to appear in court at any appointed times;
(h) finding of guilt against the defendant by a court of competent jurisdiction;
(i) a request by the co-signer based on reasons (a) through (h) above. Items (a) through (h) pertain to the defendant; items (a), (c), (e) (g) and (i) pertain to co-signers, if any.

Collateral.

The following has been given as collateral to guarantee all court appearances of the defendant until the bond is exonerated:

The following has been given as collateral to guarantee payment of bond fees:

In the event judgment is entered against the surety or the bonding fee is not paid according to the terms of the bail bond agreement and its promissory note, if any, following written notice to the undersigned of such judgment or non-payment, the undersigned authorize XYZ Bail Bonds to convert the appropriate collateral to collect the judgment or the unpaid bond fees. Should proceeds from the sale of the appropriate collateral be insufficient to cover the outstanding balance due, the defendant, the co-signer, or both, agree to be personally liable for the difference. Should proceeds from the sale exceed the outstanding balance, the difference will be returned to the depositor of the collateral. The depositor's signature below constitutes acknowledgment of a Bill of Sale for the collateral. The depositor accepts this agreement as a bill of sale for the collateral.

By signing below I certify that I have read and understand this disclosure form, the bail bond agreement and its attached promissory note, if any. I certify under penalty of perjury that all information given to XYZ Bail Bonds verbally and in writing on all documents relevant to this bond are true and accurate. The co-signer agrees that should the co-signer request XYZ Bail Bonds to revoke the defendant's bond, with or without probable cause, the co-signer will be responsible to pay XYZ Bail Bonds and their agents for the time returning the defendant to jail at the rates

stated above in additional fees. If requested by the co-signer to revoke the bond without probable cause, the co-signer will be responsible to reimburse the defendant his bond fees.

Date.....Defendant.....
Date.....Co-signer.....
Date.....Depositor.....
I,....., agent of XYZ Bail Bonds, certify that I have given a copy of all documents pertaining to this bail bond agreement to the defendant, the co-signer, the depositor, or any of the above, at the time and date said bail bond agreement was executed.
Date.....Bail Bond Agent.....

R590-196-[7]6. Penalties.

Violations of this rule are punishable pursuant to Section 31A-2-308.

R590-196-[8]7. Severability.

If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this and the provisions of this rule are declared to be severable.

R590-196-[9]8. Enforcement Date.

The commissioner will begin enforcing the revised provision of this rule 45 days from the rule's effective date.

KEY: insurance

Date of Enactment or Last Substantive Amendment: [February 10, 2005]2008

Notice of Continuation: January 7, 2005

Authorizing, and Implemented or Interpreted Law: 31A-35-104



Insurance, Administration
R590-222
Viatical Settlements

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 31500
FILED: 05/30/2008, 13:18

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being changed: to update the name of the viatical settlement producer and provider; to update the incorporation by reference dates; to update Section R590-222-14 to comply with department procedures; and to correct grammatical errors.

SUMMARY OF THE RULE OR CHANGE: The following changes are being made to the rule: the terms "provider of viatical settlements" and "producer of viatical settlements" are being changed to "viatical settlement provider" and "viatical settlement producer" as used in Title 31a, Chapter 36, of the code; the documents listed in Section R590-222-3 are being updated; Section R590-222-14 is being revised to be consistent with the department's new filing procedures; a new

Section R590-222-16 is being added to the rule regarding penalties; and grammatical errors are being corrected.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201 and 31A-36-119

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Appendix A, Utah Viatical Settlement Provider Application, dated 2007; Appendix B, Utah Viatical Settlement Provider Annual Report, dated 2007; Appendix C, NAIC Viatical Settlement brochure, Selling Your Life Insurance Policy, dated 2004; and Appendix D, NAIC Verification of Coverage for Life Insurance Policies, dated 2004

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The changes to this rule will require viatical settlement providers to file their forms electronically with the department, rather than in hard copy, thus eliminating the department's need to store them in cabinets. There will be no change in filing costs to the approximately 20 viatical settlement providers doing business in Utah, nor will there be a change in department revenues or state budget as a result.
- ❖ LOCAL GOVERNMENTS: Since this rule deals solely with the relationship between the department and their licensees, the changes will have no impact on local governments.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The filing procedure has been simplified, requiring electronic filings, which makes it faster for the approximately 20 providers, and eliminates the paper, printing, and mailing costs. Due to the minimal cost savings to providers, consumers should not be affected financially by these changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The filing procedure has been simplified, requiring electronic filings, which makes it faster for a provider, and eliminates the paper, printing, and mailing costs. Due to the minimal cost savings to a provider, consumers should not be affected financially by these changes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this rule will have a minimal fiscal impact on Utah businesses. D. Kent Michie, Commissioner

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

INSURANCE  
ADMINISTRATION  
Room 3110 STATE OFFICE BLDG  
450 N MAIN ST  
SALT LAKE CITY UT 84114-1201, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [jwhitby@utah.gov](mailto:jwhitby@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2008

AUTHORIZED BY: Jilene Whitby, Information Specialist

#### **R590. Insurance, Administration.**

#### **R590-222. Viatical Settlements.**

#### **R590-222-2. Purpose and Scope.**

The purpose of this rule is to implement procedures for licensure of viatical settlement providers and producers [~~of viatical settlements~~], provider annual reports, disclosures, advertising, reporting of fraud, prohibited practices, standards for viatical settlement payments, and procedures for requests for verification of coverage.

This rule applies to all viatical settlement providers and producers [~~of viatical settlements~~] and to insurers whose policies are being viaticated.

#### **R590-222-3. Incorporation by Reference.**

The following appendices are hereby incorporated by reference within this rule and are available at <http://www.insurance.utah.gov/ruleindex.html>:

- (1) Appendix A, Utah [~~Provider of~~] Viatical Settlement Provider Application, dated [~~2003~~]2007.
- (2) Appendix B, Utah [~~Provider of~~] Viatical Settlement Provider Annual Report, dated [~~2006~~]2007.
- (3) Appendix C, NAIC Viatical Settlement brochure Selling Your Life Insurance Policy, dated [~~2002~~]2004.
- (5) Appendix D, NAIC Verification of Coverage for [~~Individual~~] Life Insurance Policies, dated [~~2003~~]2004.
- ~~(6) Appendix E, NAIC Verification of Group Life Insurance Benefits, dated 2003.~~

#### **R590-222-4. Definitions.**

In addition to the definitions in Section 31A-1-301 and 31A-36-102, the following definitions apply to this rule:

- (1) For purposes of this rule, "insured" means the person covered under the policy being considered for viatication.
- (2) "Life expectancy" means the mean number of months the individual insured under the life insurance policy to be viaticated can be expected to live as determined by the [~~provider of~~] viatical settlement[s] provider considering medical records and appropriate experiential data.
- (3) "Patient identifying information" means an insured's address, telephone number, facsimile number, electronic mail address, photograph or likeness, employer, employment status, social security number, or any other information that is likely to lead to the identification of the insured.

#### **R590-222-5. License Requirements.**

- (1) Viatical Settlement Provider [~~of Viatical Settlements~~] License.
  - (a) A person may not perform, or advertise any service as a [~~provider of~~] viatical settlement[s] provider in Utah, without a valid license.
  - (b) A [~~provider of~~] viatical settlement[s] provider license shall be issued on an annual basis upon:

- (i) the submission of a complete initial or renewal application; and
- (ii) the payment of the applicable fees under Section 31A-3-103.
- (c) An applicant for a license shall:
  - (i) use the application form prescribed by the commissioner and available on the department's website, see Appendix A;
  - (ii) provide a copy of the applicant's plan of operation that is to:
    - (A) describe the market the applicant intends to target;
    - (B) explain who will produce business for the applicant and how these people will be recruited, trained, and compensated;
    - (C) estimate the applicant's projected Utah business over the next 5 years;
    - (D) describe the corporate organizational structure of the applicant, its parent company, and all affiliates;
    - (E) describe the procedures used by the applicant to insure that viatical settlement proceeds will be sent to the viator within three business days as required by Subsection 31A-36-110 (3); and
    - (F) describe the procedures used by the applicant to insure that the identity, financial information, and medical information of an insured are not disclosed except as authorized under Section 31A-36-106;
  - (iii) provide the antifraud plan as required by Section 31A-36-117;
  - (iv) provide any other information requested by the commissioner; and
  - (v) provide evidence of financial responsibility in the amount of \$50,000 in the form of a surety bond issued by an authorized corporate surety or a deposit of cash, certificates of deposit or securities or any combination thereof:
    - (A) The evidence of financial responsibility shall remain in force for as long as the licensee is active.
    - (B) The bond, deposit or combination thereof, shall not be terminated without 30 days prior written notice to the licensee and the commissioner.
    - (C) The commissioner may accept as evidence of financial responsibility, proof that a financial instrument, in accordance with the requirements in subsection 1(c)(v), has been filed with the commissioner of any other state where the ~~the [provider of]~~ viatical settlement[s] provider is licensed as a ~~[provider of]~~ viatical settlement[s] provider.
    - (d) The commissioner may refuse to issue or renew a license of a ~~provider of]~~ viatical settlement[s] provider if any officer, one who is a holder of more than 10% of the provider's stock, partner, or director fails to meet the standards of Title 31A, Chapter 36.
    - (e) If a ~~provider of]~~ viatical settlement[s] provider fails to pay the renewal fee within the time prescribed or fails to submit the reports required in Section R590-222-6, the nonpayment or failure to submit the required reports shall:
      - (i) result in lapse of the license; and
      - (ii) subject the provider to administrative penalties and forfeitures.
    - (f) If a ~~provider of]~~ viatical settlement[s] provider has, at the time of license renewal, viatical settlements where the insured has not died, the ~~provider of]~~ viatical settlement[s] provider shall:
      - (i) renew or maintain its current license status until the earlier of the following events:
        - (A) the date the ~~provider of]~~ viatical settlement[s] provider properly assigns, sells, or otherwise transfers the viatical settlements where the insured has not died; or
        - (B) the date that the last insured covered by viatical settlement transaction has died;

(ii) designate, in writing, either the ~~the [provider of]~~ viatical settlement[s] provider that entered into the viatical settlement or the producer who received commission from the viatical settlement, if applicable, or any other ~~provider or producer of]~~ viatical settlement[s] provider or producer licensed in this state, to make all inquiries to the viator, or the viator's designee, regarding health status of the insured or any other matters.

(g) The commissioner shall not issue a license to a nonresident ~~provider of]~~ viatical settlement[s] provider unless a written designation of an agent for service of process is filed and maintained with the commissioner.

(2) ~~[Producer of]~~ Viatical Settlement[s] Producer license.

~~[Producers of v]~~ Viatical settlement[s] producers shall be licensed in accordance with Title 31A, Chapter 23a with a life insurance line of authority.

#### **R590-222-6. Annual Report.**

(1) By March 1 of each calendar year, each ~~provider of]~~ viatical settlement[s] provider licensed in this state shall submit a report to the commissioner. Such report shall be limited to all viatical settlement transactions where the viator is a resident of this state. ~~[A report is not required if there are no transactions to be reported.]~~

(2) This report shall be submitted in the format in Appendix B and contain the following information for the previous calendar year: ~~—(1) for each viatical settlement[s] contracted during the reporting period:~~

- (a) a coded identifier ~~[for each viatical settlement];~~
- (b) policy issue date;
- (c) date of the viatical settlement;
- (d) net death benefit viaticated;
- (e) amount available to the policyholder under the terms of the policy at the time of the settlement; and
- (f) net amount paid to viator; ~~—(2) number of policies reviewed and rejected; and~~
- ~~—(3) number of policies purchased from an individual or entity other than the original viator as a percentage of total policies purchased].~~

#### **R590-222-7. Payment Requirements.**

(1) Payment of the proceeds of a viatical settlement pursuant to Subsection 31A-36-110(3) ~~];~~ shall be by means of wire transfer to an account designated by the viator or by certified check or cashier's check.

(2) Payment of the proceeds to the viator pursuant to a viatical settlement shall be made in a lump sum except where the ~~[provider of]~~ viatical settlement[s] provider has purchased an annuity or similar financial instrument issued by a licensed insurance insurer or bank, or an affiliate of either. Retention of a portion of the proceeds, not disclosed or described in the viatical settlement by the ~~provider of]~~ viatical settlement[s] provider or escrow agent, is not permissible without written consent of the viator.

#### **R590-222-8. Disclosures.**

(1) As required by Subsection 31A-36-108(1), the disclosure, which is to be provided no later than the time the application for the viatical settlement, shall be provided in a separate document that is signed by the viator and the ~~provider of]~~ viatical settlement[s] provider or producer ~~[of viatical settlements]~~, and shall contain the following information:

(a) There are possible alternatives to a viatical settlement, including any accelerated death benefits or policy loans offered under the viator's life insurance policy.

(b) Some or all of the proceeds of the viatical settlement may be taxable under federal income tax and state franchise and income taxes, and assistance should be sought from a professional tax advisor.

(c) Proceeds of the viatical settlement could be subject to the claims of creditors.

(d) Receipt of the proceeds of a viatical settlement may adversely affect the viator's eligibility for Medicaid or other government benefits or entitlements, and advice should be obtained from the appropriate government agencies.

(e) The viator has the right to terminate a viatical settlement within 15 calendar days after the receipt of the viatical settlement proceeds by the viator as provided by Subsection 31A-36-109(7). If the insured dies during the 15 day period, the settlement is terminated, subject to repayment of all viatical settlement proceeds and any premiums, loans and loan interest to the viatical settlement provider or purchaser.

(f) Funds will be sent to the viator within three business days after the ~~provider of~~ viatical settlement[s] provider has received the insurer or group administrator's acknowledgment that ownership of the policy or interest in the certificate has been transferred and the beneficiary has been designated.

(g) Entering into a viatical settlement may cause other rights or benefits, including conversion rights and waiver of premium benefits that may exist under the policy or certificate, to be forfeited by the viator. Assistance should be sought from a financial adviser.

(h) Disclosure to a viator shall include distribution of a copy of the National Association of Insurance Commissioners (NAIC) Viatical Settlement brochure, dated ~~2002~~2004, that describes the process of viatical settlements, see Appendix C.

(i) The disclosure document shall contain the following language: "All medical, financial or personal information solicited or obtained by a ~~provider of~~ viatical settlement[s] provider or producer ~~of viatical settlements~~ about an insured, including the insured's identity or the identity of family members, a spouse or a significant other may be disclosed as necessary to effect the viatical settlement between the viator and the ~~provider of~~ viatical settlement[s] provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every two years."

(j) The insured may be contacted by either the ~~provider or producer of~~ viatical settlement[s] provider or producer or its authorized representative for the purpose of determining the insured's health status. This contact is limited to once every three months if the insured has a life expectancy of more than one year, and no more than once per month if the insured has a life expectancy of one year or less.

(2) A ~~provider of~~ viatical settlement[s] provider shall provide the viator with at least the following disclosures no later than the date the viatical settlement is signed by all parties. The disclosures shall be conspicuously displayed in the viatical settlement or in a separate document signed by the viator and the ~~provider of~~ viatical settlement[s] provider or producer ~~of viatical settlements~~, and provide the following information:

(a) ~~State the~~The affiliation, if any, between the provider of viatical settlement[s] provider and the issuer of the insurance policy to be viaticated.

(b) The document shall include the name, business address and telephone number of the ~~provider of~~ viatical settlement[s] provider.

(c) A ~~producer of~~ viatical settlement[s] producer shall disclose to a prospective viator the existence and source of the producer's compensation. The term "compensation" includes anything of value paid or given to a ~~producer of~~ viatical settlement[s] producer for the placement of a policy.

(d) If an insurance policy to be viaticated has been issued as a joint policy or involves family riders or any coverage of a life other than the insured under the policy to be viaticated, the viator shall be informed of the possible loss of coverage on the other lives under the policy and shall be advised to consult with his or her insurance producer or the insurer issuing the policy for advice on the proposed viatical settlement.

(e) State the dollar amount of the current death benefit payable to the ~~provider of~~ viatical settlement[s] provider under the policy or certificate. If known, the ~~provider of~~ viatical settlement[s] provider shall also disclose the availability of any additional guaranteed insurance benefits, the dollar amount of any accidental death and dismemberment benefits under the policy or certificate and the ~~provider of viatical settlements~~ interest in those benefits.

(f) State the name, business address, and telephone number of the independent third party escrow agent, and the fact that the viator or owner may inspect or receive copies of the relevant escrow or trust agreements or documents.

(3) If the viatical settlement provider transfers ownership or changes the beneficiary of the insurance policy, the provider shall communicate the change in ownership or beneficiary to the insured within 20 days after the change.

#### **R590-222-9. Standards for Evaluation of Reasonable Payments.**

The ~~provider of~~ viatical settlement[s] provider is responsible for assuring that the net proceeds from the viatical settlement exceed the benefits that are available at the time of the viatical settlement under the terms of the policy including cash surrender, long-term care, and accelerated death benefits.

#### **R590-222-10. Requests for Verification of Coverage.**

(1) Insurers, authorized to do business in this state, whose policies are being viaticated, shall respond to a request for verification of coverage from a ~~provider of~~ viatical settlement[s] provider or ~~a~~ producer of viatical settlements within 30 calendar days of the date a request is received, subject to the following conditions:

(a) a current authorization consistent with applicable law, signed by the policyholder or certificate holder, accompanies the request;

(b) in the case of an individual policy, submission of a form substantially similar to the NAIC Verification of Coverage for Individual Life Insurance Policies, dated ~~2003~~2004, which has been completed by the ~~provider of~~ viatical settlement[s] provider or ~~the~~ producer of viatical settlements in accordance with the instructions on the form, see Appendix D;

(c) in the case of group insurance coverage:

(i) submission of a form substantially similar to the NAIC Verification of Coverage for Group Life Insurance Benefits Policies dated ~~2003~~2004, which has been completed by the ~~provider of~~ viatical settlement[s] provider or producer of viatical settlements in accordance with the instructions on the form, see Appendix ED; and

(ii) which has previously been referred to the group policyholder and completed to the extent the information is available to the group policyholder.

(2) An insurer whose policy is being viaticated may not charge a fee for responding to a request for information from a ~~[provider of]~~ viatical settlement[s] ~~provider or producer [of viatical settlements]~~ in compliance with this rule in excess of any usual and customary charges to policyholders, certificate holders or insureds for similar services.

(3) The insurer whose policy is being viaticated shall send an acknowledgment of receipt of the request for verification of coverage to the policyholder or certificate holder and, where the policyholder or certificate holder is other than the insured, to the insured. The acknowledgment may contain a general description of any accelerated death benefit or similar benefit that is available under a provision of or rider to the life insurance contract.

#### **R590-222-11. Advertising.**

(1) This section shall apply to advertising of viatical settlements, related products, or services intended for dissemination in this state. Failure to comply with any provision of this section is determined to be a violation of Section 31A-36-112.

(2) The form and content of an advertisement of a viatical settlement shall be sufficiently complete and clear so as to avoid misleading or deceiving the reader, viewer, or listener. It shall not contain false or misleading information, including information that is false or misleading because it is incomplete.

(3) Information required to be disclosed shall not be minimized, rendered obscure, or presented in an ambiguous fashion or intermingled with the text of the advertisement so as to be confusing or misleading.

(4) An advertisement shall not omit material information or use words, phrases, statements, references or illustrations if the omission or use has the capacity, tendency or effect of misleading or deceiving viators, as to the nature or extent of any benefit, loss covered, premium payable, or state or federal tax consequence.

(5) An advertisement shall not use the name or title of an insurer or an insurance policy unless the affected insurer has approved the advertisement.

(6) An advertisement shall not state or imply that interest charged on an accelerated death benefit or a policy loan is unfair, inequitable or in any manner an incorrect or improper practice.

(7) The words "free," "no cost," "without cost," "no additional cost", "at no extra cost," or words of similar import shall not be used with respect to any benefit or service unless true. An advertisement may specify the charge for a benefit or a service or may state that a charge is included in the payment or use other appropriate language.

(8) Testimonials, appraisals or analysis used in advertisements must be genuine; represent the current opinion of the author; be applicable to the viatical settlement product or service advertised, if any; and be accurately reproduced with sufficient completeness to avoid misleading or deceiving prospective viators as to the nature or scope of the testimonials, appraisal, analysis or endorsement. In using testimonials, appraisals or analysis, the viatical settlement licensee makes, as its own, all the statements contained therein, and the statements are subject to all the provisions of this section.

(a) If the individual making a testimonial, appraisal, analysis or an endorsement has a financial interest in the provider of viatical settlements or related entity as a stockholder, director, officer, employee or otherwise, or receives any benefit directly or indirectly other than required union scale wages, that fact shall be prominently disclosed in the advertisement.

(b) An advertisement shall not state or imply that a viatical settlement benefit or service has been approved or endorsed by a group of individuals, society, association or other organization unless that is the fact and unless any relationship between an organization and the

viatical settlement licensee is disclosed. If the entity making the endorsement or testimonial is owned, controlled or managed by the viatical settlement licensee, or receives any payment or other consideration from the viatical settlement licensee for making an endorsement or testimonial, that fact shall be disclosed in the advertisement.

(c) When an endorsement refers to benefits received under a viatical settlement, all pertinent information shall be retained for a period of five years after its use.

(9) An advertisement shall not contain statistical information unless it accurately reflects recent and relevant facts. The source of all statistics used in an advertisement shall be identified.

(10) An advertisement shall not disparage insurers, ~~[providers of]~~ viatical settlement[s] ~~providers,~~ ~~[producers of]~~ viatical settlement[s] ~~producers,~~ viatical settlement investment agents, anyone who may recommend a viatical settlement, insurance producers, policies, services or methods of marketing.

(11) The name of the viatical settlement licensee shall be clearly identified in all advertisements about the licensee or its viatical settlement, products or services, and if any specific viatical settlement is advertised, the viatical settlement shall be identified either by form number or some other appropriate description. If an application is part of the advertisement, the name and administrative office address of the ~~provider of]~~ viatical settlement[s] provider shall be shown on the application.

(12) An advertisement shall not use a trade name, group designation, name of the parent company of a viatical settlement licensee, name of a particular division of the viatical settlement licensee, service mark, slogan, symbol or other device or reference without disclosing the name of the viatical settlement licensee, if the advertisement would have the capacity or tendency to mislead or deceive as to the true identity of the viatical settlement licensee, or to create the impression that a company other than the viatical settlement licensee would have any responsibility for the financial obligation under a viatical settlement.

(13) An advertisement shall not use any combination of words, symbols or physical materials that by their content, phraseology, shape, color or other characteristics are so similar to a combination of words, symbols or physical materials used by a government program or agency or otherwise appear to be of such a nature that they tend to mislead prospective viators into believing that the solicitation is in some manner connected with a government program or agency.

(14) An advertisement may state that a viatical settlement licensee is licensed in the state where the advertisement appears, provided it does not exaggerate that fact or suggest or imply that a competing viatical settlement licensee may not be so licensed. The advertisement may ask the audience to consult the licensee's web site or contact the department of insurance to find out if the state requires licensing and, if so, whether the ~~[provider of]~~ viatical settlement[s] provider or producer ~~[of viatical settlements]~~ is licensed.

(15) An advertisement shall not create the impression that the ~~[provider of]~~ viatical settlement[s] provider, its financial condition or status, the payment of its claims, or the merits, desirability, or advisability of its viatical settlements are recommended or endorsed by any government entity.

(16) The name of the actual licensee shall be stated in all of its advertisements. An advertisement shall not use a trade name, any group designation, name of any affiliate or controlling entity of the licensee, service mark, slogan, symbol or other device in a manner that would have the capacity or tendency to mislead or deceive as to the true identity of the actual licensee or create the false impression that an

affiliate or controlling entity would have any responsibility for the financial obligation of the licensee.

(17) An advertisement shall not directly or indirectly create the impression that any division or agency of the state or of the U.S. government endorses, approves or favors:

(a) any viatical settlement licensee or its business practices or methods of operations;

(b) the merits, desirability or advisability of any viatical settlement;

(c) any viatical settlement; or

(d) any life insurance policy or life insurance insurer.

(18) If the advertisement emphasizes the speed with which the viatication will occur, the advertising must disclose the average time frame from completed application to the date of offer and from acceptance of the offer to receipt of the funds by the viator.

(19) If the advertising emphasizes the dollar amounts available to viators, the advertising shall disclose the average purchase price as a percent of face value obtained by viators contracting with the licensee during the past six months.

#### **R590-222-13. Prohibited Practices.**

(1) A ~~[of viatical settlements]~~ provider or producer ~~[of viatical settlements]~~ shall obtain from a person that is provided with patient identifying information a signed affirmation that the person or entity will not further divulge the information without procuring the express, written consent of the insured for the disclosure. Notwithstanding the foregoing, if a ~~[of viatical settlements]~~ provider or producer ~~[of viatical settlements]~~ is served with a subpoena and, therefore, compelled to produce records containing patient identifying information, it shall notify the viator and the insured in writing at their last known addresses within five business days after receiving notice of the subpoena.

(2) A ~~[of viatical settlements]~~ provider shall not also act as a ~~[of viatical settlements]~~ producer in the same viatical settlement, whether entitled to collect a fee directly or indirectly.

(3) A ~~[of viatical settlements]~~ producer shall not seek or obtain any compensation from the viator without the written agreement of the viator obtained prior to performing any services in connection with a viatical settlement.

(4) A ~~[of viatical settlements]~~ provider or producer ~~[of viatical settlements]~~ shall not unfairly discriminate in the making or soliciting of viatical settlements, or discriminate between viators with dependents and without dependents.

(5) A ~~[of viatical settlements]~~ provider or producer ~~[of viatical settlements]~~ shall not pay or offer to pay any finder's fee, commission or other compensation to any insured's physician, or to an attorney, accountant or other person providing medical, legal or financial planning services to the viator, or to any other person acting as an agent of the viator, other than a ~~[of viatical settlements]~~ producer, with respect to the viatical settlement.

#### **R590-222-14. Filing of Forms.**

(1) All forms to be used for a viatical settlement shall be filed with the commissioner prior to use. The department is not required to review each form and does not provide approval for a filing. The forms will be identified as "filed for use" when submitted to the department with all requirements. The forms to be filed include the viatical settlement, disclosure to the viator, notice of intent to viaticate, verification of coverage, and application.

(2) A form filing consists of:

(a) ~~[the uniform transmittal form that is available at the department's website at www.insurance.utah.gov/L&AH\_Transmittal.pdf. Because the targeted user of the universal transmittal form is an insurer, all information requested on the form may not be applicable to a filing for a viatical settlement; therefore, complete only the areas of the form that will identify and describe your filing. The transmittal form is to be the top document of your filing;~~

~~(b) a cover letter on [company] the licensee's letterhead that [is to properly identify the viatical settlement provider. The cover letter must] provides the following:~~

~~(i) a list of the forms being filed by title and any identification number given the document; [and]~~

~~(ii) a description of the [reason for the] filing [-]; and~~

~~(iii) [Indicate] an indication whether the form:~~

~~(A) is new; or~~

~~(B) replacing or modifying a previously filed form [-]; [If] if so, describe the [form is replacing a previously filed form, provide the replaced form number, the date filed in Utah, and the] changes being made, the reason, and the date previously filed; and~~

~~(c) a copy of each form to be filed [-]; and [~~

~~(d) return materials, if you wish to receive notification that the filing has been filed with the commissioner. Return materials consist of one copy of the cover letter and a self-addressed stamped envelope. The department will not send notice that the filing has been received unless you provide the means to do so.]~~

(3) The form filing and any responses must be submitted via email to [life.uid@utah.gov](mailto:life.uid@utah.gov).

(4) If a filing has been rejected, ~~[as incomplete, the response to the rejection must include all items required for] the filing [and a copy of the rejection form] must be resubmitted as a new filing.~~

~~(4)(5) If [an Order to Prohibit Use] a Filing Objection Letter has been issued, the response [to the Order] must include:~~

~~(a) a [resubmission] new cover letter identifying the changes made; and~~

~~(b) one copy of the revised document [-]; and [~~

~~(c) return materials which include a copy of the resubmission letter and a self-addressed stamped envelope.~~

~~(5)(6) Companies may request the status of their filing by [telephone,] email, telephone, or mail after 30 days from the date of submission.~~

#### **R590-222-15. Enforcement Date.**

The commissioner will begin enforcing the revised provisions of this rule ~~[45]~~ 30 days from the rule's effective date.

#### **R590-222-16. Penalties.**

A person found, after an administrative proceeding, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

#### **R590-222-17. Severability.**

If any provision or clause of this rule or its application to any person or situation is held to be invalid, such invalidity may not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

**KEY: insurance, viatical**

**Date of Enactment or Last Substantive Amendment:** ~~December 22, 2006~~ **2008**

**Authorizing, and Implemented or Interpreted Law:** 31A-2-201; 31A-36-119



**Public Safety, Fire Marshal**  
**R710-10**  
**Rules Pursuant to Fire Service Training,  
Education, and Certification**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 31472

FILED: 05/21/2008, 14:57

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board met in a regularly scheduled Board meeting on 05/13/2008 and voted by motion to amend Rule R710-10 and establish some additional definitions and requirements to obtain a Recruit Candidate Academy certificate as a non-affiliated student in firefighter training.

SUMMARY OF THE RULE OR CHANGE: The summary of the rule change is as follows: 1) in Section R710-10-2, the Board proposes to add two definitions to the rule that further defines the newly established nonaffiliated student requirement; and 2) in Subsections R710-10-8(8.5) through R710-10-8(8.7), the Board proposes to establish minimum requirements that are required to be completed if the student wishes to receive a Recruit Candidate Academy certificate from Utah Valley State College (UVSC) when the student is registered as a nonaffiliated student attending training at a location other than the Utah Fire and Rescue Academy located at UVSC.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-204

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no anticipated cost or savings to the state budget because these proposed amendments do not affect the state budget or require state employees to be involved in the enactment of these amendments.

❖ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government because these proposed amendments do not affect local government or those employed by local government.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There is no anticipated cost or savings to small businesses because these proposed amendments affect educational and governmental agencies and do not affect small businesses in any way.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There would be an additional cost of approximately \$1,000 to \$1,400 per non-affiliated student to take the EMT class, complete the

Candidate Physical Ability Test (CPAT) Physical Fitness exam, and complete the Introduction to Emergency Services Class to receive a Recruit Candidate Academy certificate. There is no compliance cost for educational or governmental agencies because any additional costs would be borne by the non-affiliated student and not by the educational or governmental agency.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses for the enactment of these proposed amendments. Scott T. Duncan, Commissioner

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

PUBLIC SAFETY

FIRE MARSHAL

Room 302

5272 S COLLEGE DR

MURRAY UT 84123-2611, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at [bhallada@utah.gov](mailto:bhallada@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2008

AUTHORIZED BY: Ron L. Morris, Utah State Fire Marshal

**R710. Public Safety, Fire Marshal.**

**R710-10. Rules Pursuant to Fire Service Training, Education, and Certification.**

**R710-10-2. Definitions.**

2.1 "Academy" means Utah Fire and Rescue Academy.

2.2 "Academy Director" means the Director of the Utah Fire and Rescue Academy.

2.3 "Administrator" means Fire Service Education Administrator.

2.4 "Board" means Utah Fire Prevention Board.

2.5 "Career Firefighter" means one whose primary employment is directly related to the fire service.

2.6 "Certification Council" means the Fire Service Certification Council.

2.7 "Certification System" means the Utah Fire Service Certification System.

2.8 "Coordinator" means Fire Service Education Program Coordinator.

2.9 "EMT" means Emergency Medical Technician.

2.~~[9]~~10 "Non-Affiliated" means an individual who is not a member of an organized fire department.

2.~~[40]~~11 "Plan" means Fire Academy Strategic Plan.

2.12 "RCA" means Recruit Candidate Academy.

2.~~[+]~~13 "SFM" means State Fire Marshal or authorized deputy.



2.~~[12]~~<sup>[14]</sup> "Standards Council" means Fire Service Standards and Training Council.

2.~~[13]~~<sup>[15]</sup> "UCA" means Utah Code Annotated, 1953.

2.~~[14]~~<sup>[16]</sup> "Volunteer/Part-Paid Firefighter" means one whose primary employment is not directly related to the fire service.

#### **R710-10-8. Non-Affiliated Fire Service Training.**

8.1 Those training organizations that desire to offer certification through the Certification System for non-affiliated personnel must receive approval in writing from the Standards Council and the Academy Director.

8.2 Before approval is granted, the training organization requesting approval shall demonstrate the following:

8.2.1 Complete a written application requesting approval to conduct the training course.

8.2.2 Designate an approved course coordinator to oversee the course delivery and insure the course meets each of the applicable objectives.

8.2.3 Insure that qualified instructors are used to teach each subject.

8.2.4 Insure sufficient student to instructor ratios for all subjects or skills to be taught to include those designated high hazard.

8.2.5 Demonstrate that sufficient equipment and facilities will be provided to meet the training requirements of the course being taught.

8.2.6 Maintain course documentation as required through the Certification System to insure that all elements of the necessary training is completed.

8.2.7 Follow the accepted requirements of the Certification System for requesting testing and certification.

8.3 As required in Section 8.2.2 of these rules, the designated course coordinator shall meet the following requirements:

8.3.1 Be currently certified at the certification level as established by the Standards Council.

8.3.2 Insure that all assigned instructors meet the requirements as required in Section 8.4 of these rules.

8.3.3 Insure that the course syllabus and practical skills guide meet the requirements of the Certification System.

8.3.4 Insure that the requirements of Sections 8.2.4, 8.2.5, 8.2.6, and 8.2.7 of these rules are met.

8.4 As required in Section 8.2.3 of these rules, qualified instructors shall meet the following requirements:

8.4.1 Must be currently certified at the certification level as established by the Standards Council.

8.4.2 If the instructor is not certified, instructor qualification can be satisfied by special knowledge, experience or establishment of expertise.

8.5 An Introduction to Emergency Services class shall be completed by the non-affiliated student wishing to receive an RCA within the time period stated in 8.7 of these rules. The Introduction to Emergency Services class may be waived if the applicant can demonstrate to the Academy sufficient competency or prior experience in the fire service to make the class unwarranted.

8.6 Non-affiliated training providers shall follow the curriculum outline that is taught at the Academy in the Recruit Candidate Academy (RCA) program in order to award students an RCA Certificate of Completion.

8.7 An RCA Certificate of Completion may be issued to the non-affiliated student by the Academy upon successful completion of the following within a 24 month period:

8.7.1 Introduction to Emergency Services class or accepted waiver.

8.7.2 EMT Basic Course.

8.7.3 Completion of an accredited RCA.

**KEY: fire training**

**Date of Enactment or Last Substantive Amendment: [~~March 10, 2008~~July 22, 2008**

**Authorizing, and Implemented or Interpreted Law: 53-7-204**



## Tax Commission, Auditing **R865-91-4** Equitable Adjustments Pursuant to Utah Code Ann. Section 59-10-115

### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE No.: 31458  
FILED: 05/20/2008, 11:22

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The section is removed since it duplicates statutory language.

SUMMARY OF THE RULE OR CHANGE: The section is removed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-10-115

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The section language appears in statute.
- ❖ LOCAL GOVERNMENTS: None--The section language appears in statute.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--The section language appears in statute.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The section language duplicates statute.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated impacts. D'Arcy Dixon, Commissioner

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

TAX COMMISSION  
AUDITING  
210 N 1950 W  
SALT LAKE CITY UT 84134, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/13/2008

AUTHORIZED BY: D'Arcy Dixon, Commissioner

**R865. Tax Commission, Auditing.**

**R865-91. Income Tax.**

**~~R865-91-4. Equitable Adjustments Pursuant to Utah Code Ann. Section 59-10-115.~~**

~~—A. Every taxpayer shall report and the Tax Commission shall make or allow such adjustments to the taxpayer's state taxable income as are necessary to prevent the inclusion or deduction for a second time on his Utah income tax return of items involved in determining his federal taxable income. Such adjustments shall be made or allowed in an equitable manner as defined in Utah Code Ann. 59-10-115 or as determined by the Tax Commission consistent with provisions of the Individual Income Tax Act.~~

~~—B. In computing the Utah portion of a nonresident's federal adjusted gross income; any capital losses, net long term capital gains, and net operating losses shall be included only to the extent that these items were not taken into account in computing the taxable income of the taxpayer for state income tax purposes for any taxable year prior to January 2, 1973.]~~

**KEY:** historic preservation, income tax, tax returns, enterprise zones

**Date of Enactment or Last Substantive Amendment:** ~~[March 14], 2008~~

**Notice of Continuation:** March 20, 2007

**Authorizing, and Implemented or Interpreted Law:** 59-10-108 through 59-10-122



**Tax Commission, Auditing**

**R865-91-11**

**Share of a Nonresident Estate or Trust,  
or Its Beneficiaries In State Taxable  
Income Pursuant to Utah Code Ann.  
Section 59-10-207**

**NOTICE OF PROPOSED RULE  
(Amendment)**

DAR FILE NO.: 31459  
FILED: 05/20/2008, 11:42

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The section is removed since the language appears in statute.

SUMMARY OF THE RULE OR CHANGE: The section is removed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-10-207

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The section language that is removed is duplicative of statute.
- ❖ LOCAL GOVERNMENTS: None--The section language that is removed is duplicative of statute.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--The section language that is removed is duplicative of statute.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The section language is removed since its substance appears in statute.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated impacts. D'Arcy Dixon, Commissioner

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

TAX COMMISSION  
AUDITING  
210 N 1950 W  
SALT LAKE CITY UT 84134, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/13/2008

AUTHORIZED BY: D'Arcy Dixon, Commissioner

**R865. Tax Commission, Auditing.**

**R865-91. Income Tax.**

**~~R865-91-11. Share of A Nonresident Estate or Trust, or Its Beneficiaries In State Taxable Income Pursuant to Utah Code Ann. Section 59-10-207.~~**

~~—A. In determining the respective shares of the beneficiaries and of the estate or trust referred to in Utah Code Ann. Section 59-10-207, consideration shall be given to the net amount of the modifications described in Utah Code Ann. Sections 59-10-114 and 59-10-115. This is particularly true for those that relate to items of income, gain, loss, and deduction and that also enter into the definition of distributable net income. Otherwise, any methods different from those prescribed in Utah Code Ann. Section 59-10-207 of the act shall be used only if approved or directed by the Tax Commission as being necessary to prevent a substantial inequity in the allocation of such shares.]~~

**KEY:** historic preservation, income tax, tax returns, enterprise zones  
**Date of Enactment or Last Substantive Amendment:** ~~[March 14], 2008~~  
**Notice of Continuation:** March 20, 2007  
**Authorizing, and Implemented or Interpreted Law:** 59-10-207



Tax Commission, Auditing  
**R865-91-12**  
 Fiduciary Adjustment Pursuant to Utah  
 Code Ann. Section 59-10-210

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE No.: 31460  
 FILED: 05/20/2008, 12:45

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The section is removed because the substance of the section appears in statute.

**SUMMARY OF THE RULE OR CHANGE:** The section is removed.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 59-10-210

**ANTICIPATED COST OR SAVINGS TO:**

- ❖ **THE STATE BUDGET:** None--The substance of the removed section appears in statute.
- ❖ **LOCAL GOVERNMENTS:** None--The substance of the removed section appears in statute.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** None--The substance of the removed section appears in statute.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** None--The substance of the removed section language appears in statute.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There are no anticipated impacts. D'Arcy Dixon, Commissioner

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

TAX COMMISSION  
 AUDITING  
 210 N 1950 W  
 SALT LAKE CITY UT 84134, or  
 at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
 Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/13/2008

AUTHORIZED BY: D'Arcy Dixon, Commissioner

**R865. Tax Commission, Auditing.**

**R865-91. Income Tax.**

~~**[R865-91-12. Fiduciary Adjustment Pursuant to Utah Code Ann. Section 59-10-210.**~~

~~A. The net amount of the modifications described in Utah Code Ann. Sections 59-10-114 and 59-10-115 that relate to items of income or deduction of an estate or trust may be determined and used as the fiduciary adjustment. Otherwise, any methods different from those prescribed in Utah Code Ann. Section 59-10-210 shall be used only if approved or directed by the Tax Commission as being more appropriate and equitable in specific cases.]~~

**KEY:** historic preservation, income tax, tax returns, enterprise zones

**Date of Enactment or Last Substantive Amendment:** ~~[March 14], 2008~~

**Notice of Continuation:** March 20, 2007

**Authorizing, and Implemented or Interpreted Law:** 59-10-210



Tax Commission, Auditing  
**R865-91-13**  
 Nonresident's Share of Partnership or  
 Limited Liability Company Income  
 Pursuant to Utah Code Ann. Sections  
 59-10-116, 59-10-117, 59-10-118, and  
 59-10-303

**NOTICE OF PROPOSED RULE**  
 (Amendment)

DAR FILE No.: 31463  
 FILED: 05/20/2008, 13:19

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The proposed amendment is required due to statutory changes made by H.B. 359 (2008). (DAR NOTE: H.B. 359 (2008) is found at Chapter 389, Laws of Utah 2008, and was effective 05/05/2008.)

**SUMMARY OF THE RULE OR CHANGE:** The proposed amendment repeals the 15% deduction allowed on the partnership composite return since most deductions were repealed by H.B. 359 (2008).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-10-116, 59-10-117, 59-10-118, and 59-10-1405

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--Any revenue impacts were taken into account is H.B. 359 (2008).
- ❖ LOCAL GOVERNMENTS: None--Any revenue impacts were taken into account is H.B. 359 (2008).
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--Any revenue impacts were taken into account is H.B. 359 (2008).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Individual income tax will now be calculated in a different manner because of the changes in H.B. 359 (2008).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated impacts. D'Arcy Dixon, Commissioner

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

TAX COMMISSION  
AUDITING  
210 N 1950 W  
SALT LAKE CITY UT 84134, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/13/2008

AUTHORIZED BY: D'Arcy Dixon, Commissioner

**R865. Tax Commission, Auditing.**

**R865-91. Income Tax.**

**R865-91-13. Nonresident's Share of Partnership or Limited Liability Company Income Pursuant to Utah Code Ann. Sections 59-10-116, 59-10-117, 59-10-118, and ~~59-10-303~~ 59-10-1405.**

~~[A-](1)~~ Nonresident partners and nonresident members shall keep adequate records to substantiate their determination or to permit a determination by the ~~[Tax Commission]~~ commission of the part of their adjusted gross income that was derived from or connected with sources in this state.

~~[B-](2)~~ Partnerships and limited liability companies may file form TC-65, Utah Partnership/Limited Liability Company Return of Income, as a composite return on behalf of nonresident partners or nonresident members that meet all of the following conditions:

~~[1-](a)~~ Nonresident partners or nonresident members included on the return may not have other income from Utah sources. Resident partners and resident members may not be included on the composite return.

~~[2-](b)~~ A schedule shall be included with the return listing all nonresident partners or nonresident members included in the composite filing. The schedule shall list all of the following information for each nonresident partner or nonresident member:

- ~~[a-](i)~~ name;
- ~~[b-](ii)~~ address;
- ~~[e-](iii)~~ social security number;
- ~~[d-](iv)~~ percentage of partnership or limited liability company income;
- ~~[e-](v)~~ Utah income attributable to that partner or member.

~~[3-](c)~~ Nonresident partners or nonresident members that are entitled to mineral production tax withholding credits, agricultural off-highway gas tax credits, or other Utah credits, may not be included in a composite filing, but must file form TC-40NR, Nonresident or Part-year Resident Form Individual Income Tax Return.

~~[C-]~~ The tax due on the composite return shall be computed as follows:

~~1. A deduction equal to 15 percent of the Utah taxable income attributable to nonresident partners or nonresident members included in the composite filing shall be allowed in place of a standard deduction, itemized deductions, personal exemptions, federal tax determined for the same period, or any other deductions.~~

~~[2-](3)~~ The tax shall be computed using the ~~[maximum]~~ tax rate ~~[applied to Utah taxable income attributable to Utah sources]~~ imposed in accordance with Section 59-10-104.

~~[D-](4)~~ The partnership's or limited liability company's federal identification number shall be used on the form TC-65 in place of a social security number.

**KEY: historic preservation, income tax, tax returns, enterprise zones**

**Date of Enactment or Last Substantive Amendment: ~~[March 14], 2008~~**

**Notice of Continuation: March 20, 2007**

**Authorizing, and Implemented or Interpreted Law: 59-10-108 through 59-10-122; 59-10-1405**



## Tax Commission, Auditing **R865-91-39**

Subtraction from Federal Taxable  
Income for a Dependent Child With a  
Disability or an Adult With a Disability  
Pursuant to Utah Code Ann. Sections  
59-10-114 and 59-10-501

**NOTICE OF PROPOSED RULE  
(Amendment)**

DAR FILE NO.: 31464

FILED: 05/20/2008, 14:25

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The section is removed because of statutory changes made by H.B. 359 (2008). (DAR NOTE: H.B. 359 (2008) is found at Chapter 389, Laws of Utah 2008, and was effective 05/05/2008.)

SUMMARY OF THE RULE OR CHANGE: The section is removed since the deduction for a handicapped child or adult was removed in H.B. 359 (2008).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-10-114 and 59-10-501

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--Any revenue impact was taken into account in H.B. 359 (2008).
- ❖ LOCAL GOVERNMENTS: None--Any revenue impact was taken into account in H.B. 359 (2008).
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--Any revenue impact was taken into account in H.B. 359 (2008).

COMPLIANCE COSTS FOR AFFECTED PERSONS: Taxpayers will no longer be able to take a state tax deduction for a handicapped child or adult.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated impacts. D'Arcy Dixon, Commissioner

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

TAX COMMISSION  
AUDITING  
210 N 1950 W  
SALT LAKE CITY UT 84134, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/13/2008

AUTHORIZED BY: D'Arcy Dixon, Commissioner

**R865. Tax Commission, Auditing.**

**R865-91. Income Tax.**

~~**R865-91-39. Subtraction from Federal Taxable Income for a Dependent Child With a Disability or an Adult With a Disability Pursuant to Utah Code Ann. Sections 59-10-114 and 59-10-501.**~~

~~— A. A taxpayer that claims the deduction from income for a dependent child with a disability or an adult with a disability~~

~~allowed under Section 59-10-114 shall complete form TC-40D, Disabled Exemption Verification, as evidence that the taxpayer qualifies for the deduction.~~

~~— B. The form described under A. shall be:~~

- ~~— 1. completed for each year for which the taxpayer claims the deduction; and~~
- ~~— 2. retained by the taxpayer.]~~

**KEY: historic preservation, income tax, tax returns, enterprise zones**

**Date of Enactment or Last Substantive Amendment: [March 14], 2008**

**Notice of Continuation: March 20, 2007**

**Authorizing, and Implemented or Interpreted Law: 59-10-114; 59-10-501**



## Tax Commission, Auditing

### R865-91-48

## Adoption Expenses Deduction Pursuant to Utah Code Ann. Section 59-10-114

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31466

FILED: 05/20/2008, 15:15

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The section is removed because statutory changes made by H.B. 369 (2008). (DAR NOTE: H.B. 369 (2008) is found at Chapter 389, Laws of Utah 2008, and was effective 05/05/2008.)

SUMMARY OF THE RULE OR CHANGE: Section is removed because the deduction for adoption expenses was removed by H.B. 369 (2008).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-10-114

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--Any revenue impacts were taken into account by H.B. 369 (2008).
- ❖ LOCAL GOVERNMENTS: None--Any revenue impacts were taken into account by H.B. 369 (2008).
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--Any revenue impacts were taken into account by H.B. 369 (2008).

COMPLIANCE COSTS FOR AFFECTED PERSONS: Taxpayers will no longer be able to take a state tax deduction for adoption expenses.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated impacts. D'Arcy Dixon, Commissioner

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

TAX COMMISSION  
AUDITING  
210 N 1950 W  
SALT LAKE CITY UT 84134, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/13/2008

AUTHORIZED BY: D'Arcy Dixon, Commissioner

#### **R865. Tax Commission, Auditing.**

#### **R865-91. Income Tax.**

#### **~~[R865-91-48. Adoption Expenses Deduction Pursuant to Utah Code Ann. Section 59-10-114.~~**

~~— A. For purposes of the deduction for adoption expenses under Section 59-10-114, adoption expenses include:~~

- ~~— 1. medical expenses associated with prenatal care, childbirth, and neonatal care;~~
- ~~— 2. fees paid to reimburse the state under Section 35A-3-308;~~
- ~~— 3. fees paid to an attorney or placement service for arranging the adoption;~~
- ~~— 4. all actual travel costs incurred exclusively for the purpose of completing adoption arrangements; and~~
- ~~— 5. living expenses of the birth mother if paid by the adoptive parents as part of their adoption expenses and if in conformance with Section 76-7-203.~~

~~— B. Adoption expenses do not include:~~

- ~~— 1. food, clothing, or other routine expenses associated with the child's care, other than necessary medical expenses, that arise before the adoption is final;~~
- ~~— 2. foster care expenses incurred prior to the application for adoption; or~~
- ~~— 3. legal expenses arising from custody actions subsequent to the finalization of the adoption.~~

~~— C. Qualified adoption expenses may be deducted regardless of whether the adoption process is terminated.~~

~~— D. The income tax deduction under Section 59-10-114 applies to the actual qualified adoption expenses of the birth mother, the legal guardian of the birth mother or another individual acting on behalf of the birth mother, or the adoptive parents.~~

~~— E. Reimbursed adoption expenses for which a taxpayer has taken the state income tax deduction, must be added to the taxpayer's gross income in the tax year in which the expenses are reimbursed.]~~

**KEY: historic preservation, income tax, tax returns, enterprise zones**

**Date of Enactment or Last Substantive Amendment: ~~[March 14], 2008~~**

**Notice of Continuation: March 20, 2007**

**Authorizing, and Implemented or Interpreted Law: 59-10-114**

## Tax Commission, Auditing **R865-91-52**

### Subtractions for Health Care Insurance and For Premiums For Long-Term Care Insurance Pursuant to Utah Code Ann. Section 59-100-114

#### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31470

FILED: 05/20/2008, 16:06

#### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The amendment is required by statutory changes made by H.B. 359 (2008). (DAR NOTE: H.B. 359 (2008) is found at Chapter 389, Laws of Utah 2008, and was effective 05/05/2008.)

SUMMARY OF THE RULE OR CHANGE: Proposed amendment deletes reference to a state tax deduction for long term care insurance since H.B. 359 (2008) repealed that deduction.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-10-1023

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--Any revenue impact was considered in H.B. 359 (2008).
- ❖ LOCAL GOVERNMENTS: None--Any revenue impact was considered in H.B. 359 (2008).
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--Any revenue impact was considered in H.B. 359 (2008).

COMPLIANCE COSTS FOR AFFECTED PERSONS: Taxpayers will no longer be able to take a state tax deduction for long-term care insurance.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated impacts. D'Arcy Dixon, Commissioner

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

TAX COMMISSION  
AUDITING  
210 N 1950 W  
SALT LAKE CITY UT 84134, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/13/2008

AUTHORIZED BY: D'Arcy Dixon, Commissioner

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**R865. Tax Commission, Auditing.  
R865-91. Income Tax.**

**R865-91-52. [~~Subtractions~~Credit For Health [~~Care~~Benefit Plan Insurance [~~and For Premiums For Long Term Care Insurance~~] Pursuant to Utah Code Ann. Section [~~59-10-114~~59-10-1023.**

A [~~subtraction from federal taxable income under Subsection 59-10-114(2)]credit for health [~~care~~]benefit plan insurance [~~and for premiums for long term care insurance~~]under Section 59-10-1023 shall be determined in the manner that provides the greatest possible [~~subtraction under Subsection 59-10-114(2)]credit.~~~~

**KEY: historic preservation, income tax, tax returns, enterprise zones**

**Date of Enactment or Last Substantive Amendment: [~~March 14~~, 2008**

**Notice of Continuation: March 20, 2007**

**Authorizing, and Implemented or Interpreted Law: 59-10-114; 59-10-1023**



**End of the Notices of Proposed Rules Section**

# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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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 Section 63G-3-305.

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Career Service Review Board,  
Administration  
**R137-2**  
Government Records Access and  
Management Act

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

DAR FILE No.: 31473  
FILED: 05/21/2008, 15:16

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63G-2-204 of the Government Records Access and Management Act allows a governmental entity to make rules specifying where and to whom requests for access to records shall be directed. Section 63G-2-203 allows entities to charge reasonable fees to cover actual costs of duplicating a record; therefore our rule allows for these charges and waivers of these charges when necessary. The rule also delineates a way for records to be amended and for a denial of access to be appealed.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: During the past five years, no written comments have been received concerning this rule from either the public or any state agency.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: While many of the agency's documents are public, some are classified as private or protected. For this reason, the agency must have rules in place to allow those who desire access to our records a legal means to do so. The rule outlines the process required to obtain any document. It also provides a legal basis for the agency to deny access to documents that are not legally available. Therefore, this rule should be continued.

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

CAREER SERVICE REVIEW BOARD  
ADMINISTRATION  
Room 1120 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:

Robert W. Thompson at the above address, by phone at 801-538-3047, by FAX at 801-538-3139, or by Internet E-mail at [bthompson@utah.gov](mailto:bthompson@utah.gov)

AUTHORIZED BY: Robert W. Thompson, Administrator

EFFECTIVE: 05/21/2008

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Education, Administration  
**R277-104**  
USOE ADA Compliant Procedure

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

DAR FILE No.: 31517  
FILED: 06/02/2008, 13:53

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: 28 CFR 35.107(b) requires a public entity that employs 50 or more persons to adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited under the Americans with Disabilities Act.

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



REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it provides the procedures for filing complaints as required under the Americans with Disabilities Act. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

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

EFFECTIVE: 06/02/2008

Education, Administration  
**R277-436**

Gang Prevention and Intervention  
Programs in the Schools

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

DAR FILE NO.: 31518  
FILED: 06/02/2008, 13:53

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-402(1)(e)(i) directs the Utah State Board of Education to adopt rules mandating school productivity and cost effective measures and Subsection 53A-1-401(3) which allows the Utah State Board of Education to adopt rules in accordance with its responsibilities.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it provides the necessary standards for application for and distribution of funds for gang prevention

and intervention programs in the public schools. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

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

EFFECTIVE: 06/02/2008

Education, Administration  
**R277-460**  
Distribution of Substance Abuse  
Prevention Account

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

DAR FILE NO.: 31519  
FILED: 06/02/2008, 13:54

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53A-13-102 directs the Utah State Board of Education to adopt rules providing for instruction on the harmful effects of controlled substances.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule provides criteria for application and distribution of funds for substance abuse prevention so the rule continues to be necessary. Therefore, this rule should be continued.

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

EDUCATION  
ADMINISTRATION  
250 E 500 S

SALT LAKE CITY UT 84111-3272, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Carol Lear at the above address, by phone at 801-538-7835,  
by FAX at 801-538-7768, or by Internet E-mail at  
carol.lear@schools.utah.gov

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

EFFECTIVE: 06/02/2008

Education, Administration  
**R277-484**  
Data Standards

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

DAR FILE No.: 31520  
FILED: 06/02/2008, 13:54

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS  
UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS  
AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3)  
allows the Utah State Board of Education to adopt rules in  
accordance with its responsibilities and specifically allows the  
Board to interrupt disbursements of state aid to any Local  
Education Agency which fails to comply with rules.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE,  
INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS  
IN OPPOSITION TO THE RULE, IF ANY: This rule continues to  
provide necessary deadlines for required submission of data  
from school districts and charter schools to support  
educational accountability and financial systems at the Utah  
State Office of Education and by the Utah State Board of  
Education. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Carol Lear at the above address, by phone at 801-538-7835,  
by FAX at 801-538-7768, or by Internet E-mail at  
carol.lear@schools.utah.gov

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

EFFECTIVE: 06/02/2008

Health, Administration  
**R380-250**  
HIPAA Privacy Rule Implementation

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

DAR FILE No.: 31455  
FILED: 05/19/2008, 16:23

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS  
UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS  
AUTHORIZE OR REQUIRE THE RULE: Section 26-1-5 empowers the  
Department of Health to adopt rules necessary to carry out the  
provisions of the Health Code. This rule is necessary to  
comply with the privacy regulations of the federal Health  
Insurance Portability and Accountability Act (HIPAA) for those  
portions of the Department of Health that are subject to that  
act.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE,  
INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS  
IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to  
comply with the privacy regulations of the federal HIPAA for  
those portions of the Department of Health that are subject to  
that act. Therefore, this rule should be continued.

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

HEALTH  
ADMINISTRATION  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY UT 84116-3231, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Lyle Odendahl at the above address, by phone at 801-538-  
6878, by FAX at 801-538-6306, or by Internet E-mail at  
lyleodendahl@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 05/19/2008

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**Health, Children's Health Insurance  
Program  
R382-1  
Benefits and Administration**

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

DAR FILE NO.: 31503  
FILED: 05/30/2008, 14:26

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-1-5 grants the Department of Health the power to adopt, amend, or rescind rules that shall have the force and effect of law, and Section 26-40-105 authorizes the Department to determine benefits and administration for the Children's Health Insurance Program.

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 did not receive any written or oral comments 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 is necessary because it describes the benefits, limitations, providers, reimbursement, and cost sharing for the Children's Health Insurance Program. Therefore, this rule should be continued.

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

HEALTH  
CHILDREN'S HEALTH INSURANCE PROGRAM  
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:

Kimi McNutt at the above address, by phone at 801-538-6381, by FAX at 801-538-6099, or by Internet E-mail at [KMCNUTT@utah.gov](mailto:KMCNUTT@utah.gov)

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 05/30/2008

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**Health, Children's Health Insurance  
Program  
R382-10  
Eligibility**

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

DAR FILE NO.: 31454  
FILED: 05/19/2008, 13:56

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-1-5 grants the Department of Health the power to adopt, amend, or rescind rules that shall have the force and effect of law, and Section 26-40-105 authorizes the Department to determine eligibility for the Children's Health Insurance Program.

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 did not receive any written or oral comments 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 is necessary because it describes the eligibility requirements for coverage in the Children's Health Insurance Program. Therefore, this rule should be continued.

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

HEALTH  
CHILDREN'S HEALTH INSURANCE PROGRAM  
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:

Kimi McNutt at the above address, by phone at 801-538-6381, by FAX at 801-538-6099, or by Internet E-mail at [KMCNUTT@utah.gov](mailto:KMCNUTT@utah.gov)

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 05/19/2008

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**Health, Health Care Financing,  
Coverage and Reimbursement Policy  
R414-51  
Dental, Orthodontia**

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

DAR FILE No.: 31452  
FILED: 05/19/2008, 13:47

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-1-5 grants the Department of Health the power to adopt, amend, or rescind rules that shall have the force and effect of law. In addition, 42 CFR 441.57 authorizes the Department to provide dental services.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department did not receive written or oral comments 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 should be continued because it outlines the Orthodontia Program for Medicaid eligible recipients.

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:  
Kimi McNutt at the above address, by phone at 801-538-6381, by FAX at 801-538-6099, or by Internet E-mail at KMCNUTT@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 05/19/2008



Health, Health Care Financing,  
Coverage and Reimbursement Policy

**R414-52**

Optometry Services

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

DAR FILE No.: 31453  
FILED: 05/19/2008, 13:53

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-1-5 grants the Department of Health the power to adopt, amend, or rescind rules that shall have the force and effect of law. 42 CFR 440.225 authorizes the state to provide optometry services to Medicaid clients.

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 did not receive any written or oral comments 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 should be continued because it outlines eligibility requirements, service coverage, and reimbursement for optometry services.

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:  
Kimi McNutt at the above address, by phone at 801-538-6381, by FAX at 801-538-6099, or by Internet E-mail at KMCNUTT@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 05/19/2008



Health, Health Systems Improvement,  
Licensing

**R432-35**

Background Screening

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

DAR FILE No.: 31489  
FILED: 05/27/2008, 14:19

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-21-9.5 of the Health Facility Licensure and Inspection Act requires the Utah

Department of Health to conduct a Bureau of Criminal Investigation (BCI) screening, and a child or disabled or elderly adult Licensing Information System screening on each person who provides direct care to a patient in licensed assisted living facilities, nursing care facilities, home health agencies, hospice agencies, small health care facilities, and End Stage Renal Disease facilities. Section 26-21-6 authorizes the Utah Department of Health to make rules as necessary to carry out the provisions of Title 26, Chapter 21. This rule implements the background screening requirements of Section 26-21-9.5.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule must be continued to allow the Utah Department of Health to meet the statutory requirements of Section 26-21-9.5. It is necessary to help protect those served in health care facilities from abuse.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Angela Anderson or Allan Elkins at the above address, by phone at 801-538-6450 or 801-538-6595, by FAX at 801-538-6163 or 801-538-6163, or by Internet E-mail at [angelaanderson@utah.gov](mailto:angelaanderson@utah.gov) or [aelkins@utah.gov](mailto:aelkins@utah.gov)

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 05/27/2008



Human Services, Administration  
**R495-881**  
Health Insurance Portability and  
Accountability Act (HIPAA) Privacy Rule  
Implementation

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

DAR FILE No.: 31484  
FILED: 05/27/2008, 10:52

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-1-111 authorizes the Department of Human Services to make administrative rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have not been any written comments received since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is to be continued to implement provisions required by 45 CFR Part 164, subpart E, dealing with the treatment of certain individually identifiable health information held by the Department of Human Services. Upon review of this rule, the department notes that this rule needs to be amended to correct the citation for rulemaking authority and to correct some minor typographical errors. That amendment will be filed concurrently with this filing. (DAR NOTE: See the proposed amendment to Rule R495-881 under DAR No. 31485 in this issue, June 15, 2008, of the Bulletin.)

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

HUMAN SERVICES  
ADMINISTRATION  
120 N 200 W  
SALT LAKE CITY UT 84103-1500, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

L Ray Winger at the above address, by phone at 801-538-4319, by FAX at 801-538-4424, or by Internet E-mail at [raywinger@utah.gov](mailto:raywinger@utah.gov)

AUTHORIZED BY: Lisa-Michele Church, Executive Director

EFFECTIVE: 05/27/2008



Human Services, Substance Abuse and  
Mental Health, State Hospital  
**R525-2**  
Patient Rights

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

DAR FILE No.: 31450  
FILED: 05/19/2008, 07:29

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-15-606 authorizes the board to make rules applying to the state hospital, and the division has created this rule to clarify patients' rights as established in Section 62A-15-641.

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 regarding this rule have been received during the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of the rule is needed to inform patients and their families of patient rights while residing at the Utah State Hospital. It also informs them of how those rights are protected and who to contact with issues regarding patient rights. This rule is currently formatted without a statement of authority. An amendment will be filed in the future to add an authority and a purpose statement.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
HUMAN SERVICES  
SUBSTANCE ABUSE AND MENTAL HEALTH,  
STATE HOSPITAL  
UTAH STATE HOSPITAL  
PROVO UT 84603-0270, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Thom Dunford at the above address, by phone at 801-538-4519, by FAX at 801-538-9892, or by Internet E-mail at TDUNFORD@utah.gov

AUTHORIZED BY: Mark I Payne, Director

EFFECTIVE: 05/19/2008



**Human Services, Substance Abuse and Mental Health, State Hospital  
R525-3  
Medication Treatment of Patients**

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

DAR FILE NO.: 31449  
FILED: 05/19/2008, 07:28

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS

AUTHORIZE OR REQUIRE THE RULE: Section 62A-15-606 authorizes the board to make rules applying to the state hospital.

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 regarding this rule have been received during the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of the rule is needed to inform patients and outline the process by which the Utah State Hospital provides involuntary medication treatment. This rule is currently formatted without a statement of authority. An amendment will be filed in the future to add an authority and a purpose statement.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
HUMAN SERVICES  
SUBSTANCE ABUSE AND MENTAL HEALTH,  
STATE HOSPITAL  
UTAH STATE HOSPITAL  
PROVO UT 84603-0270, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Thom Dunford at the above address, by phone at 801-538-4519, by FAX at 801-538-9892, or by Internet E-mail at TDUNFORD@utah.gov

AUTHORIZED BY: Mark I Payne, Director

EFFECTIVE: 05/19/2008



**Human Services, Substance Abuse and Mental Health, State Hospital  
R525-4  
Visitors**

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

DAR FILE NO.: 31447  
FILED: 05/19/2008, 07:25

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-15-606 authorizes the board to make rules applying to the state hospital. The division has created this rule to clarify patients' rights as established in Section 62A-15-641.

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 regarding this rule have been received during the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of the rule is needed to inform the public on how they can visit patients at the Utah State Hospital. This rule is currently formatted without a statement of authority. An amendment will be filed in the future to add an authority and a purpose statement.

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

HUMAN SERVICES  
SUBSTANCE ABUSE AND MENTAL HEALTH,  
STATE HOSPITAL  
UTAH STATE HOSPITAL  
PROVO UT 84603-0270, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Thom Dunford at the above address, by phone at 801-538-4519, by FAX at 801-538-9892, or by Internet E-mail at TDUNFORD@utah.gov

AUTHORIZED BY: Mark I Payne, Director

EFFECTIVE: 05/19/2008

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Human Services, Substance Abuse and  
Mental Health, State Hospital

## **R525-5**

### **Background Checks**

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

DAR FILE NO.: 31448  
FILED: 05/19/2008, 07:27

#### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-15-606 authorizes the board to make rules applying to the state hospital.

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 regarding this rule have been received during the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of the rule is needed to inform potential employees and public persons wishing to volunteer at the Utah State Hospital that background checks will be conducted to determine appropriateness for employment and/or volunteer services. This rule is currently formatted without a statement of authority. An amendment will be filed in the future to add an authority and a purpose statement.

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

HUMAN SERVICES  
SUBSTANCE ABUSE AND MENTAL HEALTH,  
STATE HOSPITAL  
UTAH STATE HOSPITAL  
PROVO UT 84603-0270, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Thom Dunford at the above address, by phone at 801-538-4519, by FAX at 801-538-9892, or by Internet E-mail at TDUNFORD@utah.gov

AUTHORIZED BY: Mark I Payne, Director

EFFECTIVE: 05/19/2008

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Human Services, Substance Abuse and  
Mental Health, State Hospital

## **R525-7**

### **Complaints/Suggestions/Concerns**

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

DAR FILE NO.: 31451  
FILED: 05/19/2008, 07:30

#### **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: Section 62A-15-606 authorizes the board to make rules applying to the state hospital.

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 regarding this rule have been received during the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of the rule is

needed to inform patients and public members how to file a complaint, suggestion, or concern with the Utah State Hospital. This rule outlines the process. This rule is currently formatted without a statement of authority. An amendment will be filed in the future to add an authority and a purpose statement.

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

HUMAN SERVICES  
SUBSTANCE ABUSE AND MENTAL HEALTH,  
STATE HOSPITAL  
UTAH STATE HOSPITAL  
PROVO UT 84603-0270, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Thom Dunford at the above address, by phone at 801-538-4519, by FAX at 801-538-9892, or by Internet E-mail at TDUNFORD@utah.gov

AUTHORIZED BY: Mark I Payne, Director

EFFECTIVE: 05/19/2008

viatical settlements including licensing, annual reports, payments, disclosures, reasonable payments, verification of coverage, advertising, fraud reporting, prohibited practices, and form filing. All are necessary for the proper regulation of this product in the marketplace to protect the consumer. 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: 06/02/2008

Insurance, Administration  
**R590-222**  
Viatical Settlements

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

DAR FILE No.: 31523  
FILED: 06/02/2008, 17:00

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(3) authorizes the insurance commissioner to write rules to implement the provisions of the insurance code, in this case, specific requirements found in Subsection 31A-36-119(3). These requirements specify that the department may adopt rules to establish licensing requirements and standards for viatical settlement providers and producers, which is what this rule does.

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 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 provides the requirements and explanations regarding the business of

Natural Resources; Oil, Gas and  
Mining; Coal  
**R645-102**

Exemption for Coal Extraction  
Incidental to Government-Financed  
Highway or Other Construction

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

DAR FILE No.: 31509  
FILED: 06/02/2008, 09:35

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 40-10-6 and 40-10-6.5 provide for rulemaking authority to the Board of Oil, Gas and Mining as necessary for the regulation of coal mining operations and reclamation operations. Subsection 40-10-5(2) specifically authorizes an exemption from Title 40, Chapter 10, for extraction of coal as an incidental part of federal, state, or local government-financed highway or other construction under rules established by the division.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Three letters were recently received which support renewal of this rule.



REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary as it establishes an exemption to the coal mining and reclamation requirements for extraction of coal that is incidental to a government-financed highway or other construction. This rule should be continued so Utah's Coal Program continues to retain primacy under the federal Surface Mining Control and Reclamation Act.

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

NATURAL RESOURCES  
OIL, GAS AND MINING; COAL  
Room 1210  
1594 W NORTH TEMPLE  
SALT LAKE CITY UT 84116-3154, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Steve Schneider at the above address, by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 06/02/2008



**Natural Resources; Oil, Gas and  
Mining; Non-Coal  
R647-1  
Minerals Regulatory Program**

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

DAR FILE NO.: 31510  
FILED: 06/02/2008, 09:35

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 40-8-6 provides authority to the Board of Oil, Gas and Mining to enact rules that are reasonably necessary to carry out the purposes of the Utah Mined Land Reclamation Act. More specifically, Section 40-8-20 provides authority for the Minerals Program rules to apply to all lands within the state, Section 40-8-22 provides for authority to enter into cooperative agreements with other agencies, and Section 40-8-17 provides that Program approval does not relieve an operator from complying with other statutes and regulations.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Two letters were recently

received which support renewal of this rule. In addition, the Utah Bureau of Land Management (BLM) provided comments which are being analyzed for possible amendment to the rule, but BLM did not oppose renewal of the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued to provide the general conditions for all mineral mine operators for exploration, development and reclamation within Utah. Rule R647-1 provides an introduction to the remaining Mineral Program rules in Title R647, and should be continued.

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

NATURAL RESOURCES  
OIL, GAS AND MINING; NON-COAL  
Room 1210  
1594 W NORTH TEMPLE  
SALT LAKE CITY UT 84116-3154, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Steve Schneider at the above address, by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 06/02/2008



**Natural Resources; Oil, Gas and  
Mining; Non-Coal  
R647-2  
Exploration**

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

DAR FILE NO.: 31511  
FILED: 06/02/2008, 09:36

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 40-8-6 provides authority to the Board of Oil, Gas and Mining to enact rules that are reasonably necessary to carry out the purposes of the Utah Mined Land Reclamation Act. This rule reflects the state requirements involving exploration by minerals operators. Section 40-8-13 provides authority for the filing of a Notice of Intention, Section 40-8-14 provides authority for a surety, and Section 40-8-12.5 provides authority to require reclamation by operators.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Two letters were recently received which support renewal of this rule. In addition, the Utah Bureau of Land Management (BLM) provided comments which are being analyzed for possible amendment to the rule, but BLM did not oppose renewal of the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes requirements for exploration of minerals and should be continued to ensure that exploration of minerals in Utah occurs with the proper protection to the public and providing for subsequent use of the lands affected.

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

NATURAL RESOURCES  
OIL, GAS AND MINING; NON-COAL  
Room 1210  
1594 W NORTH TEMPLE  
SALT LAKE CITY UT 84116-3154, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Steve Schneider at the above address, by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 06/02/2008

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**Natural Resources; Oil, Gas and  
Mining; Non-Coal  
R647-3  
Small Mining Operations**

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

DAR FILE NO.: 31512  
FILED: 06/02/2008, 09:36

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 40-8-6 provides authority to the Board of Oil, Gas and Mining to enact rules that are reasonably necessary to carry out the purposes of the Utah Mined Land Reclamation Act. This rule reflects the state requirements involving mineral operations for small mines. Section 40-8-13 provides authority for the filing of a Notice of Intention, Section 40-8-14 provides authority for a surety, Section 40-8-12.5 provides authority to require reclamation,

and Section 40-8-21 provides authority pertaining to suspension or termination of operations.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Two letters were recently received which support renewal of this rule. In addition, the Utah Bureau of Land Management (BLM) provided comments which are being analyzed for possible amendment to the rule, but BLM did not oppose renewal of the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes requirements for small mineral mines and should be continued to ensure that operation of Utah's small mineral mines, five acres of disturbed area or less, occurs with the proper protection to the public, and providing for subsequent use of the lands affected.

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

NATURAL RESOURCES  
OIL, GAS AND MINING; NON-COAL  
Room 1210  
1594 W NORTH TEMPLE  
SALT LAKE CITY UT 84116-3154, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Steve Schneider at the above address, by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 06/02/2008

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**Natural Resources; Oil, Gas and  
Mining; Non-Coal  
R647-4  
Large Mining Operations**

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

DAR FILE NO.: 31513  
FILED: 06/02/2008, 09:37

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 40-8-6 provides authority to the Board of Oil, Gas and Mining to enact rules that are reasonably necessary to carry out the purposes of the Utah Mined Land Reclamation Act. This rule reflects the state

requirements involving mineral operations for large mines. Section 40-8-13 provides authority for the filing of a Notice of Intention, Section 40-8-14 provides authority for a surety, Section 40-8-12.5 provides authority to require reclamation by operators, and Section 40-8-21 provides authority pertaining to suspension or termination of operations.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Two letters were recently received which support renewal of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes requirements for large mineral mines and should be continued to ensure that operation of Utah's large mineral mines, over five acres of disturbed area, occurs with the proper protection to the public, and providing for subsequent use of the lands affected.

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

NATURAL RESOURCES  
OIL, GAS AND MINING; NON-COAL  
Room 1210  
1594 W NORTH TEMPLE  
SALT LAKE CITY UT 84116-3154, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Steve Schneider at the above address, by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 06/02/2008

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**Natural Resources; Oil, Gas and  
Mining; Non-Coal**

**R647-5**

**Administrative Procedures**

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

DAR FILE NO.: 31514  
FILED: 06/02/2008, 09:37

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 40-8-6 provides authority to the Board of Oil, Gas and Mining to enact rules that are reasonably necessary to carry out the purposes of the Utah Mined Land Reclamation Act. In addition, the Utah

Administrative Procedures Act, Title 63G, Chapter 4, provides authority for the administrative procedures applicable to this Minerals Program in Rule R647-5.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Two letters were recently received which support renewal of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes administrative procedures applicable to the Minerals Program and should be continued to provide administrative procedures at the informal and formal level to enable resolution of issues within the Division and also the Board of Oil, Gas and Mining.

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

NATURAL RESOURCES  
OIL, GAS AND MINING; NON-COAL  
Room 1210  
1594 W NORTH TEMPLE  
SALT LAKE CITY UT 84116-3154, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Steve Schneider at the above address, by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 06/02/2008

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**Natural Resources, Wildlife Resources**

**R657-53**

**Amphibian and Reptile Collection,  
Importation, Transportation, and  
Possession**

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

DAR FILE NO.: 31508  
FILED: 06/02/2008, 07:19

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Sections 23-14-18 and 23-14-19, the Wildlife Board is authorized and required to regulate and prescribe the means to allow the collection, importation, exportation, transportation, and possession of amphibians and reptiles and their parts.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments supporting or opposing Rule R657-53 were received since 06/03/2003 when the rule was last reviewed.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-53 governs the collection, importation, exportation, transportation, and possession of amphibians and reptiles and their parts. The procedures adopted in this rule have provided an effective and efficient process. Continuation of this rule is necessary for continued success of this program.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: James F Karpowitz, Director

EFFECTIVE: 06/02/2008

Professional Practices Advisory  
Commission, Administration

**R686-101**

Alcohol Related Offenses

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

DAR FILE NO.: 31521  
FILED: 06/02/2008, 13:54

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-6-306(1)(a) directs the Utah Professional Practices Advisory Commission (UPPAC) to adopt rules to carry out its responsibilities under the law.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to provide necessary procedures for UPPAC to recommend educator discipline and to make licensing recommendations when applicants or renewals have alcohol related offenses. Therefore, this rule should be continued.

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

PROFESSIONAL PRACTICES ADVISORY  
COMMISSION  
ADMINISTRATION  
250 E 500 S  
SALT LAKE CITY UT 84111, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kathy Akin or Carol Lear at the above address, by phone at 801-538-7830 or 801-538-7835, by FAX at 801-538-7768 or 801-538-7768, or by Internet E-mail at kathy.akin@schools.utah.gov or carol.lear@schools.utah.gov

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

EFFECTIVE: 06/02/2008

Professional Practices Advisory  
Commission, Administration  
**R686-102**  
Drug Related Offenses

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

DAR FILE NO.: 31522  
FILED: 06/02/2008, 13:55

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-6-306(1)(a) directs the Utah Professional Practices Advisory Commission (UPPAC) to adopt rules to carry out its responsibilities under the law.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to provide necessary procedures for UPPAC to recommend

educator discipline and to make licensing recommendations when applicants or renewals have drug related offenses. Therefore, this rule should be continued.

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

PROFESSIONAL PRACTICES ADVISORY  
COMMISSION  
ADMINISTRATION  
250 E 500 S  
SALT LAKE CITY UT 84111, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

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

EFFECTIVE: 06/02/2008

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## Regents (Board Of), Administration

### **R765-136**

## Language Proficiency in the Utah System of Higher Education

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

DAR FILE No.: 31490  
FILED: 05/27/2008, 16:05

### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63G-1-201 (Official State Language) establishes English as the official language for Utah System of Higher Education institutions and the Utah Higher Education Assistance Authority.

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 during the period since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuance of this rule ensures compliance with state law and will facilitate efficient transactions, learning and progression of citizens seeking benefits of higher education in public colleges and universities.

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

REGENTS (BOARD OF)  
ADMINISTRATION  
BOARD OF REGENTS BUILDING, THE GATEWAY  
60 SOUTH 400 WEST  
SALT LAKE CITY UT 84101-1284, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ronell Crossley at the above address, by phone at 801-321-7291, by FAX at 801-321-7299, or by Internet E-mail at rcrossley@utahsbr.edu

AUTHORIZED BY: David Buhler, Interim Commissioner

EFFECTIVE: 05/27/2008

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## Regents (Board Of), Administration

### **R765-254**

## Secure Area Hearing Rooms

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

DAR FILE No.: 31492  
FILED: 05/27/2008, 16:43

### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 53B-2-106 and 53B-3-1-3 permit the presidents of public colleges and universities and the Board of Regents to establish procedures and rules to allow for safe and effective administration of the mission of the respective schools. Title 76 addresses issues involving criminal actions and the protection against such actions on college campuses. Sections 76-8-311.1 and 76-10-523.5 and Title 76, Chapter 8, Part 7, require institutions to provide a meeting place for hearings that is secure from firearms, explosives, chemical, and incendiary devices.

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 by this agency since the last five-year review was made.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuance of this rule is necessary to assure compliance with Section 76-8-311.1 and Title 76, Chapter 8, Part 7, for the well-being of the public when hearings are held on campuses of public institutions of higher education in Utah.

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

REGENTS (BOARD OF)  
ADMINISTRATION  
BOARD OF REGENTS BUILDING, THE GATEWAY  
60 SOUTH 400 WEST  
SALT LAKE CITY UT 84101-1284, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ronell Crossley at the above address, by phone at 801-321-7291, by FAX at 801-321-7299, or by Internet E-mail at rcrossley@utahsbr.edu

AUTHORIZED BY: David Buhler, Interim Commissioner

EFFECTIVE: 05/27/2008

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

REGENTS (BOARD OF)  
ADMINISTRATION  
BOARD OF REGENTS BUILDING, THE GATEWAY  
60 SOUTH 400 WEST  
SALT LAKE CITY UT 84101-1284, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ronell Crossley at the above address, by phone at 801-321-7291, by FAX at 801-321-7299, or by Internet E-mail at rcrossley@utahsbr.edu

AUTHORIZED BY: David Buhler, Interim Commissioner

EFFECTIVE: 06/02/2008

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Regents (Board Of), Administration  
**R765-555**  
Policy on Colleges and Universities  
Providing Facilities, Goods and  
Services in Competition with Private  
Enterprise

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

DAR FILE NO.: 31515  
FILED: 06/02/2008, 11:33

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53B-1-103 establishes and identifies the State Board of Regents as the administrative body for control, management, and supervision of public institutions of higher education in Utah. The Board of Regents provides guidelines and oversight for system institutions to ensure goods, services, and facilities on campuses are not promoted to the general public in competition with private businesses.

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 during or since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of this rule is required to comply with intent and policy for institutions of higher education to not provide competitive goods or services to the public at large.

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Workforce Services, Unemployment  
Insurance  
**R994-201**  
Definition of Terms in Employment  
Security Act

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

DAR FILE NO.: 31467  
FILED: 05/20/2008, 15:45

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-1-104 authorizes the Department of Workforce Services to adopt rules. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Subsection 35A-4-502(1)(b) authorizes the Department to make rules necessary for the administration of the Employment Security Act.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule provides definitions necessary for interpreting other rules in this title. Many of the definitions are statutory or federal. Therefore, this rule should be continued.

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

WORKFORCE SERVICES  
UNEMPLOYMENT INSURANCE  
140 E 300 S  
SALT LAKE CITY UT 84111-2333, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 05/20/2008

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

WORKFORCE SERVICES  
UNEMPLOYMENT INSURANCE  
140 E 300 S  
SALT LAKE CITY UT 84111-2333, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 05/20/2008

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**Workforce Services, Unemployment  
Insurance  
R994-202  
Employing Units**

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

DAR FILE NO.: 31468  
FILED: 05/20/2008, 15:49

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-1-104 authorizes the Department of Workforce Services to adopt rules. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Subsection 35A-4-502(1)(b) authorizes the Department to make rules necessary for the administration of the Employment Security Act.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary as it provides definitions for employing units as used elsewhere in the rules. Therefore, this rule should be continued.

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**Workforce Services, Unemployment  
Insurance  
R994-208  
Wages**

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

DAR FILE NO.: 31469  
FILED: 05/20/2008, 15:55

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-1-104 authorizes the Department of Workforce Services to adopt rules. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Subsection 35A-4-502(1)(b) authorizes the Department to make rules necessary for the administration of the Employment Security Act.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule defines wages which is necessary for determining unemployment compensation. Most of these definitions are based on statute, case law, and federal law. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 05/20/2008



**End of the Five-Year Notices of Review and Statements of Continuation Section**



## NOTICES OF RULE EFFECTIVE DATES

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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 63G-3-301(9).

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### Abbreviations

AMD = Amendment  
CPR = Change in Proposed Rule  
NEW = New Rule  
R&R = Repeal and Reenact  
REP = Repeal

### Corrections

#### Administration

No. 30980 (AMD): R251-304. Contract Procedures.  
Published: March 1, 2008  
Effective: May 20, 2008

### Crime Victim Reparations

No. 31013 (AMD): R270-1-22. Sexual Assault Forensic Examinations.  
Published: March 15, 2008  
Effective: May 19, 2008

### Health

#### Epidemiology and Laboratory Services, Environmental Services

No. 31097 (AMD): R392-302. Design, Construction, and Operation of Public Pools.  
Published: April 15, 2008  
Effective: May 22, 2008

No. 30612 (NEW): R392-700. Indoor Tanning Bed Sanitation.  
Published: November 15, 2007  
Effective: May 16, 2008

No. 30612 (CPR): R392-700. Indoor Tanning Bed Sanitation.  
Published: April 1, 2008  
Effective: May 16, 2008

#### Center for Health Data, Health Care Statistics

No. 30956 (AMD): R428-13-4. Submission of Performance Measures.  
Published: March 1, 2008  
Effective: May 16, 2008

### Human Services

#### Services for People with Disabilities

No. 31084 (AMD): R539-9. Supported Employment Pilot Program.  
Published: April 15, 2008  
Effective: May 22, 2008

### Insurance

#### Administration

No. 31059 (AMD): R590-91. Credit Life Insurance and Credit Accident and Health Insurance.  
Published: April 1, 2008  
Effective: May 29, 2008

No. 30462 (AMD): R590-167-11. Actuarial Certification and Additional Filing Requirements.  
Published: October 15, 2007  
Effective: May 20, 2008

No. 30462 (CPR): R590-167-11. Individual, Small Employer, and Group Health Benefit Plan Rule.  
Published: February 1, 2008  
Effective: May 20, 2008

No. 31077 (AMD): R590-191. Unfair Life Insurance Claims Settlement Practices Rule.  
Published: April 15, 2008  
Effective: May 29, 2008

### Labor Commission

#### Occupational Safety and Health

No. 31102 (AMD): R614-1-4. Incorporation of Federal Standards.  
Published: April 15, 2008  
Effective: May 22, 2008

### Public Safety

#### Fire Marshal

No. 31076 (AMD): R710-1-4. Certificates of Registration.  
Published: April 15, 2008  
Effective: May 23, 2008

No. 31078 (AMD): R710-2-7. Importer, Wholesaler, Display or Special Effects Operator Licenses.  
Published: April 15, 2008  
Effective: May 23, 2008

No. 31080 (AMD): R710-5-3. Certificates of Registration.  
Published: April 15, 2008  
Effective: May 23, 2008

No. 31082 (AMD): R710-6-4. LP Gas Certificates.  
Published: April 15, 2008  
Effective: May 23, 2008

## NOTICES OF RULE EFFECTIVE DATES

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No. 31085 (AMD): R710-7. Concerns Servicing Automatic Fire Suppression Systems.  
Published: April 15, 2008  
Effective: May 23, 2008

No. 31086 (AMD): R710-11-3. Certificates of Registration.  
Published: April 15, 2008  
Effective: May 23, 2008

No. 31087 (AMD): R710-12-4. Training.  
Published: April 15, 2008  
Effective: May 23, 2008

### Transportation

#### Motor Carrier

No. 31090 (AMD): R909-75. Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Wastes.  
Published: April 15, 2008  
Effective: May 27, 2008

### Workforce Services

#### Employment Development

No. 31060 (AMD): R986-300-303. Eligibility, Income Standards, and Amount of Assistance.  
Published: April 1, 2008  
Effective: May 20, 2008

#### Unemployment Insurance

No. 31075 (AMD): R994-106-106. Non-Monetary Eligibility Determination.  
Published: April 15, 2008  
Effective: May 30, 2008

**End of the Notices of Rule Effective Dates Section**

# RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

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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 June 2, 2008, the effective dates of which are no later than June 15, 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/>).

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## RULES INDEX - BY AGENCY (CODE NUMBER)

### ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b>Administrative Services</b>					
<u>Administration</u>					
R13-1	Public Petitions for Declaratory Orders	31342	NSC	05/05/2008	Not Printed
R13-2	Access to Records	31343	NSC	05/05/2008	Not Printed
<u>Administrative Rules</u>					
R15-1	Administrative Rule Hearings	31143	NSC	05/05/2008	Not Printed
R15-2	Public Petitioning for Rulemaking	31144	NSC	05/05/2008	Not Printed
R15-3	Definitional Clarification of Administrative Rule	31145	NSC	05/05/2008	Not Printed
R15-4	Administrative Rulemaking Procedures	31146	NSC	05/05/2008	Not Printed
R15-5	Administrative Rules Adjudicative Proceedings	31147	NSC	05/05/2008	Not Printed

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Facilities Construction and Management</u>					
R23-13	State of Utah Parking Rules for Facilities Managed by the Division of Facilities Construction and Management	31063	5YR	03/17/2008	2008-8/50
R23-14	Management of Roofs on State Buildings	31064	5YR	03/17/2008	2008-8/50
<u>Finance</u>					
R25-2	Finance Adjudicative Proceedings	31318	NSC	05/05/2008	Not Printed
R25-5	Payment of Per Diem to Boards	31317	5YR	04/29/2008	2008-10/143
R25-6	Relocation Reimbursement	31316	5YR	04/29/2008	2008-10/143
R25-7	Travel-Related Reimbursements for State Employees	31319	5YR	04/29/2008	2008-10/144
R25-14	Payment of Attorneys' Fees in Death Penalty Cases	31363	EMR	05/05/2008	2008-10/140
<u>Fleet Operations</u>					
R27-4	Vehicle Replacement and Expansion of State Fleet	30618	AMD	03/06/2008	2007-22/9
<u>Fleet Operations, Surplus Property</u>					
R28-3	Utah State Agency for Surplus Property Adjudicative Proceedings	31117	5YR	04/04/2008	2008-9/52
<b>Agriculture and Food</b>					
<u>Conservation and Resource Management</u>					
R64-2	Utah Conservation Commission Electronic Meetings	31079	NEW	06/03/2008	2008-8/4
<u>Marketing and Development</u>					
R65-2	Utah Cherry Marketing Order	31007	5YR	02/15/2008	2008-5/38
R65-5	Utah Red Tart and Sour Cherry Marketing Order	31008	5YR	02/15/2008	2008-5/38
<u>Plant Industry</u>					
R68-5	Grain Inspection	31006	5YR	02/15/2008	2008-5/39
R68-7	Utah Pesticide Control Act	30611	AMD	01/07/2008	2007-22/11
R68-9	Utah Noxious Weed Act	31544	5YR	06/09/2008	Not Printed
R68-14	Quarantine Pertaining to Gypsy Moth - Lymantria Dispar	31125	5YR	04/04/2008	2008-9/52
R68-16	Utah Quarantine Pertaining to Pine Shoot Beetle, Tomocus Piniperda	31543	5YR	06/09/2008	Not Printed
R68-17	Quarantine Pertaining to Necrotic Strain of the Potato Virus Y	31009	REP	04/11/2008	2008-5/4
<b>Alcoholic Beverage Control</b>					
<u>Administration</u>					
R81-4C	Limited Restaurant Licenses	31154	NSC	05/01/2008	Not Printed
R81-4D	On-Premise Banquet License	31155	NSC	05/01/2008	Not Printed
<b>Auditor</b>					
<u>Administration</u>					
R123-3-1	Definitions	31257	NSC	05/05/2008	Not Printed
R123-3-2	Designation	31260	NSC	05/05/2008	Not Printed
R123-3-3	Adjudicative Proceedings	31261	NSC	05/05/2008	Not Printed
R123-4-1	Authority	31262	NSC	05/05/2008	Not Printed
R123-4-2	Definitions	31263	NSC	05/05/2008	Not Printed
R123-4-5	Intervention	31265	NSC	05/05/2008	Not Printed
R123-4-6	Petition Review and Disposition	31266	NSC	05/05/2008	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R123-4-7	Administrative Review	31267	NSC	05/05/2008	Not Printed
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<u>Administration</u>					
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R765-555	Policy on Colleges and Universities Providing Facilities, Goods and Services in Competition with Private Enterprise	31515	5YR	06/02/2008	2008-12/66
R765-605	Utah Centennial Opportunity Program for Education	31402	5YR	05/09/2008	2008-11/129
R765-606	Utah Leveraging Educational Assistance Partnership Program	31405	5YR	05/09/2008	2008-11/129
R765-607	Utah Higher Education Tuition Assistance Program	30957	5YR	02/08/2008	2008-5/60

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R810-3	Visitor Parking	30727	REP	03/06/2008	2007-24/21
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R810-5	Permit Types, Eligibility and Designated Parking Areas	30779	AMD	03/06/2008	2007-24/23
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R810-7	Nonresidents and Out-of-State Plates	30831	REP	03/06/2008	2008-1/27
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R810-9	Contractors and Their Employees	30836	AMD	03/06/2008	2008-1/29
R810-10	Enforcement System	30839	AMD	03/06/2008	2008-1/30
R810-11	Appeals System	30840	AMD	03/06/2008	2008-1/31
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<u>Pete Suazo Utah Athletic Commission</u>					
R859-1	Pete Suazo Utah Athletic Commission Act Rule	31028	AMD	05/01/2008	2008-6/15
R859-1-302	Renewal Cycle - Procedure	31029	AMD	05/01/2008	2008-6/16
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<u>Administration</u>					
R861-1A-20	Time of Appeal Pursuant to Utah Code Ann. Sections 59-1-301, 59-1-501, 59-2-1007, 59-7-517, 59-10-532, 9-10-533, 59-10-535, 59-12-114, 59-13-210, 63-46b-3, 63-46b-14	30688	AMD	01/11/2008	2007-23/68
R861-1A-24	Formal Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-502.5, 63-46b-8, and 63-46b-10	30589	AMD	01/11/2008	2007-21/69
R861-1A-26	Procedures for Formal Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-501 and 63-46b-6 and 63-46b-11	30717	AMD	01/11/2008	2007-23/69
R861-1A-40	Waiver of Requirement to Post Security Prior to Judicial Review Pursuant to Utah Code Ann. Section 59-1-611	30838	AMD	02/25/2008	2008-1/32
R861-1A-42	Waiver of Penalty and Interest for Reasonable Cause Pursuant to Utah Code Ann. Section 59-1-401	30835	AMD	02/25/2008	2008-1/33
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R865-9I-53	Disclosure of Reportable Transactions and Material Advisor List Pursuant to Utah Code Ann. Sections 59-1-1301 through 59-1-1309	30849	AMD	02/25/2008	2008-1/36
R865-19S-121	Sales and Use Tax Exemptions for Certain Purchases by a Mining Facility Pursuant to Utah Code Ann. Section 59-12-104	30841	AMD	02/25/2008	2008-1/37
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R994-508-118	What Constitutes Grounds to Reopen a Hearing	31071	NSC	04/14/2008	Not Printed

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**ABBREVIATIONS**

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

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	30703	R307-223	AMD	02/08/2008	2007-23/38
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<b><u>burglar alarms</u></b> Commerce, Occupational and Professional Licensing	31181	R156-55d	NSC	05/05/2008	Not Printed
<b><u>burns</u></b> Natural Resources, Forestry, Fire and State Lands	31112	R652-120	NSC	05/01/2008	Not Printed
<b><u>capacity development</u></b> Environmental Quality, Drinking Water	31157	R309-352	5YR	04/18/2008	2008-10/144
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<b><u>CERCLA</u></b> Environmental Quality, Environmental Response and Remediation	30567	R311-401-2	AMD	01/02/2008	2007-21/59
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<b><u>certificate of registration</u></b> Natural Resources, Wildlife Resources	31399	R657-45	5YR	05/08/2008	2008-11/127
	31050	R657-45-2	AMD	05/08/2008	2008-7/49
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	31246	R616-2	NSC	05/05/2008	Not Printed
	30943	R616-3-3	AMD	03/24/2008	2008-4/21
<b><u>certification of instructors</u></b> Human Services, Substance Abuse and Mental Health	31352	R523-22-9	NSC	05/05/2008	Not Printed
<b><u>certifications</u></b> Transportation, Motor Carrier	30785	R909-19	AMD	02/12/2008	2007-24/26
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	30720	R512-20	NSC	01/07/2008	Not Printed
	31043	R512-204	NEW	05/08/2008	2008-7/31
<b><u>child care</u></b> Workforce Services, Employment Development	31033	R986-700	AMD	05/01/2008	2008-6/21
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	31538	R430-50	5YR	06/06/2008	Not Printed
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	30978	R527-305	5YR	02/12/2008	2008-5/58
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	31454	R382-10	5YR	05/19/2008	2008-12/54
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	30928	R722-300	NSC	05/01/2008	Not Printed
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	30892	R156-55a	AMD	03/11/2008	2008-3/3
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	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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	31113	R708-18-1	NSC	05/05/2008	Not Printed
<b><u>driver license</u></b> Public Safety, Driver License	31119	R708-36-1	NSC	05/05/2008	Not Printed
	31123	R708-44-4	NSC	05/05/2008	Not Printed
<b><u>driver license verification</u></b> Public Safety, Driver License	31122	R708-43	NSC	05/05/2008	Not Printed
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	30885	R277-718	5YR	01/08/2008	2008-3/75
	30888	R277-730	5YR	01/08/2008	2008-3/77
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<b><u>educator licensing</u></b> 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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	30637	R317-13	NEW	02/04/2008	2007-22/61
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	30969	R307-224	5YR	02/08/2008	2008-5/45
	30704	R307-224-2	AMD	02/08/2008	2007-23/39
<b><u>electrologists</u></b> Commerce, Occupational and Professional Licensing	30953	R156-11a	AMD	04/10/2008	2008-5/5
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	30957	R765-607	5YR	02/08/2008	2008-5/60
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<b><u>higher education assistance</u></b>					
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	31484	R495-881	5YR	05/27/2008	2008-12/56
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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
	30916	R865-9I-37	AMD	03/14/2008	2008-3/63
	30849	R865-9I-53	AMD	02/25/2008	2008-1/36
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	31280	R380-210-6	NSC	05/05/2008	Not Printed
Health, Health Care Financing, Coverage and Reimbursement Policy	31424	R414-5	5YR	05/13/2008	2008-11/125
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	30967	R307-222	5YR	02/08/2008	2008-5/44
	30833	R307-222-1	NSC	02/08/2008	Not Printed
<b><u>housing</u></b>					
Labor Commission, Antidiscrimination and Labor, Fair Housing	31240	R608-1	NSC	05/05/2008	Not Printed
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	30926	R539-1-8	EMR	01/28/2008	2008-4/38
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	30955	R657-23-5	AMD	04/07/2008	2008-5/31
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	31053	R657-3	AMD	05/08/2008	2008-7/45
	31051	R657-53	AMD	05/08/2008	2008-7/50
	31508	R657-53	5YR	06/02/2008	2008-12/63
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Public Service Commission, Administration	31374	R746-349-3	NSC	05/05/2008	Not Printed
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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
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	30720	R512-20	NSC	01/07/2008	Not Printed
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Tax Commission, Auditing	30916	R865-91-37	AMD	03/14/2008	2008-3/63
	30849	R865-91-53	AMD	02/25/2008	2008-1/36
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	30611	R68-7	AMD	01/07/2008	2007-22/11
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	31525	R590-219	5YR	06/04/2008	Not Printed
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	30942	R610-2-6	AMD	03/24/2008	2008-4/19
	31243	R610-3	NSC	05/05/2008	Not Printed
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	30941	R610-3-4	AMD	03/24/2008	2008-4/20
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	31511	R647-2	5YR	06/02/2008	2008-12/61
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	30968	R307-223	5YR	02/08/2008	2008-5/45
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	30892	R156-55a	AMD	03/11/2008	2008-3/3
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<b><u>operating permits</u></b> Environmental Quality, Air Quality	30700	R307-215	REP	02/08/2008	2007-23/31
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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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<b><u>secure area hearing rooms</u></b> Regents (Board Of), Administration	31492	R765-254	5YR	05/27/2008	2008-12/65
<b><u>secure areas</u></b> Human Services, Substance Abuse and Mental Health, State Hospital	31031	R525-6	NEW	05/01/2008	2008-6/7
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<b><u>security guards</u></b> Commerce, Occupational and Professional Licensing	31182	R156-63	NSC	05/05/2008	Not Printed
<b><u>self insurance plans</u></b> Labor Commission, Industrial Accidents	31230	R612-3	5YR	04/28/2008	2008-10/149
<b><u>seminars</u></b> Human Services, Substance Abuse and Mental Health	31353	R523-24-13	NSC	05/05/2008	Not Printed
<b><u>seniors</u></b> Human Services, Aging and Adult Services	31027	R510-105	5YR	02/27/2008	2008-6/26
<b><u>sentinel event</u></b> Health, Administration	31286	R380-200	NSC	05/05/2008	Not Printed
<b><u>server training</u></b> Human Services, Substance Abuse and Mental Health	31351	R523-23-13	NSC	05/05/2008	Not Printed
<b><u>settlements</u></b> Labor Commission, Adjudication	31236	R602-2-1	NSC	05/05/2008	Not Printed
	30811	R602-2-4	AMD	02/07/2008	2008-1/14
	31238	R602-3	NSC	05/05/2008	Not Printed
	30810	R602-3-3	AMD	02/07/2008	2008-1/16
Labor Commission, Industrial Accidents	31252	R612-10	NSC	05/05/2008	Not Printed
<b><u>sewage effluent use</u></b> Natural Resources, Water Rights	30947	R655-7	5YR	02/01/2008	2008-4/47
<b><u>sewage treatment</u></b> Environmental Quality, Water Quality	31103	R317-101	5YR	04/02/2008	2008-9/53

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<b><u>SLCC</u></b> Regents (Board Of), Salt Lake Community College	31344	R784-1	NSC	05/05/2008	Not Printed
<b><u>SLEAP</u></b> Regents (Board Of), Administration	31405	R765-606	5YR	05/09/2008	2008-11/129
<b><u>social security numbers</u></b> 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
<b><u>social services</u></b> Human Services, Administration	30773	R495-861	AMD	01/30/2008	2007-24/18
Human Services, Child and Family Services	30718	R512-50	REP	01/07/2008	2007-23/60
	30721	R512-50	NSC	01/07/2008	Not Printed
<b><u>solar</u></b> Natural Resources, Geological Survey	30902	R638-2-6	AMD	03/10/2008	2008-3/35
<b><u>solicitations</u></b> Commerce, Consumer Protection	31216	R152-22-9	NSC	05/05/2008	Not Printed
<b><u>solid waste management</u></b> Environmental Quality, Solid and Hazardous Waste	30990	R315-301	5YR	02/14/2008	2008-5/48
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	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
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	30987	R315-318	5YR	02/14/2008	2008-5/57
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	31319	R25-7	5YR	04/29/2008	2008-10/144
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	30612	R392-700	NEW	05/16/2008	2007-22/65
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Tax Commission, Auditing	30916	R865-9I-37	AMD	03/14/2008	2008-3/63
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Labor Commission, Antidiscrimination and Labor, Labor	31247	R610-1	NSC	05/05/2008	Not Printed
	31245	R610-2	NSC	05/05/2008	Not Printed
	30942	R610-2-6	AMD	03/24/2008	2008-4/19
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	30876	R610-3-4	EMR	01/03/2008	2008-3/70
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Human Services, Substance Abuse and Mental Health	31353	R523-24-13	NSC	05/05/2008	Not Printed
Public Service Commission, Administration	31375	R746-510	NSC	05/05/2008	Not Printed
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<b><u>transportation conformity</u></b>					
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	30705	R307-310-2	AMD	02/08/2008	2007-23/40
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Administrative Services, Facilities Construction and Management	31063	R23-13	5YR	03/17/2008	2008-8/50
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Transportation, Motor Carrier	30783	R909-1-1	AMD	02/15/2008	2007-24/25
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Transportation, Motor Carrier	30783	R909-1-1	AMD	02/15/2008	2007-24/25
	30785	R909-19	AMD	02/12/2008	2007-24/26
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Health, Epidemiology and Laboratory Services, Environmental Services	30612	R392-700	CPR	05/16/2008	2008-7/58
	30612	R392-700	NEW	05/16/2008	2007-22/65
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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
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Public Safety, Criminal Investigations and Technical Services, Criminal Identification	30929	R722-320	NSC	05/14/2008	Not Printed
	31434	R722-320	5YR	05/14/2008	2008-11/127
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Workforce Services, Unemployment Insurance	31075	R994-106-106	AMD	05/30/2008	2008-8/48
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	31469	R994-208	5YR	05/20/2008	2008-12/67
	30771	R994-508	AMD	02/15/2008	2007-24/30
	31020	R994-508-117	NSC	03/11/2008	Not Printed
	31071	R994-508-118	NSC	04/14/2008	Not Printed
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	30774	R313-12-111	AMD	04/11/2008	2007-24/8
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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
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	30593	R270-1-11	AMD	01/02/2008	2007-22/33
	31013	R270-1-22	AMD	05/19/2008	2008-6/3
	31323	R270-2	NSC	05/05/2008	Not Printed
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<b><u>victims of crime</u></b>					
Crime Victim Reparations, Administration	31322	R270-1	NSC	05/05/2008	Not Printed
	31323	R270-2	NSC	05/05/2008	Not Printed
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<b><u>victims of crimes</u></b>					
Crime Victim Reparations, Administration	30593	R270-1-11	AMD	01/02/2008	2007-22/33
	31013	R270-1-22	AMD	05/19/2008	2008-6/3
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	30988	R315-316	5YR	02/14/2008	2008-5/56
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	30987	R315-318	5YR	02/14/2008	2008-5/57
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	30637	R317-13	NEW	02/04/2008	2007-22/61
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Environmental Quality, Air Quality	30703	R307-223	AMD	02/08/2008	2007-23/38
	30968	R307-223	5YR	02/08/2008	2008-5/45
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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	2008-9/53
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	31095	R746-331	5YR	04/01/2008	2008-8/55
	31091	R746-332	5YR	04/01/2008	2008-8/55
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	30940	R653-2	NSC	02/25/2008	Not Printed
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Environmental Quality, Water Quality	30639	R317-1-4	AMD	02/04/2008	2007-22/52
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	30948	R317-9	5YR	02/01/2008	2008-4/42
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Agriculture and Food, Plant Industry	31544	R68-9	5YR	06/09/2008	Not Printed
<b><u>white-collar contests</u></b>					
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
<b><u>wildland fire fund</u></b>					
Natural Resources, Forestry, Fire and State Lands	31108	R652-121	NSC	05/01/2008	Not Printed
<b><u>wildland urban interface</u></b>					
Natural Resources, Forestry, Fire and State Lands	31109	R652-122-100	NSC	05/01/2008	Not Printed
<b><u>wildlife</u></b>					
Natural Resources, Wildlife Resources	31219	R657-2	NSC	05/05/2008	Not Printed
	31220	R657-3	NSC	05/05/2008	Not Printed
	31053	R657-3	AMD	05/08/2008	2008-7/45
	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
	31221	R657-12-1	NSC	05/05/2008	Not Printed
	30676	R657-13	AMD	01/07/2008	2007-23/61
	31048	R657-13-3	AMD	05/08/2008	2008-7/47
	30904	R657-13-4	AMD	03/10/2008	2008-3/43
	31222	R657-22-1	NSC	05/05/2008	Not Printed
	30828	R657-23	AMD	02/07/2008	2008-1/25
	30955	R657-23-5	AMD	04/07/2008	2008-5/31
	31223	R657-26	NSC	05/05/2008	Not Printed
	31224	R657-27-11	NSC	05/05/2008	Not Printed
	31225	R657-29	NSC	05/05/2008	Not Printed
	30906	R657-33	AMD	03/10/2008	2008-3/44
	31398	R657-34	5YR	05/08/2008	2008-11/125
	31401	R657-37	5YR	05/08/2008	2008-11/126
	31400	R657-42	5YR	05/08/2008	2008-11/126
	31049	R657-42-8	AMD	05/08/2008	2008-7/48
	31226	R657-48-7	NSC	05/05/2008	Not Printed
	31227	R657-52-6	NSC	05/05/2008	Not Printed
	31228	R657-53	NSC	05/05/2008	Not Printed
	31508	R657-53	5YR	06/02/2008	2008-12/63
	31051	R657-53	AMD	05/08/2008	2008-7/50
	30903	R657-58	NEW	03/10/2008	2008-3/47
	31052	R657-58	NSC	03/26/2008	Not Printed

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<b><u>wildlife law</u></b>					
Natural Resources, Wildlife Resources	31219	R657-2	NSC	05/05/2008	Not Printed
	31220	R657-3	NSC	05/05/2008	Not Printed
	30777	R657-12	AMD	01/22/2008	2007-24/19
	31221	R657-12-1	NSC	05/05/2008	Not Printed
	30676	R657-13	AMD	01/07/2008	2007-23/61
	31048	R657-13-3	AMD	05/08/2008	2008-7/47
	30904	R657-13-4	AMD	03/10/2008	2008-3/43
	31222	R657-22-1	NSC	05/05/2008	Not Printed
	31223	R657-26	NSC	05/05/2008	Not Printed
	31224	R657-27-11	NSC	05/05/2008	Not Printed
	31225	R657-29	NSC	05/05/2008	Not Printed
	31226	R657-48-7	NSC	05/05/2008	Not Printed
	31227	R657-52-6	NSC	05/05/2008	Not Printed
	31228	R657-53	NSC	05/05/2008	Not Printed
	30903	R657-58	NEW	03/10/2008	2008-3/47
	31052	R657-58	NSC	03/26/2008	Not Printed
<b><u>witness fees</u></b>					
Labor Commission, Adjudication	31250	R602-1	NSC	05/05/2008	Not Printed
<b><u>workers' compensation</u></b>					
Labor Commission, Adjudication	31236	R602-2-1	NSC	05/05/2008	Not Printed
	30811	R602-2-4	AMD	02/07/2008	2008-1/14
	31238	R602-3	NSC	05/05/2008	Not Printed
	30810	R602-3-3	AMD	02/07/2008	2008-1/16
Labor Commission, Industrial Accidents	31235	R612-1	NSC	05/05/2008	Not Printed
	31234	R612-2	5YR	04/28/2008	2008-10/148
	31230	R612-3	5YR	04/28/2008	2008-10/149
	30594	R612-4-2	AMD	01/01/2008	2007-22/76
	31229	R612-5	5YR	04/28/2008	2008-10/149
	31231	R612-7	5YR	04/28/2008	2008-10/150
	31251	R612-9-1	NSC	05/05/2008	Not Printed
	31252	R612-10	NSC	05/05/2008	Not Printed
<b><u>working toward employment</u></b>					
Workforce Services, Employment Development	31034	R986-400-406	AMD	05/01/2008	2008-6/20
<b><u>youth</u></b>					
Human Services, Administration, Administrative Services, Licensing	31017	R501-16	5YR	02/22/2008	2008-6/25
<b><u>zoological animals</u></b>					
Natural Resources, Wildlife Resources	31047	R657-3	5YR	03/11/2008	2008-7/65
	31053	R657-3	AMD	05/08/2008	2008-7/45