

UTAH STATE BULLETIN

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

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

Division of Administrative Rules, Salt Lake City 84114

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EDITOR'S NOTES

WORKING 4 UTAH

On June 26, 2008, Governor Huntsman announced the Working 4 Utah initiative. As part of the initiative, the Division of Administrative Rules will be going to the four-day work week beginning August 4, 2008. Our office will be open for business from 7:00 am to 6:00 pm, Monday through Thursday.

The anticipated advantages of the Governor's initiative include:

- a) Enhanced service to the public;
- b) Reduced commuting costs for state employees;
- c) Reduced operating costs for state buildings;
- d) Energy conservation; and
- e) Improved air quality.

If you have any questions regarding our new business hours, please contact: Ken Hansen, Director, Division of Administrative Rules, 4120 State Office Building, 450 North State St, Salt Lake City, UT 84114; or by phone at: 801-538-3764, by FAX at: 801-538-1773, or by e-mail at: khansen@utah.gov.

End of the Editor's Notes Section

SPECIAL NOTICES

Governor's Executive Order 2008-0005: Wildland Fire Management

EXECUTIVE ORDER

Wildland Fire Management

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

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

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

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

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

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

It is found, determined and declared that a "State of Emergency" exists statewide due to the threat to public safety, property, natural resources and the environment for thirty days, effective as of July 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 July 2008.

(State Seal)

Jon M. Huntsman, Jr.
Governor

ATTEST:

Gary R. Herbert
Lieutenant Governor

2008-0005

Health
Health Care Financing, Coverage and Reimbursement Policy

Change in Hours of Operation for the Division Health Care Financing (Medicaid and CHIP)

On June 26, 2008, Governor Jon Huntsman made an announcement regarding a new statewide initiative called "Working 4 Utah". This initiative is designed to address energy savings and decrease commuting expenses through the implementation of a compressed workweek for state agencies. The Governor has asked selected state agencies to change their hours of operation to Monday through Thursday from 7 am. to 6 pm.

To comply with the Governor's initiative, the Division of Health Care Financing (Medicaid and CHIP) will be adjusting its hours of operation to this 4-day schedule, beginning August 4, 2008.

For more information regarding this schedule change, please call the Medicaid Information Line at the following telephone numbers: in the Salt Lake City area - 538-6155; and in the rest of Utah and the surrounding states - 1-800-662-9651.

End of the Special Notices Section

NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between July 2, 2008, 12:00 a.m., and July 15, 2008, 11:59 p.m. are included in this, the August 1, 2008, issue of the *Utah State Bulletin*.

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

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

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least September 2, 2008. The agency may accept comment beyond this date and will list the last day the agency will accept comment in the RULE ANALYSIS. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency to hold a hearing on a specific PROPOSED RULE. Section 63G-3-302 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 November 29, 2008, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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

PROPOSED RULES are governed by Section 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.

The Proposed Rules Begin on the Following Page.

**Commerce, Occupational and
Professional Licensing
R156-63
Security Personnel Licensing Act Rule**

NOTICE OF PROPOSED RULE

(Repeal)
DAR FILE NO.: 31699
FILED: 07/14/2008, 08:09

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During the 2008 General Session of the Legislature, S.B. 98 was passed which amended the statute (Title 58, Chapter 63) governing security personnel. The amendments in S.B. 98 created a separate license category for the armored car industry. As a result of the statute changes, this rule is being repealed in its entirety and two new rules, Rule R156-63a regarding contract security industry and Rule R156-63b regarding armored car industry, are being proposed. (DAR NOTES: S.B. 98 (2008) is found at Chapter 246, Laws of Utah 2008, and was effective 05/05/2008. The proposed new Rule R156-63a is under DAR No. 31700 and the proposed new Rule R156-63b is under DAR No. 31701 both in this issue, August 1, 2008, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: This rule is being repealed in its entirety. However almost all of the provisions in this rule are being proposed in two new rules, Rule R156-63a and Rule R156-63b.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division anticipates no costs or savings to the state budget as a result of this rule filing because most of the provisions in this rule are now found in two new proposed rules, Rule R156-63a and Rule R156-63b.

❖ LOCAL GOVERNMENTS: This proposed rule repeal does not apply to local governments; therefore no costs or savings are anticipated. This proposed rule only applies to licensed unarmed private security officers, armed private security officers, contract security companies, and applicants for licensure in this classifications.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: This proposed rule repeal only applies to licensed unarmed private security officers, armed private security officers, contract security companies and applicants for licensure in this classifications, of which some may qualify as a "small business". However, the Division does not anticipate any costs or savings associated with this rule filing as almost all of the provisions in this rule are being proposed in two new rules, Rule R156-63a and Rule R156-63b.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This proposed rule repeal only applies to licensed unarmed private security officers, armed private security officers, contract security

companies and applicants for licensure in this classifications, which some may qualify as a "small business". However, the Division does not anticipate any costs or savings associated with this rule filing as almost all of the provisions in this rule are being proposed in two new rules, Rule R156-63a and Rule R156-63b.

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 repeals the current rule in order to replace it with two separate rules for the contract security industry and the armored car industry. Francine A. Giani, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/02/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 8/14/2008 at 9:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT.

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

AUTHORIZED BY: F. David Stanley, Director

**R156. Commerce, Occupational and Professional Licensing.
~~R156-63. Security Personnel Licensing Act Rule.~~**

~~R156-63-101. Title.~~

~~— This rule is known as the "Security Personnel Licensing Act Rule."~~

~~R156-63-102. Definitions.~~

~~— In addition to the definitions in Title 58, Chapters 1 and 63, as used in Title 58, Chapters 1 and 63 or this rule:~~

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

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

~~—(3) "Authorized emergency vehicle" is as defined in Subsection 41-6a-102(3).~~

~~—(4) "Contract security company" includes:~~

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

~~—(b) a company which hires as employees, individuals to provide security or guard services for the purpose of protecting tangible personal property, real property, or the life and well being of personnel employed by, or animals owned by or under the responsibility of the that company, as long as the security or guard services provided by the company do not benefit any person other than the employing company.~~

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

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

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

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

~~—(9) "Qualified continuing education" as used in this rule means continuing education that meets the standards set forth in Subsection R156-63-304.~~

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

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

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

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

R156-63-103. Authority—Purpose.

~~—This rule is adopted by the division under the authority of Subsection 58-1-106(1)(a) to enable the division to administer Title 58, Chapter 63.~~

R156-63-104. Organization—Relationship to Rule R156-1.

~~—The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.~~

R156-63-302a. Qualifications for Licensure—Application Requirements.

~~—(1) An application for licensure as a contract security company shall be accompanied by:~~

~~—(a) a certification of criminal record history for the applicant's qualifying agent issued by the Bureau of Criminal Identification, Utah Department of Public Safety, in accordance with the provisions of Subsection 53-10-108(1)(f)(ii);~~

~~—(b) two fingerprint cards for the applicant's qualifying agent, and all of the applicant's officers, directors, shareholders owning more than 5% of the stock, partners, proprietors, and responsible management personnel;~~

~~—(c) a fee established in accordance with Section 63J-1-303 equal to the cost of conducting a check of records of the Federal Bureau of Investigation, and Bureau of Criminal Identification, Utah Department of Public Safety, for each of the applicant's qualifying agent, officers, directors, shareholders owning more than 5% of the stock, partners, proprietors, and responsible management personnel; and~~

~~—(d) a copy of the driver license or Utah identification card issued to the applicant's qualifying agent, officers, directors, shareholders owning more than 5% of the stock, partners, proprietors, and responsible management personnel.~~

~~—(2) An application for licensure as an armed private security officer shall be accompanied by:~~

~~—(a) a certification of criminal record history for the applicant issued by the Bureau of Criminal Identification, Utah Department of Public Safety, in accordance with the provisions of Subsection 53-10-108(1)(f)(ii);~~

~~—(b) two fingerprint cards for the applicant;~~

~~—(c) a fee established in accordance with Section 63J-1-303 equal to the cost of conducting a check of records of:~~

~~—(i) the Federal Bureau of Investigation for the applicant; and~~

~~—(ii) the Bureau of Criminal Identification of the Utah Department of Public Safety; and~~

~~—(d) a copy of the driver license or Utah identification card issued to the applicant.~~

~~—(3) An application for licensure as an unarmed private security officer shall be accompanied by:~~

~~—(a) a certification of criminal record history for the applicant issued by the Bureau of Criminal Identification, Utah Department of Public Safety, in accordance with the provisions of Subsection 53-10-108(1)(f)(ii);~~

~~—(b) two fingerprint cards for the applicant;~~

~~—(c) a fee established in accordance with Section 63J-1-303 equal to the cost of conducting a check of records of:~~

~~—(i) the Federal Bureau of Investigation for the applicant; and~~

~~—(ii) the Bureau of Criminal Identification of the Utah Department of Public Safety; and~~

— (d) a copy of the driver license or Utah identification card issued to the applicant.

— (4) An applicant for licensure as an armed private security officer, unarmed private security officer, or as a qualifying agent for a contract security company by a person currently licensed under Title 58, Chapter 63, shall submit an application for change in license classification and shall be required to only document compliance with those requirements for licensure which have not been previously met in obtaining the currently held license.

~~R156-63-302b. Qualifications for Licensure—Basic Education and Training Requirements.~~

— In accordance with Subsections 58-1-203(2) and 58-1-301(3), the basic education and training requirements for licensure in Section 58-63-302 are defined, clarified, or established as follows:

— (1) each applicant for licensure as an armed private security officer shall successfully complete a basic education and training program approved by the division, the content of which is set forth in Section R156-63-603 and R156-63-604; and

— (2) each applicant for licensure as an unarmed private security officer shall successfully complete a basic education and training program approved by the division, the content of which is set forth in Section R156-63-603.

~~R156-63-302c. Qualifications for Licensure—Examination Requirements.~~

— In accordance with Subsections 58-1-203(2) and 58-1-301(3), the examination requirements for licensure in Section 58-63-302 are defined, clarified, or established as follows:

— (1) the qualifying agent for each applicant who is a contract security company shall obtain a passing score of at least 75% on the Utah Security Personnel Qualifying Agent's Examination; and

— (2) each applicant for licensure as an armed private security officer or an unarmed private security officer shall obtain a score of at least 75% on the basic education and training final examination approved by the division and offered by each provider of basic education and training as a part of the program.

~~R156-63-302d. Qualification for Licensure—Liability Insurance for a Contract Security Company.~~

— In accordance with Subsections 58-1-203(2) and 58-1-301(3), the insurance requirements for licensure as a contract security company in Subsection 58-63-302(1)(j)(i) are defined, clarified, or established as follows:

— (1) An applicant shall file with the division a "Certificate of Insurance" providing liability insurance for the following exposures:

- (a) general liability;
- (b) assault and battery;
- (c) personal injury;
- (d) false arrest;
- (e) libel and slander;
- (f) invasion of privacy;
- (g) broad form property damage;
- (h) damage to property in the care, custody or control of the contract security company; and
- (i) errors and omissions.

— (2) Said insurance shall provide liability limits in amounts not less than \$300,000 for each incident and not less than \$1,000,000 total aggregate for each annual term.

— (3) The insurance carrier must be an insurer which has a certificate of authority to do business in Utah, or is an authorized surplus lines insurer in Utah, or is authorized to do business under the laws of the state in which the corporate offices of foreign corporations are located.

— (4) All contract security companies shall have a current insurance certificate of coverage as defined in Subsection (1) on file at all times and available for immediate inspection by the division during normal working hours.

— (5) All contract security companies shall notify the division immediately upon cancellation of the insurance policy, whether such cancellation was initiated by the insurance company or the insured agency.

~~R156-63-302e. Qualifications for Licensure—Age Requirement for Armed Private Security Officer.~~

— An armed private security officer must be 18 years of age or older at the time of submitting an application for licensure in accordance with Subsection 76-10-509(1).

~~R156-63-302f. Qualifications for Licensure—Good Moral Character—Disqualifying Convictions.~~

— (1) In addition to those criminal convictions prohibiting licensure as set forth in Subsections 58-63-302(1)(h), (2)(c) and (3)(c), the following is a list of criminal convictions which may disqualify a person from obtaining or holding an unarmed private security officer license, an armed private security officer license, or a contract security company license:

- (a) crimes against a person as defined in Title 76, Chapter 5, Part 1;
- (b) theft, including retail theft, as defined in Title 76;
- (c) larceny;
- (d) sex offenses as defined in Title 76, Part 4;
- (e) any offense involving controlled dangerous substances;
- (f) fraud;
- (g) extortion;
- (h) treason;
- (i) forgery;
- (j) arson;
- (k) kidnapping;
- (l) perjury;
- (m) conspiracy to commit any of the offenses listed herein;
- (n) hijacking;
- (o) burglary;
- (p) escape from jail, prison, or custody;
- (q) false or bogus checks;
- (r) terrorist activities;
- (s) desertion;
- (t) pornography; and
- (u) any attempt to commit any of the above offenses.

— (2) Applications for licensure or renewal of licensure in which the applicant, or in the case of a contract security company, the officers, directors, and shareholders with 5% or more of the stock of the company, has a criminal background shall be considered on a case by case basis, including a consideration of the following:

- (a) the duties violated;
- (b) the potential or actual injury caused by the applicant's unprofessional conduct; and
- (c) the existence of aggravating or mitigating factors.

R156-63-303. Renewal Cycle—Procedures.

—(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 63 is established by rule in Section R156-1-308.

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

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

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

—(2) Armed and unarmed private security officers shall complete 16 hours of continuing education every two years consisting of formal classroom education.

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

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

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

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

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

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

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

—(a) company operational procedures manual;

—(b) applicable state laws and rules;

—(c) legal powers and limitations of private security officers;

—(d) observation and reporting techniques;

—(e) ethics; and

—(f) emergency techniques.

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

—(1) In accordance with Subsections 58-1-203(1)(g) and 58-1-308(3)(b), there is created a demonstration of a clear criminal history

as a condition of renewal or reinstatement of licenses issued under Title 58, Chapter 63 in the classifications of armed private security officer, unarmed private security officer, and for the qualifying agent for a contract security company.

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

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

R156-63-306. Change of Qualifying Agent.

—Within 30 days after a qualifying agent for a licensed contract security company ceases employment with the licensee, or for any other reason is not qualified to be the licensee's qualifier, the contract security company shall file with the division an application for change of qualifier on forms provided by the division, accompanied by a fee established in accordance with Section 63J-1-303.

R156-63-307. Exemptions from Licensure.

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

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

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

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

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

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

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

R156-63-502. Unprofessional Conduct.

—"Unprofessional conduct" includes the following:

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

—(2) employment of an unarmed or armed private security officer by a contract security company, as an on-the-job trainee pursuant to

Section R156-63-307, who has been convicted of a felony or a misdemeanor crime of moral turpitude;

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

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

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

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

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

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

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

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

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

R156-63-503. Administrative Penalties.

— (1) In accordance with Subsection 58-63-503, the following citation fine schedule shall apply to citations issued under Title 58, Chapter 63:

TABLE

FINE SCHEDULE

FIRST OFFENSE

| Violation | Contract Security Company | Armed or Unarmed Security Officer |
|--------------|---------------------------|-----------------------------------|
| 58-63-501(1) | \$ 800.00 | N/A |
| 58-63-501(3) | \$ 800.00 | \$ 500.00 |

SECOND OFFENSE

| | | |
|--------------|------------|------------|
| 58-63-501(1) | \$1,600.00 | \$1,000.00 |
| 58-63-501(3) | \$1,600.00 | \$1,000.00 |

— (2) Citations shall not be issued for third offenses, except in extraordinary circumstances approved by the investigative supervisor. If a citation is issued for a third offense, the fine is double the second offense amount, with a maximum amount not to

exceed the maximum fine allowed under Subsection 58-63-503(3)(h)(iii).

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

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

— (5) The presiding officer for a contested citation shall have the discretion, after a review of the aggravating and mitigating circumstances, to increase or decrease the fine amount imposed by an investigator based upon the evidence reviewed.

R156-63-601. Operating Standards—Firearms.

— (1) An armed private security officer shall carry only that firearm with which he has passed a firearms qualification course as defined in Section R156-63-603.

— (2) Shotguns and rifles, owned and issued by the contract security company, may be used in situations where they would constitute an appropriate defense for the armed private security officer and where the officer has completed an appropriate qualification course in their use.

— (3) An armed private security officer shall not carry a firearm except when acting on official duty as an employee of a contract security company, unless the licensee is otherwise qualified under the laws of the state to carry a firearm.

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

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

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

— (2) The program for armed private security officers shall provide content as established in Sections R156-63-603 and R156-63-604 of this rule.

— (3) The program for unarmed private security officers shall provide content as established in Section R156-63-603 of this rule.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

—(e) ethics;

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

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

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

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

—(j) sexual harassment in the work place; and

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

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

—(a) for unarmed and armed private security officers:

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

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

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

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

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

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

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

—(b) for unarmed and armed private security officers who work in the armored car service:

—(i) eight hours of driving policies and procedures, driver training and vehicle orientation;

—(ii) four hours of emergency situation response including terminal security, traffic accidents, robbery situations, homeland security and reducing risk potential through street procedures and tactics, securing robbery scenes, dealing with the media, etc.;

—(iii) three hours of armored operations, including proper paperwork, street control procedures, vehicle transfers, vault procedures, and other proper branch procedures; and

—(iv) one hour regarding sexual harassment in the work place; and

—(c) a final examination approved by the Division, which competently examines the applicant on the subjects included in the additional 16 hour program of basic education and training and which the student passes with a minimum score of 80%.

~~R156-63-604. Operating Standards – Content of Approved Basic Firearms Training Program for Armed Private Security Officers.~~

—An approved basic firearms training program for armed private security officers shall have the following components:

—(1) at least six hours of classroom firearms instruction to include the following:

—(a) the firearm and its ammunition;

—(b) the care and cleaning of the weapon;

—(c) no alterations of firing mechanism;

—(d) firearm inspection review procedures;

—(e) firearm safety on duty;

—(f) firearm safety at home;

—(g) firearm safety on range;

—(h) legal and ethical restraints on firearms use;

—(i) explanation and discussion of target environment;

—(j) stop failure drills;

—(k) explanation and discussion of stance, draw stroke, cover and concealment and other firearm fundamentals;

—(l) armed patrol techniques;

—(m) use of deadly force under Utah law and the provisions of Title 76, Chapter 2, Part 4 and a discussion of 18 CFR 44 Section 922;

—(n) the instruction that armed private security officers shall not fire their weapon unless there is an eminent threat to life and at no time will the weapon be drawn as a threat or means to force compliance with any verbal directive not involving eminent threat to life; and

—(2) at least six hours of firearms range instruction to include the following:

- (a) basic firearms fundamentals and marksmanship;
- (b) demonstration and explanation of the difference between sight picture, sight alignment and trigger control; and
- (c) a recognized practical pistol course on which the applicant achieves a minimum score of 80% using regular and low light conditions.

~~R156-63-605. Operating Standards—Uniform Requirements.~~

- (1) All unarmed and armed private security officers while on duty shall wear the uniform of their contract security company employer unless assigned to work undercover.
- (2) Each armed and unarmed private security officer wearing a soft uniform unless assigned to an undercover status shall at a minimum display on the outermost garment of the uniform the name of the contract security company under whom the armed and unarmed private security officer is employed, and the word "Security", "Contract Security", or "Security Officer".
- (3) The name of the contract security company and the word "Security" shall be of a size, style, shape, design and type which is clearly visible by a reasonable person under normal conditions.
- (4) Each armed and unarmed private security officer wearing a regular uniform shall display on the outermost garment of the uniform in a style, shape, design and type which is clearly visible by a reasonable person under normal conditions identification which contains:
 - (a) the name or logo of the contract security company under whom the armed or unarmed private security officer is employed; and
 - (b) the word "Security", "Contract Security", or "Security Officer".
- (5) Contract security companies shall have until July 1, 2005 to ensure that all uniforms comply with the requirements of this section. Thereafter, all uniforms, soft and regular, must meet all requirements established in this section.

~~R156-63-606. Operating Standards—Badges.~~

- Badges may be worn under the following conditions:
 - (1) they do not carry the seal of the state of Utah nor have the words "State of Utah";
 - (2) they shall contain the word "Security" and may contain the name of the company; and
 - (3) the use of a star badge with any number of points on a uniform, in writing, advertising, letterhead, or other written communication is prohibited.

~~R156-63-607. Operating Standards—Criminal Status of Officer, Qualifying Agent, Director, Partner, Proprietor, Private Security Officer or Manager of Contract Security Companies.~~

- In the event an officer, qualifying agent, director, partner, proprietor, private security officer, or any management personnel having direct responsibility for managing operations of the contract security company is found guilty of a felony, or of a misdemeanor which impacts upon that individual's ability to function within the security industry, said company shall within ten days reorganize and exclude said individual from participating at any level or capacity in the management, operations, sales, ownership, or employment of that company.

~~R156-63-608. Operating Standards—Implying an Association with Public Law Enforcement Prohibited.~~

- (1) No contract security company shall use any name which implies intentionally or otherwise that they are connected or associated with any public law enforcement agency.
- (2) No contract security company shall permit the use of the words "special police", "special officer", "cop", or any other words of a similar nature whether used orally or appearing in writing or on any uniform, badge, or cap.
- (3) No person licensed under this chapter shall use words or designations which would cause a reasonable person to believe he is associated with a public law enforcement agency.

~~R156-63-609. Operating Standards—Proper Identification of Private Security Officers.~~

- All armed and unarmed private security officers shall carry a valid security license together with a Utah identification card issued by the Division of Driver License or a current Utah driver license whenever he is performing the duties of an armed or unarmed private security officer and shall exhibit said license and identification upon request.

~~R156-63-610. Operating Standards—Vehicles.~~

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

~~R156-63-611. Operating Standards—Operational Procedures Manual.~~

- (1) Each contract security company shall develop and maintain an operational procedures manual which includes the following topics:
 - (a) detaining or arresting;
 - (b) restraining, detaining, and search and seizure;
 - (c) felony and misdemeanor definitions;
 - (d) observing and reporting;
 - (e) ingress and egress control;
 - (f) natural disaster preparation;
 - (g) alarm systems, locks, and keys;
 - (h) radio and telephone communications;
 - (i) crowd control;
 - (j) public relations;
 - (k) personal appearance and demeanor;
 - (l) bomb threats;
 - (m) fire prevention;
 - (n) mental illness;

- ~~— (o) supervision;~~
- ~~— (p) criminal justice system;~~
- ~~— (q) code of ethics for private security officers; and~~
- ~~— (r) sexual harassment in the workplace.~~
- ~~(2) The operations and procedures manual shall be immediately available to the division upon request.~~

~~R156-63-612. Operating Standards—Display of License.~~

~~— The license issued to a contract security company shall be prominently displayed in the company's principal place of business and a copy of the license shall be displayed prominently in all branch offices.~~

~~R156-63-613. Operating Standards—Standards of Conduct.~~

~~— All armed and unarmed private security officers licensed pursuant to Title 58, Chapter 63 if arrested, charged, or indicted for a criminal offense above the level of a Class C misdemeanor, shall within 72 hours notify the contract security company they are employed with of the criminal offense. The contract security company shall notify the Division of the criminal offense within 72 hours of notification by the licensee, in writing, including name, name of the arresting agency, the agency case number and the nature of the criminal offense.~~

~~**KEY: licensing, security guards, private security officers**
Date of Enactment or Last Substantive Amendment: July 19, 2007
Notice of Continuation: September 1, 2005
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-63-101]~~



**Commerce, Occupational and
 Professional Licensing
 R156-63a
 Security Personnel Licensing Act
 Contract Security Rule**

**NOTICE OF PROPOSED RULE
 (New Rule)**

DAR FILE NO.: 31700
 FILED: 07/14/2008, 08:12

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During the 2008 General Session of the Legislature, S.B. 98 was passed which amended the statute (Title 58, Chapter 63) governing security personnel. The amendments in S.B. 98 created a separate license category for the armored car industry. As a result of the statute changes, the current Rule R156-63 is being repealed in its entirety in a separate rule filing. This new Rule R156-63a is being proposed with respect to the contract security industry and the new Rule R156-63b is being proposed with respect to the armored car industry. (DAR NOTES: S.B. 98 (2008) is found at Chapter 246, Laws of Utah 2008, and was effective 05/05/2008. The proposed repeal of Rule R156-63 is under DAR No. 31699 and the

proposed new Rule R156-63b is under DAR No. 31701 both in this issue, August 1, 2008, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: This is a new rule being proposed with respect to the contract security industry. However almost all of the provisions in this new rule were in existence in Rule R156-63. The changes in this proposed new rule from the current Rule R156-63 are as follows: added Section R156-63a-201 which creates the Security Education Advisory Committee, a peer advisory committee to the Security Services Licensing Board. Service on this advisory committee is voluntary and no per diem costs will be incurred. In Section R156-63a-302c, increased the basic education and training final examination passing score from 75% to 80%. In Section R156-63a-306, in accordance with statute amendments, updated the time a contract security company has to change a qualifying agent. In Section R156-63a-502, added an additional unprofessional conduct definition in Subsection R156-63a-502(11).

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The Division anticipates it will incur minimal costs of approximately \$100 to print this rule once the proposed rule is made effective. Any costs incurred will be absorbed in the Division's current budget.
- ❖ LOCAL GOVERNMENTS: This proposed new rule does not apply to local governments; therefore no costs or savings are anticipated. This proposed rule only applies to licensed unarmed private security officers, armed private security officers, contract security companies, and applicants for licensure in this classifications.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: This proposed new rule only applies to licensed unarmed private security officers, armed private security officers, contract security companies, and applicants for licensure in these classifications, of which some may qualify as a "small business". However, the Division does not anticipate any costs or savings associated with this rule filing as almost all of the provisions in this new rule were in existence in the current Rule R156-63. This proposed new rule adapts the rule to the current governing statute for contract security and does not make any changes that will cause an impact on the citizens of the state.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This proposed new rule only applies to licensed unarmed private security officers, armed private security officers, contract security companies, and applicants for licensure in these classifications, of which some may qualify as a "small business". However, the Division does not anticipate any costs or savings associated with this rule filing as almost all of the provisions in this new rule were in existence in the current Rule R156-63. This proposed new rule adapts the rule to the current governing statute for contract security and does not make any changes that will cause an impact on the citizens of the state.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change for the contract security industry is adopted to implement a recent statutory change creating separate licensure classifications for armored car companies and armored car security officers. No fiscal impact to businesses is anticipated beyond those already considered in passage of the umbrella statute. In addition to separating the provisions relating to the contract security industry, this filing makes other technical clarifying amendments to correct statutory and rule references and to harmonize the rule with statutory provisions. No fiscal impact to businesses is expected from these clarifying provisions. Francine A. Gian, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/02/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 8/14/2008 at 9:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT.

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

AUTHORIZED BY: F. David Stanley, Director

R156. Commerce, Occupational and Professional Licensing.

R156-63a. Security Personnel Licensing Act Contract Security Rule.

R156-63a-101. Title.

This rule is known as the "Security Personnel Licensing Act Contract Security Rule."

R156-63a-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 63, as used in Title 58, Chapters 1 and 63 or this rule:

(1) "Approved basic education and training programs" means basic education and training that meets the standards set forth in Sections R156-63a-602 and R156-63a-603 that is approved by the Division.

(2) "Approved basic firearms education and training program" means basic firearms education and training that meets the standards set forth in Section R156-63a-604 that is approved by the Division.

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

(4) "Contract security company" includes a peace officer who engages in providing security or guard services when acting in a capacity other than as an employee of the law enforcement agency by whom he is employed.

(5) "Contract security company" does not include a company which hires as employees, individuals to provide security or guard services for the purpose of protecting tangible personal property, real property, or the life and well being of personnel employed by, or animals owned by or under the responsibility of that company, as long as the security or guard services provided by the company do not benefit any person other than the employing company.

(6) "Conviction" means criminal conduct where the filing of a criminal charge has resulted in:

(a) a finding of guilt based on evidence presented to a judge or jury;

(b) a guilty plea;

(c) a plea of nolo contendere;

(d) a plea of guilty or nolo contendere which is held in abeyance pending the successful completion of probation;

(e) a pending diversion agreement; or

(f) a conviction which has been reduced pursuant to Section 76-3-402.

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

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

(9) "Qualified continuing education" means continuing education that meets the standards set forth in Subsection R156-63a-304.

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

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

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

(13) "Supervision" means general supervision as defined in Section R156-1-102a(4)(c).

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

R156-63a-103. Authority - Purpose.

This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 63.

R156-63a-104. Organization - Relationship to Rule R156-1.

The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.

R156-63a-201. Advisory Peer Committee created - Membership - Duties.

(1) There is created in accordance with Subsection 58-1-203(1)(f), the Education Advisory Committee to the Security Services Licensing Board consisting of:

(a) one member who is an officer, director, manager or trainer of a contract security company;

(b) one member who is an officer, director, manager or trainer of an armored car company;

(c) one member who is an armored car security officer or a contract security officer;

(d) one member representing the general public; and

(e) one member who is a trainer with the Department of Public Safety, Peace Officer Standards and Training Division.

(2) The Education Advisory Committee shall be appointed and serve in accordance with Section R156-1-205. The duties and responsibilities of the Education Advisory Committee shall include assisting the Division in collaboration with the Board in their duties, functions, and responsibilities regarding the acceptability of educational programs requesting approval from the Division and periodically reviewing all approved basic education and training programs and firearm training programs regarding current curriculum requirements.

(3) The Education Advisory Committee shall consider, when advising the Board of the acceptability of an educational program, the following:

(a) whether the educational program meets the basic education and training requirements of Sections R156-63a-603 and R156-63b-603; and

(b) whether the educational program meet meets the basic firearm training program requirements of Sections R156-63a-604 and R156-63b-604.

R156-63a-302a. Qualifications for Licensure - Application Requirements.

(1) An application for licensure as a contract security company shall be accompanied by:

(a) a certification of criminal record history for the applicant's qualifying agent issued by the Bureau of Criminal Identification, Utah Department of Public Safety, in accordance with the provisions of Subsection 53-10-108(1)(f)(ii);

(b) two fingerprint cards for the applicant's qualifying agent, and all of the applicant's officers, directors, shareholders owning more than 5% of the stock, partners, proprietors, and responsible management personnel;

(c) a fee established in accordance with Section 63J-1-303 equal to the cost of conducting a check of records of the Federal Bureau of Investigation, and Bureau of Criminal Identification, Utah Department of Public Safety, for each of the applicant's qualifying agent, officers, directors, shareholders owning more than 5% of the stock, partners, proprietors, and responsible management personnel; and

(d) a copy of the driver license or Utah identification card issued to the applicant's qualifying agent, officers, directors, shareholders owning more than 5% of the stock, partners, proprietors, and responsible management personnel.

(2) An application for licensure as an armed or unarmed private security officer shall be accompanied by:

(a) a certification of criminal record history for the applicant issued by the Bureau of Criminal Identification, Utah Department of Public Safety, in accordance with the provisions of Subsection 53-10-108(1)(f)(ii);

(b) two fingerprint cards for the applicant;

(c) a fee established in accordance with Section 63J-1-303 equal to the cost of conducting a check of records of:

(i) the Federal Bureau of Investigation for the applicant; and

(ii) the Bureau of Criminal Identification of the Utah Department of Public Safety; and

(d) a copy of the driver license or Utah identification card issued to the applicant.

(3) Applications for change in licensure classification from unarmed to armed private security officer shall only require the following additional documentation:

(a) the required firearms training pursuant to Section 58-63-604; and

(b) an additional criminal history background check pursuant to Section 58-63-302 and Subsections R156-63a-302a(2).

R156-63a-302b. Qualifications for Licensure - Basic Education and Training Requirements.

In accordance with Subsections 58-1-203(1)(b) and 58-1-301(3), the basic education and training requirements for licensure in Section 58-63-302 are defined, clarified, or established herein.

(1) An applicant for licensure as an armed private security officer shall successfully complete a basic education and training program and a firearms training program approved by the Division, the content of which is set forth in Sections R156-63a-603 and R156-63a-604.

(2) An applicant for licensure as an unarmed private security officer shall successfully complete a basic education and training program approved by the Division, the content of which is set forth in Section R156-63a-603.

R156-63a-302c. Qualifications for Licensure - Examination Requirements.

In accordance with Subsections 58-1-203(1)(b) and 58-1-301(3), the examination requirements for licensure in Section 58-63-302 are defined, clarified, or established herein.

(1) The qualifying agent for an applicant who is a contract security company shall obtain a passing score of at least 75% on the Utah Security Personnel Qualifying Agent's Examination.

(2) An applicant for licensure as an armed private security officer or an unarmed private security officer shall obtain a score of at least 80% on the basic education and training final examination approved by the Division and administered by each provider of basic education and training.

R156-63a-302d. Qualification for Licensure - Liability Insurance for a Contract Security Company.

In accordance with Subsections 58-1-203(1)(b) and 58-1-301(3), the insurance requirements for licensure as a contract security company in Subsection 58-63-302(1)(j)(i) are defined, clarified, or established herein.

(1) An applicant shall file with the Division a "Certificate of Insurance" providing liability insurance for the following exposures:

- (a) general liability;
- (b) assault and battery;
- (c) personal injury;
- (d) false arrest;
- (e) libel and slander;
- (f) invasion of privacy;
- (g) broad form property damage;
- (h) damage to property in the care, custody or control of the contract security company; and
- (i) errors and omissions.

(2) The required insurance shall provide liability limits in amounts not less than \$300,000 for each incident and not less than \$1,000,000 total aggregate for each annual term.

(3) The insurance carrier must be an insurer which has a certificate of authority to do business in Utah, or is an authorized surplus lines insurer in Utah, or is authorized to do business under the laws of the state in which the corporate offices of foreign corporations are located.

(4) All contract security companies shall have a current insurance certificate of coverage as defined in Subsection (1) on file at all times and available for immediate inspection by the Division during normal working hours.

(5) All contract security companies shall notify the Division immediately upon cancellation of the insurance policy, whether such cancellation was initiated by the insurance company or the insured agency.

R156-63a-302e. Qualifications for Licensure - Age Requirement for Armed Private Security Officer.

An armed private security officer must be 18 years of age or older at the time of submitting an application for licensure in accordance with Subsections 76-10-509(1) and 76-10-509.4.

R156-63a-302f. Qualifications for Licensure - Good Moral Character - Disqualifying Convictions.

(1) In addition to those criminal convictions prohibiting licensure as set forth in Subsections 58-63-302(1)(h), (2)(c) and (3)(c), the following is a list of criminal convictions which may disqualify a person from obtaining or holding an unarmed private security officer license, an armed private security officer license, or a contract security company license:

- (a) crimes against a person as defined in Title 76, Chapter 5, Part 1;
- (b) theft, including retail theft, as defined in Title 76;
- (c) larceny;
- (d) sex offenses as defined in Title 76, Part 4;
- (e) any offense involving controlled dangerous substances;
- (f) fraud;
- (g) extortion;
- (h) treason;
- (i) forgery;
- (j) arson;
- (k) kidnapping;
- (l) perjury;
- (m) conspiracy to commit any of the offenses listed herein;
- (n) hijacking;
- (o) burglary;
- (p) escape from jail, prison, or custody;
- (q) false or bogus checks;

(r) terrorist activities;

(s) desertion;

(t) pornography;

(u) two or more convictions for driving under the influence of alcohol within the last three years; and

(v) any attempt to commit any of the above offenses.

(2) Where not automatically disqualified pursuant to Subsections 58-63-302(1)(a), (2)(c) and (3)(c), applications for licensure or renewal of licensure in which the applicant, or in the case of a contract security company, the officers, directors, and shareholders with 5% or more of the stock of the company, has a criminal background shall be considered on a case by case basis as defined in Section R156-1-302.

R156-63a-303. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 63 is established by rule in Section R156-1-308a.

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

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

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

(2) Armed and unarmed private security officers shall complete 16 hours of continuing education every two years consisting of formal classroom education. Such education shall include:

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

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

- (a) live classroom instruction concerning the restrictions in the use of deadly force and firearms safety on duty, at home and on the range; and
- (b) a recognized practical pistol recertification course on which the licensee achieves a minimum score of 80% using regular or low light conditions.

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

firearms education hours required for subsequent renewal of the license.

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

R156-63a-305. Criminal History Renewal and Reinstatement Requirement.

(1) In accordance with Subsections 58-1-203(1)(g) and 58-1-308(3)(b) and R156-1-302, a criminal history background check is required for all applications for renewal and reinstatement.

(2) The criminal history background check shall be performed by the Division and is not required to be submitted by the applicant.

(3) If the criminal background check discloses a criminal background, the Division shall evaluate the criminal history in accordance with Sections 58-63-302 and R156-63a-302f to determine appropriate licensure action.

R156-63a-306. Change of Qualifying Agent.

Within 60 days after a qualifying agent for a licensed contract security company ceases employment with the licensee, or for any other reason is not qualified to be the licensee's qualifier, the contract security company shall file with the Division an application for change of qualifier on forms provided by the Division, accompanied by a fee established in accordance with Section 63J-1-303.

R156-63a-307. Exemptions from Licensure.

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

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

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

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

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

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

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

R156-63a-502. Unprofessional Conduct.

"Unprofessional conduct" includes the following:

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

(2) employing an unarmed or armed private security officer, as an on-the-job trainee exempted from licensure pursuant to Section R156-63a-307, who has been convicted of:

(a) a felony;

(b) a misdemeanor crime of moral turpitude; or

(c) a crime that when considered with the duties and functions of an unarmed or armed private security officer by the Division and Board indicates that the best interests of the public are not served;

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

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

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

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

(7) being incompetent or negligent as an unarmed private security officer, an armed private security officer or by a contract security company that results in injury to a person or that creates an unreasonable risk that a person may be harmed;

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

(9) failing to immediately notify the Division of the cancellation of the contract security company's insurance policy;

(10) failing as a contract security company or an armed or unarmed private security officer to report a criminal offense pursuant to Section R156-63a-613; and

(11) wearing an uniform, insignia, badge or displaying a license that would lead a reasonable person to believe that an individual is connected with a contract security company, when not employed as an armed or unarmed private security officer by a contract security company.

R156-63a-503. Administrative Penalties.

(1) In accordance with Subsection 58-63-503, the following citation fine schedule shall apply to citations issued under Title 58, Chapter 63:

TABLE
FINE SCHEDULE

FIRST OFFENSE

| Violation | Contract Security Company | Armed or Unarmed Security Officer |
|--------------|---------------------------|-----------------------------------|
| 58-63-501(1) | \$ 800.00 | N/A |
| 58-63-501(3) | \$ 800.00 | \$ 500.00 |

SECOND OFFENSE

| | | |
|--------------|------------|------------|
| 58-63-501(1) | \$1,600.00 | \$1,000.00 |
| 58-63-501(3) | \$1,600.00 | \$1,000.00 |

(2) Citations shall not be issued for third offenses, except in extraordinary circumstances approved by the investigative supervisor. If a citation is issued for a third offense, the fine is

double the second offense amount, with a maximum amount not to exceed the maximum fine allowed under Subsection 58-63-503(3)(h)(iii).

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

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

(5) The presiding officer for a contested citation shall have the discretion, after a review of the aggravating and mitigating circumstances, to increase or decrease the fine amount imposed by an investigator based upon the evidence reviewed.

R156-63a-601. Operating Standards - Firearms.

(1) An armed private security officer shall carry only that firearm with which he has passed a firearms qualification course as defined in Section R156-63a-604.

(2) Shotguns and rifles, owned and issued by the contract security company, may be used in situations where they would constitute an appropriate defense for the armed private security officer and where the officer has completed an appropriate qualification course in their use.

(3) An armed private security officer shall not carry a firearm except when acting on official duty as an employee of a contract security company, unless the licensee is otherwise qualified under the laws of the state to carry a firearm.

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

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

(1) The applicant for program approval shall pay a fee for the approval of the education program.

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

(3) The program for armed private security officers shall provide content as established in Sections R156-63a-603 and R156-63a-604.

(4) The program for unarmed private security officers shall provide content as established in Section R156-63a-603.

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

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

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

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

(7) All approved basic education and training programs shall maintain training records on each individual trained including the dates of attendance at training, a copy of the instruction given, and

the location of the training. These records shall be maintained in the files of the education and training program for at least three years.

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

(9) Instructors, who present continuing education hours and are licensed armed or unarmed private security officers, shall receive credit for actual preparation time for up to two times the number of hours to which participants would be entitled. For example, for learning activities in which participants receive four continuing education hours, instructors may receive up to eight continuing education hours (four hours for preparation plus four hours for presentation).

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

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

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

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

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

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

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

(e) ethics;

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

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

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

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

(j) sexual harassment in the work place; and

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

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

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

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

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

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

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

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

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

(h) a final examination approved by the Division, which competently examines the applicant on the subjects included in the additional 16 hour program of basic education and training and which the student passes with a minimum score of 80%.

R156-63a-604. Operating Standards - Content of Approved Basic Firearms Training Program for Armed Private Security Officers.

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

(1) at least six hours of classroom firearms instruction to include the following:

- (a) the firearm and its ammunition;
- (b) the care and cleaning of the weapon;
- (c) the prohibition against alterations of firing mechanism;
- (d) firearm inspection review procedures;
- (e) firearm safety on duty;
- (f) firearm safety at home;
- (g) firearm safety on the range;
- (h) legal and ethical restraints on firearms use;
- (i) explanation and discussion of target environment;
- (j) stop failure drills;
- (k) explanation and discussion of stance, draw stroke, cover and concealment and other firearm fundamentals;
- (l) armed patrol techniques;
- (m) use of deadly force under Utah law and the provisions of Title 76, Chapter 2, Part 4 and a discussion of 18 USC 44 Section 922; and
- (n) the instruction that armed private security officers shall not fire their weapon unless there is an eminent threat to life and at no time shall the weapon be drawn as a threat or means to force compliance with any verbal directive not involving eminent threat to life; and

(2) at least six hours of firearms range instruction to include the following:

- (a) basic firearms fundamentals and marksmanship;
- (b) demonstration and explanation of the difference between sight picture, sight alignment and trigger control; and
- (c) a recognized practical pistol course on which the applicant achieves a minimum score of 80% using regular and low light conditions.

R156-63a-605. Operating Standards - Uniform Requirements.

(1) All unarmed and armed private security officers while on duty shall wear the uniform of their contract security company employer unless assigned to work undercover.

(2) Each armed and unarmed private security officer wearing a soft uniform unless assigned to an undercover status shall at a minimum display on the outermost garment of the uniform the name of the contract security company under whom the armed and

unarmed private security officer is employed, and the word "Security", "Contract Security", or "Security Officer".

(3) The name of the contract security company and the word "Security" shall be of a size, style, shape, design and type which is clearly visible by a reasonable person under normal conditions.

(4) Each armed and unarmed private security officer wearing a regular uniform shall display on the outermost garment of the uniform in a style, shape, design and type which is clearly visible by a reasonable person under normal conditions identification which contains:

(a) the name or logo of the contract security company under whom the armed or unarmed private security officer is employed; and

(b) the word "Security", "Contract Security", or "Security Officer".

R156-63a-606. Operating Standards - Badges.

(1) At the contract security company's request, an unarmed or armed private security officer may, while in uniform and while on duty, wear a shield inscribed with the name of the contract security company, a number and the words "Security," or "Security Officer". The shield shall not contain the words "State of Utah" or the seal of the state of Utah.

(2) The use of a star badge with any number of points on a uniform, in writing, advertising, letterhead, or other written communication is prohibited.

R156-63a-607. Operating Standards - Criminal Status of Officer, Qualifying Agent, Director, Partner, Proprietor, Private Security Officer or Manager of Contract Security Companies.

In the event an officer, qualifying agent, director, partner, proprietor, private security officer, or any management personnel having direct responsibility for managing operations of the contract security company has a conviction entered regarding:

- (a) a felony;
- (b) a misdemeanor crime of moral turpitude; or
- (c) a crime that when considered with the functions and duties of an unarmed or armed private security officer by the Division and Board indicates that the best interests of the public are not served, the company shall within ten days of the conviction or notice reorganize and exclude said individual from participating at any level or capacity in the management, operations, sales, ownership, or employment of that company.

R156-63a-608. Operating Standards - Implying an Association with Public Law Enforcement Prohibited.

(1) No contract security company shall use any name which implies intentionally or otherwise that the company is connected or associated with any public law enforcement agency.

(2) No contract security company shall permit the use of the words "special police", "special officer", "cop", or any other words of a similar nature whether used orally or appearing in writing or on any uniform, badge, or cap.

(3) No person licensed under this chapter shall use words or designations which would cause a reasonable person to believe he is associated with a public law enforcement agency.

R156-63a-609. Operating Standards - Proper Identification of Private Security Officers.

All armed and unarmed private security officers shall carry a valid security license together with a Utah identification card issued

by the Division of Driver License or a current Utah driver's license whenever performing the duties of an armed or unarmed private security officer and shall exhibit said license and identification upon request.

R156-63a-610. Operating Standards - Vehicles.

(1) No contract security company or its personnel shall utilize a vehicle whose markings, lighting, or signal devices imply that the vehicle is an authorized emergency vehicle pursuant to Subsection 41-6a-102(3).

(2) The word "Security", either alone or in conjunction with the company name, shall appear on each side and the rear of the company vehicle in letters no less than four inches in height and in a color contrasting with the color of the contract security company vehicle.

R156-63a-611. Operating Standards - Operational Procedures Manual.

(1) Each contract security company shall develop and maintain an operational procedures manual which includes the following topics:

- (a) detaining or arresting;
- (b) restraining, detaining, and search and seizure;
- (c) felony and misdemeanor definitions;
- (d) observing and reporting;
- (e) ingress and egress control;
- (f) natural disaster preparation;
- (g) alarm systems, locks, and keys;
- (h) radio and telephone communications;
- (i) crowd control;
- (j) public relations;
- (k) personal appearance and demeanor;
- (l) bomb threats;
- (m) fire prevention;
- (n) mental illness;
- (o) supervision;
- (p) criminal justice system;
- (q) code of ethics for private security officers; and
- (r) sexual harassment in the workplace.

(2) The operations and procedures manual shall be immediately available to the Division upon request.

R156-63a-612. Operating Standards - Display of License.

The license issued to a contract security company shall be prominently displayed in the company's principal place of business and a copy of the license shall be displayed prominently in all branch offices.

R156-63a-613. Operating Standards - Standards of Conduct.

- (1) Licensee employed by a contract security company:
 - (a) pursuant to Title 58, Chapter 63, a licensed armed or unarmed private security officer arrested, charged, or indicted for a criminal offense above the level of a Class C misdemeanor shall notify the licensee's employing contract security company within 72 hours of the arrest, charge, or indictment;
 - (b) within 72 hours after such notification by the employee, the employing contract security company shall notify the Division of the arrest, charge or indictment in writing; and
 - (c) the written notification shall include the employee's name, the name of the arresting agency, the agency case number, the date and the nature of the criminal offense.

- (2) Licensee not employed by a contract security company:
 - (a) pursuant to Title 58, Chapter 63, a licensed armed or unarmed private security officer who is not employed by a contract security company shall directly notify the Division in writing within 72 hours of any arrest, charge or indictment above the level of a Class C misdemeanor; and
 - (b) the written notification shall meet the requirements of Subsection (1)(c).

KEY: licensing, security guards, private security officers
Date of Enactment or Last Substantive Amendment: 2008
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-63-101



Commerce, Occupational and
Professional Licensing
R156-63b
Security Personnel Licensing Act
Armored Car Rule

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 31701

FILED: 07/14/2008, 08:14

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During the 2008 General Session of the Legislature, S.B. 98 was passed which amended the statute (Title 58, Chapter 63) governing security personnel. The amendments in S.B. 98 created a separate license category for the armored car industry. As a result of the statute changes, the current Rule R156-63 is being repealed in its entirety in a separate rule filing. New Rule R156-63a is being proposed with respect to the contract security industry and this new Rule R156-63b is being proposed with respect to the armored car industry. (DAR NOTES: S.B. 98 (2008) is found at Chapter 246, Laws of Utah 2008, and was effective 05/05/2008. The proposed repeal of Rule R156-63 is under DAR No. 31699 and the proposed new Rule R156-63a is under DAR No. 31700 both in this issue, August 1, 2008, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: This is a new rule being proposed with respect to the armored car companies and armored car security officers. The new rule provides the following: definitions, application requirements, basic education and training requirements, firearm training requirements, examination requirements, liability insurance for armored car company, age requirement for an armored car security officer, good moral character/disqualifying convictions, renewal cycle/procedures, continuing education for armored car security officers as a condition of renewal, criminal history renewal and reinstatement requirements, change of qualifying agent, exemptions from licensure, unprofessional conduct definitions, administrative penalties, operating standards for firearms, approved basic education

and training program for armored car security officers and content of approved basic education and training program, content of approved basic firearms training program, uniform requirements, badges, criminal status, implying an association with public law enforcement prohibited, proper identification of armored car security officers, operational procedures manual, display of license, and notification of criminal offense.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division anticipates it will incur minimal costs of approximately \$100 to print this rule once the proposed rule is made effective. Any costs incurred will be absorbed in the Division's current budget.

❖ LOCAL GOVERNMENTS: This proposed new rule does not apply to local governments; therefore no costs or savings are anticipated. This proposed rule only applies to applicants for licensure as an armored car company or an armored car security officer.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: This proposed new rule only applies to applicants for licensure as an armored car company or an armored car security officer, which some may qualify as a "small business". Any costs to be incurred by these two new license classifications were considered in the passage of S.B. 98 during the 2008 Legislative Session.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This proposed new rule only applies to applicants for licensure as an armored car company or an armored car security officer, which some may qualify as a "small business". Any costs to be incurred by these two new license classifications were considered in the passage of S.B. 98 during the 2008 Legislative Session.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule is adopted to implement a recent statutory change creating separate license classifications for armored car companies and armored car security officers. No fiscal impact to businesses is anticipated beyond those already considered in the passage of the umbrella statute. Francine A. Gian, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/02/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 8/14/2008 at 9:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT.

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

AUTHORIZED BY: F. David Stanley, Director

R156. Commerce, Occupational and Professional Licensing.
R156-63b. Security Personnel Licensing Act Armored Car Rule.
R156-63b-101. Title.

This rule is known as the "Security Personnel Licensing Act Armored Car Rule."

R156-63b-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 63, as used in Title 58, Chapters 1 and 63 or this rule:

(1) "Approved basic education and training program" means basic education and training that meets the standards set forth in Sections R156-63b-602 and R156-63b-603 that is approved by the Division.

(2) "Approved basic firearms education and training program" means basic firearms education and training that meets the standards set forth in Section R156-63b-604 that is approved by the Division.

(3) "Armored car company" includes a peace officer who engages in providing security or guard services when acting in a capacity other than as an employee of the law enforcement agency by whom he is employed.

(4) "Armored car company" does not include a company which hires as employees, individuals to provide security or guard services for the purpose of protecting tangible property, currency, valuables, jewelry, food stamps, or other high value items that require secured delivery from one place to another and are owned by or under the responsibility of that company, as long as the security or guard services provided by the company do not benefit any person other than the employing company.

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

(6) "Conviction" means criminal conduct where the filing of a criminal charge has resulted in:

(a) a finding of guilt based on evidence presented to a judge or jury;

(b) a guilty plea;

(c) a plea of nolo contendere;

(d) a plea of guilty or nolo contendere which is held in abeyance pending the successful completion of probation;

(e) a pending diversion agreement; or

(f) a conviction which has been reduced pursuant to Section 76-3-402.

(7) "Employee" means an individual providing services in the armored care industry for compensation when the amount of compensation is based directly upon the armored car services provided and upon which the employer is required under law to withhold federal and state taxes, and for whom the employer is

required under law to provide worker's compensation insurance coverage and pay unemployment insurance.

(8) "Officer" as used in Subsection 58-63-201(1)(a) means a manager, director, or administrator of an armored car company.

(9) "Qualified continuing education" means continuing education that meets the standards set forth in Subsection R156-63b-304.

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

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

(12) "Supervised on-the-job training" means training of an armored care security officer under the supervision of a licensed armored car security officer who has been assigned to train and develop the on-the-job trainee.

(13) "Supervision" means general supervision as defined in Section R156-1-102a(4)(c).

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

R156-63b-103. Authority - Purpose.

This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 63.

R156-63b-104. Organization - Relationship to Rule R156-1.

The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.

R156-63b-302a. Qualifications for Licensure - Application Requirements.

(1) An application for licensure as an armored car company shall be accompanied by:

(a) two fingerprint cards for the applicant's qualifying agent, and all of the applicant's officers, directors, shareholders owning more than 5% of the stock, partners, proprietors, and responsible management personnel;

(b) a fee established in accordance with Section 63J-1-303 equal to the cost of conducting a check of records of the Federal Bureau of Investigation, and Bureau of Criminal Identification, Utah Department of Public Safety, for each of the applicant's qualifying agent, officers, directors, shareholders owning more than 5% of the stock, partners, proprietors, and responsible management personnel; and

(c) a copy of the driver license or Utah identification card issued to the applicant's qualifying agent, officers, directors, shareholders owning more than 5% of the stock, partners, proprietors, and responsible management personnel.

(2) An application for licensure as an armored car security officer shall be accompanied by:

(a) two fingerprint cards for the applicant;

(b) a fee established in accordance with Section 63J-1-303 equal to the cost of conducting a check of records of:

(i) the Federal Bureau of Investigation for the applicant; and

(ii) the Bureau of Criminal Identification of the Utah Department of Public Safety; and

(c) a copy of the driver license or Utah identification card issued to the applicant.

R156-63b-302b. Qualifications for Licensure - Basic Education and Training Requirements.

In accordance with Subsections 58-1-203(1)(b) and 58-1-301(3), the basic education and training requirements for licensure in Section 58-63-302 are defined, clarified, or established herein. An applicant for licensure as an armored car security officer shall successfully complete a basic education and training program and a firearms training program approved by the Division, the content of which is set forth in Section R156-63b-603.

R156-63b-302c. Qualifications for Licensure - Firearm Training Requirements.

In accordance with Subsections 58-1-203(1)(b) and 58-1-301(3), the firearm training requirements for licensure in Subsection 58-63-302(4)(g) are defined, clarified, or established herein. An applicant for licensure as an armored car security officer shall successfully complete a firearms training program approved by the Division, the content of which is set forth in Section R156-63b-604.

R156-63b-302d. Qualifications for Licensure - Examination Requirements.

In accordance with Subsections 58-1-203(1)(b) and 58-1-301(3), the examination requirements for licensure in Section 58-63-302 are defined, clarified, or established herein.

(1) The qualifying agent for an applicant who is an armored car company shall obtain a passing score of at least 75% on the Utah Security Personnel Armored Car Qualifying Agent's Examination.

(2) An applicant for licensure as an armored car security officer shall obtain a score of at least 80% on the basic education and training final examination approved by the Division and administered by the provider of basic education and training.

R156-63b-302e. Qualification for Licensure - Liability Insurance for a Contract Security Company.

In accordance with Subsections 58-1-203(1)(b) and 58-1-301(3), the insurance requirements for licensure as an armored car company in Subsection 58-63-302(1)(j)(i) are defined, clarified, or established herein.

(1) An applicant shall file with the Division a "Certificate of Insurance" providing liability insurance for the following exposures:

(a) general liability;

(b) assault and battery;

(c) personal injury;

(d) false arrest;

(e) libel and slander;

(f) invasion of privacy;

(g) broad form property damage;

(h) damage to property in the care, custody or control of the contract security company; and

(i) errors and omissions.

(2) Said insurance shall provide liability limits in amounts not less than \$500,000 for each incident and not less than \$2,000,000 total aggregate for each annual term.

(3) The insurance carrier must be an insurer which has a certificate of authority to do business in Utah, or is an authorized surplus lines insurer in Utah, or is authorized to do business under the laws of the state in which the corporate offices of foreign corporations are located.

(4) All armored car companies shall have a current insurance certificate of coverage as defined in Subsection (1) on file at all times and available for immediate inspection by the Division during normal working hours.

(5) All armored car companies shall notify the Division immediately upon cancellation of the insurance policy, whether such cancellation was initiated by the insurance company or the insured agency.

R156-63b-302f. Qualifications for Licensure - Age Requirement for Armored Car Security Officer.

An armored car security officer must be 21 years of age or older at the time of submitting an application for licensure.

R156-63b-302g. Qualifications for Licensure - Good Moral Character - Disqualifying Convictions.

(1) In addition to those criminal convictions prohibiting licensure as set forth in Subsections 58-63-302(1)(h) and (4)(c), the following is a list of criminal convictions which may disqualify a person from obtaining or holding an armored care security officer license, or an armored car company license:

(a) crimes against a person as defined in Title 76, Chapter 5, Part 1;

(b) theft, including retail theft, as defined in Title 76;

(c) larceny;

(d) sex offenses as defined in Title 76, Part 4;

(e) any offense involving controlled dangerous substances;

(f) fraud;

(g) extortion;

(h) treason;

(i) forgery;

(j) arson;

(k) kidnapping;

(l) perjury;

(m) conspiracy to commit any of the offenses listed herein;

(n) hijacking;

(o) burglary;

(p) escape from jail, prison, or custody;

(q) false or bogus checks;

(r) terrorist activities;

(s) desertion;

(t) pornography;

(u) two or more convictions for driving under the influence of alcohol within the last three years; and

(v) any attempt to commit any of the above offenses.

(2) Where not automatically disqualified pursuant to Subsections 58-63-302(1)(h) and (4)(c), applications for licensure or renewal of licensure in which the applicant, or in the case of an armored car company, the officers, directors, and shareholders with 5% or more of the stock of the company, has a criminal background shall be considered on a case by case basis as defined in Section R156-1-302.

R156-63b-303. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 63 is established by rule in Section R156-1-308a.

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

R156-63b-304. Continuing Education for Armored Car Security Officers as a Condition of Renewal.

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

(2) Armored car security officers shall complete 16 hours of continuing education every two years consisting of formal classroom education. Such education shall include:

(a) company operational procedures manual;

(b) applicable state laws and rules;

(c) ethics; and

(d) emergency techniques.

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

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

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

(4) Firearms education and training shall comply with the provisions of Title 15, USC Chapter 35, the Armored Care Industry Reciprocity Act.

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

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

R156-63b-305. Criminal History Renewal and Reinstatement Requirement.

(1) In accordance with Subsections 58-1-203(1)(g) and 58-1-308(3)(b) and R156-1-302, a criminal history background check is required for all applications for renewal and reinstatement.

(2) The criminal history background check shall be performed by the Division and is not required to be submitted by the applicant.

(3) If the criminal background check discloses a criminal background, the Division shall evaluate the criminal history in accordance with Sections 58-63-302 and R156-63b-302g to determine appropriate licensure action.

R156-63b-306. Change of Qualifying Agent.

Within 60 days after a qualifying agent for a licensed armored car company ceases employment with the licensee, or for any other reason is not qualified to be the licensee's qualifier, the contract security company shall file with the Division an application for change of qualifier on forms provided by the Division, accompanied by a fee established in accordance with Section 63J-1-303.

R156-63b-307. Exemptions from Licensure.

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

(2) The Division may issue upon receipt of an application for licensure as an armored car security officer, an on-the-job training letter to the applicant, if the applicant meets the following criteria:

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

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

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

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

R156-63b-502. Unprofessional Conduct.

"Unprofessional conduct" includes the following:

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

(2) employing an armored car security officer by an armored car company, as an on-the-job trainee pursuant to Section R156-63b-307, who has been convicted of:

(a) a felony;

(b) a misdemeanor crime of moral turpitude; or

(c) a crime that when considered with the duties and functions of an armored car security officer by the Division and the Board indicates that the best interests of the public are not served;

(3) employing an armored car security officer by an armored car company who fails to meet the requirements of Section R156-63b-307;

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

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

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

(7) being incompetent or negligent as an armored car security officer or by an armored car company that results in injury to a person or that creates an unreasonable risk that a person may be harmed;

(8) failing as an armored car company or its officers, directors, partners, proprietors or responsible management personnel to adequately supervise employees to the extent that the public health and safety are at risk;

(9) failing to immediately notify the Division of the cancellation of the armored car company's insurance policy;

(10) failing as an armored car company or an armored car security officer to report a criminal offense pursuant to Section R156-63b-613; and

(11) wearing an uniform, insignia, badge or displaying a license that would lead a reasonable person to believe that an individual is connected with an armored car company, when not employed as an armored car security officer by a armored car company.

R156-63b-503. Administrative Penalties.

(1) In accordance with Subsection 58-63-503, the following citation fine schedule shall apply to citations issued under Title 58, Chapter 63:

TABLE

FINE SCHEDULE

FIRST OFFENSE

| Violation | Contract Security Company | Armed or Unarmed Security Officer |
|--------------|---------------------------|-----------------------------------|
| 58-63-501(1) | \$ 800.00 | N/A |
| 58-63-501(3) | \$ 800.00 | \$ 500.00 |

SECOND OFFENSE

| | | |
|--------------|------------|------------|
| 58-63-501(1) | \$1,600.00 | \$1,000.00 |
| 58-63-501(3) | \$1,600.00 | \$1,000.00 |

(2) Citations shall not be issued for third offenses, except in extraordinary circumstances approved by the investigative supervisor. If a citation is issued for a third offense, the fine is double the second offense amount, with a maximum amount not to exceed the maximum fine allowed under Subsection 58-63-503(3)(h)(iii).

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

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

(5) The presiding officer for a contested citation shall have the discretion, after a review of the aggravating and mitigating circumstances, to increase or decrease the fine amount imposed by an investigator based upon the evidence reviewed.

R156-63b-601. Operating Standards - Firearms.

(1) An armored car security officer shall carry only that firearm with which he has passed a firearms qualification course as defined in Section R156-63b-604.

(2) Shotguns and rifles, owned and issued by the armored car company, may be used in situations where they would constitute an appropriate defense for the armored car security officer and where the officer has completed an appropriate qualification course in their use.

(3) An armored car security officer shall not carry a firearm except when acting on official duty as an employee of an armored car company, unless the licensee is otherwise qualified under the laws of the state to carry a firearm.

R156-63b-602. Operating Standards - Approved Basic Education and Training Program for Armored Car Security Officers.

To be designated by the Division as an approved basic education and training program for armored car officers, the following standards shall be met.

(1) The applicant for program approval shall pay a fee for the approval of the education program.

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

(3) The program for armored car security officers shall provide content as established in Sections R156-63b-603 and R156-63b-604.

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

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

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

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

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

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

(8) Instructors, who present continuing education hours and are licensed armored car security officers, shall receive credit for actual preparation time for up to two times the number of hours to which participants would be entitled. For example, for learning activities in which participants receive four continuing education hours, instructors may receive up to eight continuing education hours (four hours for preparation plus four hours for presentation).

R156-63b-603. Operating Standards - Content of Approved Basic Education and Training Program for Armored Car Security Officers.

An approved basic education and training program for armored car security officers shall have the following components:

(1) at least 24 hours of basic classroom instruction to include the following:

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

(b) state laws and rules applicable to armored car security;

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

(d) ethics;

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

(f) police and community relations, including fundamental duties and the personal appearance of an armored car officer;

(g) sexual harassment in the work place;

(h) driving policies and procedures, driver training and vehicle orientation;

(i) emergency situation response including terminal security, traffic accidents, robbery situations, homeland security and reducing risk potential through street procedures and tactics, securing robbery scenes, and dealing with the media;

(j) armored operations, including proper paperwork, street control procedures, vehicle transfers, vault procedures, and other proper branch procedures; and

(k) a final examination which competently examines the student on the subjects included in the 24 hours of basic classroom instruction in the approved program of education and training and which the student passes with a minimum score of 80%.

R156-63b-604. Operating Standards - Content of Approved Basic Firearms Training Program for Armored Car Security Officers.

An approved basic firearms training program for armored car security officers shall have the following components:

(1) at least six hours of classroom firearms instruction to include the following:

(a) the firearm and its ammunition;

(b) the care and cleaning of the weapon;

(c) the prohibition against alterations of firing mechanism;

(d) firearm inspection review procedures;

(e) firearm safety on duty;

(f) firearm safety at home;

(g) firearm safety on the range;

(h) legal and ethical restraints on firearms use;

(i) explanation and discussion of target environment;

(j) stop failure drills;

(k) explanation and discussion of stance, draw stroke, cover and concealment and other firearm fundamentals;

(l) armed patrol techniques;

(m) use of deadly force under Utah law and the provisions of Title 76, Chapter 2, Part 4 and a discussion of 18 USC 44 Section 922; and

(n) the instruction that armored car security officers shall not fire their weapon unless there is an eminent threat to life and at no time shall the weapon be drawn as a threat or means to force compliance with any verbal directive not involving eminent threat to life; and

(2) at least six hours of firearms range instruction to include the following:

(a) basic firearms fundamentals and marksmanship;

(b) demonstration and explanation of the difference between sight picture, sight alignment and trigger control; and

(c) a recognized practical pistol course on which the applicant achieves a minimum score of 80% using regular and low light conditions.

R156-63b-605. Operating Standards - Uniform Requirements.

(1) All armored car security officers while on duty shall wear the uniform of their armored car company employer unless assigned to work undercover.

(2) The name of the armored car company shall be of a size, style, shape, design and type which is clearly visible by a reasonable person under normal conditions.

(3) Each armored car company officer wearing a regular uniform shall display on the outermost garment of the uniform in a style, shape, design and type which is clearly visible by a reasonable person under normal conditions identification which contains the name or logo of the armored car company under whom the armored car security officer is employed.

R156-63b-606. Operating Standards - Badges.

(1) At the armored car company's request, an armored car security officer may, while in uniform and while on duty, wear a shield inscribed with the name of the armored car company, a number and the words "Security," or "Security Officer". The shield shall not contain the words "State of Utah" or the seal of the state of Utah.

(2) The use of a star badge with any number of points on a uniform, in writing, advertising, letterhead, or other written communication is prohibited.

R156-63b-607. Operating Standards - Criminal Status of Officer, Qualifying Agent, Director, Partner, Proprietor, Armored Car Security Officer or Manager of Armored Car Companies.

In the event an officer, qualifying agent, director, partner, proprietor, armored car security officer, or any management personnel having direct responsibility for managing operations of the armored car company has a conviction entered regarding:

- (a) a felony;
- (b) a misdemeanor crime of moral turpitude; or
- (c) a crime that when considered with the duties and functions of an armored car security company officer by the Division and the Board indicates that the best interests of the public are not served, the company shall within ten days of the conviction or notice reorganize and exclude said individual from participating at any level or capacity in the management, operations, sales, ownership, or employment of that company.

R156-63b-608. Operating Standards - Implying an Association with Public Law Enforcement Prohibited.

(1) No armored car company shall use any name which implies intentionally or otherwise that the company is connected or associated with any public law enforcement agency.

(2) No armored car company shall permit the use of the words "special police", "special officer", "cop", or any other words of a similar nature whether used orally or appearing in writing or on any uniform, badge, or cap.

(3) No person licensed under this chapter shall use words or designations which would cause a reasonable person to believe he is associated with a public law enforcement agency.

R156-63b-609. Operating Standards - Proper Identification of Armored Car Security Officers.

All armored car security officers shall carry a valid security license together with a Utah identification card issued by the Division of Driver License or a current Utah driver's license whenever performing the duties of an armored car security officer and shall exhibit said license and identification upon request.

R156-63b-610. Operating Standards - Operational Procedures Manual.

(1) Each armored car company shall develop and maintain an operational procedures manual which includes the following topics:

- (a) felony and misdemeanor definitions;
- (b) observing and reporting;
- (c) natural disaster preparation;
- (d) alarm systems, locks, and keys;
- (e) radio and telephone communications;
- (f) public relations;
- (g) personal appearance and demeanor;
- (h) bomb threats;
- (i) fire prevention;
- (j) mental illness;
- (k) supervision;
- (l) criminal justice system;
- (m) accident scene control;
- (n) code of ethics for armored car security officers; and
- (o) sexual harassment in the workplace.

(2) The operations and procedures manual shall be immediately available to the Division upon request.

R156-63b-611. Operating Standards - Display of License.

The license issued to an armored car company shall be prominently displayed in the company's principal place of business and a copy of the license shall be displayed prominently in all branch offices.

R156-63b-612. Operating Standards - Standards of Conduct.

(1) Licensee employed by an armored car company:

- (a) pursuant to Title 58, Chapter 63, a licensed armored car security officer arrested, charged, or indicted for a criminal offense above the level of a Class C misdemeanor shall notify the licensee's employing armored car company within 72 hours of the arrest, charge, or indictment;

(b) within 72 hours after such notification by the employee, the employing armored car company shall notify the Division of the arrest, charge or indictment in writing; and

(c) the written notification shall include the employee's name, the name of the arresting agency, the agency case number, the date and the nature of the criminal offense.

(2) Licensee not employed by an armored car company:

- (a) pursuant to Title 58, Chapter 63, a licensed armored car security officer who is not employed by an armored car company shall directly notify the Division in writing within 72 hours of any arrest, charge or indictment above the level of a Class C misdemeanor; and

(b) the written notification shall meet the requirements of Subsection (1)(c).

KEY: licensing, security guards, armored car security officers, armored car company
Date of Enactment or Last Substantive Amendment: 2008
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-63-101



Environmental Quality, Drinking Water **R309-515-6** Ground Water - Wells

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE No.: 31709
FILED: 07/15/2008, 14:36

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes are necessary to eliminate a compromised well seal caused by installing a pitless unit on a well casing; and replace no longer existing standards with a current industry-accepted one.

SUMMARY OF THE RULE OR CHANGE: The proposed amendments: require the replacement of a well seal disturbed during excavation to install a pitless adapter; require the well casing to be completely sealed after installing a pitless adapter; and citing a standard of manufacturing for pitless adapters.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--This amendment provides more consistency between this rule and the State Engineer's rules for well drillers, but does not add any inspection or monitoring not already budgeted.
- ❖ LOCAL GOVERNMENTS: Little to none--The well drillers already generally meet these requirements. The replacement standard has been accepted by the industry for over ten years.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Little to none--The well drillers already generally meet these requirements. The replacement standard has been accepted by the industry for over ten years.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be marginal costs associated with replacing the well seal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The department agrees that the proposed changed to this rule will have little to no detrimental impact on existing water systems nor on new public water systems. Richard Sprott, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
DRINKING WATER
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Bill Birkes at the above address, by phone at 801-536-4201, by FAX at 801-536-4211, or by Internet E-mail at bbirkes@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/02/2008.

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

AUTHORIZED BY: Ken Bousfield, Director

R309. Environmental Quality, Drinking Water.
R309-515. Facility Design and Operation: Source Development.
R309-515-6. Ground Water - Wells.

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- (12) Well Equipping.
 - (a) Naturally Flowing Wells.
Naturally flowing wells shall:
 - (i) have the discharge controlled by valves,
 - (ii) be provided with permanent casing and sealed by grout,
 - (iii) if erosion of the confining bed adjacent to the well appears likely, special protective construction may be required by the Division.
 - (b) Line Shaft Pumps.
Wells equipped with line shaft pumps shall:
 - (i) have the casing firmly connected to the pump structure or have the casing inserted into the recess extending at least 0.5 inches into the pump base,
 - (ii) have the pump foundation and base designed to prevent fluids from coming into contact with joints between the pump base and the casing,
 - (iii) be designed such that the intake of the well pump is at least ten feet below the maximum anticipated drawdown elevation,
 - (iv) avoid the use of oil lubrication for pumps with intake screens set at depths less than 400 feet (see R309-105-10(7) and/or R309-515-8(2)for additional requirements of lubricants).
 - (c) Submersible Pumps.
Where a submersible pump is used:
 - (i) The top of the casing shall be effectively sealed against the entrance of water under all conditions of vibration or movement of conductors or cables.
 - (ii) The electrical cable shall be firmly attached to the riser pipe at 20 foot intervals or less.
 - (iv) The intake of the well pump must be at least ten feet below the maximum anticipated drawdown elevation.
 - (d) Pitless Well Units and Adapters.

If the excavation surrounding the well casing allowing installation of the pitless unit compromises the surface seal the competency of the surface seal shall be restored. Torch cut holes in the well casing shall be to neat lines closely following the outline of the pitless adapter and completely filled with a competent weld with burrs and fins removed prior to the installation of the pitless unit and adapter.

Pitless well units and adapters shall:

(i) not be used unless the specific application has been approved by the Executive Secretary,

(ii) be used to make a connection to a water well casing that is made below the ground. A below the ground connection shall not be submerged in water during installation.

(iii) terminate at least 18 inches above final ground elevation or three feet above the highest known flood elevation whichever is greater,

(iv) ~~(iii)~~ pitless adapters or pitless units to be used shall contain a label or imprint indicating compliance with the Water Systems Council Pitless Adapter Standard (PAS-97) ~~[be approved by NSF International or the Pitless Adapter Association or other appropriate Review Authority],~~

(v) ~~(iv)~~ have suitable access to the interior of the casing in order to disinfect the well,

(vi) ~~(v)~~ have a suitable sanitary seal or cover at the upper terminal of the casing that will prevent the entrance of any fluids or contamination, especially at the connection point of the electrical cables,

(vii) ~~(vi)~~ have suitable access so that measurements of static and pumped water levels in the well can be obtained,

(viii) ~~(vii)~~ allow at least one check valve within the well casing,

(ix) ~~(viii)~~ be furnished with a cover that is lockable or otherwise protected against vandalism or sabotage,

(x) ~~(ix)~~ be shop-fabricated from the point of connection with the well casing to the unit cap or cover,

(xi) ~~(x)~~ be of watertight construction throughout,

(xii) ~~(xi)~~ be constructed of materials at least equivalent to and having wall thickness compatible to the casing,

(xiii) ~~(xii)~~ have field connection to the lateral discharge from the pitless unit of threaded, flanged or mechanical joint connection,

(xiv) ~~(xiii)~~ be threaded or welded to the well casing. If the connection to the casing is by field weld, the shop assembled unit must be designed specifically for field welding to the casing. The only field welding permitted on the pitless unit will be that needed to connect a pitless unit to the casing, and

(xv) ~~(xiv)~~ have an inside diameter as great as that of the well casing, up to and including casing diameters of 12 inches, to facilitate work and repair on the well, pump, or well screen.

(e) Well Discharge Piping.

The discharge piping shall:

(i) be designed so that the friction loss will be low,

(ii) have control valves and appurtenances located above the pump house floor when an above-ground discharge is provided,

(iii) be protected against the entrance of contamination,

(iv) be equipped with (in order of placement from the well head) a smooth nosed sampling tap, a check valve, a pressure gauge, a means of measuring flow and a shutoff valve,

(v) where a well pumps directly into a distribution system, be equipped with an air release vacuum relief valve located upstream from the check valve, with exhaust/relief piping terminating in a down-turned position at least six inches above the floor and covered with a No. 14 mesh corrosion resistant screen. An exception to this requirement will be allowed provided specific proposed well head

valve and piping design includes provisions for pumping to waste all trapped air before water is introduced into the distribution system,

(vi) have all exposed piping valves and appurtenances protected against physical damage and freezing,

(vii) be properly anchored to prevent movement, and

(f) Water Level Measurement.

(i) Provisions shall be made to permit periodic measurement of water levels in the completed well.

(ii) Where permanent water level measuring equipment is installed it shall be made using corrosion resistant materials attached firmly to the drop pipe or pump column and installed in such a manner as to prevent entrance of foreign materials.

(g) Observation Wells.

Observation wells shall be:

(i) constructed in accordance with the requirements for permanent wells if they are to remain in service after completion of a water supply well, and

(ii) protected at the upper terminal to preclude entrance of foreign materials.

(h) Electrical Protection.

Sufficient electrical controls shall be placed on all pump motors to eliminate electrical problems due to phase shifts, surges, lightning, etc.

(13) Well House Construction.

The use of a well house is strongly recommended, particularly in installations utilizing above ground motors.

In addition to applicable provisions of R309-540, well pump houses shall conform to the following:

(a) Casing Projection Above Floor.

The permanent casing for all ground water wells shall project at least 12 inches above the pump house floor or concrete apron surface and at least 18 inches above the final ground surface. However, casings terminated in underground vaults may be permitted if the vault is provided with a drain to daylight sized to handle in excess of the well flow and surface runoff is directed away from the vault access.

(b) Floor Drain.

Where a well house is constructed the floor surface shall be at least six inches above the final ground elevation and shall be sloped to provide drainage. A "drain-to-daylight" shall be provided unless highly impractical.

(c) Earth Berm.

Sites subject to flooding shall be provided with an earth berm terminating at an elevation at least two feet above the highest known flood elevation or other suitable protection as determined by the Executive Secretary.

(d) Well Casing Termination at Flood Sites.

The top of the well casing at sites subject to flooding shall terminate at least 3 feet above the 100 year flood level or the highest known flood elevation, whichever is higher (refer to R309-515-6(6)(b)(vi)).

(e) Miscellaneous.

The well house shall be ventilated, heated and lighted in such a manner as to assure adequate protection of the equipment (refer to R309-540-5(2) (a) through (h)

(f) Fencing.

Where necessary to protect the quality of the well water the Executive Secretary may require that certain wells be fenced in a manner similar to fencing required around spring areas.

(g) Access.

An access shall be provided either through the well house roof or sidewalls in the event the pump must be pulled for replacement or servicing the well.

KEY: drinking water, source development, source maintenance
Date of Enactment or Last Substantive Amendment: [~~April 21, 2004~~2008]
Notice of Continuation: April 2, 2007
Authorizing, and Implemented or Interpreted Law: 19-4-104

◆ ————— ◆

Environmental Quality, Drinking Water

R309-515-6

Ground Water - Wells

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE No.: 31710
 FILED: 07/15/2008, 14:39

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Three reasons for the changes are: 1) to maintain consistency with the State Engineer's well drilling rules; 2) to eliminate inadvertent contamination of ground water; and 3) to remove redundant language.

SUMMARY OF THE RULE OR CHANGE: The changes: 1) maintain consistency with the State Engineer's well drilling rules; 2) eliminate inadvertent contamination of ground water; and 3) remove redundant language.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** None--This amendment provides more consistency between this rule and the State Engineer's rules for well drillers, but does not add any inspection or monitoring not already budgeted.
- ❖ **LOCAL GOVERNMENTS:** Little to none--The well drillers already generally meet these requirements.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** Little to none--The well drillers already generally meet these requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Little to none since these proposals reflect current practice, however, in the rare instance of needing to seal a large annular space more select material will be required instead of using local materials.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The department agrees that the proposed changes to this rule will have little to no detrimental impact on existing water systems nor on new public water systems. Richard Sprott, Executive Director

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

ENVIRONMENTAL QUALITY
 DRINKING WATER
 150 N 1950 W

SALT LAKE CITY UT 84116-3085, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Bill Birkes at the above address, by phone at 801-536-4201, by FAX at 801-536-4211, or by Internet E-mail at bbirkes@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/02/2008.

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

AUTHORIZED BY: Ken Bousfield, Director

R309. Environmental Quality, Drinking Water.

R309-515. Facility Design and Operation: Source Development. R309-515-6. Ground Water - Wells.

(1) Required Treatment.

If properly developed, water from wells may be suitable for culinary use without treatment. A determination as to whether treatment may be required can only be made after the source has been developed and evaluated.

(2) Standby Power.

Water suppliers, particularly community water suppliers, should assess the capability of their system in the event of a power outage. If gravity fed spring sources are not available, one or more of the system's well sources should be equipped for operation during power outages. In this event:

(a) To ensure continuous service when the primary power has been interrupted, a power supply should be provided through connection to at least two independent public power sources, or portable or in-place auxiliary power available as an alternative; and

(b) When automatic pre-lubrication of pump bearings is necessary, and an auxiliary power supply is provided, the pre-lubrication line should be provided with a valved by-pass around the automatic control, or the automatic control shall be wired to the emergency power source.

(3) The Utah Division of Water Rights.

The Utah Division of Water Rights (State Engineer's Office) regulates the drilling of water wells. Before the drilling of a well commences, the well driller must receive a start card from the State Engineer's Office. For public drinking water supply wells the rules of R655-4 still apply and must be followed in addition to these rules.

(4) Source Protection.

Public drinking water systems are responsible for protecting their sources from contamination. The selection of a well location shall only be made after consideration of the requirements of R309-600. Sources shall be located in an area which will minimize threats from existing or potential sources of pollution.

If certain precautions are taken, sewer lines may be permitted within a public drinking water system's source protection zones at the discretion of the Executive Secretary. When sewer lines are permitted in protection zones both sewer lines and manholes shall be specially constructed as follows:

(a) sewer lines shall be ductile iron pipe with mechanical joints or fusion welded high density polyethylene plastic pipe (solvent welded joints shall not be accepted);

(b) lateral to main connection shall be shop fabricated or saddled with a mechanical clamping watertight device designed for the specific pipe;

(c) the sewer pipe to manhole connections shall be made using a shop fabricated sewer pipe seal ring cast into the manhole base (a mechanical joint shall be installed within 12 inches of the manhole base on each line entering the manhole, regardless of the pipe material);

(d) the sewer pipe shall be laid with no greater than 2 percent deflection at any joint;

(e) backfill shall be compacted to not less than 95 percent of maximum laboratory density as determined in accordance with ASTM Standard D-690;

(f) sewer manholes shall meet the following requirements:

(i) the manhole base and walls, up to a point at least 12 inches above the top of the upper most sewer pipe entering the manhole, shall be shop fabricated in a single concrete pour.

(ii) the manholes shall be constructed of reinforced concrete.

(iii) all sewer lines and manholes shall be air pressure tested after installation.

(5) Outline of Well Approval Process.

(a) Well drilling shall not commence until both of the following items are submitted and receive a favorable review:

(i) a Preliminary Evaluation Report on source protection issues as required by R309-600-13, and

(ii) engineering plans and specifications governing the well drilling, prepared by a licensed well driller holding a current Utah Well Drillers Permit if previously authorized by the Executive Secretary or prepared, signed and stamped by a licensed professional engineer or professional geologist licensed to practice in Utah.

(b) Grouting Inspection During Well Construction.

An engineer from the Division, or the appropriate district engineer of the Department of Environmental Quality, an authorized representative of the State Engineer's Office, or an individual authorized by the Executive Secretary shall be contacted at least three days before the anticipated beginning of the well grouting procedure (see R309-515-6(6)(i)). The well grouting procedure shall be witnessed by one of these individuals or their designee.

(c) After completion of the well drilling the following information shall be submitted and receive a favorable review before water from the well can be introduced into a public water system:

(i) a copy of the "Report of Well Driller" as required by the State Engineer's Office which is complete in all aspects and has been stamped as received by the same;

(ii) a copy of the letter from the authorized individual described in R309-515-6(5)(b) above, indicating inspection and confirmation that the well was grouted in accordance with the well drilling specifications and the requirements of this rule;

(iii) a copy of the pump test including the yield vs. drawdown test as described in R309-515-6(10)(b) along with comments / interpretation by a licensed professional engineer or licensed professional geologist of the graphic drawdown information required by R309-515-6(b)(vi)(E);

(iv) a copy of the chemical analyses required by R309-515-4(5);

(v) documentation indicating that the water system owner has a right to divert water for domestic or municipal purposes from the well source;

(vi) a copy of complete plans and specifications prepared, signed and stamped by a licensed professional engineer covering the well housing, equipment and diversion piping necessary to introduce water from the well into the distribution system; and

(vii) a bacteriological analysis of water obtained from the well after installation of permanent equipment, disinfection and flushing.

(d) An Operation Permit shall be obtained in accordance with R309-500-9 before any water from the well is introduced into a public water system.

(6) Well Materials, Design and Construction.

(a) ANSI/NSF Standards 60 and 61 Certification.

All interior surfaces must consist of products complying with ANSI/NSF Standard 61. This requirement applies to drop pipes, well screens, coatings, adhesives, solders, fluxes, pumps, switches, electrical wire, sensors, and all other equipment or surfaces which may contact the drinking water.

All substances introduced into the well during construction or development shall be certified to comply with ANSI/NSF Standard 60.

This requirement applies to drilling fluids (biocides, clay thinners, defoamers, foamers, loss circulation materials, lubricants, oxygen scavengers, viscosifiers, weighting agents) and regenerants. This requirement also applies to well grouting and sealing materials which may come in direct contact with the drinking water.

(b) Permanent Steel Casing Pipe shall:

(i) be new single steel casing pipe meeting AWWA Standard A-100, ASTM or API specifications and having a minimum weight and thickness as given in Table 1 found in R655-4-9.4 of the Utah Administrative Code (Administrative Rules for Water Well Drillers, adopted January 1, 2001, Division of Water Rights);

(ii) have additional thickness and weight if minimum thickness is not considered sufficient to assure reasonable life expectancy of the well;

(iii) be capable of withstanding forces to which it is subjected;

(iv) be equipped with a drive shoe when driven;

(v) have full circumferential welds or threaded coupling joints; and

(vi) project at least 18 inches above the anticipated final ground surface and at least 12 inches above the anticipated pump house floor level. At sites subject to flooding the top of the well casing shall terminate at least three feet above the 100 year flood level or the highest known flood elevation, whichever is higher.

(c) Non-Ferrous Casing Material.

The use of any non-ferrous material for a well casing shall receive prior approval of the Executive Secretary based on the ability of the material to perform its desired function. Thermoplastic water well casing pipe shall meet ANSI/ASTM Standard F480-76 and shall bear the logo NSF-wc indicating compliance with NSF Standard 14 for use as well casing.

(d) Disposal of Cuttings.

Cuttings and waste from well drilling operations shall not be discharged into a waterway, lake or reservoir. The rules of the Utah Division of Water Quality must be observed with respect to these discharges.

(e) Packers.

Packers, if used, shall be of material that will not impart taste, odor, toxic substances or bacterial contamination to the well water. Lead, or partial lead packers are specifically prohibited.

(f) Screens.

The use of well screens is recommended where appropriate and, if used, they shall:

(i) be constructed of material resistant to damage by chemical action of groundwater or cleaning operations;

(ii) have size of openings based on sieve analysis of formations or gravel pack materials;

(iii) have sufficient diameter to provide adequate specific capacity and low aperture entrance velocities;

(iv) be installed so that the operating water level remains above the screen under all pumping conditions; and

(v) be provided with a bottom plate or washdown bottom fitting of the same material as the screen.

(g) Plumbness and Alignment Requirements.

Every well shall be tested for plumbness and vertical alignment in accordance with AWWA Standard A100. Plans and specifications submitted for review shall:

(i) have the test method and allowable tolerances clearly stated in the specifications. and

(ii) clearly indicate any options the design engineer may have if the well fails to meet the requirements. Generally wells may be accepted if the misalignment does not interfere with the installation or operation of the pump or uniform placement of grout.

(h) Casing Perforations.

The placement of perforations in the well casing shall:

(i) be so located to permit as far as practical the uniform collection of water around the circumference of the well casing, and

(ii) be of dimensions and size to restrain the water bearing soils from entrance into the well.

(i) Grouting Techniques and Requirements.

For all public drinking water wells the annulus between the outermost well casing and the borehole wall~~[All permanent well casing for public drinking water wells]~~ shall be grouted to a depth of at least 100 feet below the ground surface unless an "exception" is issued by the Executive Secretary (see R309-500-4(1)). If more than one casing is used, including a conductor casing, the annulus between the outermost casing and the next inner casing shall be sealed with grout (meeting the grouting materials requirements of R309-515-6(i)(ii) herein) or with a water tight steel ring having a thickness equal to that of the permanent well casing and continuously welded to both casings.

If a well is to be considered in a protected aquifer the grout seal shall extend from the ground surface down to at least 100 feet below the surface, and through the protective layer, as described in R309-600-6(1)(x)~~(+)~~ (see also R309-515~~[454]~~-6(6)(i)(iii)(D) below).

The following applies to all drinking water wells:

(i) Consideration During Well Construction.

(A) Sufficient annular opening shall be provided to permit a minimum of two inches of grout between the outermost permanent casing and the drilled hole, taking into consideration any joint couplings.~~[If a carrier casing is left in place, the minimum clearances above shall pertain to both annular openings (between casings and between carrier casing and the drilled hole), the carrier casing shall be adequately perforated so as to ensure grout contact with the native formations, and the carrier casing shall be withdrawn at least five feet during grouting operations.]~~

(B) Additional information is available from the Division of recommended construction methods for grout placement.

(C) The casing(s) must be provided with sufficient guides welded to the casing to permit unobstructed flow and uniform thickness of grout.

(ii) Grouting Materials.

(A) Neat Cement Grout.

Cement, conforming to ASTM Standard C150, and water, with no more than six gallons of water per sack of cement, shall be used for two inch openings. Additives may be used to increase fluidity subject to approval by the Executive Secretary.

(B) Concrete Grout.

Equal parts of cement conforming to ASTM Standard C150, and sand, with not more than six gallons of water per sack of cement may be used for openings larger than two inches.

(C) Clay Seal.

Where an annular opening greater than six inches is available a ~~[clay] seal of [clean local clay mixed with at least ten percent]~~ swelling bentonite meeting the requirements of R655-4-9.4.2 may be used when approved by the Executive Secretary.

(iii) Application.

(A) When the annular opening is less than four inches, grout shall be installed under pressure, by means of a positive displacement grout pump, from the bottom of the annular opening to be filled.

(B) When the annular opening is four or more inches and 100 feet or less in depth, and concrete grout is used, it may be placed by gravity through a grout pipe installed to the bottom of the annular opening in one continuous operation until the annular opening is filled.

(C) All temporary construction casings shall~~[should]~~ be removed prior to or during the well sealing operation. Any exceptions shall be approved by the State Engineer and evidence of approval submitted to the Executive Secretary (see R655-4-9.4.3.1 for conditions surrounding leaving temporary surface casing in place. A temporary construction casing is a casing not intended to be part of the permanent well, but shall be withdrawn at least five feet during the grouting operation to ensure grout contact with the native formations.)

(D) When a "well in a protected aquifer" classification is desired, the grout seal shall extend from the ground surface down to at least 100 feet below the surface, and through the protective clay layer (see R309-600-6(1)(x)~~(+)~~).~~[If the clay layer starts below 100 feet, grout shall extend from the ground surface to a depth of at least 100 feet, grout or native fill may be utilized from there to the top of the clay layer, and then grout placed completely through the protective clay layer. If the clay layer starts and ends above 100 feet, grout shall extend from the ground surface down to and completely through the protective clay layer.]~~

(E) After cement grouting is applied, work on the well shall be discontinued until the cement or concrete grout has properly set; usually a period of 72 hours.

(j) Water Entered Into Well During Construction.

Any water entering a well during construction shall not be contaminated and should be obtained from a chlorinated municipal system. Where this is not possible the water must be dosed to give a 100 mg/l free chlorine residual. Refer also to the administrative rules of the Division of Water Rights in this regard.

(k) Gravel Pack Wells.

The following shall apply to gravel packed wells:

(i) the gravel pack material is to be of well rounded particles, 95 percent siliceous material, that are smooth and uniform, free of foreign material, properly sized, washed and then disinfected immediately prior to or during placement,

(ii) the gravel pack is placed in one uniform continuous operation,

(iii) refill pipes, when used, are Schedule 40 steel pipe incorporated within the pump foundation and terminated with screwed or welded caps at least 12 inches above the pump house floor or concrete apron,

(iv) refill pipes located in the grouted annular opening be surrounded by a minimum of 1.5 inches of grout,

(v) protection provided to prevent leakage of grout into the gravel pack or screen, and

(vi) any casings not withdrawn entirely meet requirements of R309-515-6(6)(b) or R309-515-6(6)(c).

(7) Well Development.

(a) Every well shall be developed to remove the native silts and clays, drilling mud or finer fraction of the gravel pack.

(b) Development should continue until the maximum specific capacity is obtained from the completed well.

(c) Where chemical conditioning is required, the specifications shall include provisions for the method, equipment, chemicals, testing for residual chemicals, and disposal of waste and inhibitors.

(d) Where blasting procedures may be used the specifications shall include the provisions for blasting and cleaning. Special attention shall be given to assure that the grouting and casing are not damaged by the blasting.

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KEY: drinking water, source development, source maintenance
Date of Enactment or Last Substantive Amendment: ~~April 21, 2004~~2008
Notice of Continuation: April 2, 2007
Authorizing, and Implemented or Interpreted Law: 19-4-104



Insurance, Administration
R590-102
Insurance Department Fee Payment
Rule

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 31652
 FILED: 07/02/2008, 14:28

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is required to note changes in the department's schedule of fees, which are approved by the legislature, and to establish fee deadlines. The changes noted in this rule were made by the 2008 Legislative Session in the appropriations bill, H.B. 2. (DAR NOTE: H.B. 2 (2008) is found at Chapter 392, Laws of Utah 2008, and was effective 07/01/2008.)

SUMMARY OF THE RULE OR CHANGE: Most of the changes to this rule are related to formatting and grammar. Section R590-102-9 was added to address professional employer organization fees (PEO) as required by H.B. 159 which was passed this year. Sections R590-102-12 and R590-102-13 were moved from Section R590-102-11 into their own sections. Section R590-102-16 addressed fingerprint fees and the annual assessment for the Title Recovery, Education, and Research Fund as required in H.B. 466 of the same name that was passed this year. Section R590-102-17 addressed fee for accessing public rate and form filings. (DAR NOTES: H.B. 159 (2008) is found at Chapter 318, Laws of Utah 2008, and was effective 05/05/2008. H.B. 466 (2008) is found at Chapter 220, Laws of Utah 2008, and was effective 07/01/2008.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-3-103

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The changes to this rule will not require the department to add or reduce personnel, however, there should be minimal impact on the state budget.
- ❖ LOCAL GOVERNMENTS: The changes to this rule will have no fiscal impact on local governments since it deals solely with the relationship between the department and its licensees.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: This rule has no fiscal impact because it merely publishes the schedule of fees approved by the legislature in the appropriations bill, H.B. 2 (2008).

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule has no fiscal impact because it merely publishes the schedule of fees approved by the legislature in the appropriations bill, H.B. 2 (2008), passed this year.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule has no fiscal impact because it merely publishes the schedule of fees approved by the legislature in the appropriations bill, H.B. 2 (2008). D. Kent Michie, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/02/2008.

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
R590-102. Insurance Department Fee Payment Rule.
R590-102-1. Authority.

This rule is adopted pursuant to Subsections 31A-3-103~~(2)~~⁽⁴⁾ and ~~(4)~~⁽⁵⁾ which require the commissioner to publish the schedule of fees approved by the ~~Legislature~~ legislature and to establish deadlines for payment of each of the various fees.

R590-102-2. Purpose and Scope.

- (1) The purposes of this rule ~~is~~ are to:
 - ~~(a)~~ publish the schedule of fees approved by the legislature~~;~~[;]~~(b)~~

- ~~(b)~~ establish fee deadlines~~;~~ and ~~[to]~~
- ~~(c)~~ disclose this information to licensees and the public.
- (2) The rule applies to:
- ~~(a)~~ all persons engaged in the business of insurance in Utah~~;~~
- ~~(b)~~ ~~[to]~~all licensees~~;~~
- ~~(c)~~ ~~[to]~~applicants for licenses, registrations, certificates, or other similar filings; and
- ~~(d)~~ ~~[and]~~all persons requesting ~~[for]~~ services provided by the department for which a fee is required.

R590-102-3. Definitions.

In addition to the definitions in Title 31A, the following definitions shall apply for [For] the purposes of this rule [the following definitions will apply].

(1) "Admitted insurers" include: fraternal, health, health maintenance organization, life, limited health plan, motor club, non-profit health service, property-casualty, title insurers, and a prescription drug plan.

(2) "Agency" means:

(a) a person, other than an individual, including a sole proprietorship by which a natural person does business under an assumed name; and

(b) an insurance organization required to be licensed under Subsections 31A-23a-301, 31A-25-207, and 31A-26-209.

(3) "Captive insurer" includes association captive, branch captive, industrial insured captive, pure captive, ~~[and]~~sponsored captive, and special purpose financial captive.

(4) "Deadline" means the final date or time:

~~(a)~~ imposed by:

~~(i)~~ statute~~;~~

~~(ii)~~ rule; or

~~(iii)~~ order, and

~~(b)~~ ~~[or rule]~~ by which~~;~~

~~(a)~~~~(i)~~ a payment must be received by the department without incurring penalties for late payment or non-payment; or

~~(b)~~~~(ii)~~ [a filing]required information must be received by the department without incurring penalties for late receipt or non-receipt.

(5) "Fee" means an amount set by the commissioner, by statute, or by rule and approved by the legislature for licenses, registrations, certificates, and other filings and services provided by the Insurance Department.

(6) "Full-line agency" includes producer, consultant, independent adjuster, managing general agent, public adjuster, reinsurance intermediary broker, and third party administrator.

(7) "Full-line individual" includes a producer, consultant, independent adjuster, managing general agent, public adjuster, reinsurance intermediary broker, and third party administrator.

(8) "Limited-line agency" includes bail bond and limited-line producer.

(9) "Limited-line individual" includes bail bond agent, limited-lines producer and customer service representative.

(10) "Other organizations" include: home warranty, joint underwriter, purchasing group, rate service organization, risk retention group, service contract provider, surplus line insurer, accredited reinsurer, trustee reinsurer, and health discount program.

(11) "Paper application" means an application that must be manually entered into the department's database because the application was submitted by paper, facsimile, or email when the department has provided an electronic application process and stated the electronic process is the preferred process for receiving an application.

(12) "Paper filing" means a filing that must be manually entered into the department's database because the filing was submitted by paper, facsimile, or email when the department has provided an electronic filing process and stated the electronic process is the preferred process for receiving a filing.

(13) "Received by the department" means:

~~(a)~~ ~~[except as provided in Subsection R590-102-3(11)(b), the date delivered to and stamped received by the department, whether delivered in person or electronically; or~~

~~(b)~~ ~~if delivered to the department by a delivery service, the delivery service's postmark date or pick-up date unless a statute, rule, or order related to a specific filing or payment provides otherwise. [the date delivered to and stamped received by the department, if delivered in person;~~

~~(b)~~ the postmark date, if delivered by mail;

~~(c)~~ the delivery service's postmark date or pick-up date, if delivered by a delivery service; or

~~(d)~~ the date transmitted, if delivered by facsimile, email or some other electronic method; or

~~(e)~~ a date specified in:

~~(i)~~ a statute;

~~(ii)~~ a rule; or

~~(iii)~~ an order.

R590-102-4. General Instructions.

(1) Any fee payable to the department not included in Subsections R590-102-5 through ~~[4]~~18, shall be due when service is requested, if applicable, otherwise by the due date on the invoice. ~~[A non-electronic payment fee will be added to the fee due the department when a payment that can be made electronically is done through a non-electronic method.]~~

(2) Payment.

(a) A non-electronic payment processing fee will be added to a payment when the department has provided an electronic payment process and stated the electronic process is the preferred process for receiving a payment.

~~(a)~~~~(b)~~ Check.

~~(i)~~ Checks shall be made payable to the Utah Insurance Department.

~~(ii)~~ A check that is dishonored in the process of the collection will not constitute payment of the fee for which it was issued and any action taken based on the payment will be voided.

~~(iii)~~ Late fees and other penalties, resulting from the voided action will apply until proper payment is made.

~~(iv)~~ A check payment that is dishonored is a violation of this rule.

~~(b)~~~~(c)~~ Cash [payments]. The department is not responsible for un-receipted cash that is lost or misdelivered.

~~(a)~~~~(d)~~ Electronic [payments].

(i) Credit Card.

(A) Credit cards may be used to pay any fee due to the department.

(B) Credit card payments that are dishonored will not constitute payment of the fee and any action taken based on the payment will be voided.

(C) Late fees and other penalties, resulting from the voided action, will apply until proper payment is made.

(D) A credit card payment that is dishonored is a violation of this rule.

(ii) Automated clearinghouse (ACH).

(A) Payers or purchasers desiring to use this method must contact the department for the proper routing and transit information.

(B) Payments that are made in error to another agency or that are not deposited into the department's account will not constitute payment of the fee and any action taken based on the payment will be voided.

(C) Late fees and other penalties resulting from the voided action will apply until proper payment is made.

(D) An ACH payment that is dishonored is a violation of this rule.

(3) Retaliation. The fees enumerated in this rule are not subject to retaliation in accordance with Section 31A-3-401 if other states or countries impose higher fees.

(4) Refunds.

(a) All fees in this rule are non-refundable.

(b) Overpayments of fees are refundable.

(c) Requests for return of overpayments must be in writing.

(5) A non-electronic processing fee will be assessed for a particular service if the department has established an electronic process for that service. See R590-102-15 [~~Section 12 for non-electronic processing fees~~].

R590-102-5. Admitted Insurer Fees.

(1) Annual license fees[-]:

(a) certificate of authority, initial license application - due with license application: \$1,002;

(b) certificate of authority - renewal - due by the due date on the invoice: \$302;

(c) certificate of authority - late renewal - due for any renewal paid after the date on the invoice: \$352;

(d) certificate of authority - reinstatement - due with application for reinstatement: \$1,002[-].

(2) Other license fees:

~~(e)~~(a) certificate of authority - amendments - due with request for amendment: \$252;

~~(f)~~(b)(i) Form A - application for merger, acquisition, or change of control [~~Form A~~], due with filing: \$2,002.

(ii) Expenses incurred for consultant(s) services necessary to evaluate ~~the~~ a Form A will be charged to the applicant and due ~~when billed~~ by the due date on the invoice;

~~(g)~~(c) redomestication filing - due with filing: \$2,002; and

~~(h)~~(d) application for organizational permit for mutual insurer to solicit applications for qualifying insurance policies or subscriptions for mutual bonds or contribution notes - due with application: \$1,002.

~~(2)~~(3) The annual initial or annual renewal license fee includes the following licensing services for which no additional fee is required:

(a) filing annual statement and report of Utah business - due annually on March 1;

(b) filing holding company registration statement - Form B;

(c) filing application for material transactions between affiliated companies - Form D;

(d) application for: stock solicitation permit, public offering filing, but not an SEC filing; an SEC filing; private placement offering; and

(e) application for individual license to solicit in accordance with the stock solicitation permit.

~~(3)~~(4) Annual service fee:

(a) Due annually by the due date on the invoice.

(b) The fee is based on the Utah premium as shown in the latest annual statement on file with the National Association of Insurance Commissioners (NAIC) and the department. Fee calculation example: the 2004 annual service fee calculation will use the Utah premium shown in the December 31, 2003 annual statement.

(c) Fee schedule:

(i) \$0 premium volume: no service fee;

(ii) more than \$zero but less than \$1 million in premium volume: \$700;

(iii) \$1 million but less than \$3 million in premium volume: \$1,100;

(iv) \$3 million but less than \$6 million in premium volume: \$1,550;

(v) \$6 million but less than \$11 million in premium volume: \$2,100;

(vi) \$11 million but less than \$15 million in premium volume: \$2,750;

(vii) \$15 million but less than \$20 million in premium volume: \$3,500; and

(viii) \$20 million or more in premium volume: \$4,350.

~~(b)~~(d) The annual service fee includes the following services for which no additional fee is required:

(i) filing of amendments to articles of incorporation, charter, or bylaws;

(ii) filing of power of attorney;

(iii) filing of registered agent;

(iv) affixing commissioner's seal and certifying any paper;

(v) filing of authorization to appoint and remove agents;

(vi) filing of producer/agency appointment with an insurer - initial;

(vii) filing of producer/agency appointment with an insurer - termination;

(viii) report filing, all lines of insurance;

(ix) rate filing, all lines of insurance; and

(x) form filing, all lines of insurance.

(c) The annual service fee is for services that the department will provide for an admitted insurer during the year. The fee is paid in advance of providing the services.

(d) Other fees:

(i) E-commerce fee: (see R590-102-17).

(ii) Insurer examination costs reimbursements from examined insurers - due by due date on the invoice: actual costs plus overhead expense.

R590-102-6. Other Organization, Surplus Lines Insurer, Accredited Reinsurer, Trusteed Reinsurer [~~Other Organizations~~] Fees.

(1) Annual license fee[-]:

(a) other organization:

(i) ~~other organization~~ initial - due with application: \$252;

(ii) ~~other organization~~ renewal - due annually by the due date on the invoice: \$202;

(iii) ~~other organization~~ late renewal - due for any renewal paid after the date on the invoice: \$252;

(iv) ~~other organization~~ reinstatement - due with application for reinstatement: \$252;

(v) The annual other organizations initial or renewal fee includes the risk retention group annual statement filing - due annually on May 1.

(b) surplus line insurer, accredited reinsurer, and trusteed reinsurer:

(i) ~~surplus lines insurer, accredited reinsurer, and trusteed reinsurer~~ initial - due with application \$1,002.

(ii) ~~surplus lines insurer, accredited reinsurer, and trusteed reinsurer~~ renewal - due annually by the due date on the invoice: \$302;

(iii) ~~[surplus lines insurer, accredited reinsurer, and trustee reinsurer]~~late renewal - due for any renewal paid after the date on the invoice: \$352;

(iv) ~~[surplus lines insurer, accredited reinsurer, and trustee reinsurer]~~reinstatement - due with application for reinstatement: \$1,002;

(v) The annual initial or renewal surplus line license fee includes the surplus lines annual statement filing for:

(A) U.S. companies - due annually on May 1; and

(B) foreign companies - due within 60 days of the annual statement's filing with the insurance regulatory authority where the company is domiciled.

(vi) The annual initial or renewal accredited reinsurer and trustee reinsurer license fee includes the annual statement filing - due annually on March 1.

(2) Annual service fee:

(a) Other organization - due annually by the due date on the invoice: \$200.

(b) Surplus lines insurer, accredited reinsurer, and trustee reinsurer - due annually by the due date on the invoice: \$200

(c) The annual service fee includes the following services for which no additional fee is required:

(i) filing of power of attorney;

(ii) filing of registered agent; and

(iii) rate, form, report or service contract filing; ~~and~~

~~(iv) any other services provided to the licensee.]~~
(d) The annual service fee is for services that the department will provide during the year. The fee is paid in advance of providing the services.

(e) Other fees: E-commerce fee: see R590-102-17.

R590-102-7. Captive Insurer Fees.

(1) Initial license application - due with license application: \$202.

(2) Initial license application review - due by the due date on the invoice: actual costs incurred by the department to review the application.

(3) Annual license fees:

(a) initial - due by the due date on the invoice: \$5,002;

(b) renewal - due by the due date on the invoice: \$5,002;

(c) late renewal - due for any renewal paid after the date on the invoice: \$5,052;

(d) reinstatement - due with application for reinstatement: \$5,052.

(4) Other fees:

(a) e-commerce fee: see R590-102-17.

(b) Examination costs reimbursements from examined captive insurers - due by due date on the invoice: actual costs plus overhead expense.

R590-102-8. Viatical Settlement Provider Fees.

(1) Annual license fees:

(a) initial - due with application: \$1,002;

(b) renewal - due by the due date on the invoice: \$302;

(c) late renewal - due for any renewal paid after the date on the invoice: \$352;

(d) reinstatement - due with reinstatement application: \$1,002.

(2) Annual service fee - due by the due date on the invoice: \$600.

(a) The annual service fee includes the following ~~services~~service for which no additional fee is required: [

~~(i)] rate, form, report or service contract filing; and~~

~~(ii) any other services provided to the licensee].~~

(b) The annual service fee is for services that the department will provide during the year. The fee is paid in advance of providing the services.

(3) Other fees:

(a) e-commerce fee: see R590-102-17.

(b) Examination costs reimbursements from examined viatical settlement providers - due by due date on the invoice: actual costs plus overhead expense.

R590-102-9. Professional Employer Organization (PEO) Fees.

(1) Annual license fees:

(a) PEO - not certified by an assurance organization:

(i) initial - due with application: \$2,000;

(ii) renewal - due by the due date on the invoice: \$2,000;

(iii) late renewal - due for any renewal paid after the date on the invoice: \$2,050;

(iv) reinstatement - due with reinstatement application: \$2,050;

(b) PEO - certified by an assurance organization:

(i) initial - due with application: \$2,000;

(ii) renewal - due by the due date on the invoice: \$1,000;

(iii) late renewal - due for any renewal paid after the date on the invoice: \$1,050;

(iv) reinstatement - due with reinstatement application: \$1,050;

(c) PEO - small operator:

(i) initial - due with application: \$2,000;

(ii) renewal - due by the due date on the invoice: \$1,000;

(iii) late renewal - due for any renewal paid after the date on the invoice: \$1,050;

(iv) reinstatement - due with reinstatement application: \$1,050.

(5) E-commerce fee: see R590-102-17.

R590-102-~~9~~10. Individual Resident and Non-Resident License Fees.

(1) Biennial resident and non-resident full-line individual license or renewal fee ~~for two year period~~:

(a) initial license fee - due with application: \$72;

~~(b) express initial license fee - due with application: \$72;~~

~~(c)~~(b) renewal license fee if renewed prior to renewal deadline - due with renewal application: \$72;

~~(d)~~(c) renewal license fee if renewed 1 through 30 days after renewal deadline and prior to license lapse - due with renewal application: \$122;

~~(e)~~(d) lapsed license reinstatement fee if reinstated 31 days through ~~730~~365 days after renewal deadline - due with application for reinstatement: \$122.

(2) Biennial resident and non-resident limited-line individual initial or renewal license fee ~~for two year period~~:

(a) initial license fee - due with application: \$47;

(b) renewal license fee if renewed prior to renewal deadline - due with renewal application: \$47;

(c) renewal license fee if renewed 1 through 30 days after renewal deadline and prior to license lapse - due with renewal application: \$97;

(d) lapsed license reinstatement fee if reinstated 31 days through ~~730~~365 days after renewal deadline - due with application for reinstatement: \$97.

(3) Other license fees: ~~[Fee for]~~ addition of producer classification or line of authority to individual producer license - due with request for additional classification or line of authority: \$27.

(4) The biennial initial and renewal full-line producer and limited-line producer fee includes the following services for which no additional fee is required:

- (a) issuance of letter of certification;
- (b) issuance of letter of clearance;
- (c) issuance of duplicate license;
- (d) individual continuing education services; ~~and~~
- ~~(e) other services provided to the licensee].~~

(5) The biennial initial and renewal individual license fee includes services the department will provide during the year. The fee is paid in advance of providing the services.

~~[(6) Title insurance product or service approval for dual licensed title licensee form filing fee - due with filing: \$25.~~

~~](6) Other fees:~~

- ~~(a) e-commerce fee: see R590-102-17.~~
- ~~(b) title insurance product or service approval for dual licensed title licensee form filing fee - due with filing: \$25.~~

R590-102-[40]11. Agency License Fees, Other than Bail Bond Agencies.

(1) Biennial resident and non-resident agency initial or renewal license ~~[per two year license period]~~ for a full-line agency and for a limited-line agency:

- (a) initial license fee - due with application: \$77;
- (b) renewal license fee if renewed prior to renewal deadline - due with renewal application: \$77;
- (c) renewal license fee if renewed 1 through 30 days after renewal deadline and prior to license lapse - due with renewal application: \$127;
- (d) lapsed license reinstatement fee if reinstated 31 days through ~~[730]365~~ days after renewal deadline - due with application for reinstatement: \$127.

(2) ~~Other license fees:~~ ~~[Fee for]~~ addition of producer classification or line of authority to agency license - due with request for additional classification or line of authority: \$27.

(3) The biennial initial and renewal agency license fee includes the following services for which no additional fee is required:

- (a) issuance of letter of certification;
- (b) issuance of letter of clearance;
- (c) issuance of duplicate license;
- (d) filing of producer designation to agency license - initial;
- (e) filing of producer designation to agency license - termination;
- (f) filing of amendment to agency license; and
- (g) filing of power of attorney.

(4) Other fees:

- (a) e-commerce fee: see R590-102-17;
- (b) title agency filing fee for rate, form, or report - due with filing: \$25.

R590-102-12. Bail Bond Agency.

~~[(3)](1)~~ Annual bail bond agency per annual license period:

- (a) initial license fee - due with application: \$252;
- (b) renewal license fee if renewed prior to renewal deadline - due with renewal application: \$252;
- (c) renewal license fee if renewed 1 through 30 days after renewal deadline and prior to license lapse - due with renewal application: \$302; and
- (d) lapsed license reinstatement fee if reinstated 31 days after renewal deadline - due with application for reinstatement: \$302.

(2) The annual initial and renewal agency license fee includes the following services for which no additional fee is required:

- (a) issuance of letter of certification;
- (b) issuance of letter of clearance;
- (c) issuance of duplicate license;

- (d) filing of producer designation to agency license - initial;
 - (e) filing of producer designation to agency license - termination;
 - (f) filing of amendment to agency license; and
 - (g) filing of power of attorney.
- (3) Other fees: E-commerce fee: see R590-102-17.

R590-102-13. Health Insurance Purchasing Alliance.

~~[(4)](1)~~ Annual health insurance purchasing alliance annual license:

- (a) initial license fee - due with application: \$502;
- (b) renewal license fee if renewed prior to renewal deadline - due with renewal application: \$502;
- (c) renewal license fee if renewed 1 through 30 days after renewal deadline and prior to license lapse - due with renewal application: \$552; and
- (d) lapsed license reinstatement fee if reinstated 31 days after renewal deadline - due with application for reinstatement: \$552.

(2) E-commerce fee: see R590-102-17. ~~[(5) The annual or biennial initial and renewal agency license fee includes the following services for which no additional fee is required:~~

- ~~(a) issuance of letter of certification;~~
- ~~(b) issuance of letter of clearance;~~
- ~~(c) issuance of duplicate license;~~
- ~~(d) filing of producer designation to agency license - initial;~~
- ~~(e) filing of producer designation to agency license - termination;~~
- ~~(f) filing of amendment to agency license;~~
- ~~(g) filing of power of attorney; and~~
- ~~(h) any other services provided to the licensee.~~

~~(6) The annual or biennial initial and renewal agency license fee includes services the department will provide during the year. The fee is paid in advance of providing the services.~~

~~(7) Title agency filing (rate, form, or report) - due with filing: \$25.]~~

R590-102-[44]14. Continuing Education Fees.

(1) Annual continuing education provider license fees per annual license period:

- (a) initial license fee - due with application: \$252;
- (b) renewal license fee if renewed prior to renewal deadline - due with renewal application: \$252;
- (c) late renewal license fee if renewed 1 through 60-days after renewal deadline and prior to license lapse - due with renewal application: \$302; and
- (d) Lapsed license reinstatement fee if reinstated 61 days after renewal deadline - due with application for reinstatement: \$302.

(2) Continuing education course post-approval fee - due with request for approval: \$5 per credit hour, minimum fee \$27.

R590-102-[42]15. Non-electronic Processing or Payment Fees.

(1) ~~[Paper]~~ Non-electronic filing processing fee - assessed on a non-electronic filing when the department has provided an electronic filing process and stated the electronic process is the preferred process for receiving a filing - due with each paper non-electronic filing or by the due date on the invoice: \$5.

(2) ~~[Paper]~~ Non-electronic application processing fee - assessed on a non-electronic application when the department has provided an electronic application process and stated the electronic process is the preferred process for receiving an application - due with each paper non-electronic application or by the due date on the invoice: \$25.

(3) Non-electronic payment processing fee - assessed on a non-electronic payment when the department has provided an electronic

payment process and stated the electronic process is the preferred process for receiving a payment - due with each non-electronic payment or by the due date on the invoice: \$25.

R590-102-[13]16. Dedicated Fees.

The following are fees dedicated to specific uses:

- (1) annual fraud assessment fee as calculated under Section 31A-31-108 and stated in the invoice - due by the due date on the invoice;
- (2) annual title assessment fee as calculated under Section 31A-23a-415 and stated in the invoice - due by the due date on the invoice;
- (3) relative value study book fee - due when book purchased or by invoice due date: \$12; ~~and~~
- (4) mailing fee for books - due if book is to be mailed to purchaser: \$3[-];
- (5) fingerprint fee - due with application for individual license:
 - (a) Bureau of Criminal Investigation (BCI): \$15.00; and
 - (b) Federal Bureau of Investigation (FBI): \$19.25; and
 - (6) annual assessment for the Title Recovery, Education, and Research Fund fee:
 - (a) individual title licensee applicant for initial license or renewal license - due with the initial application or the renewal application: \$15.00;
 - (b) agency title licensee applicant - due with the initial application: \$1,000.
 - (c) annual agency title licensee assessment based on annual written title insurance premium - due by the due date on the invoice:
 - (i) Band A: \$0 to \$1 million: \$125.00;
 - (ii) Band B: more than \$1 million to \$10 million: \$250.00;
 - (iii) Band C: more than \$10 million to \$20 million: \$375.00;
 - (iv) Band D: more than \$20 million: \$500.00.

R590-102-[14]17. Electronic Commerce Dedicated Fees.

- (1) E-commerce and internet technology services fee:
 - (a) admitted insurer and surplus lines insurer - due with the annual initial, annual renewal, or reinstatement application: \$75;
 - (b) captive insurer - due with the annual initial, annual renewal, or reinstatement application: \$250;
 - (c) other organization, professional employer organization, and viatical settlement provider - due with the annual initial, annual renewal, or reinstatement application: \$50;
 - (d) continuing education provider - due with the annual initial, annual renewal, or reinstatement application: \$20;
 - (e) agency - due with the biennial initial, biennial renewal, or reinstatement application: \$10;
 - (f) health insurance purchasing alliance - due with the annual initial, annual renewal, or reinstatement application: \$10; and
 - (g) individual - due with the biennial initial, biennial renewal, or reinstatement application: \$5.
- (2) Database access fees:
 - (a) information accessed through an electronic portal set up for that purpose - due when the department's database is accessed to input or acquire data: \$3 per transaction;
 - (b) rate and form filing database access to an electronic public rate and form filing:
 - (i) a separate fee is assessed per line of insurance accessed (accident and health, life and annuity, or property-casualty):
 - (A) a base fee, which entitles the user up to 30 minutes of access, the assistance of staff during that time, and one DVD - \$45.00;
 - (B) each additional 30 minutes of access time or fraction thereof, including the assistance of staff during that time - \$45;

(iii) additional DVD - \$2.00;

(iv) payment due at time of service or by the due date on the invoice.

R590-102-[15]18. Other Fees.

- (1) photocopy fee - per page: \$.50.
- (2) Complete annual statement copy fee - per statement: \$42.
- (3) Fee for accepting service of legal process: \$12.
- (4) Fees for production of information lists regarding [admitted insurers, other organizations, individuals, agencies, licensees] or other information that can be produced by list:
 - (a) printed list: \$1 per page;
 - (b) electronic list:
 - (i) 1 to 500 records: \$52; and
 - (ii) 501 or more records: \$.11 per record.
 - (5) Returned check fee: \$20.
 - (6) Workers compensation loss cost multiplier schedule: \$5.
 - (7) Address correction fee -- assessed when department has to research and enter new address for a licensee -- due by the due date on the invoice: \$35.

R590-102-[16]19. ~~Separability~~ Severability.

If any provision of this rule or its application to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of this provision to other persons or circumstances shall not be affected.

KEY: insurance fees

Date of Enactment or Last Substantive Amendment: ~~June 8, 2007~~ 2008

Notice of Continuation: January 26, 2007

Authorizing, and Implemented or Interpreted Law: 31A-3-103

◆ ————— ◆

Insurance, Administration
R590-153
(Changed to R592-6)
Unfair Inducements and Marketing
Practices in Obtaining Title Insurance
Business

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31715

FILED: 07/15/2008, 16:11

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being changed for several reasons: 1) to update the rule to keep up with changes in the title and escrow marketplace; 2) to move it to a Title and Escrow Commission rule by changing the number to R592-6; and 3) to make technical changes.

SUMMARY OF THE RULE OR CHANGE: The Authority Section provides reference to the Title and Escrow Commissions authority to write the rule; the Purpose and Scope Sections have been combined; the Definition Section has been put in

alphabetical order, and a new definition has been included for "Title Insurance Business." Several subsections in Section R590-153-4 and Rule R590-5 have been moved, without change to the text. Subsection R590-153-5(R) dealing with information packets has been deleted since they are no longer being collected by the department nor charged for by industry due to expense for such things being reduced due to technology. Subsection R590-153-5(P) is also being deleted since it is no longer an issue. Subsection R590-153-6(G) is being changed to clarify that the education programs referred to are continuing education programs. References to "commissioner" are being changed to "Commission" to comply with the transfer of this rule from the Insurance Department to the Title and Escrow Commission. Other technical and grammatical changes are also being made.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-2-404

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: These amendments will have no fiscal impact on the Insurance Department or the state's budget. The amendments will not result in additional or reduced fees to the department, nor will they change the workload of department staff.
- ❖ LOCAL GOVERNMENTS: Since this rule deals solely with the relationship between the department and their licensees, it will have no impact on local governments.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: These amendments will have no fiscal impact on small businesses. The majority of the changes deal with the moving of subsections, change in outlining and rule references, and the deletion of subsections that are no longer issues in the title business. The changes will not require additional filings, fees, or reprinting of forms for any businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule will have no fiscal impact on consumers or licensees. The majority of the changes deal with the moving of subsections within the rule, change in outlining and rule references, and the deletion of subsections that are no longer issues in the title business. Since the changes should have no fiscal impact on the title business, there should be no fiscal impact on their consumers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule should have no fiscal impact on 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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/02/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 8/11/2008 at 9:00 AM, East Building (behind the Capitol), Olmsted Room, main floor, Salt Lake City, UT.

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590-153-4R592-6. Insurance, ~~Administration~~Title and Escrow Commission.

R590-153-4R592-6. Unfair Inducements and Marketing Practices in Obtaining Title Insurance Business.

R590-153-4R592-6-1. Authority.

This rule is promulgated pursuant to Section ~~31A-2-201(3)(a)~~31A-2-404(2), ~~in~~which authorizes the Title and Escrow Commission (Commission) ~~the commissioner is empowered~~ to make rules for the administration of ~~to implement~~ the Insurance Code ~~and pursuant to the specific authority of Section 31A-23a-402(8), which authorizes the commissioner to define unfair methods of competition or any other unfair or deceptive act or practice in the business of insurance.~~ related to title insurance, including rule related to standards of conduct for a title insurer, agency or producer.

R590-153-2R592-6-2. Purpose and Scope.

(1) The purpose of this rule is to identify certain practices, which the ~~commissioner~~Commission finds ~~provide~~creates unfair inducements for the placement of title insurance business and as such constitute unfair methods of competition. These practices include ~~but are not limited to,~~ the payment of expenses that are considered normal, customary, reasonable and recurring in the operation of a client of a title insurer, agency or producer.

(2) This rule applies to all title insurers, title insurance agencies, title insurance producers and all employees, representatives and any other party working for or on behalf of said entities whether as a full time or part time employee or as an independent contractor.

R590-153-3. Scope.

This rule applies to all title insurers, title insurance agencies and title insurance producers and all employees, representatives and any other party working for or on behalf of said entities whether as a full time or part time employee or as an independent contractor.

R590-153-4R592-6-3. Definitions.

For the purpose of this rule the ~~commissioner~~Commission adopts the definitions as set forth in Section 31A-1-301 and 31A-2-402, and the following:

(1) "Bona fide real estate transaction" means:

(a) a preliminary title report is issued to a seller or listing agent in conjunction with the listing of a property; or

(b) a commitment for title insurance is ordered, issued, or distributed in a purchase and sale transaction showing the name of the proposed buyer and the sales price, or in a loan transaction showing the proposed lender and loan amount.

(2) "Business Activities" shall include sporting events, sporting activities, musical and art events. In no case shall such business

activities rise to the level of ceremonies, for example, award banquets, recognition events or similar activities sponsored by or for clients, or include travel by air, or other commercial transportation.

(3) "Business meals" shall include breakfast, brunch, lunch, dinner, cocktails and tips. In no case shall such business meals raise to the level of ceremonies, for example, awards banquets, recognition events or similar activities sponsored by or for clients.

[A-](4)(a) "Client" means any person, or group, who influences, or who may influence, the placement of title insurance business or who is engaged in a business, profession or occupation of:

(1) buying or selling interests in real property; and

(2) making loans secured by interests in real property. [and]

(3)(b) "Client" [shall] include [but not be limited to] real estate agents, real estate brokers, mortgage brokers, lending or financial institutions, builders, developers, sub[-]dividers, attorneys, consumers, escrow companies and the employees, agents, representatives, solicitors and groups or associations of any of the foregoing.

[B-](5) "Discount" means the furnishing or offering to furnish title insurance, services constituting the business of title insurance or escrow services for a total charge less than the amounts set forth in the applicable rate schedules filed pursuant to Section 31A-19a-203 or 31A-19a-209.

(6) "Official trade association publication" means:

(a) a membership directory, provided its exclusive purpose is that of providing the distribution of an annual roster of the association's members to the membership and other interested parties; or

(b) an annual, semiannual, quarterly or monthly publication containing information and topical material for the benefit of the members of the association.

(7) "Title insurance business" means the business of title insurance and the conducting of escrow.

[C-](8) "Trade Association" means a recognized association of persons, a majority of whom are clients or persons whose primary activity involves real property. [

D. "Business meals" shall include, but are not limited to, breakfast, brunch, lunch, dinner, cocktails and tips. In no case shall such business meals rise to the level of ceremonies, for example, awards banquets, recognition events or similar activities sponsored by or for clients.

E. "Official Trade Association Publication" means:

(1) a membership directory, provided its exclusive purpose is that of providing the distribution of an annual roster of the association's members to the membership and other interested parties; or

(2) an annual, semiannual, quarterly or monthly publication containing information and topical material for the benefit of the members of the association.

F. "Business Activities" shall include, but are not limited to, sporting events, sporting activities, music and art events. In no case shall such business activities rise to the level of ceremonies, for example award banquets, recognition events or similar activities sponsored by or for clients, or include travel by air, or other commercial transportation.

G. "Bona fide real estate transaction" means:

(1) a preliminary title report is issued to a seller or listing agent in conjunction with the listing of a property, or

(2) a commitment for title insurance is ordered, issued, or distributed in a purchase and sale transaction showing the name of the proposed buyer and the sales price, or in a loan transaction showing the proposed lender and loan amount.]

~~[R590-153-5]~~R592-6-4. Unfair Methods of Competition, Acts and Practices.

In addition to the acts prohibited under Section 31A-23a-402, the [The commissioner]Commission finds that providing or offering to provide any of the following benefits by parties identified in Section [R590-153-3]R592-6-2 to any client, either directly or indirectly, except as specifically allowed in Section [R590-153-6]R592-6-5 below, is a material and unfair inducement to obtaining title insurance business and constitutes an unfair method of competition, [in the business of title insurance prohibited under Section 31A-23a-402:]

[A-](1) The furnishing of a title insurance commitment without one of the following:

(1)a sufficient evidence in the file of the title insurer, agency or producer that a bona fide real estate transaction exists; or

(2)b payment in full at the time the title insurance commitment is provided.

[B-](2) The paying of any charges for the cancellation of an existing title insurance commitment issued by a competing organization, unless that commitment discloses a defect which gives rise to a claim on an existing policy.

[C-](3) Furnishing escrow services pursuant to Section 31A-23a-406[;]

(a) for a charge less than the charge filed pursuant to Section 31A-19a-209(5); or

(b) the filing of charges for escrow services with the Utah Insurance Commissioner (commissioner)[commissioner], which are less than the actual cost of providing the services.

[D-](4) Waiving all or any part of established fees or charges for services[;] which are not the subject of rates or escrow charges filed with the commissioner.

[E-](5) Deferring or waiving any payment for insurance or services otherwise due and payable, including ["holding for resale"]a series of real estate transactions for the same parcel of property.

[F-](6) Furnishing services not reasonably related to a bona fide title insurance, [or] escrow, settlement, or closing transaction, including[, but not limited to computer services,] non-related delivery services, accounting assistance, or legal counseling.

[G-](7) The paying for, furnishing, or waiving all or any part of the rental or lease charge for space[;] which is occupied by any client.

[H-](8) Renting or leasing space from any client, regardless of the purpose, at a rate which is excessive or inadequate when compared with rental or lease charges for comparable space in the same geographic area, or paying rental or lease charges based in whole or in part on the volume of business generated by any client.

(9) Furnishing any part of a title insurer's, title agency's, or title producer's facilities, for example, conference rooms or meeting rooms, to a client or its trade association without receiving a fair rental or lease charge comparable to other rental or lease charges for facilities in the same geographic area.

(10) The co-habitation or sharing of office space with a client of a title insurer, title agency, or title producer.

[I-](11) Furnishing all or any part of the time or productive effort of any employee of the title insurer, agency or producer, for example, secretary, clerk, messenger or escrow officer, to any client.

[J-](12) Paying for all or any part of the salary of a client or an employee of any client.

[K-](13) Paying, or offering to pay, either directly or indirectly, salary, commissions or any other consideration to any employee who is at the same time licensed as a real estate agent or real estate broker or as

a mortgage lender or mortgage company subject to 31A-2-405 and R592-5.

~~[L-](14)~~ Paying for the fees or charges of a professional, for example, an appraiser, surveyor, engineer or attorney, whose services are required by any client to structure or complete a particular transaction.

~~[M-](15)~~ Sponsoring, cosponsoring, subsidizing, contributing fees, prizes, gifts, food or otherwise providing anything of value for an activity of a client, except as allowed under Subsection ~~[R590-153-6(F)]R592-6-5(6)~~ ~~[of a client]~~. Activities include ~~[, but are not limited to]~~ ~~[]~~ open houses ~~[]~~ at homes or property for sale, meetings, breakfasts, luncheons, dinners, conventions, installation ceremonies, celebrations, outings, cocktail parties, hospitality room functions, open house celebrations, dances, fishing trips, gambling trips, sporting events of all kinds, hunting trips or outings, golf or ski tournaments, artistic performances and outings in recreation areas or entertainment areas.

~~[N-](16)~~ Sponsoring, cosponsoring, subsidizing, supplying prizes or labor, except as allowed under Subsection ~~[R590-153-6(C)]R592-6-5(2)~~ ~~[,]~~ or otherwise providing things of value for promotional activities of a client. Title insurers, agencies or producers may attend activities of a client if there is no additional cost to the title insurer, agency or producer other than their own entry fees, registration fees, meals, ~~[etc.,]~~ and provided that these fees are no greater than those charged to clients or others attending the function.

~~[O-](17)~~ Providing gifts or anything of value to a client in connection with social events such as birthdays or job promotions ~~[except as provided in Subsection R590-153-6(H)]~~. A letter or card in these instances will not be interpreted as providing a thing of value.

~~[P- Providing either directly or indirectly, a compensating balance or deposit in a lending institution either for the express or implied purpose of influencing the placement or steering of title insurance business by such lending institution. This does not preclude transactions with lending institutions, which are in the normal course of business.~~

~~Q- Furnishing any part of a title insurer's, agency's or producer's facilities, for example, conference rooms or meeting rooms, to a client or trade association without receiving a fair rental or lease charge comparable to other rental or lease charges for facilities in the same geographic area.~~

~~R- Furnishing information packets, listing kits, "farm" packages, reports, or any form of title evidence without first filing a specimen form copy with the commissioner and specifying a rate for which the form is available. The rate may not be less than the actual cost of producing the information and the material furnished.](18)~~ Furnishing or providing access to the following, even for a cost:

- (a) building plans;
- (b) construction critical path timelines;
- (c) "For Sale by Owner" lists;
- (d) surveys;
- (e) appraisals;
- (f) credit reports;
- (g) mortgage leads for loans;
- (h) rental or apartment lists; or
- (i) printed labels.

(19) Newsletters cannot be property specific or cannot highlight specific customers.

(20) A title insurer, agency or producer cannot provide a client access to any software accounts that are utilized to access real property information that the insurer, agency or producer pays for. Closing software is exempt as long as it is used for a specific closing.

(21) A person or individual affiliated with a title insurer, agency or producer cannot provide a loan or any type of financing to a client of title insurance.

~~[S-](22)~~ Paying for any advertising on behalf of a client.

~~[T-](23)~~ Advertising jointly with a client on subdivision or condominium project signs, or signs for the sale of a lot or lots in a subdivision or units in a condominium project. A title insurer, agency or producer may advertise independently that it has provided title insurance for a particular subdivision or condominium project but may not indicate that all future title insurance will be written by that title insurer, agency or producer.

(24) Advertisements may not be placed in a publication, including an internet web page and its links, that is hosted, published, produced for, distributed by or on behalf of a client.

(25) A donation may not be made to a charitable organization created, controlled or managed by a client.

~~[U-](26)~~ A direct or indirect benefit, provided to a client which is not specified in Section ~~[R590-153-6]R592-6-5~~ below, will be investigated by the department for the purpose of determining whether it should be defined by the ~~[commissioner]Commission~~ as an unfair inducement under Section 31A-23a-402(8).

~~[V- Donations to charitable organizations must:~~

- ~~— (1) not be paid in cash; and~~
- ~~— (2) if paid by negotiable instrument, be made payable only to the charitable organization; and~~
- ~~— (3) be distributed directly to the charitable organization; and~~
- ~~— (4) not provide any benefit to a client.~~

~~W-](27)~~ Title insurers, agencies and producers who have ownership in, or control of, other business entities, including I.R.C. Section 1031 qualified intermediaries, may not use those other business entities to enter into any agreement, arrangement, or understanding or to pursue any course of conduct, designed to avoid the provisions of this rule.

[R590-153-6]R592-6-5. Permitted Advertising, ~~[and] Business Entertainment, and Method of Competition.~~

Except as specifically prohibited in Section R592-6-4 above, the following are permitted:

~~[A- A title insurer, agency or producer may furnish the following without charge, and without additions, addenda or attachments which may be construed as reaching conclusions of the insurer, agency or producer regarding matters of marketable ownership or encumbrances:~~

- ~~— (1) A copy of an existing plat map; or~~
- ~~— (2) Tax information covering a specific parcel of real estate, for example, tax identification number, assessed owner, assessed value of land and improvements, or the latest tax amount; or~~
- ~~— (3) other information regarding real property which the county recorder's office provides to the public free of charge, or at a nominal charge, and in the exact format and content as provided by the county recorder's office.~~

~~— B-](1)~~ In addition to complying with the provisions of 31A-23a-402 and R590-130, Rules Governing Advertisements of Insurance, [Advertisements]advertisement by title insurers, agencies or producers must comply with the following:

(1a) [The]the advertisement must be purely self-promotional[-]; and

(2) Advertisements may not be placed in a publication, including an Internet web page and its links, that is hosted, published, produced for, distributed by or on behalf of a client except as allowed under R590-153-6(B)(3).]

~~(3)~~~~b~~ ~~[Advertisements]~~ advertisement in official trade association publications are permissible as long as any title insurer, agency or producer has an equal opportunity to advertise in the publication and at the standard rates other advertisers in the publication are charged.

~~(C)~~~~(2)~~ A title~~[-]~~ insurer, agency or producer may donate time to serve on a trade association committee and may also serve as an officer for the trade association.

~~(D)~~~~(3)~~ A title insurer, agency or producer may have two self-promotional open houses per calendar year for each of its owned or occupied facilities, including branch offices. The title insurer, agency or producer may not expend more than \$15 per guest per open house. The open house may take place on or off the title insurer's, agency's or producer's premises but may not take place on ~~the~~~~a~~ client's premises.

(4) A donation to a charitable organization must:

- (a) not be paid in cash;
- (b) if paid by a negotiable instrument, be made payable only to the charitable organization;
- (c) be distributed directly to the charitable organization; and
- (d) not provide any benefit to a client.

~~(E)~~~~(5)~~ A title insurer, agency or producer may distribute self-promotional items having a value of \$5 or less to clients, consumers and members of the general public. These self-promotional items shall be novelty gifts which are non-edible and may not be personalized or bear the name of the donee. Self-promotional items may only be distributed in the regular course of business. Self-promotional items may not be given to clients or trade associations for redistribution by these entities.

~~(F)~~~~(6)~~ A title insurer, agency or producer may make expenditures for business meals or business activities on behalf of any person, whether a client or not, as a method of advertising, if the expenditure meets all the following criteria:

~~(1)~~~~a~~ ~~[F]~~~~the~~ person representing the title insurer, agency or producer must be present during the business meal or business activity~~[-]~~;

~~(2)~~~~b~~ ~~[F]~~~~there~~ is a substantial title insurance business discussion directly before, during or after the business meal or business activity~~[-]~~;

~~(3)~~~~c~~ ~~[F]~~~~the~~ total cost of the business meal, the business activity, or both is not more than \$100 per person, per day~~[-]~~;

~~(4)~~~~d~~ ~~[N]~~~~no~~ more than three individuals from an office of a client may be provided a business meal or business activity by a title insurer, agency or producer in a single day~~[-]~~; and

~~(5)~~~~e~~ ~~[F]~~~~the~~ entire business meal or business activity may take place on or off the title insurer's, agency's or producer's premises, but may not take place on ~~the~~~~a~~ client's premises.

~~(G)~~~~(7)~~ A title insurer, agency or producer may conduct continuing education~~[#]~~ programs that are approved by the Commission, with the concurrence of the commissioner or the Utah Division of Real Estate, under the following conditions:

~~(1)~~~~a~~ ~~[F]~~~~the~~ continuing education~~[#]~~ program shall address only title insurance, escrow or other topics directly related thereto~~[-]~~;

~~(2)~~~~b~~ ~~[F]~~~~the~~ continuing education~~[#]~~ program must be of at least one hour in duration~~[-]~~;

~~(3)~~~~c~~ ~~[F]~~~~for~~ each hour of continuing education, \$15 or less per person may be expended, including the cost of meals and refreshments~~[-]~~; and

~~(4)~~~~d~~ ~~[N]~~~~no~~ more than one such continuing education~~[#]~~ program may be conducted at the office of a client per calendar quarter.

~~(H)~~~~(8)~~ A title insurer, agency or producer may acknowledge a wedding, birth or adoption of a child, or funeral of a client or members of ~~his/her~~~~the~~ client's immediate family with flowers or gifts not to exceed \$75.

~~(I)~~~~(9)~~ Any other advertising, ~~and/or~~ business entertainment, or method of competition must be requested in writing and approved in advance and in writing by the ~~commissioner~~~~Commission~~.

~~[R590-153-7]~~~~[R592-6-6]~~ **Enforcement Date.**

The commissioner will begin enforcing the provisions of this rule 45 days from the effective date of the rule.

~~[R590-153-8]~~~~[R592-6-7]~~ **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 end the provisions of this rule are declared to be severable.

KEY: title insurance

Date of Enactment or Last Substantive Amendment: ~~[August 8, 2007]~~2008

Notice of Continuation: November 9, 2007

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-23a-402



Insurance, Administration **R590-176** Health Benefit Plan Enrollment

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31716

FILED: 07/15/2008, 17:15

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During the 2008 Legislative Session, H.B. 301 changed the statutory standard by which insurability in the individual market is determined. The bill requires the Commissioner to contract with an independent consulting organization to develop industry-wide underwriting criteria for uninsurability. This has been done and the criteria set in this rule to determine uninsurability. (DAR NOTE: H.B. 301 (2008) is found at Chapter 385, Laws of Utah 2008, and was effective 05/05/2008.)

SUMMARY OF THE RULE OR CHANGE: This rule changes the definition of who will be considered uninsurable in the private health insurance marketplace as of September 2008 when these changes go into effect. The changes will allow a private health insurer to refer an applicant to the Utah Comprehensive Pool (HIPUtah) who has medical condition and prescriptions totaling 99 or more debit points instead of just 44 debit points now allowed based on the Milliman Small Group Medical Underwriting Guidelines.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201 and 31A-2-202

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** These changes affect the standards by which insurability of an individual is determined by health insurers. It will have no effect on the function or structure of the Comprehensive Health Insurance Pool (Pool) to whom the uninsured are referred, or the Insurance Department who oversees the pool. The Pool's membership could slightly decline with those that are the healthiest of the pool membership being now covered in the individual market. Pool costs and premiums could increase. On balance, however, the actuary feels that the change in the standard will not be a significant factor that by itself will result in a need to increase funding for the pool.

❖ **LOCAL GOVERNMENTS:** Local governments will not be affected by these changes since they deal only with the relationship between the Pool and those they insure and private insurers and those they will insure.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** As of September 2008, those individuals that have debit points between 44 and 99 will be able to obtain health insurance from a private health insurer. Whether or not the individual's costs will increase or decrease will be determined on a case by case basis. These individuals who will be able to access the individual marketplace and have more coverage and price options than were available to them in the Pool.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Private health insurers will now be required to accept individuals with higher health risks and which will require them to increase their claim reserves. These reserves are not taxed, thus providing a savings to the insurer. The true effect of this change on individuals, insurers and the Pool will not be known for at least a year.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impact of this the new law and the changes to this rule will not be known for a year or two. D. Kent Michie, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/02/2008.

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.**R590-176. Health Benefit Plan Enrollment.****R590-176-7. Individual Underwriting Criteria.**

(1) Each carrier shall determine the number of individuals classified as uninsurable at initial enrollment. This determination shall be made in accordance with underwriting standards established by this rule.

(2) An individual insured by the Utah Comprehensive Health Insurance Pool is classified as uninsurable.

(3)(a) An individual may be classified as uninsurable if the individual has~~[-a]~~:

~~(i) one or more medical conditions (conditions; or~~
~~(ii) one or more prescriptions listed on the Uninsurable Conditions List; and~~

~~(iii) the conditions, prescriptions, or both, are assigned a total number of debit points equal to or greater than 99 debit points in the aggregate according to the latest version of the Milliman Small Group Medical Underwriting Guidelines taking into account;~~

~~(A) [the-]elapsed time[-];~~

~~(B) additional criteria; and~~

~~(C) exception criteria.~~

~~(b) A carrier may not take into account conditions for which coverage is not provided. This includes conditions excluded as a pre-existing condition for which treatment is expected during the exclusion period if the applicant would not be considered uninsurable after the treatment.~~

~~(4) The [Uninsurable Conditions List]Milliman Small Group Medical Underwriting Guidelines [is]are available at the [department]HIPUtah administrator's place of business.~~

~~(5)(4) A carrier may appeal to the commissioner to have an individual classified as uninsurable if the individual has a combination of conditions, prescriptions, or both, that would [clearly] cause that individual [to have claims as great as the average of those included on the Uninsurable Conditions List]to have debit points assigned that equal or exceed the number of debit points determined under Section (3) pursuant to the latest version of the Small Group Medical Underwriting Guidelines. The commissioner may appoint a designee to review these appeals.~~

~~(6)(5) Only individuals enrolling under Subsection 31A-30-108(3) may be counted as uninsurable.~~

R590-176-8. Individual Carrier Enrollment Cap Calculation and Certification.

(1) Pursuant to Section 31A-30-110, an individual carrier may not decline enrollment until the carrier has:

(a) met its enrollment cap; and

(b) submitted a certification to the department in compliance with this section.

(2) An individual carrier may limit enrollment after submitting its certification.

(3) The commissioner may require additional enrollment after reviewing the certification.

(4) An officer of the individual carrier shall submit a certification that:

- (a) lists the UC and CI as defined in Section 31A-30-103[~~(27)~~](28);
 - (b) lists the number of individual natural covered lives at the time of the certification;
 - (c) categorizes the UC into new applicants added to existing policies and newly issued policies;
 - (d) identifies the number of Comprehensive Health Insurance Pool participants; and
 - (e) identifies the qualifying condition(s), prescription(s), or both that cause the persons making up the carrier's UC to be considered uninsurable under Section 31A-30-106(1)(j) and Rule R590-176[~~listed on the Uninsurable Condition List~~].
- (5) Carriers, whose coverage count exceeds 200% of the coverage count as of the end of the prior year, shall determine the uninsurable percentage using counts as of the end of the most recent calendar quarter.

KEY: health insurance
Date of Enactment or Last Substantive Amendment: ~~November 20, 2003~~ 2008
Notice of Continuation: January 11, 2007
Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-2-202



Insurance, Administration
R590-246
 Professional Employer Organization
 (PEO) License Application Rule

NOTICE OF PROPOSED RULE
 (New Rule)
 DAR FILE NO.: 31653
 FILED: 07/03/2008, 09:48

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule is to establish a licensing process, license application forms, and other requirements the commissioner deems necessary for the regulation of professional employer organizations (PEOs).

SUMMARY OF THE RULE OR CHANGE: The regulation of PEOs was transferred from the Division of Occupational and Professional Licensing (DOPL) to the Insurance Department by the 2008 Legislature in H.B. 159. This rule was created to provide a licensing process and licensing applications for PEOs. (DAR NOTE: H.B. 159 (2008) is found at Chapter 318, Laws of Utah 2008, and was effective 05/05/2008.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 31a, Chapter 40

ANTICIPATED COST OR SAVINGS TO:
 ❖ **THE STATE BUDGET:** The Utah insurance Department received \$150,000 of General Fund revenue to support the regulation and licensing of PEOs. The \$150,000 of General Fund money was offset by a transfer of \$150,000 from the

Commerce Service Fund. Annual license fees are projected to exceed \$150,000 per year. The \$150,000 General Fund money will support two FTEs to regulate and license PEOs.
 ❖ **LOCAL GOVERNMENTS:** This new rule will have no effect on local governments since the rule deals solely with the relationship between the department and its licensees.
 ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** Licensing fees are the same as the DOPL registration fee so PEOs will not see an increase in their licensing costs. The Insurance Department's e-commerce fee of \$50 is \$20 per year higher than the DOPL fee so PEOs will see this minor increase. The \$20 increase in PEO licensing fees will have a minimal, if any, impact on fees charged by PEOs to their clients.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The \$20 increase in PEO licensing fees will have a minimal, if any, impact on PEOs and their customers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impact of this rule is minimal. D. Kent Michie, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 INSURANCE
 ADMINISTRATION
 Room 3110 STATE OFFICE BLDG
 450 N MAIN ST
 SALT LAKE CITY UT 84114-1201, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/02/2008.

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance Administration.
R590-246. Professional Employer Organization (PEO) License Application Rule.
R590-246-1. Authority.

This rule is promulgated pursuant to the general rulemaking authority granted the insurance commissioner by Subsection 31A-2-201(3)(a) and the specific authority granted by Sections 31A-40-103 and 31A-40-302 through 31A-40-306.

- R590-246-2. Purpose and Scope.**
(1) The purpose of this rule is to establish:
(a) a licensing process;
(b) license application forms; and

(c) other requirements which the commissioner deems necessary for the regulation of professional employer organizations.

(2) This rule applies to all professional employer organization license applicants, all licensed professional employer organizations, and any unlicensed person doing the business of a professional employer organization in Utah.

R590-246-3. Definitions.

(1) The definitions in Sections 31A-1-301 and 31A-40-102 apply to this rule.

(2) "Fully insured" as used in 31A-40-208 means a health benefit plan for which 100% of the liability has been assumed by an insurance company or health maintenance organization authorized to conduct business in Utah.

(a) The health benefit plan may include a layer of financial responsibility for claims assumed by the PEO as long as the insurance company or health maintenance organization is responsible for 100% of the PEO's liability in the event of non-payment by the PEO.

(b) The covered individual must be entitled to make a claim for payment directly to the insurance company or health maintenance organization.

(c) A fully insured plan may have co-pay or deductible requirements as required by contract.

R590-246-4. Initial and Renewal Licensing Process.

(1) All professional employer organization types must comply with the appropriate statutory requirements and complete and submit the appropriate initial or renewal license application form and any supporting documents to the commissioner.

(2) The initial or renewal application form, and all attachments must be submitted electronically via:

- (a) a PDF attachment to an email - the preferred method; or
- (b) an electronic facsimile.

(3) A professional employer organization applicant that was registered with the Division of Professional Licensing, Utah Department of Commerce prior to May 4, 2008, will be considered as a renewing licensee by the Department and will:

- (a) submit a renewal application prior to September 30, 2008; and
- (b) will pay the annual renewal fee in accordance with the instructions issued with the renewal invoice.

(4) A professional employer organization applicant that was not registered with the Division of Professional Licensing, Utah Department of Commerce prior to May 4, 2008, is a new applicant and must:

- (a) submit a new application;
- (b) pay the license fee by check submitted to the address on the Department's webpage at www.insurance.gov. Checks not drawn on the Professional Employer Organization must be referenced to the organization.

(4) Professional employer types for initial and renewal licenses:

(a) PROFESSIONAL EMPLOYER ORGANIZATION - NOT CERTIFIED THROUGH AN ASSURANCE ORGANIZATION.

(i) Comply with the requirements in Sections 31A-40-205, 31A-40-302 and 31A-40-305.

(ii) Complete the Professional Employer Organization - Not Certified Through An Assurance Organization license application form posted on the Department's webpage at www.insurance.utah.gov.

(iii) The requirement in 31A-40-302(2)(g) will be satisfied by completing and submitting the UCAA Biographical Affidavit form posted on the Department's webpage at www.insurance.utah.gov.

(b) PROFESSIONAL EMPLOYER ORGANIZATION - CERTIFIED THROUGH AN ASSURANCE ORGANIZATION.

(i) Comply with the requirements in Section 31A-40-303.

(ii) Complete the Professional Employer Organization - Certified Through An Assurance Organization license application form posted on the Department's webpage at www.insurance.utah.gov.

(c) PROFESSIONAL EMPLOYER ORGANIZATION - SMALL OPERATION LICENSE.

(i) Comply with the requirements in Section 31A-40-304.

(ii) Complete the Professional Employer Organization - Small Operation License application form posted on the Department's webpage at www.insurance.utah.gov.

(d) PROFESSIONAL EMPLOYER ORGANIZATION GROUP.

(i) Comply with the requirements in Section 31A-4-306.

(ii) Complete the appropriate Professional Employer Organization license application:

(A) Professional Employer Organization - Not Certified Through An Assurance Organization;

(B) Professional Employer Organization - Certified Through An Assurance Organization; or

(C) Professional Employer Organization - Small Operation License.

R590-246-5. Enforcement Date.

The commissioner will begin enforcing this rule 45 days from the rule's effective date.

R590-246-6. Severability.

If any provision of this rule or its application to any person or circumstance is, for any reason, held to be invalid, the remainder of this rule and its application to other persons and circumstances are not effected.

KEY: professional employer organization licensing

Date of Enactment or Last Substantive Amendment: 2008

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-40-103; 31A-40-302; 31A-40-304



Labor Commission, Administration

R600-2-1

Business Hours

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31705

FILED: 07/15/2008, 09:18

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed rule changes the Labor Commission's hours of operation to Monday through Thursday from 7 a.m. to 6 p.m. in conformity with Governor Huntsman's "Working 4 Utah" initiative.

SUMMARY OF THE RULE OR CHANGE: The proposed rule establishes the Commission's business hours as 7 a.m. to 6 p.m., Monday through Thursday. The proposed rule provides that the Commission will be closed Friday through Sunday and on state-approved holidays. The proposed rule also provides that documents, including fax transmissions, received after business hours will be deemed to have been filed on the next business day.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-1-104

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** As part of the Governor's "Working 4 Utah" initiative, the Commission's adoption of a four-day work week will reduce heating and cooling costs by approximately 10%. This will result in a corresponding reduction of such costs to the state budget.

❖ **LOCAL GOVERNMENTS:** The proposed rule does not affect local government operations and will not result in costs or savings with respect to those operations. As to local governments status as employers, and their dealings with the Commission in that capacity, the effect of this rule will be the same as with employers generally, i.e., while the proposed rule shortens the work week from five to four days, it lengthens the work day from 9 hours to 11 hours; this trade-off is not anticipated to result in any costs or savings.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** While the proposed rule shortens the work week from five to four days, it lengthens the work day from 9 hours to 11 hours. This trade-off is not anticipated to result in any costs or savings for small businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The modification of hours of operation will affect most Commission employees and some Commission customers. The degree of impact will vary from person to person, depending on individual circumstances but, on balance, the substitution of longer hours of operation for fewer days of operation should not result in any net increase in compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: While businesses will no longer be able to conduct business at the Commission office on Fridays, businesses will enjoy longer hours of service Monday through Thursday. These longer hours of service should mitigate any fiscal impact that this change might otherwise have on businesses, as will the availability of Commission information and services through the internet and other electronic media. On balance, this change is not expected to have any appreciable net fiscal impact on businesses. Sherrie Hayashi, Commissioner

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

LABOR COMMISSION
ADMINISTRATION
HEBER M WELLS BLDG
160 E 300 S

SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Alan Hennebold at the above address, by phone at 801-530-6937, by FAX at 801-530-6390, or by Internet E-mail at ahennebold@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/02/2008.

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

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R600. Labor Commission, Administration.

R600-2. Operations.

R600-2-1. Business Hours.

The offices of the Commission shall be open for receipt of official documents [~~during regular business days~~] between the hours of [§]7:00 a.m. to [§]6:00 p.m. Monday through Thursday. Commission offices shall not be open for business Friday through Sunday and on state-recognized holidays. Any official document, including fax transmissions, received when the Commission is not open, including fax transmissions after [§]6:00 p.m. shall be considered received on the next working day.

KEY: labor commission, hours of business

Date of Enactment or Last Substantive Amendment: [~~December 3, 1996~~]2008

Notice of Continuation: August 15, 2007

Authorizing, and Implemented or Interpreted Law: 34A-1-104

◆ ————— ◆

Natural Resources; Forestry, Fire and
State Lands

R652-90-300

Initiation of Planning Process

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31706

FILED: 07/15/2008, 11:21

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule section clarifies how the state initiates the type of planning process for state actions.

SUMMARY OF THE RULE OR CHANGE: This rule section clarifies the initiation of the comprehensive and resource planning process through Division action while site specific planning can be initiated by an application for land use or the potential for an application for land use for commercial gain.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 65A-2-2

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The rule amendment clarifies the circumstances that trigger the different types of planning processes. There will be no change in the amount or extent of planning and therefore no change in state budget.
- ❖ LOCAL GOVERNMENTS: Budgets of local governments are not impacted by this rule amendment because there is no change in the amount or extent of the participation by local governments.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There is no impact to businesses and other persons. The rule clarifies the Division's procedures for processing applications and initiating planning for various planning units.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no change in costs to affected persons. The planning processes that the Division undertakes has no affect on applications costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because this rule clarifies existing procedures, there will be no fiscal impact on businesses. Michael Styler, Executive Director

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

NATURAL RESOURCES
 FORESTRY, FIRE AND STATE LANDS
 1594 W NORTH TEMPLE
 SUITE 3520
 SALT LAKE CITY UT 84116-3154, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jennifer Wiglama at the above address, by phone at 801-538-5495, by FAX at 801-533-4111, or by Internet E-mail at jenniferwiglama@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/02/2008.

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

AUTHORIZED BY: Richard J. Buehler, Director

**R652. Natural Resources; Forestry, Fire and State Lands.
 R652-90. Sovereign Land Management Planning.
 R652-90-300. Initiation of Planning Process.**

1. A comprehensive planning process is initiated by the designation of a planning unit as planning priorities are established by the division.

2. ~~[Site specific planning shall be initiated either by:~~
~~— (a) an application for a sovereign land use, or~~
~~— (b) the identification by the division of an opportunity for commercial gain in a specific area.]~~Resource Management planning

is initiated by the division's identification and determination that there is a need for such a plan.

3. ~~[Resource management planning is initiated by identification by the division of a need for such a plan.]~~When no comprehensive management plan or a resource management plan exists for sovereign land, site-specific planning shall be initiated either by:

- ~~(a) an application for a sovereign land use, or~~
- ~~(b) the identification by the division of an opportunity for commercial gain in a specific area.~~

KEY: management, public meetings, environmental assessment, land use

Date of Enactment or Last Substantive Amendment: ~~February 15, 1996~~2008

Notice of Continuation: April 2, 2007

Authorizing, and Implemented or Interpreted Law: 65A-2-4



Natural Resources, Water Rights **R655-4** Water Well Drillers

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 31694
 FILED: 07/11/2008, 11:49

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division of Water Rights needs to amend the administrative rule for Water Well Drillers (Rule R655-4) in order to conform to changes made in the Water Rights Law, Title 73, Chapter 3, by S.B. 228 (Regulation of Wells) during the 2008 legislative session. The Water Well Amendments in S.B. 228 gave the state engineer the authority to impose administrative fines for repeated noncompliance of the well drilling rules. In conjunction with the required changes to the rules needed to conform with the statute, other changes have also been proposed for the purpose of rule clarification and reorganization to eliminate confusion or to make them more succinct, equitable, and protective of groundwater resources. (DAR NOTE: S.B. 228 (2008) is found at Chapter 282, Laws of Utah 2008, and was effective 05/05/2008.)

SUMMARY OF THE RULE OR CHANGE: The revisions pertain not only to the statute changes related to administrative fines but also to other parts of the administrative rule for Water Well Drillers that require modification and clarification. Revisions involve the following items, which are summarized in this section. The State Engineer's Office has long struggled with what level of enforcement to impose on drillers with major or repeating violations of the well drilling rules. The current enforcement actions available to the State Engineer include: 1) no action; 2) probation; 3) suspension, and 4) revocation. The State Engineer's Office is reluctant to suspend or revoke a license only in the most extreme situations. The resulting enforcement action then in many cases is probation, which

includes closer scrutiny with little to no penalty. As a result, violations tend to continue because there is no fear of any significant action being taken against a driller license. The administrative fine would allow the State Engineer to have an intermediate enforcement alternative between probation and suspension, which would better serve to deter major and/or repeated violations. Fines for minor infractions would not be levied until the violation was repeated during or after a probationary period. For major infractions, administrative fines could be levied for first offenses. In either case, fines would not be levied until after a hearing is held. The proposed administrative fine structure has been incorporated into the infraction/enforcement section of the well drilling rule (Section R655-4-5). Because the well drilling rule must be revised as per the new statute changes, there is an opportunity to update, clarify, and/or revise other sections of the well drilling rule as needed. Proposed revisions of the well drilling rule are related to the following topics: 1) clarification on the type of wells and activities that are regulated by the well drilling rule; 2) clarification of the amount and type of experience needed to obtain a well driller's license; 3) requirement to update the start date on a start card if a project is delayed; 4) clarification on conditions for issuing a cease and desist order; 5) update of steel casing standards; 6) clarification of interval seal requirements to avoid aquifer commingling and cross contamination; 7) update of the disinfection requirements to conform with the latest technology and industry standards; 8) update of pitless adapter requirements; and 9) general wording and grammatical clarifications and revisions.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 73-3-25

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be no budgetary changes required as a result of this rule revision. The changes can be implemented using existing staff and resources. Other rule changes simply provide clarification and will not increase staff efforts or costs. The proposed amendments will result in minimal costs to reprint the rule once the amendments are made effective. The penalties collected will create a small fund to be used for improving well driller education and infraction investigation and enforcement.

❖ LOCAL GOVERNMENTS: There is no impact to local government because they are not involved in the regulation of water well drillers.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The proposed amendments do not apply to a small business or other persons except as a small business or other person may be alleged to have violated a pertinent statute or rule. In that case, compliance costs or savings would be as described for affected persons below.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed substantive amendments to the well drilling-related rules, enforcement, fines, and penalties apply only to persons alleged to have violated statutes and rules in specific circumstances. For some persons, depending on the facts pertaining to the alleged violation, a monetary penalty may be calculated. It is difficult to foresee the number and amount of

fines imposed, which will depend on repeated noncompliance with the rules.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The revisions to these rules should have no impact on businesses other than the administrative fines that would be levied against water well drillers for failure to comply with the administrative rules and water well construction standards. Michael Styler, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kaelyn Anfinen at the above address, by phone at 801-538-7370, by FAX at 801-538-7442, or by Internet E-mail at KAELYNANFINSEN@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/02/2008.

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

AUTHORIZED BY: Jerry Olds, Director

R655. Natural Resources, Water Rights.

R655-4. Water Well Drillers.

R655-4-1. Purpose, Scope, and Exclusions.

1.1 Purpose.

These rules are promulgated pursuant to Section 73-3-25. The purpose of these rules is to assist in the orderly development of underground water; insure that minimum construction standards are followed in the drilling, construction, deepening, repairing, renovating, cleaning, development, and abandonment of water wells and other regulated wells; prevent pollution of aquifers within the state; prevent wasting of water from flowing wells; obtain accurate records of well construction operations; and insure compliance with the state engineer's authority for appropriating water.

All administrative procedures involving applications, approvals, hearings, notices, revocations, orders and their judicial review, and all other administrative procedures required or allowed by these rules are governed by R655-6 "Administrative Procedures for Informal Proceedings Before the Division of Water Rights".

1.2 Scope.

The drilling, construction, deepening, repair, renovation, replacement, cleaning, development, or abandonment of the following types of wells is regulated by these administrative rules and the work must be permitted by the Utah Division of Water Rights and completed by a licensed well driller. These rules apply to both vertical, angle and horizontal wells if they fall within the criteria listed below. The rules contained herein pertain only to work on the well itself. These rules do

not regulate the incidental work around the well such as pump and motor installation and repair; plumbing, electrical, and excavation work up to the well; and the building of well enclosures unless these activities directly impact or change the construction of the well itself. The process for an applicant to obtain approval to drill, construct, deepen, repair, renovate, clean, develop, abandon, or replace the wells listed below in 1.2.1, 1.2.2, ~~or~~ 1.2.3, and 1.2.4 is outlined in Section R655-4-7 of these rules. ~~[-The process for an applicant to obtain approval to construct, deepen, repair, clean, or replace the wells listed below in 1.2.4, 1.2.5, or 1.2.6 is outlined in Appendix 1.]~~

1.2.1 Cathodic protection wells which are completed to a depth greater than 30 feet.

1.2.2 Heating or cooling exchange wells which are greater than 30 feet ~~or greater~~ in depth and which encounter formations containing groundwater. If a separate well or borehole is required for re-injection purposes, it must also comply with these administrative rules.

1.2.3 Monitor, piezometer, and test wells designed for the purpose of testing and monitoring water quality and quantity which are completed to a depth greater than ~~or~~ 30 feet ~~or greater~~.

1.2.4 Other wells (cased or open) which are completed to a depth greater than 30 feet that can potentially interfere with established aquifers such as wells to monitor mass movement (inclinometers), facilitate horizontal utility placement, monitor man-made structures, house instrumentation to monitor structural performance, or dissipate hydraulic pressures (dewatering wells).

1.2.5~~[4]~~ Private water production wells which are completed to a depth greater than ~~or~~ 30 feet ~~or greater~~.

1.2.6~~[5]~~ Public water system supply wells.

1.2.7~~[6]~~ Recharge and recovery wells which are drilled under the provisions of Title 73, Chapter 3b "Groundwater Recharge and Recovery Act" Utah Code Annotated.

1.3 Exclusions.

The drilling, construction, deepening, repair, renovation, replacement, cleaning, development, or abandonment of the following types of wells or boreholes are excluded from regulation under these administrative rules:

1.3.1 Any wells described in Section 1.2 ~~[cathodic protection wells, heating or cooling exchange wells, monitor wells and water production wells]~~ that are constructed to a final depth of [less than 30 feet or less]. However, diversion and beneficial use of groundwater from wells at a depth of 30 feet or less ~~[less than 30 feet deep]~~ shall require approval through the appropriation procedures and policies of the state engineer and Title 73, Chapter 3 of the Utah Code Annotated.

1.3.2 Geothermal wells. Although not regulated under the Administrative Rules for Water Well Drillers, geothermal wells are subject to Section 73-22-1 "Utah Geothermal Resource Conservation Act" Utah Code Annotated and the rules promulgated by the state engineer including Section R655-1, Wells Used for the Discovery and Production of Geothermal Energy in the State of Utah.

1.3.3 Temporary exploratory wells drilled to obtain information on the subsurface strata on which an embankment or foundation is to be placed or an area proposed to be used as a potential source of material for construction.

~~1.3.4 Wells or boreholes constructed to monitor man-made structures, house instrumentation to monitor structural performance, or dissipate hydraulic pressures on structures provided the wells or boreholes do not interfere with established aquifers or their primary purpose is not for monitoring water quality.]~~

1.3.4~~[5]~~ Wells or boreholes drilled or constructed into non-water bearing zones or which are [less than] 30 feet or less in depth for the purpose of utilizing heat from the surrounding earth.

1.3.5~~[6]~~ Geotechnical borings drilled to obtain lithologic data which are not installed for the purpose of utilizing or monitoring groundwater, and which are properly sealed immediately after drilling and testing.

1.3.6 Oil, gas, and mineral exploration/production wells. These wells are subject to rules promulgated under the Division of Oil, Gas, and Mining of the Utah Department of Natural Resources.

R655-4-2. Definitions.

ABANDONED WELL - any well which is not in use and has been sealed ~~[filled]~~ or plugged with approved sealing materials so that it is rendered unproductive and will prevent contamination of groundwater. A properly abandoned well will not produce water nor serve as a channel for movement of water from the well or between water bearing zones.

AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI) - a nationally recognized testing laboratory that certifies building products and adopts standards including those for steel and plastic (PVC) casing utilized in the well drilling industry. ANSI standards are often adopted for use by ASTM and AWWA. Current information on standards can be obtained from: ANSI, 1430 Broadway, New York, NY 10018.

AMERICAN SOCIETY FOR TESTING AND MATERIALS (ASTM) - an independent organization concerned with the development of standards on characteristics and performance of materials, products and systems including those utilized in the well drilling industry. Information may be obtained from: ASTM, 1916 Race Street, Philadelphia, PA 19013.

AMERICAN WATER WORKS ASSOCIATION (AWWA) - an international association which publishes standards intended to represent a consensus of the water supply industry that the product or procedure described in the standard will provide satisfactory service or results. Information may be obtained from: AWWA, 6666 West Quincy Avenue, Denver CO 80235.

ANNULAR SPACE - the space between the outer well casing and the borehole or the space between two sets of casing ~~[inner well casing and the outer well casing or borehole]~~.

AQUIFER - a porous underground formation yielding withdrawable water suitable for beneficial use.

ARTESIAN AQUIFER - a water-bearing formation which contains underground water under sufficient pressure to rise above the zone of saturation.

ARTESIAN WELL - a well where the water level rises appreciably above the zone of saturation.

BENTONITE - a highly plastic, highly absorbent, colloidal swelling clay composed largely of mineral sodium montmorillonite. Bentonite is commercially available in powdered, granular, tablet, pellet, or chip form which is hydrated with potable water and used for a variety of purposes including the stabilization of borehole walls during drilling, the control of potential or existing high fluid pressures encountered during drilling below a water table, well abandonment, and to provide a seal in the annular space between the well casing and borehole wall.

BENTONITE GROUT - a mixture of bentonite and potable water specifically designed to seal and plug wells and boreholes mixed at manufacturer's specifications to a grout consistency which can be pumped through a pipe directly into the annular space of a well or used

for abandonment. Its primary purpose is to seal the borehole or well in order to prevent the subsurface migration or communication of fluids.

CASH BOND - A type of well driller bond in the form of a certificate of deposit (CD) submitted and assigned to the State Engineer by a licensed driller to satisfy the required bonding requirements.

CASING - a tubular retaining and sealing structure that is installed in the borehole to maintain the well opening.

CATHODIC PROTECTION WELL - a well constructed for the purpose of installing deep anodes to minimize or prevent electrolytic corrosive action of metallic structures installed below ground surface, such as pipelines, transmission lines, well casings, storage tanks, or pilings.

CONFINING UNIT - a geological layer either of unconsolidated material, usually clay or hardpan, or bedrock, usually shale, through which virtually no water moves.

CONSOLIDATED FORMATION - bedrock consisting of sedimentary, igneous, or metamorphic rock (e.g., shale, sandstone, limestone, quartzite, conglomerate, basalt, granite, tuff, etc.).

DEWATERING WELL - a water extraction well constructed for the purpose of lowering the water table elevation, either temporarily or permanently, around a man-made structure or construction activity.

DISINFECTION - or disinfecting is the use of chlorine or other disinfecting agent or process approved by the state engineer, in sufficient concentration and contact time adequate to inactivate or eradicate bacteria such as coliform or other organisms.

DRAWDOWN - the difference in elevation between the static water level and the pumping water level[s] in a well.

DRILL RIG - any power-driven percussion, rotary, boring, coring, digging, jetting, or augering machine used in the construction of a well or borehole.

EMERGENCY SITUATION - any situation where immediate action is required to protect life or property. Emergency status would also extend to any situation where life is not immediately threatened but action is needed immediately and it is not possible to contact the state engineer for approval. For example, it would be considered an emergency if a domestic well needed immediate repair over a weekend when the state engineer's offices are closed.

GRAVEL PACKED WELL - a well in which filter material such as sand and/or gravel is placed in the annular space between the well intakes (screen or perforated casing) and the borehole wall to increase the effective diameter of the well and to prevent fine-grained sediments from entering the well.

GROUNDWATER - subsurface water in a zone of saturation.

GROUT - a fluid mixture of Portland cement or bentonite with water of a consistency that can be forced through a pipe and placed as required. Upon approval, [X] various additives such as sand, bentonite, and hydrated lime may be included in the mixture to meet different requirements.

HYDRAULIC FRACTURING - the process whereby water or other fluid is pumped with sand under high pressure into a well to fracture and clean-out the [reservoir] rock surrounding the well bore thus increasing the flow to the well.

MONITOR WELL - a well, as defined under "well" in this section, that is constructed for the purpose of determining water levels, monitoring chemical, bacteriological, radiological, or other physical properties of ground water or vadose zone water.

NATIONAL SANITATION FOUNDATION (NSF) - a voluntary third party consensus standards and testing entity established under agreement with the U. S. Environmental Protection Agency (EPA) to

develop testing and adopt standards and certification programs for all direct and indirect drinking water additives and products.

Information may be obtained from: NSF, 3475 Plymouth Road, P O Box 1468, Ann Arbor, Michigan 48106.

NEAT CEMENT GROUT - cement conforming to the ASTM Standard C150 (standard specification of Portland cement), with no more than six gallons of water per 94 pound sack (one cubic foot) of cement of sufficient weight density of not less than 15 lbs/gallon.

OPERATOR - a drill rig operator is an individual who works under the direct supervision of a licensed Utah Water Well Driller and who can be left in responsible charge to construct water wells using equipment that is under the direct control of the licensee.

PIEZOMETER - a tube or pipe, open at the bottom in groundwater, and sealed along its length, used to measure hydraulic head or water level in a geologic unit.

PITLESS ADAPTER OR UNIT - an assembly of parts designed for attachment to a well casing which allows buried pump discharge from the well and allows access to the interior of the well casing for installation or removal of the pump or pump appurtenances, while preventing contaminants from entering the well. Such devices protect the water and distribution lines from temperature extremes, permit extension of the casing above ground as required in Subsection R655-4-9.3.2 and allow access to the well, pump or system components within the well without exterior excavation or disruption of surrounding earth or surface seal.

POLLUTION - the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water that renders the water harmful, detrimental, or injurious to humans, animals, vegetation, or property, or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any or reasonable purpose.

POTABLE WATER - water supplied for human consumption, sanitary use, or for the preparation of food or pharmaceutical products which is free from biological, chemical, physical, and radiological impurities.

PRESSURE GROUTING - a process by which grout is confined within the drillhole or casing by the use of retaining plugs or packers and by which sufficient pressure is applied to drive the grout slurry into the annular space or zone to be grouted.

PRIVATE WATER PRODUCTION WELL - a privately owned well constructed to supply water for any purpose which has been approved by the state engineer (such as irrigation, stockwater, domestic, commercial, industrial, etc.).

PROBATION - A disciplinary action that may be taken by the state engineer that entails greater review and regulation of well drilling activities but which does not prohibit a well driller from engaging in the well drilling business or operating well drilling equipment.

PROVISIONAL WELL - authorization granted by the state engineer to drill under a pending, unapproved water right, change or exchange application; or for the purpose of determining characteristics of an aquifer, or the existence of a useable groundwater source. Water from a provisional well cannot be put to beneficial use until the application has been approved.

PUBLIC WATER SYSTEM SUPPLY WELL - a well, either publicly or privately owned, providing water for human consumption and other domestic uses which has at least 15 service connections or regularly serves an average of at least 25 individuals daily for at least 60 days out of the year. Public Water System Supply Wells are also regulated by the Division of Drinking Water in the Utah Department of

Environmental Quality (Section R309 of the Utah Administrative Code).

PUMPING WATER LEVEL - the [elevation of the surface of the] water level in a well after a period of pumping at a given rate.

REVOCAION - A disciplinary action that may be taken by the state engineer that rescinds the well driller's Utah Water Well Driller's License

SAND - a material having a prevalent grain size ranging from 2 millimeters to 0.06 millimeters.

SAND CEMENT GROUT - a grout consisting of equal parts of cement conforming to ASTM standard C150 and sand/aggregate with no more than six (6) gallons of water per 94 pound sack (one cubic foot) of cement.

STANDARD DIMENSION RATIO (SDR) - the ratio of average outside pipe diameter to minimum pipe wall thickness.

STATE ENGINEER - the director of the Utah Division of Water Rights or any employee of the Division of Water Rights designated by the state engineer to act in administering these rules.

STATIC LEVEL - stabilized water level in a non-pumped well beyond the area of influence of any pumping well.

SURETY BOND - an indemnity agreement in a sum certain and payable to the state engineer, executed by the licensee as principal and which is supported by the guarantee of a corporation authorized to transact business as a surety in the State of Utah.

SUSPENSION - A disciplinary action that may be taken by the state engineer that prohibits the well driller from engaging in the well drilling business or operating well drilling equipment as a registered operator for a definite period of time and /or until certain conditions are met.

TEST WELL - authorization granted by the state engineer to drill under a Non-production well approval for the purpose of determining characteristics of an aquifer, or the existence of a useable groundwater source. Water from a Test Well cannot be put to beneficial use.

TREMIE PIPE - a device that carries materials such as seal material, gravel pack, or formation stabilizer to a designated depth in a drill hole or annular space.

UNCONSOLIDATED FORMATION - loose, soft, incoherent rock material composed of sedimentary, igneous, or metamorphic rock which includes sand, gravel, and mixtures of sand and gravel. These formations are widely distributed and can possess good water storage and transmissivity characteristics.

UNHYDRATED BENTONITE - dry bentonite consisting primarily of granules, tablets, pellets, or chips that may be placed in a well or borehole in the dry state and hydrated in place by either formation water or by the addition of potable water into the well or borehole containing the dry bentonite. Unhydrated bentonite can be used for sealing and abandonment of wells.

VADOSE ZONE - the zone containing water under less than atmospheric pressure, including soil water, intermediate vadose water and capillary water. The zone extends from land surface to the zone of saturation or water table.

WATERTIGHT - a condition that does not allow the entrance, passage, or flow of water under normal operating conditions.

WELL - a horizontal or vertical excavation or opening into the ground made by digging, boring, drilling, jetting, augering, or driving or any other artificial method and left cased or open for utilizing or monitoring underground waters.

WELL DRILLER - any person who is licensed by the state engineer to construct water wells for compensation or otherwise.

The licensed driller has total responsibility for the construction work in progress at the well drilling site.

WELL DRILLER BOND - A financial guarantee to the state engineer, in the form of a surety bond or cash bond, by which a licensed driller binds himself to pay the penal sum of \$5,000 to the state engineer in the event of significant noncompliance with the Administrative Rules for Water Well Drillers.

WELL DRILLING - the act of drilling, constructing, deepening, replacing, repairing, renovating, [~~or deepening,~~] cleaning, developing, or abandoning a well.

R655-4-3. Licenses and Registrations.

3.1 General.

3.1.1 Section 73-3-25 of the Utah Code requires every person that constructs a well in the state to obtain a license from the state engineer. Licenses and registrations are not transferable.

3.1.2 Any person found to be drilling a well without a valid well driller's license or operator's registration will be ordered to cease drilling by the state engineer. The order may be made verbally but must also be followed by a written order. The order may be posted at an unattended well drilling site. A person found drilling without a license will be subject to the state engineer's enforcement powers under Section 73-2-25 of the Utah Code (Related rules: Section R655-14 UAC) and subject to criminal prosecution[ed] under Section 73-3-26 of the Utah Code annotated, 1953.

3.2 Well Driller's License.

An applicant must meet the following requirements to become licensed as a Utah Water Well Driller:

3.2.1 Applicants must be 21 years of age or older.

3.2.2 Complete and submit the application form provided by the state engineer.

3.2.3 Pay the application fee approved by the state legislature.

~~[— 3.2.4 Provide documentation of at least two (2) years of full time prior water well drilling experience OR documentation of 15 wells constructed by the applicant under the supervision of a licensed well driller. A copy of the well log for each well constructed must be included. The documentation must also show the applicant's experience with each type of drilling rig to be listed on the license. Acceptable documentation will include registration with the Division of Water Rights, letters from licensed well drillers (Utah or other states), or a water well drilling license granted by another state, etc.]~~

~~— Successful completion of classroom study in geology, well drilling, map reading, and other related subjects may be substituted for up to, but not exceeding, 12 months of drilling experience, and for up to, but not exceeding, five (5) of the required drilled wells. The state engineer will determine the number of months of drilling experience and the number of drilled wells that will be credited for the classroom study.]~~

3.2.4 Provide documentation of experience according to the following standards:

3.2.4.1 Water well drillers shall provide documentation of at least two (2) years of full time prior water well drilling experience with a licensed driller in good standing OR documentation of sixteen (16) wells constructed by the applicant under the supervision of a licensed well driller in good standing.

3.2.4.2 Monitor well drillers shall provide documentation of at least two (2) years of full time prior monitor well drilling experience with a licensed driller in good standing OR documentation of thirty two (32) wells constructed by the applicant under the supervision of a licensed well driller in good standing.

3.2.4.3 Heating/cooling exchange and other non-production well drillers must provide documentation of at least six (6) months of full time prior well drilling experience with a licensed driller in good standing AND documentation of sixteen (16) well drilling projects constructed by the applicant under the supervision of a licensed well driller in good standing.

3.2.4.4 A copy of the well log for each well constructed must be provided. The documentation must also show the applicant's experience with each type of drilling rig to be listed on the license. Acceptable documentation will include registration with the Division of Water Rights, letters from licensed well drillers (Utah or other states), or a water well drilling license granted by another state, etc.

3.2.4.5 Successful completion of classroom study in geology, well drilling, map reading, and other related subjects may be substituted for up to, but not exceeding, twenty five percent of the required drilling experience, and for up to, but not exceeding, twenty five percent of the required drilled wells or well drilling projects. The state engineer will determine the number of months of drilling experience and the number of drilled wells that will be credited for the classroom study.

3.2.5 File a well driller bond in the sum of \$5,000 with the Division of Water Rights payable to the state engineer. The well driller bond must be filed under the conditions and criteria described in Section 4-3.6.

3.2.6 Obtain a score of at least 70% on each of the written licensing examinations required and administered by the state engineer. The required examinations test the applicant's knowledge of:

- a. The Administrative Rules for Water Well Drillers and Utah water law as it pertains to underground water;
- b. The minimum construction standards established by the state engineer for water well construction;
- c. Geologic formations and proper names used in describing underground material types;
- d. Reading maps and locating points from descriptions based on section, township, and range;
- e. Groundwater geology and the occurrence and movement of groundwater;
- f. The proper operating procedures and construction methods associated with the various types of water well drilling rigs. (A separate test is required for each type of water well drilling rig to be listed on the license).

3.2.7 Demonstrate proficiency in resolving problem situations that might be encountered during the construction of a water well by passing an oral examination administered by the state engineer.

3.3 Drill Rig Operator's Registration.

An applicant must meet the following requirements to become registered as a drill rig operator:

3.3.1 Applicants must be 18 years of age or older.

3.3.2 Complete and submit the application form provided by the state engineer.

3.3.3 Pay the application fee approved by the state legislature.

3.3.4 Provide documentation of at least six (6) months of prior water well drilling experience with a licensed driller in good standing. The documentation must show the applicant's experience with each type of drilling rig to be listed on the registration. Acceptable documentation will include letters from licensed well drillers or registration as an operator in another state.

3.3.5 Obtain a score of at least 70% on a written examination of the minimum construction standards established by the state engineer for water well construction. The test will be provided to the licensed well driller by the state engineer. The licensed well driller will

administer the test to the prospective operator and return it to the state engineer for scoring.

3.4 Conditional, Restricted, or Limited Licenses.

The state engineer may issue a restricted, conditional, or limited license to an applicant based on prior drilling experience.

3.5 Refusal to Issue a License or Registration.

The state engineer may, upon investigation and after a hearing, refuse to issue a license or a registration to an applicant if it appears the applicant has not had sufficient training or experience to qualify as a competent well driller or operator.

3.6 Falsified Applications.

The state engineer may, upon investigation and after a hearing, revoke a license or a registration in accordance with Section 5.6 if it is determined that the original application contained false or misleading information.

3.7[6] Well Driller Bond.

3.7[6].1 General

3.7[6].1.1. In order to become licensed and to continue licensure, a well driller must file a well driller bond in the form of a surety bond or cash bond, approved by the state engineer, in the sum of five thousand dollars (\$5,000) with the Division of Water Rights, on a form provided by the Division, which is conditioned upon proper compliance with the law and these rules and which is effective for the licensing period in which the license is to be issued.

The bond shall stipulate the obligee as the "Office of the State Engineer". The well driller bond is penal in nature and is designed to ensure compliance by the licensed well driller to protect the groundwater resource, the environment, and public health and safety. The bond may only be exacted by the state engineer for the purposes of investigating, repairing, or abandoning wells in accordance with applicable rules and standards. No other person or entity may initiate a claim against the well driller bond. Lack of a current and valid well driller bond shall be deemed sufficient grounds for denial of a driller's license. The well driller bond may consist of a surety bond or a cash bond as described below.

3.7[6].2 Surety Bonds.

3.7[6].2.1. The licensed well driller and a surety company or corporation authorized to do business in the State of Utah as surety shall bind themselves and their successors and assigns jointly and severally to the state engineer for the use and benefit of the public in full penal sum of five thousand dollars (\$5,000). The surety bond shall specifically cover the licensee's compliance with the Administrative Rules for Water Well Drillers found in R655-4 of the Utah Administrative Code. Forfeiture of the surety bond shall be predicated upon a failure to drill, construct, repair, renovate, deepen, clean, develop, or abandon a regulated well in accordance with these rules (R655-4 UAC). The bond shall be made payable to the 'Utah State Engineer' upon forfeiture. The surety bond must be effective and exactable in the State of Utah.

3.7[6].2.2. The bond and any subsequent renewal certificate shall specifically identify the licensed individual covered by that bond. The licensee shall notify the state engineer of any change in the amount or status of the bond. The licensee shall notify the state engineer of any cancellation or change at least thirty (30) days prior to the effective date of such cancellation or change. Prior to the expiration of the 30-days notice of cancellation, the licensee shall deliver to the state engineer a replacement surety bond or transfer to a cash bond. If such a bond is not delivered, all activities covered by the license and bond shall cease at the expiration of the 30 day period. Termination shall not relieve the licensee or surety of any liability for incidences that occurred during the time the bond was in force.

3.7[6].2.3. Before the bond is forfeited by the licensed driller and exacted by the state engineer, the licensed driller shall have the option of resolving the noncompliance to standard either by personally doing the work or by paying to have another licensed driller do the work. If the driller chooses not to resolve the problem that resulted in noncompliance, the entire bond amount of five thousand dollars (\$5,000) shall be forfeited by the surety and expended by the state engineer to investigate, repair or abandon the well(s) in accordance with the standards in R655-4 UAC. Any excess there from shall be retained by the state engineer and expended for the purpose of investigating, repairing, or abandoning wells in accordance with applicable rules and standards. All claims initiated by the state engineer against the surety bond will be made in writing.

3.7[6].2.4. The bond of a surety company that has failed, refused or unduly delayed to pay, in full, on a forfeited bond is not approvable.

3.7[6].3 Cash Bonds.

3.7[6].3.1. The requirements for the well driller bond may alternatively be satisfied by a cash bond in the form of a certificate of deposit (CD) for the amount of five thousand dollars (\$5,000) issued by a federally insured bank or credit union with an office(s) in the State of Utah. The cash bond must be in the form of a CD. Savings accounts, checking accounts, letters of credit, etc., are not acceptable cash bonds. The CD shall specifically identify the licensed individual covered by that fund. The CD shall be automatically renewable and fully assignable to the state engineer. CD shall state on its face that it is automatically renewable.

3.7[6].3.2. The cash bond shall specifically cover the licensee's compliance with well drilling rules found in R655-4 of the Utah Administrative Code. The CD shall be made payable or assigned to the state engineer and placed in the possession of the state engineer. If assigned, the state engineer shall require the bank or credit union issuing the CD to waive all rights of setoff or liens against those CD. The CD, if a negotiable instrument, shall be placed in the state engineer's possession. If the CD is not a negotiable instrument, the CD and a withdrawal receipt, endorsed by the licensee, shall be placed in the state engineer's possession.

3.7[6].3.3. The licensee shall submit CDs in such a manner which will allow the state engineer to liquidate the CD prior to maturity, upon forfeiture, for the full amount without penalty to the state engineer. Any interest accruing on a CD shall be for the benefit of the licensee.

3.7[6].3.4. The period of liability for a cash bond is five (years) after the expiration, suspension, or revocation of the license. The cash bond will be held by the state engineer until the five year period is over, then it will be relinquished to the licensed driller. In the event that a cash bond is replaced by a surety bond, the period of liability, during which time the cash bond will be held by the state engineer, shall be five (5) years from the date the new surety bond becomes effective.

3.7[6].4 Exacting a Well Driller Bond.

3.7[6].4.1. If the state engineer determines, following an investigation and a hearing in accordance with the process defined in Section 4-5, that the licensee has failed to comply with the Administrative Rules for Water Well Drillers and refused to remedy the noncompliance, the state engineer may suspend or revoke a well driller's license and fully exact the well driller bond and deposit the money as a non-lapsing dedicated credit.

3.7[6].4.2. The state engineer may expend the funds derived from the bond to investigate or correct any deficiencies which could adversely affect the public interest resulting from non-compliance with the Administrative Rules by any well driller.

3.7[6].4.3. The state engineer shall send written notification by certified mail, return receipt requested, to the licensee and the surety on

the bond, if applicable, informing them of the determination to exact the well driller bond. The state engineer's decision regarding the noncompliance will be attached to the notification which will provide facts and justification for bond exactation. In the case of a surety bond exactation, the surety company will then forfeit the total bond amount to the state engineer. In the case of a cash bond, the state engineer will cash out the CD. The exacted well driller bond funds may then be used by the state engineer to cover the costs of well investigation, repair, and/or abandonment.

R655-4-4. Administrative Requirements and General Procedures.

4.1 Authorization to Drill.

The well driller shall make certain that a valid authorization or approval to drill exists before ~~[beginning]~~engaging in regulated well drilling activity~~[or work on a well]~~. Authorization to drill shall consist of a valid 'start card' based on any of the approvals listed below. Items 4.1.1 through 4.1.12~~[44]~~ allow the applicant to contract with a well driller to drill, construct, deepen, replace, repair, renovate, clean, develop, or abandon exactly one well at each location listed on the start card or approval form. The drilling of multiple borings/wells at an approved location/point of diversion is not allowed without authorization from the state engineer's office. Most start cards list the date when the authorization to drill expires. If the expiration date has passed, the start card and authorization to engage in regulated drilling activity is no longer valid. If there is no expiration date on the start card, the driller must contact the state engineer's office to determine if the authorization to drill is still valid. When the work is completed, the permission to drill is terminated.

4.1.1 An approved application to appropriate.

4.1.2 A provisional well approval letter.

An approved provisional well letter grants authority to drill but allows only enough water to be diverted to determine the characteristics of an aquifer or the existence of a useable groundwater source.

4.1.3 An approved permanent change application.

4.1.4 An approved exchange application.

4.1.5 An approved temporary change application.

4.1.6 An approved application to renovate or deepen an existing well.

4.1.7 An approved application to replace an existing well.

4.1.8 An approved monitor well letter.

An approved monitor well letter grants authority to drill but allows only enough water to be diverted to monitor groundwater.

4.1.9 An approved heat exchange well letter.

4.1.10 An approved cathodic protection well letter.

4.1.11 An approved non-production well construction application.

4.1.12~~[44]~~ Any letter or document from the state engineer directing or authorizing a well to be drilled or work to be done on a well.

4.2 Start Cards.

4.2.1 Prior to commencing any work (other than abandonment, see 4.2.4) on any well governed by these administrative rules, the driller must notify the state engineer of that intention by transmitting the information on the "Start Card" to the state engineer by telephone, by facsimile (FAX), by hand delivery, or by e-mail. A completed original Start Card must be sent to the state engineer by the driller after it has been telephoned or E-mailed.

4.2.2 A specific Start Card is printed for each well drilling approval and is furnished by the state engineer to the applicant or the well owner. The start card is preprinted with the water right or non-production well number~~[provisional/monitor well number]~~, owner

name/address, and the approved location of the well. The state engineer marks the approved well drilling activity on the card. The driller must put the following information on the card:

- a. The date on which work on the well will commence;
- b. The projected completion date of the work;
- c. The well driller's license number;
- d. The well driller's signature.

4.2.3 When a single authorization is given to drill wells at more than one point of diversion, a start card shall be submitted for each location to be drilled.

4.2.4 Following the submittal of a start card, if the actual start date of the drilling activity is postponed beyond the date identified on the start card, the licensed driller must notify the state engineer of the new start date.

4.2.5[4] A start card is not required to abandon a well. However, prior to commencing well abandonment work, the driller is required to notify the state engineer by telephone, by facsimile, or by e-mail of the proposed abandonment work. The notice must include the location of the well. The notice should also include the water right or non-production well number associated with the well and the well owner if that information is available.

4.3 General Requirements During Construction.

4.3.1 The well driller shall have the required penal bond continually in effect during the term of the well driller's license.

4.3.2 The well driller's license number or the well driller's company name exactly as shown on the well drilling license must be prominently displayed on each well drilling rig operated under the well driller's license. If the well driller's company name is changed the well driller must immediately inform the state engineer of the change in writing.

4.3.3 A licensed well driller or a registered operator must be at the well site whenever the following aspects of well construction are in process: advancing the borehole, setting casing and screen, placing a filter pack, constructing a surface seal, or similar activities involved in well deepening, renovation, [~~or~~] repair, cleaning, developing, or abandoning [~~a well~~]. All registered operators working under a well driller's license must be employees of the well driller and must use equipment either owned by or leased by the licensed well driller.

4.3.4 A registered operator who is left in responsible charge of advancing the borehole, setting casing and screen, placing a filter pack, constructing a surface seal, or similar activities involved in well deepening, renovation, [~~or~~] repair, cleaning, developing, or abandoning [~~a well~~] must have a working knowledge of the minimum construction standards and the proper operation of the drilling rig. The licensed well driller is responsible to ensure that a registered operator is adequately trained to meet these requirements. [~~If, during a field inspection by the staff of the Division of Water Rights, it is determined that a registered operator in responsible charge does not meet these requirements, a state engineer's red tag (see Section 4.3.5) will be placed on the drilling rig and the drilling operation will be shut down. The order to cease work will remain effective until a qualified person is available to perform the work.~~

~~4.3.5 The state engineer or staff of the Division of Water Rights may order that work cease on the construction, repair, or abandonment of a well if a field inspection reveals that the construction does not meet the minimum construction standards to the extent that the public interest might be adversely affected. A cease work order may also be issued if the well driller is not licensed for the drilling method being used for the well construction. The state engineer's order will be in the form of a red tag which will be attached to the drilling rig. A letter from the state engineer will be sent to the licensed driller to explain the~~

~~sections of the administrative rules which were violated. The letter will also explain the requirements that must be met before the order can be lifted.]~~

4.3.5 State engineer provisions for issuing cease and desist orders (Red Tags)

4.3.5.1 Construction Standards: The state engineer or staff of the Division of Water Rights may order that regulated work on a well cease if a field inspection reveals that the construction does not meet the minimum construction standards to the extent that the public interest might be adversely affected.

4.3.5.2 Licensed Drilling Method: A cease work order may also be issued if the well driller is not licensed for the drilling method being used for the well construction.

4.3.5.3 Incompetent Registered Operator: If, during a field inspection by the staff of the Division of Water Rights, it is determined that a registered operator in responsible charge does not meet these requirements, a state engineer's red tag (see Section 4.3.5) will be placed on the drilling rig and the drilling operation will be ordered to shut down. The order to cease work will remain effective until a qualified person is available to perform the work.

4.3.5.4 No licensed driller or registered operator on site: If, during a field inspection by the staff of the Division of Water Rights, it is determined that neither a licensed driller or registered operator are one site when regulated drilling activity is occurring, the state engineer may order regulated well drilling work to cease.

4.3.5.5 General: The state engineer's order will be in the form of a red tag which will be attached to the drilling rig. A letter from the state engineer will be sent to the licensed driller to explain the sections of the administrative rules which were violated. The letter will also explain the requirements that must be met before the order can be lifted.

4.3.6 When required by the state engineer, the well driller or registered operator shall take lithologic samples at the specified intervals and submit them in the bags provided by the state engineer.

4.3.7 A copy of the current Administrative Rules for Water Well Drillers should be available at each well construction site for review by the construction personnel. Licensed well drillers and registered operators must have proof of licensure or registration with them on site during regulated drilling activity.

4.3.8 Prior to starting construction of a new well, the licensed driller shall investigate and become familiar with the drilling conditions, geology of potential aquifers and overlying materials, anticipated water quality problems, and know contaminated water bearing zones that may be encountered in the area of the proposed drilling activity.

4.4 Removing Drill Rig From Well Site.

4.4.1 A well driller shall not remove his drill rig from a well site unless the well drilling activity is properly completed or abandoned in accordance with the construction standards in Sections 9 thru 12. [Completion of a well shall include all surface seals, gravel packs, or curbs required.]

4.4.2 For the purposes of these rules, the regulated [~~construction, repair or abandonment~~] work on a well will be considered completed when the well driller removes his drilling rig from the well site.

[4.4.3 The well driller may request a variance from the state engineer. The written request must indicate that the well has been temporarily abandoned as provided in Section R655-4-12 and must give the date when the well driller plans to continue work.] 4.4.3 The well driller may request a variance from the state engineer to remove a drill rig from a well prior to completion or abandonment. This request must be in written form to the state engineer. The

written request must provide justification for leaving the well incomplete or un-abandoned and indicate how the well will be temporarily abandoned as provided in Section R655-4-12 and must give the date when the well driller plans to continue work to either complete the well or permanently abandon it.

4.5 Official Well Driller's Report (Well Log).

4.5.1 Within 30 days of the completion of regulated work on any well, the driller shall file an official well driller's report (well log) with the state engineer. The blank well log form will be mailed to the licensed well driller upon receipt of the information on the Start Card as described in Subsection 4.2.

4.5.2 The water right number or non-production well [~~provisional/monitor well~~]number, owner name/address, and the approved location of the well will be preprinted on the blank well log provided to the well driller. The driller is required to verify this information and make any necessary changes on the well log prior to submittal. The state engineer will mark the approved activity (e.g., new, replace, repair, deepen) on the well log. The driller must provide the following information on the well log:

- a. The start and completion date of work on the well;
- b. The nature of use for the well (e.g., domestic, irrigation, stock watering, commercial, municipal, provisional, monitor, cathodic protection, heat pump, etc.);
- c. The borehole diameter, depth interval, drilling method and drilling fluids utilized to drill the well;
- d. The lithologic log of the well based on strata samples taken from the borehole as drilling progresses;
- e. Static water level information to include date of measurement, static level, measurement method, reference point, artesian flow and pressure, and water temperature;
- f. The size, type, description, joint type, and depth intervals of casing, screen, and perforations;
- g. A description of the filter pack, surface and interval seal material, and packers used in the well along with necessary related information such as the depth interval, quantity, and mix ratio;
- h. A description of the finished wellhead configuration;
- i. The date and method of well development;
- j. The date, method, yield, drawdown, and elapsed time of a well yield test;
- k. A description of pumping equipment (if available);
- l. Other comments pertinent to the well activity completed;
- m. The well driller's statement to include the driller name, license number, signature, and date.

4.5.3 Accuracy and completeness of the submitted well log are required. Of particular importance is the lithologic section which should accurately reflect the geologic strata penetrated during the drilling process. Sample identification must be logged in the field as the borehole advances and the information transferred to the well log form for submission to the state engineer.

4.5.4 An amended well log shall be submitted by the licensed driller if it becomes known that the original report contained inaccurate or incorrect information, or if the original report requires supplemental data or information. Any amended well log must be accompanied by a written statement, signed and dated by the licensed well driller, attesting to the circumstances and the reasons for submitting the amended well log.

4.6 Official Well Abandonment Reports (Abandonment Logs).

4.6.1 Whenever a well driller is contracted to replace an existing well under state engineer's approval, it shall be the responsibility of the well driller to inform the well owner that it is required by law to

permanently abandon the old well in accordance with the provisions of Section R655-4-12.

4.6.2 Within 30 days of the completion of abandonment work on any well, the driller shall file an abandonment log with the state engineer. The blank abandonment log will be mailed to the licensed well driller upon notice to the state engineer of commencement of abandonment work as described in Subsection R655-4-4(4.2.4).

4.6.3 The water right number or non-production well [~~provisional/monitor well~~]number, owner name/address, and the well location (if available) will be preprinted on the blank abandonment log provided to the well driller. The driller is required to verify this information and make any necessary changes on the abandonment log prior to submitting the log. The driller must provide the following information on the abandonment log:

- a. Existing well construction information;
- b. Date of abandonment;
- c. Reason for abandonment;
- d. A description of the abandonment method;
- e. A description of the abandonment materials including depth intervals, material type, quantity, and mix ratio;
- f. Replacement well information (if applicable);
- g. The well driller's statement to include the driller name, license number, signature, and date.

4.6.4 When a well is replaced and the well owner will not allow the driller to abandon the existing well, the driller must briefly explain the situation on the abandonment form and submit the form to the state engineer within 30 days of completion of the replacement well.

4.7 Incomplete or Incorrectly Completed Reports.

An incomplete well/abandonment log or a well/abandonment log that has not been completed correctly will be returned to the licensed well driller to be completed or corrected. The well log will not be considered filed with the state engineer until it is complete and correct.

4.8 Extensions of Time.

The well driller may request an extension of time for filing the well log if there are circumstances which prevent the driller from obtaining the necessary information before the expiration of the 30 days. The extension request must be submitted in writing before the end of the 30-day period.

4.9 Late Well Logs - Lapsed License

All outstanding well logs or abandonment logs shall be properly submitted to the state engineer prior to the lapsing of a license. A person with a lapsed license who has failed to submit all well/abandonment logs within 90 days of lapsing will be subject to the state engineer's enforcement powers under Section 73-2-25 of the Utah Code (Related rules: Section R655-14 UAC)

R655-4-5. Infractions of the Administrative Requirements and the Minimum Construction Standards.

5.1 List of Infractions and Points.

Licensed well drillers who commit the infractions listed below in Table 1 shall have assessed against their well drilling record the number of points assigned to the infraction.

TABLE 1

Infractions of Administrative Requirements

| <u>Start Cards/Authorization</u> | <u>Points</u> |
|---|---------------|
| <u>Failure to properly notify the state engineer before the proposed start date shown on the start card</u> | <u>20</u> |

Performing any well drilling activity without
~~valid authorization (except in
emergency situations)~~ 100

Well Logs
Intentionally making a material
~~misstatement of fact in an official
well driller's report or amended
official well driller's report
(well log)~~ 100
Well log submitted late 10

Well Abandonment
Well abandonment report submitted
~~late~~ 10

Licenses
Intentionally making a material
~~misstatement of fact in the
application for a well driller's
license~~ 100
Well driller license or well driller
~~name not clearly posted on well
drilling rig~~ 10
Failing to notify the state engineer
~~in a timely manner of a change in
the well driller's company name~~ 10

Operators / Contract Drillers
Employing an operator who is not
~~registered with the state~~ 75
Contracting out work to an
~~unlicensed driller (using the
unlicensed driller's rig) without
prior written approval from the state~~ 75
Infractions of Construction Standards / Conditions Points

Approvals
Constructing a replacement well
~~further than 150 ft from the
original well without the
authorization of an approved
change application~~ 50
Failing to comply with any conditions
~~included on the well approval such as
minimum or maximum depths, specified
locations of perforations, etc.~~ 50
Using a method of drilling not listed
~~on the well driller's license~~ 30
Performing any well construction
~~activity in violation of a red tag
cease work order~~ 100

Casing
Using or attempting to use sub standard
~~well casing~~ 50
Using improper casing joints 40
Failure to extend well casing at least
~~18" above ground~~ 30

Surface Seals
Using improper products or procedures
~~to install a surface seal~~ 100
Failure to seal off artesian flow on
~~the outside of casing~~ 100
Failure to install surface seal to
~~adequate depth based on formation type~~ 100

Well Abandonment
Using improper procedures to abandon
~~a well~~ 50
Using improper products to abandon a
~~well~~ 50

Construction Fluids
Using water of unacceptable quality
~~in the well drilling operation~~ 40
Using improper circulation materials 30
Using an unacceptable mud pit 20

Filter Packs
Failure to install filter pack properly 40
Failure to disinfect filter pack 30

Well Completion
Failure to make well accessible to
~~water level or pressure head measurements~~ 30
Failure to install casing annular seals,
~~cap, and valving, and to control
artesian flow~~ 30
Removing the well drilling rig from
~~the well site before completing the
well or temporarily or permanently
abandoning the well~~ 50

General
Failure to securely cover an
~~unattended well during construction~~ 30

5.2 When Points Are Assessed:
Points will be assessed against a driller's record upon verification by the state engineer that an infraction has occurred. Points will be assessed at the time the state engineer becomes aware of the infraction regardless of when the infraction occurred.

5.3 Appeal of Infractions:
Well drillers may appeal each infraction in writing within 30 days of written notification by the state engineer.

5.4 Warning Letter:
When the number of points assessed against the well driller's record equals seventy five (75) points, a warning letter will be sent to the well driller. The letter will notify the driller that if he continues to violate the administrative requirements or minimum construction standards contained in the Administrative Rules for Water Well Drillers, a hearing will be held to determine if his license should be suspended or revoked or the bond exacted. The letter will also describe the options available to the driller to delete points from the record as described in Subsection R655-4-5.7. A copy of the driller's infraction record will be included with the letter. In the event numerous points are assessed against the well drillers record so that the total surpasses seventy five (75) and one hundred (100) points at the same time, no warning letter will be sent.

5.5 Notice of Agency Action:
5.5.1 When the number of points assessed against the well driller's record equals 100, a Notice of Agency Action (NAA) will be sent to the well driller. The NAA will set forth the alleged facts, provide an opportunity for a response from the well driller, and provide notice of the hearing scheduled to consider the issues. The hearing will be scheduled at least 10 days from the date the NAA is mailed. The NAA will indicate the date, time, and place of the hearing.
5.5.2 A NAA may also be sent and a hearing may also be convened as a result of a complaint filed by a well owner regardless of the total number of points shown on the well driller's record.
5.5.3 The purpose of the hearing will be to determine if disciplinary action is necessary regarding the water well driller's Utah Water Well License. The hearing will be conducted informally according to the rules adopted under Sections 63-46b-4 and 63-46b-5, Utah Code. The hearing will be recorded. At the hearing, testimony will be taken under oath regarding the alleged facts included in the NAA. Those providing testimony may include the water well driller, the well owner, Division of Water Rights staff, and others as deemed

necessary. Evidence that is pertinent to the alleged facts may also be presented at the hearing. After considering the testimony and the evidence presented at the hearing, the State Engineer may determine either that there is no cause for action against the well driller's license or that disciplinary action is necessary. Disciplinary action may consist of probation, suspension, or revocation of the Utah Water Well License.

5.6 License Probation, Suspension or Revocation.

5.6.1 Probation will generally be the disciplinary action imposed in situations where the facts established through testimony and evidence describe first time infractions of the administrative rules that are limited in number and less serious in their impact on the well owner and on the health of the aquifer. The probation period will generally last until the number of infraction points on the well driller's record is reduced below 70 through any of the options described in Subsection 4-5.7.

5.6.2 Suspension will generally be the disciplinary action imposed in situations where the facts established through testimony and evidence describe repeated infractions of the administrative rules, or infractions that a pose serious threat to the health of the aquifer, or a well driller's apparent disregard for the administrative rules or the state's efforts to regulate water well drilling. Depending upon the number and severity of the rule infractions, the state engineer may elect to suspend a well driller license for a certain period of time and/or until certain conditions have been met by the well driller. In establishing the length of the suspension, the state engineer will generally follow the guideline that three infraction points is the equivalent of one day of suspension. A well driller whose license has been suspended will be prohibited from engaging in the well drilling business or operating well drilling equipment as a registered operator. License suspension may also result in the exaction of the Well Driller Bond as set forth in Subsection 4-3.6.4. A well driller whose license has been suspended is allowed to work as a helper under the direct, continuous, and on-site supervision of a licensed well driller or registered operator. If the suspension period extends beyond the expiration date of the water well license, the water well driller may not apply to renew the license until the suspension period has run and any conditions have been met. Once the suspension period has run and once any conditions have been met by the well driller, the suspension will be lifted and the driller will be notified that he/she may again engage in the well drilling business. The well driller will then be placed on probation until the number of infraction points on the well driller's record is reduced below 70 through any of the options described in Subsection 4-5.7.

5.6.3 Revocation will generally be the disciplinary action imposed in situations where the facts established through testimony and evidence describe infractions of the administrative rules for which the well driller's Utah Water Well License has previously been suspended. A well driller whose license has been revoked will be prohibited from engaging in the well drilling business or operating well drilling equipment as a registered operator. License suspension may also result in the exaction of the Well Driller Bond as set forth in Subsection 4-3.6.4. A well driller whose license has been revoked is allowed to work as a helper under the direct, continuous, and on-site supervision of a licensed well driller or registered operator. A well driller whose water well license has been revoked may not make application for a new water well license for a period of two years from the date of revocation. After the revocation period has run, a well driller may make application for a new license as provided in Section R655-4-3. However, the well drilling experience required must be based on new experience obtained since the license was revoked.

5.7 Deleting Point from the Driller Record.

Points assessed against a well driller's record will remain on the record unless deleted through any of the following options:

5.7.1 Points will be deleted three years after the date when the infraction is noted by the state engineer and the points are assessed against the driller's record.

5.7.2 One half the points on the record will be deleted if the well driller is free of infractions for an entire year.

5.7.3 Thirty (30) points will be deleted for obtaining six (6) hours of approved continuing education credits in addition to the credits required to renew the water well driller's license. A driller may exercise this option only once each year.

5.7.4 Twenty (20) points will be deleted for taking and passing (with a minimum score of 70%) the test covering the administrative requirements and the minimum construction standards. A driller may exercise this option only every other year.

5.8 Lack of Knowledge Not an Excuse.

Lack of knowledge of the law or the administrative requirements and minimum construction standards related to well drilling shall not constitute an excuse for violation thereof.

5.9 Misdemeanors.

Section 73-3-26 of the Utah Code annotated, 1953, classifies certain actions as class B Misdemeanors. Each day that a violation continues is a separate offense.

R655-4-5. Well Driller Disciplinary Procedures.

5.1 Well driller disciplinary procedures will be conducted informally and are governed by Sections 63-46b-4 (Designation of Adjudicative Proceedings as Informal) and 63-46b-5 (Procedures for Informal Adjudicative Proceedings) of the Utah Code and by Section R655-6 (Administrative Procedures for Informal Proceedings Before the Division of Water Rights) of the Utah Administrative Code.

5.2 List of Infractions and Points.

Licensed well drillers who commit the infractions listed below in Table 1 shall have assessed against their well drilling record the number of points assigned to the infraction.

TABLE 1

Level I Infractions of Administrative Requirements

| | Points |
|--|--------|
| Well log submitted late | 10 |
| Well abandonment report submitted late | 10 |
| Well driller license or well driller name not clearly posted on well drilling rig | 10 |
| Failing to notify the state engineer of a change in the well driller's company name | 10 |
| Failure to properly notify the state engineer before the proposed start date shown on the start card | 20 |
| Failure to notify the state engineer of a change of start date | 50 |
| Constructing a replacement well further than 150 ft from the original well without the authorization of an approved change application | 50 |
| Failure to drill at the state engineer approved location as identified on the start card | 50 |

| | |
|---|----|
| <u>Removing the well drilling rig from the well site before completing the well or temporarily or permanently abandoning the well</u> | 50 |
|---|----|

TABLE 2

Level II Infractions of Administrative Requirements

| | Points |
|---|--------|
| <u>Employing an operator who is not registered with the state</u> | 75 |
| <u>Contracting out work to an unlicensed driller (using the unlicensed driller's rig) without prior written approval from the state</u> | 75 |
| <u>Performing any well drilling activity without valid authorization (except in emergency situations)</u> | 100 |
| <u>Intentionally making a material misstatement of fact in an official well driller's report or amended official well driller's report (well log)</u> | 100 |

TABLE 3

Level III Infractions of Construction Standards / Conditions

| | Points |
|---|--------|
| <u>Approvals</u> | |
| <u>Using a method of drilling not listed on the well driller's license</u> | 30 |
| <u>Failing to comply with any conditions included on the well approval such as minimum or maximum depths, specified locations of perforations, etc.</u> | 50 |
| <u>Performing any well construction activity in violation of a red tag cease work order</u> | 100 |
| <u>Casing</u> | |
| <u>Failure to extend well casing at least 18" above ground</u> | 30 |
| <u>Failure to install a protective casing around a PVC well at the surface</u> | 50 |
| <u>Using improper casing joints</u> | 100 |
| <u>Using or attempting to use sub-standard well casing</u> | 100 |
| <u>Surface Seals</u> | |
| <u>Using improper products or procedures to install a surface seal</u> | 100 |
| <u>Failure to seal off artesian flow on the outside of casing</u> | 100 |
| <u>Failure to install surface seal to adequate depth based on formation type</u> | 100 |
| <u>Failure to install interval seals to eliminate aquifer commingling or cross contamination</u> | 100 |
| <u>Well Abandonment</u> | |
| <u>Using improper procedures to abandon a well</u> | 100 |
| <u>Using improper products to abandon a well</u> | 100 |
| <u>Construction Fluids</u> | |
| <u>Using water of unacceptable quality in the well drilling operation</u> | 40 |
| <u>Using an unacceptable mud pit</u> | 40 |
| <u>Failure to use treated or disinfected water for drilling processes</u> | 40 |
| <u>Using improper circulation materials or drilling chemicals</u> | 100 |

| | |
|--|----|
| <u>Filter Packs</u> | |
| <u>Failure to disinfect filter pack</u> | 40 |
| <u>Failure to install filter pack properly</u> | 75 |

Well Completion

| | |
|--|----|
| <u>Failure to make well accessible to water level or pressure head measurements</u> | 30 |
| <u>Failure to install casing annular seals, cap, and valving, and to control artesian flow</u> | 30 |
| <u>Failure to disinfect a well upon completion of well drilling activity</u> | 40 |
| <u>Failure to install a pitless adapter according to standard</u> | 75 |
| <u>Failure to develop and test a well according to standard</u> | 75 |

General

| | |
|---|-----|
| <u>Failure to securely cover an unattended well during construction</u> | 30 |
| <u>Failure to engage in well drilling activity in accordance with accepted industry practices</u> | 100 |

5.3 When Points Are Assessed

Points will be assessed against a driller's record upon verification by the state engineer that an infraction has occurred. Points will be assessed at the time the state engineer becomes aware of the infraction regardless of when the infraction occurred.

5.4 Appeal of Infractions

Well drillers may appeal each infraction in writing within 30 days of written notification by the state engineer.

5.5 Warning Letter

When the number of points assessed against the well driller's record equals seventy-five (75) points, a warning letter will be sent to the well driller. The letter will notify the driller that if he continues to violate the administrative requirements or minimum construction standards contained in the Administrative Rules for Water Well Drillers, a hearing will be held to determine if his license should be suspended or revoked or the bond exacted. The letter will also describe the options available to the driller to delete points from the record as described in Subsection R655-4-5.7. A copy of the driller's infraction record will be included with the letter. In the event numerous points are assessed against the well drillers record so that the total surpasses seventy-five (75) and one hundred (100) points at the same time, no warning letter will be sent.

5.6 Well Driller Hearings

5.6.1 When the number of points assessed against the well driller's record equals 100, a Notice of Agency Action (NAA) will be sent to the well driller. The NAA will set forth the alleged facts, provide an opportunity for a response from the well driller, and provide notice of the hearing scheduled to consider the issues. The hearing will be scheduled at least 10 days from the date the NAA is mailed. The NAA will indicate the date, time, and place of the hearing.

5.6.2 A NAA may also be sent and a hearing may also be convened as a result of a complaint filed by a well owner regardless of the total number of points shown on the well driller's record.

5.6.3 A NAA may be sent and a hearing may be convened if there is evidence that a license or registration application submitted to the state engineer contains intentionally false or misleading information.

5.6.4 The purpose of the hearing will be to determine if disciplinary action is necessary regarding the water well driller's Utah Water Well License. The hearing will be recorded. At the hearing, testimony will be taken under oath regarding the alleged facts included in the NAA. Those providing testimony may include the water well driller, the well owner, Division of Water Rights staff, and others as

deemed necessary. Evidence that is pertinent to the alleged facts may also be presented at the hearing. After considering the testimony and the evidence presented at the hearing, the State Engineer may determine either that there is no cause for action against the well driller's license or that disciplinary action is necessary.

5.7 Administrative Penalties.

Administrative penalties ordered against a licensed driller by the state engineer following a hearing can include probation, administrative fines, license suspension, and license revocation. Administrative penalties are ordered based on the severity of the infraction (Level I, II, III from Table 1 of Section 5.1) as well as the recurrence of an infraction.

5.7.1 Level I Administrative Penalties: Level I administrative penalties will be levied against Level I administrative infractions (see Table 1 of Section 5.1). The Level I administrative penalty structure is as follows:

5.7.1.1 At the first conviction of Level I infractions, the disciplinary action for the infractions shall be probation.

5.7.1.2 Second conviction shall result in probation and a fine at a rate of \$2.50 per infraction point.

5.7.1.3 Third conviction shall result in probation and an elevated fine at a rate of \$5.00 per infraction point.

5.7.1.4 Fourth conviction shall result in an elevated fine at a rate of \$10.00 per infraction point and possible suspension.

5.7.1.5 Continued and repeated convictions beyond the fourth conviction may result in an elevated fine at a rate of \$10.00 per infraction point and possible suspension or revocation.

5.7.1.6 Fines for late well logs and abandonment logs shall be calculated separately and added to fines calculated for other infractions. For late well log infractions, the points associated with each infraction will be multiplied by a factor based on the lateness of the well log. The infraction point multipliers are as follows:

TABLE 4

| <u>Tardiness of the log</u> | <u>Infraction Point Multiplier</u> |
|-----------------------------|------------------------------------|
| <u>1-2 weeks</u> | <u>0.50</u> |
| <u>2-4 weeks</u> | <u>1.00</u> |
| <u>1-3 months</u> | <u>1.50</u> |
| <u>3-6 months</u> | <u>2.00</u> |
| <u>6-9 months</u> | <u>2.50</u> |
| <u>9-12 months</u> | <u>3.00</u> |
| <u>Over 12 months</u> | <u>4.00</u> |

5.7.2 Level II Administrative Penalties: Level II administrative penalties will be levied against Level II administrative infractions (see Table 2 of Section 5.1). The Level II administrative penalty structure is as follows:

5.7.2.1 At the first conviction of Level II infractions, the disciplinary action shall result in probation and a fine at a rate of \$2.50 per infraction point.

5.7.2.2 Second conviction shall result in probation and an elevated fine at a rate of \$5.00 per infraction point.

5.7.2.3 Third conviction shall result in possible suspension and an elevated fine at a rate of \$10.00 per infraction point.

5.7.2.4 Continued and repeated convictions beyond the fourth conviction may result in an elevated fine at a rate of \$10.00 per infraction point and possible suspension or revocation.

5.7.3 Level III Administrative Penalties: Level III administrative penalties will be levied against Level III construction infractions (see Table 3 of Section 5.1). The Level III administrative penalty structure is as follows:

5.7.3.1 At the first conviction of Level III infractions, the disciplinary action shall result in probation and a fine at a rate of \$5.00 per infraction point.

5.7.3.2 Second conviction shall result in possible suspension and an elevated fine at a rate of \$10.00 per infraction point.

5.7.3.3 Third conviction may result in an elevated fine at a rate of \$10.00 per infraction point and possible suspension or revocation.

5.7.4 Administrative Penalties - General

5.7.4.1 Penalties will only be imposed as a result of a well driller hearing.

5.7.4.2 Failure to pay a fine within 30 days from the date it is assessed will result in the suspension of the well driller license until the fine is paid.

5.7.4.3 Fines shall be deposited as a dedicated credit. The state engineer shall expend the money retained from fines for expenses related to well drilling activity inspection, well drilling enforcement, and well driller education.

5.7.5 Probation: As described above in Sections 5.7.1, 5.7.2, and 5.7.3, probation will generally be the disciplinary action imposed in situations where the facts established through testimony and evidence describe first time infractions of the administrative rules that are limited in number and less serious in their impact on the well owner and on the health of the aquifer. The probation period will generally last until the number of infraction points on the well driller's record is reduced below 70 through any of the options described in Subsection 4-5-8.

5.7.6 Suspension: Suspension will generally be the disciplinary action imposed in situations where the facts established through testimony and evidence describe repeated convictions of the administrative rules, or infractions that a pose serious threat to the health of the aquifer, or a well driller's apparent disregard for the administrative rules or the state's efforts to regulate water well drilling. Depending upon the number and severity of the rule infractions as described above in Sections 5.7.1, 5.7.2, and 5.7.3, the state engineer may elect to suspend a well driller license for a certain period of time and/or until certain conditions have been met by the well driller. In establishing the length of the suspension, the state engineer will generally follow the guideline that three infraction points is the equivalent of one day of suspension. A well driller whose license has been suspended will be prohibited from engaging in regulated well drilling activity. License suspension may also result in the exaction of the Well Driller Bond as set forth in Subsection 4-3-7.4. A well driller whose license has been suspended is allowed to work as a registered operator under the direct, continuous supervision of a licensed well driller. If the suspension period extends beyond the expiration date of the water well driller license, the water well driller may not apply to renew the license until the suspension period has run and any conditions have been met. Once the suspension period has run and once all conditions have been met by the well driller, the suspension will be lifted and the driller will be notified that he/she may again engage in the well drilling business. The well driller will then be placed on probation until the number of infraction points on the well driller's record is reduced below 70 through any of the options described in Subsection 4-5-8.

5.7.7 Revocation: Revocation will generally be the disciplinary action imposed in situations where the facts established through testimony and evidence describe repeated convictions of the administrative rules for which the well driller's Utah Water Well License has previously been suspended. Revocation will also be the disciplinary action taken if after a hearing the facts establish that a driller knowingly provided false or misleading information on a driller license application. A well driller whose license has been revoked will

be prohibited from engaging in regulated well drilling activity. License revocation may also result in the exaction of the Well Driller Bond as set forth in Subsection 4-3.7.4. A well driller whose license has been revoked is allowed to work as a registered operator under the direct, continuous supervision of a licensed well driller. A well driller whose water well license has been revoked may not make application for a new water well license for a period of two years from the date of revocation. After the revocation period has run, a well driller may make application for a new license as provided in Section R655-4-3. However, the well drilling experience required must be based on new experience obtained since the license was revoked.

5.8 Deleting Point from the Driller Record.

Points assessed against a well driller's record will remain on the record unless deleted through any of the following options:

5.8.1 Points will be deleted three years after the date when the infraction is noted by the state engineer and the points are assessed against the driller's record.

5.8.2 One half the points on the record will be deleted if the well driller is free of infractions for an entire year.

5.8.3 Thirty (30) points will be deleted for obtaining six (6) hours of approved continuing education credits in addition to the credits required to renew the water well driller's license. A driller may exercise this option only once each year.

5.8.4 Twenty (20) points will be deleted for taking and passing (with a minimum score of 70%) the test covering the administrative requirements and the minimum construction standards. A driller may exercise this option only every other year.

5.9 Lack of Knowledge Not an Excuse.

Lack of knowledge of the law or the administrative requirements and minimum construction standards related to well drilling shall not constitute an excuse for violation thereof.

R655-4-6. Renewal of Well Driller's License and Operator's Registration.

6.1 Well Driller's Licenses.

6.1.1 Water well driller licenses shall expire and be renewed according to the following provisions:[]

~~— a. Between January 1, 2004 and June 30, 2006 water well driller licenses shall expire and be renewed according to the following schedule:~~

~~— 1. The licenses of water well drillers whose last name begins with A thru L shall not expire on December 31, 2004 but shall expire at 12 midnight on June 30, 2005. The continuation of the license will depend on documentation of a valid \$5,000 well driller bond for the period thru June 30, 2005. Well drillers whose licenses expire on June 30, 2005 and who meet the application requirements of R655-4-6(6.1.2) including the documentation of nine (9) continuing education credits, shall receive a license that expires on June 30, 2007.~~

~~— 2. The licenses of water well drillers whose last name begins with M thru Z shall expire at midnight on December 30, 2004. Well drillers whose last name begins with M thru Z and who meet the application requirements of R655-4-6(6.1.2) shall receive a license that expires on June 30, 2006. The \$5,000 well driller bond must be valid for the period January 1, 2005 through June 30, 2006. Well drillers whose licenses expire on June 30, 2006 and who meet the application requirements of R655-4-6(6.1.2) including the documentation of nine (9) continuing education credits, shall receive a renewed license for the a 2-year period.]~~

~~a[b]. [After June 30, 2005, t]The licenses of well drillers whose last name begins with A thru L shall expire at 12 midnight on June 30 of odd numbered years.~~

~~b[e]. [After June 30, 2006, t]The licenses of well drillers whose last name begins with M thru Z shall expire at 12 midnight on June 30 of even numbered years.~~

~~c[d]. Drillers who meet the renewal requirements set forth in Subsection R655-4-6(6.1.2) on or before the expiration deadlines set forth in Subsection R655-4-6(6.1.1) shall be authorized to operate as a licensed well driller until the new license is issued.~~

~~d[e]. Drillers must renew their licenses within 24 months of the license expiration date. Drillers failing to renew within 24 months of the license expiration date must re-apply for a well driller's license, meet all the application requirements of Subsection R655-4-3(3.2), and provide documentation of 12 hours of continuing education according to the requirements of R655-4-6 (6.2) obtained within the previous 24 months.~~

6.1.2 Applications to renew a well driller's license must include the following items:

a. Payment of the license renewal fee determined and approved by the legislature;

b. Written application to the state engineer;

c. Documentation of continuing well driller bond coverage in the amount of five thousand dollars (\$5,000) penal bond for the next licensing period calendar year. The form and conditions of well driller bond shall be as set forth in Section 4.3. Allowable documentation can include bond continuation certificates and CD statements;

d. Proper submission of all start cards, official well driller reports (well logs), and well abandonment reports for the current licensing period~~[calendar year]~~;

e. Documentation of compliance with the continuing education requirements described in Section 6.2.1. Acceptable documentation of attendance at approved courses must include the following information: the name of the course, the date it was conducted, the number of approved credits, the name and signature of the instructor and the driller's name; for example, certificates of completion, transcripts, attendance rosters, diplomas, etc. (Note: drillers are advised that the state engineer will not keep track of the continuing education courses each driller attends during the year. Drillers are responsible to acquire and then submit documentation with the renewal application.)

6.1.3 License renewal applications that do not meet the requirements of Subsection R655-5-6(6.1.2) by June 30 of the expiration year or which are received after June 30 of the expiration year, will be assessed an additional administrative late fee determined and approved by the legislature.

6.1.4 The state engineer may renew a license on a restricted, conditional, or limited basis according to the driller's performance and compliance with established rules and construction standards. The state engineer may refuse to renew a license to a well driller if it appears that there has been a violation of these rules or a failure to comply with Section 73-3-2[2] of the Utah Code.

6.2 Continuing Education.

6.2.1 During each license period, licensed well drillers are required to earn at least twelve (12) continuing education credits by attending training sessions sponsored or sanctioned by the state engineer. Drillers who do not renew their licenses, but who intend to renew within the following 24 month period allowed in Section 6.1.1, are also required to earn twelve (12) continuing education credits.

6.2.2 The state engineer shall establish a committee consisting of the state engineer or a representative, no more than four licensed well drillers, a ground water scientist, and a manufacturer/supplier of well drilling products. The committee will develop criteria for the training courses, approve the courses which can offer continuing education credits, and assign the number of credits to each course. The committee will make recommendations to the state engineer concerning appeals from training course sponsors and well drillers related to earning continuing education credit.

6.2.3 The committee established in Section 6.2.2 shall assign the number of continuing education credits to each proposed training session based on the instructor's qualifications, a written outline of the subjects to be covered, and written objectives for the session. Well drillers wishing continuing education credit for other training sessions shall provide the committee with all information it needs to assign continuing education requirements.

6.2.4 Licensed drillers must complete a State Engineer-sponsored "Administrative Rules for Well Drillers" review course or other approved rule review once every four (4) years.

6.2.5 CE credits cannot be carried over from one licensing period to another.

6.3 Drill Rig Operator's Registration.

6.3.1 All operator's registrations shall expire at the same time as the license of the well driller by whom they are employed. Operators who meet the renewal requirements set forth in Subsection R655-4-6(6.3.2) on or before 12 midnight June 30 of the expiration year shall be authorized to act as a registered operator until the new registration is issued. Operators must renew their registrations within 24 months of the registration expiration date. Operators failing to renew within 24 months of the registration expiration date must re-apply for an operator's registration and meet all the application requirements of Subsection R655-4-3(3.3).

6.3.2 Applications to renew an operator's registration must include the following items:

- a. Payment of the registration renewal fee determined and approved by the legislature;
- b. Written application to the state engineer.

6.3.3 Registration renewal applications that do not meet the requirements of Subsection R655-4-6(6.3.2) by the June 30 expiration date or that are received after the June 30 expiration date will be assessed an additional administrative late fee determined and approved by the legislature.

R655-4-7. The Approval Process for Non-Production Wells~~[Cathodic Protection Wells, Heating, or Cooling Exchange Wells and Monitor Wells]~~.

7.1 General.

~~[Only]~~ Regulated non-production wells such as cathodic protection wells, heating or cooling exchange wells, and monitor wells drilled and constructed to a depth greater than~~[of]~~ 30 feet ~~[or greater]~~ below natural ground surface require approval from the state engineer.

7.2 Approval to Construct or Replace.

Approval to construct or replace non-production wells~~[cathodic protection wells, heating or cooling exchange wells, and monitor wells]~~ is issued by the state engineer's regional offices following review of written requests from the owner or applicant, federal or state agency or engineering representative. The requests for approval shall be made on forms provided by the state engineer entitled "Request for Non-Production Well Construction". The following information must be included on the form:

- a. General location or common description of the project.

- b. Specific course and distance locations from established government surveyed outside section corners or quarter corners.
- c. Total anticipated number of wells to be installed.
- d. Diameters, approximate depths and materials used in the wells.
- e. Projected start and completion dates.
- f. Name and license number of the driller contracted to install the wells.

There is no fee required to request approval to drill a non-production wells~~[cathodic protection well, a heating or cooling exchange well, or a monitor well]~~. Upon written approval by the state engineer, the project will be assigned an approved ~~[authorization]~~ non-production well number which will be referenced on all start cards and official well driller's reports.

R655-4-8. General Requirements.

8.1 Standards.

8.1.1 In some locations, the compliance with the following minimum standards will not result in a well being free from pollution or from being a source of subsurface leakage, waste, or contamination of the groundwater resource. Since it is impractical to attempt to prepare standards for every conceivable situation, the well driller shall judge when to construct wells under more stringent standards when such precautions are necessary to protect the groundwater supply and those using the well in question. Other state and local regulations pertaining to well drilling and construction, groundwater protection, and water quality regulations may exist that are either more stringent than these rules or that specifically apply to a given situation. It is the well driller's responsibility to understand and apply other regulations as applicable.

8.2 Well Site Locations.

8.2.1 Well site locations are described by course and distance from outside section corners or quarter corners (based on a Section/Township/Range Cadastral System) and by the Universal Transverse Mercator (UTM) coordinate system on all state engineer authorizations to drill (Start Cards). However, the licensee should also be familiar with local zoning ordinances, or county boards of health requirements which may limit or restrict the actual well location and construction in relationship to property/structure boundaries and existing or proposed concentrated sources of pollution or contamination such as septic tanks, drain fields, sewer lines, stock corrals, feed lots, etc. The licensee should also be familiar with the Utah Underground Facilities Act (Title 54, Chapter 8a of the Utah Code Annotated 1953 as amended) which requires subsurface excavators (including well drilling) to notify operators of underground utilities prior to any subsurface excavation. Information on this requirement can be found by calling (800)662-4111.

8.2.2 Regulated wells shall be drilled at the approved location as defined on the valid start card. The driller shall check the drilling location to see if it ~~[generally]~~ matches the state-approved location listed on the Driller's Start Card. ~~[If the actual drilling location is significantly different than the Start Card location, the driller shall indicate the difference on the Well Log.]~~

8.3 Unusual Conditions.

8.3.1 If unusual conditions occur at a well site and compliance with these rules and standards will not result in a satisfactory well or protection to the groundwater supply, a licensed water well driller shall request that special standards be prescribed for a particular well. The request for special standards shall be in writing and shall set forth the location of the well, the name of the owner, the unusual conditions existing at the well site, the reasons that compliance with the rules and minimum standards will not result in a satisfactory well, and the

proposed standards that the licensed water well driller believes will be more adequate for this particular well. If the state engineer finds that the proposed changes are in the best interest of the public, he will approve the proposed changes by assigning special standards for the particular well under consideration.

R655-4-9. Well Drilling and Construction Requirements.

9.0 General.

9.0.1 Figures 1 through 5 are used to illustrate typical well construction standards, and can be viewed in the State of Utah Water Well Handbook available at the Division of Water Rights, 1594 West North Temple, Salt Lake City, Utah. Figure 1 illustrates the typical construction of a drilled well with driven casing such as a well drilled using the cable tool method or air rotary with a drill-through casing driver. Figure 2 illustrates the typical construction of a well drilled with an oversized borehole and/or gravel packed without the use of surface casing. Figure 3 illustrates the typical construction of a well drilled with an oversized borehole and/or gravel packed with the use of surface casing. Figure 4 illustrates the typical construction of a well drilled with an oversized borehole and/or gravel packed completed in stratified formations in which poor formation material or poor quality water is encountered. Figure 5 illustrates the typical construction of a well completed with PVC or nonmetallic casing.

9.1 Approved Products, Materials, and Procedures.

9.1.1 Any product, material or procedure designed for use in the drilling, construction, cleaning, renovation, development or abandonment of water or monitor wells, which has received certification and approval for its intended use by the National Sanitation Foundation (NSF) under ANSI/NSF Standard 60 or 61, the American Society for Testing Materials (ASTM), the American Water Works Association (AWWA) or the American National Standards Institute (ANSI) may be utilized. Other products, materials or procedures may also be utilized for their intended purpose upon manufacturers certification that they meet or exceed the standards or certifications referred to in this section and upon state engineer approval.

9.2 Well Casing - General

9.2.1 Drillers Responsibility. It shall be the sole responsibility of the well driller to determine the suitability of any type of well casing for the particular well being constructed, in accordance with these minimum requirements.

9.2.2 Casing Stick-up. The well casing shall extend a minimum of 18 inches above finished ground level and the natural ground surface should slope away from the casing. A secure sanitary, weatherproof seal or a completely welded cap shall be placed on the top of the well casing to prevent contamination of the well. If a vent is placed in the cap, it shall be properly screened to prevent access to the well by debris, insects, or other animals.

9.2.3 Steel Casing. All steel casing installed in Utah shall be in new or like-new condition, being free from pits or breaks, clean with all potentially dangerous chemicals or coatings removed, and shall meet the minimum specifications listed in Table [2]5 of these rules. In order to utilize steel well casing that does not fall within the categories specified in Table [2]5, the driller shall receive written approval from the state engineer. All steel casing installed in Utah shall meet or exceed the minimum ASTM, ANSI, or AWWA standards for steel pipe as described in Subsection 9.1 unless otherwise approved by the state engineer. Applicable standards (most recent revisions) may include:

ANSI/AWWA A100-AWWA Standard for Water Wells.

ANSI/ASTM A53-Standard Specifications for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless.

ANSI/ASTM A139-Standard Specification for Electric-Fusion (Arc)-Welded Steel Pipe (NPS 4 and over).[

~~—ANSI/ASTM A606 Standard Specification for Steel, Sheet, and Strip, High Strength, Low Alloy, Hot Rolled and Cold Rolled, with Improved Atmospheric Corrosion Resistance-]~~

ANSI/AWWA C200-Standard for Steel Water Pipe-6 in. and Larger.

API Spec.5L-Specification for Liner Pipe.

ASTM A106-Standard Specification for Seamless Carbon Steel Pipe for High Temperature Service

ASTM A778-Standard Specifications for Welded, Unannealed Austenitic Stainless Steel Tubular Products.

ASTM A252-Standard Specification for Welded and Seamless Steel Pipe Piles.

ASTM A312-Standard Specification for Seamless, Welded, and Heavily Cold Worked Austenitic Stainless Steel Pipes

TABLE [2]5
MINIMUM WALL THICKNESS FOR STEEL WELL CASING

| Depth Casing Diameter | Nominal Casing Diameter | | | | | | | |
|-----------------------------|-------------------------|------|------|------|------|------|------|------|
| | 200 | 300 | 400 | 600 | 800 | 1000 | 1500 | 2000 |
| (ft) | (ft) | (ft) | (ft) | (ft) | (ft) | (ft) | (ft) | (ft) |
| 2 | .154 | .154 | .154 | .154 | .154 | .154 | | |
| 3 | .216 | .216 | .216 | .216 | .216 | .216 | | |
| 4 | .237 | .237 | .237 | .237 | .237 | .237 | .237 | .237 |
| 5 | .250 | .250 | .250 | .250 | .250 | .250 | .250 | .250 |
| 6 | .250 | .250 | .250 | .250 | .250 | .250 | .250 | .250 |
| 8 | .250 | .250 | .250 | .250 | .250 | .250 | .250 | .250 |
| 10 | .250 | .250 | .250 | .250 | .250 | .250 | .312 | .312 |
| 12 | .250 | .250 | .250 | .250 | .250 | .250 | .312 | .312 |
| 14 | .250 | .250 | .250 | .250 | .312 | .312 | .312 | .312 |
| 16 | .250 | .250 | .312 | .312 | .312 | .312 | .375 | .375 |
| 18 | .250 | .312 | .312 | .312 | .375 | .375 | .375 | .438 |
| 20 | .250 | .312 | .312 | .312 | .375 | .375 | .375 | .438 |
| 22 | .312 | .312 | .312 | .375 | .375 | .375 | .375 | .438 |
| 24 | .312 | .312 | .375 | .375 | .375 | .438 | | |
| 30 | .312 | .375 | .375 | .438 | .438 | .500 | | |

Note: Minimum wall thickness is in inches.

9.2.4 Plastic and Other Non-metallic Casing.

9.2.4.1 Materials. PVC, SR, ABS, or other types of non-metallic well casing and screen may be installed in Utah upon obtaining permission of the well owner. Plastic well casing and screen shall be manufactured and installed to conform with The American National Standards Institute (ANSI) or the American Society for Testing and Materials (ASTM) Standard F 480-95, which are incorporated by reference to these rules. Casing and screen meeting this standard is normally marked "WELL CASING" and with the ANSI/ASTM designation "F 480-95, SDR-17 (or 13.5, 21, etc.)". All plastic casing and screen for use in potable water supplies shall be manufactured to be acceptable to the American National Standards Institute/National Sanitation Foundation (NSF) standard 61. Other types of plastic casings and screens may be installed upon manufacturers certification that such casing meets or exceeds the above described ASTM/SDR specification or ANSI/NSF approval and upon state engineer approval.

9.2.4.2 Minimum Wall Thickness and Depth Requirements. PVC well casing and screen with an outside diameter equal to or less than four and one half (4.5) inches shall meet the minimum wall thickness required under ASTM Standard F480-95 SDR 21 or a Schedule 40 designation. PVC well casing and screen with an outside diameter greater than four and one half (4.5) inches shall meet the minimum wall thickness required under ASTM Standard F480-95 SDR 17 or a Schedule 80 designation. Additionally, caution should be used

whenever other than factory slots or perforations are added to PVC well casing. The installation of hand cut slots or perforations significantly reduces the collapse strength tolerances of unaltered casings. The depth at which plastic casing and screen is placed in a well shall conform to the minimum requirements and restrictions as outlined in ASTM Standard F-480-95.

9.2.4.3 Fiberglass Casing. Fiberglass reinforced plastic well casings and screens may be installed in wells upon obtaining permission of the well owner. All fiberglass casing or screens installed in wells for use in potable water supplies shall be manufactured to be acceptable by ANSI/NSF Standard 61 and upon state engineer approval.

9.2.4.4 Driving Non-metallic Casing. Non-metallic casing shall not be driven or dropped and may only be installed in an oversized borehole.

9.2.4.5 Protective Casing. If plastic or other non-metallic casing is utilized, the driller shall install a protective steel casing which complies with the provisions of Subsection 9.2.3 or an equivalent protective covering approved by the state engineer over and around the well casing at ground surface to a depth of at least two and one half (2.5) feet. If a pitless adapter is installed on the well, the bottom of the protective cover shall be placed above the pitless adapter/well connection. If the pitless adapter is placed in the protective casing, the protective casing shall extend below the pitless entrance in the well casing and be sealed both on the outside of the protective casing and between the protective casing and well casing. The protective cover shall be sealed in the borehole in accordance with the requirements of Subsection 9.4. The annular space between the protective cover and non-metallic casing shall also be sealed with acceptable materials in accordance with Subsection 9.4. A sanitary, weather-tight seal or a completely welded cap shall be placed on top of the protective cover, thus enclosing the well itself. If the sanitary seal is vented, screens shall be placed in the vent to prevent debris insects, and other animals from entering the well. This protective casing requirement does not apply to monitor wells. Figure 5 depicts this requirement.

9.3 Casing Joints.

9.3.1 General. All well casing joints shall be made water tight. In instances in which a reduction in casing diameter is made, there shall be enough overlap of the casings to prevent misalignment and to insure the making of an adequate seal in the annular space between casings to prevent the movement of unstable sediment or formation material into the well, in addition to preventing the degradation of the water supply by the migration of inferior quality water through the annular space between the two casings.

9.3.2 Steel Casing. All steel casing shall be screw-coupled or welded. If the joints are welded, the weld shall be at least as thick as the wall thickness of the casing and shall consist of at least two beads for the full circumference of the joint. Spot welding of joints is prohibited.

9.3.3 Plastic Casing. All plastic well casing shall be mechanically screw coupled, chemically welded, cam-locked or lug coupled to provide water tight joints as per ANSI/ASTM F480-95. Metal screws driven into casing joints shall not be long enough to penetrate the inside surface of the casing. Metal screws should be used only when surrounding air temperatures are below 50 degrees Fahrenheit (F) which retards the normal setting of the cement.

9.4 Surface Seals and Interval Seals.

9.4.1 General. Before the drill rig is removed from the drill site of a well, a surface seal shall be installed. Well casings shall be sealed to prevent the possible downward movement of contaminated surface waters in the annular space around the well casing. The seal shall also prevent the upward movement of artesian waters within the annular

space around the well casing. Depending upon hydrogeologic conditions around the well, interval seals may need to be installed ~~The sealing is also~~ to prevent the movement of groundwater either upward or downward around the well from zones that have been cased out of the well due to poor water quality or other reasons. The following surface and interval seal requirements apply equally to rotary drilled, cable tool drilled, bored, jetted, augered, and driven wells unless otherwise specified.

9.4.2 Seal Material.

9.4.2.1 General. The seal material shall consist of neat cement grout, sand cement grout, unhydrated bentonite, or bentonite grout as defined in Section R655-4-2. Use of sealing materials other than those listed above must be approved by the state engineer. Bentonite drilling fluid (drilling mud), dry drilling bentonite, or drill cuttings are not an acceptable ~~bentonite grout or~~ sealing material. In no case shall drilling fluid (mud), drill cuttings, drill chips, or puddling clay be used, or allowed to fill, partially fill, or fall into the required sealing interval of a well during construction of the well. All hydrated sealing materials (neat cement grout, sand cement grout, bentonite grout) shall be placed by tremie pipe, pumping, or pressure from the bottom of the seal interval upwards in one continuous operation when placed below a depth of 30 feet or when placed below static groundwater level. Portland Cement grouts must be allowed to cure a minimum of 72 hours for Type I-II cement or 36 hours for Type III cement before well drilling, construction, or testing may be resumed. The volume of annular space in the seal interval shall be calculated by the driller to determine the estimated volume of seal material required to seal the annular space. The driller shall place at least the volume of material equal to the volume of annular space, thus ensuring that a continuous seal is placed. The driller shall maintain the well casing centered in the borehole during seal placement using centralizers or other means to ensure that the seal is placed radially and vertically continuous.

9.4.2.2 Bentonite Grout. Bentonite used to prepare grout for sealing shall have the ability to gel; not separate into water and solid materials after it gels; have a hydraulic conductivity or permeability value of $10E-7$ centimeters per second or less; contain at least 20 percent solids by weight of bentonite, and have a fluid weight of 9.5 pounds per gallon or greater and be specifically designed for the purpose of sealing. Bentonite or polymer drilling fluid (mud) does not meet the definition of a grout with respect to density, gel strength, and solids content and shall not be used for sealing purposes. At no time shall bentonite grout contain materials that are toxic, polluting, develop odor or color changes, or serve as a micro-bacterial nutrient. All bentonite grout shall be prepared and installed according to the manufacturer's instructions and these rules. All additives must be certified by a recognized certification authority such as NSF and approved by the state engineer.

9.4.2.3 Unhydrated Bentonite. Unhydrated bentonite (e.g., granular, tabular, pelletized, or chip bentonite) may be used in the construction of well seals above a depth of 50 feet. Unhydrated bentonite can be placed below a depth of 50 feet when placed inside the annulus of two casings, ~~or~~ when placed using a tremie pipe, or by using a placement method approved by the state engineer. The bentonite material shall be specifically designed for well sealing and be within industry tolerances. All unhydrated bentonite used for sealing must be free of organic polymers and other contamination. Placement of bentonite shall conform to the manufacturer's specifications and instructions and result in a seal free of voids or bridges. Granular or powdered bentonite shall not be placed under water by gravity feeding from the surface. When placing unhydrated bentonite, a sounding or tamping tool shall be run in the sealing interval during pouring to

measure fill-up rate, verify a continuous seal placement, and to break up possible bridges or cake formation.

9.4.3 Seal and Unperforated Casing Placement.

9.4.3.1 General Seal Requirements. Figure 1 illustrates the construction of a surface seal for a typical well. The surface seal must be placed in an annular space that has a minimum diameter of four (4) inches larger than the nominal size of the permanent well casing (This amounts to a 2-inch annulus). The surface seal must extend from land surface to a minimum depth of 30 feet. The completed surface seal must fully surround the permanent well casing, must be evenly distributed, free of voids, and extend to undisturbed or recompacted soil. In unconsolidated formations such as gravels, sands, or other unstable conditions when the use of drilling fluid or other means of keeping the borehole open are not employed, either a temporary surface casing with a minimum depth of 30 feet and a minimum nominal diameter of four (4) inches greater than the outermost permanent casing shall be utilized to ensure proper seal placement or the well driller shall notify the state engineer's office that the seal will be placed in a potentially unstable open borehole without a temporary surface casing by telephone or FAX in conjunction with the start card submittal in order to provide an opportunity for the state engineer's office to inspect the placement of the seal. If a temporary surface casing is utilized, the surface casing shall be removed in conjunction with the placement of the seal. Alternatively, ~~the surface~~ conductor casing may be sealed permanently in place to a depth of 30 feet with a minimum 2-inch annular seal between the surface casing and borehole wall. If the temporary surface casing is to be removed, the surface casing shall be withdrawn as sealing material is placed between the outer-most permanent well casing and borehole wall. The sealing material shall be kept at a sufficient height above the bottom of the temporary surface casing as it is withdrawn to prevent caving of the borehole wall. If the temporary conductor casing is driven in place without a 2-inch annular seal between the surface casing and borehole wall, the surface casing may be left in place in the borehole only if it is impossible to remove because of unforeseen conditions and not because of inadequate drilling equipment, or if the removal will seriously jeopardize the integrity of the well and the integrity of subsurface barriers to pollutants or contaminant movement. The temporary surface casing can only be left in place without a sufficient 2-inch annular seal as describe above with the approval of the state engineer on a case by case basis. If the surface casing is left in place, it shall be perforated to allow seal material to penetrate through the casing and into the formation and annular space between the surface casing and borehole wall. Unhydrated bentonite shall not be used to construct the surface seal when the surface casing is left in place. Grout seal materials must be used to construct the surface seal when the surface casing is left in place. The grout must be placed with sufficient pressure to force the grout through the surface casing perforations and into the annular space between the surface casing and borehole wall and into the formation. Surface seals and unperforated casing shall be installed in wells located in unconsolidated formation such as sand and gravel with minor clay or confining units; unconsolidated formation consisting of stratified layers of materials such as sand, gravel, and clay or other confining units; and consolidated formations according to the following procedures.

9.4.3.2 Unconsolidated Formation without Significant Confining Units. This includes wells that penetrate an aquifer overlain by unconsolidated formations such as sand and gravel without significant clay beds (at least six feet thick) or other confining formations. The surface seal must be placed in a 2-inch annular space to a minimum depth of 30 feet. Permanent unperforated casing shall extend at least to a depth of 30 feet and also extend below the lowest anticipated

pumping level. Additional casing placed in the open borehole below the required depths noted above shall meet the casing requirements of Subsection 9.2 unless the casing is installed as a liner inside a larger diameter approved casing.

9.4.3.3 Unconsolidated Formation with Significant Confining Units. This includes wells that penetrate an aquifer overlain by clay or other confining formations that are at least six (6) feet thick. The surface seal must be placed in a 2-inch annular space to a minimum depth of 30 feet and at least five (5) feet into the confining unit above the water bearing formation. Unperforated casing shall extend from ground surface to at least 30 feet and to the bottom of the confining unit overlying the water bearing formation. If necessary to complete the well, a smaller diameter casing, liner, or well screen may be installed below the unperforated casing. The annular space between the two casings shall be sealed with grout, bentonite, or a mechanical packer. Additional casing placed in the open borehole below the required depths noted above shall meet the casing requirements of Subsection 9.2 unless the casing is installed as a liner inside a larger diameter approved casing.

9.4.3.4 Consolidated Formation. This includes drilled wells that penetrate an aquifer, either within or overlain by a consolidated formation. The surface seal must be placed in a 2-inch annular space to a minimum depth of 30 feet and at least five (5) feet into competent consolidated formation. Unperforated permanent casing shall be installed to extend to a depth of at least 30 feet and the lower part of the casing shall be driven and sealed at least five (5) feet into the consolidated formation. If necessary to complete the well, a smaller diameter casing, liner, or well screen may be installed below the unperforated casing. The annular space between the two casings shall be sealed with grout, bentonite, or a mechanical packer. Additional casing placed in the open borehole below the required depths noted above shall meet the casing requirements of Subsection 9.2 unless the casing is installed as a liner inside a larger diameter approved casing.

9.4.3.5 Sealing Artesian Wells. Unperforated well casing shall extend into the confining stratum overlying the artesian zone, and shall be adequately sealed into the confining stratum to prevent both surface and subsurface leakage from the artesian zone. If leaks occur around the well casing or adjacent to the well, the well shall be completed with the seals, packers, or casing necessary to eliminate the leakage. The driller shall not move the drilling rig from the well site until leakage is completely stopped, unless authority for temporary removal of the drilling rig is granted by the state engineer, or when loss of life or property is imminent. If the well flows naturally at land surface due to artesian pressure, the well shall be equipped with a control valve so that the flow can be completely stopped. The control valve must be available for inspection by the state engineer at all times.

9.4.4 Interval Seals. Formations containing undesirable materials (e.g., fine sand and silt that can damage pumping equipment and result in turbid water), contaminated groundwater, or poor quality groundwater must be sealed off so that the unfavorable formation cannot contribute to the performance and quality of the well. These zones must also be sealed to eliminate the potential of cross contamination or commingling between two aquifers of differing quality. Figure 4 illustrates this situation. Unless approved by the state engineer, construction of wells that cause the commingling or cross connection of otherwise separate aquifers is not allowed.

9.4.5 Other Sealing Methods. In wells where the above-described methods of well sealing do not apply, special sealing procedures can be approved by the state engineer upon written request by the licensed well driller.

9.5 Special Requirements for Oversized and Gravel Packed Wells. This section applies to wells in which casing is installed in an open borehole without driving or drilling in the casing and an annular space is left between the borehole wall and well casing (e.g., mud rotary wells, flooded reverse circulation wells, air rotary wells in open bedrock).

9.5.1 Oversized Borehole. The diameter of the borehole shall be at least four (4) inches larger than the outside diameter of the well casing to be installed to allow for proper placement of the gravel pack and/or formation stabilizer and adequate clearance for grouting and surface seal installations. In order to accept a smaller diameter casing in any oversized borehole penetrating unconsolidated or stratified formations, the annular space must be sealed in accordance with Subsection 9.4. In order to minimize the risk of: 1) borehole caving or collapse; 2) casing failure or collapse; or 3) axial distortion of the casing, it is recommended that the entire annular space in an oversized borehole between the casing and borehole wall be filled with formation stabilizer such as approved seal material, gravel pack, filter material or other state engineer-approved materials. Well casing placed in an oversized borehole should be suspended at the ground surface until all formation stabilizer material is placed in order to reduce axial distortion of the casing if it is allowed to rest on the bottom of an open oversized borehole. In order to accept a smaller diameter casing, the annular space in an oversized borehole penetrating unconsolidated formations (with no confining layer) must be sealed in accordance with Subsection 9.4 to a depth of at least 30 feet or from static water level to ground surface, whichever is deeper. The annular space in an oversized borehole penetrating stratified or consolidated formations must be sealed in accordance with Subsection 9.4 to a depth of at least 30 feet or five (5) feet into an impervious strata (e.g., clay) or competent consolidated formation overlying the water producing zones back to ground surface, whichever is deeper. Especially in the case of an oversized borehole, the requirements of Subsection 9.4.4 regarding interval sealing must be followed.

9.5.2 Gravel Pack or Filter Material. The gravel pack or filter material shall consist of clean, well-rounded, chemically stable grains that are smooth and uniform. The filter material should not contain more than 2% by weight of thin, flat, or elongated pieces and should not contain organic impurities or contaminants of any kind. In order to assure that no contamination is introduced into the well via the gravel pack, the gravel pack must be washed with a minimum 100 ppm solution of chlorinated water or dry hypochlorite mixed with the gravel pack at the surface before it is introduced into the well (see Table 6[3] of these rules for required amount of chlorine material).

9.5.3 Placement of Filter Material. All filter material shall be placed using a method that through common usage has been shown to minimize a) bridging of the material between the borehole and the casing, and b) excessive segregation of the material after it has been introduced into the annulus and before it settles into place. It is not acceptable to place filter material by pouring from the ground surface unless proper sounding devices are utilized to measure dynamic filter depth, evaluate pour rate, and minimize bridging and formation of voids.

9.5.4 No Surface Casing Used. If no permanent [surface]conductor casing is installed, neat cement grout, sand cement grout, bentonite grout, or unhydrated bentonite seal shall be installed in accordance with Subsection 9.4. Figure 2 of these rules illustrates the construction of a typical well of this type.

9.5.5 Permanent Conductor[Surface] Casing Used. If permanent conductor[surface] casing is installed, it shall be unperforated and installed and sealed in accordance with Subsection 9.4 as depicted in

Figure 3 of these rules. After the gravel pack has been installed between the conductor[surface] casing and the well casing, the annular space between the two casings shall be sealed by either welding a water-tight steel cap between the two casings at land surface or filling the annular space between the two casings with neat cement grout, sand cement grout, bentonite grout, or unhydrated bentonite from at least 50 feet to the surface and in accordance with Subsection 9.4. If a hole will be created in the permanent conductor[surface] casing in order to install a pitless adapter into the well casing, the annular space between the conductor[surface] casing and well casing shall be sealed to at least a depth of thirty (30) feet with neat cement grout, sand cement grout, bentonite grout, or unhydrated bentonite, ~~and a~~ A waterproof cap or weld ring sealing the two casings at the surface by itself without the annular seal between the two casings is unacceptable when a pitless adapter is installed in this fashion. Moreover in this case, the annular space between the surface casing and well casing must be at least 2 inches in order to facilitate seal placement.

9.5.6 Gravel Feed Pipe. If a gravel feed pipe, used to add gravel to the gravel pack after well completion, is installed, the diameter of the borehole in the sealing interval must be at least four (4) inches in diameter greater than the permanent casing plus the diameter of the gravel feed pipe. The gravel feed pipe must be completely surrounded by the seal. The gravel feed pipe must extend at least 18 inches above ground and must be sealed at the top with a watertight cap or plug (see Figure 2).

9.6 Protection of the Aquifer.

9.6.1 Drilling Fluids and LCMs. The well driller shall take due care to protect the producing aquifer from clogging or contamination. Organic substances shall not be introduced into the well or borehole during drilling or construction. Every effort shall be made to remove all substances and materials introduced into the aquifer or aquifers during well construction. "Substances and materials" shall mean all drilling fluids, filter cake, and any other inorganic substances added to the drilling fluid that may seal or clog the aquifer. The introduction of lost circulation materials (LCM's) during the drilling process shall be limited to those products which will not present a potential medium for bacterial growth or contamination. Only LCM's which are non-organic, ~~such as "rock wool" consisting of spun calcium carbonate,~~ which can be safely broken down and removed from the borehole, may be utilized. This is especially important in the construction of wells designed to be used as a public water system supply.

9.6.2 Containment of Drilling Fluid. Drilling or circulating fluid introduced into the drilling process shall be contained in a manner to prevent surface or subsurface contamination and to prevent degradation of natural or man-made water courses or impoundments. Rules regarding the discharges to waters of the state are promulgated under R317-8-2 of the Utah Administrative Code and regulated by the Utah Division of Water Quality (Tel. 801-536-6146). Pollution of waters of the state is a violation of the Utah Water Quality Act, Utah Code Annotated Title 19, Chapter 5.

9.6.3 Mineralized, Contaminated or Polluted Water. Whenever a water bearing stratum that contains nonpotable mineralized, contaminated or polluted water is encountered, the stratum shall be adequately sealed off so that contamination or co-mingling of the overlying or underlying groundwater zones will not occur (see Figure 4).

9.6.4 Drilling Equipment. All tools, drilling equipment, and materials used to drill a well shall be free of contaminants prior to beginning well construction. Contaminants include lubricants, fuel, bacteria, etc. that will reduce the well efficiency, and any other item(s) that will be harmful to public health and/or the resource or reduce the

life of the water well. It is recommended that excess lubricants placed on drilling equipment be wiped clean prior to insertion into the borehole.

~~9.6.5 Well Disinfection and Chlorination of Water. No contaminated or untreated water shall be placed in a well during construction. Water should be obtained from a chlorinated municipal system. Where this is not possible, the water must be treated to give 100 parts per million free chlorine residual. Upon completion of a well or work on a well, the driller shall disinfect the well using accepted disinfection procedures to give 100 parts per million free chlorine residual in the well water. Table 3 provides the amount of common laundry bleach or dry powder hypochlorite required per 100 gallons of water or 100 feet linear casing volume of water to mix a 100 parts per million solution. Additional recommendations and guidelines for water well system disinfection are available from the state engineer upon request.~~

TABLE 3
AMOUNT OF HYPOCHLORITE FOR EACH 100 FEET OF WATER
STANDING IN WELL (100 ppm solution)

| Well Diameter (inches) | 5.25% Solution (cups) | 25% Powder (ounces) | 70% Powder (ounces) |
|----------------------------------|-----------------------|---------------------|---------------------|
| 2 | 0.50 | 1.00 | 0.50 |
| 4 | 2.25 | 3.50 | 1.50 |
| 6 | 5.00 | 8.00 | 3.00 |
| 8 | 8.50 | 14.50 | 5.50 |
| 10 | 13.00 | 22.50 | 8.50 |
| 12 | 19.00 | 32.50 | 12.00 |
| 14 | 26.00 | 44.50 | 16.50 |
| 16 | 34.00 | 58.00 | 26.00 |
| 20 | 53.00 | 90.50 | 33.00 |
| For every 100 gal. of water add: | 3.50 | 5.50 | 2.00 |

NOTES: *Common Laundry Bleach
**High Test Hypochlorite

9.6.5 Well Disinfection and Chlorination of Water. No contaminated or untreated water shall be placed in a well during construction. Water should be obtained from a chlorinated municipal system. Where this is not possible, the water must be treated to give 100 parts per million free chlorine residual. Upon completion of a well or work on a well, the driller shall disinfect the well using accepted disinfection procedures to give 100 parts per million free chlorine residual equally distributed in the well water from static level to the bottom of the well. A chlorine solution designated for potable water use prepared with either calcium hypochlorite (powdered, granular, or tablet form) or sodium hypochlorite in liquid form shall be used for water well disinfection. Off-the-shelf chlorine compounds intended for home laundry use, pool or fountain use should not be used if they contain additives such as antifungal agents, silica ("Ultra" brands), scents, etc. Table 6 provides the amount of chlorine compound required per 100 gallons of water or 100 feet linear casing volume of water to mix a 100 parts per million solution. Disinfection situations not depicted in Table 6 must be approved by the state engineer. Additional recommendations and guidelines for water well system disinfection are available from the state engineer upon request.

TABLE 6
AMOUNT OF CHLORINE COMPOUND FOR EACH 100 FEET OF WATER
STANDING IN WELL (100 ppm solution)

| Well Diameter (inches) | Ca-HvCLT* (25% HOCL) (ounces) | Ca-HvCLT (65% HOCL) (ounces) | Na-HvCLT** (12-trade %) (fluid ounces) | Liquid Cl*** (100% Cl2) (lbs) |
|----------------------------------|-------------------------------|------------------------------|--|-------------------------------|
| 2 | 1.00 | 0.50 | 3.5 | 0.03 |
| 4 | 3.50 | 1.50 | 7.0 | 0.06 |
| 6 | 8.00 | 3.00 | 16.0 | 0.12 |
| 8 | 14.50 | 5.50 | 28.0 | 0.22 |
| 10 | 22.50 | 8.50 | 45.0 | 0.34 |
| 12 | 32.50 | 12.00 | 64.0 | 0.50 |
| 14 | 44.50 | 16.50 | 88.0 | 0.70 |
| 16 | 58.00 | 26.00 | 112 | 0.88 |
| 20 | 90.50 | 33.00 | 179 | 1.36 |
| For every 100 gal. of water add: | 5.50 | 2.00 | 11.5 | 0.09 |

NOTES: *Calcium Hypochlorite (solid)
**Sodium Hypochlorite (liquid)
***Liquid Chlorine

9.7 Special Requirements.

9.7.1 Explosives. Explosives used in well construction shall not be detonated within the section of casing designed or expected to serve as the surface seal of the completed well, whether or not the surface seal has been placed. If explosives are used in the construction of a well, their use shall be reported on the official well log. In no case shall explosives, other than explosive shot perforators specifically designed to perforate steel casing, be detonated inside the well casing or liner pipe.

9.7.2 Access Port. Every well shall be equipped with a usable access port so that the position of the water level, or pressure head, in the well can be measured at all times.

9.7.3 Completion or Abandonment. A licensed driller shall not remove his drill rig from a well site unless the well is completed or abandoned. Completion of a well shall include all surface seals, gravel packs or curbs required. Dry boreholes, or otherwise unsuccessful attempts at completing a well, shall be properly abandoned in accordance with Section R655-4-12. Upon completion, all wells shall be equipped with a watertight, tamper-resistant casing cap or sanitary seal.

9.7.4 Surface Security. If it becomes necessary for the driller to temporarily discontinue the drilling operation before completion of the well or otherwise leave the well or borehole unattended, the well and/or borehole must be covered securely to prevent contaminants from entering the casing or borehole and rendered secure against entry by children, vandals, domestic animals, and wildlife.

9.7.5 Pitless Adapters. Pitless adapters or units are acceptable to use with steel well casing as long as they are installed in accordance with manufacturers recommendations and specifications. The pitless adaptor, including the cap or cover, casing extension, and other attachments, must be so designed and constructed to be water tight and to prevent contamination of the potable water supply from external sources. Pitless adapters or units are not recommended to be mounted on PVC well casing. If a pitless adapter is to be used with PVC casing, it should be designed for use with PVC casing, and the driller should ensure that the weight of the pump and column do not exceed the strength of the PVC well casing.

9.7.6 Hydraulic Fracturing. The hydraulic fracturing pressure shall be transmitted through a drill string and shall not be transmitted to the well casing. Hydraulic fracturing intervals shall be at least 20 feet below the bottom of the permanent casing of a well. All hydraulic fracturing equipment shall be thoroughly disinfected with a 100 part per million chlorine solution prior to insertion into the well. The driller shall include the appropriate hydraulic fracturing information on the well log including methods, materials, maximum pressures, location of packers, and initial/final yields.

9.7.7 Static Water Level, Well Development, and Well Yield. To fulfill the requirements of Subsection R655-4-4.5.2, new wells designed to produce water shall be developed to remove drill cuttings, drilling mud, or other materials introduced into the well during construction and to restore the natural groundwater flow to the well to the extent possible. After a water production well is developed, a test should be performed to determine the rate at which groundwater can be reliably produced from the well. Following development and testing, the static water level in the well should also be measured. Static water level, well development information, and well yield information shall be noted on the official submittal of the Well Log by the well driller.

R655-4-10. Special Wells.

10.1 Construction Standards for Special Wells.

10.1.1 General. The construction standards outlined in Section R655-4-9 are meant to serve as minimum acceptable construction standards. Certain types of wells such as cathodic protection wells, heating or cooling exchange wells, recharge and recovery wells, and public supply wells require special construction standards that are addressed in this section or in rules promulgated by other regulating agencies. At a minimum, when constructing special wells as listed above, the well shall be constructed by a licensed well driller, and the minimum construction standards of Section R655-4-9 shall be followed in addition to the following special standards.

10.1.2 Public Water Supply Wells. Public water supply wells are subject to the minimum construction standards outlined in Section R655-4-9 in addition to the requirements established by the Department of Environmental Quality, Division of Drinking Water under Rules R309-515[204] and R309-600[43]. Plans and specifications for a public supply well must be reviewed and approved by the Division of Drinking Water before the well is drilled. These plans and specifications shall include the procedures, practices, and materials used to drill, construct, seal, develop, clean, disinfect, and test the public supply well. A Preliminary Evaluation Report describing the potential vulnerability and protection strategies of the new well to contamination must also be submitted and approved prior to drilling. A representative of the Division of Drinking Water must be present at the time the surface grout seal is placed in all public supply wells, so that the placement of the seal can be certified. In order to assure that a representative will be available, and to avoid down-time waiting for a representative, notice should be given several days in advance of the projected surface grout seal placement. When the time and date for the surface grout seal installation are confirmed a definite appointment should be made with the representative of the Division of Drinking Water to witness the grout seal placement by calling (801) 536-4200. The licensed driller shall have available a copy of the start card relating to the well and provide that information to the inspecting representative at the time of the surface grout seal installation and inspection.

10.1.3 Cathodic Protection Well Construction. Cathodic protection wells shall be constructed in accordance with the casing, joint, surface seal, and other applicable requirements outlined in Section R655-4-9. Any annular space existing between the base of the

annular surface seal and the top of the anode and conductive fill interval shall be filled with appropriate fill or sealing material. Fill material shall consist of washed granular material such as sand, pea gravel, or sealing material. Fill material shall not be subject to decomposition or consolidation and shall be free of pollutants and contaminants. Fill material shall not be toxic or contain drill cuttings or drilling mud. Additional sealing material shall be placed below the minimum depth of the annular surface seal, as needed, to prevent the cross-connection and commingling of separate aquifers and water bearing zones. Vent pipes, anode access tubing, and any other tubular materials (i.e., the outermost casing) that pass through the interval to be filled and sealed are considered casing for the purposes of these standards and shall meet the requirements of Subsections R655-4-9.2 and 9.3. Cathodic protection well casing shall be at least 2 inches in internal diameter to facilitate eventual well abandonment. Figure 6 illustrates the construction of a typical cathodic protection well.

10.1.4 Heating[~~or~~]Cooling Exchange Wells. Wells or boreholes utilized for heat exchange or thermal heating, which are greater than 30 feet [or greater] in depth and encounter formations containing groundwater, must be drilled by a licensed driller and the owner or applicant must have an approved application for that specific purpose as outlined in Section R655-4-7. Wells or boreholes installed for heat or thermal exchange process must comply with the minimum construction standards of Section R655-4-9. For closed-loop systems where groundwater is not removed in the process, non-production well approval must be obtained from the state engineer. Closed-loop system wells must be sealed from the bottom of the well/boring to ground surface using acceptable materials and placement methods described in Section 9.4. Sand may be added to the seal mix to enhance thermal conductivity as long as the seal mix meets permeability and gel strength standards outlined in Section 9.4. For open-loop systems where groundwater is removed, processed, and re-injected, a non-consumptive use water right approval must be obtained from the state engineer. Open-loop system wells shall be constructed in accordance with the requirements found in Section 9. If a separate well or borehole is required for re-injection purposes, it must also comply with these standards and the groundwater must be injected into the same water bearing zones as from which it is initially withdrawn[~~and a non-consumptive use water right is required~~]. The quality and quantity of groundwater shall not be diminished or degraded upon re-injection. The rules herein pertain only to the heating and cooling exchange well constructed to a depth greater than 30 feet and are not intended to regulate the incidental work that may occur up to the well such as plumbing, electrical, piping, trenching, and backfilling activities.

10.1.5 Recharge and Recovery Wells. Any well drilled under the provisions of Title 73, Chapter 3b (Groundwater Recharge and Recovery Act) shall be constructed in a manner consistent with these rules and shall be drilled by a currently licensed driller. Special rules regarding the injection of water into the ground are also promulgated under the jurisdiction of the Utah Department of Environmental Quality, Division of Water Quality (Rule R317-7 "Underground Injection Control Program" of the Utah Administrative Code) and must be followed in conjunction with the Water Well Drilling rules.

R655-4-12. Abandonment of Wells.

12.1 Temporary Abandonment.

12.1.1 When any well is temporarily removed from service, the top of the well shall be sealed with a tamper resistant, water-tight cap or seal. If a well is in the process of being drilled and is temporarily abandoned, the well shall be sealed with a tamper resistant, water-tight cap or seal and a surface seal installed in accordance with Subsection

R655-4-9(9.4). The well may be temporarily abandoned during construction for a maximum of 90 days. After the 90 day period, the temporarily abandoned well shall be completed as a well that meets the standards of Section 9 or permanently abandoned in accordance with the following requirements, and an official well abandonment report (abandonment log) must be submitted in compliance with Section R655-4-4.

12.2 Permanent Abandonment.

12.2.1 The rules of this section apply to the abandonment of the type of wells listed in Subsection R655-4-1(1.2) including private water wells, public supply wells, monitor wells, cathodic protection wells, and heating or cooling exchange wells. A licensed driller shall notify the state engineer prior to commencing abandonment work and submit a complete and accurate abandonment log following abandonment work in accordance with Section R655-4-4 of these rules. Prior to commencing abandonment work, the driller shall obtain a copy of the well log of the well proposed to be abandoned from the well owner or the state engineer, if available, in order to determine the proper abandonment procedure. Any well that is to be permanently abandoned shall be completely filled in a manner to prevent vertical movement of water within the borehole as well as preventing the annular space surrounding the well casing from becoming a conduit for possible contamination of the groundwater supply. A well driller who wishes to abandon a well in a manner that does not comply with the provisions set forth in this section must request approval from the state engineer.

12.3 License Required.

12.3.1 Well abandonment shall be accomplished under the direct supervision of a currently licensed water well driller who shall be responsible for verification of the procedures and materials used.

12.4 Acceptable Materials.

12.4.1 Neat cement grout, sand cement grout, unhydrated bentonite, or bentonite grout shall be used to abandon wells and boreholes. Other sealing materials or additives, such as fly ash, may be used in the preparation of grout upon approval of the state engineer. Drilling mud or drill cuttings shall not be used as any part of a sealing materials for well abandonment. The liquid phase of the abandonment fluid shall be water from a potable municipal system or disinfected in accordance with Subsection R655-4-9(9.6.5).

12.5 Placement of Materials.

12.5.1 Neat cement and sand cement grout shall be introduced at the bottom of the well or required sealing interval and placed progressively upward to the top of the well. The sealing material shall be placed by the use of a grout pipe, tremie line, dump bailer or equivalent in order to avoid freefall, bridging, or dilution of the sealing materials or separation of aggregates from sealants. Sealing material shall not be installed by freefall (gravity) unless the interval to be sealed is dry and no deeper than 30 feet below ground surface. If the well to be abandoned is a flowing artesian well, the well may be pressure grouted from the surface. The well should be capped immediately after placement of seal materials to allow the seal material to set up and not flow out of the well.

12.5.2 Bentonite-based abandonment products shall be mixed and placed according to manufacturer's recommended procedures and result in a seal free of voids or bridges. Granular or powdered bentonite shall not be placed under water. When placing unhydrated bentonite, a sounding or tamping tool shall be run in the sealing interval during pouring to measure fill-up rate, verify a continuous seal placement, and to break up possible bridges or cake formation.

12.5.3 The uppermost ten (10) feet of the abandoned well casing or borehole shall consist of neat cement grout or sand cement grout.

12.5.4 Abandonment materials placed opposite any non-water bearing intervals or zones shall be at least as impervious as the formation or strata prior to penetration during the drilling process.

12.5.5 Prior to well or borehole abandonment, all pump equipment, piping, and other debris shall be removed to the extent possible. The well shall also be sounded immediately before it is plugged to make sure that no obstructions exist that will interfere with the filling and sealing. If the well contains lubricating oil that has leaked from a turbine shaft pump, it shall be removed from the well prior to abandonment and disposed of in accordance with applicable state and federal regulations.

12.5.6 Verification shall be made that the volume of sealing and fill material placed in a well during abandonment operations equals or exceeds the volume of the well or borehole to be filled and sealed.

12.6 Termination of Casing.

12.6.1 The casings of wells to be abandoned shall be severed a minimum of two feet below either the natural ground surface adjacent to the well or at the collar of the hole, whichever is the lower elevation. A minimum of two (2) feet of compacted native material shall be placed above the abandoned well upon completion.

12.7 Abandonment of Artesian Wells.

12.7.1 A neat cement grout, sand-cement grout, or concrete plug shall be placed in the confining stratum overlying the artesian zone so as to prevent subsurface leakage from the artesian zone. The remainder of the well shall be filled with sand-cement grout, neat cement grout, bentonite abandonment products, or bentonite grout. The uppermost ten (10) feet of the well shall be abandoned as required in Subsection R655-4-12(12.5.3).

12.8 Abandonment of Drilled and Jetted Wells.

12.8.1 A neat cement grout or sand cement grout plug shall be placed opposite all perforations, screens or openings in the well casing. The remainder of the well shall be filled with cement grout, neat cement, bentonite abandonment products, concrete, or bentonite slurry. The uppermost ten feet of the well shall be abandoned as required in Subsection R655-4-12(12.5.3).

12.9 Abandonment of Gravel Packed Wells.

12.9.1 All gravel packed wells shall be pressure grouted throughout the perforated or screened section of the well. The remainder of the well shall be filled with sand cement grout, neat cement grout, bentonite abandonment products, or bentonite grout. The uppermost ten feet of the well shall be abandoned as required in Subsection R655-4-12(12.5.3).

12.10 Removal of Casing.

12.10.1 It is recommended that the well casing be removed during well abandonment, and when doing so, the abandonment materials shall be placed from the bottom of the well or borehole progressively upward as the casing is removed. The well shall be sealed with sand cement grout, neat cement grout, bentonite abandonment products, or bentonite grout. In the case of gravel packed wells, the entire gravel section shall be pressure grouted. The uppermost ten feet of the well shall be abandoned as required in Subsection R655-4-12(12.5.3).

12.11 Replacement Wells.

12.11.1 Wells which are to be removed from operation and replaced by the drilling of a new well under an approved replacement application, shall be abandoned in a manner consistent with the provisions of Section R655-4-12 before the rig is removed from the site of the newly constructed replacement well, unless written authorization to remove the rig without abandonment is provided by the state engineer. Also refer to the requirements provided in Subsection R655-4-4(4.4).

12.12 Abandonment of Cathodic Protection Wells.

12.12.1 The general requirements for permanent well abandonment in accordance with Section R655-4-12 shall be followed for the abandonment of cathodic protection wells.

12.12.2 A cathodic protection well shall be investigated before it is destroyed to determine its condition, details of its construction and whether conditions exist that will interfere with filling and sealing.

12.12.3 Casing, cables, anodes, granular backfill, conductive backfill, and sealing material shall be removed as needed, by re-drilling, if necessary, to the point needed to allow proper placement of abandonment material. Casing that cannot be removed shall be adequately perforated or punctured at specific intervals to allow pressure injection of sealing materials into granular backfill and all other voids that require sealing.

R655-4-13. Monitor Well Construction Standards.

13.1 Scope.

13.1.1 Certain construction standards that apply to water wells also apply to monitor wells. Therefore, these monitoring well standards refer frequently to the water well standard sections of the rules. Standards that apply only to monitor wells, or that require emphasis, are discussed in this section. Figure 7 illustrates a schematic of an acceptable monitor well with an above-ground surface completion. Figure 8 illustrates a schematic of an acceptable monitor well with a flush-mount surface completion. Figures 7 and 8 can be viewed in the publication, State of Utah Administrative Rules for Water Well Drillers, dated January 1, 2001, available at the Division of Water Rights, 1594 West North Temple, Salt Lake City, Utah.

13.1.2 These standards are not intended as a complete manual for monitoring well construction, alteration, maintenance, and abandonment. These standards serve only as minimum statewide guidelines towards ensuring that monitor wells do not constitute a significant pathway for the movement of poor quality water, pollutants, or contaminants. These standards provide no assurance that a monitor well will perform a desired function. Ultimate responsibility for the design and performance of a monitoring well rests with the well owner and/or the owner's contractor, and/or technical representative(s). Most monitor well projects are the result of compliance with the Environmental Protection Agency (EPA), Federal Regulations such as the Resource Conservation and Recovery Act (RCRA), Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or "Superfund"), or specific State Solid and Hazardous Waste requirements. The contracts governing their installation are tightly written containing specific requirements as to site location, materials used, sampling procedures and overall objectives. Therefore specific construction requirements for monitor well installation shall be governed by applicable contracts and regulations providing they meet or exceed state requirements and specifications. Guidelines and recommended practices dealing with the installation of monitor wells may be obtained from the state engineer upon request. Additional recommended information may be obtained from the Environmental Protection Agency (EPA), Resource Conservation and Recovery Act (RCRA), Groundwater Monitoring Enforcement and Compliance Document available from EPA's regional office in Denver, Colorado and from the Handbook of Suggested Practices for the Design and Installation of Groundwater Monitoring Wells, available from the National Groundwater Association in Dublin, Ohio.

13.2 Installation and Construction.

13.2.1 Materials and Equipment Contaminant-Free. All material used in the installation of monitor wells shall be contaminant-free when placed in the ground. Drilling equipment shall be clean and

contaminant free in accordance with Subsection R655-4-9(9.6.4). During construction contaminated water should not be allowed to enter contaminant-free geologic formations or water bearing zones.

13.2.2 Borehole Integrity. Some minor cross-contamination may occur during the drilling process, but the integrity of the borehole and individual formations must then be safeguarded from permanent cross connection.

13.2.3 Casing and Screen. The well casing should be perforated or screened and filter packed with sand or gravel where necessary to provide adequate sample collection at depths where appropriate aquifer flow zones exist. The casing and screen selected shall not affect or interfere with the chemical, physical, radiological, or biological constituents of interest. Screens in the same well shall not be placed across separate water bearing zones in order to minimize interconnection, aquifer commingling, and cross contamination. Screens in a nested well can be placed in separate water bearing zones as long as the intervals between the water bearing zones are appropriately sealed and aquifer cross connection and commingling does not occur. Monitor well casing and screen shall conform to ASTM standards, or consist of at least 304 or 316 stainless steel, PTFE (Teflon), or Schedule 40 PVC casing.

13.2.4 Gravel/Filter Pack. If installed, the gravel or filter pack should generally extend two (2) feet to ten (10) feet above screened or perforated areas to prevent the migration of the sealing material from entering the zones being sampled. Gravel or filter pack material shall meet the requirements of Subsection R655-4-9(9.5.2). Gravel/filter pack for monitoring wells does not require disinfection. Drill cutting should not be placed into the open borehole annulus. The well driller shall ensure that a bridge or voids do not occur in the annular space during the placement of the gravel pack by means of a sounding device or other mechanism.

13.2.5 Annular Seal. All monitor wells constructed shall have a continuous surface seal, which seals the annular space between the borehole and the permanent casing, in accordance with the provisions in Section R655-4-9. The surface seal depth requirements of Section R655-4-9 do not apply to monitor wells. The surface seal may be more or less than 50 feet depending on the screen/perforation and/or gravel pack interval. Seals shall also be constructed to prevent interconnection and commingling of separate aquifers penetrated by the well, prevent migration of surface water and contaminations into the well and aquifers, and shall provide casing stability. The seal shall have a minimum diameter of four inches larger than the nominal size of the permanent casing, and shall extend from land surface to the top of the filter pack. After the permanent casing and filter pack (optional) has been set in final position, a layer of bentonite or fine sand (e.g., mortar sand) shall be placed on top of the filter pack to maintain separation between the seal material and the screened interval in order to insure that the seal placement will not interfere with the filter pack. The remaining annular space shall be filled to land surface in a continuous operation with unhydrated bentonite, neat cement grout, sand-cement grout, or bentonite grout. Only potable water should be used to hydrate any grout or slurry mixture. The completed annular space shall fully surround the permanent casing, be evenly distributed, free of voids, and extend from the permanent casing to undisturbed or recompacted soil. All sealing materials and placement methods shall conform to the standards in Section R655-4-2 and Subsection R655-4-9(9.4). The well driller shall ensure that a bridge or voids do not occur in the annular space during the placement of the seal.

13.2.6 Cuttings, Decon Water, Development Water, and Other IDW. Drill cuttings, decontamination (Decon) water, monitor well development water, and other investigation derived waste (IDW) shall

be managed and disposed of in accordance with applicable state and federal environmental regulations. It is the responsibility of the driller to know and understand such requirements.

13.3 Minimum Surface Protection Requirements.

13.3.1 If a well is cased with metal and completed above ground surface, a locking water resistant cap shall be installed on the top of the well.

13.3.2 If the well is not cased with metal and completed above ground surface, a protective metal casing shall be installed over and around the well. The protective casing shall be cemented at least two feet into the ground around the nonmetallic casing. A water tight cap shall be installed in the top of the well casing. A locking cap shall be installed on the top of the protective casing.

13.3.3 Monitor wells completed above ground and potentially accessible to vehicular damage shall be protected in the following manner. At least three metal posts, at least three inches in diameter, shall be cemented in place around the casing. Each post shall extend at least three feet above and two feet below ground surface. A concrete pad may be installed to add protection to the surface completion. If installed, the concrete pad shall be at least four (4) inches thick and shall slope to drain away from the well casing. The base shall extend at least two (2) feet laterally in all directions from the outside of the well boring. When a concrete pad is used, the well seal may be part of the concrete pad.

13.3.4 If the well is completed below land surface, a water tight cap with a lock shall be attached to the top of the well casing. A metal monument or equivalent shall be installed over and around the well. The monument shall serve as a protective cover and be installed level with the land surface and be equipped with a waterproof seal to prevent inflow of any water or contaminants. Drains will be provided, when feasible, to keep water out of the well and below the well cap. The monument and cover must be designed to withstand the maximum expected load.

13.4 Abandonment.

13.4.1 Abandonment of monitor wells shall be completed in compliance with the provisions of Section R655-4-12. The provisions of Section R655-4-12 are not required for the permanent abandonment of monitor wells completed at a depth of ~~less than~~ 30 feet below natural ground surface.

KEY: water rights, licensing, well drilling

Date of Enactment or Last Substantive Amendment: ~~January 12, 2005~~ 2008

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Authorizing, and Implemented or Interpreted Law: 73-3



Natural Resources, Water Rights

R655-16

Administrative Procedures for Defining Beneficial Uses for Supplemental Water Rights

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE No.: 31692

FILED: 07/08/2008, 11:52

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to set forth the conditions under which an applicant filing a permanent or temporary change application shall be required to file a Statement of Sole Supply with the State Engineer.

SUMMARY OF THE RULE OR CHANGE: This rule defines procedures for resolving supplemental water right beneficial use quantification issues by agreement among the water right owners when a water right is to be used by itself rather than with the water rights to which it is supplemental.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 73-3-2(1)(b)(viii) and 73-3-3(4)(b)(ix), and Section 73-3-27

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: No costs or savings because this rule formalizes a process which at this point is inconsistent. Sometimes the applicant addresses the issue. Other times applications are submitted and the State Engineer investigates and ultimately proposes a solution as part of an order on the application. This rule formalizes a practice of having the water users involved address the issue as part of the application process consistent with statute.

❖ LOCAL GOVERNMENTS: No costs or savings to local government except as local government entities act as water right holders requesting an action of the state engineer. There is no cost if the water rights under consideration continue to be used together, do not have supplemental water rights, or the supplemental nature of the rights has been previously quantified. If clarification of supplemental uses is required, there is a slight cost to complete one or more "group contribution statement forms" but this information is already required by statute to be part of the information provided the state engineer. There is no fee to obtain or submit a form and no specialized assistance is required in its preparation. The only cost is in effort to complete required items on the form which consist of water use quantities which should be known by the applicant and a verified signature. It is estimated the form can be completed in under 60 seconds. Notary service is available at the Division of Water Rights at no charge for verification of signature.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: No cost to small business or individuals except as they may be a water right holder requesting an action of the state engineer. There is no cost if the water rights under consideration continue to be used together, do not have supplemental water rights, or the supplemental nature of the rights has been previously quantified. If clarification of supplemental uses is required, there is a slight cost to complete one or more "group contribution statement forms" but this information is already required by statute to be part of the information provided the state engineer. There is no fee to obtain or submit a form and no specialized assistance is required in its preparation. The

only cost is in effort to complete required items on the form which consist of water use quantities which should be known by the applicant and a verified signature. It is estimated the form can be completed in under 60 seconds. Notary service is available at the Division of Water Rights at no charge for verification of signature.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Notary Publics usually charge \$5 per signature. County Recorders usually charge \$10 for the first page and a lesser amount for subsequent pages.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No impact on businesses. Michael Styler, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kaelyn Anfinen at the above address, by phone at 801-538-7370, by FAX at 801-538-7442, or by Internet E-mail at KAELYNANFINSEN@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/02/2008.

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

AUTHORIZED BY: Michael Styler, Executive Director

R655. Natural Resources, Water Rights.

R655-16. Administrative Procedures for Defining Beneficial Uses for Supplemental Water Rights.

R655-16-1. Authority.

Section 73-1-3. Beneficial use shall be the basis, the measure and the limit of all rights to the use of water in this state.

Subsection 73-2-1(5)(e), the State Engineer is authorized to make rules governing the form and content of applications and related documents, maps and reports.

Subsection 73-3-3(4)(b)(vii), the State Engineer is required to supply a form for the permanent or temporary change of a water right which shall set forth, among other information, "the place, purpose, and extent of the present use."

R655-16-2. Justification.

Water right administration is based on the beneficial use to which the water right holder is entitled. To facilitate recordkeeping, each unique set of beneficial uses has been organized into a water use group. Some water right records in the State Engineer's office indicate the beneficial uses in a water use group are shared with other water rights (supplemental rights), but do not quantify the

amount of beneficial use associated with each of those rights. Administrative activities requiring an evaluation of the beneficial use of a water right necessitate the quantification of each supplemental water right in a water use group. This rule provides for the utilization of a form, Statement of Group Contribution, to define this beneficial use information by agreement of those impacted by the quantification.

R655-16-3. Purpose.

The purpose of this rule is to allow for the quantification of a particular water right's beneficial use when it is used supplementally with other water rights. To accomplish this, a Statement of Group Contribution form must be completed and submitted to the State Engineer. To complete the form, water right holders are required to quantify, by agreement, the amount of beneficial use of water that a supplemental water right contributes to the water use group listed. This is required so that the State Engineer can administer the water right without enlargement of the individual right or the water use group.

R655-16-4. Application of Rule.

This rule shall apply when the State Engineer is requested to take administrative action with regard to an individual water right or group of water rights that are designated in the Division's records as part of a supplemental group and have no designated sole supply.

R655-16-5. Definitions.

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

(a) "Change application" means any application for permanent or temporary change of a water right as defined in Section 73-3-3 Utah Code Annotated.

(b) "Group contribution" means the amount of beneficial use each water right contributes to a particular water use group that includes the subject water right.

(c) "Sole supply" means a quantification of beneficial use of water associated with a particular water right. The sole supply is the maximum beneficial use of water associated with that water right when used alone and separate from all supplemental rights. The sole supply of a water right is the sum of its group contributions.

(d) "Statement of Group Contribution" means a form provided by the State Engineer for use by water right holders to clarify the group contribution of individual water rights to a water use group.

(e) "Supplemental right" means a water right that, according to the records of the State Engineer, is used together with one or more other water rights for a common beneficial use.

(f) "Water right holder" means an entity, person, or persons who is listed as an owner of a water right in the records of the State Engineer.

(g) "Water use group" means a water right listing in the records of the State Engineer intended to group together water rights that share a common beneficial use.

R655-16-6. Statement of Group Contribution.

(1) A Statement of Group Contribution shall be completed on a form provided by the State Engineer and:

(a) may be filed at any time, but is required in support of a water right administrative action as deemed necessary by the State Engineer for all water rights for which the group contribution has not been defined on the records of the State Engineer;

(b) shall be completed in conformance with instructions on the form and these rules;

(c) shall be sworn to by all water right holders having an interest in any unquantified water right in the water use group;

(d) may be filed only if all holders of unquantified rights in a water use group sign the form; and

(e) may clarify group contribution, but shall be consistent with water right information contained in the State Engineer's records.

(2) Once filed, a Statement of Group Contribution:

(a) becomes binding on all parties signatory to it;

(b) shall be used by the State Engineer to update water right records of all water rights referenced by the form, consistent with the group contribution information included on the form; and

(c) may be revised by filing a new form with the State Engineer signed by all water right holders of rights within a supplemental group affected by this revision. Revised forms may only address water rights that have not been affected through an administrative action subsequent to the filing of a Statement of Group Contribution.

(3) A Statement of Group Contribution does not constitute a legal conveyance of any water right or portion thereof;

(4) A water right change application will not be considered acceptably complete as described in Section 73-3-4, until the affected water right(s) sole supply has been properly defined on records of the State Engineer.

(5) A water right holder may request in writing to the State Engineer a review of supplemental water rights on a water right file.

(a) Such a review shall be to determine that the electronic records are consistent with official records. The State Engineer may modify the electronic records at any time to correct data entry errors and provide clarification.

(b) A request for a records review shall set forth a recommendation as to how the electronic record should be modified to be consistent with the official records of the Division of Water Rights.

(c) The State Engineer shall complete a review of the record within a reasonable time from receipt of the written request and shall notify the water right holder in writing when the review has been completed.

(6) Quantifications made pursuant to the filing of a Statement of Group Contribution:

(a) may reflect the average annual group contribution on a long-term basis or any other reasonable evaluation consistent with information contained in the State Engineer's records; and

(b) does not restrict the ability of water right holders to manage the use of their supplemental water rights while they continue to be used together.

R655-16-7. Exceptions.

(1) Water right holders who wish to clarify there is no contribution to a water use group by water rights they own, may file a Statement of Group Contribution signed only by that water right holder.

(2) The State Engineer may waive the filing of a Statement of Group Contribution for a temporary change application when he believes sufficient water and beneficial uses are available for the purposes of the temporary change.

(3) If the water right holder's group contribution has been quantified by a court order or other legal instrument which has not become a part of the State Engineer's records, such instrument may be submitted in lieu of a Statement of Group Contribution.

(4) The State Engineer reserves the right to eliminate water rights from water use groups if the uses are based upon shares in a

mutual irrigation company, a contract with a water supplying entity, or a connection to a municipal water system.

(5) If a water right has been erroneously included in a water use group, the State Engineer shall correct the record to remove the water right from that water use group.

KEY: sole supply, statement of group contribution, water rights

Date of Enactment or Last Substantive Amendment: 2008

Authorizing, and Implemented or Interpreted Law: 73-3-2(1)(b)(viii); 73-3-3(4)(b)(ix); 73-3-27

Public Safety, Fire Marshal **R710-13**

Reduced Cigarette Ignition Propensity and Firefighter Protection Act

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE No.: 31713

FILED: 07/15/2008, 15:23

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: On 07/08/2008, the Utah Fire Prevention Board met in a regularly scheduled Board meeting and voted by motion to enact a new administrative rule to coincide with S.B. 200 that was enacted by the Utah State Legislature in the 2007 session and went into effect on 07/01/2008. This newly created administrative rule establishes acceptable certification and product change requirements, implementation and inspection, and adjudicative proceedings. (DAR NOTE: S.B. 200 (2007) is found at Chapter 362, Laws of Utah 2007, and was effective 07/01/2008.)

SUMMARY OF THE RULE OR CHANGE: The creation and enactment of this administrative rule establishes definitions, acceptable alternative test methods from other states, procedures to remove a cigarette brand from the certified list, production of a list or lists of cigarette brands that are legal, and adjudicative proceedings.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-204

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There would be an anticipated savings to the state budget by allowing alternative test methods of other states that are equal to or stricter performance standards to be accepted by the State of Utah. This would save the cost of testing the cigarettes for acceptance.

❖ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government because this proposed new rule does not effect or pertain to the needs of local government.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There would be no anticipated cost to small businesses for the enactment of this newly created administrative rule. There would be an anticipated savings to tobacco businesses that

would be allowed to use the test results from another state and would not have to go to the expense to test an uncertified cigarette for compliance to the standard.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance cost for the enactment of this rule because this rule allows alternative test methods and sets forth the procedure to remove a cigarette from the certified list. It also creates a list of accepted cigarettes and creates adjudicative proceedings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses with the enactment of this newly created set of administrative rules. 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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/02/2008.

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

AUTHORIZED BY: Ron L. Morris, Utah State Fire Marshal

R710. Public Safety, Fire Marshal.

R710-13. Reduced Cigarette Ignition Propensity and Firefighter Protection Act.

R710-13-1. Adoption, Title, Purpose, and Prohibitions.

Pursuant to Section 53-7-407, Utah Code Annotated 1953, the Utah Fire Prevention Board adopts minimum rules for the enactment of the Reduced Cigarette Ignition Propensity and Firefighter Protection Act.

R710-13-2. Definitions.

- 2.1 "AG" means Attorney General.
- 2.2 "Board" means Utah Fire Prevention Board.
- 2.3 "NFPA" means National Fire Protection Association.
- 2.4 "SFM" means State Fire Marshal or authorized deputy.
- 2.5 "Tax Commission" means the Utah State Tax Commission.
- 2.6 "UCA" means Utah State Code Annotated 1953 as amended.

R710-12-3. Certification and Product Change.

3.1 As required in UCA 53-7-404(1), accepted alternative test methods of other states that are equal to or stricter performance

standards as allowed in UCA 53-7-403(4), may also be accepted as meeting the standards established in the statute.

3.2 If the SFM intends to remove a brand from the certified list, it will send a notice of intent to deny to the manufacturer. The notice of intent shall include the following:

3.2.1 The factual and legal deficiencies upon with the SFM intended action rests.

3.2.2 The actions the manufacturer must take to satisfy the factual or legal deficiencies upon with the intended action is based.

3.2.3 The notification that the manufacturer shall have 15 working days to cure the deficiencies and submit documentation or other information to correct the deficiencies. The SFM may extend the time period for a manufacturer to cure the deficiencies.

R710-12-4. Implementation and Inspection.

4.1 As required in UCA 53-7-404(3), 53-7-405(6)(c), 53-7-407(2), and 53-7-408, the SFM, AG, and the Tax Commission will cooperate to produce a list or lists of cigarette brands that are legal for sale under any and all statutes of the State of Utah.

R710-12-5. Adjudicative Proceedings.

5.1 Adjudicative proceedings performed by the agency shall proceed informally as authorized by UCA, Sections 63G-4-202 and 63G-4-203.

KEY: fire safe cigarettes

Date of Enactment or Last Substantive Amendment: September 9, 2008

Authorizing, and Implemented or Interpreted Law: 53-7-407



Public Service Commission,
Administration
R746-360-4
Application of Fund Surcharges to
Customer Billings

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31704

FILED: 07/15/2008, 09:07

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Fund is sufficient and future accruals will be greater than expected expenditures. The Division of Public Utilities has suggested decreasing the surcharge rate to decrease the prospect of a higher Fund balance not warranted by anticipated future expenditures.

SUMMARY OF THE RULE OR CHANGE: The existing surcharge of 0.5 percent would be decreased to 0.45 percent.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 54-8b-15

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There will be a cost reduction equal to 0.05 percent of expenditures made for intrastate public telecommunications services. No other change in state agency costs or savings is expected from the rule change.
- ❖ LOCAL GOVERNMENTS: There will be a cost reduction equal to 0.05 percent of expenditures made for intrastate public telecommunications services. No other change in local government costs or savings is expected from the rule change.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There will be a cost reduction equal to 0.05 percent of expenditures made for intrastate public telecommunications services. No other change in telephone customers' costs or savings is expected from the rule change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Total Fund collections for the first six months of 2008 amounted to \$3,395,457. Using this as a representative amount, changing the Fund surcharge will result in a reduction in total monthly Fund collections of \$56,590. The specific dollar reduction for an individual customer will vary based upon the amount of public telecommunications services used during any billing period.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Commission sees no need to increase the total Fund balance. Reduction in the surcharge amount will place the Fund and future collections commensurate with anticipated expenditures. All consumers will see a slight, 0.05 percent, reduction in their expenditures for intrastate public telecommunications services. The specific amount a customer will save will be dependent upon the amount spent on such services during any month. Ted Boyer, Commission Chairman

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sheri Bintz at the above address, by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/02/2008.

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

AUTHORIZED BY: Sandy Mooy, Legal Counsel

R746. Public Service Commission, Administration.**R746-360. Universal Public Telecommunications Service Support Fund.****R746-360-4. Application of Fund Surcharges to Customer Billings.**

A. Commencement of Surcharge Assessments -- Commencing June 1, 1998, end-user surcharges shall be the source of revenues to support the fund. Surcharges will be applied to intrastate retail rates, and shall not apply to wholesale services.

B. Surcharge Based on a Uniform Percentage of Retail Rates -- The retail surcharge shall be a uniform percentage rate, determined and reviewed annually by the Commission and billed and collected by all retail providers.

C. Surcharge -- The surcharge to be assessed shall equal ~~0.5~~0.45 percent of billed intrastate retail rates.

KEY: public utilities, telecommunications, universal service

Date of Enactment or Last Substantive Amendment: ~~August 1, 2006~~2008

Notice of Continuation: November 25, 2003

Authorizing, and Implemented or Interpreted Law: 54-3-1; 54-4-1; 54-7-25; 54-7-26; 54-8b-12; 54-8b-15



Transportation, Program Development **R926-10** Tollway Development Agreements

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 31707

FILED: 07/15/2008, 13:48

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is created for planning, acquisition, design, financing, management, development, construction, replacement improvement, maintenance, preservation, repair, enforcement, and operation of transportation projects utilizing public-private partnerships for development of tollways. The Department's objective in using public-private partnerships is to expand its ability to use innovation, nontraditional procurement, planning, funding, contracting, financing, delivery, and service methods to deliver transportation infrastructure in order to better meet the transportation needs of the state by utilizing resources more readily available in the private sector.

SUMMARY OF THE RULE OR CHANGE: This is a new rule that governs the process for submitting proposed tollway development agreements to the Department and the Department's review of said proposals.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 72-1-201 and 72-6-118

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: No cost or savings are anticipated with the adoption of this rule. No new requirements were created with this rule that impact state budget. Any Department

and/or Transportation Commission responsibilities will be administered by existing staff within existing budget.

❖ LOCAL GOVERNMENTS: No cost or savings are anticipated with the adoption of this rule. No new requirements are created with this rule that impact local businesses or persons other than businesses.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Small businesses (fewer than 50 employees) and persons other than businesses: No cost or savings are anticipated with the adoption of this rule. No new requirements are created with this rule that impact small businesses or persons other than businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance cost.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No significant impact on businesses. John Njord, Executive Director

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

TRANSPORTATION
PROGRAM DEVELOPMENT
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Maureen Short at the above address, by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at maureenshort@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/02/2008.

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

AUTHORIZED BY: John R. Njord, Executive Director

R926. Transportation, Program Development.

R926-10. Tollway Development Agreements.

R926-10-1. Purpose.

(1) This rule is created for the planning, acquisition, design, financing, management, development, construction, reconstruction, replacement, improvement, maintenance, preservation, repair, enforcement, and operation of transportation projects utilizing public-private partnerships for development of tollways.

(2) The Department's objective in using public-private partnerships is to expand its ability to use innovative, non-traditional procurement, planning, funding, contracting, financing, delivery, and service methods to deliver transportation infrastructure in order to better meet the transportation needs of the state by utilizing resources more readily available in the private sector.

R926-10-2. Authority.

(1) The provisions of this rule are authorized by the following grants of rulemaking authority and provisions of Utah Codes: Title 63G, Chapter 3; Title 63G, Chapter 6; Title 72, Chapter 2, Section 120; Title 72, Chapter 6, Section 118; and the Public-Private Partnerships for Tollways Act, Utah Code Sections 72-6-201 et seq.

(2) When the Executive Director or designee determines it appropriate and upon approval by the Commission, the Department may enter into tollway development agreements.

R926-10-3. Definitions.

Except as otherwise stated in this rule, terms used in this rule are defined in the applicable Statutes. The following additional terms are defined for this rule:

(1) "Commission" means the Utah Transportation Commission, which is created in Utah Code Ann. Section 72-1-301.

(2) "Department" means the Utah Department of Transportation, which is created in Utah Code Ann. Section 72-1-101.

(3) "Executive Director" means the executive director of the Department.

(4) "Proposer" means private entities that submit letters of interest, qualifications, or proposals under these rules for the purposes of entering into a tollway development agreement with the Department, and may include a person or persons, firms, partnerships or companies or any combination or consortium thereof.

(5) "Public-Private Partnership" means an agreement, including but not limited to tollway development agreements, between the Department and one or more public or private entities where there is private sector involvement in the delivery of transportation projects, including but not limited to, private sector involvement in any or all of the following project phases: predevelopment activities, design, construction, reconstruction, financing, acquisition, maintenance or operations. Public private partnership agreements may include reallocations of the traditional risk assignments between the parties to the agreement.

(6) "State

R926-10-4. Public Notice.

(1) Public notice regarding solicitations issued under this rule shall be posted on the Department's website and may also be published as described in Subsection (2). Notice of a solicitation shall indicate where, when, and how to obtain the solicitation documents, when responses are due and will generally describe the project scope or service desired, and may contain other information such as the desired schedule or financial model. Where appropriate, the Department may require payment of a fee or a deposit for the supplying of the solicitation package.

(2) The notice may be published in any or all of the following in addition to the Department website:

(a) in a newspaper of general circulation;

(b) in a newspaper of local circulation in the region(s) where all or a portion of the intended project will be located; and/or

(c) in industry media.

(3) A copy of the solicitation documents shall be made available for public inspection at the Department Region Office(s) located in the region(s) where all or a portion of the intended project may be located.

R926-10-5. Unsolicited Proposals.

(1) The Department may accept delivery of unsolicited tollway development agreement proposals. An unsolicited proposal shall, at a minimum, provide the information required for tollway development agreement proposals set forth in Utah Code Section 72-6-204. The Department may determine that additional information or other requirements be provided in an unsolicited proposal. Any such additional requirements, along with contact information, will be posted on the Department's website.

(a) Any proposer submitting an unsolicited proposal must provide a minimum of 20 copies or the proposal will not be reviewed.

(b) The unsolicited proposal must state the period during which the proposal will remain valid, which shall be not less than 12 months following delivery.

(2) The Department may appoint an individual or a screening committee, as it deems appropriate, to screen and evaluate unsolicited proposals to determine whether to request competing proposals and qualifications or reject the unsolicited proposal. The review shall be in two stages:

(a) The initial screening shall be a summary review to determine whether the unsolicited proposal generally meets the minimum statutory and regulatory requirements and merits further review. Proposals that do not generally meet the minimum requirements established under statute and these rules or that the Department otherwise determines do not merit further review may be summarily rejected.

(b) The second stage of review shall be a more thorough review and evaluation of the unsolicited proposal for the purpose of allowing the Department to determine whether to issue a request for competing proposals and qualifications.

(3) The Department will consider an unsolicited proposal only if the proposed project is not substantially duplicative of transportation system projects that have been fully funded by the State, the Department, or any other public entity as of the date the proposal is submitted.

(4) The Department shall give priority to unsolicited proposals that address projects identified on the Statewide Transportation Improvement Program or Long-Range Plan and encourages submittal of proposals that would materially advance or accelerate their implementation.

(5) The Department may, in its sole discretion, reject any unsolicited proposal. If the Department elects to issue a request for competing proposals and qualifications, it may modify the project described in the unsolicited proposal. If the Department issues a request for competing proposals, the proposer that submitted the unsolicited proposal will be offered the opportunity to participate in the competition.

(6) The process for soliciting competing proposals and qualifications shall meet all requirements of Utah Code Section 63-56-502.5. The Department may issue a request for qualifications to prequalify potential proposers interested in responding to the solicitation separate from the request for competing proposals, or it may issue a solicitation package that combines the request for proposals and qualifications. The solicitation package shall include the information required under Utah Code Sections 72-6-205(3)(b) and any other information deemed advisable by the Department. The solicitation may request competing proposals, either at a conceptual or detailed level, or it may request proposals for alternative concepts, in which case the Department would review the concepts and determine whether to reject the proposals or proceed

with a new request for competing proposals. All proposers that respond to a competing proposal, solicitation, whether conceptual or detailed, must address the technical and financial portions of the proposed project.

(7) If the Department elects to issue a request for competing proposals, the Department shall provide public notice of the proposed project according to Section R926-10-4. Any entity that intends to submit a competing proposal shall provide a written letter of intent to the Department not later than 45 calendar days after the Department's publication of notice for competing proposals. Any letters of intent received by the Department after the expiration of the 45-day period shall not be valid and any competing proposal issued by an entity that did not comply with these letter of intent requirements shall not be considered. An entity that submits a letter of intent must submit its competing proposal in the manner specified in the request for competing proposals.

(8) If the Department elects not to issue a request for competing proposals in response to an unsolicited proposal, or if the Department issues a request for competing proposals that make significant modifications to the concepts in the original unsolicited proposal, the Department will notify the proposer that submitted the unsolicited proposal of the rejection or modification and reasons for the rejection or modification. The Department may also post information on the Department website regarding the reasons for rejection or modification.

(9) The Department will assess a screening fee for every unsolicited proposal received and an evaluation fee for every unsolicited proposal that is evaluated. The fees have been set with the intent of substantially covering the costs to the Department for review of the proposal. The unsolicited proposal shall be accompanied by a separate check for each fee, which must be a cashier's, certified, or official check drawn by a federally insured financial institution as follows:

(a) A check in the amount of \$10,000 for the initial screening; and

(b) A check for the evaluation fee equal to the lesser of (i) the sum of \$20,000 plus .01% of the total estimated cost of design and construction of the project or (ii) \$200,000. This check will be returned to the proposer if the proposal is rejected after the initial screening and prior to the more thorough evaluation.

(10) The Department may waive the fee for an unsolicited proposal, in whole or in part, if it determines that its costs have been substantially covered by a portion of the fee or if it is otherwise determined to be reasonable and in the best interests of the State.

(11) If the Department decides to solicit competing proposals, the Department may require each proposer that submits a competing proposal to submit a fee. The amount of the fee will be identified in the solicitation documents and will not exceed the amount of the evaluation fee for the original unsolicited proposal. The proposer that submitted the original unsolicited proposal will be exempt from this fee.

R926-10-6. Predevelopment Agreements.

(1) A Predevelopment Agreement may be used on a tollway development project. The first phase may include, but is not limited to, planning, traffic and revenue analysis, feasibility studies, design, value engineering, cost estimating, conceptual estimating, financial evaluation and comparisons, constructability reviews, scheduling, or other services as specified by the Department.

(2) The subsequent phase or phases may be for all or a portion of the remaining services contemplated in the proposed project and

may include, but not be limited to, design services, construction services, operation or maintenance services, traffic and revenue estimates, financing and toll or user fee collection services. Each subsequent phase will commence after the preceding phase has been completed.

(3) Award of the first phase shall be based on the Department's evaluation of proposer qualifications and may also be based on other factors, including, but not limited to, the Department's evaluation of proposals.

(4) The entity awarded the first phase may have the first opportunity to submit a proposal for the subsequent phase or phases, as set forth in the Predevelopment Agreement. The entity awarded the first phase shall provide all supporting documentation used to determine the scope, schedule, and cost in its proposal for each subsequent phase to the Department for review, along with any other information and requirements set forth in the Predevelopment Agreement. The Department may accept or reject the proposal. If the Department rejects the proposal, the Department may provide a counteroffer and/or negotiate with the entity awarded the first or prior phase, or in lieu of providing a counteroffer or if the negotiations are unsuccessful, choose to solicit competitive proposals for the subsequent phase or phases.

R926-10-7. Request for Qualifications (RFQ).

(1) The Department may issue a Request for Qualifications (RFQ) in order to solicit qualification statements from entities wishing to submit proposals for a tollway development agreement project. The RFQ may be required to be submitted prior to or with a conceptual proposal or detailed proposal.

(2) Any RFQ shall require that potential proposers provide the information described in Utah Code Section 63-56-502.5(3)(c); and any other information the Department, in its sole discretion, required as stated in the RFQ.

(3) The selection committee shall narrow the field of proposers by short-listing the most qualified proposers, not to exceed the maximum number designated in the RFQ.

(4) If only one entity responds to the RFQ or if only one proposer meets the minimum qualification requirements in the RFQ, the Department may negotiate with that single proposer in accordance with section R926-10-10(2).

(5) Engineering and consultant firms who participated in preparation of specifications or other solicitation documents used by the Department for the procurement of a portion, but not all, of the project may participate as proposers or as a member of the proposing entities, upon approval of the Department.

R926-10-8. Request for Proposals (RFP).

(1) If the procurement process includes short-listing, the Department will issue the RFP to all of the short-listed proposers. If the procurement process does not include short-listing, the Department will issue the RFP in accordance with Section R926-10-4. The Department may elect to request draft proposals, or proposals followed by discussions, which may include best and final offers, or may elect to award the contract without discussions or best and final offers.

(2) The Department may issue draft RFPs to proposers for comments in order to better manage the procurement process.

(3) The RFP shall identify information required to be submitted by proposers, which shall in all events include the information required for tollway development agreement proposals in Utah Code Section 72-6-204. The Department may require

proposers to provide separate technical and price proposals and other elements in their proposals. The RFP may include a request for alternative proposals or for any other information the Department, in its sole discretion, deems appropriate.

(4) The Department may require a proposer to submit additional information following the submission of a proposal, to the extent that the Department deems it necessary or advisable to review such additional information to evaluate the expertise, experience, financing capacity, integrity, ownership, or any other aspect of any proposer.

(5) The Department reserves the right to require or to permit proposers to submit revisions, clarifications to, or supplements of their previously submitted proposals. The Department may require proposers to add or to delete features, concepts, elements, information or explanations that were not included in their initial proposals. A proposer will not be legally bound to accept a request to add to or delete from a proposal any feature, concept, element or information, but its refusal to do so in response to a request by the Department shall constitute sufficient grounds for the Department to reject the proposal.

(6) If only one entity responds to the RFP or if only one proposer meets the minimum qualification requirements in the RFP, the Department may negotiate with that single proposer in accordance with section R926-10-3).

(7) The Department may, at any time and in its sole discretion, reject any or all proposals submitted in response to a request for qualifications or a request for proposals or competing proposals.

(8) Technical solutions/design concepts contained in proposals shall be considered proprietary information unless a stipulated fee is paid.

R926-10-9. Evaluation and Ranking of Proposals; Discussions with Proposers; Revised Proposals.

(1) The Department shall conduct proposal evaluations and rank the proposals according to the criteria and relative weightings set forth in the RFP. The Department may adopt either of the following approaches in evaluation of proposals and selection of a proposer for negotiations or award:

(a) A cost-based approach, with the proposals evaluated first to determine whether the proposers meet qualification requirements and have submitted responsive proposals, in which case the qualifying proposal that offers the lowest cost to the state would be ranked the highest. If this approach is used, the RFP shall specify minimum requirements for responsiveness.

(b) A best value approach, whereby the Department evaluates proposals received and determines which proposal is the most advantageous to the State.

(2) The Department may request clarifications and additional information from proposers prior to selection, with or without requesting revised proposals.

(3) If the Department wishes to request revised proposals prior to selection, it may enter into discussions with the proposers or may issue the request for revised proposals without discussions. Discussions may be oral or in writing and may be conducted individually or in a group. If discussions are held with one proposer, they must be held with all short-listed proposers that submitted responsive proposals. If revised proposals are requested they will be the basis for selection and will be evaluated as stated in the request for revised proposals. If a proposer fails to submit a response to a request for revised proposals, its original proposal shall remain in full force and effect.

R926-10-10. Selection Decision.

(1) Following completion of proposal evaluations, the Executive Director shall review the results of the evaluations and rankings and determine whether to proceed with negotiations with the highest ranked proposer, recommend award to the highest ranked proposer, or take other action.

(2) If the Department has issued an RFQ, received one or more responses, and determined that only one proposer is pre-qualified, the Executive Director may authorize the Department to enter into negotiations with such proposer directly, without issuing an RFP, or take other action.

(3) If the Department issues a request for competing proposals and receives no response or receives a response only from the proposer that submitted the original unsolicited proposal, the Executive Director may authorize the Department to enter into negotiations with such proposer, may recommend award to such proposer, or take other action.

(4) If a decision is made to proceed with negotiations, a notice of selection for negotiations will be delivered to all proposers and posted on the Department's website. If a decision is made to recommend award, a notice of intent to award will be delivered to all proposers and posted on the Department's website, and the Department shall provide information to the Commission as required by Utah Code Section 72-6-206.

R926-10-11. Negotiations.

(1) Negotiations may commence immediately following issuance of the notice of selection. During the negotiation period, the selected proposer shall provide such information as may be reasonably requested by the Department.

(2) If negotiations with the first ranked firm are not successful, the Executive Director may direct the Department to commence negotiations with the second ranked firm. This process will be followed until negotiations are successfully concluded or the Department determines that it will not be able to reach agreement with any of the proposers. The Department reserves the right, in its sole discretion, to terminate negotiations with a proposer at any time and for any reason.

(3) Upon conclusion of negotiations, the Executive Director shall determine whether to recommend award. No determination to recommend award shall be made unless the Executive Director is satisfied that the proposer's cost proposal is reasonable and that the proposal provides sufficient value for money.

(4) The Department may deliver the proposed agreement at any time to the Utah Attorney General's office for review and comment.

(5) If a decision is made to recommend award, a notice of intent to award will be delivered to all proposers and posted on the Department's website, and the Department shall provide information to the Commission as required by Utah Code Section 72-6-206.

R926-10-12. Award.

(1) There is no requirement that a tollway development agreement be awarded. If the Commission approves award, a contract shall be executed and notice given to the successful proposer to proceed with the work.

(2) The Department reserves the right to cancel the award of any tollway development agreement at any time prior to execution of the agreement by all parties, with no liability against the Department, the Commission, their agents, or the State.

R926-10-13. Amendments to Tollway Development Agreements.

(1) The Department shall not enter into any substantial modification or amendment to a tollway development agreement without first obtaining Commission approval of the modification or amendment, as specified in Section R941-1.

R926-10-14. Protests.

(1) Protests prior to notice of intent to award shall be governed by the Utah Code Sections 63-56-801 and 63-56-803.

(2) Upon notice of intent to award, a proposer who would be adversely affected by the selection announced may, within ten calendar days after the date of such notice, submit to the Department a written protest of the selection of the apparent successful proposer.

(3) For purposes of this rule, a protesting proposer is adversely affected by a selection only if the proposer has submitted a responsive competing proposal and is next-in-line for selection. In other words the protesting proposer must demonstrate that all higher-ranked proposers are ineligible for selection because either:

(a) The higher-scoring proposals were not responsive to the requirements stated in the Department's solicitation documents; or

(b) The protesting proposer would have been ranked higher than the other proposers but for Departments (i) material failure to follow the procedures set forth in the RFP and other solicitation documents, (ii) material failure to conform to requirements set forth in these rules or in applicable state statutes, or (iii) abuse of discretion in evaluating and ranking the revised proposals.

(4) A proposer's written protest must state facts and arguments that demonstrate how the selection process was flawed or how selection of the apparent successful proposer constituted an abuse of Department's discretion. If the Department receives no written protest within the ten-day period, then any protesting proposer shall lose any rights or opportunity to advance any claim against the department or state relating to the proposed project.

(5) In response to a proposer's timely filed protest that complies with this rule, the Department will issue a written decision that resolves the issues raised in the protest. In considering a timely protest, the Department may request further information from the protesting proposer and from the apparent successful proposer identified in the Department's notice issued under subsection (2) of this section. The Department will make its written determination available, by mail or by electronic means, to the protesting proposer and to the apparent successful proposer.

(6) The Department shall have the authority, prior to the commencement of an action in court concerning the controversy, to settle and resolve the protest.

R926-10-15. Objection to Contractors.

(1) Prior to the execution of any tollway development agreement with a proposer, the proposer must provide the Department with a list of all entities who provide services under the proposed tollway development agreement, including but not limited to, the planning, design, construction, finance, operation or maintenance of the project. All entities on a proposer's team that will perform work under the tollway development agreement must be legally eligible to perform or work on public contracts under applicable federal and state law and regulations. No entity will be accepted who is ineligible to receive public works contracts in the state of Utah.

(2) If the Department has reasonable objection to any entities who are part of the proposal team or will contribute or otherwise provide services under the proposed tollway development

agreement, the Department may require, before the execution of the tollway development agreement, the selected proposer submit an acceptable substitute entity. In such case, the selected proposer must submit an acceptable substitute, and the agreement may, at the Department's discretion, be modified to equitably account for any difference in cost necessitated by the substitution. The Department will set a maximum time period from the date of the written demand for substitution within which to make an acceptable substitution. A proposer's failure to make an acceptable substitution at the end of the time period will constitute sufficient grounds for the Department to refuse to execute the agreement, without incurring any liability for the refusal. Following identification of an acceptable substitute, the proposer shall be granted an additional maximum time period as determined by the Department to conclude negotiations of acceptable terms and conditions with that substitute.

(3) The department may not require any proposer to engage any contractor, subcontractor, supplier, other person or organization against whom the proposer has reasonable objection.

R926-10-16. Rights Related to Proposals; Release of Rights and Indemnification.

(1) A proposer, whether unsolicited or solicited, shall not obtain any claim, or have any right or expectation to use any route, corridor, rights of way, public property or public facility by virtue of having submitted a proposal that proposes to use such route, corridor, rights of way, public property or public facility or otherwise, involves or affects such. By submitting a proposal, a proposer thereby waives and relinquishes any claim, right, or expectation to occupy, use, profit from, or otherwise exercise any prerogative with respect to any route, corridor, rights of way, public property or public facility identified in the proposal as being necessary for or part of the proposed project.

(2) By submitting such a proposal, a proposer thereby waives and relinquishes any right, claim, copyright, proprietary interest or other right in any proposed location, site, route, corridor, rights of way, alignment, or transportation mode or configuration identified in the proposal as being involved in or related to the proposed project, and proposer shall include in the proposal an indemnity that shall hold the state harmless against any such claim made by any entity that is a member of the proposer's proposal team, including their agents, employees and assigns.

(3) The waiver and release of rights in this section do not apply to a proposer's rights in any documents, designs and other information and records that are otherwise classified as protected records under GRAMA.

R926-10-17. Right to Assert a Moratorium on Unsolicited Proposals.

(1) The Department may elect, at any time and in its sole discretion, to establish a moratorium on acceptance or action taken by the Department on any unsolicited proposals.

(2) The moratorium may be asserted for all unsolicited proposals or for unsolicited proposals of a certain type, in a certain region, or for other factors as determined by the Department.

(3) Announcement of a moratorium shall be posted on the Department's website and shall include the start date of the moratorium and either the anticipated ending date, or a date upon which the ending date will be announced.

(4) Any unsolicited proposal received during a moratorium shall not be reviewed or acted upon by the Department.

R926-10-18. Participation of Public Entities.

(1) Notwithstanding the requirements set forth in other sections of this rule, the Department may directly negotiate and enter into tollway development agreements with public entities without a public solicitation.

(2) In order to ensure that the procurement process for tollway development agreements remains fair and competitive, public entities will not be permitted to submit proposals or to participate as a member of proposer teams with respect to solicitations issued by the Department under this Section R926-10-18. Furthermore, so long as an active solicitation is outstanding for a tollway development agreement, the Department shall not separately negotiate with a public entity for the project that is the subject of that solicitation.

KEY: transportation, highways, public-private partnerships, tolls
Date of Enactment or Last Substantive Amendment: 2008
Authorizing, and Implemented or Interpreted Law: 72-1-201; 72-6-118



Transportation Commission,
 Administration
R940-2
 Approval of Tollway Development
 Agreements

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 31708

FILED: 07/15/2008, 14:16

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule provides the basis for accepting and awarding of tollway proposals and development agreements.

SUMMARY OF THE RULE OR CHANGE: This is a new rule that defines tollway development agreements and how the department rejects, approves, or modifies agreements.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 72-1-201 and 72-6-118

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: No cost or savings are anticipated with the adoption of this rule. No new requirements were created with this rule that impact state budget. Any Department and/or Transportation Commission responsibilities will be administered by existing staff within existing budget.

❖ LOCAL GOVERNMENTS: No cost of savings are anticipated with the adoption of this rule. No new requirements are created with this rule that impact local government.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: No cost or savings are anticipated with the adoption of this rule. No new requirements are created with this rule that impact small businesses or persons other than businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs.

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

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

TRANSPORTATION COMMISSION
ADMINISTRATION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Maureen Short at the above address, by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at maureenshort@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/02/2008.

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

AUTHORIZED BY: John R. Njord, Executive Director

R940. Transportation Commission, Administration.

R940-2. Approval of Tollway Development Agreements.

R940-2-1. Authority.

(1) The provisions of this rule are authorized by the following grants of rulemaking authority and provisions of Utah Codes: Title 63G, Chapter 3; Title 63G, Chapter 6; Title 72, Chapter 2, Section 120; Title 72, Chapter 6, Section 118; and the Public-Private Partnerships for Tollways Act, Utah Code Sections 72-6-201 et seq.

R940-2-2. Definitions.

(1) "Commission" means the Transportation Commission, which is created in Utah Code Ann. Section 72-1-301;

(2) "Department" means the Utah Department of Transportation, which is created in Utah Code Ann. Section 72-1-101;

(3) "Executive Director" means the Executive Director of the Utah Department of Transportation;

(4) "Tollway Development Agreement" has the meaning described in Utah Code Ann. Section 72-6-202 and Utah Admin. Code R926-10, "Tollway Development Agreements."

R940-2-3. Proposals for Tollway Development Agreements.

(1) The Department shall report to the Commission regarding any unsolicited proposals received and any solicitations issued for tollway development agreements, and shall provide regular status updates to the Commission regarding any such matters.

(2) The Department shall have authority to act on its own behalf and on behalf of the Commission in using solicitation and procurement documents for tollway development agreements and in reviewing and evaluating submissions received from proposers.

R940-2-4. Award of Tollway Development Agreements.

(1) Following receipt of a recommendation from the Director for award of a tollway development agreement accompanied by the information regarding the proposed agreement required under Utah Code Ann. Section 72-6-206, the Commission shall take one of the following actions:

(a) Award the tollway development agreement in accordance with the Director's recommendation;

(b) Reject the Director's recommendation and request that the Department take specified action; or

(c) Reject the Department's recommendation and direct the Department to terminate the procurement.

R940-2-5. Amendments to Tollway Development Agreements.

(1) Following receipt of a request from the Department for approval of any substantial modification or amendment to a tollway development agreement, accompanied by information regarding the modification and specifically identifying any changes in the information required to be provided to the Commission in connection with award of the agreement under Utah Code Ann. Section 72-6-206, the Commission shall determine whether to approve the modification or amendment.

KEY: development, agreements, tollway

Date of Enactment or Last Substantive Amendment: 2008

Authorizing, and Implemented or Interpreted Law: 72-1-201; 72-6-118



Workforce Services, Employment
Development

R986-200-240

Additional Payments Available Under
Certain Circumstances

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31714

FILED: 07/15/2008, 16:11

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to add non-FEP (Family Employment Program) TANF (Temporary Assistance for Needy Families) to incentive program.

SUMMARY OF THE RULE OR CHANGE: The Department is looking for ways to help individuals obtain GED or High School credentials. This proposed amendment will allow the Department to offer the incentives to eligible TANF non-FEP clients, as well as FEP clients.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104, and Subsections 35A-1-104(4) and 35A-3-302(5)(b)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This is a federally-funded program so there are no costs or savings to the state budget.
- ❖ LOCAL GOVERNMENTS: This is a federally-funded program so there are no costs or savings to the local government.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There will be no costs to small businesses to comply with these changes because this is a federally-funded program. There will be no costs of any persons to comply with these changes because there are no costs or fees associated with these proposed changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with these changes for any persons because this is a federally-funded program and there are no fees or costs associated with these proposed changes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business. Kristen Cox, Executive Director

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

**WORKFORCE SERVICES
EMPLOYMENT DEVELOPMENT**
140 E 300 S
SALT LAKE CITY UT 84111-2333, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/02/2008.

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

AUTHORIZED BY: Kristen Cox, Executive Director

**R986. Workforce Services, Employment Development.
R986-200. Family Employment Program.
R986-200-240. Additional Payments Available Under Certain Circumstances.**

- (1) Each parent eligible for financial assistance in the FEP or FEPTP programs who takes part in at least one enhanced participation activity may be eligible to receive \$60 each month in addition to the standard financial assistance payment. Enhanced participation activities are limited to:
 - (a) work experience sites of at least 20 hours a week and other eligible activities that together total 30 hours per week;
 - (b) full-time attendance in an education or employment training program; or

(c) employment of 20 hours or more a week and other eligible activities that together total 30 hours per week.

(2) An additional payment of \$15 per month for a pregnant woman in the third month prior to the expected month of delivery. Eligibility for the allowance begins in the month the woman provides medical proof that she is in the third month prior to the expected month of delivery. The pregnancy allowance ends at the end of the month the pregnancy ends.

(3) A limited number of funds are available to individuals for work and training expenses. The funds can only be used to alleviate circumstances which impede the individual's ability to begin or continue employment, job search, training, or education. The payment of these funds is completely discretionary by the Department. The individual does not need to meet any eligibility requirements to request or receive these funds.

(4) Limited funds are available, up to a maximum of \$300, to pay for burial costs if the individual is not entitled to a burial paid for by the county.

(5) A Department Regional Director or designee may approve assistance, as funding allows, for the emergency needs of a non-resident who is transient, temporarily stranded in Utah, and who does not intend to stay in Utah.

(6) A limited number of funds are available for enhanced payments to parents who are eligible for financial assistance in the FEP program or who are eligible for TANF non-FEP training under R986-200-245 and who participate in the HS/GED Pilot Program. The payment of these funds is completely discretionary by the Department and may differ from region to region.

KEY: family employment program
Date of Enactment or Last Substantive Amendment: ~~February 26, 2008~~
Notice of Continuation: September 14, 2005
Authorizing, and Implemented or Interpreted Law: 35A-3-301 et seq.

◆ ————— ◆

**Workforce Services, Unemployment
Insurance
R994-401-203
Retirement or Disability Retirement
Income**

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31712
FILED: 07/15/2008, 15:18

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for this amendment is to correct error in the current rule.

SUMMARY OF THE RULE OR CHANGE: When this rule was changed in February 2004, a sentence was added in error. Retirement benefits paid to a claimant from a base period employer are counted in determining unemployment benefits.

The offending sentence talks about payments made by employers for whom the claimant did not work during the benefit year. This sentence is meaningless. The Division probably intended to say "base period" instead of "benefit year" but an error was made in drafting. Taking the sentence out corrects the problem.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104, and Subsections 35A-1-104(4) and 35A-4-502(1)(b)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This is a federally-funded program so there are no costs or savings to the state budget. The erroneous provision was never applied.
- ❖ LOCAL GOVERNMENTS: This is a federally-funded program so there are no costs or savings to local government.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no costs or savings to any other persons or small businesses as there are no fees associated with this program and it is federally funded.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs or savings to any affected persons as there are no fees associated with this program and it is federally funded. These changes will not impact any employers contribution rate.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business. These changes will have no impact on any employer's contribution tax rate. Kristen Cox, Executive Director

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/02/2008.

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

AUTHORIZED BY: Kristen Cox, Executive Director

R994. Workforce Services, Unemployment Insurance.

R994-401. Payment of Benefits.

R994-401-203. Retirement or Disability Retirement Income.

(1) A claimant's WBA is reduced by 100% of any retirement benefits, social security, pension, or disability retirement pay (referred to collectively in this section as "retirement benefits" or "retirement pay") received by the claimant. Except, for claims with an effective date on or after July 4, 2004, and on or before June 27, 2010 the reduction for social security retirement benefits will only be 50%. The payments must be:

(a) from a plan contributed to by a base-period employer. ~~Payments made by the employer for whom the claimant did not work during the benefit year are not counted.~~ Social security payments are counted if a base period employer contributed to social security even if the social security payment is not based on employment during the base period;

(b) based on prior employment and the claimant qualifies because of age, length of service, disability, or any combination of these criteria. Disability payments must be based, at least in part, by length of service. Savings plans such as a 401(k) or IRA should not be used to reduce the WBA Payments from workers' compensation for temporary disability, black lung disability income, and benefits from the Department of Veterans Affairs are not counted because the amount of the payment is based on disability and not on length of service. Payments received as a spouse or beneficiary are not counted. That portion of retirement benefits payable to a claimant's former spouse is not counted if the paying entity pays the former spouse directly and it is pursuant to court order or a signed, stipulated agreement in accordance with the law;

(c) periodic and not made in a lump sum. Lump sum payments, even if drawn from the employer's contributions to a fund established for the purpose of retirement, are not treated as severance pay under Subsection 35A-4-405(7); and

(d) payable during the benefit year. A claimant's WBA is not reduced if the claimant is eligible for, but not receiving, retirement income. However, if the claimant subsequently receives a retroactive payment of retirement benefits which, if received during the time unemployment insurance claims were filed, would have resulted in a reduced payment, an overpayment will be established. The period of time the payment represents, not the time of the receipt, is the determining factor. An assumption that a claimant is entitled to receive a pension, even if correct, is not sufficient basis to recompute the WBA. However, if a claimant has applied for a pension and expects to be determined eligible for a specific amount attributable to weeks when Unemployment Insurance benefits are payable, and the claimant is only awaiting receipt of those payments, a reduction of the claimant's WBA will be made.

(2) A claimant who could be eligible for a retirement income, but does not apply until after the Unemployment Insurance benefits have been paid, will be at fault for any overpayment resulting from a retroactive payment of retirement benefits.

(3) The formula for recomputation of the MBA in the event a claimant begins receiving retirement income after the beginning of the benefit year is found in Subsection 35A-4-401(2)(d). The recomputation is effective with the first full calendar week in which the claimant is eligible to receive applicable retirement benefits or adjustments to those benefits.

KEY: unemployment compensation, benefits

Date of Enactment or Last Substantive Amendment: ~~July 26, 2006~~ **2008**

Notice of Continuation: May 17, 2007

Authorizing, and Implemented or Interpreted Law: 35A-4-401(1); 35A-4-401(2); 35A-4-401(3); 35A-4-401(6)



Workforce Services, Unemployment Insurance

R994-404-101

Claimants Who Qualify for an Adjustment to the Base Period

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31711

FILED: 07/15/2008, 14:57

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for this amendment is to respond to medical needs of claimants.

SUMMARY OF THE RULE OR CHANGE: A claimant who is off work due to an industrial accident can qualify for an adjusted base period if the claim is filed within 36 months of the injury. Occasionally, a claimant is required to miss work due to a re-injury or surgery directly relating to the original injury. This rule would allow for an adjusted base period to apply in these admittedly rare cases as well. These cases are so rare, Department personnel can only remember a very few claims in the last several years which would have benefited from this change.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104, and Subsections 35A-1-104(4) and 35A-4-502(1)(b)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** This is a federally-funded program so there are no costs or savings to the state budget.
- ❖ **LOCAL GOVERNMENTS:** This is a federally-funded program so there are no costs or savings to local government.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There are no costs or savings to any other persons or small businesses as there are no fees associated with this program and it is federally funded.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs or savings to any affected persons as there are no fees associated with this program and it is federally funded. These changes will not impact any employers contribution rate as the very few cases we anticipate will likely be funded out of social costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business. These changes will have no impact on any employer's contribution tax rate. Kristen Cox, Executive Director

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/02/2008.

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

AUTHORIZED BY: Kristen Cox, Executive Director

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**R994. Workforce Services, Unemployment Insurance.
R994-404. Payments Following Workers' Compensation.
R994-404-101. Claimants Who Qualify for an Adjustment to the Base Period.**

(1) A claimant who was off work due to a work related illness or injury may qualify for an adjusted base period if all of the following elements are satisfied:

(a) the claimant must have received temporary total disability (TTD) compensation for the illness or injury under the workers' compensation or occupational disease laws of this state or under federal law;

(b) the claimant must have received TTD for at least seven full weeks during the normal base period. The weeks need not be consecutive;

(c) the initial claim for unemployment insurance benefits must have been filed no later than 90 calendar days after the claimant was released by his or her health care provider to return to full-time work. This does not include release to limited or light duty work. The effective date of the eligible claim must be within the 90 days regardless of the date on which the claimant contacts the Department to file a claim. For example, if the 90th day falls on Wednesday and the claimant files a claim on Thursday, the effective date of the claim would be Sunday of that calendar week and would fall within the 90 day time limitation;

(d) the initial claim for unemployment insurance benefits must have been filed within 36 months of the week the covered injury or illness occurred. The covered injury can be the initial injury or an event such as a re-injury that caused the claimant to go back on TTD.

(2) Wages previously used to establish a benefit year cannot be re-used.

Notice of Continuation: May 22, 2007
Authorizing, and Implemented or Interpreted Law: 35A-4-404

KEY: unemployment compensation, workers' compensation
Date of Enactment or Last Substantive Amendment: [~~September 29, 2005~~2008]



End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive public comment that requires the PROPOSED RULE to be altered before it goes into effect. A CHANGE IN PROPOSED RULE allows an agency to respond to comments it receives.

As with a PROPOSED RULE, a CHANGE IN PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the CHANGE IN PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the CHANGE IN PROPOSED RULE is usually printed. The text shows only those changes made since the PROPOSED RULE was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [example]). A row of dots in the text between paragraphs (· · · · ·) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends September 2, 2008. At its option, the agency may hold public hearings.

From the end of the waiting period through November 29, 2008, the agency may notify the Division of Administrative Rules that it wants to make the CHANGE IN PROPOSED RULE effective. When an agency submits a NOTICE OF EFFECTIVE DATE for a CHANGE IN PROPOSED RULE, the PROPOSED RULE as amended by the CHANGE IN PROPOSED RULE becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by Section 63G-3-303; and Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

The Changes in Proposed Rules Begin on the Following Page.

**Commerce, Occupational and
Professional Licensing
R156-37
Utah Controlled Substances Act Rules**

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 31423
Filed: 07/14/2008, 10:01

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Following a public rule hearing and additional review by the Division and the State Board of Pharmacy, one additional change is being proposed in Subsection R156-37-609(4) to delay implementation of the weekly reporting requirement to the Controlled Substance Database to 10/01/2008.

SUMMARY OF THE RULE OR CHANGE: In Subsection R156-37-609(4), the implementation date for weekly reporting to the Controlled Substance Database has been changed from 07/15/2008 to 10/01/2008. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the June 1, 2008, issue of the Utah State Bulletin, on page 62. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 58-1-106(1)(a), 58-37-6(1)(a), and 58-37-7.5(7)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** No additional costs or savings are anticipated beyond those previously identified in the original rule filing.
- ❖ **LOCAL GOVERNMENTS:** No additional costs or savings are anticipated beyond those previously identified in the original rule filing.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** No additional costs or savings are anticipated beyond those previously identified in the original rule filing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No additional costs or savings are anticipated beyond those previously identified in the original rule filing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated from this change to proposed rule, which merely provides an effective date to the weekly reporting requirement. Francine A. Giani, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Laura Poe at the above address, by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at lpoe@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/02/2008.

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

AUTHORIZED BY: F. David Stanley, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-37. Utah Controlled Substances Act Rules.**

R156-37-609. Controlled Substance Database - Procedure and Format for Submission to the Database.

(1) In accordance with Subsections 58-37-7.5(6)(a), the format in which the information required under Section 58-37-7.5 shall be submitted to the administrator of the database is:

- (a) electronic data via telephone modem;
- (b) electronic data stored on floppy disk or compact disc (CD);
- (c) electronic data sent via electronic mail (e-mail) if encrypted and approved by the database manager;
- (d) electronic data sent via a secured internet transfer method, including but not limited to, FTP site transfer and HyperSend; or
- (e) any other electronic method preapproved by the database manager.

(2) The required information may be submitted on paper, if the pharmacy or pharmacy group submits a written request to the division and receives prior approval.

(3) The division will consider the following in granting the request:

- (a) the pharmacy or pharmacy group has no computerized record keeping system upon which the data can be electronically recorded; or
- (b) the pharmacy or pharmacy group is unable to conform its submissions to the format required by the database administrator without incurring undue financial hardship.

(4) As of [July 15, 2008] ~~July 15, 2008~~ October 1, 2008, each pharmacy or pharmacy group shall submit all data collected during the preceding seven days at least once per week. If the data is submitted by a single pharmacy entity, the data shall be submitted in chronological order according to the date each prescription was filled. If the data

is submitted by a pharmacy group, the data is required to be sorted by individual pharmacy within the group, and the data of each individual pharmacy within the group is required to be submitted in chronological order according to the date each prescription was filled.

(5) The format for submission to the database shall be in accordance with uniform formatting developed by the American Society for Automation in Pharmacy system (ASAP). The division may approve alternative formats or adjustments to be consistent with database collection instruments and contain all necessary data elements.

(6) The pharmacist-in-charge of each reporting pharmacy shall submit a report on a form approved by the division including:

- (a) the pharmacy name;
- (b) NABP number;

- (c) the period of time covered by each submission of data;
- (d) the number of prescriptions in the submission;
- (e) the submitting pharmacist's signature attesting to the accuracy of the report; and
- (f) the date the submission was prepared.

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KEY: controlled substances, licensing
Date of Enactment or Last Substantive Amendment: 2008
Notice of Continuation: March 15, 2007
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-37-6(1)(a); 58-37-7.5(7)



End of the Notices of Changes in Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by Section 63G-3-305.

Health, Community and Family Health Services, Children with Special Health Care Needs **R398-2** Newborn Hearing Screening

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 31651
FILED: 07/02/2008, 12:29

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: The Newborn Hearing Screening (NHS) rule was enacted under Section 26-10-6, Testing of newborn infants, which requires that each newborn infant in Utah shall have their hearing screened. The purpose of this rule is to facilitate early detection, diagnosis, appropriate amplification, and early intervention for children with hearing loss. If children with hearing loss are identified early, an estimated \$400,000 per child can be saved in special education and related costs (National Center for Hearing Assessment and Management (NCHAM) website: www.infanthearing.org). If hearing impaired children are not identified early, it is difficult for many to acquire fundamental language and literacy skills that provide the foundation for success later in life. When this rule was initially adopted, Utah was among a handful of states with legislative mandates for newborn hearing screening. Currently, there are 42 states and 3 territories that mandate newborn hearing screening. Utah currently screens over 98% of the live births, including home births. Consequently, the department is authorized to adopt rules on the hearing testing of newborn infants required by Section 26-10-6.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Prior to enacting this rule, Utah relied on a High Risk Registry to help identify hearing loss in infants. Research has consistently shown that over half of the babies born with hearing loss have no "high risk" indicators. Prior to this legislation, the average age of identification for hearing loss in children was from two-and-a-half to three-and-a-half years old. Children identified at this late age miss a "critical period" for speech and language development. In Utah, we are now identifying children between three and four months of age. When early identification and intervention occurs (prior to six months), hearing impaired children make dramatic progress, are more successful in school, and become more productive members of society. The department cannot assure the proper screening, testing, and follow-up of every newborn infant in Utah without establishing, by rule, the definitions, and implementation, responsibility, information required for parents and primary care providers, reporting formats, and penalties for noncompliance. For these reasons, Rule R398-2 must be continued.

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

HEALTH
COMMUNITY AND FAMILY HEALTH SERVICES,
CHILDREN WITH SPECIAL HEALTH CARE NEEDS
44 N MEDICAL DR
SALT LAKE CITY UT 84113, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Richard S. Harward at the above address, by phone at 801-584-8529, by FAX at 801-584-8492, or by Internet E-mail at rharward@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 07/02/2008

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Natural Resources, Parks and
Recreation
R651-407

Off-Highway Vehicle Advisory Council

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 31690
FILED: 07/07/2008, 09:07

**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 41-22-10 states that the Board may appoint and seek recommendations from the Off-Highway Vehicle (OHV) Advisory Council representing various OHV conservation and other appropriate interests. This council was formed to represent OHV users in the State of Utah. One member from Land Management; Forest Service; Utah School and Institutions, Trust Lands Administration; snowmobiling, motorcycling, all-terrain vehicle usage; four-wheel drive vehicle usage; off-highway vehicle dealers; a youth member; member at large; and OHV safety member. Together this advisory council works together for the safety and promotion of OHV usage in the State of Utah.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Council continues to be a "watcher" for all phases of the rule concerning OHV riding and safety. Therefore, this rule should be continued.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/07/2008



Natural Resources, Parks and
Recreation
R651-408

Off-Highway Vehicle Education
Curriculum Standards

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 31691
FILED: 07/07/2008, 09:07

**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 41-22-31 allows the Board to set standards for a safety program and issue safety certificates for successful completion of the program. Section 41-22-32 is primarily for the certification of safety instructors who teach off-highway vehicle (OHV) courses and lists their curriculum. Section 41-22-33 lists the fees for the safety and education courses and any penalties for non-payment. Rule R651-408 is an easily understood direction to the students taking the OHV education/safety course. It also lists the requirements to be taught by a safety Instructor and any reimbursement to volunteer certified OHV safety instructors. The rule defines and clarifies the statute in an easily understandable way for those who operate OHVs or teach OHV safety and education.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R651-408 lists the OHV curriculum standards for the use of OHVs in the state park system, including fees for OHV safety education courses to be taught to students; safety instructor requirements; and volunteer certified safety instructor reimbursement. To keep an orderly, defined curriculum for OHV vehicle education, and costs, this rule makes it easy to find the curriculum, and understand it. Therefore, this rule should be continued.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/07/2008

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/07/2008

Natural Resources, Parks and
Recreation
R651-601

Definitions as Used in These Rules

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 31661
FILED: 07/07/2008, 08:27

**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 41-22-10 lists powers of the board relating to off-highway vehicles. Subsection 63-11-3(1) defines terms used on a board level; and Section 63-11-17 contains lists of powers and authority by the Board of State Parks and Recreation. All definitions for organizations, especially those for safety and education purposes are needed throughout this state to help guaranty the safety of those who utilize state parks and the programs offered through this agency.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R651-601 defines listings used on a division level and what the public would read and understand as defining terms commonly used throughout the state park system. They support those used in statute. Because of the value of definitions to park personnel, other state agencies and to the recreating public, this rule should be continued.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

Natural Resources, Parks and
Recreation
R651-602

Aircraft and Powerless Flight

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 31662
FILED: 07/07/2008, 08:29

**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: Subsection 63-11-17(1)(b)(ii) allows the board and Division of State Parks and Recreation to establish use or access restrictions within state parks. These restrictions require definition as added by Rule R651-602 as it states the prohibited areas and restrictions for aircraft and powerless flight within the state park system. As items are defined within a state park that are considered restrictions or accesses, they are clearly defined by rule and listed as access restrictions and use in statute.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The statute lists the ability of the board and Division of Parks and Recreation to establish use or restrict access within state parks. Rule R651-602 is a definition of some of the restrictions and uses and how they are handled by our parks. It explains in more detail in rule to complement what is written in code. Therefore, this rule should be continued.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/07/2008

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/07/2008

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**Natural Resources, Parks and
Recreation
R651-603
Animals**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 31663
FILED: 07/07/2008, 08:31

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63-11-17 allows the board to make rules to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities and to provide for public safety and preserve the peace within state parks.

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: In order for our parks to manage and protect the pets, wildlife, and the public, this rule should continue, as the rule clearly states how pets are to be contained and controlled, where animals are allowed or prohibited, animals that could pose a threat to public safety, touching or bothering wildlife in any way, hitching or tying animals on natural habitat or blocking foot or vehicular traffic, and where horses are and are not permitted. This rule should also continue as it is a very good guide to the public and all who use the rules in our state park system.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

◆ ————— ◆

**Natural Resources, Parks and
Recreation
R651-604
Audio Devices**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 31664
FILED: 07/07/2008, 08:32

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63-11-17 authorizes the board of parks and recreation to set rules to protect natural and cultural resources, provide public safety, and preserve the peace in state parks.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The number of recreating public increases yearly to our state parks. Those using audio devices are asked to operate them at a level that will not unreasonably disturb any person. It also asks that any public address system or other high volume audio device obtain a permit with restrictions, etc. before use. Therefore, this rule should be continued.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/07/2008

EFFECTIVE: 07/07/2008

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**Natural Resources, Parks and
Recreation
R651-605
Begging and Soliciting**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 31665
FILED: 07/07/2008, 08:33

**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 63-11-17 states that the board may make rules that provide for public safety and preserve the peace within state parks. It also states the the division has the duty to protect state parks and park property from misuse or damage. Concessions are bid for competitive results and permits are issued for special events to keep the peace and make available services, but not force them upon the recreating public. This rule prohibits begging and soliciting as they are both unnerving and harassing when trying to enjoy our state parks.

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 will continue to make begging and soliciting illegal except by authorized concessionaires or by permit. Therefore, this rule should be continued.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

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**Natural Resources, Parks and
Recreation
R651-606
Camping**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 31666
FILED: 07/07/2008, 08:34

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 63-11-17(8) states that the the Division may make charges for special services and use of facilities, conduct and operate those services for the comfort and convenience of the public, and the board shall adopt appropriate rules governing collection of charges.

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 contains the procedures to reserve camp sites; what can be reserved; when payment is due; time limitations in the campsites, use of showers, designated areas for camping, when vacating time for the camp site is, the required cleanup of the campsite, and quiet hours to be observed at the state parks. It is important information for use by all recreating public and in support of Subsection 63-11-17(8). Therefore, this rule should be continued.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/07/2008

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**Natural Resources, Parks and
Recreation**

R651-607

Disorderly Conduct

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 31667
FILED: 07/07/2008, 08:35

**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 63-11-17-2 states that the Division of Parks and Recreation has the duty to protect state parks and park property from misuse or damage and to preserve the peace within state parks. The park rangers have peace officer authority to do so. This rule supports this section of the code and refers to the Criminal Code regarding offenses against persons and property. It also prohibits a person from participating in a posted restricted activity.

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 supports the code and defines certain aspects of the code for the public. Therefore, the rule should be continued.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/07/2008

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**Natural Resources, Parks and
Recreation**

R651-608

Events of Special Uses

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 31668
FILED: 07/07/2008, 08:36

**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: Events of short-term duration such as an exhibit, speech, demonstration, special assembly, or any special activity or use must be done by special use permit. This rule gives specific instructions and requirements to obtain a special use permit.

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: A special use permit is used in the park system to accommodate those who request the facilities or amenities of a park or park area for 1 day up to 365 days depending on that activity. This rule keeps in check the step-by-step process to obtain a special use permit and requirements to obtain, maintain, and honor such special use permit. Anyone wanting to engage, conduct, or participate in a commercial activity on state park property must have a Special Use Permit, Cooperative Agreement, or Concession Contract. This rule needs to continue to help with the day-to-day activities conducted for special uses.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/07/2008

Natural Resources, Parks and
Recreation
R651-609

Explosives and Fireworks

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 31669
FILED: 07/07/2008, 08:37

**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 63-11-17 states that the board may make rules that govern the use of the state park system and protect the state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities, and provide for public safety and preserve the peace within state parks. This rule addresses explosives and fireworks and prohibits them because of related safety issues, unless there is a permit that carries proper insurance and proves that those using explosives and fireworks have experience, and all proper permits to use these items in a safe and proper manner.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule defines the only way explosives and fireworks can be used within the state park system and the rule and code support one another. Therefore, this rule should be continued.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/07/2008



Natural Resources, Parks and
Recreation
R651-610

Expulsion

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 31670
FILED: 07/07/2008, 08:38

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63-11-17 authorizes the board to make rules governing the state park system, including public safety, peace, protection. This rule encompasses all rules in Section 63-11-17 and what can happen if these rules are violated, including expulsion by a ranger or other law enforcement officer and being prohibited from returning for 48 hours.

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: All violation listed rules including expulsion as stated in this rule need to be defined and this rule supports Section 63-11-17 by listing what happens under expulsion from a park. Therefore, this rule should be continued.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/07/2008



Natural Resources, Parks and
Recreation
R651-612
Firearms, Traps and Other Weapons

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 31671
FILED: 07/07/2008, 08:41

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63-11-17 allows the board to make rules regarding public safety, use of state park system, protection of state parks' natural and cultural resources, and this rule is written to support and define the uses of firearms, traps, and other weapons, the restrictions and who may carry a weapon and for what purpose.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule deals with law enforcement, firearms, traps, and other weapons and assists in defining the statute. This rule defines the firearms, when they can be carried, and who has the authority to do so. It is important for the public and anyone reading the rule to understand exactly what some of these statutes mean. This rule explains and support the statute on a division level and for the public, and therefore, this rule should be continued.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/07/2008



Natural Resources, Parks and
Recreation
R651-613
Fires

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 31672
FILED: 07/07/2008, 08:43

**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: This rule lists the times when a fire may be lighted and where, and what is required in order to use fire. It lists the extinguishing of fires, throwing or dropping of burning material, and posted restrictions in park areas. Section 63-11-17 allows the board to make rules and in this case under Subsections 63-11-17(1)(a)(ii) and (iii), it shows that the rules the board may make include misuse, damage to natural and cultural resources and to protect the public and preserve the peace. This rule clearly supports the code.

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 important to the safety and well being of the public, as well as asking the public to help protect the park system. Therefore, this rule should be continued.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/07/2008



Natural Resources, Parks and Recreation
R651-614
Fishing, Hunting and Trapping

Natural Resources, Parks and Recreation
R651-615
Motor Vehicle Use

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 31673
FILED: 07/07/2008, 08:45

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 31674
FILED: 07/07/2008, 08:46

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 63-11-17(2) and (3) show the powers and jurisdiction of the Division of Wildlife Resources in regard to fishing, hunting, and trapping, and the role the Division of State Parks has with reference to fish and game.

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: For the safety of the public and to give direction when regarding the use of motor vehicles, Subsection 63-11-17(1) allows the board to make rules when providing for public safety and preserving the peace within state parks.

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.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The statute clearly states the powers and duties of the Board and the Division of Parks and Recreation. This rule deals with the fishing, hunting, and trapping, and includes the duties of the Division of Wildlife with the same. It also gives the parks with small game, big game, falconry, and waterfowl listed, and permits to hunt also referring to Utah Code. The rule enhances the statute and the statute gives the general powers and authorities. They are both necessary as tools to assist in public education of what is allowed in our state park system. Therefore, this rule should be continued.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Traffic rules and regulations for safety are found in Title 41, Chapter 6, in the Utah Code. This rule defines uses in our park system and operating or parking a vehicle, entering and leaving park sites, off-road use, operation of off-highway vehicles, motorized transportation devices, and all areas that are prohibited to have motor vehicles operating in the state park system. It is an important rule for the safety of the public and governing the use of the state park system. Therefore, this rule should be continued.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/07/2008

EFFECTIVE: 07/07/2008



Natural Resources, Parks and
Recreation
R651-616
Organized Sports

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 31675
FILED: 07/07/2008, 08:47

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 63-11-17(1)(a) allows the board to make rules when it is to protect state parks and their natural and cultural resources, or to provide for public safety and preserve the peace within state parks. This rule makes it clear where ball games, horseshoes, or other similar activities are prohibited in order to protect the public from being hurt by the sports equipment. The rule states that organized sports are prohibited except in designated locations and these would be listed at each park.

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: In order to address safety of the public and the need to support and define some of the statutes, the board has made rules to help the Division and the employees who work for the parks system better understand and be able to turn to these rules to help them in fulfilling their jobs. This rule is important to have by the public and by employees and staff of Utah State Parks and recreation. Therefore, this rule should be continued.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/07/2008



Natural Resources, Parks and
Recreation
R651-617
Permit Violation

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 31676
FILED: 07/07/2008, 08:47

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63-11-17 states that the board may make rules to govern the use of the state park system. This rule specifically names reasons for revoking or suspending for a time permits that are abused, falsified, or traded.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: There are many types of permits issued, such as day use permits, camping permits, special use permits, etc. All carry rights and penalties if not followed. This rule states the penalties for violation of any of these permits, and should be continued to help with the direction of state parks.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/07/2008



Natural Resources, Parks and Recreation
R651-618
Picnicking

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 31677
FILED: 07/07/2008, 08:48

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63-11-17 authorizes the Board to establish use or access restrictions within state parks and to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities, and to govern the use of the state park system.

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 restricts picnicking, by pointing out the areas where a picnic is not allowed, such as inside visitor centers, museums, and other park building that are not designated for this use and where prohibited and posted. This rule needs to continue as it controls the use and misuse of our museums and park buildings and what could happen if there wasn't a control in effect.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/07/2008



Natural Resources, Parks and Recreation
R651-619
Possession of Alcoholic Beverages or Controlled Substances

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 31678
FILED: 07/07/2008, 08:48

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: Referring to Titles 32A, 41, 58, 73, and 76, this rule describes in easily understood language where there is no alcohol allowed without express permission, in writing, which is to be given by the division director or designee.

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 expressly states the conditions and who may allow alcohol in state park system buildings and areas. It is written in easy to understand language and backs up Utah Code for violations. Therefore, this rule should be continued.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/07/2008



Natural Resources, Parks and
Recreation
R651-620
Protection of Resources Park System
Property

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 31679
FILED: 07/07/2008, 08:49

**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 63-11-17.2 states that the Division of Parks and Recreation has the duty to protect state parks and park property from misuse or damage and to preserve the peace within state parks.

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 covers trespassing, applicability of criminal code, for certain "trespass" class B misdemeanors (Section 63-11-17.3), the tossing, throwing, and rolling of rocks and other materials in certain areas being prohibited, collection and cutting of firewood, and when it is permitted, use of glass containers and metal detecting within state park areas. For the safety and protection of the public, as well as the natural and cultural resources that are covered in this rule, this rule should be continued.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/07/2008

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Natural Resources, Parks and
Recreation
R651-621
Reports of Injury or Damage

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 31680
FILED: 07/07/2008, 08:50

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63-11-17 states the powers and duties of the board and the Division of Parks and Recreation. The board may make rules regarding public safety and preserving the peace within state parks.

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 states an incident that would come under Section 63-11-17 regarding injury or damage makes everyone responsible for reporting incidents to park representatives, whether the damage be to property, public, or private property. Any incident must be reported as soon as possible to a park representative. All safety and information regarding the procedures are very important and therefore, this rule should be continued.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/07/2008

◆ ————— ◆

Natural Resources, Parks and
Recreation
R651-622
Rock Climbing

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 31681
FILED: 07/07/2008, 08:51

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 63-11-17(1)(b)(ii) states that the board board may establish use or restrictions within state parks and this rule does that. It puts rock climbing into the "have to have" a permit to technical rock climbing. The installation of new or removal of existing, permanently installed rock climbing equipment or hardware is also prohibited without a permit issued 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: 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: With the recreating public numbers increasing every single year, all sports are also increasing and rock climbing is one of the most popular sports; therefore, to be safe and to hold responsible those who participate in this sport, this rule should be continued.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/07/2008



Natural Resources, Parks and
Recreation
R651-623
Sale or Distribution of Printed Material

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 31682
FILED: 07/07/2008, 09:04

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63-11-17 allows the board to make rules governing the use of the state park system, and establish use or access restrictions within state parks. This rule states that the sale, posting, or distribution of printed matter is prohibited without a permit. That way anything sold, posted, or distributed (printed matter) will be reviewed and a determination made if it is in the best interest of the state to let such material be sold, posted or distributed in the state park system. And if so, a permit may be issued for such action.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: 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: In order to continue to monitor, review, and protect our state park system, items of printed material to be sold, posted, or distributed within our state parks, this rule should be continued.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/07/2008



Natural Resources, Parks and
Recreation
R651-624
Sanitation

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 31683
FILED: 07/07/2008, 09:04

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63-11-17 allows the board to make rules to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities, and provide for public safety. This rule prohibits garbage and rubbish to be disposed of anywhere but in places designated for such disposal and the same with trailer refuse or waste. It prohibits cleaning food and washing clothing or household use items at hydrants in the campground, and restricts fish cleaning and disposal to appropriate fish cleaning stations and trash cans.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it helps define sanitation issues within the state park system in order to keep the system as clean and healthy as possible for the environment and the health of the recreating public.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/07/2008



Natural Resources, Parks and
Recreation
R651-625
Shirts and Shoes

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 31684
FILED: 07/07/2008, 09:05

**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 63-11-17 allows the board to make rules to provide for public safety and preserve the peace within state parks. This rule requires shirts and shoes in museums, visitor centers, and administrative offices of the park system.

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: For the protection of the recreating public, shirts and shoes are required within the state park system. Without such protective clothing, injuries could occur and/or complaints could be issued to the museum curators, park managers, and administrative offices. This rule should continue as it provides for public safety and sets a standard for visiting certain areas of the state park system.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/07/2008



Natural Resources, Parks and Recreation
R651-626

Skating, Skateboards and Motorized Transportation Devices

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 31660
FILED: 07/07/2008, 08:27

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: In Section 63-11-17, safety, both of amenities and people are covered in items for which the board may make rules. This rule was established to list areas where any of the titled transportation devices are prohibited and locations where they may be designated or posted for such use by the park manager.

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: For safety purposes, especially to the public and to the visitors as well, skating, skateboards, and motorized transportation devices are prohibited in all state park areas, except where actually posted/designated for that activity by the park manager. Since safety of our visitors and also of park employees/staff is one of the most important goals at our state parks, this rule should be continued.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/07/2008



Natural Resources, Parks and Recreation
R651-627
Swimming

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 31685
FILED: 07/07/2008, 09:05

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 63-11-17(1)(a)(iii) states that the board may make rules to provide for public safety and preserve the peace within state parks. Swimming, scuba diving, and public health closures are covered in this rule to promote safety for swimmers, and scuba divers only in accordance with the Utah Water Safety Act, Section 73-18b-1, and Rule R651-801, and the posted public health closures by the park manager or other public health agency.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: 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: For public safety and health, this rule should be continued as it covers swimming, scuba diving, and public health closures within the state park system.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/07/2008



Natural Resources, Parks and
Recreation
R651-628
Trails and Walks

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 31686
FILED: 07/07/2008, 09:06

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63-11-17 allows rules to be made by the parks board to establish use or access restrictions within state parks. It also provides for public safety by designating areas where activities involving bicycles and motor vehicles may be used; where blocking, restricting, or interfering with normal use of any trail is prohibited; and where persons are required to stay while utilizing trails and walks in the state park system.

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: For safety of the public and for protection of natural and cultural resources within the state park system, this rule permits activities such as bicycling, roller blading, roller skating, skateboarding, or operating motor vehicles, only on areas specifically designated or posted within the state parks system. Any interference of normal use of any trail is prohibited and persons are required for public safety and protection of natural habitat in the park system to stay on walks and designated trails. Therefore, this rule should be continued.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/07/2008



Natural Resources, Parks and
Recreation
R651-629
Unattended Property

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 31687
FILED: 07/07/2008, 09:06

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63-11-17 allows the board to make rules to govern the use of the state park system. This rule addresses unclaimed personal property, impounded property, lost and found articles, and the impounding of a vehicle.

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: Unclaimed personal property will be handled in accordance with Title 77 of the Utah Code. Whenever property interferes with the safe or orderly operation of a park, the property may be impounded. Lost and found articles will be deposited by the finder at the park area office. The impounding of a vehicle shall be in compliance with Title 41, Chapter 1a. This rule combines all of these items under Unattended Property and refers to different sections of the code to define the use. Therefore, this rule should be continued.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/07/2008



Natural Resources, Parks and
Recreation
R651-631
Winter Sports

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 31688
FILED: 07/07/2008, 09:06

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63-11-17 states that the board may make rules regarding governing the use of the state park system. This rule defines and shows areas where use for winter sports listed as skiing, sledding, tobogganing, snowshoeing, skating, and other similar winter sports are allowed.

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: Certain areas that could be dangerous to the public are posted and certain roads and parking areas that are open to highway vehicle use are prohibited for winter sports. Other state park areas are open to skiing, sledding, tobogganing, snowshoeing, skating and similar winter sports. This is a directional rule and also a rule for public safety while engaged in winter sports in state parks. It should be continued for that reason.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/07/2008



Natural Resources, Parks and
Recreation
R651-632
Enforcement

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 31689
FILED: 07/07/2008, 09:07

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 63-11-17(1) states that the Division of Parks and Recreation has the duty to protect state parks and park property from misuse or damage and to preserve the peace within state parks. It also states at Subsection 63-11-17(2) that those employees who are POST-certified peace officers are designated as park rangers by the division director are law enforcement officers and have all powers of law enforcement officers in the state with the exception of the power to serve civil process. This rule is a directive to where further law enforcement definition regarding both officers and enforcement may be found, i.e., Title 77, Chapter 1a.

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: It takes a section of the statute in Section 63-11-17.2 and ties it to other Titles, for example Title 77, and makes it easier for anyone searching for the information to find it all in one rule. Therefore, this rule should be continued.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 07/07/2008



Pardons (Board Of), Administration
R671-509
 Progress Violation Reports

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 31656
 FILED: 07/03/2008, 12:52

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 77-27-11 requires the parole agent to submit a parole progress/violation report when an incident occurs that constitutes cause to modify the conditions of parole.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R671-509 outlines Board procedure regarding the appropriate process in the event of a violation of parole conditions. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)
 ADMINISTRATION
 Room 300
 448 E 6400 S
 SALT LAKE CITY UT 84107-8530, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at njohnson@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 07/03/2008

Pardons (Board Of), Administration
R671-510
 Evidence for Issuance of Warrants

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 31658
 FILED: 07/03/2008, 12:52

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 77-27-11 requires the Board to issue warrants once a parole violation has occurred.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R671-510 outlines Board procedure regarding the appropriate processing and issuance of warrants once a parolee has violated the conditions of his/her parole. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)
 ADMINISTRATION
 Room 300
 448 E 6400 S
 SALT LAKE CITY UT 84107-8530, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Megan Flox-Lambert at the above address, by phone at 801-261-6456, by FAX at 801-261-6448, or by Internet E-mail at mflox@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 07/03/2008

Pardons (Board Of), Administration
R671-512
 Execution of the Warrant

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 31657
 FILED: 07/03/2008, 12:52

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 77-27-11, 77-27-27, 77-27-28, 77-27-29, and 77-27-30 require the Board to execute warrants.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R671-512 outlines Board procedure regarding the execution of warrants. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PARDONS (BOARD OF) ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Megan Flox-Lambert at the above address, by phone at 801-261-6456, by FAX at 801-261-6448, or by Internet E-mail at mflox@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 07/03/2008



Pardons (Board Of), Administration
R671-514
Waiver and Pleas of Guilt

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 31654
FILED: 07/03/2008, 12:51

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 77-27-9 and 77-27-11 allow the Board accept the parolee's plea(s).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R671-514 outlines Board procedure regarding the appropriate process in the event that the parolee enters a plea. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PARDONS (BOARD OF) ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Megan Flox-Lambert at the above address, by phone at 801-261-6456, by FAX at 801-261-6448, or by Internet E-mail at mflox@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 07/03/2008



Pardons (Board Of), Administration
R671-515
Timeliness of Parole Revocation Hearings

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 31659
FILED: 07/03/2008, 12:52

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 76-3-202 establishes that the Board may follow a timeline in order to properly execute a timely parole revocation hearing.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R671-515 establishes the timeline that may be followed in order for the Board to execute a timely parole revocation hearing and also outlines procedure that must be followed by the Board if the parolee is detained in another state or commits a new offense. Therefore, this rule should be continued. In some cases the Board reserves its right, for good cause, to exceed the

outlined time limitations. Rule R671-515 is discretionary, not mandatory.

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Megan Flox-Lambert at the above address, by phone at 801-261-6456, by FAX at 801-261-6448, or by Internet E-mail at mflox@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 07/03/2008

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Pardons (Board Of), Administration
R671-516
Parole Revocation Hearings

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 31655
FILED: 07/03/2008, 12:52

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 77-27-5, 77-27-9, and 77-27-11 require the Board to outline their procedures regarding parole revocation hearings.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R671-516 outlines Board procedures regarding the execution of parole revocation hearings, taking into account pleas, allegations, and sufficiency of evidence. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
Room 300
448 E 6400 S
SALT LAKE CITY UT 84107-8530, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Megan Flox-Lambert at the above address, by phone at 801-261-6456, by FAX at 801-261-6448, or by Internet E-mail at mflox@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 07/03/2008

◆ ————— ◆

Regents (Board Of), University of Utah,
Administration
R805-1
Operating Regulations for Bicycles,
Skateboards and Scooters

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 31695
FILED: 07/11/2008, 14:36

**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 53B-2-106 authorizes Rule R805-1 by authorizing the president of each higher educational institution, with approval of the relevant board of trustees, to enact rules for the administration and operation of the institution. Section 53B-3-101 authorizes Rule R805-1 by allowing the Board of Regents to pass rules and regulations governing parking and traffic on campuses and to enforce the rules and regulations by all appropriate methods. Section 53B-3-101 further allows the Board of Regents to delegate this same authority to the president of each institution so long as the relevant board of trustees approves.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The University of Utah's ability to ensure the safety of all persons on campus has been facilitated by Rule R805-1. Rule R805-1 regulates the operation of bicycles, skateboards, and scooters on campus and provides clear standards on the proper operation of these means of transportation. Rule R805-1 further gives the University of Utah the ability to sanction students, staff, and faculty who are in violation of this rule. The University of Utah has approximately 30,000 students and 17,000 employees who live/work/study together in a small geographic area. The use of bicycles, skateboards, and scooters on and around campus is very common and Rule R805-1 gives the University meaningful tools for the regulation of this type of traffic which enhances the safety of the University community. Therefore, this rule should be continued.

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

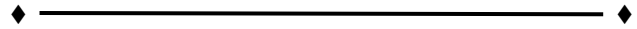
REGENTS (BOARD OF)
UNIVERSITY OF UTAH, ADMINISTRATION
Room 309 PARK BLDG
201 S PRESIDENTS CIR
SALT LAKE CITY UT 84112-9009, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Scott Smith at the above address, by phone at 801-585-7002, by FAX at 801-585-7007, or by Internet E-mail at scott.smith@legal.utah.edu

AUTHORIZED BY: Robert W. Payne, Associate General Counsel

EFFECTIVE: 07/11/2008



End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file an extension with the Division of Administrative Rules. The extension permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed extensions for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date. The five-year review extension is governed by Subsection 63G-3-305(4) and (5).

Transportation

Operations, Maintenance

No. 31693: R918-4. Using Volunteer Groups for the Adopt-a-Highway Program.

ENACTED OR LAST REVIEWED: 07/10/2003 (No. 26184, NEW, filed 04/23/2003 at 1:03 p.m., published 05/15/2003).

EXTENDED DUE DATE: 11/07/2008

End of the Notices of Five-Year Review Extensions Section

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. Statute permits an agency to make a rule effective "on any date specified by the agency that is no fewer than seven calendar days after the close of the public comment period . . . , nor more than 120 days after the publication date." Subsection 63G-3-301(9).

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Administrative Services

Facilities Construction and Management

No. 31098 (AMD): R23-2. Procurement of Architect-Engineer Services.
Published: April 15, 2008
Effective: July 14, 2008

Agriculture and Food

Plant Industry

No. 31127 (AMD): R68-8-2. Noxious Weed Seeds and Weed Seed Restrictions.
Published: May 1, 2008
Effective: July 2, 2008

No. 31128 (AMD): R68-9. Utah Noxious Weed Act.
Published: May 1, 2008
Effective: July 2, 2008

No. 31126 (AMD): R68-16. Quarantine Pertaining to Pine Shoot Beetle, *Tomicus piniperda*.
Published: May 1, 2008
Effective: July 2, 2008

Commerce

Administration

No. 31385 (AMD): R151-2-4. Forms.
Published: June 1, 2008
Effective: July 8, 2008

Occupational and Professional Licensing

No. 31396 (AMD): R156-28. Veterinary Practice Act Rules.
Published: June 1, 2008
Effective: July 10, 2008

No. 31397 (AMD): R156-41. Speech-Language Pathology and Audiology Licensing Act Rules.
Published: June 1, 2008
Effective: July 14, 2008

No. 30854 (AMD): R156-71. Naturopathic Physician Practice Act Rules.
Published: January 15, 2008
Effective: July 8, 2008

No. 30854 (CPR): R156-71. Naturopathic Physician Practice Act Rules.
Published: June 1, 2008
Effective: July 8, 2008

Community and Culture

Indian Affairs

No. 30912 (AMD): R230-1. Native American Grave Protection and Repatriation.
Published: February 1, 2008
Effective: July 16, 2008

No. 30912 (CPR): R230-1. Native American Grave Protection and Repatriation.
Published: June 1, 2008
Effective: July 16, 2008

Education

Administration

No. 31439 (NEW): R277-109. One-time Signing Bonuses.
Published: June 1, 2008
Effective: July 8, 2008

No. 31440 (NEW): R277-113. One-time Performance-based Compensation Program.
Published: June 1, 2008
Effective: July 8, 2008

No. 31441 (AMD): R277-471. Oversight of School Inspections.
Published: June 1, 2008
Effective: July 8, 2008

No. 31442 (AMD): R277-488. Critical Languages Pilot Program.
Published: June 1, 2008
Effective: July 8, 2008

No. 31443 (NEW): R277-490. Beverley Taylor Sorenson Elementary Arts Learning Program.
Published: June 1, 2008
Effective: July 8, 2008

No. 31444 (AMD): R277-504. Early Childhood, Elementary, Secondary, Special Education (K-12), Communication Disorders, Speech-Language Pathologist and Speech-Language Technician, and Special Education (Birth-Age 5) Certification.
Published: June 1, 2008
Effective: July 8, 2008

No. 31445 (NEW): R277-525. Special Educator Stipends.
 Published: June 1, 2008
 Effective: July 8, 2008

Health

Community and Family Health Services, Children with Special Health Care Needs
 No. 31070 (AMD): R398-5. Birth Defects Reporting.
 Published: April 15, 2008
 Effective: July 3, 2008

Human Services

Substance Abuse and Mental Health
 No. 31166 (AMD): R523-23-9. Alcohol Training and Education Seminar Provider Standards.
 Published: May 15, 2008
 Effective: July 14, 2008

No. 31164 (AMD): R523-24-7. Approved Curriculum.
 Published: May 15, 2008
 Effective: July 14, 2008

No. 31165 (AMD): R523-24-9. Alcohol Training and Education Seminar Provider Standards.
 Published: May 15, 2008
 Effective: July 14, 2008

Insurance

Title and Escrow Commission
 No. 31337 (NEW): R592-7. Title Insurance Continuing Education Program.
 Published: May 15, 2008
 Effective: July 14, 2008

No. 31339 (NEW): R592-8. Application Process for an Attorney Exemption for Title Agency Licensing.
 Published: May 15, 2008
 Effective: July 14, 2008

No. 31341 (NEW): R592-9. Title Insurance Recovery, Education, and Research Fund Assessment Rule.
 Published: May 15, 2008
 Effective: July 14, 2008

Labor Commission

Antidiscrimination and Labor, Labor
 No. 31438 (REP): R610-4. Employment Agency Licensing.
 Published: June 1, 2008
 Effective: July 8, 2008

Natural Resources

Water Rights
 No. 31431 (AMD): R655-14. Administrative Procedures for Enforcement Proceedings Before the Division of Water Rights.
 Published: June 1, 2008
 Effective: July 8, 2008

Public Safety

Driver License
 No. 31436 (AMD): R708-10. Classified License System.
 Published: June 1, 2008
 Effective: July 8, 2008

No. 31437 (AMD): R708-16. Pedestrian Vehicle Rule.
 Published: June 1, 2008
 Effective: July 8, 2008

No. 31435 (AMD): R708-30-10. Certificate of Course Completion.
 Published: June 1, 2008
 Effective: July 11, 2008

Workforce Services

Employment Development
 No. 31365 (AMD): R986-200-240. Additional Payments Available Under Certain Circumstances.
 Published: May 15, 2008
 Effective: July 2, 2008

No. 31364 (AMD): R986-700. Child Care Assistance.
 Published: May 15, 2008
 Effective: July 2, 2008

End of the Notices of Rule Effective Dates Section

RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2008, including notices of effective date received through July 15, 2008, the effective dates of which are no later than August 1, 2008. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: The index may contain inaccurate page number references. Also the index is incomplete in the sense that index entries for Changes in Proposed Rules (CPRs) are not preceded by entries for their parent Proposed Rules. Bulletin issue information and effective date information presented in the index are, to the best of our knowledge, complete and accurate. If you have any questions regarding the index and the information it contains, please contact Nancy Lancaster (801-538-3218), Mike Broschinsky (801-538-3003), or Kenneth A. Hansen (801-538-3777).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

| | |
|--------------------------------|----------------------------------|
| AMD = Amendment | NSC = Nonsubstantive rule change |
| CPR = Change in proposed rule | REP = Repeal |
| EMR = Emergency rule (120 day) | R&R = Repeal and reenact |
| NEW = New rule | 5YR = Five-Year Review |
| EXD = Expired | |

| CODE REFERENCE | TITLE | FILE NUMBER | ACTION | EFFECTIVE DATE | BULLETIN ISSUE/PAGE |
|---|---|-------------|--------|----------------|---------------------|
| Administrative Services | | | | | |
| <u>Administration</u> | | | | | |
| R13-1 | 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 |
| <u>Facilities Construction and Management</u> | | | | | |
| R23-2 | Procurement of Architect-Engineer Services | 31098 | AMD | 07/14/2008 | 2008-8/2 |

| CODE REFERENCE | TITLE | FILE NUMBER | ACTION | EFFECTIVE DATE | BULLETIN ISSUE/PAGE |
|---|--|-------------|--------|----------------|---------------------|
| 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 |
| R23-22 | General Procedures For Acquisition and Selling of Real Property | 31607 | EMR | 06/25/2008 | 2008-14/120 |
| <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 |
| R25-7 | Travel-Related Reimbursements for State Employees | 31320 | AMD | 07/01/2008 | 2008-10/4 |
| R25-8 | Meal Allowance | 31321 | AMD | 07/01/2008 | 2008-10/7 |
| R25-14 | Payment of Attorneys' Fees in Death Penalty Cases | 31363 | EMR | 05/05/2008 | 2008-10/140 |
| <u>Fleet Operations</u> | | | | | |
| R27-3 | Vehicle Use Standards | 31137 | AMD | 06/17/2008 | 2008-9/3 |
| 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 |
| <u>Purchasing and General Services</u> | | | | | |
| R33-1 | Utah State Procurement Rules Definitions | 31477 | NSC | 06/18/2008 | Not Printed |
| R33-2-101 | Delegation of Authority of the Chief Procurement Officer | 31478 | NSC | 06/18/2008 | Not Printed |
| R33-3 | Source Selection and Contract Formation | 31479 | NSC | 06/18/2008 | Not Printed |
| R33-4 | Specifications | 31480 | NSC | 06/18/2008 | Not Printed |
| R33-5 | Construction and Architect-Engineer Selection | 31481 | NSC | 06/18/2008 | Not Printed |
| R33-7 | Cost Principles | 31482 | NSC | 06/18/2008 | Not Printed |
| R33-8-101 | Quality Assurance, Inspection, and Testing | 31483 | NSC | 06/18/2008 | Not Printed |
| <u>Risk Management</u> | | | | | |
| R37-2 | Risk Management State Workers' Compensation Insurance Administration | 31347 | AMD | 06/23/2008 | 2008-10/8 |
| R37-4 | Adjusted Utah Governmental Immunity Act Limitations on Judgments | 31150 | R&R | 07/01/2008 | 2008-9/5 |
| Agriculture and Food | | | | | |
| <u>Administration</u> | | | | | |
| R51-5 | Grazing Advisory Boards | 31471 | REP | 07/22/2008 | 2008-12/5 |
| <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> | | | | | |
| R68-3-2 | Registration of Products | 31491 | AMD | 07/25/2008 | 2008-12/6 |
| 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 |

RULES INDEX

| CODE REFERENCE | TITLE | FILE NUMBER | ACTION | EFFECTIVE DATE | BULLETIN ISSUE/PAGE |
|---|--|-------------|--------|----------------|---------------------|
| R68-8-2 | Noxious Weed Seeds and Weed Seed Restrictions | 31127 | AMD | 07/02/2008 | 2008-9/7 |
| R68-9 | Utah Noxious Weed Act | 31544 | 5YR | 06/09/2008 | 2008-13/147 |
| R68-9 | Utah Noxious Weed Act | 31128 | AMD | 07/02/2008 | 2008-9/8 |
| 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, Tomicus Piniperda | 31543 | 5YR | 06/09/2008 | 2008-13/147 |
| R68-16 | Quarantine Pertaining to Pine Shoot Beetle, Tomicus piniperda | 31126 | AMD | 07/02/2008 | 2008-9/11 |
| R68-17 | Quarantine Pertaining to Necrotic Strain of the Potato Virus Y | 31009 | REP | 04/11/2008 | 2008-5/4 |
| <u>Regulatory Services</u> | | | | | |
| R70-560 | Cottage Food Production Operations | 31430 | AMD | 07/25/2008 | 2008-11/47 |
| Alcoholic Beverage Control | | | | | |
| <u>Administration</u> | | | | | |
| R81-1-2 | Definitions | 31254 | AMD | 06/27/2008 | 2008-10/10 |
| R81-1-9 | Liquor Dispensing Systems | 31273 | AMD | 06/27/2008 | 2008-10/11 |
| R81-1-10 | Wine Dispensing | 31275 | AMD | 06/27/2008 | 2008-10/13 |
| R81-1-11 | Multiple-Licensed Facility Storage and Service | 31279 | AMD | 06/27/2008 | 2008-10/14 |
| R81-1-26 | Criminal History Background Checks | 31289 | AMD | 06/27/2008 | 2008-10/16 |
| R81-3-1 | Definitions | 31291 | AMD | 06/27/2008 | 2008-10/18 |
| R81-3-9 | Promotion and Listing of Products | 31328 | AMD | 06/27/2008 | 2008-10/19 |
| R81-3-13 | Operational Restrictions | 31329 | AMD | 06/27/2008 | 2008-10/20 |
| R81-3-14 | Type 5 Package Agencies | 31330 | AMD | 06/27/2008 | 2008-10/21 |
| 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 |
| R81-5-11 | Price Lists | 31287 | AMD | 06/27/2008 | 2008-10/25 |
| R81-7-1 | Application Guidelines | 31332 | AMD | 06/27/2008 | 2008-10/26 |
| R81-10 | Off-Premise Beer Retailers | 31334 | NEW | 06/27/2008 | 2008-10/27 |
| Auditor | | | | | |
| <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 |
| R123-4-7 | Administrative Review | 31267 | NSC | 05/05/2008 | Not Printed |
| Capitol Preservation Board (State) | | | | | |
| <u>Administration</u> | | | | | |
| R131-1 | Procurement of Architectural and Engineering Services | 30591 | AMD | 02/29/2008 | 2007-21/11 |
| R131-4 | Procurement of Construction | 30590 | R&R | 02/29/2008 | 2007-21/13 |

| CODE REFERENCE | TITLE | FILE NUMBER | ACTION | EFFECTIVE DATE | BULLETIN ISSUE/PAGE |
|--|--|-------------|--------|----------------|---------------------|
| Career Service Review Board | | | | | |
| <u>Administration</u> | | | | | |
| R137-2 | Government Records Access and Management Act | 31473 | 5YR | 05/21/2008 | 2008-12/50 |
| Commerce | | | | | |
| <u>Administration</u> | | | | | |
| R151-2 | Government Records Access and Management Act Rule | 31345 | NSC | 05/05/2008 | Not Printed |
| R151-2-4 | Forms | 31385 | AMD | 07/08/2008 | 2008-11/49 |
| R151-3-1 | Authority and Purpose | 31346 | NSC | 05/05/2008 | Not Printed |
| R151-14-3 | Adjudicative Proceedings | 31354 | NSC | 05/05/2008 | Not Printed |
| R151-35-3 | Adjudicative Proceedings | 31355 | NSC | 05/05/2008 | Not Printed |
| <u>Consumer Protection</u> | | | | | |
| R152-1 | Utah Division of Consumer Protection: "Buyer Beware List" | 31184 | NSC | 05/05/2008 | Not Printed |
| R152-11 | Utah Consumer Sales Practices Act Rules | 31213 | NSC | 05/05/2008 | Not Printed |
| R152-15-2 | Filing Requirements. Filing Fees | 31214 | NSC | 05/05/2008 | Not Printed |
| R152-20 | New Motor Vehicle Warranties Rules | 31215 | NSC | 05/05/2008 | Not Printed |
| R152-22-9 | Grounds for Denial, Suspension or Revocation Procedure | 31216 | NSC | 05/05/2008 | Not Printed |
| R152-23-1 | Authority | 31217 | NSC | 05/05/2008 | Not Printed |
| R152-34-10 | Rules Relating to Suspension, Termination or Refusal to Register under Section 13-34-111 | 31218 | NSC | 05/05/2008 | Not Printed |
| <u>Corporations and Commercial Code</u> | | | | | |
| R154-10 | Utah Digital Signatures Act Rules | 30642 | REP | 03/03/2008 | 2007-22/16 |
| <u>Occupational and Professional Licensing</u> | | | | | |
| R156-1 | General Rules of the Division of Occupational and Professional Licensing | 31288 | AMD | 06/23/2008 | 2008-10/30 |
| R156-1-102a | Global Definitions of Levels of Supervision | 30655 | AMD | 01/08/2008 | 2007-23/3 |
| R156-3a-303 | Qualifications for Licensure - Examination Requirements | 30935 | AMD | 03/27/2008 | 2008-4/5 |
| R156-11a | Barber, Cosmetologist/Barber, Esthetician, Electrology, and Nail Technician Licensing Act Rule | 30953 | AMD | 04/10/2008 | 2008-5/5 |
| R156-11a-601 | Standards for Accreditation | 31174 | NSC | 05/05/2008 | Not Printed |
| R156-22-305 | Inactive Status | 31175 | NSC | 05/05/2008 | Not Printed |
| R156-26a | Certified Public Accountant Licensing Act Rules | 30715 | AMD | 03/31/2008 | 2007-23/4 |
| R156-26a | Certified Public Accountant Licensing Act Rules | 30715 | CPR | 03/31/2008 | 2008-4/35 |
| R156-28 | Veterinary Practice Act Rules | 31396 | AMD | 07/10/2008 | 2008-11/56 |
| R156-31b | Nurse Practice Act Rules | 31094 | 5YR | 04/01/2008 | 2008-8/51 |
| R156-31b | Nurse Practice Act Rules | 31156 | AMD | 06/23/2008 | 2008-10/34 |
| R156-38a | Residence Lien Restriction and Lien Recovery Fund Rules | 30654 | AMD | 01/07/2008 | 2007-23/14 |
| R156-38a-105a | Adjudicative Proceedings | 31176 | NSC | 05/05/2008 | Not Printed |
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| R651-611 | Fee Schedule | 30898 | AMD | 03/10/2008 | 2008-3/39 |
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| R651-612 | Firearms, Traps and Other Weapons | 31671 | 5YR | 07/07/2008 | 2008-15/93 |
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| R652-8 | Adjudicative Proceedings | 31269 | NSC | 05/05/2008 | Not Printed |
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| R652-30-500 | Application Procedures | 31270 | NSC | 05/05/2008 | Not Printed |
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| R710-5-3 | Certificates of Registration | 31080 | AMD | 05/23/2008 | 2008-8/35 |
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| R765-607 | Utah Higher Education Tuition Assistance Program | 30957 | 5YR | 02/08/2008 | 2008-5/60 |
| R765-993 | Records Access and Management | 31327 | NSC | 05/05/2008 | Not Printed |

Salt Lake Community College

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University of Utah, Administration

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| R805-2 | Government Records Access and Management Act Procedures | 31340 | NSC | 05/05/2008 | Not Printed |
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University of Utah, Parking and Transportation Services

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| R810-4 | Registration Policies | 30728 | REP | 03/06/2008 | 2007-24/22 |
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Sports Authority (Utah)

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| R859-1-302 | Renewal Cycle - Procedure | 31029 | AMD | 05/01/2008 | 2008-6/16 |

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| 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 |
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| R861-1A-43 | Electronic Meetings Pursuant to Utah Code Ann. Section 52-4-207 | 30780 | AMD | 01/25/2008 | 2007-24/24 |

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| R865-9I-37 | Enterprise Zone Individual Income Tax Credits Pursuant to Utah Code Ann. Sections 63-38f-401 through 63-38f-414 | 30916 | AMD | 03/14/2008 | 2008-3/63 |
| 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 |
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| R909-19 | Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operations and Certification | 30785 | AMD | 02/12/2008 | 2007-24/26 |
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| R994-307 | Social Costs -- Relief of Charges | 31548 | 5YR | 06/10/2008 | 2008-13/152 |
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| R994-508 | Appeal Procedures | 30771 | AMD | 02/15/2008 | 2007-24/30 |
| R994-508 | Appeal Procedures | 31546 | 5YR | 06/10/2008 | 2008-13/153 |
| R994-508-117 | Failure to Participate in the Hearing and Reopening the Hearing After the Hearing Has Been Concluded | 31020 | NSC | 03/11/2008 | Not Printed |
| 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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| <u>adjudicative proceedings</u> | | | | | |
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| | 31643 | R602-4 | EMR | 07/01/2008 | 2008-14/127 |
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| | 31461 | R307-103 | NSC | 06/18/2008 | Not Printed |
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| | 30963 | R307-202 | 5YR | 02/08/2008 | 2008-5/42 |
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| | 30707 | R307-801 | AMD | 02/08/2008 | 2007-23/45 |
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| | 31351 | R523-23-13 | NSC | 05/05/2008 | Not Printed |
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