

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/>

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Division of Administrative Rules, Salt Lake City 84114

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EDITOR'S NOTES

Correction for the Filing on Rule R430-8 (Dar No. 31819) Published in the September 1, 2008, Bulletin

An editorial error occurred in preparing the text for the proposed repeal and reenactment for Rule R430-8 (DAR No. 31819), 2008-17, pg. 60. This error resulted in the content of the proposed reenacted Section R430-8-1 being omitted. The content of that section is reproduced below:

R430-8-1. Legal Authority.

This rule is promulgated pursuant to Title 26, Chapter 39.

This error has no effect on the legitimacy of the filing.

Questions regarding this editorial error should be addressed to Mike Broschinsky, mbroschi@utah.gov, phone at 801-538-3003, FAX at 801-538-1773.

End of the Editor's Notes Section

SPECIAL NOTICES

Governor's Executive Order 2008-0009: Wildland Fire Management

EXECUTIVE ORDER

Wildland Fire Management

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

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

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

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

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

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

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

(State Seal)

Jon M. Huntsman, Jr.
Governor

ATTEST:

Gary R. Herbert
Lieutenant Governor

2008/0009

Health
Health Care Financing, Coverage and Reimbursement Policy

Notice for October Medicaid Rate Changes

Effective October 1, 2008, Utah Medicaid will adjust its rates consistent with approved methodologies. Rate adjustments include new codes priced consistent with approved Medicaid methodologies as well as potential adjustments to existing codes. Nursing home rate changes to case mix components consistent with adopted payment methodology. No significant reimbursement change to impacted providers is expected. All rate changes are posted to the web and can be viewed at: <http://health.utah.gov/medicaid/stplan/bcrp.htm>. A copy of the changes may also be obtained through local health departments.

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 August 16, 2008, 12:00 a.m., and September 2, 2008, 11:59 p.m. are included in this, the September 15, 2008, issue of the *Utah State Bulletin*.

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

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

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least October 15, 2008. The agency may accept comment beyond this date and will list the last day the agency will accept comment in the RULE ANALYSIS. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency to hold a hearing on a specific PROPOSED RULE. Section 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 January 13, 2009, 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.

**Alcoholic Beverage Control,
Administration
R81-1-26
Criminal History Background Checks**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31915

FILED: 09/02/2008, 08:59

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being changed to permit those who are required to submit a criminal background check from the Utah Bureau of Criminal Investigation (BCI) to have the same consideration of providing a temporary third-party background check as is allowed to those required to provide an FBI check.

SUMMARY OF THE RULE OR CHANGE: Applicants for the Department of Alcoholic Beverage Control (DABC)-issued alcoholic beverage licenses are required to provide a criminal background check. Depending on how long the applicant has lived in Utah, they will be required to get the background check from either the FBI or BCI. The rule, as currently written, permits an individual who is required to provide a criminal background check from the FBI to provide the DABC with a temporary background check from a third-party provider until the FBI check is received. This was done because the FBI often takes up to six months to process background check requests and the rule permits the applicant to be licensed in the interim. It has come to the attention of the DABC that the processing of BCI background checks can also take an extended period of time. Therefore, it is proposed to amend this rule to give the same third-party provider consideration to those seeking a BCI check. The rule amendment also clarifies the fact that only DABC benefited employees are required to obtain a criminal background check. This means that part-time and temporary employees do not need to provide a criminal background check at the time of hire.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32A-1-107

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There may be a cost savings to the state budget in only requiring benefited employees to have a criminal background check. Each of these background checks cost \$5 and the rule requires that the DABC pay that fee. Since the department hires far fewer employees on a full-time basis than on a part-time or temporary basis, there will be some cost savings, though the exact amount is difficult to determine.
- ❖ **LOCAL GOVERNMENTS:** None--This rule amendment only affects applicants for DABC licenses or DABC employment and does not affect local governments.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** None--The rule, as written, already requires the background checks at the expense of the applicant. This amendment does nothing to change that cost.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The rule, as written, already requires the background checks at the expense of the applicant. This amendment does nothing to change that cost. The cost of background checks for DABC benefited employees is paid by the DABC.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule amendment will have no fiscal impact on businesses. It merely gives an applicant an opportunity to receive an alcoholic beverage license from DABC while waiting for either an FBI or BCI background check. Dennis R. Kellen, Executive Director

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

**ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY UT 84104-1630, or
at the Division of Administrative Rules.**

DIRECT QUESTIONS REGARDING THIS RULE TO:
Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at smackay@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 10/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2008

AUTHORIZED BY: Dennis R. Kellen, Director

**R81. Alcoholic Beverage Control, Administration.
R81-1. Scope, Definitions, and General Provisions.
R81-1-26. Criminal History Background Checks.**

(1) Authority. This rule is pursuant to:

(a) the commission's powers and duties under 32A-1-107 to set policy by written rules that establish criteria and procedures for granting, denying, suspending, or revoking permits, licenses, and package agencies;

(b) 32A-1-111, 32A-2-101(1)(b), 32A-3-103, 32A-4-103, 32A-4-203, 32A-4-304, 32A-4-403, 32A-5-103, 32A-6-103, 32A-7-103, 32A-8-103, 32A-8-503, 32A-9-103, 32A-10-203, 32A-10-303, and 32A-11-103 that prohibit certain persons ~~that~~ who have been convicted of certain criminal offenses from being employed by the department or from holding or being employed by the holder of an alcoholic beverage license, permit, or package agency; and

(c) ~~[32A-1-107]~~ 32A-1-701 through 704 that allow for the department to require criminal history background check reports on certain individuals.

(2) Purpose. This rule:

(a) establishes the circumstances under which a person identified in the statutory sections enumerated in Subparagraph (1)(b), must provide the department with a criminal history background report that shows the person meets the qualifications of those statutory sections as a condition of employment with the department, or as a condition of the

commission granting a license, permit, or package agency to an applicant for a license, permit, or package agency; and

(b) establishes the procedures for the filing and processing of criminal history background reports.

(3) Application of Rule.

(a)(i) Except to the extent provided in Subparagraphs (3)(a)(iv), (v), (vi), and (vii) a person identified in Subparagraph (1)(b) who has been a resident of the state of Utah for at least two years, shall submit a fingerprint card to the department, and consent to a fingerprint criminal background check by Utah Bureau of Criminal Identification, Department of Public Safety (hereafter "B.C.I.").

(ii) Except to the extent provided in Subparagraphs (3)(a)(iv), (v), (vi), and (vii), and (3)(b) through (h), a person identified in Subparagraph (1)(b) who has been a resident of the state of Utah for less than two years, shall submit a fingerprint card to the department, and consent to a fingerprint criminal background check by the Federal Bureau of Investigation (hereafter "F.B.I.").

(iii) Except to the extent provided in Subparagraphs (3)(a)(iv), (v), and (vi), and (vii), (3)(b) through (h), a person identified in Subparagraph (1)(b) who currently resides outside the state of Utah shall submit a fingerprint card to the department, and consent to a fingerprint criminal background check by the F.B.I.

(iv) A person identified in Subparagraph (1)(b) who previously submitted a criminal background check as part of the application process for a different license, permit, or package agency that was issued by the commission shall not be required to submit a fingerprint card with the department or provide a new criminal history background report as part of the application process for a new license, permit, or package agency if the person attests that he or she has not been convicted of any disqualifying criminal offense identified in Subparagraph (1)(b).

(v) An applicant for a single event permit under Title 32A, Chapter 7 shall not be required to submit a fingerprint card or provide a criminal history background report if the applicant attests that the persons identified in Subparagraph (1)(b) have not been convicted of any disqualifying criminal offense.

(vi) An applicant for a temporary special event beer permit under 32A-10-301 to -306 shall not be required to submit a fingerprint card or provide a criminal history background report if the applicant attests that the persons identified in Subparagraph (1)(b) have not been convicted of any disqualifying criminal offense identified in Subparagraph (1)(b).

(vii) An applicant for employment with benefits with the department shall be required to submit a fingerprint card and consent to a fingerprint criminal background check only if the department has made the decision to offer the applicant employment with the department.

(b) An application that requires B.C.I. or F.B.I. criminal history background report(s) may be included on a commission meeting agenda, and may be considered by the commission for issuance of a license, permit, or package agency if:

(i) the applicant has completed all requirements to apply for the license, permit, or package agency other than the department receiving the required B.C.I. or F.B.I. criminal history background report(s);

(ii) the applicant attests in writing that he or she is not aware of any criminal conviction of any person identified in Subparagraph (1)(b) that would disqualify the applicant from applying for and holding the license, permit, or package agency;

(iii) the applicant has submitted to the department the necessary fingerprint card(s) required for the application, and consented to the fingerprint criminal background check(s) by the B.C.I. or F.B.I.;

(iv) the applicant at the time of application supplies the department with a current criminal history background report conducted by a third-party background check reporting service on any person for which a B.C.I. or an F.B.I. background check is required; and

(v) the applicant stipulates in writing that if a B.C.I. or an F.B.I. report shows a criminal conviction that would disqualify the applicant from holding the license, permit, or package agency, the applicant shall immediately surrender the license, permit, or package agency to the department.

(c) The commission may issue a license, permit, or package agency to an applicant that has met the requirements of Subparagraph (3)(b), and the license, permit, or package agency shall be valid during the period the B.C.I. or F.B.I. is processing the criminal history report(s).

(d) The department shall use a unique file tracking system for such licenses, permits, and package agencies.

(e) If the required B.C.I. or F.B.I. report(s) are not received by the department within six (6) months of the date the license, permit, or package agency is issued by the commission, the licensee, permittee, or package agent shall appear at the next regular meeting of the commission for a status report, and the commission may either order the surrender of the license, permit, or package agency, or may extend the reporting period.

(f) Upon the department's receipt of the B.C.I. or F.B.I. report(s):

(i) if there is no disqualifying criminal history, the license, permit, or package agency shall continue for the balance the license or permit period, or the package agency contract period; or

(ii) if there is a disqualifying criminal history, the license, permit, or package agency shall be immediately surrendered, and the commission may enter an order accepting the surrender, or an order revoking the license, permit, or package agency depending on the circumstances.

(g) In the case of a license or permit, if the statutory deadline for renewing the license or permit occurs before receipt of the B.C.I. or F.B.I. report(s), the licensee or permittee may file for renewal of the license or permit subject to meeting all of the requirements in Subparagraphs (3)(b) through (f).

(h) An applicant for employment with benefits with the department that requires a B.C.I. or an F.B.I. criminal history background report may be conditionally hired by the department prior to receipt of the report if:

(i) the applicant attests in writing that he or she is not aware of any criminal conviction that would disqualify the applicant from employment with the department;

(ii) the applicant has submitted to the department the necessary fingerprint card(s) required for the application, and consented to the fingerprint criminal background check(s) by the B.C.I. or F.B.I.;

(iii) the applicant stipulates in writing that if a B.C.I. or an F.B.I. report shows a criminal conviction that would disqualify the applicant from employment with the department, the applicant shall terminate his or her employment with the department.

KEY: alcoholic beverages

Date of Enactment or Last Substantive Amendment: [June 27], 2008

Notice of Continuation: August 31, 2006

Authorizing, and Implemented or Interpreted Law: 32A-1-107; 32A-1-119(5)(c); 32A-1-702; 32-1-703; 32A-1-704; 32A-3-103(1)(a); 32A-4-103(1)(a); 32A-4-106(22)(1)(a); 32A-4-

203(1)(a); 32A-4-304(1)(a); 32A-4-307[(22)](1)(a); 32A-4-401(1)(a); [~~32A-4-403(1)(a)~~]; 32A-5-103(1)(a); [~~32A-5-107(40)~~]; 32A-6-103(2)(a); 32A-7-103(2)(a); 32A-7-106(5); 32A-8-103(1)(a); 32A-8-503(1)(a); 32A-9-103(1)(a); 32A-10-203(1)(a); 32A-10-206(14); 32A-10-303(1)(a); 32A-10-306(5); 32A-11-103(1)(a)

◆ ————— ◆

Commerce, Consumer Protection R152-32a Exempt Businesses

NOTICE OF PROPOSED RULE

(New Rule)
DAR FILE NO.: 31918
FILED: 09/02/2008, 11:42

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to provide for exemptions from the definition of second hand merchandise dealer.

SUMMARY OF THE RULE OR CHANGE: This new rule specifies which businesses are exempt from the second hand merchandise dealer definition.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 13-2-5 and Subsection 13-32a-102(19)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The state budget will be impacted somewhat by the loss of fees from businesses given an exemption by the new rule.
- ❖ LOCAL GOVERNMENTS: No cost--The proposed rule does not impose any compliance or regulatory requirements on local governments.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The exempt industries will save money not having to comply with the registration and fee requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The exempt industries will save money not having to comply with the registration and fee requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The industries that are included as exempt will save money by not having to comply with the fee and registration requirements. The state has some impact by loss of the fee. The impact on the state is speculative and difficult to quantify. Francine Giani, Executive Director

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

COMMERCE
CONSUMER PROTECTION
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:
Angela Hendricks at the above address, by phone at 801-530-6035, by FAX at 801-538-6001, or by Internet E-mail at ahendricks@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 10/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 11/01/2008

AUTHORIZED BY: Kevin V Olsen, Director

—————

R152. Commerce, Consumer Protection.

R152-32a. Pawnshop and Secondhand Merchandise Transaction Information Act Rules.

R152-32a-1. Authority.

These rules are promulgated pursuant to Utah Code 13-2-5(1) and 13-32a-102.5(1) to facilitate the orderly administration of the Pawnshop and Secondhand Merchandise Transaction Information Act, Utah Code Title 13, Section 32a.

R152-32a-2. Exempt Businesses.

In accordance with Section 13-32a-102(19)(b)(ii), the definition of "Secondhand merchandise dealer" does not include:

- (1) Scrap metal processors as defined by Section 76-10-901(4);
- (2) Dealers of used appliances; and
- (3) Dealers of used furniture.

KEY: pawnshops, consumer protection, second hand merchandise dealer

Date of Enactment or Last Substantive Amendment: 2008
Authorizing, Implemented or Interpreted Law: 13-2-5; 13-32a-102(19)

◆ ————— ◆

Commerce, Occupational and Professional Licensing R156-22 Professional Engineers and Professional Land Surveyors Licensing Act Rule

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 31841
FILED: 08/19/2008, 08:11

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: As a result of statute amendments made in S.B. 200 during the 2008 General Session of the Legislature to Title 58, Chapter 22,

related amendments are made to this rule by the Division and the Professional Engineers and Professional Land Surveyors Licensing Board. (DAR NOTE: S.B. 200 (2008) is found at Chapter 277, Laws of Utah 2008, and was effective 05/05/2008.)

SUMMARY OF THE RULE OR CHANGE: Statutory citations are updated throughout the rule were needed. In Section R156-22-302b, the existing rule defines an equivalent land surveying program for licensure as an earned bachelor's or a master's degree from a curriculum of study related to land surveying and the completion of 22 semester hours or 32 quarter hours of a course of study outlined in the rule. Applicants for licensure as a professional land surveyor who hold a bachelor's or master's degree in other disciplines are unable to show that their course work of study is related to land surveying. In most cases, in order to become licensed, such applicants ended up having to obtain an additional associate degree in land surveying. The proposed amendments to this section delete the phrase "from a curriculum related to land surveying" and increase the minimum number of study hours to be completed in land surveying course work from 22 to 30 semester hours and from 32 to 42 quarter hours. Photogrammetry and studies in land records or land record systems have been removed as elective courses of study and added as required areas of study. Calculus and statistics are being added as elective courses of study. The proposed amendments in this section would allow those applicants with a bachelor's or master's degree in any discipline to become licensed as a professional land surveyor without requiring further schooling. In Section R156-22-302c, Subsection 58-22-302(3)(d) of the governing statute requires an associate or higher degree to become licensed as a professional land surveyor. The governing statute, as well as the current administrative rule provide for applicants who lack the necessary education to become licensed if they had eight years of documented experience prior to 01/01/2007. The proposed amendment to this section adds that those type of applicants have until 12/31/2009 to apply for licensure by documenting the eight years of qualifying experience in land surveying. In Section R156-22-302d, currently, applicants for licensure as a professional engineer, professional structural engineer, or professional land surveyor are required to complete both their education and work experience requirements prior to taking the respective licensing examinations. Under the proposed amendments, applicants will still have to complete the education requirement prior to taking an examination; however applicants will now be allowed to take the respective licensing examination one year prior to completing their work experience requirement. The licensing examination for these license classifications is only offered twice a year. The Division has found that applicants often wait an additional year after they have completed their work experience to take the required licensing examinations. The proposed amendment regarding timing of when licensing examinations can be taken is an effort to assist applicants in completing their examination requirements at about the same time they complete their work experience thus resulting in obtaining licensure in a more timely manner.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-22-101 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$100 to reprint the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget. It is expected the proposed amendments in the education requirements for professional land surveyors will have little or no effect on those processing license applications or on the state's institutions of higher learning.

❖ **LOCAL GOVERNMENTS:** The proposed amendments do not apply to local governments. Proposed amendments only apply to applicants for licensure as a professional engineer, professional structural engineer, and professional land surveyor.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The proposed amendments only apply to applicants for licensure as a professional engineer, professional structural engineer, and professional land surveyor. Employers of these types of applicants for licensure often assist their employees with the cost of education and licensing and many of the employers have fewer than 50 employees, thus qualifying them as a small business. For those professional land surveyor applicants who have a bachelor's or master's degree, the average tuition for a state resident to obtain the additional 8 (from 22 to 30) semester hours of college credit in land surveying course work is approximately \$1,100. Such applicants in order to obtain an associate degree in land surveying from Salt Lake Community College would have to pay approximately \$5,319 in tuition. As a result of these proposed amendments, applicants for licensure as a professional land surveyor would realize a savings of approximately \$4,200 in tuition based on no longer needing to obtain an additional associate degree minus the increase to obtain the additional required semester/quarter hours. In addition to the tuition savings, there would be savings to the applicant from other unknown costs associated with transportation, fees, books, and time saved from not having to complete the requirements of an associate degree. The Division is unable to determine how many applicants for licensure as a professional land surveyor the proposed amendments will apply to. Also, as a result of the proposed amendments, the Division expects unquantifiable savings for applicants for licensure as a professional engineer, professional structural engineer, and professional land surveyor due to the ability to take the required licensing examinations one year earlier and which may thus result in obtaining licensure in a more timely manner. This proposed amendment will apply to all new applicants for licensure in those license classifications.

COMPLIANCE COSTS FOR AFFECTED PERSONS: As indicated above, the Division only anticipates savings for applicants for licensure as a professional engineer, professional structural engineer, and professional land surveyor as a result of the proposed amendments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In line with the national trend, this rule filing amends the land surveying requirement to a degree in any discipline if an applicant has taken specific courses as outlined in the rule, including an increase in the minimum hours of study. The filing also clarifies the date for submitting applications for licensure in a certain land surveyor category; due to examination schedules, permits applicants to take their examination during their last year of work experience; and makes other technical amendments. As indicated in the rule filing, it is expected that the amendments to the education requirement for land surveyors and the examination provision will result in a cost savings to applicants. No fiscal impact to other businesses is anticipated by this filing. 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:

Dennis Meservy at the above address, by phone at 801-530-6375, by FAX at 801-530-6511, or by Internet E-mail at dmeservy@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 10/15/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 9/17/2008 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: 10/22/2008

AUTHORIZED BY: F. David Stanley, Director

R156. Commerce, Occupational and Professional Licensing.
R156-22. Professional Engineers and Professional Land Surveyors Licensing Act Rule.
R156-22-102. Definitions.

In addition to the definitions in Title 58, Chapters 1, 3a and 22, as used in Title 58, Chapters 1, 3a and 22, or this rule:

(1) "Complete and final" as used in Section 58-22-603 means "complete construction plans" as defined in Subsection 58-22-102(3).

(2) "Direct supervision" as used in Subsection 58-22-102(10) means "supervision" as defined in Subsection 58-22-102(16).

(3) "Employee, subordinate, associate, or drafter of a licensee" as used in Subsections 58-22-102(16), 58-22-603(1)(b) and this rule means one or more individuals not licensed under this chapter, who are working for, with, or providing professional engineering, professional structural engineering, or professional land surveying

services directly to and under the supervision of a person licensed under this chapter.

(4) "Engineering surveys" as used in Subsection 58-22-102(9) include all survey activities required to support the sound conception, planning, design, construction, maintenance, and operation of engineered projects, but exclude the surveying of real property for the establishment of land boundaries, rights-of-way, easements, alignment of streets, and the dependent or independent surveys or resurveys of the public land survey system.

(5) "Incidental practice" means "architecture work as is incidental to the practice of engineering" as used in Subsection 58-22-102(9) and "engineering work as is incidental to the practice of architecture" as used in Subsection 58-3a-102(6), which:

(a) can be safely and competently performed by the licensee without jeopardizing the life, health, property and welfare of the public;

(b) is in an area where the licensee has demonstrated competence by adequate education, training and experience;

(c) arises from, and is directly related to, work performed in the licensed profession;

(d) is substantially less in scope and magnitude when compared to the work performed or to be performed by the licensee in the licensed profession; and

(e) is work in which the licensee is fully responsible for the incidental practice performed as provided in Subsections 58-3a-603(1) or 58-22-603(1).

(6) "Recognized jurisdiction" as used in Subsection 58-22-302(4)(d)(i), for licensure by endorsement, means any state, district or territory of the United States, or any foreign country who issues licenses for professional engineers, professional structural engineers, or professional land surveyors, and whose licensure requirements include:

(a) Professional Engineer.

(i) a bachelors or post graduate degree in engineering or equivalent education as determined by the Center for Professional Engineering Services (CPEES) and four years of full time engineering experience under supervision of one or more licensed engineers; and

(ii) passing the NCEES Principles and Practice of Engineering Examination (PE).

(b) Professional Structural Engineer.

(i) a bachelors or post graduate degree in engineering or equivalent education as determined by the Center for Professional Engineering Services (CPEES) and four years of full time engineering experience under supervision of one or more licensed engineers;

(ii) passing the NCEES Structural I and II Examination; and

(iii) three years of licensed experience in professional structural engineering.

(c) Professional Land Surveyor.

(i) a two or four year degree in land surveying or equivalent education as determined by the Center for Professional Engineering Services (CPEES) and four years of full time land surveying experience under supervision of one or more licensed professional land surveyors; or eight years of full time land surveying experience under supervision of one or more licensed professional land surveyors; and

(ii) passing the NCEES Principles and Practice of Land Surveying Examination (PLS) or passing a professional land surveying examination that is substantially equivalent to the NCEES Principles and Practice of Land Surveying Examination.

(7) "Responsible charge" by a principal as used in Subsection 58-22-102(7) means that the licensee is assigned to and is personally accountable for the production of specified professional engineering, professional structural engineering or professional land surveying projects within an organization.

(8) "TAC/ABET" means Technology Accreditation Commission/Accreditation Board for Engineering and Technology.

(9) "Under the direction of the licensee" as used in Subsection 58-22-102(16), as part of the definition of "supervision of an employee, subordinate, associate, or drafter of a licensee", means that the unlicensed employee, subordinate, associate, or drafter of a person licensed under this chapter engages in the practice of professional engineering, professional structural engineering, or professional land surveying only on work initiated by a person licensed under this chapter, and only under the administration, charge, control, command, authority, oversight, guidance, jurisdiction, regulation, management, and authorization of a person licensed under this chapter.

(10) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 22, is further defined, in accordance with Subsection 58-1-203([5]1)(e), in Section R156-22-502.

R156-22-302b. Qualifications for Licensure - Education Requirements.

(1) Education requirements - Professional Engineer.

In accordance with Subsections 58-22-302(1)(d) and 58-22-302(2)(d), the engineering program criteria is established as one of the following:

(a) The bachelors or post graduate engineering program shall be accredited by EAC/ABET or the Canadian Engineering Accrediting Board (CEAB).

(b) The post graduate engineering degree, when not accredited by EAC/ABET or CEAB, shall be earned from an institution which offers a bachelors or masters degree in an engineering program accredited by EAC/ABET or CEAB in the same specific engineering discipline as the earned post graduate degree and the applicant is responsible to demonstrate that the combined engineering related coursework taken (both undergraduate and post graduate) included coursework that meets or exceeds the engineering related coursework required for the EAC/ABET accreditation for the bachelor degree program.

(c) If the degree was earned in a foreign country, the engineering curriculum shall be determined to be equivalent to a EAC/ABET accredited program by the Center for Professional Engineering Services (CPEES). Only deficiencies in course work in the humanities, social sciences and liberal arts and no more than five semester hours in math, science or engineering, not to exceed a total of 10 semester hours noted by the credentials evaluation may be satisfied by successfully completing the deficiencies in course work at a recognized college or university approved by the division in collaboration with the board. Engineering course work deficiencies must be completed at an EAC/ABET approved program.

(d) A TAC/ABET accredited degree is not acceptable to meet the qualifications for licensure as a professional engineer.

(2) Education requirements - Professional Land Surveyor.

In accordance with Subsection 58-22-302(3)(d), an equivalent land surveying program for licensure as a professional land surveyor is defined as an earned bachelors or masters degree ~~from a curriculum related to land surveying~~ and completion of a minimum of ~~[22]30~~ semester hours or ~~[32]42~~ quarter hours of course work in land surveying which shall include the following courses:

(a) successful completion of a minimum of one course in each of the following content areas:

- (i) boundary law;
- (ii) writing legal descriptions;
- (iii) ~~[public land survey system]~~photogrammetry;
- (iv) ~~[surveying field techniques]~~public land survey system;
- (v) studies in land records or land record systems;
- (vi) surveying field techniques; and

(b) the remainder of the ~~[22]30~~ semester hours or ~~[32]42~~ quarter hours may be made up of successful completion of courses from the following content areas:

- (i) ~~[photogrammetry]~~algebra, calculus, geometry, statistics, trigonometry, not to exceed six semester hours or eight quarter hours;
- (ii) ~~[studies in land records or land record systems]~~control systems;
- (iii) ~~[survey instrumentation]~~drafting, not to exceed six semester hours or eight quarter hours;
- (iv) ~~[global positioning systems]~~geodesy;
- (v) ~~[geodesy]~~geographic information systems;
- (vi) ~~[control systems]~~global positioning systems;
- (vii) land development; and
- (viii) ~~[drafting, not to exceed six semester hours or eight quarter hours;~~
- ~~(ix) algebra, geometry, trigonometry, not to exceed six semester hours or eight quarter hours;~~
- ~~(x) geographic information systems]~~survey instrumentation.

R156-22-302c. Qualifications for Licensure - Experience Requirements.

(1) General Requirements. These general requirements apply to all applicants under this chapter and are in addition to the specific license requirements in Subsections (2), (3) and (4).

(a) Experience must be progressive on projects that are of increasing quality and requiring greater responsibility.

(b) Only experience of an engineering, structural engineering or surveying nature, as appropriate for the specific license, is acceptable.

(c) Experience is not acceptable if it is obtained in violation of applicable statutes or rules.

(d) Unless otherwise provided in Subsection (1)(e), experience shall be gained under the direct supervision of a person licensed in the profession for which the license application is submitted. Supervision of an intern by another intern is not permitted.

(e) Experience is also acceptable when obtained in a work setting where licensure is not required or is exempted from licensure requirements, including experience obtained in the armed services if:

(i) the experience is performed under the supervision of qualified persons and the applicant provides verifications of the credentials of the supervisor; and

(ii) the experience gained is equivalent to work performed by an intern obtaining experience under a licensed supervisor in a licensed or civilian setting, and the applicant provides verification of the nature of the experience.

(f) Proof of supervision. The supervisor shall provide to the applicant the certificate of qualifying experience in a sealed envelope with the supervisor's seal stamped across the seal flap of the envelope, which the applicant shall submit with the application for licensure.

(g) In the event the supervisor is unavailable or refuses to provide a certification of qualifying experience, the applicant shall

submit a complete explanation of why the supervisor is unavailable and submit verification of the experience by alternative means acceptable to the board, which shall demonstrate that the work was profession-related work, competently performed, and sufficient accumulated experience for the applicant to be granted a license without jeopardy to the public health, safety or welfare.

(h) In addition to the supervisor's documentation, the applicant shall submit at least one verification of qualifying experience from a person licensed in the profession who has personal knowledge of the applicant's knowledge, ability and competence to practice in the profession applied for.

(i) Duties and responsibilities of a supervisor. The duties and responsibilities of a licensee under Subsection (1)(d) or other qualified person under Subsection (1)(e) include the following.

(i) A person may not serve as a supervisor for more than one firm.

(ii) A person who renders occasional, part time or consulting services to or for a firm may not serve as a supervisor.

(iii) The supervisor shall be in responsible charge of the projects assigned and is professionally responsible for the acts and practices of the supervisee.

(iv) The supervision shall be conducted in a setting in which the supervisor is independent from control by the supervisee and in which the ability of the supervisor to supervise and direct the practice of the supervisee is not compromised.

(v) The supervisor shall be available for advice, consultation and direction consistent with the standards and ethics of the profession.

(vi) The supervisor shall provide periodic review of the work assigned to the supervisee.

(vii) The supervisor shall monitor the performance of the supervisee for compliance with laws, standards and ethics applicable to the profession.

(viii) The supervisor shall provide supervision only to a supervisee who is an employee of a licensed professional or alternatively in a setting wherein both the supervisor and the supervisee are engaged in a work setting in which the work is exempt from licensure requirements.

(ix) The supervisor shall submit appropriate documentation to the division with respect to all work completed by the supervisee during the period of supervised experience, including the supervisor's evaluation of the supervisee's competence to practice in the profession.

(x) The supervisor shall assure each supervisee has obtained the degree which is a prerequisite to the intern beginning to obtain qualifying experience.

(2) Experience Requirements - Professional Engineer.

(a) In accordance with Subsection 58-22-302(1)(e), an applicant for licensure as a professional engineer shall complete the following qualifying experience requirements:

(i) Submit verification of qualifying experience, obtained while under the supervision of one or more licensed professional engineers, which experience has been certified by the licensed professional who provided the supervision documenting completion of a minimum of four years of full time or equivalent part time qualifying experience in professional engineering approved by the division in collaboration with the board in accordance with the following:

(A) The qualifying experience must be obtained after meeting the education requirements.

(B) A maximum of three of the four years of qualifying experience may be approved by the board as follows:

(I) A maximum of three years of qualifying experience may be granted for teaching advanced engineering subjects in a college or university offering an engineering curriculum accredited by EAC/ABET.

(II) A maximum of three years of qualifying experience may be granted for conducting research in a college or university offering an engineering curriculum accredited by EAC/ABET provided the research is under the supervision of a licensed professional and is directly related to the practice of engineering, as long as such research has not been credited towards the education requirements. Therefore research which is included as part of the classwork, thesis or dissertation or similar work is not acceptable as additional work experience.

(III) A maximum of one year of qualifying experience may be granted for completion of a masters degree in engineering provided that both the earned bachelors and masters degree in engineering meet the program criteria set forth in Subsection R156-22-302b(1).

(IV) A maximum of two years of qualifying experience may be granted for completion of a doctorate degree in engineering provided that both the earned bachelors or masters degree and doctorate degree in engineering meet the program criteria set forth in Subsection R156-22-302b(1).

(b) The performance or supervision of construction work as a contractor, foreman or superintendent is not qualifying experience for licensure as a professional engineer.

(c) Experience should include demonstration of, knowledge, application, and practical solutions using engineering mathematics, physical and applied science, properties of materials and the fundamental principles of engineering design.

(3) Experience Requirements - Professional Structural Engineer.

(a) In accordance with Subsection 58-22-302(2)(e), each applicant shall submit verification of three years of full time or equivalent part time professional structural engineering experience obtained while under the supervision of one or more licensed professional structural engineers, which experience is certified by the licensed structural engineer supervisor and is in addition to the qualifying experience required for licensure as a professional engineer.

(b) Professional structural engineering experience shall include responsible charge of structural design in one or more of the following areas:

(i) structural design of any building or structure two stories and more, or 45 feet in height, located in a region of moderate or high seismic risk designed in accordance with current codes adopted pursuant to Section 58-56-4;

(ii) structural design for a major seismic retrofit/rehabilitation of an existing building or structure located in a region of moderate or high seismic risk; or

(iii) structural design of any other structure of comparable structural complexity.

(c) Professional structural engineering experience shall include structural design in all of the following areas:

(i) use of three of the following four materials as they relate to the design, rehabilitation or investigation of buildings or structures:

(A) steel;

(B) concrete;

(C) wood; or

- (D) masonry;
 - (ii) selection of framing systems including the consideration of alternatives and the selection of an appropriate system for the interaction of structural components to support vertical and lateral loads;
 - (iii) selection of foundation systems including the consideration of alternatives and the selection of an appropriate type of foundation system to support the structure;
 - (iv) design and detailing for the transfer of forces between stories in multi-story buildings or structures;
 - (v) application of lateral design in the design of the buildings or structures in addition to any wind design requirements; and
 - (vi) application of the local, state and federal code requirements as they relate to design loads, materials, and detailing.
- (4) Experience Requirements - Professional Land Surveyor.
- (a) In accordance with Subsections 58-22-302(3)(d), an applicant for licensure as a professional land surveyor shall complete the following qualifying experience requirements:
- (i) Submit verification of qualifying experience obtained under the supervision of one or more licensed professional land surveyors who have provided supervision, which experience is certified by the licensed professional land surveyor supervisor and is in accordance with the following:
 - (A) Applicants who have met the education requirements in Subsection 58-22-302(3)(d)(i) shall document four years of full time or equivalent part time qualifying experience in land surveying which experience may be obtained before, during or after completing the education requirements for licensure.
 - (B) Prior to January 1, 2007, applicants who did not complete the education requirements in Subsection 58-22-302(3)(d)(i) shall have until December 31, 2009 to apply for licensure by documenting eight years of qualifying experience in land surveying.
 - (b) The four years of qualifying experience required in R156-22-302c(4)(a)(i)(A) and four of the eight years required in R156-22-302c(4)(a)(i)(B) shall comply with the following:
 - (i) Two years of experience should be specific to field surveying with actual "hands on" surveying, including all of the following:
 - (A) operation of various instrumentation;
 - (B) review and understanding of plan and plat data;
 - (C) public land survey systems;
 - (D) calculations;
 - (E) traverse;
 - (F) staking procedures;
 - (G) field notes and manipulation of various forms of data encountered in horizontal and vertical studies; and
 - (ii) Two years of experience should be specific to office surveying, including all of the following:
 - (A) drafting (includes computer plots and layout);
 - (B) reduction of notes and field survey data;
 - (C) research of public records;
 - (D) preparation and evaluation of legal descriptions; and
 - (E) preparation of survey related drawings, plats and record of survey maps.
 - (c) The remaining qualifying experience required in R156-22-302c(~~3~~4)(a)(i)(B) shall include any aspects of the practice of land surveying under the supervision of a licensed professional land surveyor in accordance with Subsection 58-22-102(16).

R156-22-302d. Qualifications for Licensure - Examination Requirements.

- (1) Examination Requirements - Professional Engineer.
 - (a) In accordance with Subsection 58-22-302(1)(f), the examination requirements for licensure as a professional engineer are defined, clarified or established as the following:
 - (i) the NCEES Fundamentals of Engineering (FE) Examination with a passing score as established by the NCEES except that an applicant who has completed an undergraduate degree from an EAC/ABET accredited program and has completed a Ph.D. or doctorate in engineering from an institution that offers EAC/ABET undergraduate programs in the Ph.D. field of engineering is not required to take the FE examination;
 - (ii) the NCEES Principles and Practice of Engineering (PE) Examination other than Structural II with a passing score as established by the NCEES; and
 - (iii) pass all questions on the open book, take home Utah Law and Rules Examination, which is included as part of the application for licensure forms.
 - (b) If an applicant was approved by the Utah Division of Occupational and Professional Licensing to take the examinations required for licensure as an engineer under prior Utah statutes and rules and did take and pass all examinations required under such prior rules, the prior examinations will be acceptable to qualify for reinstatement of licensure rather than the examinations specified under Subsection R156-22-302d(1)(a).
 - (c) Prior to submitting an application for pre-approval to sit for the NCEES PE examination, an applicant must have successfully completed three out of the four years of the qualifying experience requirements set forth in Subsection R156-22-302c(1), and have successfully completed the education requirements set forth in Subsection R156-22-302b(1).
 - (d) The admission criteria to sit for the NCEES FE examination is set forth in Section 58-22-306.
- (2) Examination Requirements - Professional Structural Engineer.
 - (a) In accordance with Subsection 58-22-302(2)(f), the examination requirements for licensure as a professional structural engineer are defined, clarified, or established as the following:
 - (i) the NCEES Fundamentals of Engineering Examination (FE) with a passing score as established by the NCEES;
 - (ii) the NCEES Structural I and Structural II Examinations with a passing score as established by the NCEES; and
 - (iii) as part of the application for license, pass all questions on the open book, take home Utah Law and Rules Examination.
 - (b) Prior to submitting an application for pre-approval to sit for the NCEES Structural II examination, an applicant must have successfully completed two out of the three years of the experience requirements set forth in Subsection R156-22-302c(~~2~~3).
- (3) Examination Requirements - Professional Land Surveyor.
 - (a) In accordance with Subsection 58-22-302(3)(~~g~~e), the examination requirements for licensure as a professional land surveyor are established as the following:
 - (i) the NCEES Fundamentals of Land Surveying (FLS) Examination with a passing score as established by the NCEES;
 - (ii) the NCEES Principles and Practice of Land Surveying (PLS) Examination with a passing score as established by the NCEES; and

(iii) the Utah Local Practice Examination with a passing score of at least 75.

(b) Prior to submitting an application for pre-approval to sit for the NCEES PLS examination, an applicant must have successfully completed the education requirement set forth in Subsection R156-22-302b(2) and three out of the four years of the qualifying experience requirements set forth in Subsection[s] R156-22-[302b(2) and]302c(4).

(4) Examination Requirements for Licensure by Endorsement.

In accordance with Subsection 58-22-302(4)(d)(ii), the examination requirements for licensure by endorsement are established as follows:

(a) Professional Engineer: An applicant for licensure as a professional engineer by endorsement shall comply with the examination requirements in Subsection R156-22-302d(1) except that the board may waive one or more of the following examinations under the following conditions:

(i) the NCEES FE Examination for an applicant who is a principal for five of the last seven years preceding the date of the license application and who was not required to pass the NCEES FE Examination for initial licensure from the recognized jurisdiction the applicant was originally licensed;

(ii) the NCEES PE Examination for an applicant who is a principal for five of the last seven years preceding the date of the license application, who has been licensed for 20 years preceding the date of the license application, and who was not required to pass the NCEES PE Examination for initial licensure from the recognized jurisdiction the applicant was originally licensed.

(b) Professional Structural Engineer: An applicant for licensure as a professional structural engineer by endorsement shall comply with the examination requirements in Subsection R156-22-302d(2) except that the board may waive the NCEES FE Examination for an applicant who is a principal for five of the last seven years preceding the date of the license application and who was not required to pass the NCEES FE Examination for initial licensure from the recognized jurisdiction the applicant was originally licensed.

(c) Professional Land Surveyor: An applicant for licensure as a professional land surveyor by endorsement shall comply with the examination requirements in Subsection R156-22-302d(3) except that the board may waive either the NCEES FLS Examination or the NCEES PLS Examination or both to an applicant who is a principal for five of the last seven years preceding the date of the license application and who was not required to pass the NCEES FLS Examination or the PLS Examination for initial licensure from the recognized jurisdiction the applicant was originally licensed.

KEY: engineers, surveyors, professional land surveyors, professional engineers

Date of Enactment or Last Substantive Amendment: [~~February 22, 2007~~]2008

Notice of Continuation: November 15, 2007

Authorizing, and Implemented or Interpreted Law: 58-22-101; 58-1-106(1)(a); 58-1-202(1)(a)

◆ ————— ◆

Commerce, Occupational and Professional Licensing

R156-46b

Division Utah Administrative Procedures Act Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31840

FILED: 08/18/2008, 13:50

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division is filing this rule amendment to address an inconsistency in the rule which was pointed out by the Attorney General's Office. It should be noted that this rule is also being amended by the Division under DAR No. 31804. Any paragraph numbering changes that need to be made as a result of the two separate rule filings will be done through a nonsubstantive change once both filings are made effective. (DAR NOTE: The previous amendment to Rule R156-46b is under DAR No. 31804 and was published in the September 1, 2008, issue of the Bulletin (2008-17, pg. 13).)

SUMMARY OF THE RULE OR CHANGE: The termination of a diversion agreement has been moved to Section R156-46b-201, Formal Adjudicative Proceedings, and deleted from Section R156-46b-202, Informal Adjudicative Proceedings. These amendments are essentially technical amendments to address the inconsistency between the two sections brought about when the statutory provision governing diversion was recodified in 2006. See Subsection 58-1-404(14) for more detail regarding the termination of diversion agreements. The proposed amendments reclassify the termination of diversion agreements as a formal adjudicative proceeding under the Utah Administrative Procedures Act.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 63G-4-102(6) and 58-1-106(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Division anticipates a nominal additional cost to change the termination of diversion agreements from an informal to a formal proceeding. However those nominal costs cannot be quantified as any additional cost is mostly in time and effort to prepare for a formal proceeding.

❖ **LOCAL GOVERNMENTS:** Proposed amendments do not apply to local governments. The proposed amendments only apply to licensed professionals who may not successfully complete their diversion agreement.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The proposed amendments only apply to licensed professionals who may not successfully complete their diversion agreement in which they entered into with the

Division. An individual licensed professional would not qualify as a "small business". There may be some nominal additional costs to a licensed professional who has not successfully completed their diversion agreement and proceedings are filed against them to terminate their diversion agreement. However, the Division is unable to quantify these nominal costs as they would not be much more than when the proceeding was classified as an informal adjudicative proceeding. The Division is also not able to determine how many licensed individuals may not successfully complete their diversion agreement.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed professionals who may not successfully complete their diversion agreement in which they entered into with the Division. There may be some nominal additional costs to a licensed professional who has not successfully completed their diversion agreement and proceedings are filed against them to terminate their diversion agreement. However, the Division is unable to quantify these nominal costs as they would not be much more than when the proceeding was classified as an informal adjudicative proceeding.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing corrects a prior inconsistency in the Division rule, clarifying that termination of diversion agreements is designated as a formal adjudicative proceeding rather than informal. It is not clear whether in the long run there will be a cost savings or cost increase to regulated individuals as a result of this clarification. However, no fiscal impact to other businesses is anticipated by such change. 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:
W. Ray Walker at the above address, by phone at 801-530-6256, by FAX at 801-530-6511, or by Internet E-mail at raywalker@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 10/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2008

AUTHORIZED BY: F. David Stanley, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-46b. Division Utah Administrative Procedures Act Rules.
R156-46b-201. Formal Adjudicative Proceedings.**

(1) The following adjudicative proceedings initiated by a request for agency action are classified as formal adjudicative proceedings:

- (a) denial of application for renewal of licensure;
- (b) denial of application for reinstatement of licensure submitted pursuant to Subsection 58-1-308(5);
- (c) denial of application for reinstatement of licensure submitted pursuant to Subsection 58-1-308(6)(b);
- (d) special appeals board held in accordance with Section 58-1-402;
- (e) approval or denial of claims against the Residence Lien Recovery Fund created under Title 38, Chapter 11, in which the claimant is precluded from obtaining the required civil judgment or administrative order against the nonpaying party involved in the claim because the nonpaying party filed bankruptcy;
- (f) payment of approved claims against the Residence Lien Recovery Fund described in Subparagraph (e);
- (g) declaratory order determining the applicability of statute, rule or order to specified circumstances, when determined by the director to be conducted as a formal adjudicative proceeding; and
- (h) board of appeal held in accordance with Subsection 58-56-8(3).

(2) The following adjudicative proceedings initiated by a Notice of Agency Action are classified as formal adjudicative proceedings:

- (a) disciplinary proceedings which result in the following sanctions:
 - (i) revocation of licensure;
 - (ii) suspension of licensure;
 - (iii) restricted licensure;
 - (iv) probationary licensure;
 - (v) issuance of a cease and desist order except when imposed by citation or by an order in a contested citation hearing;
 - (vi) administrative fine except when imposed by citation or by an order in a contested citation hearing; and
 - (vii) issuance of a public reprimand; ~~and~~
- (b) unilateral modification of a disciplinary order; and
- (c) termination of diversion agreements.

R156-46b-202. Informal Adjudicative Proceedings.

(1) The following adjudicative proceedings initiated by a request for agency action are classified as informal adjudicative proceedings:

- (a) approval of application for initial licensure, renewal or reinstatement of licensure, or relicensure;
- (b) denial of application for initial licensure or relicensure;
- (c) denial of application for reinstatement of licensure submitted pursuant to Subsection 58-1-308(6)(a);
- (d) denial of application for reinstatement of restricted, suspended, or probationary licensure during the term of the restriction, suspension, or probation;
- (e) approval or denial of application for inactive or emeritus licensure status;
- (f) board of appeal under Subsection 58-56-8(3);

- (g) approval or denial of claims against the Residence Lien Recovery Fund created under Title 38, Chapter 11, except those in which the claimant is precluded from obtaining the required civil judgment or administrative order against the nonpaying party involved in the claim because the nonpaying party filed bankruptcy;
 - (h) payment of approved claims against the Residence Lien Recovery Fund described in Subparagraph (g);
 - (i) approval or denial of request to surrender licensure;
 - (j) approval or denial of request for entry into diversion program under Section 58-1-404;
 - (k) matters relating to diversion program;
 - (l) contested citation hearing held in accordance with Subsection 58-55-503(4)(b);
 - (m) approval or denial of request for modification of disciplinary order;
 - (n) declaratory order determining the applicability of statute, rule or order to specified circumstances, when determined by the director to be conducted as an informal adjudicative proceeding;
 - (o) approval or denial of request for correction of procedural or clerical mistakes;
 - (p) approval or denial of request for correction of other than procedural or clerical mistakes; and
 - (q) all other requests for agency action permitted by statute or rule governing the Division not specifically classified as formal adjudicative proceedings in Subsection R156-46b-201(1).
- (2) The following adjudicative proceedings initiated by a notice of agency action or request for agency action are classified as informal adjudicative proceedings:
- (a) disciplinary proceeding seeking exclusively the issuance of a private reprimand;
 - (b) nondisciplinary proceeding which results in cancellation of licensure;
 - (c) disciplinary sanctions imposed in a memorandum of understanding with an applicant for licensure[; and
 - ~~(d) termination of diversion agreements].~~

KEY: administrative procedures, government hearings, occupational licensing
Date of Enactment or Last Substantive Amendment:
~~November 2, 2004~~ 2008
Notice of Continuation: April 25, 2006
Authorizing, and Implemented or Interpreted Law: 63G-4-102(6); 58-1-106(1)(a)



Community and Culture, Housing and
 Community Development
R199-8-3
 Application Requirements

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE No.: 31921
 FILED: 09/02/2008, 13:50

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed amendment will streamline the process for providing

the State Historic Preservation Office (SHPO) with information regarding potential impacts to historic sites and structures that may result from the Permanent Community Impact Fund Boards (CIB)'s decisions to provide funding assistance for local government community infrastructure projects.

SUMMARY OF THE RULE OR CHANGE: The current rule requires all applicants for CIB financial assistance to provide SHPO with a description of the proposed project and attach SHPO's comment to the CIB application. The CIB and SHPO are entering into a Programmatic Agreement under which certain categories of applications will be excluded from having to supply information to SHPO. Applicants whose projects are not categorically excluded will supply the necessary information to the CIB staff, who will package the information in the agreed to format and content and forward the information to SHPO for their review and comment.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 9-4-305 and 9-8-404

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There should be an aggregate saving in staff time between CIB and SHPO as the net number of applications being reviewed and commented on should be reduced by an estimated ten to twenty percent.
- ❖ **LOCAL GOVERNMENTS:** There should be an aggregate saving in staff time to local governments applying for CIB financial assistance as the net number of applicants being required to supply information for SHPO review and comment should be reduced by an estimated 10 to 20 percent.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There will be no costs to small businesses and individuals. Small businesses and individuals are not eligible to apply for CIB financial assistance.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There should be an aggregate saving in staff time to local governments applying for CIB financial assistance as the net number of applicants being required to supply information for SHPO review and comment should be reduced by an estimated ten to twenty percent.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses. Businesses are not eligible to apply for CIB financial assistance. Palmer DePaulis, Executive Director

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

COMMUNITY AND CULTURE
 HOUSING AND COMMUNITY DEVELOPMENT
 Room 500
 324 S STATE ST
 SALT LAKE CITY UT 84111-2388, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Keith J Burnett at the above address, by phone at 801-538-8725, by FAX at 801-538-8725, or by Internet E-mail at kjburnett@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 10/22/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 10/02/2008 at 8:30 AM, 324 South State, Suite 500, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 11/06/2008

AUTHORIZED BY: Palmer DePaulis, Executive Director

R199. Community and Culture, Housing and Community Development.

R199-8. Permanent Community Impact Fund Board Review and Approval of Applications for Funding Assistance.

R199-8.3. Application Requirements.

A. Applicants shall submit their funding requests on the Board's most current application form, furnished by the Department of Community and Culture (DCC). Applicants submitting incomplete applications will be notified of deficiencies and their request for funding assistance will be held by the Board's staff pending submission of the required information by the applicant.

Complete applications which have been accepted for processing will be placed one of the Trimester's upcoming "Application Review Meeting" agendas.

B. Additional general information not specifically covered by the application form should also be furnished to the Board and its staff when such information would be helpful to the Board in appraising the merits of the project.

C. For proposed drinking water and sewer projects, sufficient technical information must be provided to the Utah Department of Environmental Quality (DEQ) to permit their review. The Board will not act on any drinking water or sewer project unless they receive such review from DEQ.

D. Planning grants and studies normally require a fifty percent cash contribution by the applicant.

E. The Board requires all applicants to have a vigorous public participation effort. All applicants shall hold at least one formal public hearing to solicit comment concerning the size, scope and nature of any funding request prior to its submission to the Board. In that public hearing, the public shall be advised the financing may be in the form of a loan, even if the application requests a grant.

Complete and detailed information shall be given to the public regarding the proposed project and its financing. The information shall include the expected financial impact including potential repayment terms and the costs to the public as user fees, special assessments, or property taxes if the financing is in the form of a loan. The Board may require additional public hearings if determines the applicant did not adequately disclose to the public the impact of the financial assistance during the initial public hearing.

When the Board offers the applicant a financial package that is substantially different in the amounts, terms or conditions initially requested by an applicant, the Board may require additional public hearings to solicit public comment on the modified funding package.

A copy of the public notice and transcript or minutes of the hearing shall be attached to the funding request. Public opinion polls may be submitted in addition to the transcript or minutes.

F. Letters of comment outlining specific benefits (or problems) to the community and State may be submitted with the application.

G. All applicants are required to notify in writing the applicable Association of Governments of their intention to submit a funding request to the Board. A copy of any comments made by the Association of Governments shall be attached to the funding request. It is the intent of the Board to encourage regional review and prioritization of funding requests to help ensure the timely consideration of all worthwhile projects.

H. ~~[State statute]Section 9-8-404 requires [the Board] all state agencies before [it grants or loans any funds]they expend any state funds~~ or approves any undertaking to take into account the effect of the undertaking on any district, site, building structure or specimen that is included in or eligible for inclusion in the National Register of Historic Places or the State Register and to allow the state historic preservation officer (SHPO) a reasonable opportunity to comment on the undertaking or expenditure. In order to comply with that duty, the Board requires all applicants ~~[to]provide the [SHPO]Board's staff with a detailed description of the proposed project [and]attached [the SHPO's comments]~~ to the application. The Board's staff will provide SHPO with descriptions of applications which may have potential historic preservation concerns for SHPO's review and comment in compliance with the CIB/SHPO Programmatic Agreement. SHPO comments on individual applications will be provided to the Board as part of the review process outline in R199-8-4. Additionally [F]the Board [also] requires that if during the construction of the project the applicant discovers any cultural/paleontological resources, the applicant shall cease project activities which may affect or impact the cultural/paleontological resource, notify the Board and [the]SHPO of the discovery, allow the Board to take into account the effects of the project on cultural/paleontological resources, and not proceed until further approval is given by the Board.

I. All applicants must provide evidence and arguments to the Board as to how the proposed funding assistance provides for planning, the construction and maintenance of public facilities or the provision of public services.

J. All applicants must demonstrate that the facilities or services provided will be available and open to the general public and that the proposed funding assistance is not merely a device to pass along low interest government financing to the private sector.

K. All applicants must demonstrate that any arrangement with a lessee of the proposed project will constitute a true lease, and not a disguised financing arrangement. The lessee must be required to pay a reasonable market rental for the use of the facility. In addition, the applicant shall have no arrangement with the lessee to sell the facility to the lessee, unless fair market value is received.

L. Each applicant must submit evidence and legal opinion that it has the authority to construct, own and lease the proposed project. In the case of a request for an interest bearing loan, the applicant must provide an opinion of nationally-recognized bond counsel that the interest will not be subject to federal income taxes.

M. All applicants shall certify to the Board that they will comply with the provisions of Titles VI and VII of the Civil Rights Act of 1964 (42 USC 2000e), as amended, which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agree to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90, as amended, which prohibits discrimination on the basis of age; Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 and 28 CFR 35, as amended, which prohibit discrimination

on the basis of disabilities; Utah Anti-Discrimination Act, Section 34A-5-101 et seq., which prohibits discrimination against any employee or applicant for employment because of race, color, sex, age, religion, national origin, or handicap, and to certify compliance with the ADA to the Board on an annual basis and upon completion of the project.

KEY: grants

Date of Enactment or Last Substantive Amendment: [January 1], 2008

Notice of Continuation: September 13, 2007

Authorizing, and Implemented or Interpreted Law: 9-4-305



Health, Administration
R380-50
 Local Health Department Funding
 Allocation Formula

NOTICE OF PROPOSED RULE

(Amendment)

DAR File No.: 31911

FILED: 09/02/2008, 07:07

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 26A-1-116 directs the Utah Department of Health to establish by rule a formula for allocating funds by contract to local health departments. This rule amendment reflects a consensus agreement between local health departments and the state health department on that formula, effective 07/01/2008.

SUMMARY OF THE RULE OR CHANGE: A baseline reflecting current allocations is adopted. Modified allocations for minimum allocations, population, multi-district, and square mile are proposed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26A, Chapter 1

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be no cost or savings to the state budget from this rule change because it merely allocates existing funding.

❖ LOCAL GOVERNMENTS: Local health departments' allocation of funding is maintained at current levels and only future appropriations above those levels will be distributed based on the formula proposed in this rule. All 12 local health departments support this rule change and are aware of any cost or savings that will occur.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: No change in current service delivery levels to those served by local health departments is expected due to this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No mandates for regulated entities are present in this rule. No compliance cost for any person is expected.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This consensus agreement between local health departments and the state health department on the formula for allocation of funding reflects a high level of cooperation among local and state health and should have a positive fiscal impact on the provision of public health services in Utah. David N. Sundwall, MD, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Doug Springmeyer at the above address, by phone at 801-538-6971, by FAX at 801-538-6306, or by Internet E-mail at dspringm@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 10/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2008

AUTHORIZED BY: David N. Sundwall, Executive Director

R380. Health, Administration.

R380-50. Local Health Department Funding Allocation Formula.

R380-50-2. Definitions.

(1) "Contract" means the Public Health Services Contract between the Utah Department of Health and the local health departments through which state block grant funds are distributed.

(2) "District Incentive" means funds allocated to local health departments to encourage them to form and maintain multi-county health departments.

(3) "Funds" means the State General Funds allocated by the Legislature to the Utah Department of Health for distribution to local health departments by contract.

(4) "Local Health Department" means a local health department established under Section 26A-1-102(5).

(5) "Rural County" means a county with a population of less than 100 persons per square mile.

(6) "Total Poverty Population" means the population in a county that is living below the poverty level established by the United States Government Census Bureau reported by Utah Job Service.

(6) "Total State Population" means the population figures by county as provided by the State Office of Planning and Budget.

R380-50-3. Allocation Procedures.

(1) By a three-fourths vote of its members, the Utah Association of Local Health Officers may, in cooperation with and subject to the approval of the Department of Health, allocate a portion of the funds as necessary to support basic public health programs within every local health department that benefit and are available to all residents of the

state. The Department finds that population is not the sole relevant factor in determining need. [In allocating this portion, no local health department may receive less than it received in the prior year, except for years in which the state funding is decreased.]

(2) As of July 1, 2008 each local health department is receiving the following base line funding, which shall remain the same unless new funding is received or cuts are implemented:

<u>Bear River -- \$227,277.00</u>
<u>Central -- \$294,638.00</u>
<u>Davis -- \$132,480.00</u>
<u>Salt Lake -- \$451,388.00</u>
<u>Southeast -- \$271,595.00</u>
<u>Southwest -- \$288,966.00</u>
<u>Summit -- \$60,002.00</u>
<u>Tooele -- \$95,180.00</u>
<u>Tri-County -- \$202,128.00</u>
<u>Utah -- \$227,128.00</u>
<u>Wasatch -- \$57,552.00</u>
<u>Weber/Morgan -- \$188,754.00</u>

(3) The Department adopts the following formula pursuant to Section 26A-1-116 for allocating to local health departments any increases or decreases in funding beyond the amounts reflected in the base line figures in R380-5-3(2).

[(2) The Utah Department of Health finds that population is not the sole relevant factor in determining need and adopts the following formula pursuant to Section 26A-1-116 for allocating to local health departments the funds that remain after the allocation in Subsection R380-5-3(1):

— (a) District Incentive Factor: local health departments consisting of at least two counties shall receive 25.29% in accordance with the number of counties within the geographical boundaries of the local health department as follows:

— (i) Local health departments with two counties shall receive 10.34% of this amount.

— (ii) Local health departments with three counties shall receive 13.79% of this amount.

— (iii) Local health departments with four counties shall receive 17.24% of this amount.

— (iv) Local health departments with five counties shall receive 20.69% of this amount.

— (v) Local health departments with six counties shall receive 24.14% of this amount.](a) Minimum share. Twenty percent divided into twelve equal shares for each local health department.

(b) Rural county and District Incentive Factor. Twenty percent divided among the local health departments with at least one rural county according to the following percentages, however if the number of rural counties within the local health department's boundary changes, the formula will be renegotiated:

(i) rural single county local health department, currently Summit, Tooele and Wasatch counties -- 1.45%

(ii) Multi county local health department with one rural county, currently Weber/Morgan -- 4.35%

(iii) Multi county local health department with three rural counties, currently Bear River and Tri-County -- 13.04%

(iv) Multi county local health department with four rural counties, currently Southeast -- 17.39%

(v) Multi county local health department with five rural counties, currently Southwest -- 21.74%

(vi) Multi county local health department with six rural counties, currently Central -- 26.09%

(b) Population Factor: Forty percent divided among the local health departments [shall receive 28.04% according to]based on the percentage of the total state population living within the geographical boundaries of the local health department according to the most current estimate from the Governor's Office of Planning and Budget.

[(c) Poverty Population Factor: local health departments shall receive 23.34% according to the percentage of the total poverty population of the state living within the geographical boundaries of each local health department.

— d](c). Square Mile Factor: Twenty percent divided among the local health departments [shall receive 23.33%]according to the percentage of the total square miles in the state lying within the geographical jurisdiction of each local health department.

KEY: health, local government, funding formula[*]

Date of Enactment or Last Substantive Amendment: [1993]

Notice of Continuation: November 26, 2007

Authorizing, and Implemented or Interpreted Law: 26A-1-116

◆ ————— ◆

Health, Epidemiology and Laboratory Services, Environmental Services **R392-303** Public Geothermal Pools and Bathing Places

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 31909

FILED: 08/28/2008, 17:10

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule makes allowances for the special circumstances inherent with the design, construction, and operation of geothermal pools and natural bathing places that are not covered in Rule R392-302 (Public Pool rule). This rule is in response to a legislative request.

SUMMARY OF THE RULE OR CHANGE: The rule makes special allowances for geothermal pools that are not provided for in Rule R392-302 (Swimming Pool rule) but contains many provisions that require compliance with Rule R392-302 under circumstances where geothermal pools and natural bathing places do not need special provisions. The rule does not require a construction change to existing pools and does not require the upgrade of an entire pool if one aspect of the pool is upgraded. The rule allows public geothermal pools to use natural geothermal water source rather than water from a public drinking water supply. The rule, however, requires testing of the water and determining the possible health effects of bathing in it. The rule allows flow-through and bather load to be used as the only methods of pool water contamination control (allows pools to operate without filtration or disinfection) but requires notification to bathers of that fact and the potential risk. Higher turnover rates are required in

geothermal pools than other public pools but the requirement can be decreased, or increased, by the local health department based on bacterial tests. The rule allows natural walls, floors, water depth, and floor slopes of natural bathing places that would not be allowed under the public pool rule but the rule provides for the safety of bathers by other means such as notifications, roping off areas, and barriers. The rule requires bacteriological monitoring but makes an allowance for higher levels of bacterial contamination than other public pools. Bather notification is required when the bacterial level exceeds that allowed in other public pools. The rule allows local health departments to require operators to admit fewer bathers in a pool if bacterial levels are consistently high and requires the closing of a pool if maximum levels are exceeded.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be no impact on the state budget as the local health departments are charged with the responsibility of inspecting public pools.

❖ LOCAL GOVERNMENTS: Many of the existing geothermal pools and natural bathing places in the state are already permitted and inspected by local health departments. The new rule should not affect the costs to inspect these existing facilities. It is estimated that there are approximately three geothermal facilities in the state that local health departments have chosen not to permit because the pool rule did not provide for their unique circumstances. When this new rule is effective, these three facilities will need to be permitted. Any increase in costs for the new regulation of those facilities should be mostly offset by permit fees.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are approximately eight geothermal facilities with an average of three pools per facility in the state that will be affected by this rule. These facilities will have to pay for sampling fees, source analysis, flow meters, permits, and new signs. The initial total aggregate annual cost to these facilities to be compliant with the requirements of the new rule is estimated to be \$2,460 per facility, or (8 x \$2,460) a total \$19,680 aggregate cost. (Sampling fee: \$300, Source analysis: \$300; Flow meter: 3 x \$400 = \$1,200; Signs: 12 x \$30 = \$360; Permit: \$100 per pool, 3 x 100 = \$300). The estimated ongoing costs would amount to \$660 per year (\$300 sampling + \$300 permit + 1/5 x \$300 source analysis = \$660), or (8 x 660 = \$5,280) a total \$5,280 per year aggregate costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: All geothermal pools will be required to have a flow meter to measure flow through of water. The minimum cost of a low end flow meter is approximately \$400, plus installation. High end flow meters can cost up to \$2,000, plus installation. All geothermal pools would have initial (and every five year) costs for water analysis of their source water. This cost should be less than \$300 per water source. There may also be ongoing water quality analysis costs associated with the permit. It is estimated that these would not be more than \$300 per year. Pools will have to acquire notification signs with an estimated number of 12 signs per facility. The cost of a sign is

approximately \$30 - \$40 per sign. This would result in a cost of \$360 - \$480 per facility. Pools not regulated at the present time that will be required to be permitted would have to pay permit fees of approximately \$100 per pool.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In response to requests from facilities that operate geothermal pools, this rule proposes special standards for this type of pool. Public input during the development rule is reflected in the rule and additional comments will be considered. David N. Sundwall, MD, Executive Director

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

HEALTH
EPIDEMIOLOGY AND LABORATORY SERVICES,
ENVIRONMENTAL SERVICES
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ronald Marsden at the above address, by phone at 801-538-6191, by FAX at 801-538-6564, or by Internet E-mail at rmarsden@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2008

AUTHORIZED BY: David N. Sundwall, Executive Director

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

R392-303. Public Geothermal Pools and Bathing Places.

R392-303-1. Authority and Purpose.

This rule is authorized under Section 26-15-2. It establishes minimum standards for the design, construction, operation and maintenance of public geothermal pools and public geothermal bathing places.

R392-303-2. Definitions.

The following definitions apply in this rule.

(1) "Bather load" means the number of persons allowed by the operator to use a geothermal pool or geothermal bathing place at any one time or specified period of time.

(2) "Department" means the Utah Department of Health.

(3) "Executive Director" means the Executive Director of the Utah Department of Health, or his designated representative.

(4) "Flow-through" means water that is fed by a continuous supply into a pool or bathing place that causes an equal rate of flow to discharge from the pool or bathing place to waste.

(5) "Geothermal bathing place" means a natural bathing place or semi-artificial bathing place with an impoundment of geothermal water.

(6) "Geothermal pool" means a man-made basin, chamber, receptacle, tank, or tub which is filled with geothermal water or a mixture of geothermal and non-geothermal water that creates an artificial body of water.

(7) "Geothermal water" means ground water that is heated in the earth by the earth's interior.

(8) "Living unit" means one or more rooms or spaces that are, or can be, occupied by an individual, group of individuals, or a family, temporarily or permanently for residential or overnight lodging purposes. Living units include motel and hotel rooms, condominium units, travel trailers, recreational vehicles, mobile homes, single family homes, and individual units in a multiple unit housing complex.

(9) "Local Health Officer" means the health officer of the local health department having jurisdiction, or his designated representative.

(10) "Natural bathing place" means a lake, pond, river, stream, swimming hole, or hot springs which has not been modified by man.

(11) "Semi-artificial bathing place" means a natural bathing place that has been modified by man.

R392-303-3. General Requirements.

(1) This rule applies to geothermal pools and geothermal bathing places that:

(a) are partially or completely filled with geothermal water that has a source temperature of at least 70 degrees Fahrenheit, 21.1 degrees Celsius; and

(b) are offered to the public for bathing or recreation.

(2) This rule does not apply to an unsupervised geothermal bathing place that the owner explicitly or tacitly allows anyone at any time to use without a fee.

(3) This rule does not apply to a geothermal pool or geothermal bathing place that is used only by a single household or only by a single group of multiple living units of four or fewer households.

(4) Except as otherwise stated in this rule, geothermal pools and geothermal bathing places, are exempt from the requirements of R392-302.

(5) This rule does not require an owner or operator to modify any portion of an existing geothermal pool facility or existing geothermal bathing place. If an owner or operator modifies any system or part of a geothermal pool or geothermal bathing place, the modified system or part must meet the requirements of this rule. However, if the Executive Director or the Local Health Officer determines that any facility is dangerous, unsafe, unsanitary, or a nuisance or menace to life, health or property, the Executive Director or the Local Health Officer may order modification consistent with the requirements of this rule.

R392-303-4. Drinking Water Supply.

(1) The owner of a geothermal pool or geothermal bathing place shall assure that all plumbing fixtures including drinking fountains, lavatories and showers at the public geothermal pool or geothermal bathing place facility are connected to a drinking water system that meets the requirements for drinking water established by the Utah Department of Environmental Quality.

(2) The owner of a geothermal pool or geothermal bathing place shall protect the connected drinking water system against back flow of contamination or back flow of water from the geothermal water source.

R392-303-5. Geothermal Water Quality.

(1)(a) The owner of a geothermal pool or geothermal bathing place shall install a tap or sampling point that provides the operator with the ability to sample the geothermal source water before it enters the geothermal pool or geothermal bathing place impoundment.

(b) If it is impractical to directly sample the geothermal water, the operator may sample water directly from the pool or impoundment. However, at least sixteen hours must have passed since any person has been in the pool and the sample shall be taken as close to the geothermal source water inlet as practical.

(2) The owner of a geothermal pool or bathing place shall protect source water from contamination in transit between the source spring or well and the pool or bathing place.

(3) The operator of a geothermal pool or geothermal bathing place shall submit samples of the geothermal source water for analysis to a laboratory certified under R444-14. The operator shall have the analysis performed initially and every five years thereafter to determine the levels of constituents listed in Table 1. If a geothermal pool or geothermal bathing place is in existence prior to the adoption of this rule, the owner of the facility shall submit to the local health department the results of initial source water tests within six months after the adoption of the rule. The permit applicant of a newly permitted public geothermal pool or geothermal bathing place shall submit the results of the initial source water analyses to the local health department with his application for a permit. The operator shall submit five-year samples to the local health department within six months prior to the end of the five year period.

(4) If the geothermal source water analysis required in R392-303-5(3) reports that any constituents exceed the limits in Table 1, the owner shall do one of the following:

(a) not use the source water;

(b) implement an ongoing treatment process approved by the Local Health Officer to provide source water that meets the requirements in Table 1; or

(c) submit results of the source water analysis to a toxicologist certified as a Diplomat of the American Board of Toxicology and implement, after approval by the Local Health Officer, a plan that includes the recommendations of the toxicologist to protect the health of bathers that use the geothermal pool or geothermal bathing place.

TABLE 1

Geothermal Source Water Constituents

Constituent	Maximum	Minimum
pH	8.0	7.0
Fluoride	4.0 milligrams per liter	None
Nitrate	10 milligrams per liter	None
Nitrite	1 milligrams per liter	None
Antimony	0.006 milligrams per liter	None
Arsenic	0.010 milligrams per liter	None
Barium	2 milligrams per liter	None
Beryllium	0.004 milligrams per liter	None
Cadmium	0.005 milligrams per liter	None
Chromium	0.1 milligrams per liter	None
Copper	1.3 milligrams per liter	None
Cyanide (as free cyanide)	0.2 milligrams per liter	None
Lead	0.015 milligrams per liter	None
Mercury	0.002 milligrams per liter	None
Selenium	0.05 milligrams per liter	None
Thallium	0.002 milligrams per liter	None

R392-303-6. General Safety Requirements.

(1) Geothermal pools shall meet the requirements of R392-302-11.

(2) Head-first entry is not permitted at a geothermal bathing place except where the operator has demonstrated to the local health officer that the water depth and underwater obstructions at the entire geothermal bathing place pose no greater risk than at a diving-permitted section of a swimming pool as allowed in R392-302-11. Diving with a self-contained underwater breathing apparatus (SCUBA) is allowed at geothermal bathing places. Where head-first entry is not permitted, the operator shall place a sign that states "NO HEAD-FIRST ENTRY" in accordance with R392-303-22, 23 and 24.

(3) Geothermal pools and geothermal bathing places shall meet the following sections of R392-302:

(a) R392-302-14 Fencing;

(b) R392-302-22 Safety Requirements and Lifesaving Equipment;

(c) R392-302-23 Lighting, Ventilation and Electrical Requirements; and

(d) R392-302-30 Supervision of Bathers subsections 1 through 7.

R392-303-7. Bather Facilities.

Geothermal pools and geothermal bathing places shall meet the following sections of R392-302:

(1) R392-302-24 Dressing Rooms

(2) R392-302-25 Toilets and Showers

(3) R392-302-26 Visitors and Spectator Areas

R392-303-8. Construction Materials.

(1) Geothermal pools shall meet the requirements of R392-302-6.

(2) The owner or operator of a geothermal bathing place shall notify bathers of and protect them from safety hazards by methods such as altering surfaces or structures, barricading or roping off problem areas, and posting warning signs.

R392-303-9. Bather Load.

(1) Geothermal pools and geothermal bathing places shall meet the bather load requirements in R392-302-7.

(2) If a geothermal pool or geothermal bathing place is unable to meet bacteriological water quality by other means, the Local Health Officer may require the owner or operator to reduce the allowed bather load in order to meet the requirements R392-303-19.

R392-303-10. Design Detail and Structural Stability.

(1) With the exception of the provisions listed in R392-302-8(3) and R392-302-8(5), geothermal pools shall meet the provisions of R392-302-8.

(2) The owner shall submit plans for a new geothermal pool or a geothermal bathing place or the renovation or the remodeling of a geothermal pool or a geothermal bathing place to the local health department for approval based upon compliance to this rule. Renovation or remodeling includes the replacement or modification of equipment that may affect the ability of a geothermal pool or a geothermal bathing place to meet the safety and water quality standards of this rule.

R392-303-11. Depths and Floor Slopes.

(1) Geothermal pools shall meet the requirements of R392-302-9.

(2) The owner of a geothermal bathing place shall protect bathers from uneven bottoms, sudden changes in depth, and other bottom anomalies by altering the pool bottom, posting signs about the dangers, providing barriers around hazards, or roping off areas.

R392-303-12. Walls.

(1) Geothermal pools shall meet the requirements of R392-302-10.

(2) The owner of a geothermal bathing place shall protect bathers from uneven walls, submerged projections, or submerged ledges by methods such as posting signs notifying patrons of the dangers, providing barriers around hazards, or roping off areas.

R392-303-13. Ladders, Recessed Steps, and Stairs.

(1) Geothermal pools shall meet the requirements of R392-302-12.

(2) The owner of a geothermal bathing place shall provide a means of entrance into and exit from the water that include handholds and steps where needed to provide for bather safety.

R392-303-14. Decks and Walkways.

(1) Geothermal pools shall meet the requirements of R392-302-13.

(2) The owner of a geothermal bathing place shall provide safe walkways leading to the bathing place that are free of trip hazards and provide handholds where there are ramps or steps.

R392-303-15. Depth Markings and Safety Ropes.

(1) Geothermal pools shall meet the requirements of R392-302-15.

(2) The owner of a geothermal bathing place shall protect bathers from unexpected deep water by means such as posting pool depth signs, providing barriers around deep areas, or roping off areas.

R392-303-16. Circulation Systems.

(1) Geothermal pools shall meet the requirements of R392-302-16 for normal water line, piping, pipe labeling, velocity in pipes, vacuum cleaning systems, adequate space in equipment areas, valves, and air induction systems.

(2) The owner or operator of a geothermal pool or geothermal bathing place shall maintain flow-through 24 hours a day during the operating season, except for periods of maintenance. If the pool is drained and cleaned each day prior to use, flow-through is only required during the period that the geothermal pool is in use.

(3) A geothermal pool or geothermal bathing place with a volume greater than 3,000 gallons, 11,355 liters, shall have a flow-through rate greater than or equal to one-fourth the pool volume every hour. A geothermal pool or geothermal bathing place with a volume less than or equal to 3,000 gallons, 11,355 liters, shall have a flow-through rate greater than or equal to the pool volume every 30 minutes.

(a) If the results of any three of the last five E. Coli or fecal coliform samples taken from the pool exceed 63 per 50 milliliters, the Local Health Officer may require an increased rate of flow-through independent of or in addition to a bather load reduction as provided in R392-303-9(2).

(b) The Local Health Officer may approve a reduced flow rate if the owner or operator of the geothermal pool or geothermal bathing place can demonstrate that the required bacteriological level can be maintained at the reduced flow rate.

(4) A geothermal pool that has pumped flow shall meet the inlet requirements of R392-302-17. Geothermal bathing places and geothermal pools that have gravity flow inlets, shall either meet the requirements of R392-302-17 or the owner or operator of the pool shall demonstrate to the local health department that the inlet system provides uniform distribution of fresh water throughout the pool. A demonstration of uniform distribution includes computer simulation or a dye test witnessed by a representative of the local health department.

(5) A geothermal pool shall have a drain that allows complete emptying of the pool. Geothermal pool and geothermal bathing place submerged drain grates and covers shall meet the requirements of R392-302-18. Geothermal pool and geothermal bathing place submerged drains shall meet the anti-entrapment requirements of R392-302-18.

(6) A geothermal pool shall have overflow gutters or skimming devices that meet the applicable requirements of R392-302-19.

(7) Geothermal pools and geothermal bathing places shall have an accurate rate-of-flow indicator, reading in gallons per minute. If the rate-of-flow indicator is manufactured by a third party, it shall be properly installed and located according to the manufacturer's recommendations. If a field-fabricated rate-of-flow indicator such as a calibrated weir or flume is used, it shall be designed and calibrated under the direction of a licensed professional engineer. The rate-of-flow indicator must be located in a place and positioned where it can be easily read by the operator as required in R392-303-21(2). The Local Health Officer may exempt a geothermal pool or geothermal bathing place from the requirement for a rate-of-flow indicator if the rate of flow is not adjustable or if there is no practical way to measure flow.

(8) Each geothermal pool and geothermal bathing place shall have a temperature measuring device that continuously measures the temperature of the pool at the warmest point. The device shall be accurate to within one degree Fahrenheit (0.6 degrees Celsius). The operator shall calibrate the thermometer in accordance with the manufacturer's specifications as necessary to ensure its accuracy.

R392-303-17. Filtration.

The owner of a flow-through geothermal pool or geothermal bathing place is not required to filter the water in the pool or bathing place, except as may be necessary to meet safety and water quality requirements. Filters shall meet the requirements of R392-302-20.

R392-303-18. Disinfectant and Chemical Feeders.

Chemical feeders or disinfectant residuals are not required in geothermal pools or geothermal bathing places, except as may be necessary to meet water quality requirements. If the operator uses any chemical, the operator shall meet the requirements of R392-302-21 for that particular chemical.

R392-303-19. Quality of Water.

(1) The water in a geothermal pool or geothermal bathing place must have sufficient clarity at all times so that a black disc 6 inches, 15.24 centimeters, in diameter, is readily visible if placed on a white field at the deepest point of the pool (or at 12 feet, 3.66 meters, deep for pools over 12 feet, 3.66 meters, deep). The owner or operator

shall close the pool or bathing place immediately if this requirement is not met.

(2) The local health department or, if the Local Health Officer chooses, the owner or operator of a geothermal pool or geothermal bathing place shall collect bacteriological samples of the pool water at least twice per month at least one week apart or as otherwise directed by the Local Health Officer. The Local Health Officer shall choose or approve the dates and times that the samples are collected. The Local Health Officer shall choose dates and times when a representative level of bacteria would likely be found. The local health department or the operator, as required by local health department, shall submit the bacteriological samples to a laboratory approved by under R444-14 to perform E. coli or fecal coliform testing.

(a) The local health department or operator, as required by local health department, shall have the laboratory analyze the sample for either E. coli or fecal coliform.

(b) If the operator submits the sample as required by local health department, the operator shall require the laboratory to report sample results within five working days to the local health department and operator.

(3) If the E. coli or fecal coliform levels are found to be greater than the maximum level of 63 per 50 milliliters, the owner or operator shall close the pool until sample results show the level is below 63.

(4) If E. coli or fecal coliform levels are greater than one per 50 milliliters, the pool operator shall post the level found as required in R392-303-22.

(5) The owner or operator of a geothermal pool or geothermal bathing place should maintain the pool water temperature at a maximum of 104 degrees Fahrenheit, 40 degrees Celsius. A geothermal pool or geothermal bathing place that exceeds 104 degrees Fahrenheit, 40 degrees Celsius, at the minimum required turnover rate shall have, and employ when necessary, a method of temperature reduction in the pool or bathing place that maintains the minimum flow-through rate required under R392-303-16(3). An approved method of temperature reduction may include methods such as the introduction of cool water from a source approved by the Local Health Officer, the direct cooling of the geothermal source water, and diversion of the geothermal source water to allow it to cool prior to entering the pool or impoundment. The temperature reduction method shall be capable of reducing the temperature of the pool within 2 hours of activation from the maximum anticipated temperature to below 104 degrees Fahrenheit, 40 degrees Celsius. If the temperature of the source water or cooling rate of the pool is difficult to control, a temperature drift of up to four degrees Fahrenheit, 2.2 degrees Celsius, may be allowed by the Local Health Officer if the owner or operator has activated the temperature reduction measure. The owner or operator of a geothermal pool or geothermal bathing place shall not permit bathers to use the pool if the temperature is above 108 degrees Fahrenheit, 42.2 degrees Celsius.

R392-303-20. Cleaning Pools.

(1) The owner or operator of a geothermal pool shall remove any visible dirt on the bottom of the pool at least once every 24 hours or more frequently as needed to keep the pool free of dirt and debris.

(2) The owner or operator of a geothermal pool or geothermal bathing place shall clean the water surface of the pool as often as needed to keep the pool free of scum or floating matter.

(3) The owner or operator of a geothermal pool shall keep pool surfaces, decks, handrails, floors, walls, and ceilings of rooms enclosing pools, dressing rooms and equipment rooms clean, sanitary, and in good repair. The owner or operator of a geothermal bathing place shall keep handholds, handrails, entrance points, walkways, dressing rooms, and equipment rooms clean and in good repair.

R392-303-21. Supervision of Pools.

(1) Geothermal pools and geothermal bathing places shall meet the requirements of R392-302-29(1).

(2) The operator of a geothermal pool or geothermal bathing place shall record the flow-through rate and pool temperature prior to opening the pool or bathing place each day and every four hours that the pool is open. The operator shall record the number of pool users every four hours that the pool is open for use. If a pool uses disinfection or filtration, the operator shall keep the disinfection and filtration records required in R392-302-29. The Local Health Officer may alter the requirement for the frequency of record keeping if an increased or decreased frequency is more reasonable considering the likelihood of a change in the values recorded. The owner or operator shall make the records required by this section available for inspection by representatives of the local health department and shall retain the records for at least three years.

R392-303-22. Caution Sign Content.

(1)(a) The operator of a geothermal pool or a geothermal bathing place in which the requirements of Table 6 in R392-302-27 are not met for disinfectant residual shall post a caution sign with the following bulleted points:

- WATER IN THIS POOL CONTAINS NO DISINFECTANT
- BATHING IN THIS POOL MAY INCREASE YOUR RISK OF INFECTIOUS DISEASE
- PERSONS SUFFERING FROM A COMMUNICABLE DISEASE TRANSMISSIBLE BY WATER SHALL NOT ENTER THE WATER
- KEEP POOL WATER OUT OF YOUR MOUTH AND NOSE.

(b) The operator shall post an additional sign or an addition to the sign required by this section that describes the results of the sample using a changeable element such as a "white board" or attachable digits. The sign shall state:

-THE MOST RECENT BACTERIAL RESULT OF WATER FROM THIS POOL WAS (the changeable element shall be placed at this point with the most recent fecal coliform or E. coli count per 50 milliliters posted). FOR COMPARISON, A NON-GEOTHERMAL POOL CANNOT EXCEED 1

(c) If ozone or ultraviolet light is used to treat the water, the following statement may be added to the sign; the statement shall be verbatim and state the method of treatment:

-TREATED WITH (UV LIGHT or OZONE or UV LIGHT AND OZONE if both are used)-PROVIDES SHORT-TERM DISINFECTION ONLY.

(2) If a geothermal pool or geothermal bathing place is operated at a temperature greater than or equal to 100 degrees Fahrenheit, 37.8 degrees Celsius, the operator shall post a separate caution sign that includes the following bulleted points:

-POOL WATER MAY EXCEED 100 DEGREES F. (37.8 DEGREES C.)

-CONSULT A PHYSICIAN IF YOU: ARE ELDERLY OR PREGNANT; HAVE HEART DISEASE, DIABETES, OR HIGH BLOOD PRESSURE; OR USE PRESCRIPTION MEDICATION

-DO NOT USE POOL IF ALONE OR UNDER THE INFLUENCE OF ANY IMPAIRING SUBSTANCE

-DO NOT USE POOL FOR MORE THAN 15 MINUTES AT A TIME

-CHILDREN UNDER 5 ARE PROHIBITED; CHILDREN UNDER 14 MUST BE WITH A PERSON OVER 18 YEARS

(3) Except at a geothermal pool or a geothermal bathing place where head-first entry is permitted, the operator shall post a warning sign that states, "NO HEAD-FIRST ENTRY" in accordance with R392-303-23 and 24.

R392-303-23. Caution Sign Placement.

The operator of a geothermal pool or geothermal bathing place shall post caution and warning signs that meet the requirements of this rule in conspicuous locations that are in the line of sight of a persons using the premises and readily visible so that all persons are alerted to potential hazards and informed before using the geothermal pool or geothermal bathing place.

(1) The operator shall place the caution sign required in subsection R392-303-22(1) at the reception or sales counter and no more than 10 feet from where a person checks in or pays for the use of the pool. The sign shall be visible to potential customers before they pay for entry or pass the reception or sales counter. If there are multiple geothermal pools or geothermal bathing places at the facility, the operator shall display on the caution sign at the reception or sales counter the bacterial count of the geothermal pool or geothermal bathing place in the facility that had the highest level of E. coli or fecal coliform found in the most recent sampling event. The operator shall post an additional sign required in R392-303-22(1) at each pool or bathing place. The operator shall post the sign in a location and position readily visible and within ten feet, 3 meters, of at least one point at the water's edge. The operator shall display on the additional sign the most recent E. coli or fecal coliform count of the particular geothermal pool or geothermal bathing place.

(2) The operator shall place any caution sign required in subsection R392-303-22(2) either:

(a) next to the sign required in subsection R392-303-22(1) if the pool or all pools may exceed 100 degrees Fahrenheit, 37.8 degrees Celsius; or

(b) within 10 feet of the entrance or entrances to each pool that is operated at a temperature greater than or equal to 100 degrees Fahrenheit, 37.8 degrees Celsius.

(3) The operator shall place any warning sign required in subsection R392-303-22(3) either:

(a) next to the sign(s) required in subsection R392-303-22(1) if the pool or all pools do not permit head-first entry; or

(b) within 10 feet of the entrance or entrances to each pool that does not permit head-first entry.

R392-303-24. Caution Sign Format Requirements.

(1) The caution sign required by R392-303-22(1) and R392-303-22(2) shall meet the following requirements:

(a) The signs shall be at least 24 inches, 61 centimeters, by 18 inches, 46 centimeters, on a white background. If the sign is larger than 24 inches, 61 centimeters, by 18 inches, 46 centimeters, the sizes of the other elements of the sign shall be proportionally larger.

(b) All lettering shall be in a sans serif font proportional thickness to height so as to be easily readable. Acceptable fonts are arial bold, folio medium, franklin gothic, helvetica, helvetica bold, meta bold, news gothic bold, poster gothic, and universe. In addition, the letters shall be:

(i) black in color;

(ii) capital letters; and

(iii) adequately spaced and not crowded.

(c) There must be a panel at the top of the sign. The background of the panel shall be safety yellow in color and shall:

(i) be at least 3.3 centimeters, high and 44 centimeters wide, including a black line border that is 0.16 centimeters wide surrounding the safety yellow background;

(ii) have the word "CAUTION" in capital letters that are two centimeters high; and

(iii) have an internationally recognized safety alert symbol that is two centimeters high and placed immediately to the left of the word "CAUTION".

(d) The safety alert symbol shall be black with a yellow field.

(e) The word "CAUTION" and the symbol shall be vertically and horizontally centered within the yellow panel.

(f) The letters in the body of the sign shall be legible, at least one centimeter high, and clearly visible.

(g) The body of the sign required in subsection R392-303-22(1) shall list the bulleted statements required in that section.

(h) The body of the sign required in subsection R392-303-22(2) shall list the bulleted statements required in that section.

(2) The warning sign required by R392-303-22(3) shall meet the following requirements:

(a) The signs shall be at least 17 inches, 43 centimeters, by 11 inches, 28 centimeters, on a white background. If the sign is larger than 17 inches, 43 centimeters, by 11 inches, 28 centimeters, the sizes of the other elements of the sign shall be proportionally larger.

(b) All lettering shall be in a sans serif font proportional thickness to height so as to be easily readable. Acceptable fonts are arial, arial bold, folio medium, franklin gothic, helvetica, helvetica bold, meta bold, news gothic bold, poster gothic, and universe. In addition, the letters shall be:

(i) black in color;

(ii) capital letters; and

(iii) adequately spaced and not crowded.

(c) There must be a panel at the top of the sign. The background of the panel shall be safety orange in color and shall:

(i) be at least 3.3 centimeters, high and 41 centimeters wide, including a black line border that is 0.16 centimeters wide surrounding the safety orange background;

(ii) have the word "WARNING" in capital letters that are two centimeters high; and

(iii) have an internationally recognized safety alert symbol that is two centimeters high and placed immediately to the left of the word "WARNING".

(d) The safety alert symbol shall be black with a safety orange field.

(e) The word "WARNING" and the symbol shall be vertically and horizontally centered within the orange panel.

(f) The letters in the body of the sign shall be legible, at least one inch (2.54 centimeters) high, and clearly visible

(g) The body of the sign required in subsection R392-303-22(3) shall display the text "NO HEAD-FIRST ENTRY". The text on the body shall be centered vertically and horizontally in the space

below the orange panel with "NO HEAD-FIRST" on one line and "ENTRY" on the line below.

R392-303-25. Enforcement and Penalties.

A person who violates a provision of this rule is subject to a Class B misdemeanor on the first offense or a Class A misdemeanor on the second offense within one year or a civil penalty of up to \$5,000 for each offense as provided in Section 26-23-6.

KEY: geothermal pools, geothermal natural bathing places, hot springs, geothermal spas

Date of Enactment or Last Substantive Amendment: 2008
Authorizing, Implemented, or Interpreted Law: 26-15-2



Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-504
Nursing Facility Payments

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31906

FILED: 08/28/2008, 16:09

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to clarify the time frame of the incentive period, the deadline for the Department to receive all quality incentive applications, and to clarify addresses to send an application.

SUMMARY OF THE RULE OR CHANGE: This amendment clarifies the time frame of the incentive period and the deadline for the Department to receive all quality incentive applications. It also states that a facility must mail an application to the correct address (addresses listed), and clarifies the criteria to qualify for an incentive.

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

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There is no impact to the state budget because this amendment only clarifies incentive criteria, the time frame of the incentive period, and the addresses and deadlines for submitting quality incentive applications.

❖ **LOCAL GOVERNMENTS:** There is no impact to local governments because this amendment only clarifies incentive criteria, the time frame of the incentive period, and the addresses and deadlines for submitting quality incentive applications.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There is no impact to other persons and small businesses because this amendment only clarifies incentive criteria, the time frame of the incentive period, and the addresses and deadlines for submitting quality incentive applications.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this amendment only clarifies incentive criteria, the time frame of the incentive period, and the addresses and deadlines for submitting quality incentive applications.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This clarification should help regulated business to avoid financial loss. David N. Sundwall, MD, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Craig Devashrayee at the above address, by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2008

AUTHORIZED BY: David N. Sundwall, Executive Director

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

R414-504. Nursing Facility Payments.

R414-504-3. Principles of Facility Case Mix Rates and Other Payments.

The following principles apply to the payment of freestanding and provider based nursing facilities for services rendered to nursing care level I, II, and III Medicaid patients, as defined in R414-502. This rule does not affect the system for reimbursement for intensive skilled Medicaid patient add-on amounts.

(1) Approximately 59% of total payments in aggregate to nursing facilities for nursing care level I, II and III Medicaid patients are based on a prospective facility case mix rate. In addition, these facilities shall be paid a flat basic operating expense payment equal to approximately 29% of the total payments. The balance of the total payments will be paid in aggregate to facilities as required by R414-504-3 based on other authorized factors, including property and behaviorally complex residents, in the proportion that the facility qualifies for the factor.

(2) Each quarter, the Department shall calculate a new case mix index for each nursing facility. The case mix index is based on three months of MDS assessment data. The newly calculated case mix index is applied to a new rate at the beginning of a quarter according to the following schedule:

(a) January, February and March MDS assessments are used for July 1 rates.

(b) April, May and June MDS assessments are used for October 1 rates.

(c) July, August and September MDS assessments are used for January 1 rates.

(d) October, November and December MDS assessments are used for April 1 rates.

(3) MDS data is used in calculating each facility's case mix index. This information is submitted by each facility and, as such, each facility is responsible for the accuracy of its data. The Department may exclude inaccurate or incomplete MDS data from the calculation.

(4) MDS assessments for recipients who are eligible for the "Intensive Skilled" add-on are excluded from the case mix calculation. A facility with less than 20 percent of its total census days as Medicaid days, as reported on its FCP or FRV data report, is excluded from the state case mix average. The state average case mix index is used to set the rate for that facility.

(5) A facility may apply for a special add-on rate for behaviorally complex residents by filing a written request with the Division of Health Care Financing. The Department may approve an add-on rate if an assessment of the acuity and needs of the patient demonstrates that the facility is not adequately reimbursed by the RUGS score for that patient. The rate is added on for the specific resident's payment and is not subsumed as part of the facility case mix rate. Utah's Bureau of Health Facility Licensure, Certification and Resident Assessment will make the determination as to qualification for any additional payment. The Division of Health Care Financing shall determine the amount of any add-on.

(6) Property costs are paid separately from the RUGS rate.

(7) Property costs shall be calculated once per year, each July 1, and reimbursed as a component of the facility rate based on an FRV System.

(a) Under this FRV system, the Department reimburses a facility based on the estimated value of its capital assets in lieu of direct reimbursement for depreciation, amortization, interest, and rent or lease expenses. The FRV system establishes a nursing facility's bed value based on the age of the facility and total square footage.

(i) The initial age of each nursing facility used in the FRV calculation is determined as of September 15, 2004, using each facility's initial year of construction.

(ii) The age of each facility is adjusted each July 1 to make the facility one year older.

(iii) The age is reduced for replacements, major renovations, or additions placed into service since the facility was built, as reported on the FRV Data Report, provided there is sufficient documentation to support the historical changes.

(A) If a facility adds new beds or replaces existing beds, these beds are averaged into the age of the original beds to arrive at the facility's age. Bed additions and bed replacements must be completed within a 24-month period and be reported on an FRV Data Report for the reporting period used for the July 1 rate year.

(B) If a facility completed a major renovation, the cost of the project is represented by an equivalent number of new beds.

(I) The renovation must have been completed during a 24-month period and reported on an FRV Data Report for the reporting period used for the July 1 rate year and be related to the reasonable functioning of the nursing facility. Renovations unrelated to either the direct or indirect functioning of the nursing facility shall not be used to adjust the facility's age.

(II) The equivalent number of new beds is determined by dividing the cost of the project by the accumulated depreciation per bed of the facility's existing beds immediately before the project.

(III) The equivalent number of new beds is then subtracted from the total actual beds. The result is multiplied by the difference in the year of the completion of the project and the age of the facility, which age is based on the initial construction year or the last reconstruction or renovation project. The product is then divided by the actual number of beds to arrive at the number of years to reduce the age of the facility.

(b) A nursing facility's fair rental value per diem is calculated as follows:

As used in this subsection (b), "capital index" is the percent change in the nursing home "Per bed or person, total cost" row and "3/4" column as found in the two most recent annual R.S. Means Building Construction Cost Data as adjusted by the weighted average total city cost index for Salt Lake City, Utah.

(i) The buildings and fixtures value per licensed bed is \$50,000, which is based upon a standard facility size of at least 450 square feet determined using the R.S. Means Building Construction Cost Data adjusted by the weighted average total city cost index for Salt Lake City, Utah. To this \$50,000 is added 10% (\$5,000) for land and 10% (\$5,000) for movable equipment. Each nursing facility's total licensed beds are multiplied by this amount to arrive at the "total bed value." The total bed value is trended forward by multiplying it by the capital index and adding it to the total bed value to arrive at the "newly calculated total bed value." The newly calculated total bed value is depreciated, except for the portion related to land, at 1.50 percent per year according to the weighted age of the facility. The maximum age of a nursing facility shall be 35 years. There shall be no recapture of depreciation. The base value per licensed bed is updated annually using the R.S. Means Building Construction Cost Data as noted above.

Beginning July 1, 2008, the 2007 base value per licensed bed is used for all facilities, except facilities having completed a qualifying addition, replacement or major renovation. These qualifying facilities have that year's base value per licensed bed used in their FRV calculation until an additional qualifying addition, replacement or major renovation project is completed and reported, at which time the base value is updated again.

(ii) A nursing facility's annual FRV is calculated by multiplying the facility's newly calculated bed value times a rental factor. The rental factor is the sum of the 20-year Treasury Bond Rate as published in the Federal Reserve Bulletin using the average for the calendar year preceding the rate year and a risk value of three percent. Regardless of the result produced in this subsection (ii), the rental factor shall not be less than nine percent or more than 12 percent.

(iii) The facility's annual FRV is divided by the greater of:

(A) the facility's annualized actual resident days during the cost reporting period; and

(B) for rural providers, 65 percent of the annualized licensed bed capacity of the facility and, for urban providers, 85 percent of the annualized licensed bed capacity of the facility.

(iv) The FRV per diem determined under this fair rental value system shall be no lower than \$8.

(c) A pass-through component of the rate is applied and is calculated as follows:

(i) The nursing facility's per diem real property tax and real property insurance cost is determined by dividing the sum of the facility's allowable real property tax and real property insurance costs, as reported in the most recent FCP or FRV Data Report, as applicable, by the facility's actual total patient days.

(ii) For a newly constructed or newly certified facility that has not submitted an FCP or FRV Data Report that would be used in the rate period, the per diem real property tax and real property insurance is the

state average daily real property tax and real property insurance cost of all facilities.

(8) Newly constructed or newly certified facilities' case mix component of the rate shall be paid using the average case mix index. This average case mix index remains in place until sufficient MDS data exist for the facility to calculate the case mix as described in R414-504-3(2). At the following quarter's rate setting, the Department shall issue a new case mix adjusted rate. The property payment to the facility is controlled by R414-504-3(7).

(9) An existing facility acquired by a new owner will continue at the same case mix index and property cost payment established for the facility under the previous ownership for the remainder of the quarter.

(a) The subsequent quarter's case mix index is established using the prior ownership facility MDS data until sufficient MDS data exist for the facility to calculate the case mix as described in R414-504-3(2).

(b) The property component is calculated for the facility at the beginning of the next state fiscal year, as noted in R414-504-3(7).

(10) A sole community provider that is financially distressed may apply for a payment adjustment above the case mix index established rate. The maximum increase will be 7.5% above the average of the most recent Medicaid daily rate for all Medicaid residents in all freestanding nursing facilities in the state. The maximum duration of this adjustment is for no more than a total of 12 months per facility in any five-year period.

(a) The application shall propose what the adjustment should be and include a financial review prepared by the facility documenting:

(i) the facility's income and expenses for the past 12 months; and

(ii) specific steps taken by the facility to reduce costs and increase occupancy.

(b) Financial support from the local municipality and county governing bodies for the continued operation of the facility in the community is a necessary prerequisite to an acceptable application. The Department, the facility and the local governing bodies may negotiate the amount of the financial commitment from the governing bodies, but in no case may the local commitment be less than 50% of the state share required to fund the proposed adjustment. Any continuation of the adjustment beyond 6 months requires a local commitment of 100% of the state share for the rate increase above the base rate. The applicant shall submit letters of commitment from the applicable municipality or county, or both, committing to make an intergovernmental transfer for the amount of the local commitment.

(i) If the governmental agency receives donations in order to provide the financial contribution, it must document that the donations are "bona fide" as set forth in 42 CFR 433.54.

(c) The Department may conduct its own independent financial review of the facility prior to making a decision whether to approve a different payment rate.

(d) If the Department determines that the facility is in imminent peril of closing, it may make an interim rate adjustment for up to 90 days.

(e) The Department's determination shall be based on maintaining access to services and maintaining economy and efficiency in the Medicaid program.

(f) If the facility desires an adjustment for more than 90 days, it must demonstrate that:

(i) the facility has taken all reasonable steps to reduce costs, increase revenue and increase occupancy;

(ii) despite those reasonable steps the facility is currently losing money and forecast to continue losing money; and

(iii) the amount of the approved adjustment will allow the facility to meet expenses and continue to support the needs of the community it serves, without unduly enriching any party.

(g) If the Department approves an interim or other adjustment, it shall notify the facility when the adjustment is scheduled to take effect and how much contribution is required from the local governing bodies. Payment of the adjustment is contingent on the facility obtaining a fully executed binding agreement with local governing bodies to pay the contribution to the Department.

(h) The Department may withhold or deny payment of the interim or other adjustment if the facility fails to obtain the required agreement prior to the scheduled effective date of the adjustment.

(11) A provider may challenge the rate set pursuant to this rule using the appeal in R410-14. This applies to which rate methodology is used as well as to the specifics of implementation of the methodology. A provider must exhaust administrative remedies before challenging rates in any other forum.

(12) In developing payment rates, the Department may adjust urban and non-urban rates to reflect differences in urban and non-urban labor costs. The urban labor costs reimbursement cannot exceed 106% of the non-urban labor costs. Labor costs are as reported on the most recent FCP but do not include FCP-reported management, consulting, director, and home office fees.

(13) The Department reimburses swing beds, transitional care unit beds, and small health care facility beds that are used as nursing facility beds, using the prior calendar year state-wide average of the daily nursing facility rate.

(14) Withholding of Title XIX payments

(a) The Department may withhold Title XIX payments from providers if:

(i) there is a shortage in a resident trust account managed by the facility;

(ii) the facility fails to submit a complete and accurate FCP as required by Utah State Plan Attachment 4.19-D, Section 332;

(iii) the facility fails to submit timely, accurate Minimum Data Set (MDS) data;

(iv) the facility owes money to the Division of Health Care Financing because of an overpayment, nursing care facility assessment, civil money penalty, or other offset; or

(v) the facility fails to respond within ten business days to requests for information relating to desk review or audit findings relating to the facility's submitted FCP or FRV Data Report.

(b) For ongoing operations, the Department will provide notice before withholding payments. The Department and provider may negotiate a repayment schedule acceptable to the Department for monies owed to the Department listed in subsection (a)(iv). The repayment schedule may not exceed 180 days.

(c) When the Department rescinds withholding of payments to a facility, it will resume payments according to the regular claims payment cycle.

R414-504-4. Quality Improvement Incentive.

(1) The incentive period is from July 1, 2008, through June 30, 2009.

(2) In order for a facility to qualify for any Quality Improvement Incentive in subsections (3) or (4):

(a) The Department must receive the application form and all supporting documentation for that Incentive no later than June 8 in the incentive period. Failure to include all required supporting documentation precludes a facility from qualification. Please note that

a postmark is not sufficient, all documentation must be physically received in the Department by the June 8 deadline.

(b) Facilities choosing to mail in applications and supporting documentation are responsible to ensure that documents are mailed to the correct address, as follows:

Via United States Postal Service

Utah Department of Health

DHCF, BCRP

Attn: Reimbursement Unit

P.O. Box 143102

Salt Lake City, UT 84114-3102

Via United Parcel Service or Federal Express

Utah Department of Health

DHCF, BCRP

Attn: Reimbursement Unit

288 North 1460 West

Salt Lake City, UT 84116-3231

(c) The facility must clearly mark and organize all supporting documentation to facilitate review by Department staff.

(13)(a) Upon federal approval of the Nursing Care Facilities State Plan Amendment for the quality program outlined in this subsection (13)(3), funds in the amount of \$1,000,000 shall be set aside from the base rate budget annually to reimburse non-ICF/MR facilities that have:

(i) a meaningful quality improvement plan which includes the involvement of residents and family;

(ii) a demonstrated process of assessing and measuring that plan;

(iii) ~~quarterly~~ customer satisfaction surveys conducted by an independent third-party in each quarter of the incentive period;

(iv) a plan for culture change along with an example of how the facility has implemented culture change;

(v) an employee satisfaction program; ~~and~~

(vi) no violations that are at an "immediate jeopardy" level, as determined by the Department, at the most recent re-certification survey and during the incentive period;];

(vii) a facility that receives a substandard quality of care level F, H, I, J, K, or L during the incentive period is eligible for only 50% of the possible reimbursement. A facility receiving substandard quality of care level F, H, I, J, K, or L in more than one survey during the incentive period is ineligible for reimbursement under this incentive.

(b) The Department shall distribute incentive payments to qualifying facilities based on the proportionate share of the total Medicaid patient days in qualifying facilities.

(c) If a facility seeks administrative review of the determination of a survey violation, the incentive payment will be withheld pending the final administrative adjudication. If violations are found not to have occurred ~~at a severity level of "immediate jeopardy" or higher~~, the incentive payment will be paid to the facility. If the survey findings are upheld, the remaining incentive payments will be distributed to all qualifying facilities.].

~~(e) A facility that receives a substandard quality of care level F, H, I, J, K, or L during the July 1 through June 30 incentive period is eligible for only 50% of the possible payout. A facility receiving substandard quality of care level F, H, I, J, K, or L in more than one survey during the July 1 through June 30 incentive period is ineligible for payout under this incentive.]~~

(14) Upon federal approval of the Nursing Care Facilities State Plan Amendment for the quality program outlined in this subsection (14) and in addition to the above incentive, funds in the amount of \$4,275,900 shall be set aside from the base rate budget in state fiscal

year 2009 for use in state fiscal year 2009 for the following quality improvement initiatives:

(a) Incentive for facilities to purchase or enhance nurse call systems. Qualifying Medicaid providers may receive up to \$390.51 for each Medicaid certified bed. The Medicaid certified bed count used for each facility for this incentive is the count in the facility as of July 1, 2008.

(i) Qualifying criteria include the following:

(A) The nurse call system that is compliant with approved "Guidelines for Design and Construction of Health Care Facilities."

(B) The nurse call system does not primarily use overhead paging; rather a different type of paging system is used. The paging system could include pagers, cell phones, Personal Digital Assistant devices, hand-held radio, etc. If radio frequency systems are used, consideration should be given to electromagnetic compatibility between internal and external sources.

(C) The nurse call system shall be designed so that a call activated by a resident will initiate a signal distinct from the regular staff call system and that can be turned off only at the resident's location.

(D) The signal shall activate an annunciator panel or screen at the staff work area or other appropriate location, and either a visual signal in the corridor at the resident's door or other appropriate location, or staff pager indicating the calling resident's name and/or room location, and at other areas as defined by the functional program.

(E) The nurse call system must be capable of tracking and reporting response times, such as the length of time from the initiation of the call to the time a nurse enters the room and answers the call.

(ii) A facility must purchase and implement the nurse call system on or after July 1, 2006, and no later than June 8, 2009.

(iii) A facility, with its application, must submit a detailed description of the functionality of the nurse call system, attesting to its meeting all of the above criteria.

(iv) A facility, with its application, must submit detailed supporting documentation of its nurse call system costs, installation and training costs.

(v) A facility, with its application, must submit proof of purchase that includes receipts and invoices.[]

~~(vi) The Department must receive the application form and all supporting documentation no later than June 8, 2009, for consideration under this incentive. Failure to include all required supporting documentation precludes a facility from qualification.~~

(b) Incentive for facilities to purchase new patient lift systems. Qualifying Medicaid providers may receive up to \$90 for each Medicaid certified bed. The Medicaid certified bed count used for each facility for this incentive is the count in the facility as of July 1, 2008.

(i) To qualify, a facility must, at a minimum, purchase one new normal duty patient lift capable of lifting patients weighing up to 450 pounds and one new heavy duty patient lift capable of lifting patients weighing up to 1,000 pounds; or, two new heavy duty patient lifts capable of lifting patients weighing up to 1,000 pounds.

(ii) A facility, with its application, must submit a detailed description of the lifts purchased.

(iii) The patient lifts must be purchased and installed on or after July 1, 2007, and no later than June 8, 2009.

(iv) A facility, with its application, must submit proof of purchase that includes receipts and invoices.[]

~~(v) The Department must receive the application form and all supporting documentation no later than June 8, 2009, for consideration under this incentive. Failure to include all required supporting documentation precludes a facility from qualification.~~

(c) Incentive for facilities to purchase new patient bathing systems. Qualifying Medicaid providers may receive up to \$110 for each Medicaid certified bed. The Medicaid certified bed count used for each facility for this incentive is the count in the facility as of July 1, 2008.

(i) To qualify, a facility must, at a minimum, purchase one new side-entry bathing system that allows the resident to enter the bathing system without having to step over or be lifted into the bathing area.

(ii) A facility, with its application, must submit a detailed description of the bathing system purchased.

(iii) The bathing system must be purchased and installed on or after July 1, 2007, and no later than June 8, 2009.

(iv) A facility, with its application, must submit proof of purchase that includes receipts and invoices.[]

~~(v) The Department must receive the application form and all supporting documentation no later than June 8, 2009, for consideration under this incentive. Failure to include all required supporting documentation precludes a facility from qualification.~~

~~(d) Applications and all supporting documentation must be received by June 8, 2009, for consideration.~~

([e]d) A facility must clearly mark and organize all supporting documentation to facilitate review by Department staff.

([f]e) A facility may not receive more than its documented costs under these incentive programs.

R414-504-5. Reimbursement for Intermediate Care Facilities for the Mentally Retarded.

The following principles apply to the payment of community-based intermediate care facilities for the mentally retarded (ICF/MRs) that are licensed under Utah Code 26-21-13.5:

(1) The Department pays approximately 93% of the aggregate payments to ICF/MRs based on a prospective flat rate established in Utah State Plan Attachment 4.19-D. The Department pays the balance as a property cost component calculated by the Fair Rental Value system pursuant to R414-504-3.

(2) The incentive period is from July 1, 2008, through June 30, 2009.

([2]3)(a) The Department shall set aside \$200,000 annually from the base rate budget for incentives to facilities[that have]. In order for a facility to qualify for an incentive:

(i) The Department must receive the application form and all supporting documentation for that incentive no later than June 8 in the incentive period. Failure to include all required supporting documentation precludes a facility from qualification. Please note that a postmark is not sufficient, all documentation must be physically received by the June 8 deadline.

(ii) Facilities choosing to mail in applications and supporting documentation are in addition responsible to ensure that documents are mailed to the correct address, as follows:

Via United States Postal Service

Utah Department of Health

DHCF, BCRP

Attn: Reimbursement Unit

P.O. Box 143102

Salt Lake City, UT 84114-3102

Via United Parcel Service or Federal Express

Utah Department of Health

DHCF, BCRP

Attn: Reimbursement Unit

288 North 1460 West

Salt Lake City, UT 84116-3231

(iii) The facility must clearly mark and organize all supporting documentation to facilitate review by Department staff.

(b) In order to qualify for an incentive, a facility must have:

(i) a meaningful quality improvement plan which includes the involvement of residents and family;

(ii) a demonstrated means to measure that plan; ~~and~~

(iii) ~~quarterly~~ customer satisfaction surveys conducted by an independent third-party ~~in each quarter of the incentive period; and~~

~~(b) In addition to meeting the requirements under (a), the facility must have had~~ (iv) no violations, as determined by the Department, that are at an "immediate jeopardy" level at the most recent recertification survey and during the incentive period.

(c) The Department shall distribute incentive payments to qualifying facilities based on the proportionate share of the total Medicaid patient days in qualifying facilities.

(d) If a facility seeks administrative review of a survey violation, the incentive payment will be withheld pending the final administrative determination. If violations are found not to have occurred at a severity level of "immediate jeopardy" or higher, the incentive payment will be paid to the facility. If the survey findings are upheld, the Department shall distribute the remaining incentive payments to all qualifying facilities.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: ~~July 1~~, 2008

Notice of Continuation: December 12, 2007

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3; 26-35a



**Health, Health Systems Improvement,
Emergency Medical Services**

R426-8-4

Application and Award Formula

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 31919

FILED: 09/02/2008, 12:22

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule change was proposed by the Grants Subcommittee and approved by the Emergency Medical Services (EMS) Committee. It will change the award formula so that a agency can only receive per capita funds for one person unless that person is dually certified as a dispatcher and an EMT or paramedic. The rule change is proposed by the Grants Subcommittee because agencies are given money for certified individuals who work for them. Some agencies claim certified individuals who may work for them a minimal amount of time. The Grants Subcommittee feels that an agency who recertifies a person and pays his fees, should receive credit for him, but an agency that is not responsible for the recertification or fees, should not receive credit for the person even if it is in a separate county.

SUMMARY OF THE RULE OR CHANGE: This amendment changes the award formula to let a person only be counted for one agency unless that person is a dually certified as a dispatcher and an EMT or a paramedic.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-8a-207

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The changes impose no additional duties on state government and do not relieve state government from any responsibilities. Therefore, there will be no cost to the state budget.

❖ LOCAL GOVERNMENTS: Counties will receive the same amount of per capita funds because the formula does not change. The Department anticipates that the impact will be anywhere from \$20 less for some agencies to over \$7,000 less for some agencies. The impact of the change will hurt agencies that hire part time people, such as Air Med, Life Flight, and other agencies that hire people to cover their areas at night. Specifically, there are eight agencies that tend to lose money. These agencies are Air Med - \$7,218; Life Flight - \$6,616; Lone Peak/Alpine - \$2,539; Eagle Mountain - \$2,319; Lehi Ambulance - \$2,193; Layton City Fire - \$1,644; Riverdale Fire Dept - \$1,195; and Washington Terrace Fire - \$1,136. The agencies that will gain this funding are the agencies where EMS personnel are full time, for instance, Davis County Sheriff, Salt Lake City Fire Department, Sandy Fire Department, Unified Fire Authority, West Jordan Public Safety, West Valley Fire, Orem Public Safety, Provo Fire Department, and Ogden Fire Department all will gain over \$1,000 to \$7,000.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are very few non-local government agencies that are involved in this process, and the only one that will be affected is the Dixie Ambulance Service in St. George. They would stand to gain over \$200 with the proposed change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because the per capita grants are monies provided to EMS providers through the Criminal Fines and Forfeitures and given to providers. The rule imposes no additional application requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change will restrict applications for the same person unless they are dually certified and is requested by the industry. David N. Sundwall, MD, Executive Director

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT,
EMERGENCY MEDICAL SERVICES
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Leslie Johnson at the above address, by phone at 801-538-6292, by FAX at 801-538-6808, or by Internet E-mail at lesliejohnson@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 10/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2008

AUTHORIZED BY: David N. Sundwall, Executive Director

R426. Health, Health Systems Improvement, Emergency Medical Services.

R426-8. Emergency Medical Services Per Capita Grants Program Rules.

R426-8-4. Application and Award Formula.

(1) Grants are available to eligible providers that complete a grant application by the deadline established annually by the Department.

(2) Agency applicants shall certify agency personnel rosters as part of the grant application process.

(a) A certified individual who works for both a public and a for-profit agency may be credited only to the public or non-profit licensee or designee.

(b) Certified individuals may be credited for only one agency [~~per county~~]. However, if a dispatcher is also an EMT, EMT-I, EMT-IA, or paramedic, the dispatcher may be credited to one agency as a dispatcher and one agency as an EMT, EMT-I, EMT-IA, or paramedic.

(c) Certified individuals who work for providers that cover multiple counties may be credited only for the county where the certified person lives.

(d) The Department shall determine the amounts of the per capita grants by prorating available funds on a per capita basis by county.

(3) The Department shall allocate funds to licensed and designated ambulance and paramedic providers, designated dispatch agencies and designated first response units by using the following point totals for their personnel: certified Dispatchers = 1; certified Basic EMTs and EMT-IVs = 2; certified Intermediate EMTs = 3; and certified Paramedics = 4. The number of certified personnel is based upon the personnel rosters of each licensed EMS provider, designated dispatch agency and designated first response unit as of January 1 immediately prior to the grant year, which begins July 1.

KEY: emergency medical services

Date of Enactment or Last Substantive Amendment: ~~June 5,~~ **2008**

Notice of Continuation: **January 24, 2006**

Authorizing, and Implemented or Interpreted Law: **26-8a**



Health, Health Systems Improvement,
Emergency Medical Services
R426-12
Emergency Medical Services Training
and Certification Standards

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31922

FILED: 09/02/2008, 14:02

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: A number of changes were passed through the Training Subcommittee and the Emergency Medical Services (EMS) Committee. The changes were needed to update the rules with current practices.

SUMMARY OF THE RULE OR CHANGE: The amendments are: 1) change the wording regarding CPR courses to make a CPR course be current; 2) change the number of continuing medical education hours that a person can use for recertification for college courses, CPR training, and computer and internet-based training; 3) delete the requirement that an individual must have 12 months of field experience before they can be certified at a higher level; 4) clarify how long a person has to complete the recertification requirements at a lower level if that person fails three written tests at the higher level; 5) delete the time period requirement that a person must be certified to be able to certify as an EMS Instructor, Training Officer and Course Coordinator; and 6) clarify that a Training Officer cannot sign off his own recertification requirements.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 8a

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The changes impose no additional duties on state government and do not relieve state government from any responsibilities. Therefore, there will be no cost to the state budget.

❖ LOCAL GOVERNMENTS: There will be no cost to local governments because the rule changes are clarifications and changes in the number of hours a person must have for recertification. At the present time, EMS personnel have to have the same amount of continuing medical education hours they will need after the change, but they can use more hours from college courses and internet-based training.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There will not be a cost to nonprofit entities because they still have to have the same amount of continuing medical education hours for their certified EMS people.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because the number of hours and the CPR courses are the same. Most of the information contained in the rule change is to clarify the rules, and therefore there are no additional requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These rule clarifications do not change substantive requirements and should not have a fiscal impact. David N. Sundwall, MD, Executive Director

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT,
EMERGENCY MEDICAL SERVICES
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Leslie Johnson at the above address, by phone at 801-538-6292, by FAX at 801-538-6808, or by Internet E-mail at lesliejohnson@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 10/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2008

AUTHORIZED BY: David N. Sundwall, Executive Director

R426. Health, Health Systems Improvement, Emergency Medical Services.

R426-12. Emergency Medical Services Training and Certification Standards.

R426-12-201. EMT-B Initial Certification.

(1) The Department may certify an EMT-B for a four year period.

(2) An individual who wishes to become certified as an EMT-B must:

(a) successfully complete a Department-approved EMT-B course as described in R426-12-200(2);

(b) be able to perform the functions listed in the objectives of the EMT-B Curriculum adopted in R426-12-200(2) as verified by personal attestation and successful accomplishment during the course of all cognitive, affective, and psychomotor skills and objectives listed in the adopted EMT-B Curriculum;

(c) achieve a favorable recommendation from the course coordinator and course medical director stating technical competence during field and clinical training and successful completion of all training requirements for EMT-B certification;

(d) be 18 years of age or older;

(e) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(f) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(g) maintain and submit current documentation of having completed [~~within the prior two years,~~] a CPR provider course [~~offered by~~]from the National Safety Council, the American Red Cross, or the American Heart Association or a course that the

applicant can demonstrate to the Department to be equivalent or greater;

(h) submit to the Department a statement from a physician, confirming the applicant's results of a TB examination conducted within one year prior to completing the EMT-B course;

(i) within 120 days after the official course end date the applicant must successfully complete the Department written and practical EMT-B examinations, or reexaminations, if necessary.

(3) The Department may extend the time limit in Subsection (2)(i) for an individual who demonstrates that the inability to meet the requirements within the 120 days was due to circumstances beyond the applicant's control, such as for documented medical circumstances that prevent completion of testing, military deployment out of the state, extreme illness in the immediate family, or the like.

R426-12-202. EMT-B Certification Challenges.

(1) The Department may certify as an EMT-B, a registered nurse licensed in Utah, a physician assistant licensed in Utah, or a physician licensed in Utah who:

(a) is able to demonstrate knowledge, proficiency and competency to perform all the functions listed in the EMT-B Curriculum as verified by personal attestation and successful demonstration to a currently certified course coordinator and an off-line medical director of all cognitive, affective, and psychomotor skills and objectives listed in the EMT-B Curriculum;

(b) has a knowledge of:

(i) medical control protocols;

(ii) state and local protocols; and

(iii) the role and responsibilities of an EMT-B;

(c) maintains and submits current documentation of having completed [~~within the prior two years,~~] a CPR provider course [~~offered by~~]from the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater; and

(d) is 18 years of age or older.

(2) To become certified, the applicant must:

(a) submit three letters of recommendation from health care providers attesting to the applicant's patient care skills and abilities;

(b) submit a favorable recommendation from a currently certified course coordinator attesting to competency of all knowledge and skills contained within the EMT-B Curriculum.

(c) submit the applicable fees and a completed application, including social security number, signature, and, proof of current Utah license as a Registered Nurse, a Physician Assistant, or a Medical Doctor;

(d) within 120 days after submitting the challenge application, successfully complete the Department written and practical EMT-B examinations, or reexaminations, if necessary;

(e) The Department may extend the time limit in Subsection (2)(i) for an individual who demonstrates that the inability to meet the requirements within 120 days was due to circumstances beyond the applicants control, such as for documented medical circumstances that prevent completion of testing, military deployment out of the state, extreme illness in the immediate family, or the like.

(f) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years; and

(g) submit a statement from a physician, confirming the applicant's results of a TB examination conducted within one year prior to submitting the application.

R426-12-203. EMT-B Reciprocity.

(1) The Department may certify an individual as an EMT-B an individual certified outside of the State of Utah if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater than what is required in Utah.

(2) An individual seeking reciprocity for certification in Utah based on out-of-state training and experience must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department and complete all of the following within 120 days of submitting the application;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(c) maintain and submit current documentation of having completed [~~within the prior two years,~~] a CPR provider course [~~offered by~~] from the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;

(d) submit a statement from a physician, confirming the applicant's results of a TB examination conducted within the prior year;

(e) successfully complete the Department written and practical EMT-B examinations, or reexaminations, if necessary;

(f) submit a current certification from one of the states of the United States or its possessions, or current registration and the name of the training institution if registered with the National Registry of EMTs; and

(g) provide documentation of completion of 25 hours of continuing medical education (CME) within the prior year.

R426-12-204. EMT-B Recertification Requirements.

(1) The Department may recertify an EMT-B for a four year period or for a shorter period as modified by the Department to standardize recertification cycles.

(2) An individual seeking recertification must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(c) maintain and submit current documentation of having completed [~~within the prior two years,~~] a CPR provider course [~~offered by~~] from the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;

(d) submit a statement from the applicant's EMS provider organization or a physician, confirming the applicant's results of a TB examination; and

(e) successfully complete the Department applicable written and practical recertification examinations, or reexaminations if necessary, within one year prior to expiration;

(f) provide documentation of completion of 100 hours of Department-approved CME meeting the requirements of subsections (3), (4), (5), (6), and (7).

(3) The EMT-B must complete the CME throughout each of the prior four years.

(4) The EMT-B must take at least 25 elective hours and the following 75 required CME hours by subject:

(a) Well being of the EMT - 2 hours;

(b) Infection Control - 2 hours;

(c) Airway - 4 hours;

(d) Patient Assessment - 10 hours;

(e) Communications and Documentation - 4 hours;

(f) Pharmacology and Patient Assisted Medications - 8 hours;

(g) Medical Emergencies: Cardiac and Automatic External Defibrillation - 6 hours;

(h) Medical Emergencies - 7 hours;

(i) Trauma (must include simulated bleeding, shock, soft tissue, burns, kinetics, musculoskeletal, head and spine, eyes, face, chest, splinting and bandaging - 12 hours;

(j) Pediatric Patients - 8 hours;

(k) Obstetrics and Gynecology - 4 hours;

(l) Operations (must include lifting and moving, ambulance operations, extrication, triage - 4 hours; and

(m) HAZMAT awareness - 4 hours.

(5) An EMT-B may complete CME hours through the methodologies listed in this subsection. All CME must be related to the required skills and knowledge of an EMT. Instructors need not be EMS instructors, but must be knowledgeable in the field of instruction. Limitations and special requirements are listed with each methodology.

(a) Workshops and seminars related to the required skills and knowledge of an EMT and approved for CME credit by the Department or the Continuing Education Coordinating Board for EMS (CECBEMS).

(b) Local medical training meetings.

(c) Demonstration or practice sessions.

(d) Medical training meetings where a guest speaker presents material related to emergency medical care.

(e) Actual hours the EMT-B is involved in community emergency exercise and disaster drills. Up to 20 hours are creditable during a recertification period for participation in exercises and drills.

(f) Teaching the general public (schools, scouts, clubs, or church groups) on any topic within the scope of the EMT-B practice. Up to 15 hours are creditable during a certification period for teaching classes.

(g) Viewing audiovisuals (films, videotapes, etc.) which illustrate and review proper emergency care procedures. The EMT-B must view the audiovisual material in the presence of a training officer. Up to 10 hours are creditable during a certification period using audiovisuals.

(h) Completing college courses in topics such as biology, chemistry, anatomy and physiology. Other college courses relating to the scope and practice of an EMT-B may be creditable, but only with the approval of the Department. If in doubt, the EMT-B should contact the Department. Up to [40]25 hours are creditable during a certification period for college courses.

(i) Up to [46]12 hours of CPR training are creditable during a certification period.

(j) Computer and internet-based training that illustrates, drills, provides interactive use, or demonstrates proper emergency care procedures. The training must be approved by the CECBEMS or the Department. Up to [25]50 hours are creditable during a certification period using computer and internet-based training.

(k) Completing tests related to the EMT-B scope of practice in EMS-related journals or publications. Up to five hours are creditable during a certification period for completing tests from journals and publications.

(6) The EMT-B must complete the following skills at least two times as part of the CME training listed in subsections (4) and (5):

(a) bandaging of the arm, elbow, shoulder, neck, top of head, cheek, protruding eye, ear, and open chest wound;

(b) splinting using hare traction or sager splint (choice based upon availability of equipment);

(c) splinting of at least one upper and lower extremity;

(d) cervical and spinal immobilization using c-collar, long board, head stabilization equipment (utilize available equipment) and straps;

(e) patient assisted medications: nitroglycerin, pre-loaded epinephrine, inhaler, glucose, activated charcoal, and aspirin;

(f) pediatric immobilization: in a car seat and backboard;

(g) insertion of nasopharyngeal and oropharyngeal airways; and

(h) defibrillation of a simulated patient in cardiac arrest using an AED.

(7) An EMT-B who is affiliated with an EMS organization should have the training officer from the EMS organization submit a letter verifying the EMT-B's completion of the recertification requirements. An EMT-B who is not affiliated with an agency must submit verification of all recertification requirements directly to the Department.

(8) Each EMT-B is individually responsible to complete and submit the required recertification material to the Department. Each EMT-B should submit all recertification materials to the Department at one time, no later than 30 days and no earlier than one year prior to the EMT-B's current certification expiration date. If the Department receives incomplete or late recertification materials, the Department may not be able to process the recertification before the certification expires. The Department processes recertification material in the order received.

(9) An EMS provider or an entity that provides CME may compile and submit recertification materials on behalf of an EMT-B; however, the EMT-B remains responsible for a timely and complete submission.

(10) The Department may shorten recertification periods. An EMT-B whose recertification period is shortened must meet the CME requirements in each of the required and elective subdivisions on a prorated basis by the expiration of the shortened period.

(11) The Department may not lengthen certification periods more than the four year certification, unless the individual is a member of the National Guard or reserve component of the armed forces and is on active duty when certification expired. If this happens, the individual shall recertify in accordance with Utah Code 39-1-64.

R426-12-300. Emergency Medical Technician-Intermediate (EMT-I) Requirements and Scope of Practice.

(1) The Department may certify as an EMT-I, an EMT-B who[~~is~~

~~—(a)—] meets the initial certification requirements in R426-12-301[~~is~~ and~~

~~—(b) has 12 months of field experience as a certified EMT-B, six months of which the Department may waive upon a written request from the off-line medical director showing that there is a shortage of EMT-Is to serve the area].~~

(2) The Committee adopts as the standard for EMT-I training and competency in the state the following affective, cognitive, and psychomotor objectives for patient care and treatment from the 1998 United States Department of Transportation's "Emergency Medical Technician-Intermediate Training Program: National Standard Curriculum" (EMT-I Curriculum): 1-1, 1-3, 1-4, 2-1, 3-2, 3-3, 3-5, 4-2, 5-1, 5-2, 5-3, 5-4, 5-5, 6-3, which is incorporated by reference, with the exception of the following objectives : 1-1.18-24, 1-1.54, 1-3.14-15, 1-3.17, 1-4.18, 1-4.24-25, 1-4.38, 2-1.7-8, 2-1.21, 2-1.33, 2-1.82-83, 2-1.92, 2-1.94, 2-1.96, 4-2.14-16, 5-1.3-5, 5-2.6-11, 5-2.13-14, 5-2.16-18, 5-2.20, 5-2.22-33, 5-2.39, 5-2.41, 5-2.44-46, 5-3.5-16, 5-4.3-5, 5-4.8-11, 5-5.3, 5-5.8-9, and 5-5.13,

(3) In addition to the skills that an EMT-B may perform, an EMT-I may perform the adopted skills described in section R426-12-300(2).

R426-12-301. EMT-I Initial Certification.

(1) The Department may certify an EMT-I for a four year period.

(2) An individual who wishes to become certified as an EMT-I must:

(a) successfully complete a Department-approved EMT-I course as described in R426-12-300(2);

(b) be able to perform the functions listed in the objectives of the EMT-I Curriculum adopted in R426-12-300(2) as verified by personal attestation and successful accomplishment during the course of all cognitive, affective, and psychomotor skills and objectives.

(c) achieve a favorable recommendation from the course coordinator and course medical director stating technical competence during field and clinical training and successful completion of all training requirements for EMT-I certification;

(d) be currently certified as an EMT-B;

(e) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(f) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(g) maintain and submit current documentation of having completed [~~within the prior two years—~~]a CPR provider course [~~offered by~~]from the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;

(h) submit to the Department a statement from a physician, confirming the applicant's results of a TB examination conducted within one year prior to completing the EMT-I course; and

(i) within 120 days after the official course end date the applicant must, successfully complete the Department written and practical EMT-I examinations, or reexaminations, if necessary.

(3) The Department may extend the time limit in Subsection (2)(i) for an individual who demonstrates that the inability to meet the requirements within the 120 days was due to circumstances beyond the applicant's control, such as for documented medical circumstances that prevent completion of testing, military

deployment out of the state, extreme illness in the immediate family, or the like.

(4) If an individual's basic EMT certification lapses before he has completed all course requirements for an EMT-I, the individual must recertify as an EMT-B, including a practical test and CME documentation, before he can certify as an EMT-I. The individual may take the EMT-I written certification test to satisfy the written EMT-Basic recertification and EMT-I written certification requirements.

R426-12-302. EMT-I Reciprocity.

(1) The Department may certify as an EMT-I an individual certified outside of the State of Utah if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater than what is required in Utah.

(2) An individual seeking reciprocity for certification in Utah based on out-of-state training and experience must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department and complete all of the following within 120 days of submitting the application;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(c) maintain and submit current documentation of having completed ~~[within the prior two years,]~~ a CPR provider course ~~[offered by]~~ from the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;

(d) submit a statement from a physician, confirming the applicant's results of a TB examination conducted within the prior year;

(e) successfully complete the Department written and practical examinations, or reexaminations, if necessary;

(f) submit a current certification from one of the states of the United States or its possessions, or current registration and the name of the training institution if registered with the National Registry of EMTs;

(g) provide documentation of completion of 25 hours of continuing medical education (CME) within the prior year.

R426-12-303. EMT-I Recertification Requirements.

(1) The Department may recertify an EMT-I for a four year period or for a shorter period as modified by the Department to standardize recertification cycles.

(2) An individual seeking recertification must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(c) maintain and submit current documentation of having completed ~~[within the prior two years,]~~ a CPR provider course ~~[offered by]~~ from the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;

(d) submit a statement from the EMS provider organization or a physician, confirming the applicant's results of a TB examination

(e) successfully complete the Department applicable written and practical recertification examinations, or reexaminations if necessary, within one year prior to expiration;

(f) submit a letter from a certified off-line medical director recommending the individual for recertification and verifying the individual's demonstrated proficiency in the following EMT-I skills:

(i) initiating and terminating intravenous infusion;

(ii) completion of pediatric vascular access skills station;

(iii) insertion and removal of intraosseous needle;

(iv) insertion and removal of endotracheal tube;

(v) administration of medications via intramuscular, subcutaneous, and intravenous routes; and

(vi) EKG rhythm recognition; and

(g) provide documentation of completion of 100 hours of Department-approved CME meeting the requirements of subsections (3), (4), (5), (6), (7) and (8).

(3) The EMT-I must complete the CME throughout each of the prior four years.

(4) The EMT-I must take at least 25 elective hours and the following 75 required CME hours by subject:

(a) Foundations of EMT-Intermediate - 4 hours;

(b) Pharmacology - 5;

(c) Venous Access and Medication Administration - 5 hours;

(d) Airway - 8 hours;

(e) Techniques of Physical Examination - 4 hours;

(f) Patient Assessment - 2 hours;

(g) Clinical Decision Making - 4 hours

(h) Trauma Systems and Mechanism of Injury - 3 hours;

(i) Hemorrhage and Shock - 4 hours;

(j) Burns - 3 hours;

(k) Thoracic Trauma - 3 hours;

(l) Respiratory - 2 hours;

(m) Cardiac - 6 hours;

(n) Diabetic - 2 hours;

(o) Allergic Reactions - 2 hours;

(p) Poisoning - 2 hours;

(q) Environmental Emergencies - 2 hours;

(r) Gynecology - 2 hours;

(s) Obstetrics - 2 hours;

(t) Neonatal resuscitation - 4 hours; and

(u) Pediatrics - 6 hours.

(5) The Department strongly suggests that the 25 elective hours be in the following topics:

(a) Anatomy and Physiology;

(b) Assessment Based Management;

(c) Behavioral Emergencies;

(d) Communication;

(e) Documentation;

(f) Geriatrics;

(g) HAZMAT;

(h) History Taking;

(i) Mass Casualty Incident;

(j) Medical Incident Command;

(k) Neurological Emergencies;

(l) Non-Traumatic Abdominal Emergencies; and

(m) Trauma Practical Lab.

(6) An EMT-I may complete CME hours through the methodologies listed in this subsection. All CME must be related to the required skills and knowledge of an EMT. Instructors need not be EMS instructors, but must be knowledgeable in the field of

instruction. Limitations and special requirements are listed with each methodology.

(a) Workshops and seminars related to the required skills and knowledge of an EMT and approved for CME credit by the Department or the CECBEMS.

(b) Local medical training meetings.

(c) Demonstration or practice sessions.

(d) Medical training meetings where a guest speaker presents material related to emergency medical care.

(e) Actual hours the EMT-I is involved in community emergency exercise and disaster drills. Up to 20 hours are creditable during a recertification period for participation in exercises and drills.

(f) Teaching the general public (schools, scouts, clubs, or church groups) on any topic within the scope of the EMT-I practice. Up to 15 hours are creditable during a certification period for teaching classes.

(g) Viewing audiovisuals (films, videotapes, etc.) which illustrate and review proper emergency care procedures. The EMT-I must view the audiovisual material in the presence of a training officer. Up to 10 hours are creditable during a certification period using audiovisuals.

(h) Completing college courses in topics such as biology, chemistry, anatomy and physiology. Other college courses relating to the scope and practice of an EMT-I may be creditable, but only with the approval of the Department. If in doubt, the EMT-I should contact the Department. Up to [40]25 hours are creditable during a certification period for college courses.

(i) Up to [46]12 hours of CPR training are creditable during a certification period.

(j) Computer and internet-based training that illustrates, drills, provides interactive use, or demonstrates proper emergency care procedures. The training must be approved by the CECBEMS or the Department. Up to [25]50 hours are creditable during a certification period using computer and internet-based training.

(k) Completing tests related to the EMT-I scope of practice in EMS-related journals or publications. Up to five hours are creditable during a certification period for completing tests from journals and publications.

(7) The EMT-I must complete the following skills at least two times as part of the CME training listed in subsections (4) and (6):

(a) bandaging of the arm, elbow, shoulder, neck, top of head, cheek, protruding eye, ear, and open chest wound;

(b) splinting using hare traction or sager splint (choice based upon availability of equipment);

(c) splinting of at least one upper and lower extremity;

(d) cervical and spinal immobilization using c-collar, long board, head stabilization equipment (utilize available equipment) and straps;

(e) patient assisted medications: nitroglycerin, pre-loaded epinephrine, inhaler, glucose, activated charcoal, and aspirin;

(f) pediatric immobilization: in a car seat and backboard;

(g) insertion of nasopharyngeal and oropharyngeal airways; and

(h) defibrillation of a simulated patient in cardiac arrest using an AED.

(8) An EMT-I who is affiliated with an EMS organization should have the training officer from the EMS organization submit a letter verifying the EMT-I's completion of the recertification requirements. An EMT-I who is not affiliated with an agency must

submit verification of all recertification requirements directly to the Department.

(9) Each EMT-I is individually responsible to complete and submit the required recertification material to the Department. Each EMT-I should submit all recertification materials to the Department at one time, no later than 30 days and no earlier than one year prior to the EMT-I's current certification expiration date. If the Department receives incomplete or late recertification materials, the Department may not be able to process the recertification before the certification expires. The Department processes recertification material in the order received.

(10) An EMS provider or an entity that provides CME may compile and submit recertification materials on behalf of an EMT-I; however, the EMT-I remains responsible for a timely and complete submission.

(11) The Department may shorten recertification periods. An EMT-I whose recertification period is shortened must meet the CME requirements in each of the required and elective subdivisions on a prorated basis by the expiration of the shortened period.

(12) The Department may not lengthen recertification periods more than the four year certification, unless the individual is a member of the National Guard or reserve component of the armed forces and is on active duty when certification expires. If this happens, the individual shall recertify following Utah Code 39-1-64.

R426-12-305. EMT-I Testing Failures.

(1) An individual who fails any part of the EMT-I certification or recertification written or practical examination may retake the EMT-I examination twice without further course work.

(2) If the individual fails both re-examinations, he must take a complete EMT-I training course to be eligible for further examination.

(3) The individual may retake the course as many times as he desires, but may only take the examinations three times for each completed course. If an individual retakes the course because of failure to pass the examinations, the individual must pass both the practical and written test administered after completion of the new course.

(4) If an EMT-I fails the recertification written test three times or the practical tests three times, he may request in writing, within 30 days of the date of the third failure notification letter, that he be allowed to apply for EMT-Basic recertification. The failed EMT-I cannot retake the EMT-I course until the failed EMT-I recertifies as a EMT-B. If he applies for EMT-Basic recertification in this circumstance, he has three opportunities to test to that level. [He has 120 days from the date of his request to complete recertification requirements at the EMT-Basic level.]The failed EMT-I must complete all recertification requirements at the EMT-B level within one year of the lapse of the EMT-I certification. If the requirements for the EMT-Basic course are not completed within one year of the lapse of the EMT-I certification, the applicant must re-take a complete EMT-Basic course.

R426-12-400. Emergency Medical Technician-Intermediate Advanced (EMT-IA) Requirements and Scope of Practice.

(1) The Department may certify as an EMT-IA, an EMT-B or an EMT-I who[
~~(a)~~ meets the initial certification requirements in R426-12-401[~~and~~

~~(b) has 12 months of field experience as a certified EMT-B or EMT-I, six months of which the Department may waive upon a written request from the off-line medical director showing that there is a shortage of EMT-IAs to serve the area.~~

(2) The Committee adopts as the standard for EMT-IA training and competency in the state the following affective, cognitive, and psychomotor objectives for patient care and treatment from the 1998 United States Department of Transportation's "Emergency Medical Technician-Intermediate Training Program: National Standard Curriculum" (EMT-I Curriculum) which is incorporated by reference, with the exception of the following objectives: 1-1.18-24,1-1.54,2-1.8, 2-1.31(f), 2-1.33, 2-1.75(c), (e), and (f), 6-3.1, 6-3.102-106.

(3) In addition to the skills that an EMT-B and an EMT-I may perform, an EMT-IA may perform the adopted skills described in section R426-12-400(2).

R426-12-403. EMT-IA Recertification Requirements.

(1) The Department may recertify an EMT-IA for a four year period or for a shorter period as modified by the Department to standardize recertification cycles.

(2) An individual seeking recertification must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(c) maintain and submit verification of completion of a Department-approved course in adult and pediatric advanced cardiac life support and maintain current status as set by the entity sponsoring the course;

(d) submit a statement from the applicant's EMS provider organization or a physician, confirming the applicant's results of a TB examination;

(e) successfully complete the Department applicable written and practical EMT-IA recertification examinations, or reexaminations, if necessary within one year prior to expiration;

(f) submit a letter from a certified off-line medical director recommending the individual for recertification and verifying the individual's demonstrated proficiency in the following EMT-IA skills:

- (i) initiating and terminating intravenous infusion;
- (ii) completion of pediatric vascular access skills station;
- (iii) insertion and removal of intraosseous needle;
- (iv) insertion and removal of endotracheal tube;
- (v) administration of medications via intramuscular, subcutaneous, and intravenous routes; and
- (vi) EKG rhythm recognition; and
- (g) provide documentation of completion of 100 hours of Department-approved CME meeting the requirements of subsections (3), (4), (5), (6), (7) and (8).

(3) The EMT-IA must complete the CME throughout each of the prior four years.

(4) The EMT-IA must have taken at least 25 elective hours and the following 75 required CME hours by subject:

- (a) Foundations of EMT-Intermediate - 4 hours;
- (b) Pharmacology - 5;
- (c) Venous Access and Medication Administration - 5 hours;
- (d) Airway - 8 hours;
- (e) Techniques of Physical Examination - 4 hours;
- (f) Patient Assessment - 2 hours;

(g) Clinical Decision Making - 4 hours

(h) Trauma Systems and Mechanism of Injury - 3 hours;

(i) Hemorrhage and Shock - 4 hours;

(j) Burns - 3 hours;

(k) Thoracic Trauma - 3 hours;

(l) Respiratory - 2 hours;

(m) Cardiac - 6 hours;

(n) Diabetic - 2 hours;

(o) Allergic Reactions - 2 hours;

(p) Poisoning - 2 hours;

(q) Environmental Emergencies - 2 hours;

(r) Gynecology - 2 hours;

(s) Obstetrics - 2 hours;

(t) Neonatal resuscitation - 4 hours; and

(u) Pediatrics - 6 hours.

(5) The Department strongly suggests that the 25 elective hours be in the following topics:

(a) Anatomy and Physiology;

(b) Assessment Based Management;

(c) Behavioral Emergencies;

(d) Communication;

(e) Documentation;

(f) Geriatrics;

(g) HAZMAT;

(h) History Taking;

(i) Mass Casualty Incident;

(j) Medical Incident Command;

(k) Neurological Emergencies;

(l) Non-Traumatic Abdominal Emergencies; and

(m) Trauma Practical Lab.

(6) An EMT-IA may complete CME hours through the methodologies listed in this subsection. All CME must be related to the required skills and knowledge of an EMT-IA. Instructors need not be EMS instructors, but must be knowledgeable in the field of instruction. Limitations and special requirements are listed with each methodology.

(a) Workshops and seminars related to the required skills and knowledge of an EMT-IA and approved for CME credit by the Department or the CECBEMS.

(b) Local medical training meetings.

(c) Demonstration or practice sessions.

(d) Medical training meetings where a guest speaker presents material related to emergency medical care.

(e) Actual hours the EMT-IA is involved in community emergency exercise and disaster drills. Up to 20 hours are creditable during a recertification period for participation in exercises and drills.

(f) Teaching the general public (schools, scouts, clubs, or church groups) on any topic within the scope of the EMT-IA practice. Up to 15 hours are creditable during a certification period for teaching classes.

(g) Viewing audiovisuals (films, videotapes, etc.) which illustrate and review proper emergency care procedures. The EMT-IA must view the audiovisual material in the presence of a training officer. Up to 10 hours are creditable during a certification period using audiovisuals.

(h) Completing college courses in topics such as biology, chemistry, anatomy and physiology. Other college courses relating to the scope and practice of an EMT-IA may be creditable, but only with the approval of the Department. If in doubt, the EMT-IA

should contact the Department. Up to [40]25 hours are creditable during a certification period for college courses.

(i) Up to [46]12 hours of CPR training are creditable during a certification period.

(j) Computer and internet-based training that illustrates, drills, provides interactive use, or demonstrates proper emergency care procedures. The training must be approved by the CECBEMS or the Department. Up to [25]50 hours are creditable during a certification period using computer and internet-based training.

(k) Completing tests related to the EMT-IA scope of practice in EMS-related journals or publications. Up to five hours are creditable during a certification period for completing tests from journals and publications.

(7) The EMT-IA must complete the following skills at least two times as part of the CME training listed in subsections (4) and (6):

(a) bandaging of the arm, elbow, shoulder, neck, top of head, cheek, protruding eye, ear, and open chest wound;

(b) splinting using hare traction or sager splint (choice based upon availability of equipment);

(c) splinting of at least one upper and lower extremity;

(d) cervical and spinal immobilization using c-collar, long board, head stabilization equipment (utilize available equipment) and straps;

(e) patient-assisted medications: nitroglycerin, pre-loaded epinephrine, inhaler, glucose, activated charcoal, and aspirin;

(f) pediatric immobilization: in a car seat and backboard;

(g) insertion of nasopharyngeal and oropharyngeal airways; and

(h) initiating and terminating intravenous infusion;

(i) completion of pediatric vascular access skills station;

(j) insertion and removal of intraosseous needle;

(k) insertion and removal of endotracheal tube;

(l) administration of medications via intramuscular, subcutaneous, and intravenous routes;

(m) transcutaneous pacing;

(n) synchronized cardioversion;

(o) insertion and removal of a nasal gastric tube;

(p) external jugular vein cannulation;

(q) needle decompression of a chest;

(r) administration of the following medications: adenosine, activated charcoal, aspirin, atropine, albuterol, D50, diazepam, epinephrine 1:1000, epinephrine 1:10,000, furosemide, lidocaine, morphine, naloxone, and nitroglycerin; and;

(s) EKG rhythm recognition of the following rhythms: ventricular fibrillation, ventricular tachycardia, atrial flutter, atrial fibrillation, sinus tachycardia, paroxysmal supraventricular tachycardia, pulseless electrical activity, asystole, premature ventricular contraction, atrioventricular blocks: 1st degree, 2nd degree types I and II, and 3rd degree.

(8) An EMT-IA who is affiliated with an EMS organization should have the training officer from the EMS organization submit a letter verifying the EMT-IA's completion of the recertification requirements. An EMT-I who is not affiliated with an agency must submit verification of all recertification requirements directly to the Department.

(9) Each EMT-IA is individually responsible to complete and submit the required recertification material to the Department. Each EMT-IA should submit all recertification materials to the Department at one time, no later than 30 days and no earlier than one year prior to the EMT-IA's current certification expiration date.

If the Department receives incomplete or late recertification materials, the Department may not be able to process the recertification before the certification expires. The Department processes recertification material in the order received.

(10) An EMS provider or an entity that provides CME may compile and submit recertification materials on behalf of an EMT-IA; however, the EMT-IA remains responsible for a timely and complete submission.

(11) The Department may shorten recertification periods. An EMT-IA whose recertification period is shortened must meet the CME requirements in each of the required and elective subdivisions on a prorated basis by the expiration of the shortened period.

(12) The Department may not lengthen recertification periods more than the four year certification, unless the individual is a member of the National Guard or reserve component of the armed forces and is on active duty when certification expires. If this happens, the individual shall recertify following Utah Code 39-1-64.

R426-12-405. EMT-IA Testing Failures.

(1) An individual who fails any part of the EMT-IA written or practical certification or recertification examination may retake the EMT-IA examination twice without further course work.

(2) If the individual fails on both re-examinations, he must take a complete EMT-IA training course to be eligible for further examination at the EMT-IA level.

(3) The individual may retake the course as many times as he desires, but may only take the examinations three times for each completed course. If an individual retakes the course because of failure to pass the examinations, the individual must pass both the practical and written tests administered after completion of the new course.

(4) If an EMT-IA fails the recertification written test three times or the practical test three times, he may request in writing, within 30 days of the date of the third failure notification letter, that he be allowed to apply for EMT-I or EMT-B recertification. The failed EMT-IA cannot retake the EMT-IA course until the failed EMT-IA recertifies as an EMT-B or an EMT-I. [He has 120 days from the date of his request to complete recertification requirements at a lower level.] If he applies for EMT-Basic or EMT-I certification, he has three opportunities to test to that level. The failed EMT-IA must complete all recertification requirements at the EMT-B or EMT-I level within one year of the lapse of the EMT-IA certification. If the requirements for the EMT-B or EMT-I recertification are not completed within one year of the lapse of the EMT-IA certification, the applicant must re-take a complete EMT-Basic course.

R426-12-500. Paramedic Requirements and Scope of Practice.

(1) The Department may certify as a paramedic, an EMT-B, an EMT-I or an EMT-IA who[-

~~(a)-]meets the initial certification requirements in R426-12-501[- and~~

~~(b) has 12 months of field experience as a certified EMT-B, EMT-I or EMT-IA, six months of which the Department may waive upon a written request from the off-line medical director showing that there is a shortage of paramedics to serve the area;].~~

(2) The Committee adopts as the standard for paramedic training and competency in the state the following affective, cognitive and psychomotor objectives for patient care and treatment from the 1998 United States Department of Transportation's "EMT-

Paramedic Training Program: National Standard Curriculum" (Paramedic Curriculum) which is incorporated by reference.

(3) In addition to the skills that an EMT-B, an EMT-I and an EMT-IA may perform, a Paramedic may perform the adopted skills described in section R426-12-500(2).

R426-12-503. Paramedic Recertification Requirements.

(1) The Department may recertify a paramedic for a four year period or for a shorter period as modified by the Department to standardize recertification cycles.

(2) An individual seeking recertification must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(c) maintain and submit verification of completion of a Department-approved course in Adult and Pediatric Advanced Cardiac Life Support;

(d) submit a statement from the applicant's EMS provider organization or a physician, confirming the applicant's results of a TB examination;

(e) successfully complete the applicable Department paramedic recertification examinations, or reexaminations if necessary, within one year prior to expiration;

(g) submit a letter from a certified off-line medical director recommending the individual for recertification and verifying the individual's demonstrated proficiency in the following paramedic skills; and

(h) provide documentation of completion of 100 hours of Department-approved CME meeting the requirements of subsections (3), (4), (5), (6), (7), and (8).

(3) The Paramedic must complete the CME throughout each of the prior four years.

(4) The Paramedic must take at least 20 elective hours and the following 80 required CME hours by subject:

- (a) EMS system roles and responsibilities - 2 hours;
- (b) Well being of the paramedic - 2 hours;
- (c) Pathophysiology - 1 hour;
- (d) Medical legal - 1 hour;
- (e) Pharmacology - 1 hour;
- (f) Venous access and medication administration - 1 hour;
- (g) Airway management and ventilation - 5 hours;
- (h) Patient assessment - 3 hours;
- (i) Communication - 1 hour;
- (j) Documentation - 1 hour;
- (k) Trauma Systems and Mechanism of injury - 1 hour;
- (l) Hemorrhage and shock - 2 hours;
- (m) Burns - 3 hours;
- (n) Head and facial - 3 hours;
- (o) Spinal trauma - 1 hour;
- (p) Thoracic trauma - 2 hours;
- (q) Abdominal trauma - 2 hours;
- (r) Pulmonary - 1 hour;
- (s) Cardiology - 9 hours;
- (t) Neurology - 4 hours;
- (u) Endocrinology - 3 hours;
- (v) Allergies and anaphylaxis - 1 hour;
- (w) Gastroenterology - 4 hours;
- (x) Toxicology - 2 hours;
- (y) Environmental emergencies - 4 hours;

(z) Infectious and communicable diseases - 3 hours;

(aa) Behavioral/psychiatric disorders - 1 hour;

(bb) Obstetrics and gynecology - 2 hours;

(cc) Neonatology - 3 hours;

(dd) Pediatrics - 5 hours;

(ee) Geriatrics - 2 hours;

(ff) Assessment based management - 1 hour;

(gg) Medical incident command - 2 hours; and

(hh) Hazardous materials incidents - 1 hour;

(5) The Department strongly suggests that the 20 elective hours be in the following topics:

(a) Ethics, Illness and injury prevention;

(b) Therapeutic communications;

(c) Life span development;

(d) Clinical decision making;

(e) Soft tissue trauma;

(f) Renal/urology;

(g) Hematology;

(h) Abuse and assault;

(i) Patients with special challenges;

(j) Acute intervention for chronic care patients;

(k) Ambulance operations;

(l) Rescue awareness and operations; and

(m) Crime scene awareness.

(6) A Paramedic may complete CME hours through the methodologies listed in this subsection. All CME must be related to the required skills and knowledge of a paramedic. Instructors need not be EMS instructors, but must be knowledgeable in the field of instruction. Limitations and special requirements are listed with each methodology.

(a) Workshops and seminars related to the required skills and knowledge of a paramedic and approved for CME credit by the Department or the CECBEMS.

(b) Local medical training meetings.

(c) Demonstration or practice sessions.

(d) Medical training meetings where a guest speaker presents material related to emergency medical care.

(e) Actual hours the Paramedic is involved in community emergency exercise and disaster drills. Up to 20 hours are creditable during a recertification period for participation in exercises and drills.

(f) Teaching the general public (schools, scouts, clubs, or church groups) on any topic within the scope of the Paramedic practice. Up to 15 hours are creditable during a certification period for teaching classes.

(g) Viewing audiovisuals (films, videotapes, etc.) which illustrate and review proper emergency care procedures. The Paramedic must view the audiovisual material in the presence of a training officer. Up to 10 hours are creditable during a certification period using audiovisuals.

(h) Completing college courses in topics such as biology, chemistry, anatomy and physiology. Other college courses relating to the scope and practice of a paramedic may be creditable, but only with the approval of the Department. If in doubt, the Paramedic should contact the Department. Up to ~~14~~25 hours are creditable during a certification period for college courses.

(i) Up to ~~16~~12 hours of CPR training are creditable during a certification period.

(j) Computer and internet-based training that illustrates, drills, provides interactive use, or demonstrates proper emergency care procedures. The training must be approved by the Continuing

Education Coordinating Board of Emergency Medical Services or the Department. Up to ~~[25]~~50 hours are creditable during a certification period using computer and internet-based training.

(k) Completing tests related to the Paramedic scope of practice in EMS-related journals or publications. Up to five hours are creditable during a certification period for completing tests from journals and publications.

(7) A Paramedic who is affiliated with an EMS organization should have the training officer from the EMS organization submit a letter verifying the Paramedic's completion of the recertification requirements. A Paramedic who is not affiliated with an agency must submit verification of all recertification requirements directly to the Department.

(8) Each Paramedic is individually responsible to complete and submit the required recertification material to the Department. Each Paramedic should submit all recertification materials to the Department at one time, no later than 30 days and no earlier than one year prior to the Paramedic's current certification expiration date. If the Department receives incomplete or late recertification materials, the Department may not be able to process the recertification before the certification expires. The Department processes recertification material in the order received.

(9) An EMS provider or an entity that provides CME may compile and submit recertification materials on behalf of a Paramedic; however, the Paramedic remains responsible for a timely and complete submission.

(10) The Department may shorten recertification periods. A paramedic whose recertification period is shortened must meet the CME requirements in each of the required and elective subdivisions on a prorated basis by the expiration of the shortened period.

(11) The Department may not lengthen recertification periods more than the four year certification, unless the individual is a member of the National Guard or reserve component of the armed forces and is on active duty when certification expires. If this happens, the individual shall recertify following Utah Code 39-1-64.

R426-12-505. Paramedic Testing Failures.

(1) An individual who fails any part of the paramedic certification or recertification written or practical examination may retake the Paramedic examination twice without further course work.

(2) If the individual fails both re-examinations, he must take a complete Paramedic course to be eligible for further examination at the paramedic level.

(3) The individual may retake the course as many times as he desires, but may only take the examinations three times for each completed course. If an individual retakes the course because of failure to pass the examinations, the individual must pass both the practical and written test administered after completion of the new course.

(4) If a paramedic fails the recertification written test three times or the practical tests three times, he may request in writing, within 30 days of the date of the third failure notification letter, that he be allowed to apply for EMT-IA, EMT-I, or EMT-B recertification. ~~[He has 120 days to complete recertification requirements at a lower level.]~~The failed paramedic cannot retake the paramedic course until the failed paramedic recertifies as an EMT-B, an EMT-I, or an EMT-IA. If he applies for EMT-Basic, EMT-I, or EMT-IA certification, he has three opportunities to test to that level. The failed paramedic must complete all recertification requirements at the EMT-B, EMT-I, or EMT-IA level within one

year of the lapse of the paramedic certification. If the requirements for the EMT-B, EMT-I, or EMT-IA recertification are not completed within one year of the lapse of the paramedic certification, the applicant must re-take a complete EMT-Basic course.

R426-12-601. EMD Initial Certification.

(1) The Department may certify an EMD for a four year period.

(2) An individual who wishes to become certified as an EMD must:

(a) successfully complete a Department-approved EMD course as described in R426-12-600(2);

(b) be able to perform the functions listed in the objectives of the EMD Curriculum adopted in R426-12-600(2) as verified by personal attestation and successful accomplishment during the course of all cognitive, affective and psychomotor skills and objectives listed in the EMD Curriculum;

(c) achieve a favorable recommendation from the course coordinator and course medical director stating technical competence and successful completion of all training requirements for EMD certification;

(d) be 18 years of age or older;

(e) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(f) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years; and;

(g) maintain and submit current documentation of having completed ~~[within the prior two years]~~ a CPR provider course ~~[offered by]~~from the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater; and

(h) within 120 days after the official course end date, the applicant must successfully complete the Department written and practical EMD examinations, or reexaminations, if necessary.

(3) The Department may extend the time limit in Subsection (2)(h) for an individual who demonstrates that the inability to meet the requirements within the 120 days was due to circumstances beyond the applicant's control, such as for documented medical circumstances that prevent completion of testing, military deployment out of the state, extreme illness in the immediate family, or the like.

R426-12-602. EMD Reciprocity.

(1) The Department may certify as an EMD an individual certified outside of the State of Utah if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater than what is required in Utah.

(2) An individual seeking reciprocity for certification in Utah based on out-of-state training and experience must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department and complete all of the following within 120 days of submitting the application;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(c) maintain and submit current documentation of having completed ~~[within the prior two years]~~ a CPR provider course ~~[offered by]~~from the National Safety Council, the American Red

Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;

(d) successfully complete the Department written and practical EMD examination, or re-examinations, if necessary;

(e) submit a current certification from one of the states of the United States or its possessions; and

(f) provide documentation of completion of 12 hours of continuing medical education within the prior year.

(3) The Department may certify as an EMD an individual certified by the National Academy of Emergency Medical Dispatch (NAEMD). An individual seeking reciprocity for certification in Utah based on NAEMD certification must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department and complete all of the following within one year of submitting the application;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(c) maintain and submit documentation of having completed within the prior two years:

(i) a CPR provider course [~~offered by~~]from the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater; and

(ii) a minimum of a two-hour course in critical incident stress management (CISM);

(d) submit documentation of current NAEMD certification.

R426-12-603. EMD Recertification.

(1) The Department may recertify an EMD for a four year period or for a shorter period as modified by the Department to standardize recertification cycles.

(2) An individual seeking recertification must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(c) maintain and submit current documentation of having completed [~~within the prior two years~~]a CPR provider course [~~offered by~~]from the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;

(d) successfully complete the applicable Department recertification examinations, or reexaminations if necessary, within one year prior to expiration of the certification to be renewed; and

(e) provide documentation of completion of 48 hours of Department-approved CME meeting the requirements of subsections (3), (4), and (5).

(3) The EMD must complete the CME throughout each of the prior four years.

(4) The EMD must take at least eight elective hours and the following 40 required CME hours by subject:

(a) Roles and Responsibilities - 5 hours;

(b) Obtaining Information from callers - 7 hours;

(c) Resource allocation - 4 hours;

(d) Providing emergency care instruction - 2 hours;

(e) Legal and Liability Issues - 5 hours;

(f) Critical Incident Stress Management - 5 hours;

(g) Basic Emergency Medical Concepts - 5 hours; and

(h) Chief complaint types - 7 hours.

(5) An EMD may complete CME hours through the methodologies listed in this subsection. All CME must be related to the required skills and knowledge of an EMD. Instructors need not be EMS instructors, but must be knowledgeable in the field of instruction. Limitations and special requirements are listed with each methodology.

(a) Workshops and seminars related to the required skills and knowledge of an EMD and approved for CME credit by the Department or the CECBEMS.

(b) Local medical training meetings.

(c) Demonstration or practice sessions.

(d) Medical training meetings where a guest speaker presents material related to emergency medical care.

(e) Actual hours the EMD is involved in community emergency exercise and disaster drills. Up to eight hours are creditable during a recertification period for participation in exercises and drills.

(f) Teaching the general public (schools, scouts, clubs, or church groups) on any topic within the scope of the EMD practice.

(g) Viewing audiovisuals (films, videotapes, etc.) which illustrate and review proper emergency care procedures. The EMD must view the audiovisual material in the presence of a training officer. Up to 10 hours are creditable during a certification period using audiovisuals.

(h) Completing college courses relating to the scope and practice of an EMD may be creditable, but only with the approval of the Department. Up to [~~eight~~]12 hours are creditable during a certification period for college courses.

(i) Telephone scenarios of practical training and role playing.

(j) Riding with paramedic or ambulance units to understand the EMS system as a whole. Up to six hours are creditable during a certification period for ride-alongs.

(k) Computer and internet-based training that illustrates, drills, provides interactive use, or demonstrates proper emergency care procedures. The training must be approved by the Continuing Education Coordinating Board of Emergency Medical Services or the Department. Up to [~~42~~]24 hours are creditable during a certification period using computer and internet-based training.

(6) Notwithstanding the provisions of subsections (2), (3), (4), and (5), an EMD who has been certified or recertified by the National Academy of Emergency Medical Dispatch (NAEMD) may be recertified by the Department upon the following conditions:

(a) the EMD must, as part of meeting the EMD's continuing medical education requirements, take a minimum of a two-hour course in critical incident stress management (CISM);

(b) an individual who takes a NAEMD course offered in Utah must successfully pass a class that follows the CISM section of the Department-established EMD curriculum; and

(c) the individual must:

(i) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(ii) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(iii) maintain and submit current documentation of having completed [~~within the prior two years~~]a CPR provider course [~~offered by~~]from the National Safety Council, the American Red Cross, or the American Heart Association or a course that the

applicant can demonstrate to the Department to be equivalent or greater; and

(iv) submit documentation of current NAEMD certification.

(7) An individual who is affiliated with an EMS organization should have the training officer from the EMS organization submit a letter verifying the EMD's completion of the recertification requirements. An EMD who is not affiliated with an EMS agency must submit verification of all recertification requirements directly to the Department.

(8) Each EMD is individually responsible to complete and submit the required recertification material to the Department. Each EMD should submit all recertification materials to the Department at one time and no later than 30 days and no earlier than one year prior to the EMD's current certification expiration date. If the Department receives incomplete or late recertification materials, the Department may not be able to process the recertification before the certification expires. The Department processes recertification material in the order received.

(9) An EMS provider or an entity that provides CME may compile and submit recertification materials on behalf of an EMD; however, the EMD remains responsible for a timely and complete submission.

(10) The Department may shorten recertification periods. An EMD whose recertification period is shortened must meet the CME requirements in each of the required and elective subdivisions on a prorated basis by the expiration of the shortened period.

(11) The Department may not lengthen recertification periods more than the four year certification, unless the individual is a member of the National Guard or reserve component of the armed forces and is on active duty when certification expired. If this happens, the individual shall recertify in accordance with Utah Code 39-1-64.

R426-12-700. Emergency Medical Services Instructor Requirements.

(1) The Department may certify as an EMS Instructor an individual who:

(a) meets the initial certification requirements in R426-12-701; and

(b) is currently certified in Utah [~~and has been certified~~] as an EMT-B, EMT-I, EMT-IA, Paramedic, or Dispatcher [~~for 12 months~~].

(2) The Committee adopts the 1995 United States Department of Transportation's "EMS Instructor Training Program: National Standard Curriculum" (EMS Instructor Curriculum) as the standard for EMS Instructor training and competency in the state, which is adopted and incorporated by reference.

(3) An EMS instructor may only teach up to the certification level to which the instructor is certified. An EMS instructor who is only certified as an EMD may only teach EMD courses.

(4) An EMS instructor must abide by the terms of the "EMS Instructor Contract," teach according to the contract, and comply with the teaching standards and procedures in the EMS Instructor Manual or EMD Instructor Manual as incorporated into the respective "EMS Instructor Contract" or "EMD Instructor Contract."

(5) An EMS instructor must maintain the EMS certification for the level that the instructor is certified to teach. If an individual's EMS certification lapses, the instructor certification is invalid until EMS certification is renewed.

(6) The Department may waive a particular instructor certification requirement if the applicant can demonstrate that the

applicant's training and experience requirements are equivalent or greater to what are required in Utah.

R426-12-800. Emergency Medical Services Training Officer Requirements.

(1) The Department may certify as an EMS Training Officer an individual who:

~~(a) meets the initial certification requirements in R426-12-801; and~~

~~(b) is currently certified in Utah and has been certified as an EMT-B, EMT-I, EMT-IA, Paramedic, or Dispatcher for 12 months.~~

(2) An EMS training officer must abide by the terms of the Training Officer Contract, and comply with the standards and procedures in the Training Officer Manual as incorporated into the respective Training Officer Contract.

R426-12-801. EMS Training Officer Certification.

(1) The Department may certify an individual who is certified as an EMT-B, EMT-I, EMT-IA, Paramedic, or EMD as a training officer for a two year period.

(2) An individual who wishes to become certified as an EMS Training officer must:

(a) be currently certified as an EMS instructor;

(b) successfully complete the Department's course for new training officers;

(c) successfully complete any Department examinations;

(d) submit an application and pay all applicable fees; and

(e) submit biennially a completed and signed "Training Officer Contract" to the Department agreeing to abide by the standards and procedures in the then current Training Officer Manual.

(3) A training officer must maintain EMS instructor certification to retain training officer certification.

(4) A training officer cannot sign his own recertification requirements letter, but must have another certified training officer verify completion of all recertification requirements.

R426-12-900. Course Coordinator Certification.

(1) The Department may certify as a course coordinator an individual who:

~~(a) meets the initial certification requirements in R426-12-901; and~~

~~(b) has been certified in Utah as an EMS Instructor and as an EMT-B, EMT-I, EMT-IA, Paramedic or Dispatcher for 12 months.~~

(2) A Course Coordinator may only coordinate courses up to the certification level to which the course coordinator is certified. An course coordinator who is only certified as an EMD, may only coordinate EMD courses.

(3) A course coordinator must abide by the terms of the "Course Coordinator Contract" and comply with the standards and procedures in the Course Coordinator Manual as incorporated into the "Course Coordinator Contract."

(4) A Course Coordinator must maintain an EMS Instructor certification and the EMS certification for the level that the course coordinator is certified to coordinate. If an individual's EMS certification lapses, the Course Coordinator certification is invalid until EMS certification is renewed.

R426-12-901. Course Coordinator Certification.

The Department may certify an individual who is an EMT-B, EMT-I, EMT-IA, Paramedic, or EMD as a course coordinator for a

two year period. An individual who wishes to certify as a course coordinator must:

- (1) be certified as an EMS instructor [~~for one year~~];
- (2) be an instructor of record for at least one Department-approved course;
- (3) have taught a minimum of 15 hours in a Department-approved course;
- (4) have co-coordinated one Department-approved course with a certified course coordinator;
- (5) submit a written evaluation and recommendation from the course coordinator in the co-coordinated course;
- (6) complete certification requirements prior to application to the Department's course for new course coordinators;
- (7) submit an application and pay all applicable fees;
- (8) complete the Department's course for new course coordinators;
- (9) successfully complete all examination requirements;
- (10) sign and submit annually the "Course Coordinator Contract" to the Department agreeing to abide to the standards and procedures in the then current Course Coordinator Manual; and
- (11) maintain EMS instructor certification.

KEY: emergency medical services

Date of Enactment or Last Substantive Amendment: [~~August 8, 2007~~]**2008**

Notice of Continuation: September 20, 2004

Authorizing, and Implemented or Interpreted Law: 26-8a-302



Health, Epidemiology and Laboratory
Services, Laboratory Improvement
R444-14
Rule for the Certification of
Environmental Laboratories

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 31910
FILED: 08/28/2008, 17:22

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment will incorporate the current methods described in the Code of Federal Regulations (CFR) and update the references to the national accreditation program to its current name.

SUMMARY OF THE RULE OR CHANGE: This amendment incorporates the latest version of the CFR for the each of the three federal programs associated with this rule. These sections outline which methods may be approved for use by a certified laboratory. The national accreditation program has merged with an existing standards development organization and changed its name. This amendment will change those name references as needed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 26-1-30(2)(m)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 136, 141, 142, 261 (July 1992 - 2008)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There will be no impact on the state budget. This amendment does not change the state's responsibilities or workload in certifying environmental laboratories.
- ❖ **LOCAL GOVERNMENTS:** Changes to the incorporated CFRs consist of adding new methods that are accepted by the regulating programs. The change allows the laboratories to pick newer technologies if desired. Changing methods will carry with it a cost to validate the new method and may or may not reduce the cost of testing using a newer technology.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** Changes to the incorporated CFRs consist of adding new methods that are accepted by the regulating programs. The change allows the laboratories to pick newer technologies if desired. Changing methods will carry with it a cost to validate the new method and may or may not reduce the cost of testing using a newer technology.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment provides additional method choices to laboratories and adds no additional compliance cost. Using newer methods/technologies may potentially lower the long term cost of testing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: For Utah to maintain primacy under the EPA (especially for drinking water), there must exist a laboratory certification program within the state. This rule incorporates the latest version of the CFRs with some new methods available for use. These largely technical changes should not have a significant fiscal impact on regulated businesses. David N. Sundwall, MD, Executive Director

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

HEALTH
EPIDEMIOLOGY AND LABORATORY SERVICES,
LABORATORY IMPROVEMENT
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
David Mendenhall at the above address, by phone at 801-584-8470, by FAX at 801-584-8501, or by Internet E-mail at davidmendenhall@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 10/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2008

AUTHORIZED BY: David N. Sundwall, Executive Director

R444. Health, Epidemiology and Laboratory Services, Laboratory Improvement.

R444-14. Rule for the Certification of Environmental Laboratories.

R444-14-2. Definitions.

(1) "Analyte" means the substance or thing for which a sample is analyzed to determine its presence or quantity.

(2) "Approved" means the determination by the department that a certified laboratory may analyze for an analyte under this rule.

(3) "Clean Water Act" means U.S. Public Law 92-500, as amended, governing water pollution control programs.

(4) "Department" means the Utah Department of Health.

(5) "Revoke" means to withdraw a certified laboratory's certification or the approval for a certified laboratory to perform one or more specified methods.

(6) "Resource Conservation and Recovery Act" means U.S. Public Law 94-580, as amended, governing solid and hazardous waste programs.

(7) "Safe Drinking Water Act" means U.S. Public Law 93-523 94-580, as amended, governing drinking water programs.

(8) "TNI" means The NELAC Institute.

R444-14-4. Analytical Methods.

(1) The department may only approve a certified laboratory to analyze an analyte by specific method. The department may approve a certified laboratory for an analyte using methods described in the July 1, 1992 through ~~2008~~[2005], editions of 40 CFR Parts 141, 142, and 143 (Safe Drinking Water Act); 40 CFR Parts 136 and 503.8 (Clean Water Act); 40 CFR Parts 260 and 261 (Resource Conservation and Recovery Act).

(2) In analyzing a sample for compliance with the Safe Drinking Water Act, the Clean Water Act, or the Resource Conservation and Recovery Act, a certified laboratory must follow the method that it reports on its final report to have used.

R444-14-7. Recognition of ~~TNI~~[NELAP] Accreditation.

The department may certify a laboratory that is ~~TNI~~[NELAP]-accredited. A laboratory seeking certification because of its ~~TNI~~[NELAP] accreditation must provide evidence of its accreditation and apply for certification on that basis. A laboratory certified on the basis of ~~TNI~~[NELAP] accreditation must obtain approval from the department for each analyte and meet the approval requirements of this rule.

KEY: laboratories

Date of Enactment or Last Substantive Amendment: ~~[July 1, 2005]~~2008

Notice of Continuation: February 26, 2007

Authorizing, and Implemented or Interpreted Law: 26-1-30(2)(m)

◆ _____ ◆

Human Services, Juvenile Justice
Services
R547-6
Youth Parole Authority Policies and
Procedures

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31917

FILED: 09/02/2008, 11:31

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to add an Authority Statement; and in response to H.B. 63 from the 2008 General Session, the agency is required to change the code citations to match the recodification of Title 63. (DAR NOTE: H.B. 63 (2008) is found at Chapter 382, Laws of Utah 2008, and was effective 05/05/2008.)

SUMMARY OF THE RULE OR CHANGE: The Authority Statement has been added. Additionally, the appropriate citation has been updated.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 62A-7-501 through 62A-7-507

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** None--The changes are for clarification.
- ❖ **LOCAL GOVERNMENTS:** None--The changes are for clarification.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** None--The changes are for clarification.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The changes are for clarification.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--The changes are for clarification. Lisa-Michele Church, Executive Director

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

HUMAN SERVICES
JUVENILE JUSTICE SERVICES
Room 419
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Judy Hammer at the above address, by phone at 801-538-4098, by FAX at 801-538-4334, or by Internet E-mail at judyhammer@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 10/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2008

AUTHORIZED BY: Dan Maldonado, Director

R547. Human Services, Juvenile Justice Services.

R547-6. Youth Parole Authority Policies and Procedures.

R547-6-1. Authority.

(1) Section 62A-1-111 authorizes the Department of Human Services to adopt administrative rules.

R547-6-2. Definitions.

(1) Detainer is an order to hold a youth for another governmental agency.

R547-6-[2]3. Administration and Organization.

Section 62A-7-[109]501 establishes a Youth Parole Authority within the Division of Juvenile Justice Services which has responsibility for parole release, rescission, revocation, and termination of parole for youth offenders committed to the Division for secure confinement.

(1) The Authority is established as an autonomous organizational entity reporting directly to the Board of Juvenile Justice Services.

(2) The following criteria shall be utilized by the Board of Juvenile Justice Services in the selection and appointment of the Authority members:

(a) A member shall have training or experience in social work, law, juvenile or criminal justice, or related behavioral sciences.

(b) A member shall not be an employee of the Department of Human Services, other than in the capacity as a member of the Authority, and may not hold any public office during the tenure of the appointment. A member shall not hold a position in the State's juvenile justice system or be an employee, officer, advisor, policy board member, or subcontractor of any juvenile justice agency or its contractor during the tenure of the appointment.

(c) The membership shall represent, to the extent possible, a diversity of the population under the jurisdiction of the Division.

(d) The membership shall be composed of individuals with the capacity to conduct hearings in a professional manner, develop appropriate policies and procedures, be sensitive to both legal and treatment oriented issues and promote credibility in the parole release process.

(3) Youth Parole Authority members shall be appointed for terms of three years by the Board of Juvenile Justice Services.

(4)(a) The Board of Juvenile Justice Services shall elect the chairperson and vice-chairperson of the Authority by majority vote for terms of one year. A second vice-chairperson shall be designated by the Authority members present at hearings in which the chairperson and vice-chairperson are absent.

(b) The duties of the chairperson are as follows:

(i) to preside at meetings and hearings and in the chairperson's absence the first vice-chairperson shall act. In the absence of the chairperson and first vice-chairperson, the second vice-chairperson shall preside at the meeting or hearing.

(ii) to act as official spokesperson for the Authority with the concurrence of the Authority;

(iii) to work closely with the Administrative Officer in the administration of the Authority and in coordinating with the Division.

(5) Any member of the Authority may be removed from office by the Board of Juvenile Justice Services for cause.

(6) The Authority shall seek parity with salaries of other state officers performing similar and responsible duties.

(7) The Division Director shall ensure that time is available for Division members to participate in training and administrative meetings related to Authority and Division matters.

(8) The Authority has the power to require that general and specific conditions of parole be followed in the supervision of parolees.

(9) The Authority has the statutory power, Section 62A-7-[112(4)]501(2), to secure prompt and full information relating to youth offenders committed to the Division from the staffs of the secure facilities, regional offices, community placements, and the juvenile court.

(10) The Authority has statutory power, Section 62A-7-[110]504, to cause the arrest of parolees and the power to revoke parole.

(11) The Authority has the designated power to terminate youthful offenders from parole.

(12) The Authority shall establish policies and procedures for its governance, meeting, hearings, the conduct of proceedings before it, the parole of youth offenders, and the general conditions under which parole may be granted, rescinded, revoked, modified, and terminated. The Authority's policies and procedures are subject to the approval of the Board of Juvenile Justice Services.

(13) The policy and procedures manual of the Authority will be readily available to youth in secure facilities, parolees, staff and the public.

(14) The Authority shall request any needed legal assistance from the Attorney General's Office.

(15) The position of an Administrative Officer shall be established to carry out day to day functions and to implement the policies and procedures of the Authority.

(16) Required staff shall be appointed to the Authority.

R547-6-[3]4. Hearings.

A case file shall be maintained on each youth that comes before the Authority. Materials in the case files are clearly identified as to source, verification and confidentiality.

(1) For the proper operation of the Authority and protection of those furnishing information and for the best interests of youth offenders and society, all written documents, evaluations or medical reports, opinions, investigative reports which contain or are based upon information that is, either privileged by statute or court rule or order of the Authority, or of such confidential nature that the Authority concludes the rights and reputations of particular person or persons rendering the order, decision, opinions or submitting the documents would be jeopardized or threatened, or the public interest would not be served, shall be classified as controlled and not be made available to the youth offender or his representative or for public inspection. Requests and reasons for any exceptions shall be submitted in a petition to the Authority, which may upon good cause grant the request.

(2) The Authority may order, when necessary, examinations and opinions by certified psychiatrists or psychologists. Certified members of the appropriate professions shall be available for such examinations and opinions.

(3) In order to have adequate time for case preparation, the Authority will be provided, in advance of hearings, with the necessary case materials and information to make appropriate decisions.

- (4) A calendar shall be prepared in advance of all parole hearings.
- (5) The number of full hearings scheduled for an Authority panel in a single day should be limited to 12 cases.
- (6) Youth offenders shall be notified in writing at least 14 calendar days in advance of initial and parole review hearings and shall be specifically advised as to the purpose of the hearing.
- (7) The Authority hearings are not open to the public; however, the Authority has the discretion to admit to the hearings any persons who may serve in the best interest of the youth.
- (8) Hearings by the Authority shall be conducted in a secure environment and in private rooms appropriately furnished and of adequate size and comfort.
- (9) Youth offenders may have assistance from qualified persons for an effective case presentation.
- (10) Youth offenders shall have legal representation at parole revocation hearings. Legal representation shall not be permitted at initial, parole review, progress review, and rescission hearings. Legal representation shall be at the discretion of the hearing officer at preliminary hearings. Legal representation shall be at the discretion of the Authority at special hearings.
- (11) It is the policy of the Authority that all youth offenders shall have a personal appearance before the Authority, which provides for ample opportunity for the expression of the youth's views, particularly in the situation where parole may be denied.
- (12) A record shall be made of all proceedings and findings made by the Authority.
- (13) The youth offender will be notified verbally of the Authority's decisions at the conclusion of each hearing. All decisions shall be supported in writing and forwarded to the youth within 14 days of the hearing date.
- (14) The youth offender, parent, or legal guardian of the youth offender may appeal any decision of the Authority regarding parole release or revocation to the Executive Director of the Department of Human Services or designee.
- (15)(a) The criteria employed by the Authority in its decision making process are available in written form in the administrative office of the Division of Juvenile Justice Services and are specific enough to permit consistent application to individual cases.
- (b) Youth offenders committed to the Division for secure confinement may be released by the Authority earlier than their recommended guideline, when the Division's secure facilities are at maximum capacity.
- (16) It is the policy of the Authority that all youth offenders shall be automatically scheduled for an initial hearing before the Authority within 90 days of commitment to a secure facility.
- (17)~~(18)~~ It is the policy of the Authority that a youth offender shall have a progress review hearing held 180 days from the date of the initial hearing, when a parole review hearing has not been scheduled due to lengthy guideline considerations.
- ~~(18)~~ All youth offenders shall have a parole review hearing before the Authority prior to release. The parole review hearing shall be scheduled within 180 days of either the initial hearing or the progress review hearing. A date for parole release shall be established at the parole review hearing when appropriate.
- ~~(19)~~ The parole release date established by the Authority shall remain in effect except upon findings by the Authority that cause exists for the rescission of said date.
- ~~(20)~~ The youth can petition the Authority for reconsideration of an earlier decision, including release prior to the original parole date.
- ~~(21)~~ Each parolee shall receive and sign a written copy of the parole agreement.

- ~~(22)~~ The parole agreement can be amended upon approval by the Authority.
- ~~(23)~~ The Authority does not accept the presence of a detainee as an automatic bar to release; rather, the Authority pursues the basis of any such detainee, and releases the youth per detainee where appropriate.
- ~~(24)~~ The Authority has power to terminate youth offenders from parole supervision. Youth are not continued on active parole after one year without cause.

R547-6-~~4~~5. Arrest and Revocation.

- (1) An Incident Report Form will be used to convey information to the Authority regarding parolees. The assigned parole officer is responsible to keep the Authority informed regarding all parole violations.
- (~~2~~) Revocation proceedings will be initiated by the region office when there is probable cause that a parole violation(s) has occurred and that such proceedings are in the best interest of the youth or the community.
- (~~3~~) A pre-revocation hearing may be held by the Administrative Officer or designee to determine whether there is probable cause to return a youth to a secure facility for a parole violation hearing.
- (~~4~~) The Administrative Officer in behalf of the Authority may issue warrants of arrest.
- (~~5~~) An alleged parole violator will have a revocation hearing within 21 days of the pre-revocation hearing. Legal representation is required at revocation hearings.

KEY: juvenile corrections, parole

Date of Enactment or Last Substantive Amendment: ~~1992~~2008
Notice of Continuation: June 4, 2007
Authorizing, and Implemented or Interpreted Law: 62A-7; ~~63-2-303~~63G-2-304



Human Services, Juvenile Justice Services **R547-10** Ex-Offender Policy

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 31913
 FILED: 09/02/2008, 08:42

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to add an Authority Statement to the rule and the appropriate citation is changed/updated.

SUMMARY OF THE RULE OR CHANGE: The Authority Statement has been added. Additionally, the appropriate citation has been updated.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-7-104

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The changes are for clarification.
- ❖ LOCAL GOVERNMENTS: None--The changes are for clarification.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--The changes are for clarification.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The changes are for clarification.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--The changes are for clarification. Lisa-Michele Church, Executive Director

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

HUMAN SERVICES
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 Room 419
 120 N 200 W
 SALT LAKE CITY UT 84103-1500, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Judy Hammer at the above address, by phone at 801-538-4098, by FAX at 801-538-4334, or by Internet E-mail at judyhammer@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 10/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2008

AUTHORIZED BY: Dan Maldonado, Director

R547. Human Services, Juvenile Justice Services.**R547-10. Ex-Offender Policy.****R547-10-1. Authority.**

Section 62A-1-111 authorizes the Department of Human Services to adopt administrative rules.

R547-10-2. Ex-Offender Policy.

The Division and its contracted providers shall not employ any ex-offender convicted of a felony or under the supervision of the criminal justice system, or any misdemeanor convictions for crimes against children under the age of 18. Potential employees with a documented history of drug or alcohol abuse, domestic violence, or sexual offense may also be excluded from employment with the Division.

KEY: ex-convicts, juvenile corrections

Date of Enactment or Last Substantive Amendment: ~~November 18, 2003~~ **2008**

Notice of Continuation: September 28, 2007

Authorizing, and Implemented or Interpreted Law: 62A-7-104



Human Services, Juvenile Justice
 Services
R547-12
 Division of Juvenile Justice Services
 Classification of Records

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31914

FILED: 09/02/2008, 08:46

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to add an Authority Statement to the Rule; and in response to H.B. 63 from the 2008 General Session, the agency is required to change the code citations to match the recodification of Title 63. (DAR NOTE: H.B. 63 (2008) is found at Chapter 382, Laws of Utah 2008, and was effective 05/05/2008.)

SUMMARY OF THE RULE OR CHANGE: The Authority Statement has been added. Additionally, the appropriate citations are changed to match the recodification.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 62A, Chapter 7, and Section 63G-2-101

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The changes are for clarification.
- ❖ LOCAL GOVERNMENTS: None--The changes are for clarification.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--The changes are for clarification.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The changes are for clarification.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--The changes are for clarification. Lisa-Michele Church, Executive Director

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THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2008

AUTHORIZED BY: Dan Maldonado, Director

**R547. Human Services, Juvenile Justice Services.
R547-12. Division of Juvenile Justice Services Classification of Records.**

R547-12-1. Authority.
Section 62A-1-111 authorizes the Department of Human Services to adopt administrative rules.

R547-12-2. Division of Juvenile Justice Services Classification of Records.

(1) The following classification scheme applies to the youth records of the Division of Juvenile Justice Services:

(a) Medical, psychological, and psychiatric reports are classified as controlled information. Other records produced by the Division of Juvenile Justice Services or its contractors are controlled if the agency reasonably believes that releasing the information in the record would be detrimental to the subject's mental health or to the safety of any individual.

(b) Progress reports, quarterly reports, reports to the Court, Parole Board reports, and correspondence are classified as private information, as are all other records in the case file that originate with the Division.

(c) Police reports, juvenile court legal and social information, school reports, and all other documents generated by agencies other than Juvenile Justice Services shall retain the classification assigned to them by the agency from which they were received.

KEY: juvenile corrections

Date of Enactment or Last Substantive Amendment: ~~1992~~**2008**

Notice of Continuation: May 30, 2007

Authorizing, and Implemented or Interpreted Law: 62A-7; 63G-2-101



Human Services, Juvenile Justice Services

R547-13

Guidelines for Admission to Secure Youth Detention Facilities

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31912

FILED: 09/02/2008, 08:36

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to add an Authority Statement to the rule; and in response to H.B. 78 from the 2008 General

Session, the agency is required to change the code citations to match the recodification of Title 78. (DAR NOTE: H.B. 78 (2008) is found at Chapter 3, Laws of Utah 2008, and was effective 02/07/2008.)

SUMMARY OF THE RULE OR CHANGE: The Authority Statement has been added. Additionally, the appropriate citation has been updated.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 62A-7-104(3)(a) and Section 62A-7-202

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The changes are for clarification.
- ❖ LOCAL GOVERNMENTS: None--The changes are for clarification.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--The changes are for clarification.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The changes are for clarification.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--The changes are for clarification. Lisa-Michele Church, Executive Director

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THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2008

AUTHORIZED BY: Dan Maldonado, Director

**R547. Human Services, Juvenile Justice Services.
R547-13. Guidelines for Admission to Secure Youth Detention Facilities.**

R547-13-1. Authority.
Section 62A-1-111 authorizes the Department of Human Services to adopt administrative rules.

R547-13-2. Purpose, Authority and Scope.

(1) This rule establishes guidelines for admission to secure detention to meet the requirements of Section 62A-7-202.

(2) This rule shall be applied to youth candidates for placement in all secure detention facilities operated by the Division of Juvenile Justice Services.

R547-13-[2]3. Definitions.

(1) Terms used in this rule are defined in Sections 62A-7-101 and ~~78-3a-103~~78A-6-105.

(2) "Status offense" means a violation of the law that would not be a violation but for the age of the offender.

(3) "Youth" means a person age 10 or over and under the age of 21.

R547-13-[3]4. General Rules.

(1) A youth may be detained in a secure detention facility if:

(a) A youth is charged with any of the following State or Federal offenses:

(i) Any felony offense
(ii) Any attempt, conspiracy, or solicitation to commit a felony offense

(iii) A class A misdemeanor of Section 58-37-8 (1) (b) (iii), distribution of a controlled substance violation

(iv) Domestic violence 77-66-1 (Cohabitant)

(v) Section 76-5-104(1)(C) Assault, only when the assault is against an individual with whom the youth lives if efforts by law enforcement, in conjunction with the youth's parent or guardian, to safely place the youth with a family member living outside the youth's home are unsuccessful

(vi) Section 76-5-102 (3), assault causing substantial bodily injury

(vii) Section 76-5-104.4, assault on a police officer

(viii) Section 76-6-104 (a), reckless burning which endangers human life

(ix) A class A misdemeanor violation of Section 76-6-105, causing a catastrophe

(x) Section 76-6-106 (2) (b) (i) (a), criminal mischief involving tampering with property that endangers human life

(xi) A class A misdemeanor violation of Section 76-6-406, theft by extortion

(xii) A class A or B misdemeanor violation of Section 76-10-504, carrying a concealed dangerous weapon

(xiii) Section 76-10-505, carrying a loaded firearm

(xiv) Section 76-10-506, threatening with or using a dangerous weapon in a fight or quarrel

(xv) Section 76-10-507, possession of deadly weapon with intent to assault

(xvi) Section 76-10-509, possession of a dangerous weapon by minor

(xvii) Section Violation of Section 76-10-509.4, prohibition of possession of certain weapons by minors

(xviii) A class A or B misdemeanor violation of Section 76-10-509.5, providing certain weapons to a minor

(xix) Section 76-10-1302, prostitution.

(b) None of the alleged offenses are listed in paragraphs R547-13-[3]4 (1) (a), but three or more non-status criminal offenses are currently alleged in a single criminal episode;

(c) The youth is an escapee or absconder from a Juvenile Justice Services secure institution, observation and assessment unit or community placement or state supervision placement.

(d) The youth has been verified as a fugitive (absconder from probation or parole) or a runaway from another state and a formal request has been received (such as a TWX/National Crime Information

Center (NCIC) or a telephone call/FAX from a law enforcement officer or a verified call/FAX from the institution) to hold pending return to the other jurisdiction, whether or not an offense is currently charged.

(e) The youth has failed to appear at a court hearing on a criminal offense within the past twelve months

(f) A youth is not detainable under any of the above criteria, but a non-status law violation has been alleged and one of the following documented conditions exist:

(i) The youth's record discloses two or more prior adjudicated offenses listed in paragraphs R547-13-[3]4(1)(a) in which the offenses were found to be true in the past twelve months.

(ii) The youth, under continuing court jurisdiction excluding those whose ONLY involvement is as a victim of abuse, neglect, abandonment, or dependency, has run from court-ordered placement, including his own home.

(iii) The youth has failed to appear at a court hearing within the past twelve months after receiving legal notice and officials have reason to believe that the youth is likely to abscond unless held.

(2) A youth not otherwise qualified for detention in a secure detention facility shall not be detained for any of the following:

(a) ungovernable or runaway behavior;

(b) neglect, abuse, abandonment, dependency, or other status requiring protection for any other reason;

(c) status offenses such as curfew, possession/consumption of alcohol, tobacco, minor-in-a-tavern, truancy;

(d) Attempted suicide.

(3) No youth under the age of ten years may be detained in a secure detention facility.

R547-13-[4]5. Juvenile Justice Services' Cases.

A youth who is on parole or involved in a trial placement from a secure facility, and who is detained solely on a warrant from the Division of Juvenile Justice Services may be held in a secure detention facility up to 48 hours excluding weekends and legal holidays.

R547-13-[5]6. DCFS Cases.

A youth in the custody or under the supervision of the Division of Child and Family Services (DCFS) cannot be held in a secure detention facility unless he qualifies for detention under some section of this rule.

R547-13-[6]7. Traffic Cases.

A youth brought to detention for traffic violation(s) cannot be held in a secure detention facility unless he qualifies for detention under some section of this rule.

R547-13-[7]8. Transient Cases.

(1) Intrastate:

(a) A youth may be admitted to a secure detention facility when a court pickup order for detention has been issued.

(b) A youth may be admitted to a secure detention facility only if he is detainable under some section of this rule.

(2) Interstate:

(a) Youth who are escapees, absconders, and runaways shall be detained in accordance with the provisions of Subsection R547-13-[3]4(1)(d).

(b) Youth who are out-of-state runaways who commit any non-status criminal offense(s) may be admitted to a secure detention facility.

(c) Non-runaways, when brought to a secure detention facility with an alleged criminal offense, may be detained or released based on the same criteria which applies to resident youth.

R547-13-[8]9. Immigration Cases.

(1) A youth shall be detained at a secure detention facility when admission is requested by Citizenship and Immigration Services (formerly known as Immigration and Naturalization Services (INS)) officials.

(2) An unaccompanied, undocumented youth with an alleged criminal offense may be detained at a secure detention facility when admission is requested by any other law enforcement officer.

(3) Any unaccompanied, undocumented youth having no alleged criminal offense shall be referred to Youth Services when admission to a secure detention facility is requested by a law enforcement officer.

R547-13-[9]10. AWOL Military Personnel.

Absent without leave (AWOL) military personnel shall be admitted to a secure detention facility.

R547-13-[10]11. Home Detention Cases.

(1) If a home detention violation is alleged, the home detention counselor may cause the alleged violator to be brought to a secure detention facility. If the case involves a violator who is a runaway where a pickup order (Warrant for Custody) has not yet been issued, a law enforcement officer may bring the violator to a secure detention facility. The home detention counselor may then transfer the minor back to the status of home detention, if appropriate, or may authorize the youth to be held in secure detention for a re-hearing.

(2) A youth placed on home detention who is arrested by a law enforcement officer for an alleged criminal code violation(s) shall be admitted to a secure detention facility.

R547-13-[11]12. Juvenile Court Warrants for Custody or Pickup Orders.

A youth shall be admitted to a secure detention facility when a juvenile court judge or commissioner has issued a warrant for custody.

R547-13-[12]13. Probation Violation - Contempt of Court - Stayed Order for Detention.

A youth may be admitted to a secure detention facility for conditions such as: an alleged probation violation, contempt of court, or a stayed order for detention when it has been ordered by a judge. When it is not possible to get a written order, verbal authorization from a judge to detention is sufficient to hold a youth in a secure detention facility.

R547-13-[13]14. Other Court Orders for Detention.

A youth brought to a secure detention facility pursuant to either federal or out-of-state court orders shall be admitted unless otherwise directed by a juvenile court judge.

KEY: juvenile corrections, juvenile detention, admission guidelines

Date of Enactment or Last Substantive Amendment: ~~January 18, 2006~~ 2008

Notice of Continuation: June 4, 2007

Authorizing, and Implemented or Interpreted Law: 62A-7-202; ~~78-3a-113~~ 78A-6-112; ~~78-3a-114~~ 78A-6-113



Insurance, Administration **R590-248** Mandatory Fraud Reporting Rule

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE No.: 31903

FILED: 08/28/2008, 12:02

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purposes of this rule are to describe the required elements in a mandatory fraud report and establish a reporting process for insurance fraud reports.

SUMMARY OF THE RULE OR CHANGE: This rule describes the elements in the mandatory fraud report and establishes a reporting process.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A1-2-201 and 31A-31-110

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** This rule will not result in additional income or expense to the state or the Insurance Department. Insurers are required by Utah law to report suspected fraud. This rule merely establishes the required information to be reported and to whom the report should be submitted. As a result of this rule, there will be no fiscal impact on the state or department's budget.

❖ **LOCAL GOVERNMENTS:** This rule will have no effect on local governments since it deals with the relationship between the department and its licensees.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** This rule does not affect small business. They are not required to report.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It is expected that insurers doing business in Utah will be able to prepare this report easily and with their current staff. The report is comprised of four simple questions. Consumers should feel no impact from this rule in regard to their benefits or premiums.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will 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 10/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2008

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance Administration.**R590-248. Mandatory Fraud Reporting Rule.****R590-248-1. Authority.**

This rule is promulgated pursuant to Section 31A-2-201(3)(a), which authorizes rules to implement the Insurance Code and 31A-31-110, which authorizes a rule to provide a process by which a person shall report a fraudulent insurance act.

R590-248-2. Purpose and Scope.

- (1) The purposes of this rule are to:
- (a) describe the required elements in a mandatory fraud report; and
- (b) establish a reporting process for fraud reports.
- (2) This rule applies to:
- (a) all insurers doing the business of insurance in Utah; and
- (b) all auditors employed by a title insurer doing the business of title insurance in Utah.

R590-248-3. Mandatory Elements of a Fraud Report.

- A mandatory fraud report shall:
- (1) be in writing;
- (2) provide information in detail relating to:
- (a) the fraudulent insurance act; and
- (b) the perpetrator of the fraudulent insurance act; and
- (3) state whether the person submitting the report of a fraudulent insurance act also reported the fraudulent insurance act in writing to:
- (a) the attorney general;
- (b) a state law enforcement agency;
- (c) a criminal investigative department or agency of the United States;
- (d) a district attorney; or
- (e) the prosecuting attorney of a municipality or county; and
- (4) state the agency to which the person reported the fraudulent insurance act.

R590-248-4. Mandatory Fraud Reporting Process.

- (1) The following persons shall report a fraudulent insurance act to the commissioner if the person has a good faith belief on the basis of a preponderance of the evidence that a fraudulent insurance act is being, will be, or has been committed by:
- (a) a person other than the person making the report;
- (b) an insurer; or
- (c) an auditor that is employed by a title insurer.

(2) An auditor employed by a title insurer shall report a fraudulent act to the title insurer and the title insurer shall report the fraudulent act in accordance with this subsection.

(3) An insurer shall submit mandatory fraud reports electronically.

(4) An insurer shall report a fraudulent insurance act by:

(a) submitting a report to the commissioner using the National Insurance Crime Bureau (NICB) fraud reporting system; or

(b) submitting a report directly to the commissioner using email sent to mandatoryreporting@utah.gov.

R590-248-5. Penalties.

A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

R590-248-6. Enforcement Date.

The commissioner will begin enforcing this rule 45 days from the rule's effective date.

R590-248-7. 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: insurance, mandatory fraud reporting

Date of Enactment or Last Substantive Amendment: 2008

Authorizing, Implemented, or Interpreted Law: 31A1-2-201; 31A-31-110



Natural Resources, Parks and
Recreation

R651-206-3

Utah Captain's/Guides License and
Utah Boat Crew Permit

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 31866

FILED: 08/21/2008, 12:11

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: There are several changes necessary to make this rule read correctly to define its purpose and where words need to be defined which make this rule clear to those who use it.

SUMMARY OF THE RULE OR CHANGE: When Rule R651-206 was being created, several mistakes were made and need to be corrected. Wording from the towing for hire under Subsection R651-206-3(3)(i) was included in the Lake and Reservoir Captain endorsement section and should be removed. In Subsection R651-206-3(5)(e)(ii), first aid requirements were listed twice, but CPR should have been listed as well. In

Subsection R651-206-3(5)(e)(ii), the amendment replaces first aid with CPR because this is the CPR subsection.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 73-18-4(4)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: No anticipated cost or savings to the state budget as these are both changes to put one change in the correct area, and the other change to remove wording that is no longer necessary because of legislative action.

❖ LOCAL GOVERNMENTS: Local government will have no cost or savings as this is a state rule and the changes pertain to duplication and incorrect wording only.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There will be no effect on small businesses as this rule is to correct mistakes that happened when it was first written, both of which are done to clarify and update the current rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no affected persons with these changes to the rule. The changes are simply to clarify, update and correct language in the rule to more clearly define its purpose.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Impact on businesses should be negligible. Michael R. Styler, Executive Director

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2008

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

R651. Natural Resources, Parks and Recreation.

R651-206. Carrying Passengers for Hire.

R651-206-3. Utah Captain's/Guides License and Utah Boat Crew Permit.

(1) No person shall operate a vessel engaged in carrying passengers for hire on sole state waters unless that person has in his possession a valid and appropriately endorsed Utah Captain's/Guide's License or Utah Boat Crew Permit issued by the Division, or a valid and appropriately endorsed U.S. Coast Guard Master's License.

(a) When carrying passengers for hire on a motorboat on the waters of Bear Lake, Flaming Gorge or Lake Powell, the operator must have a valid and appropriately endorsed U.S. Coast Guard Master's License.

(b) A Utah Captain's/Guide's License is valid on the waters of Bear Lake, Flaming Gorge, and Lake Powell when the holder is carrying or leading persons for hire on non-motorized vessels.

(c) A Utah Captain's/Guide's License or Utah Boat Crew Permit, with the appropriate whitewater river or other river endorsement, is valid when operating a vessel exiting from a river to the first appropriate and usable take-out or launch ramp on a lake or reservoir.

(2) License and Permit Requirements.

(a) The license or permit must be accompanied by current and appropriate first aid and CPR certificates. A photocopy of both sides of the first aid and CPR certificates is allowed when carrying passengers for hire on rivers.

(b) A license with a "Lake and Reservoir Captain" endorsement is required when carrying passengers for hire on any lake or reservoir.

(c) A license with a "Tow Vessel Captain" endorsement is required when towing or assisting other vessels for hire on waters of this state.

(d) A license with a "Whitewater River guide" endorsement is required when carrying passengers for hire on any river section, including "whitewater," "other," and "flatwater" river designations.

(e) A license with an "Other River Guide" endorsement is required when carrying passengers for hire on any river or river section designated as "other" or "flatwater."

(f) A permit with a "Lake and Reservoir Crew" endorsement is valid only when the holder is accompanied, on board the vessel, by a qualified license holder with a "Lake and Reservoir Captain" endorsement.

(g) A permit with a "Tow Vessel Crew" endorsement is valid only when the holder is accompanied, on board the vessel, by a qualified license holder with a "Tow Vessel Captain" endorsement.

(h) A permit with a "Whitewater River Crew" endorsement is valid only when the holder is accompanied on the river trip, by a qualified license holder with a "Whitewater River Guide" endorsement.

(i) A permit with an "Other River Crew" endorsement is valid only when the holder is accompanied on the river trip, by a qualified license holder with either a "Whitewater River Guide" or "Other River Guide" endorsement.

(j) All Vessel Operator Permits and River Guide 1, 2, 3, and 4 Permits will expire at the end of their current term. Applications for renewal or duplicate of a Vessel Operator or River Guide Permit will be changed to the respective Utah Captain's/Guide's License or Utah Boat Crew Permit.

(k) All Boatman Permits issued by the Division are expired.

(3) Requirements to obtain a Utah Captain's/Guides License.

(a) The applicant shall be at least 18 years of age as of the date the application is received by the Division.

(b) The applicant shall complete the prescribed application form.

(i) Information on the application form must be verified by an agent of the employing/sponsoring outfitting company.

(ii) The completed application form must be signed by the applicant and by an agent of the employing/sponsoring outfitting company.

(iii) For persons who are applying for their first license, the application, testing, and issuance of the license shall be done in person at a Division designated location.

(c) The applicant shall pay a \$50 application fee for the license and first endorsement. A fee of \$10 will be charged for each additional license endorsement.

(d) The applicant shall choose from the four types of license endorsements:

- (i) Lake and Reservoir Captain (LCG)
- (ii) Tow Vessel Captain (TCG)
- (iii) Whitewater River Guide (WCG)
- (iv) Other River Guide (OCG)

(e) The applicant shall provide an original proof of current and valid first aid and CPR certifications:

(i) The first aid certificate must be issued for an American Red Cross "Emergency Response" course or an equivalent course from a reputable provider whose curriculum is in accordance with the USDOT First Responder Guidelines or the Wilderness Medical Society Guidelines for Wilderness First Responder.

(ii) The CPR certificate must be issued for an American Red Cross, American Heart Association, American Safety and Health Institute, National Safety Council CPR or BLS course, or an equivalent course from a reputable provider whose curriculum is in accordance with the 2005 Consensus on Science for Cardiopulmonary Resuscitation (CPR) and Emergency Cardiovascular Care (ECC).

(iii) First aid and CPR certificates must include the following information: name, or title of the course; course provider; length of certification; name of the person certified and legible name of the course instructor.

(f) A current Utah Vessel Operator Permit holder, whose permit was issued prior to January 1, 2008, and who is renewing and converting their permit to a Utah Captain's/Guide's License, is exempt from showing proof of completion of a National Association of State Boating Law Administrators (NASBLA) approved boating safety course.

(g) The applicant shall complete a multiple-choice, written examination administered by an agent of the Division:

- (i) 80 percent correct is required to pass.

(ii) In relation to the respective endorsement, the examination will have a specific focus on the carrying passengers for hire laws and rules along with general safety, etiquette and courtesy.

(iii) If an applicant fails to pass the exam, there is a seven-day waiting period to re-test.

- (iv) Pay a \$15 fee for each re-test.

(h) The applicant shall provide documentation of vessel operation experience that has been obtained within 10 years previous to the date of application.

(i) Lake and Reservoir Captain (LCG) - a minimum of at least 80 hours of actual vessel operation experience. At least 40 of these hours must be obtained while operating the vessel, or a similar vessel, that will be carrying passengers for hire on the specific lake or reservoir on which the operator will be ~~towing vessels~~ carrying passengers for hire. The applicant shall provide proof of successful completion of a NASBLA approved boating safety course.

(ii) Tow Vessel Captain (TCG) - A minimum of at least 80 hours of actual vessel operation experience. At least 40 of these hours must be obtained while operating the vessel, or a similar vessel, that will be towing vessels for hire. The applicant shall provide proof of successful completion of a NASBLA approved boating safety course.

(iii) Whitewater River Guide (WCG) - A minimum of nine river trips on whitewater river sections. At least one of these trips must be obtained while operating the vessel, or similar vessel, on the respective river section on which the operator will be carrying passengers for hire.

A Whitewater River Guide endorsement meets the requirements for an Other River Guide endorsement.

(iv) Other River Guide (OCG) - A minimum of six river trips on any river section. At least one of these trips must be obtained while operating the vessel or similar vessel, on the respective river section on which the operator will be carrying passengers for hire.

(4) A Utah Captain's/Guide's License is valid for a term of five years. The license will expire five years from the date of issue, unless suspended or revoked.

(a) A Utah Captain's/Guide's License may be renewed within the six months prior to its expiration.

(b) To renew a Utah Captain's/Guide's License, the applicant must complete the prescribed application form along with adhering to the requirements described above. A current license holder may renew his license in a manner accepted by the Division

(c) The renewed license will have the same month and day expiration as the original license.

(d) A Utah Captain's/Guide's License that has expired shall not be renewed and the applicant shall be required to apply for a new license.

- (5) Requirements to obtain a Utah Boat Crew Permit.

(a) The applicant shall be at least 18 years of age as of the date the application is received by the Division.

- (b) The applicant shall complete the prescribed application form.

(i) Information on the application form must be verified by an agent of the employing/sponsoring outfitting company.

(ii) The completed application form must be signed by the applicant and by an agent of the employing/sponsoring outfitting company.

(iii) For persons who are applying for their first permit, the application and issuance of the permit shall be done, in person, at a Division designated location.

(c) The applicant shall pay a \$50 application fee for the original permit and first endorsement. A \$10 fee shall be charged for each additional crew permit endorsement.

(d) The applicant shall choose from the four types of permit endorsements:

- (i) Lake and Reservoir Crew (LRC)
- (ii) Tow Vessel Crew (TVC)
- (iii) Whitewater River Crew (WRC)
- (iv) Other River Crew (ORC)

(e) The applicant shall provide original proof of current and valid first aid and CPR certifications:

(i) The first aid certificate must be issued for an American Red Cross "Standard" or "Basic" first aid course, or an equivalent course from a reputable provider.

(ii) The ~~first aid~~ CPR certificate must be issued for an American Red Cross, American Heart Association, American Safety and Health Institute, National Safety Council CPR or BLS course, or an equivalent course from a reputable provider whose curriculum is in accordance with the 2005 Consensus on Science for Cardiopulmonary Resuscitation (CPR) and Emergency Cardiovascular Care (ECC).

(iii) First aid and CPR certificates must include the following information: name, or title of the course; course provider; length of certification; name of the person certified and legible name of the course instructor.

(f) The applicant shall provide documentation of vessel operation experience that has been obtained within the 10 years previous to the date of application.

(i) Lake and Reservoir Crew (LRC) - A minimum of at least 20 hours of actual vessel operation experience. At least 10 of these hours must be obtained while operating the vessel, or a similar vessel, on

which the operator will be carrying passengers for hire. The applicant shall provide proof of successful completion of a NASBLA approved boating safety course.

(ii) Tow Vessel Crew (TVC) - A minimum of at least 20 hours of actual vessel operation experience. At least 10 of these hours must be obtained while operating the vessel, or a similar vessel, that will be towing for hire on the specific lake or reservoir on which the operator will be towing vessels for hire. The applicant shall provide proof of successful completion of a NASBLA approved boating safety course.

(iii) Whitewater River Crew (WRC) - A minimum of three river trips on "whitewater" rivers or river sections. At least one of these trips must be obtained while operating the vessel, or similar vessel, on the respective river or river section on which the operator will be carrying passengers for hire. A Whitewater River Crew endorsement meets the requirements for an Other River Crew endorsement.

(iv) Other River Crew (ORC) - A minimum of three river trips on any river or river section. At least one of these trips must be obtained while operating the vessel on a respective river or river section on which the operator will be carrying passengers for hire.

(6) A Utah Boat Crew Permit is valid for a term of five years. The permit will expire five years from the date of issue, unless suspended or revoked.

(a) A Utah Boat Crew Permit may be renewed within the six months prior to its expiration.

(b) To renew a Utah Boat Crew Permit, the applicant must complete the prescribed application form along with the requirements described above. A current permit holder may renew his license in a manner accepted by the Division.

(c) The renewed permit will have the same month and day expiration as the original permit.

(d) A Utah Boat Crew Permit that has expired shall not be renewed and the applicant shall be required to apply for a new permit.

(e) A Utah Boat Crew Permit holder who upgrades to a Utah Captain's/Guide's License, within one year of when the permit was issued, shall receive a \$25 discount on the fee for the Utah Captain's/Guide's License.

(7) In the event a Utah Captain's/Guide's License or a Utah Boat Crew permit is lost or stolen, a duplicate license or permit may be issued with the same expiration date as the original license or permit.

(a) The applicant must complete the prescribed application form.

(b) The fee for a duplicate license or permit is \$15.

(8) Current Utah Captain's/Guide's License and Utah Boat Crew Permit holders shall notify the Division within 30 days of any change of address.

(9) A Utah Captain's/Guide's License or Utah Boat Crew Permit may be suspended, revoked, or denied for a length of time determined by the Division director, or individual designated by the Division director, if one of the following occurs:

(a) The license or permit holder is convicted of three violations of the Utah Boating Act, Title 73, Chapter 18, or rules promulgated thereunder during a three-year period.

(b) The license or permit holder is convicted of driving under the influence of alcohol or any drug while carrying passengers for hire, or refuses to submit to any chemical test that determines blood or breath alcohol content resulting from an incident while carrying passengers for hire;

(c) The license or permit holder's negligence or recklessness causes personal injury or death as determined by due process of the law;

(d) The license or permit holder is convicted of utilizing a private trip permit to carry passengers for hire;

(e) The license or permit holder is convicted of violating a resource protection regulation or public safety regulation in effect by the respective land managing and/or access permitting agency.

(f) The Division determines that the license or permit holder intentionally provided false or fictitious statements or qualifications to obtain the license or permit.

(10) A Utah Captain's/Guide's License or Utah Boat Crew Permit holder shall not carry passengers for hire while operating an unfamiliar vessel or operating on an unfamiliar lake, reservoir, or river section, unless there is a license holder aboard who is familiar with the vessel and the lake, reservoir, or river section. An exception to this rule allows a license or permit holder to lead passengers for hire on a lake, reservoir, or designated flatwater river section, as long as there is a license holder who is familiar with the vessel and the lake, reservoir, or river section and remains within sight of the rest of the group.

(11) Number of passengers carried for each license or permit holder.

(a) On a vessel that is carrying more than 49 passengers for hire, there shall be at least one license holder and one permit holder or two license holders on board.

(b) On a vessel carrying more than 24 passengers for hire, and operating more than one mile from shore, there shall be an additional license or permit holder on board.

(c) On a vessel carrying passengers for hire, there shall be a minimum of one license or permit holder on board for each passenger deck on the vessel.

(12) Low capacity vessels being led requirements.

(a) On all river sections, except as noted in Subsection (b) below, there shall be at least one qualified license or permit holder for every four low capacity vessels being led in a group.

(b) On lakes, reservoirs, and designated flatwater river sections, there shall be at least one qualified license or permit holder for every six low capacity vessels being led in a group.

(13) A license or permit holder shall not operate a vessel carrying passengers for hire for more than 12 hours in a 24 hour period.

(14) A license or permit holder shall conduct a safety and emergency protocols discussion with passengers prior to the vessel getting underway. This discussion shall include the topics of water safety, use and stowage of safety equipment, wearing and usage of life jackets and initiating the rescue of a passenger(s).

(15) Vessel operators who are licensed or permitted to carry passengers for hire in another state, and possess a state-issued vessel captain's license, or similar license or permit accepted and recognized by the Division, where the state has similar vessel operator licensing provisions, shall not be required to obtain and possess a Utah Captain's/Guide's License or Utah Boat Crew Permit as required by this section.

KEY: boating, parks

Date of Enactment or Last Substantive Amendment: [~~August 7, 2007~~]October 22, 2008

Notice of Continuation: February 13, 2006

Authorizing, and Implemented or Interpreted Law: 73-18-4(4)

◆ ————— ◆

Natural Resources, Parks and
Recreation
R651-215-9
Required Wearing of PFDs

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 31865
FILED: 08/21/2008, 12:09

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to delete the requirement for sailboard users to wear Personal Flotation Devices (PFDs) as the Legislature exempted that requirement about ten years ago.

SUMMARY OF THE RULE OR CHANGE: This amendment brings this rule up-to-date with regard to legislative changes that occurred over the past several years. This will remove sailboard users as one of the groups who are required to wear PFDs.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 73-18-8

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There is no aggregate anticipated cost or savings to the state budget as this requirement was taken out by the Legislature about ten years ago and this amendment is to reflect that happened and update the rule.
- ❖ **LOCAL GOVERNMENTS:** No impact to local government as this rule is to update the rule to reflect a change made by the legislature about ten years ago.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** Small business will feel no impact from this change as it has been happening for about ten years and was mandated by the Legislature that sailboarders were exempt from wearing a PFD.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no anticipated compliance cost, as persons who sailboard be exempt from having to wear a PFD.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Impact on businesses should be negligible. Michael R. Styler, Executive Director

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2008

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

R651. Natural Resources, Parks and Recreation.**R651-215. Personal Flotation Devices.****R651-215-9. Required Wearing of PFDs.**

(1) An inflatable PFD may not be used to meet the requirements of this Section.

(2) All persons on board a personal watercraft ~~or a sailboard~~ shall wear a PFD.

(3) The operator of a vessel under 19 feet in length shall require each passenger 12 years of age or younger to wear a PFD. This rule is also applicable to vessels 19 feet or more in length, except when the child is inside the cabin area.

(4) On rivers, every person on board a vessel shall wear a PFD, except PFDs may be loosened or removed by persons 13 years of age or older on designated flat water areas as listed in Section R651-215-12.

KEY: boating, parks

Date of Enactment or Last Substantive Amendment: ~~August 7, 2007~~ **October 22, 2008**

Notice of Continuation: February 13, 2006

Authorizing, and Implemented or Interpreted Law: 73-18-8



Natural Resources, Wildlife Resources
R657-10
Taking Cougar

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 31842
FILED: 08/19/2008, 11:10

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the division's cougar program.

SUMMARY OF THE RULE OR CHANGE: The proposed revisions to the rule is: 1) clarify an online application procedure for obtaining cougar permits; and 2) make technical corrections for consistency and accuracy.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18 and 23-14-19

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This amendment only clarifies requirements currently in place. Therefore, the Division of Wildlife Resources (DWR) determines that these amendments do not create a cost or savings impact to the state budget, since the changes will not increase workload and can be carried out with existing budget

❖ LOCAL GOVERNMENTS: Since this amendment only clarified restrictions already in place this should have little to no effect on the local government. This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--Since the amendments only clarified restrictions already in place this would not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the amendment only clarified restrictions already in place, DWR determines that these amendments will not create additional costs for sportsmen wishing to hunt cougar in Utah. Therefore, the rule amendments do not create a cost or savings impact to individuals who participate in hunting cougar.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses. Michael R. Styler, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Staci Coons at the above address, by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2008

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-10. Taking Cougar.

R657-10-28. Application Procedure.

(1) Applications are available ~~[from license agents, division offices, and]~~ through the division's Internet address.

(2)(a) Group applications are not accepted. A person may not apply more than once annually.

(b) Applicants may select up to three management unit choices when applying for limited entry cougar permits. Management unit choices must be listed in order of preference.

(3)(a) Applications must be mailed by the date published in the proclamation of the Wildlife Board for taking and pursuing cougar.

(b) If an error is found on the application, the applicant may be contacted for correction.

(c) The division reserves the right to correct applications.

~~(4)(a) Late applications received by the date published in the proclamation of the Wildlife Board for taking and pursuing cougar will not be considered in the drawing, but will be processed for the purpose of entering data into the Division's draw database to provide:~~

~~— (i) future pre-printed applications;~~

~~— (ii) notification by mail of late application and other draw opportunities; and~~

~~— (iii) re-evaluation of Division or third party errors.~~

~~(b) The handling fee will be used to process the late application. Any Utah hunting or combination license fee submitted with the application will not be refunded and the license will be issued. Any permit fees submitted with the application will be refunded.~~

~~(c) Late applications received after the date published in the proclamation of the Wildlife Board for taking and pursuing cougar will not be processed and will be returned.~~

~~(5) Any person who applies for a hunt that occurs on private land is responsible for obtaining written permission from the landowner to access the property. To avoid disappointment and wasting the permit and fee if access is not obtained, hunters should get written permission before applying. The division does not guarantee access and does not have the names of landowners where hunts occur.~~

~~(6) Only a resident may apply for or obtain a resident permit and only a nonresident may apply for or obtain a nonresident permit, except as provided in Section R657-10-30.~~

~~(7) To apply for a resident permit, a person must establish residency at the time of purchase.~~

~~(8) The posting date of the drawing shall be considered the purchase date of a permit.~~

R657-10-29. Fees.

~~(1) Each application must include:~~

~~(a) [t]The permit [fee;~~

~~(b) the nonrefundable handling fee; and~~

~~(c) the Utah hunting or combination license fee, if the applicant does not possess one of the licenses.~~

~~(2) Permits are mailed to successful applicants.~~

~~(3)(a) Unsuccessful applicants, who applied in the drawing and who applied with a check or money order, will receive a refund in December.~~

~~(b) Unsuccessful applicants, who applied with a credit or debit card, will not be charged for a permit.~~

~~—(e) The handling fees and Utah hunting or combination license fee are nonrefundable. Fees and handling fees must be paid pursuant to Rule R657-42-8(5).~~

R657-10-30. Drawing and Remaining Permits.

(1) If permits remain after all choices have been evaluated separately for residents and nonresidents, a second evaluation shall be done allowing cross-over usage of remaining resident and nonresident permit quotas.

(2) Applicants will be notified by mail or e-mail of drawing results on the date published in the proclamation of the Wildlife Board for taking cougar. ~~—The drawing results will be posted on the division's Internet address.~~

(3) Beginning on the date published in the proclamation of the Wildlife Board for taking cougar, residents or nonresidents may purchase any of the remaining permits.

(4) Any limited entry cougar permit purchased after the season opens is not valid until seven days after the date of purchase.

(5) Limited entry permits remaining after the drawing may be obtained on a first-come, first-served basis as provided in the proclamation of the Wildlife Board for taking cougar.

(6) Waiting periods do not apply to the purchase of remaining limited entry permits after the drawing. However, waiting periods are incurred as a result of purchasing remaining permits after the drawing. Therefore, if a remaining permit is purchased in the current year, waiting periods will be in effect when applying for limited entry permits in the drawing in following years.

(7)(a) An applicant may withdraw their application for the limited entry cougar permit drawing by ~~requesting such in writing by~~ the date published in the proclamation of the Wildlife Board for taking cougar.

~~(b) The applicant must send their notarized signature with a statement requesting that their application be withdrawn to Utah Wildlife Administrative Services, P.O. Box 30389, Salt Lake City, Utah 84130-0389.~~

~~—(e) Handling fees and Utah hunting or combination license fees will not be refunded.~~

~~(8)(a) An applicant may amend their application for the limited entry cougar permit drawing by requesting such in writing by~~ the date published in the proclamation of the Wildlife Board for taking cougar.

~~(b) The applicant must send their notarized signature with a statement requesting that their application be amended to Utah Wildlife Administrative Services, P.O. Box 30389, Salt Lake City, Utah 84130-0389.~~

~~(c) The applicant must identify in their statement the requested amendment to their application.~~

~~(d) If the application is amended and that amendment results in an error, the division reserves the right to reject the entire application.~~

KEY: wildlife, cougar, game laws

Date of Enactment or Last Substantive Amendment: [August 7, 2007]2008

Notice of Continuation: August 21, 2006

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19

◆ ————— ◆

Natural Resources, Wildlife Resources **R657-11-4** Bobcat Permits

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE No.: 31843

FILED: 08/19/2008, 11:13

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted for taking public input and reviewing the division's furbearer program.

SUMMARY OF THE RULE OR CHANGE: Section R657-11-4 is being amended to change the reference of "six bobcat permits" to "the number of bobcat permits authorized each year by the Wildlife Board" since the number of tags can change year to year and is set at the discretion of the Wildlife Board.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18 and 23-14-19

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The amendments clarify existing requirements. Therefore, the Division of Wildlife Resources (DWR) determines that these amendments do not create a cost or savings impact to the state budget or DWR's budget, since the changes will not increase workload and can be done with existing budget.

❖ LOCAL GOVERNMENTS: None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the amendment. Nor are local governments indirectly impacted because the amendment does not create a situation requiring services from local governments.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: This amendment clarifies existing requirements; therefore, the amendments do not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment clarifies existing requirements. Therefore, DWR determines that there are no additional compliance costs associated with the amendments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses. Michael R. Styler, Executive Director

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE

SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Staci Coons at the above address, by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2008

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-11. Taking Furbearers.

R657-11-4. Bobcat Permits.

(1) Bobcat permits are only valid with a valid, current furbearer license.

(2) A person may obtain up to ~~six bobcat permits~~ the number of bobcat permits authorized each year by the Wildlife Board. Permit numbers shall be published in the proclamation of the Wildlife Board for taking furbearers.

(3) Bobcat permits will be available during the dates published in the proclamation of the Wildlife Board for taking furbearers and may be obtained by submitting an application through the division's Internet address.

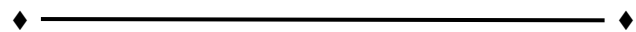
(4) Bobcat permits are valid for the entire bobcat season.

KEY: wildlife, furbearers, game laws, wildlife law

Date of Enactment or Last substantive Amendment: [~~October 22, 2007~~]2008

Notice of Continuation: August 24, 2005

Authorizing, and Implementing or Interpreted Law: 23-14-18; 23-14-19; 23-13-17



Natural Resources, Wildlife Resources

R657-60

Aquatic Invasive Species Interdiction

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31897

FILED: 08/26/2008, 10:57

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change is proposed to update the procedures and regulations designed to prevent and control the spread of aquatic invasive species within the State of Utah.

SUMMARY OF THE RULE OR CHANGE: This rule sets the guidelines and regulations designed to prevent and control the spread of

Dreissena mussels in Utah. This amendment adds Lake Granby, Colorado to the list of infested waters. It had previously been added to the emergency rule filing, this will make it effective after the emergency rule expires. (DAR NOTE: The corresponding 120-day (emergency) rule is under DAR No. 31805, effective 08/13/2008, and was published in the September 1, 2008, issue of the Bulletin (2008-17, pg. 73).)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-27-401, 23-14-18, and 23-14-19

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Division of Wildlife Resources (DWR) determines that these amendments do create a cost impact to the state budget or DWR's budget. The 2008 Utah Legislative Session appropriated \$2,500,000 to aid in the implementation costs associated with this rule.

❖ **LOCAL GOVERNMENTS:** This rule does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** This rule may create a cost impact to boat owners and other water enthusiasts in Utah in that if Dreissena Mussels are found in Utah the cost to decontaminate boats and other conveyances will be at the expense of the owner.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR determines that this rule may create a cost impact to individuals who own water vessels and boat in infested waters because they would be required to decontaminate the conveyance.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses. Michael R. Styler, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Staci Coons at the above address, by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2008

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.**R657-60. Aquatic Invasive Species Interdiction.****R657-60-2. Definitions.**

(1) Terms used in this rule are defined in Section 23-13-2 and 23-27-101.

(2) In addition:

(a) "Conveyance" means a terrestrial or aquatic vehicle, including a vessel, or a vehicle part that may carry or contain a Dreissena mussel.

(b) "Decontaminate" means to:

(i) Self-decontaminate equipment or a conveyance that has been in an infested water in the previous 30 days by:

(A) removing all plants, fish, mussels and mud from the equipment or conveyance;

(B) draining all water from the equipment or conveyance, including water held in ballast tanks, bilges, livewells, and motors; and

(C) drying the equipment or conveyance for no less than 7 days in June, July and August; 18 days in September, October, November, March, April and May; 30 days in December, January and February; or expose the equipment or conveyance to sub-freezing temperatures for 72 consecutive hours; or

(ii) Professionally decontaminate equipment or a conveyance that has been in an infested water in the previous 30 days by:

(A) Using a professional decontamination service approved by the division to apply scalding water (140 degrees Fahrenheit) to completely wash the equipment or conveyance and flush any areas where water is held, including ballast tanks, bilges, livewells, and motors.

(c) "Dreissena mussel" means a mussel of the genus Dreissena at any life stage, including a zebra mussel, a quagga mussel and a Conrad's false mussel.

(d) "Controlling entity" means the owner, operator, or manager of a water body, facility, or a water supply system.

(e) "Equipment" means an article, tool, implement, or device capable of carrying or containing water or Dreissena mussel.

(f) "Facility" means a structure that is located within or adjacent to a water body

(g) "Infested water" includes all the following:

(i) lower Colorado River between Lake Mead and the Gulf of California;

(ii) Lake Granby, Colorado;

(iii) Lake Mead in Nevada and Arizona;

(iii)iv) Lake Mohave in Nevada and Arizona;

(iv)v) Lake Havasu in California and Arizona;

(v)vi) Lake Pueblo in Colorado;

(vi)vii) Lake Pleasant in Arizona;

(vii)viii) San Justo Reservoir in California;

(viii)ix) Southern California inland waters in Orange, Riverside, San Diego, Imperial, and San Bernardino counties;

(ix)x) coastal and inland waters east of the 100th Meridian in North America; and

(x)xi) other waters established by the Wildlife Board and published on the DWR website.

(h) "Vessel" means every type of watercraft used or capable of being used as a means of transportation on water.

(i) "Water body" means natural or impounded surface water, including a stream, river, spring, lake, reservoir, pond, wetland, tank, and fountain.

(j) "Water supply system" means a system that treats, conveys, or distributes water for irrigation, industrial, wastewater treatment, or culinary use, including a pump, canal, ditch or, pipeline.

(i) "Water supply system" does not include a water body.

KEY: fish, wildlife, wildlife law

Date of Enactment or Last Substantive Amendment: 2008

Authorizing, and Implemented or Interpreted Law: 23-27-401; 23-14-18; 23-14-19



**Sports Authority (Utah), Pete Suazo
Utah Athletic Commission**

R859-1-501

**Promoter's Responsibility in Arranging
Contests - Permit Fee, Bond,
Restrictions**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31899

FILED: 08/26/2008, 13:11

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment will reduce the promoter's cost of providing medical insurance by permitting promoter's to provide Secondary Medical Insurance coverage for contestants who already have Primary Medical Insurance. It also incorporates the Pete Suazo Utah Athletic Commission (PSUAC) requested changes to a previously submitted rule change.

SUMMARY OF THE RULE OR CHANGE: The promoters will be permitted to provide Secondary Medical Insurance coverage for contestants who already have Primary Medical Insurance.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63C-11-316

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None--The proposed rule amendment will not impact the state budget. The proposed action clarifies the promoter's responsibility in providing medical insurance coverage for unarmed combat contestants.

❖ **LOCAL GOVERNMENTS:** None--The proposed rule amendment will not impact local government. The proposed action clarifies the promoter's responsibility in providing medical insurance coverage for unarmed combat contestants.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** This action will reduce the cost for promoters in providing medical insurance for unarmed combat contestants.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The action may decrease the costs for affected persons by up to 50%.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule incorporates the recommended modifications to the rule adopted by the commission. Alan Dayton, Chair, PSUAC

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

SPORTS AUTHORITY (UTAH)
PETE SUAZO UTAH ATHLETIC COMMISSION
Room 500
324 S STATE ST
STE 500
SALT LAKE CITY UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Bill Colbert at the above address, by phone at 801-538-8876, by FAX at 801-538-8888, or by Internet E-mail at bcolbert@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 10/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 11/01/2008

AUTHORIZED BY: Bill Colbert, Secretary, PSUAC

R859. Sports Authority (Utah), Pete Suazo Utah Athletic Commission.

R859-1. Pete Suazo Utah Athletic Commission Act Rule.

R859-1-501. Promoter's Responsibility in Arranging Contests-Permit Fee, Bond, Restrictions.

(1) Before a licensed promoter may hold a contest or single contest as part of a single promotion, the promoter shall file with the Commission an application for a permit to hold the contest not less than 15 days before the date of the proposed contest, or not less than seven days for televised contests.

(2) The application shall include the date, time, and place of the contest as well as information concerning the on-site emergency facilities, personnel, and transportation.

(3) The permit application must be accompanied by a contest registration fee determined by the Department under Section 63-38-32.

(4) Before a permit to hold a contest is granted, the promoter shall post a surety bond with the Commission in the amount of \$10,000.

(5) Prior to the scheduled time of the contest, the promoter shall have available for inspection the completed physical facilities which will be used directly or indirectly for the contest. The designated Commission member shall inspect the facilities in the presence of the promoter or the promoter's authorized representative, and all deficiencies cited upon inspection shall be corrected before the contest.

(6) A promoter shall be responsible for verifying the identity, ring record, and suspensions of each contestant. A promoter shall be held responsible for the accuracy of the names and records of each of the participating contestants in all publicity or promotional material.

(7) A promoter shall be held responsible for a contest in which one of the contestants is disproportionately outclassed.

(8) Before a contest begins, the promoter shall give the designated Commission member the money for payment of contestants, referees, judges, and the attending physician. The designated Commission member shall pay each contestant, referee, judge, and physician in the presence of one witness.

(9) A promoter shall be not under the influence of alcohol or controlled substances during the contest and until all purses to the contestants and all applicable fees are paid to the commission, officials and ringside physician.

(10) At the time of an unarmed combat contest weigh-in, the promoter of a contest shall provide primary insurance coverage for each uninsured contestant and secondary insurance for each insured contestant in the amount of \$10,000 for each licensed contestant to provide medical, surgical and hospital care for licensed contestants who are injured while engaged in a contest or exhibition:

(a) The term of the insurance coverage must not require the contestant to pay a deductible for the medical, surgical or hospital care for injuries he sustains while engaged in a contest of exhibition.

(b) If a licensed contestant pays for the medical, surgical or hospital care, the insurance proceeds must be paid to the contestant or his beneficiaries as reimbursement for the payment.

(c) The promoter should also have life insurance coverage of \$10,000 for each contestant in case of death.

KEY: licensing, boxing, unarmed combat, white-collar contests
Date of Enactment or Last Substantive Amendment:
[September 1], 2008

Notice of Continuation: May 10, 2007

Authorizing, and Implemented or Interpreted Law: 63C-11-101 et seq.

◆ ————— ◆
Transportation, Preconstruction, Right-of-Way Acquisition

R933-3

Relocation or Modification of Existing Authorized Access Openings or Granting New Access Openings on Limited Access Highways

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31894

FILED: 08/25/2008, 16:03

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to: 1) enable the Department to meet the legislatively mandated 45-day time period for approving, modifying, denying, or appealing the modification or denial of a permit for approach roads and driveways; 2) accurately reflect the day-to-day operations and policies of the Department; and 3) allow for an independent appraisal to avoid conflicts of interest.

SUMMARY OF THE RULE OR CHANGE: The changes: 1) include the establishment of new or existing highways as limited access facilities in the rule; 2) eliminate the maximum number of five accesses per mile; 3) eliminate access management standards that may conflict with Rule R930-6; 4) change appraisal procedures from in-house right-of-way appraisal to a Department-approved independent appraiser; 5) shift the burden of initiating an appraisal from the Department to the developer in order to comply with Section 72-3-109; 6) eliminate need for property owner to show a public benefit from new accesses on limited access facilities; 7) clearly define the procedures to modify an existing access; and 8) establish criteria to define local city, county, and municipal connections onto a limited access facility.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 72-3-109, 72-1-201, 72-5-110, 72-5-404, 72-6-117, 72-7-103, 78-34-10, 78-34-20, and 72-7-102

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The annual approximate average savings to the state budget: \$13,500. The annual average cost to the state budget: \$0. In making the above determination, the agency looked at what the agency was spending on appraisals. The rule shifting the cost to the land owner to pay for their own appraisal will give the state the estimated savings described above.

❖ LOCAL GOVERNMENTS: The annual average cost savings to local government entities: \$0. The estimate is based on what local governments paid during the past several years.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The annual average cost to small businesses and persons other than small businesses will be the cost of an appraisal paid by a land owner. The average appraisal cost is approximately \$350 per appraisal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These revisions will not have any new impacts to affected persons. The revisions will, however, shift some responsibilities from the Department to the applicant in order to ensure the Department can comply with Section 72-3-109.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will shift the fiscal responsibility of obtaining an appraisal of privately held land from the State of Utah to the land owner/developer. John Njord, Executive Director

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

TRANSPORTATION
PRECONSTRUCTION, RIGHT-OF-WAY ACQUISITION
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 10/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2008

AUTHORIZED BY: John R. Njord, Executive Director

R933. Transportation, Preconstruction, Right of Way Acquisition.
R933-3. Establishing New or Existing Highways as Limited Access Facilities and the Relocation or Modification of Existing Authorized Access Openings or Granting New Access Openings on Limited Access Highways.

R933-3-1. Authority.

The provisions of this rule are authorized by grants for rulemaking authority Utah Code Ann. Sections 72-1-201, 72-3-109, 72-5-110, 72-5-404, 72-6-117, 72-7-103, 78-34-10, 78-34-20, and 72-7-102.

R933-3-2. Purpose.

To establish a procedure for allowing and establishing new or existing highways as limited access facilities, ~~[for the elimination of intersections and for the right to access restricted facilities]~~ and to establish procedures for new access openings and the relocation and/or modification of existing access openings on limited access highways.

R933-3-4. When Access is Controlled.

(1) Limited access control for highways classified as principal arterials ~~[highways]~~ other than the interstate system and expressways ~~[shall]~~ may be obtained in all rural areas and in urban areas if the highway is being constructed on new alignment or if the existing highway is in sparsely developed areas where control is desirable and economically feasible. Control in urban areas on existing alignments shall not be allowed unless approved by the Utah Transportation Commission.

(2) In addition to the limited access control of principal arterial highways, ~~[a limited mileage of high volume]~~ minor arterial highways may justify limited access control, ~~[especially]~~ If on new alignment and/or if adjacent to a freeway interchange. ~~[Except for minor arterial highways adjacent to a freeway interchange, control shall not be established if the road is less than one mile in length. Access.]~~ The establishment of limited access control on a new alignment, if desirable and economically feasible, shall be determined on an individual basis and is subject to approval of the Utah Transportation Commission.

(3) Under limited access control, the following limitations shall apply:

(a) The maximum feasible and economic access control shall always be obtained.

(b) On bypasses of cities and towns, all property access shall be prohibited except where the bypass is in a ~~[low]~~ rural population town with ~~[little or no business and inadequate]~~ insufficient public crossroads for property access.

~~[(c) On other than bypass roads, a maximum of five accesses per mile on each side of the highway may be granted. Unless justified under this rule, accesses to property shall only be granted opposite to each other.]~~

~~[(d)](c)~~ Where any one property has access to another public road or roads, no access shall be given closer than 1/2 mile ~~[from]~~ of the public road.

(d) When any one property already has access to the limited access facility no additional access shall be within 1/2 mile of another public road or roads ~~nor shall any two granted accesses be closer than 1/2 mile~~ with the following exception: An access opening may be provided ~~[W]~~ where the proposed project involves reconstruction on or near an existing highway where a home, business or other property development is located and the reconstruction may result in a lack of direct access, ~~[to a home, business or other property development]~~ and would involve excessive property damage and added construction costs, ~~[in which case access openings may be provided within the other stated limitations.~~

~~—(e) No property access shall be closer than 500 feet from another property or public road access.~~

~~—(f) In order to eliminate public road access, study shall be made in conjunction with local authorities as to feasibility of dead ending or rerouting of intersecting roads.~~

~~(g)~~(e) The maximum size of private access openings shall ~~be~~ 16 feet for residences, 30 feet for farms or other areas where large equipment is used, and 50 feet for commercial and industrial areas ~~be~~ determined as per Administrative Rule R930-6.

(4) Exceptions to the ~~[above]~~ limitations ~~may~~shall only be ~~[made]~~granted by following the variance request process in Administrative Rule R930-6 ~~if a careful appraisal reveals extensive damage or if needed frontage roads would involve excessive right of way costs or, in canyons, excessive construction costs~~. Detailed reports of costs and justification for a variance shall be prepared and submitted by the applicant to the ~~[assistant]~~Deputy D~~[d]~~irector for approval or denial.

R933-3-5. Designation of Access Location.

(1) The Utah Department of Transportation Right of Way Division shall ~~conduct a study and prepare detailed right of way maps, to be used by the Utah Transportation Commission to make final access location determination. The study shall include the location of and justification for current access openings and property owners shall be contacted to determine development plans for the property. The Right of Way Division shall prepare cost estimates for proposed and alternate access locations. The Utah Transportation Commission~~ shall make final access location determination in accordance with Administrative Rule R930-6.

(2) ~~[The]~~Any access openings granted by the Department shall be accurately described in the property deed ~~and shown on right of way maps and roadway construction plans~~. The deed shall include property usage, access width, and location.

~~(3) After execution of the deeds, no change shall be made in the access location or additional access openings granted except as provided below.~~

~~—(4)~~(3) If a portion of a property which has no access to the highway is later sold, the department has no obligation to grant an access to the property ~~and if inquiries are made, a prospective buyer should be definitely so advised~~.

R933-3-6. ~~[Revision of]~~Changes to Existing Access Openings.

(1) If a property owner desires to change the location, land usage or size of an existing access opening ~~after execution of the deed, a written request~~an application shall be submitted to the appropriate region permit office~~department giving location of desired change and its justification~~. Changes shall comply with this Rule and Administrative Rule R930-6~~the limitations as to spacing in the limited access control policy~~.

(2) The ~~[R]~~Region ~~[d]~~Director, in consultation~~[cooperation]~~ with the regional access review panel~~[engineer for safety]~~, shall determine if the change in location, usage or size will cause any adverse safety or other traffic operational effects and submit a ~~report with~~ recommendation[s] to the ~~[assistant director]~~Deputy Director.

(3) If the change is approved by the ~~[assistant d]~~Director ~~[and on federal aid roads by the Federal Highway Administration,]~~new deeds shall be prepared and executed and all maps corrected. If the proposed access is on a federal aid highway, the Federal Highway Administration must also concur with the Deputy Director's approval prior to implementation.

(4) The property owner shall pay for all costs as described in section 7, including the appreciation of the property as a result of a change in access~~[involved in closing or modifying an existing access opening]~~.

R933-3-7. New Access Openings.

(1) ~~[Only in cases where significant public benefit will result will new access openings be granted.]~~ Access rights are purchased and are considered an asset, the same as purchased property, and can be disposed of the same as real property. An ~~[y additional]~~ access will not be ~~[considered]~~granted if not in compliance with this rule.

(2) An access application~~[The request]~~ shall be submitted by the property owner or public agency ~~[in writing]~~ to the ~~[d]~~Department ~~[detail as to public benefit and other justifications]~~.

(3) Before granting an access opening, safety and other operational features shall be investigated by the ~~[R]~~Region ~~[d]~~Director or an authorized representative ~~[and the engineer for safety]~~ and a written report and recommendation[s] made.

(4) ~~[If the access opening is granted, t]~~The appreciation of the private property as a result of the new access~~[involved]~~ shall be determined by an appraisal from a UDOT approved appraiser and will be reviewed by the Right of Way Division, or another UDOT approved appraiser.

(5) Based on the findings, the ~~[executive]~~Deputy D~~[d]~~irector ~~[of transportation]~~ shall make a decision on the request. If the proposed access is on a federal aid highway, the Federal Highway Administration must also concur with the Deputy Director's approval prior to implementation.~~[On federal aid roads, concurrence of the Federal Highway Administration shall be obtained if the access opening is recommended by the executive director of transportation.]~~

(6) If the access opening is approved ~~[and is to serve private property,]~~ the property owner shall pay the ~~[d]~~Department for property appreciation, resulting from the department's relinquishment of the access rights, ~~[as determined by the executive director and the Federal Highway Administration]~~. The amount of payment due to the Department shall be the Department approved amount of the appraisal referenced in Section 7 subsection 4.

(7) ~~[On the federal aid roads t]~~The property owner shall also pay all costs, including but not limited to, appraisal, ~~[for]~~ construction of gates, approaches, roadway improvements, and any other incidental construction costs involved.

(8) Any access openings granted by the Department shall be accurately described in the property deed. The deed shall include property usage, access width and location.~~[The deed shall be executed describing the access opening and all maps and plans shall be revised. This procedure applies to roads constructed with federal aid funds, which will remain on a federal aid system and be transferred to local authorities.]~~

~~—(9) Requests for modification of access control shall be forwarded with recommendations to the Utah Department of Transportation by the local authority.~~

R933-3-8. Local City, County and Municipal Connections to Limited Access Roads.

(1) The Department may waive payment for access rights for local municipal or County roads connecting to Limited Access Highways. In order to qualify as a connecting City, County or municipal road all of the following criteria must be met:

- Road must be a part of a local corridor master plan.
- Road must service multiple property owners and provide multiple accesses to farms, residences, businesses and other abutting properties.
- Road must provide continuity to another State, local, County or municipal road and may not dead-end into a parking lot cul-de-sac or other private property.

(2) The Department may not waive payment for access rights for a road developed for the sole purpose of benefiting single or multiple landowners, developments, or corporations. If abutting land values increase due to the proposed access, the Department may require payment for access rights as per sections 6 and 7.

R933-3-8. Document Responsibility.

~~—(1) The Right of Way Section shall prepare submittals, documents and maps to the Federal Highway Administration. The deeds shall be prepared by the region. The Right of Way Division will be responsible for all plan corrections.~~

~~—(2) Federal Highway Administration's approval is required if construction of the road was a federal aid project though the right of way was nonparticipating.~~

R933-3-9. Enforcement of Access Control.

(1) Highways with limited access control ~~should~~ may be marked by the department with public property plates on fences at sufficient intervals to clearly indicate to maintenance personnel the limits of access control.

(2) The station foreman shall be responsible for surveillance of these sections of fence as to any activity in modifying existing access openings or construction of new openings. Any modifications to an access opening shall be immediately reported to the [F]Region [d]Director. The [F]Region [d]Director shall designate personnel to contact the property owner and require the owner to repair, remove or replace any fence damaged and also remove any roadway approach material placed.

KEY: limited access highways

Date of Enactment or Last Substantive Amendment: [1990]2008

Notice of Continuation: November 29, 2006

Authorizing, and Implemented or Interpreted Law: 72-1-102; 72-1-201; 27-12-114; 72-7-102



Transportation Commission,
Administration

R940-3

Procedures for Transportation
Infrastructure Loan Fund Assistance

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE No.: 31920

FILED: 09/02/2008, 13:31

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is to establish procedures and standards for making loans and assistance through the Transportation Infrastructure Loan Fund.

SUMMARY OF THE RULE OR CHANGE: This rule establishes definitions, outlines commission responsibilities, and establishes conditions for assistance or loans from the Transportation Infrastructure Loan Fund.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-1-302

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** The anticipated cost or savings to the state or a local government will depend on two factors: 1) whether loans are obtained by local government entities through the Transportation Infrastructure Loan Fund; and 2) the terms of the loan as approved by the Utah Transportation Commission. To date, local government entities have obtained a loan through the Transportation Infrastructure Loan Fund only twice since its inception. It is unknown how frequently the Loan Fund will be accessed in the future or what loan terms will be imposed. Historically, the Transportation Commission has imposed an interest rate equal to current Treasury Bill rates. Local entities could realize savings if the rates approved by the Transportation Commission are better than rates a local entity could obtain on the open market. Any proceeds realized from a loan are paid back to the Transportation Infrastructure Loan Fund and become available for loans through the Fund.

❖ **LOCAL GOVERNMENTS:** See the response to state budget above.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** No financial impacts are imposed on business since statute restricts use of the fund to public entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs to private entities since the rule doesn't apply to the private sector. There would be no compliance costs for local governments since local governments will seek loans through the Fund only if it is financially advantageous.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Whether loans are obtained by local government entities through the Transportation Infrastructure Loan Fund or the terms of the loan as approved by the Utah Transportation Commission, no fiscal impact is expected. 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 10/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2008

AUTHORIZED BY: John R. Njord, Executive Director

R940. Transportation Commission, Administration.
R940-3. Procedures for Transportation Infrastructure Loan Fund Assistance.

R940-3-1. Purpose and Authority.

This rule is enacted under the provisions of Section 72-2-203. The purpose of this rule is to establish procedures and standards for making loans and assistance through the Transportation Infrastructure Loan Fund.

R940-3-2. 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) "Fund" means the Transportation Infrastructure Loan Fund, which is created in Utah Code Ann. Section 72-2-202;

(4) "Assistance" means infrastructure assistance defined in Utah Code Ann. 72-2-201;

(5) "Loan" means infrastructure loan defined in Utah Code Ann. 72-2-201;

(6) "Transportation project" has the same meaning as defined in Utah Code Ann. 72-2-201;

(7) "Qualified request" means any request submitted by a public entity for assistance or a loan:

(a) that has been received and reviewed by the department;

(b) that has been submitted by the department to the commission for review with a recommendation from the department to accept or reject the request;

(c) for a transportation project that is on the Statewide Transportation Improvement Program;

(8) "Public entity" has the same meaning as defined in Utah Code Ann. 72-2-201.

R940-3-3. Commission Responsibilities.

The commission shall:

(a) receive and review all qualified requests for assistance or loans through the fund;

(b) approve assistance or loans provided by the department through the fund;

(c) approve the terms of assistance or loans, including interest rates and repayment;

(d) prioritize requests for assistance or loans based on:

(i) the availability of monies in the fund;

(ii) the merits of each qualified request as determined by the commission including, but not limited to, the ability to repay the loan, management of the project, the need for the transportation project and the public benefit.

R940-3-4. Conditions for Assistance or Loans.

The commission shall approve or reject qualified requests submitted by the department during a commission meeting held under 72-1-302, including the terms for repayment. Any subsequent amendments or alterations made to the terms for repayment must be approved by the commission. Repayment of loans must be completed no more than 10 years from the time the loan is executed. If a transportation project is funded with federal funds, all federal regulations must be followed.

KEY: infrastructure assistance, Transportation Infrastructure Loan Fund

Date of Enactment or Last Substantive Amendment: 2008
Authorizing, and Implemented or Interpreted Law: 72-2-203

◆ ————— ◆

Transportation Commission,
Administration
R940-4
Airports of Regional Significance

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 31924

FILED: 09/02/2008, 14:23

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to define airports of regional significance. Section 59-12-602 authorizes the Commission to establish this rule.

SUMMARY OF THE RULE OR CHANGE: The rule's provisions include a definition of airports of regional significance and a designation of airports of regional significance.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-12-602 and 59-12-1702

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no anticipated cost since the rule establishes definitions that will allow local governments to spend local revenues on certain local airports. Current code allows county governments to spend certain taxing sources (the "Restaurant Tax" and local option sales tax revenue from "County of the 2nd Class State Highway Fund") on airports of regional significance as defined by the Transportation Commission. The rule defines those airports so local governments can spend their revenues for those purposes if they so choose.

❖ LOCAL GOVERNMENTS: No costs or savings are anticipated with this rule change. No new requirements were created with this rule change that impact local government.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: No cost or savings are anticipated with this rule change. No new requirements were created with this rule change that impact small businesses or persons other than businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No cost or savings are anticipated with this rule change that impact on affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on businesses is anticipated with this rule. 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 10/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2008

AUTHORIZED BY: John R. Njord, Executive Director

R940. Transportation Commission, Administration.

R940-4. Airports of Regional Significance.

R940-4-1. Purpose and Authority.

Utah Code Ann. Section 59-12-602 authorizes the Commission to establish this rule. The purpose of this rule is to define airports of regional significance.

R940-4-2. Definitions.

"Commission" means the Transportation Commission, which is created in Utah Code Ann. Section 72-1-301.

R940-4-3. Designation of Airports of Regional Significance.

Only for the purposes authorized in Utah Code Title 59 Chapter 12 Part 6, Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act, and Title 59 Chapter 12 Part 17, County Option Sales and Use Tax for Transportation Act, all airports identified by the Federal Aviation Administration on the National Plan of Integrated Airport Systems (NPIAS) are defined by the Commission as airports of regional significance.

R940-4-4. Definition of Airports of Regional Significance.

Definition of airports of regional significance are only for the purposes stated within this rule and should not be construed to apply to similar definitions for federal purposes or for any other purpose under Utah Code. A current list of airports included on the NPIAS may be obtained through the Federal Aviation Administration's website www.faa.gov or by contacting the Utah Department of Transportation Division of Aeronautics.

KEY: airports of regional significance

Date of Enactment or Last Substantive Amendment: 2008
Authorizing, and Implemented or Interpreted Law: 59-12-602; 59-12-1702

Workforce Services, Employment Development **R986-900-902** Options and Waivers

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 31907

FILED: 08/28/2008, 16:27

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to list two waivers recently granted to the Department.

SUMMARY OF THE RULE OR CHANGE: The federal government recently granted the Department's request for two waivers. The first one allows us to conduct initial interviews for food stamps by telephone. The second waives the requirement that interviews be scheduled for a specific time and date.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 and Subsection 35A-1-104(4)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This applies to federally-funded programs so there are no costs or savings to the state budget.

❖ LOCAL GOVERNMENTS: This applies to federally-funded programs so there are no costs or savings to local government.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: This is a federally-funded program so there are no costs or savings to any small business or person.

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 10/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2008

AUTHORIZED BY: Kristen Cox, Executive Director

R986. Workforce Services, Employment Development.

R986-900. Food Stamps.

R986-900-902. Options and Waivers.

The Department administers the Food Stamp Program in compliance with federal law with the following exceptions or clarifications:

(1) The following options not otherwise found in R986-100 have been adopted by the Department where allowed by the applicable federal law or regulation:

(a) The Department has opted to hold hearings at the state level and not at the local level.

(b) The Department does not offer a workfare program for ABAWDs (Able Bodied Adults Without Dependents).

(c) An applicant is required to apply at the local office which serves the area in which they reside.

(d) The Department has opted to use the Simplified Standard Utility Allowance found in 7 USC 2014(e)(7)(C)(iii) as amended by 2002 H.R. 2646 known as Section 4104 of the Farm Bill. The Department has a mandatory standard utility allowance. This means the customer is eligible for an appropriate utility allowance at the time of application and eligibility for the appropriate allowance is re-determined at recertification or if the household moves to a different place of residence. The customer does not have the choice of using "actual" utility expenses. The Department has three utility standards that are updated annually and are available upon request. This Farm Bill option allows households in subsidized housing and households in shared living arrangements to receive the full appropriate utility allowance.

(e) The Department does not use photo ID cards. ID cards are available upon request to homeless, disabled, and elderly clients so that the client is able to use food stamp benefits at a participating restaurant.

(f) The state has opted to provide food stamp benefits through the use of an electronic benefit transfer system known as the Horizon Card.

(g) The Department counts diversion payments in the food stamp allotment calculation.

(h) The Department has opted to exempt individuals from mandatory participation in Food Stamp Employment and Training activities in counties that have been designated as Labor Surplus Areas by the Department of Labor. These counties change each year based on Department of Labor statistics and a list of counties is available from the Department. They are the same counties as referenced in subsection (2)(a) below.

(i) The Department has opted to use Utah's TANF vehicle allowance rules in conjunction with the Food Stamp Program vehicle allowance regulations at 7 CFR 273.8, as authorized by Pub. L. No. 106-387 of the Agriculture Appropriations Act 2001, Food Stamp Act of 1977, 7 USC 2014.

(j) The Department has opted to count all of an ineligible alien's resources and all but a pro rata share of the ineligible alien's income and deductible expenses as provided in 7 CFR 273.11(c)(3)(ii)(A).

(k) A client may waive his or her right to an administrative disqualification hearing.

(l) A client may deduct actual, allowable expenses from self employment, or may opt to deduct 40% of the gross income from self employment to determine net income.

(m) The Department has opted to align food stamps with FEP in determining how to count educational assistance income. That income is counted for food stamps as provided in R986-200-235(3)(q).

(n) The Department has opted to do simplified reporting as provided in 7 CFR 273.12(a)(1)(vii).

(o) The Department has opted to operate a Mini Simplified Food Stamp Program under 7 CFR 273.25. Under this option, a client receiving food stamps and FEP or FEPT, must participate as required in R986-200-210. A client found ineligible due to non-compliance under R986-200-212 will also be subject to the food stamp sanctions found in 7CFR 273.7(f)(2) unless the client meets an exemption under food stamp regulations.

(2) The Department has been granted the following applicable waivers from the Food and Nutrition Service:

(a) Certain Utah counties have been granted a waiver which exempts ABAWDs from the work requirements of Section 824 of PRWORA. The counties granted this waiver change each year based on Department of Labor statistics. A list of counties granted this waiver is available from the Department.

(b) The Department requires that a household need only report changes in earned income if there is a change in source, the hourly rate or salary, or if there is a change in full-time or part-time status. A client is required to report any change in unearned income over \$25 or a change in the source of unearned income.

(c) The Department uses a combined Notice of Expiration and Shortened Recertification Form. Notice of Expiration is required in 7 CFR 273.14(b)(1)(i). The Recertification Form is found under 7 CFR 273.14(b)(2)(i).

(d) The Department conducts the Family Nutrition Education Program for individuals even if they are otherwise ineligible for food stamps.

(e) The Department may deduct overpayments that resulted from an IPV from a household's monthly entitlement.

(f) If the application was received before the 15th of the month and the client has earned income, the certification period can be no longer than six months. The initial certification period may be as long as seven months if the application was received after the 15th of the month.

(g) A household which had its food stamps terminated can be reinstated during the calendar month following the month assistance was terminated without completing a new application if the reason for the termination is fully resolved. The reason for the termination does not matter. Assistance will be prorated to the date on which the client reported that the disqualifying condition was resolved if verification is received within ten days of the report. Assistance is reinstated for the remaining months of the certification period and the certification period must not be changed.

(h) If the Department is unable to obtain proper documentary evidence from an employer, the Department may use Utah quarterly wage data as the primary verification of income when calculating overpayments.

(i) The Department will hold disqualification hearings by telephone.

(j) All initial interviews, and recertification interviews for households certified for 12 months or less, [would] will have their initial or recertification interviews conducted by telephone, rather than in person, unless the household requests an in-person interview or the Department determines that an in-person interview is necessary to resolve issues that would be better facilitated face-to-face.

(k) The federal regulation that requires all interviews be scheduled for a specific date and time is waved for initial telephone interviews. This allows clients to call anytime Monday through Thursday from 7 am to 5:30 p.m. to complete the required initial interview.

KEY: food stamps, public assistance

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

Notice of Continuation: September 14, 2005

Authorizing, and Implemented or Interpreted Law: 35A-3-103



Workforce Services, Unemployment
Insurance
R994-403-102a
Cancellation of Claim

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE No.: 31905
FILED: 08/28/2008, 15:23

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to ensure consistency in counting wages from an employer when the claimant was discharged for a crime in connection with employment.

SUMMARY OF THE RULE OR CHANGE: If the reason for discharge is the employee committed a crime in connection with the employment, the wages from that employer cannot be used to establish eligibility. If the employee files a claim and is found monetarily ineligible because of the discharge in connection with a crime, under the current rule the employee could cancel the claim and refile when the disqualification period is over. To ensure consistency, the Department is adopting this

change to prohibit the cancellation of a claim when the monetary ineligibility was due to a discharge in connection with a crime.

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.

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 employers 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 10/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2008

AUTHORIZED BY: Kristen Cox, Executive Director

**R994. Workforce Services, Unemployment Insurance.
R994-403. Claim for Benefits.
R994-403-102a. Cancellation of Claim.**

(1) Once a weekly claim has been filed and the claimant has been deemed monetarily eligible, the claim is considered to have been established, even if no payment has been made or waiting week credit

granted. The claim then remains established for 52 weeks during which time another regular claim may not be filed against the state of Utah unless the claim is canceled.

(2) A claim may be canceled if the claimant requests that the claim be canceled and one of the following circumstances can be shown:

(a) no weekly claims have been filed;

(b) cancellation is requested prior to the issuance of the monetary determination;

(c) the request is made within the same time period permitted for an appeal of the monetary determination and the claimant returns any benefits that have been paid;

(d) the claimant had earnings, severance, or vacation payments equal to or greater than the WBA applicable to all weeks for which claims were filed;

(e) the claimant meets the eligibility requirements for filing a new claim following a disqualification due to a strike in accordance with the qualifying provisions of Subsection 35A-4-405(4)(c);

(f) the claimant meets the requirements for cancellation established under the provisions for combined wage claims in R994-106-107; or

(g) the claimant has filed an unemployment compensation for ex-military (UCX) claim, and it is determined the claimant does not have wage credits under Title 5, chapter 85, U.S. Code.

(3) If a claimant is disqualified from the receipt of unemployment benefits because he or she was discharged for a crime in connection with work under R994-405-210, whether the claimant was deemed monetarily eligible or not, the claim will be established for 52 weeks and cannot be canceled even if the requirements of subsection (2) have been satisfied.

KEY: filing deadlines, registration, student eligibility, unemployment compensation

Date of Enactment or Last Substantive Amendment: [~~November 15, 2007~~]2008

Notice of Continuation: June 26, 2007

Authorizing, and Implemented or Interpreted Law: 35A-4-403(1)

◆ ————— ◆

Workforce Services, Unemployment Insurance

R994-405-216

Cancellations Not Allowed

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31904

FILED: 08/28/2008, 15:10

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to prevent a claimant from canceling his or her claim and filing at a later date after a discharge in connection with a crime.

SUMMARY OF THE RULE OR CHANGE: If the reason for discharge is the employee committed a crime in connection with the employment, the wages from that employer cannot be used to establish eligibility. If the employee files a claim and is found monetarily ineligible because of the discharge in connection with a crime, under the current rule the employee could cancel the claim and refile when the disqualification period is over. To ensure consistency, the Department is making this change to prohibit the cancellation of a claim when the monetary ineligibility was due to a discharge in connection with a crime.

This added section mirrors a proposed amendment to Section R994-403-102a also filed today. (DAR NOTE: The proposed amendment to Section R994-403-102a is under DAR No. 31905 in this issue, September 15, 2008, of the Bulletin.)

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 any 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 employer's 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 employers 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 11/14/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2008

AUTHORIZED BY: Kristen Cox, Executive Director

R994. Workforce Services, Unemployment Insurance.

R994-405. Ineligibility for Benefits.

R994-405-216. Cancellations Not Allowed.

If a claimant is disqualified from the receipt of unemployment benefits because he or she was discharged for a crime in connection

with work, the claim will be established for 52 weeks and cannot be canceled as provided in R994-403-102a(3).

KEY: unemployment compensation, employment, employee's rights, employee termination

Date of Enactment or Last Substantive Amendment: [~~November 15, 2007~~2008

Notice of Continuation: June 26, 2007

Authorizing, and Implemented or Interpreted Law: 35A-4-502(1)(b); 35A-1-104(4); 35A-4-405



End of the Notices of Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by Section 63G-3-305.

Financial Institutions, Administration **R331-20**

Designation of Adjudicative Proceedings as Informal

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 31891
FILED: 08/25/2008, 13:17

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63G-4-202 authorizes the agency to designate categories of adjudicative proceedings. The rule states that all proceedings which are subject to the requirements of the Utah Administrative Procedures Act are designated as informal proceedings.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The agency has determined that: a) the use of the informal procedures does not violate any procedural requirement imposed by law; b) the rights of the parties to the proceedings will be reasonably protected by the informal procedures; c) the agency's administrative efficiency will be enhanced by the designation; and d) the cost of formal adjudicative proceedings outweighs the potential benefits to the public of a formal adjudicative proceeding. Therefore, the rule should be continued.

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

FINANCIAL INSTITUTIONS
ADMINISTRATION
Room 201

324 S STATE ST
SALT LAKE CITY UT 84111-2393, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Paul Allred at the above address, by phone at 801-538-8854,
by FAX at 801-538-8894, or by Internet E-mail at
PALLRED@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 08/25/2008



Financial Institutions, Administration **R331-21**

Rule Governing Establishment of and Participation in Collective Investment Funds by Trust Companies

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 31892
FILED: 08/25/2008, 13:21

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 7-5-13 authorizes establishment of collective investment funds for persons permitted to engage in the trust business.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule authorizes the establishment of and participation in collective investment funds by trust companies subject to the jurisdiction of the Department. There is presently one trust company that must still comply with this rule. Therefore, the rule should be continued.

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

FINANCIAL INSTITUTIONS
ADMINISTRATION
Room 201
324 S STATE ST
SALT LAKE CITY UT 84111-2393, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Paul Allred at the above address, by phone at 801-538-8854, by FAX at 801-538-8894, or by Internet E-mail at PALLRED@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 08/25/2008

Financial Institutions, Administration
R331-24
Accounting for Accrued Uncollected
Income by Banks and Industrial Loan
Corporations

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 31893
FILED: 08/25/2008, 13:23

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 7-1-301(14) authorizes the commissioner to require financial institutions to keep books and records of the transactions and accounts of the institutions' true pecuniary condition. These requirements must be consistent with generally accepted accounting principles for financial institutions. The rule establishes some specific accounting requirements for accrued uncollected income.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule establishes accounting requirements for accrued uncollected income to ensure accurate accounting of the income of banks and industrial loan corporations. Therefore, the rule should be continued.

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

FINANCIAL INSTITUTIONS
ADMINISTRATION
Room 201
324 S STATE ST
SALT LAKE CITY UT 84111-2393, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Paul Allred at the above address, by phone at 801-538-8854, by FAX at 801-538-8894, or by Internet E-mail at PALLRED@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 08/25/2008

Human Services, Child and Family
Services
R512-100
Home Based Services

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 31856
FILED: 08/20/2008, 12:36

**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 62A-4a-105 requires the Division of Child and Family Services to provide child welfare system programs and services to the citizens 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: This rule is needed for the Division of Child and Family Services to follow federal and state child welfare system requirements. Therefore, this rule should be continued. There are nonsubstantive revisions being made to update this rule, which will be filed in the future.

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
Room 225
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Miller at the above address, by phone at 801-538-4451, by FAX at 801-538-3993, or by Internet E-mail at CAROLMILLER@utah.gov

AUTHORIZED BY: Duane Betournay, Director

EFFECTIVE: 08/20/2008

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
Room 225
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Miller at the above address, by phone at 801-538-4451, by FAX at 801-538-3993, or by Internet E-mail at CAROLMILLER@utah.gov

AUTHORIZED BY: Duane Betournay, Director

EFFECTIVE: 08/20/2008

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Human Services, Child and Family
Services
R512-200
Child Protective Services, Intake
Services

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 31857
FILED: 08/20/2008, 12:37

**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: Sections 62A-4a-105 and 62A-4a-403 require the Division of Child and Family Services to provide child welfare system programs and services to the citizens 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: This rule is needed for the Division of Child and Family Services to follow federal and state child welfare system requirements. Therefore, this rule should be continued. There are nonsubstantive revisions to update this rule being made, which will be filed in the future.

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Human Services, Child and Family
Services
R512-201
Child Protective Services, Investigation
Services

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 31858
FILED: 08/20/2008, 12:37

**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: Sections 62A-4a-105 and 62A-4a-202.3 require the Division of Child and Family Services to provide child protective services to the citizens 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: This rule is needed for the Division of Child and Family Services to follow federal and state child welfare system requirements. Therefore, this rule should be continued. There are nonsubstantive revisions being made to update this rule, which will be filed in the future.

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
Room 225
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Miller at the above address, by phone at 801-538-4451, by FAX at 801-538-3993, or by Internet E-mail at CAROLMILLER@utah.gov

AUTHORIZED BY: Duane Betournay, Director

EFFECTIVE: 08/20/2008

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
Room 225
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Miller at the above address, by phone at 801-538-4451, by FAX at 801-538-3993, or by Internet E-mail at CAROLMILLER@utah.gov

AUTHORIZED BY: Duane Betournay, Director

EFFECTIVE: 08/20/2008

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Human Services, Child and Family
Services
R512-202
Child Protective Services, General
Allegation Categories

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**
DAR FILE No.: 31859
FILED: 08/20/2008, 12:38

**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 62A-4a-105 requires the Division of Child and Family Services to provide child welfare system programs and services to the citizens 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: This rule is needed for the Division of Child and Family Services to follow federal and state child welfare system requirements. Therefore, this rule should be continued. There are nonsubstantive revisions being made to update this rule, which will be filed in the future.

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Human Services, Child and Family
Services
R512-300
Out-of-Home Services

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**
DAR FILE No.: 31860
FILED: 08/20/2008, 12:38

**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: Sections 62A-4a-105 and 62A-4a-106 require the Division of Child and Family Services to provide child welfare programs and services, including out-of-home services, to the citizens 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: This rule is needed for the Division of Child and Family Services to follow federal and state child welfare system requirements. Therefore, this rule should be continued. There are changes being made to citation references contained in this rule, which will be filed in the future.

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
Room 225
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Miller at the above address, by phone at 801-538-4451, by FAX at 801-538-3993, or by Internet E-mail at CAROLMILLER@utah.gov

AUTHORIZED BY: Duane Betournay, Director

EFFECTIVE: 08/20/2008

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
Room 225
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Miller at the above address, by phone at 801-538-4451, by FAX at 801-538-3993, or by Internet E-mail at CAROLMILLER@utah.gov

AUTHORIZED BY: Duane Betournay, Director

EFFECTIVE: 08/20/2008



Human Services, Child and Family
Services
R512-301
Out of Home Services, Responsibilities
Pertaining to a Parent or Guardian

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 31861
FILED: 08/20/2008, 12:38

**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: Sections 62A-4a-105 and 62A-4a-106 require the Division of Child and Family Services to provide child welfare programs and services, including out-of-home services, to the citizens 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: This rule is needed for the Division of Child and Family Services to follow federal and state child welfare system requirements. Therefore, this rule should be continued. There are changes being made to citation references contained in this rule, which will be filed in the future.



Human Services, Child and Family
Services
R512-302
Out of Home Services, Responsibilities
Pertaining to an Out of Home Caregiver

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 31862
FILED: 08/20/2008, 12:39

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 62A-4a-105 and 62A-4a-106 require the Division of Child and Family Services to provide child welfare programs and services, including out-of-home services, to the citizens 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: This rule is needed for the Division of Child and Family Services to follow federal and state child welfare system requirements. Therefore, this rule should be continued. There are changes being made to citation references contained in this rule, which will be filed in the future.

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
Room 225
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Miller at the above address, by phone at 801-538-4451, by FAX at 801-538-3993, or by Internet E-mail at CAROLMILLER@utah.gov

AUTHORIZED BY: Duane Betournay, Director

EFFECTIVE: 08/20/2008

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
Room 225
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Miller at the above address, by phone at 801-538-4451, by FAX at 801-538-3993, or by Internet E-mail at CAROLMILLER@utah.gov

AUTHORIZED BY: Duane Betournay, Director

EFFECTIVE: 08/20/2008

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Human Services, Child and Family
Services

R512-305

Out of Home Services, Transition to
Adult Living Services

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 31863
FILED: 08/20/2008, 12:39

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-4a-105 requires the Division of Child and Family Services to provide child welfare programs and services, including out-of-home services and transition to adult living services, to the citizens 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: This rule is needed for the Division of Child and Family Services to follow federal and state child welfare system requirements. Therefore, this rule should be continued. There are changes being made to citation references contained in this rule, which will be filed in the future.

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Human Services, Child and Family
Services

R512-500

Kinship Services

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 31864
FILED: 08/20/2008, 12:39

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-4a-105 requires the Division of Child and Family Services to provide child welfare services and programs to the citizens of Utah, including kinship families.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is needed for the Division of Child and Family Services to follow federal and state child welfare system requirements. Therefore, this rule should be continued. There are changes being made to citation references contained in this rule, which will be filed in the future.

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
Room 225
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Miller at the above address, by phone at 801-538-4451, by FAX at 801-538-3993, or by Internet E-mail at CAROLMILLER@utah.gov

AUTHORIZED BY: Duane Betournay, Director

EFFECTIVE: 08/20/2008

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Human Services, Recovery Services **R527-301** Non-IV-D Income Withholding

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 31867
FILED: 08/21/2008, 13:02

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Section 62A-11-502, which authorizes immediate income withholding for child support orders issued or modified on or after 01/01/1994 with specific restrictions and regulations that the agency has implemented. Section 62A-11-504 authorizes the Office of Recovery Services to commence income withholding when an obligor or obligee applies for IV-D services with the office. In addition, the rule provides information on enforcement upon a payor that fails to comply with the Notice to Withhold in accordance with Section 62A-11-506. Section 62A-11-107 authorizes the Office of Recovery Services (ORS) to adopt, amend, and enforce rules as necessary.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments since the last five-year review of the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary to continue this rule to provide information regarding the Office of Recovery Service's ongoing responsibilities in regards to Non-IV-D income withholding. This rule defines the office's limits to income withholding in regards to the collection of child care

expenses. This rule provides information to custodial and noncustodial parents when a payor fails to comply with the Notice to Withhold. The rule provides information as to how income withholding may be terminated. In addition, the rule provides information as to how income withholding payments will be handled when the custodial parent's mailing address is unknown. The Office of Recovery Services has identified that the rulemaking authority and other nonsubstantive corrections need to be made to this rule. The amendment to correct this will be filed shortly.

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

HUMAN SERVICES
RECOVERY SERVICES
515 E 100 S
SALT LAKE CITY UT 84102-4211, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Shancie Lawton at the above address, by phone at 801-536-8191, by FAX at 801-536-8833, or by Internet E-mail at shanielawton@utah.gov

AUTHORIZED BY: Mark Brasher, Director

EFFECTIVE: 08/21/2008

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Lieutenant Governor, Administration **R622-1** Adjudicative Proceedings

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 31844
FILED: 08/19/2008, 15:11

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: Mandated by Section 36-11-404, "(1) The lieutenant governor shall make rules that provide: (a) for the appointment of an administrative law judge to adjudicate alleged violations of this section and to impose penalties under this section; (b) procedures for license applications, disapprovals, suspensions, revocations, and reinstatements that comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The lieutenant governor's obligation under Section 36-11-404 continues. Therefore, this rule should be continued. Due to a renumbering of the Administrative Procedures Act, the lieutenant governor will submit a nonsubstantive change request to correct statutory references within this rule.

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

LIEUTENANT GOVERNOR
ADMINISTRATION
Room 210 STATE CAPITOL
350 N STATE ST
SALT LAKE CITY UT 84114-1103, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Michael Cragun at the above address, by phone at 801-538-1041, by FAX at 801-538-1133, or by Internet E-mail at mcragun@utah.gov

AUTHORIZED BY: Michael Cragun, Director

EFFECTIVE: 08/19/2008



Natural Resources; Forestry, Fire and
State Lands
R652-7
Public Petitions for Declaratory Orders

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 31895
FILED: 08/26/2008, 09:20

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule implements Section 63G-4-503 which authorizes the Division of Forestry, Fire and State Lands to provide the procedures for submission, review, and disposition of petitions for agency declaratory orders on the applicability of statutes, rules, and orders governing or issued by the 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 comments have been received to date.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule gives persons an avenue to petition the Division for a declaratory order that

established rights, status or other legal relationship under statute, rule or order. Without this rule, only applicants can petition the Division on property rights issues. Therefore, this rule should be continued.

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

AUTHORIZED BY: Richard J. Buehler, Director

EFFECTIVE: 08/26/2008



Natural Resources; Forestry, Fire and
State Lands
R652-110
Off-Highway Vehicle Designations

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 31896
FILED: 08/26/2008, 09:23

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule implements Section 41-22-10.1 which requires off-highway vehicle use designation.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received to date.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Without this rule, ATV use on such heavily populated areas such as Bear Lake would not only be chaotic, but would pose serious public safety issues, as well as potential damage to the resources. By regulating the use and cooperating with other public agencies, public safety and resource protection can be maintained. Therefore, this rule should be continued.

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

AUTHORIZED BY: Richard J. Buehler, Director

EFFECTIVE: 08/26/2008



Transportation, Operations, Maintenance

R918-4

Using Volunteer Groups for the Adopt-A-Highway Program

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 31890
FILED: 08/25/2008, 12:08

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The rule is enacted pursuant to Section 72-1-201. Section 72-1-201 authorizes the Utah Department of Transportation the general responsibility for

planning, research, design, construction, maintenance, security, and safety of state transportation systems. The implementation of this rule implements the "Adopt a Highway" volunteers program which goes to the portion of the code to maintain the transportation 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: As written, this rule effectively establishes the procedure for using volunteer groups for litter pickups. It provides additional resources to increase the Department of Transportation's litter control efforts at a minimal cost. Therefore, this rule should be continued.

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

TRANSPORTATION
OPERATIONS, MAINTENANCE
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

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 08/25/2008



End of the Five-Year Notices of Review and Statements of Continuation 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

Archives

No. 31553 (NEW): R17-5. Definitions for Rules in Title R17.
Published: July 1, 2008
Effective: August 20, 2008

No. 31554 (NEW): R17-6. Records Storage and Disposal at the State Records Center.
Published: July 1, 2008
Effective: August 20, 2008

No. 31555 (NEW): R17-7. Archival Records Care and Access at the State Archives.
Published: July 1, 2008
Effective: August 20, 2008

No. 31556 (NEW): R17-8. Application of Microfilm Standards.
Published: July 1, 2008
Effective: August 20, 2008

Finance

No. 31527 (AMD): R25-14. Payment of Attorneys' Fees in Death Penalty Cases.
Published: July 1, 2008
Effective: August 19, 2008

Alcoholic Beverage Control

Administration

No. 31640 (AMD): R81-1-27. Label Approvals.
Published: July 15, 2008
Effective: September 1, 2008

Commerce

Occupational and Professional Licensing

No. 31615 (AMD): R156-31b. Nurse Practice Act Rule.
Published: July 15, 2008
Effective: August 25, 2008

Securities

No. 31541 (NEW): R164-31. Administrative Fines.
Published: July 1, 2008
Effective: August 26, 2008

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 31622 (AMD): R414-304. Income and Budgeting.
Published: July 15, 2008
Effective: September 1, 2008

Human Resource Management

Administration

No. 31629 (AMD): R477-14. Substance Abuse and Drug-Free Workplace.
Published: July 15, 2008
Effective: August 21, 2008

Human Services

No. 31629 (AMD): R495-876. Provider Code of Conduct.
Published: July 15, 2008
Effective: August 26, 2008

Child and Family Services

No. 31590 (R&R): R512-500. Kinship Services.
Published: July 15, 2008
Effective: August 21, 2008

Services for People with Disabilities

No. 31593 (NEW): R539-15. Time-Limited Respite Care Program.
Published: July 15, 2008
Effective: August 21, 2008

Insurance

Administration

No. 31551 (AMD): R590-164. Uniform Health Billing Rule.
Published: July 1, 2008
Effective: August 26, 2008

No. 31649 (AMD): R590-238. Captive Insurance Companies.
Published: July 15, 2008
Effective: August 25, 2008

No. 31647 (NEW): R590-250. PEO Assurance Organization Designation.
Published: July 15, 2008
Effective: August 25, 2008

No. 31641 (NEW): R590-251. Preneed Life Insurance Minimum Standards for Determining Reserve Liabilities and Nonforfeiture Values Rule..
Published: July 15, 2008
Effective: August 25, 2008

Natural Resources

Parks and Recreation

No. 31599 (AMD): R651-611. Fee Schedule.
Published: July 15, 2008
Effective: August 21, 2008

No. 31602 (AMD): R651-617. Permit Violation.
Published: July 15, 2008
Effective: August 21, 2008

Wildlife Resources

No. 31609 (AMD): R657-6. Taking Upland Game.
Published: July 15, 2008
Effective: August 21, 2008

No. 31611 (AMD): R657-16. Aquaculture and Fish Stocking.
Published: July 15, 2008
Effective: August 21, 2008

No. 31613 (AMD): R657-23. Utah Hunter Education Program.
Published: July 15, 2008
Effective: August 21, 2008

No. 31608 (AMD): R657-55. Wildlife Convention Permits.
Published: July 15, 2008
Effective: August 21, 2008

No. 31610 (NEW): R657-57. Division Variance Rule.
Published: July 15, 2008
Effective: August 21, 2008

No. 31612 (NEW): R657-59. Private Fish Ponds.
Published: July 15, 2008
Effective: August 21, 2008

No. 31623 (NEW): R657-60. Aquatic Invasive Species Interdiction.
Published: July 15, 2008
Effective: August 21, 2008

Public Service Commission

Administration

No. 31628 (AMD): R746-349. Competitive Entry and Reporting Requirements.
Published: July 15, 2008
Effective: August 25, 2008

No. 31642 (NEW): R746-800. Working 4 Utah Operations.
Published: July 15, 2008
Effective: August 25, 2008

Sports Authority (Utah)

Pete Suazo Utah Athletic Commission

No. 31566 (AMD): R859-1-501. Promoter's Responsibility in Arranging Contests - Permit Fee, Bond, Restrictions.
Published: July 1, 2008
Effective: September 1, 2008

No. 31585 (AMD): R859-1-506. Drug Tests.
Published: July 1, 2008
Effective: September 1, 2008

No. 31586 (AMD): R859-1-509. Weighing-In.
Published: July 1, 2008
Effective: September 1, 2008

Tax Commission

Administration

No. 31535 (AMD): R861-1A-1. Administrative Procedures Pursuant to Utah Code Ann. Section 59-1-210.
Published: July 1, 2008
Effective: August 18, 2008

No. 31536 (AMD): R861-1A-3. Division and Prehearing Conferences Pursuant to Utah Code Ann. Section 59-1-210.
Published: July 1, 2008
Effective: August 18, 2008

Auditing

No. 31534 (AMD): R865-6F-35. S Corporation Determination of Tax Pursuant to Utah Code Ann. Section 59-7-703.
Published: July 1, 2008
Effective: August 18, 2008

No. 31530 (AMD): R865-9I-6. Returns by Husband and Wife when one is a Resident and the other is a Nonresident Pursuant to Utah Code Ann. Section 59-10-119.
Published: July 1, 2008
Effective: August 18, 2008

NOTICES OF RULE EFFECTIVE DATES

No. 31532 (AMD): R865-9I-50. Addition to Adjusted Gross Income for Interest Earned on Bonds, Notes, and Other Evidences of Indebtedness Pursuant to Utah Code Ann. Section 59-10-114.

Published: July 1, 2008
Effective: August 18, 2008

No. 31531 (AMD): R865-19S-94. Tips, Gratuities, and Cover Charges Pursuant to Utah Code Ann. Section 59-12-103.

Published: July 1, 2008
Effective: August 18, 2008

No. 31533 (AMD): R865-20T-13. Calculation of Tax on Moist Snuff Pursuant to Utah Code Ann. Section 59-14-302.

Published: July 1, 2008
Effective: August 18, 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 September 2, 2008, the effective dates of which are no later than September 15, 2008. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: The index may contain inaccurate page number references. Also the index is incomplete in the sense that index entries for Changes in Proposed Rules (CPRs) are not preceded by entries for their parent Proposed Rules. 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>Archives</u>					
R17-5	Definitions for Rules in Title R17	31702	NSC	08/20/2008	Not Printed
R17-5	Definitions for Rules in Title R17	31553	NEW	08/20/2008	2008-13/2

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R17-6	Records Storage and Disposal at the State Records Center	31554	NEW	08/20/2008	2008-13/2
R17-7	Archival Records Care and Access at the State Archives	31555	NEW	08/20/2008	2008-13/3
R17-8	Application of Microfilm Standards	31556	NEW	08/20/2008	2008-13/5
R17-8-2	Micrographic Standards	31703	NSC	08/20/2008	Not Printed
<u>Facilities Construction and Management</u>					
R23-2	Procurement of Architect-Engineer Services	31098	AMD	07/14/2008	2008-8/2
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
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<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
R25-14	Payment of Attorneys' Fees in Death Penalty Cases	31527	AMD	08/19/2008	2008-13/5
<u>Fleet Operations</u>					
R27-2-1	Informal Proceedings	31408	NSC	08/18/2008	Not Printed
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
R27-4	Vehicle Replacement and Expansion of State Fleet	31411	NSC	08/18/2008	Not Printed
R27-5-2	Items Tracked in the Fleet Information System	31419	NSC	08/18/2008	Not Printed
R27-6	Fuel Dispensing Program	31420	NSC	08/18/2008	Not Printed
R27-7-1	Authority	31421	NSC	08/18/2008	Not Printed
R27-8-1	Authority	31422	NSC	08/18/2008	Not Printed
<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
R33-3-4	Sole Source Procurement	31475	AMD	08/01/2008	2008-12/3
R33-4	Specifications	31480	NSC	06/18/2008	Not Printed
R33-5	Construction and Architect-Engineer Selection	31481	NSC	06/18/2008	Not Printed
R33-5-250	Design-Build or Turnkey: Use	31476	AMD	08/01/2008	2008-12/4
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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Records Committee</u>					
R35-1	State Records Committee Appeal Hearing Procedures	31560	NSC	08/19/2008	Not Printed
R35-1a	State Records Committee Definitions	31561	NSC	08/19/2008	Not Printed
R35-2	Declining Appeal Hearings	31567	NSC	08/19/2008	Not Printed
R35-3	Prehearing Conferences	31568	NSC	08/19/2008	Not Printed
R35-4	Compliance with State Records Committee Decisions and Orders	31569	NSC	08/19/2008	Not Printed
R35-5-1	Authority and Purpose	31570	NSC	08/19/2008	Not Printed
R35-6-1	Authority and Purpose	31571	NSC	08/19/2008	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>					
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R68-5	Grain Inspection	31006	5YR	02/15/2008	2008-5/39
R68-7	Utah Pesticide Control Act	30611	AMD	01/07/2008	2007-22/11
R68-8-2	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
R81-1-11	Multiple-Licensed Facility Storage and Service	31630	NSC	08/25/2008	Not Printed
R81-1-26	Criminal History Background Checks	31289	AMD	06/27/2008	2008-10/16

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R81-1-27	Label Approvals	31640	AMD	09/01/2008	2008-14/5
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
R81-4C	Limited Restaurant Licenses	31780	5YR	07/31/2008	2008-16/66
R81-4D	On-Premise Banquet License	31155	NSC	05/01/2008	Not Printed
R81-4D	On-Premise Banquet License	31785	5YR	07/31/2008	2008-16/66
R81-4D-1	Licensing	31336	AMD	07/30/2008	2008-10/22
R81-4D-2	Application	31338	AMD	07/30/2008	2008-10/24
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
R81-10B	Temporary Special Event Beer Permits	31786	5YR	07/31/2008	2008-16/67
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
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R123-4-7	Administrative Review	31267	NSC	05/05/2008	Not Printed
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<u>Administration</u>					
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R131-4	Procurement of Construction	30590	R&R	02/29/2008	2007-21/13
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<u>Administration</u>					
R137-1-2	Definitions	31934	EMR	10/02/2008	Not Printed
R137-2	Government Records Access and Management Act	31473	5YR	05/21/2008	2008-12/50
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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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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
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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
R156-31b	Nurse Practice Act Rule	31615	AMD	08/25/2008	2008-14/15
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ABBREVIATIONS

AMD = Amendment
 CPR = Change in proposed rule
 EMR = Emergency rule (120 day)
 NEW = New rule
 EXD = Expired
 NSC = Nonsubstantive rule change
 REP = Repeal
 R&R = Repeal and reenact
 5YR = Five-Year Review

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	31542	R527-201	NSC	08/19/2008	Not Printed
	31061	R527-231	AMD	05/15/2008	2008-7/32
	31562	R527-255	AMD	08/13/2008	2008-13/82
	31133	R527-257	REP	06/09/2008	2008-9/45
	31054	R527-258	AMD	05/14/2008	2008-7/33
	31152	R527-260	NEW	07/01/2008	2008-9/46
	31158	R527-300	AMD	09/04/2008	2008-10/118
	31867	R527-301	5YR	08/21/2008	2008-18/76
	31163	R527-302	AMD	06/25/2008	2008-10/120
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	31025	R527-305	AMD	04/21/2008	2008-6/8
	30905	R527-430	5YR	01/14/2008	2008-3/78
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	31162	R527-475	AMD	06/25/2008	2008-10/121
	31563	R527-550	NSC	08/19/2008	Not Printed
	31384	R527-601-1	NSC	08/18/2008	Not Printed
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	31858	R512-201	5YR	08/20/2008	2008-18/72
	31859	R512-202	5YR	08/20/2008	2008-18/73
	31043	R512-204	NEW	05/08/2008	2008-7/31
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	31757	R645-104	5YR	07/28/2008	2008-16/72
	30934	R645-300-100	AMD	03/26/2008	2008-4/24
	30933	R645-301	AMD	03/26/2008	2008-4/25
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	31631	R765-134-5	NSC	08/25/2008	Not Printed
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	31104	R765-555	NSC	06/02/2008	Not Printed
	31327	R765-993	NSC	05/05/2008	Not Printed
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<u>commercial motor vehicle insurance</u> Insurance, Administration	30490	R590-243	NEW	01/11/2008	2007-20/28
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	30928	R722-300	NSC	05/01/2008	Not Printed
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	31462	R307-102	NSC	06/18/2008	Not Printed
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	31292	R156-55a	AMD	06/24/2008	2008-10/42
	30892	R156-55a	AMD	03/11/2008	2008-3/3
	31616	R156-55a-102	NSC	08/25/2008	Not Printed
	30574	R156-56	AMD	01/01/2008	2007-21/38
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	31626	R156-56-801	NSC	07/01/2008	Not Printed
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	30774	R313-12-111	AMD	04/11/2008	2007-24/8
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	31858	R512-201	5YR	08/20/2008	2008-18/72
	31859	R512-202	5YR	08/20/2008	2008-18/73
	31860	R512-300	5YR	08/20/2008	2008-18/73
	31861	R512-301	5YR	08/20/2008	2008-18/74
<u>drinking water</u>					
Environmental Quality, Drinking Water	31157	R309-352	5YR	04/18/2008	2008-10/144
	31709	R309-515-6	AMD	09/10/2008	2008-15/26
	31710	R309-515-6	AMD	09/10/2008	2008-15/28
<u>driver address record</u>					
Public Safety, Driver License	31121	R708-42-4	NSC	05/05/2008	Not Printed
<u>driver education</u>					
Education, Administration	31039	R277-746	5YR	03/03/2008	2008-7/64
	31040	R277-747	5YR	03/03/2008	2008-7/64
Public Safety, Driver License	31545	R708-2	R&R	08/08/2008	2008-13/87
	31105	R708-2-25	NSC	05/05/2008	Not Printed
	31113	R708-18-1	NSC	05/05/2008	Not Printed
<u>driver license</u>					
Human Services, Recovery Services	31152	R527-260	NEW	07/01/2008	2008-9/46
Public Safety, Driver License	31119	R708-36-1	NSC	05/05/2008	Not Printed
	31123	R708-44-4	NSC	05/05/2008	Not Printed
<u>driver license verification</u>					
Public Safety, Driver License	31122	R708-43	NSC	05/05/2008	Not Printed
<u>driver training</u>					
Public Safety, Driver License	31120	R708-37-11	NSC	05/05/2008	Not Printed
<u>drug abuse</u>					
Human Resource Management, Administration	31621	R477-14	AMD	08/21/2008	2008-14/51
<u>drug/alcohol education</u>					
Human Resource Management, Administration	31621	R477-14	AMD	08/21/2008	2008-14/51
<u>dual employment</u>					
Human Resource Management, Administration	31193	R477-8	AMD	07/01/2008	2008-10/101
	30778	R477-8-5	AMD	01/22/2008	2007-24/16
<u>due process</u>					
Human Services, Substance Abuse and Mental Health	31089	R523-1	5YR	03/31/2008	2008-8/53
	30767	R523-1	NSC	03/31/2008	Not Printed
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Human Services, Substance Abuse and Mental Health	31352	R523-22-9	NSC	05/05/2008	Not Printed

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<u>economic development</u> Governor, Economic Development	31153	R357-3	NEW	06/18/2008	2008-9/37
<u>education</u> Commerce, Consumer Protection	31218	R152-34-10	NSC	05/05/2008	Not Printed
Education, Administration	30846	R277-470-7	AMD	02/07/2008	2008-1/9
	30884	R277-709	5YR	01/08/2008	2008-3/75
	30885	R277-718	5YR	01/08/2008	2008-3/75
	30888	R277-730	5YR	01/08/2008	2008-3/77
Health, Community and Family Health Services, Children with Special Health Care Needs	31783	R398-20	5YR	07/31/2008	2008-16/68
<u>education finance</u> Education, Administration	31574	R277-419	AMD	08/07/2008	2008-13/12
	30845	R277-423	AMD	02/07/2008	2008-1/8
	31576	R277-451	REP	08/07/2008	2008-13/19
<u>educational administration</u> Education, Administration	31573	R277-116-1	AMD	08/07/2008	2008-13/11
<u>educational facilities</u> Education, Administration	31576	R277-451	REP	08/07/2008	2008-13/19
	31441	R277-471	AMD	07/08/2008	2008-11/70
<u>educational policy</u> Regents (Board Of), Administration	31515	R765-555	5YR	06/02/2008	2008-12/64
	31104	R765-555	NSC	06/02/2008	Not Printed
<u>educational testing</u> Education, Administration	30883	R277-702	5YR	01/08/2008	2008-3/74
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	30976	R277-515-3	NSC	02/27/2008	Not Printed
	31580	R277-515-4	AMD	08/07/2008	2008-13/28
<u>educator licensing</u> Education, Administration	30944	R277-502	AMD	03/24/2008	2008-4/6
	31579	R277-502-6	AMD	08/07/2008	2008-13/27
	30878	R277-518	5YR	01/08/2008	2008-3/72

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	30637	R317-13	NEW	02/04/2008	2007-22/61
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	30704	R307-224-2	AMD	02/08/2008	2007-23/39
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	31174	R156-11a-601	NSC	05/05/2008	Not Printed
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	30943	R616-3-3	AMD	03/24/2008	2008-4/21
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Health, Health Care Financing, Coverage and Reimbursement Policy	30938	R414-308	5YR	01/31/2008	2008-4/46
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	31069	R426-7-3	AMD	07/31/2008	2008-8/18
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	30954	R426-15-203	AMD	06/24/2008	2008-5/19
<u>emergency meetings</u>					
Environmental Quality, Administration	30506	R305-3	NSC	02/15/2008	Not Printed
	30766	R305-3	REP	02/15/2008	2007-24/6
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Public Safety, Criminal Investigations and Technical Services, Criminal Identification	30930	R722-340	NSC	05/14/2008	Not Printed
	31433	R722-340	5YR	05/14/2008	2008-11/128
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Human Resource Management, Administration	31191	R477-6	AMD	07/01/2008	2008-10/91
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	31190	R477-5	AMD	07/01/2008	2008-10/90
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Labor Commission, Antidiscrimination and Labor, Labor	31438	R610-4	REP	07/08/2008	2008-11/101
	31239	R610-4	NSC	05/05/2008	Not Printed
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	31530	R865-9I-6	AMD	08/18/2008	2008-13/113
	31459	R865-9I-11	AMD	08/14/2008	2008-12/44
	31460	R865-9I-12	AMD	08/14/2008	2008-12/45
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	30916	R865-9I-37	AMD	03/14/2008	2008-3/63
	31413	R865-9I-37	NSC	08/18/2008	Not Printed
	31464	R865-9I-39	AMD	08/14/2008	2008-12/46
	31639	R865-9I-41	NSC	08/25/2008	Not Printed
	31414	R865-9I-42	NSC	08/18/2008	Not Printed
	31415	R865-9I-46	NSC	08/18/2008	Not Printed
	31466	R865-9I-48	AMD	08/14/2008	2008-12/47
	31416	R865-9I-49	NSC	08/18/2008	Not Printed
	31532	R865-9I-50	AMD	08/18/2008	2008-13/114
	31470	R865-9I-52	AMD	08/14/2008	2008-12/48
	30849	R865-9I-53	AMD	02/25/2008	2008-1/36
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Environmental Quality, Air Quality	30698	R307-115	AMD	02/08/2008	2007-23/28
	30961	R307-115	5YR	02/08/2008	2008-5/41
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Environmental Quality, Air Quality	31426	R307-107	NSC	09/04/2008	Not Printed
	31927	R307-107	5YR	09/04/2008	Not Printed
<u>exemptions</u>					
Environmental Quality, Radiation Control	31170	R313-12-1	NSC	05/05/2008	Not Printed
	30774	R313-12-111	AMD	04/11/2008	2007-24/8
	30774	R313-12-111	CPR	04/11/2008	2008-5/34
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Natural Resources, Forestry, Fire and State Lands	31111	R652-123	NSC	05/01/2008	Not Printed
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Education, Administration	31036	R277-483	5YR	03/03/2008	2008-7/62
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Public Service Commission, Administration	31045	R746-347	5YR	03/07/2008	2008-7/66
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Public Safety, Fire Marshal	31076	R710-1-4	AMD	05/23/2008	2008-8/31
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Health, Health Care Financing, Coverage and Reimbursement Policy	30776	R414-53	AMD	02/01/2008	2007-24/13
	31528	R414-53	5YR	06/05/2008	2008-13/148
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Corrections, Administration	30803	R251-114	NEW	03/11/2008	2008-1/6
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	31189	R477-4	AMD	07/01/2008	2008-10/88
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Labor Commission, Antidiscrimination and Labor, Fair Housing	31240	R608-1	NSC	05/05/2008	Not Printed
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Workforce Services, Employment Development	31032	R986-200	AMD	05/01/2008	2008-6/18
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Human Services, Child and Family Services	30721	R512-50	NSC	01/07/2008	Not Printed
	30718	R512-50	REP	01/07/2008	2007-23/60
Human Services, Substance Abuse and Mental Health	31089	R523-1	5YR	03/31/2008	2008-8/53
	30767	R523-1	NSC	03/31/2008	Not Printed
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	31333	R612-2-5	AMD	07/01/2008	2008-10/130
Natural Resources, Parks and Recreation	31670	R651-610	5YR	07/07/2008	2008-15/92
	30621	R651-611	AMD	01/01/2008	2007-22/80
	31599	R651-611	AMD	08/21/2008	2008-14/66
	30898	R651-611	AMD	03/10/2008	2008-3/39
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Labor Commission, Industrial Accidents	31235	R612-1	NSC	05/05/2008	Not Printed
<u>filing requirements</u>					
Public Service Commission, Administration	31072	R746-440	NSC	04/11/2008	Not Printed
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Administrative Services, Finance	31318	R25-2	NSC	05/05/2008	Not Printed
	31316	R25-6	5YR	04/29/2008	2008-10/143
	31321	R25-8	AMD	07/01/2008	2008-10/7
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	30957	R765-607	5YR	02/08/2008	2008-5/60
<u>financial disclosures</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	30652	R414-304	AMD	01/28/2008	2007-23/54
	31622	R414-304	AMD	09/01/2008	2008-14/49
	30924	R414-304	5YR	01/25/2008	2008-4/44
<u>financial institutions</u>					
Financial Institutions, Administration	31256	R331-20	NSC	05/05/2008	Not Printed
	31891	R331-20	5YR	08/25/2008	2008-18/70
	31892	R331-21	5YR	08/25/2008	2008-18/70
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<u>fire prevention</u>					
Public Safety, Fire Marshal	31076	R710-1-4	AMD	05/23/2008	2008-8/31
	31085	R710-7	AMD	05/23/2008	2008-8/40
	30919	R710-9-6	AMD	03/10/2008	2008-3/52
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	31472	R710-10	AMD	07/23/2008	2008-12/42
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Natural Resources, Parks and Recreation	30901	R651-612	AMD	03/10/2008	2008-3/42
	31671	R651-612	5YR	07/07/2008	2008-15/93
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	31078	R710-2-7	AMD	05/23/2008	2008-8/34
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Natural Resources, Parks and Recreation	30899	R651-301	AMD	03/10/2008	2008-3/37
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Natural Resources, Wildlife Resources	30676	R657-13	AMD	01/07/2008	2007-23/61
	31048	R657-13-3	AMD	05/08/2008	2008-7/47
	30904	R657-13-4	AMD	03/10/2008	2008-3/43
	31611	R657-16	AMD	08/21/2008	2008-14/70
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	30903	R657-58	NEW	03/10/2008	2008-3/47
	31052	R657-58	NSC	03/26/2008	Not Printed
	31612	R657-59	NEW	08/21/2008	2008-14/80
	31625	R657-59	EMR	06/27/2008	2008-14/129
	31623	R657-60	NEW	08/21/2008	2008-14/88
	31624	R657-60	EMR	06/27/2008	2008-14/137
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	30904	R657-13-4	AMD	03/10/2008	2008-3/43
	31610	R657-57	NEW	08/21/2008	2008-14/77
	30903	R657-58	NEW	03/10/2008	2008-3/47
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	31612	R657-59	NEW	08/21/2008	2008-14/80

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	31014	R277-721	REP	04/21/2008	2008-6/5
	30887	R277-722	5YR	01/08/2008	2008-3/76
	31015	R277-722	REP	04/21/2008	2008-6/6
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	30878	R277-518	5YR	01/08/2008	2008-3/72
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	30927	R414-308-7	AMD	04/01/2008	2008-4/16
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	31203	R642-200	NSC	05/05/2008	Not Printed
	31755	R642-200	5YR	07/28/2008	2008-16/71
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	31374	R746-349-3	NSC	05/05/2008	Not Printed
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	31620	R746-110	5YR	06/24/2008	2008-14/143
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	31102	R614-1-4	AMD	05/22/2008	2008-8/30
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	31592	R708-16-3	NSC	08/25/2008	Not Printed
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	31165	R523-24-9	AMD	07/14/2008	2008-10/117
	31353	R523-24-13	NSC	05/05/2008	Not Printed
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	31320	R25-7	AMD	07/01/2008	2008-10/4
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	31890	R918-4	5YR	08/25/2008	2008-18/78
Transportation, Preconstruction	31066	R930-5	AMD	06/10/2008	2008-8/46
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	30913	R865-6F-28	AMD	03/14/2008	2008-3/61
	31534	R865-6F-35	AMD	08/18/2008	2008-13/112
	30842	R865-6F-37	AMD	02/25/2008	2008-1/35
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	30785	R909-19	AMD	02/12/2008	2007-24/26
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	30612	R392-700	NEW	05/16/2008	2007-22/65
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	31029	R859-1-302	AMD	05/01/2008	2008-6/16
	31566	R859-1-501	AMD	09/01/2008	2008-13/106
	31585	R859-1-506	AMD	09/01/2008	2008-13/108
	31586	R859-1-509	AMD	09/01/2008	2008-13/109
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	31434	R722-320	5YR	05/14/2008	2008-11/127
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	31487	R311-201	NSC	06/18/2008	Not Printed
	31496	R311-203	AMD	08/18/2008	2008-12/16
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	30771	R994-508	AMD	02/15/2008	2007-24/30
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	30774	R313-12-111	AMD	04/11/2008	2007-24/8
	30774	R313-12-111	CPR	04/11/2008	2008-5/34
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	30908	R315-15-10	AMD	03/13/2008	2008-3/19
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	31584	R317-8	AMD	09/10/2008	2008-13/47
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	30811	R602-2-4	AMD	02/07/2008	2008-1/14
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