

UTAH STATE BULLETIN

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

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

Division of Administrative Rules, Salt Lake City 84114

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SPECIAL NOTICES

Commerce Administration

Public Hearing on Proposed Fee Schedule for Services Provided and Costs Incurred by the Department of Commerce During Fiscal Year 2010

The Department of Commerce will hold a hearing on Monday, December 22, 2008, at 11:00 a.m. in the Heber M. Wells Building, 160 East 300 South, Room 210, Salt Lake City, Utah.

The purpose of the hearing is to obtain public comment on a proposed fees which could be assessed for services provided and costs which would be incurred by the Department during Fiscal Year 2010. Section 63J-1-303(5)(a) of the Budgetary Procedures Act provides an agency shall conduct a public hearing on any proposed regulatory fee.

Background: Various divisions of the Department assess fees for licensure, registration, or certification of individuals and businesses to engage in certain occupations and professions. Many existing fees are unchanged in the proposed fee schedule which has been prepared for consideration by the Legislature during its 2009 General Session. Copies of the schedule will be distributed at the December 22, 2008, hearing.

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

Health Health Care Financing, Coverage and Reimbursement Policy

Notice for January 2009 Medicaid Rate Changes

Effective January 1, 2009, Utah Medicaid will adjust its rates consistent with approved methodologies. Rate adjustments include new codes priced consistent with approved Medicaid methodologies, potential adjustments to existing codes, and nursing home rate changes to case mix components consistent with adopted payment methodology. It is not anticipated that these rate changes will have a substantial fiscal impact. All rate changes are posted to the web and can be viewed at: <http://health.utah.gov/medicaid/stplan/bcrp.htm>

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 November 15, 2008, 12:00 a.m., and December 1, 2008, 11:59 p.m. are included in this, the December 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 January 14, 2009. 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 April 14, 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.

**Crime Victim Reparations,
Administration
R270-1-14
Essential Personal Property**

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32180
FILED: 12/01/2008, 08:13

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the amendment is to differentiate between medically necessary devices and other types of essential personal property.

SUMMARY OF THE RULE OR CHANGE: The amendment differentiates between medically necessary devices and other types of essential personal property. It authorizes a higher maximum for medically necessary devices than for other types of essential personal property due to the high cost of medical devices. In doing so, the Crime Victim Reparations (CVR) Board delegates approval authority for medically necessary devices to reparation officers if the cost is \$5,000 or less.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 63M-7-506(1)(c) and 63M-7-511(4)(h)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** No impact to the state budget is anticipated because the number of medically necessary devices for which approval is granted is not likely to change. Currently, the Crime Victim Reparations Board reviews requests for medically necessary devices that exceed \$1,500. Under this change, the reparation officer would have authority to make decisions on medically necessary devices that cost \$5000 or less. It is not anticipated that additional medically necessary devices will be authorized. Rather, the process for approving such devices will change.
- ❖ **LOCAL GOVERNMENTS:** No fiscal impact to local government is anticipated because the number of medically necessary devices for which approval is granted is not likely to change.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** No fiscal impact to small businesses is anticipated because the number of medically necessary devices for which approval is granted is not likely to change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs will not change. Claimants will continue to submit the same documentation that has been required under the current rule. The amendment will allow for faster decision-making because many requests will no longer need to be submitted to the Crime Victim Reparations Board.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I do not anticipate any fiscal impact on businesses. While the approval process will change, the number of and cost of medically necessary devices approved by CVR is not likely to change. Robert

Yeates, Executive Director, Commission on Criminal and Juvenile Justice

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

CRIME VICTIM REPARATIONS
ADMINISTRATION
Room 200
350 E 500 S
SALT LAKE CITY UT 84111-3347, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/14/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2009

AUTHORIZED BY: Ronald B Gordon, Director

**R270. Crime Victim Reparations, Administration.
R270-1. Award and Reparation Standards.
R270-1-14. Essential Personal Property.**

A. Pursuant to Subsection 63M-7-511(4)(h), essential personal property covers all personal articles necessary and essential for the health and safety of the victim.

B. The Reparation Officer may allow up to \$5000 for medically necessary items such as eyeglasses, hearing aids, and wheelchairs. The board may approve expenses for medically necessary items in excess of \$5000 where extenuating circumstances exist.

C. The Reparation Officer may allow up to \$1500 for essential personal property not included in Subsection (B) [~~replacement of~~] such [items] as [~~eyeglasses, hearing aids,~~] burglar alarms, door locks, crime scene cleanup, repair of walls and broken windows, etc. The board [~~shall review any exceptions over~~] may approve expenses for essential person property in excess of \$1500 where extenuating circumstances exist.

KEY: victim compensation, victims of crimes

Date of Enactment or Last Substantive Amendment: [~~August 11, 2008~~] 2009

Notice of Continuation: July 3, 2006

Authorizing, and Implemented or Interpreted Law: 63M-7-501 et seq.



**Environmental Quality, Drinking Water
R309-515-7
Ground Water - Springs**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 32168

FILED: 11/26/2008, 11:17

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Contractors have complained that the 10 thickness for the alternative liner utilized in the development of drinking water spring sources is too thin and easily tears during placement.

SUMMARY OF THE RULE OR CHANGE: This change proposes to increase the minimum thickness of the alternative liner to 40 mils.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--Since this amendment only increases the minimum thickness of the alternative liner, it will not require additional personnel or other funds from the state budget.

❖ LOCAL GOVERNMENTS: None--Since this amendment only increases the minimum thickness of the alternative liner, it will not require additional personnel or other funds from local government.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Slight--Contractors will see a slight increase in the cost of the alternative liner as a result in the increased thickness requirement. But this may be offset by reduced time and labor in the installation of said liner.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Slight--Public Water systems will see a slight increase in the cost of spring development when the alternative liner is used as a result in the increased thickness requirement. But this may negligible because of reduced time and labor in the installation of said liner.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/14/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2009

AUTHORIZED BY: Ken Bousfield, Director

R309. Environmental Quality, Drinking Water.**R309-515. Facility Design and Operation: Source Development.****R309-515-7. Ground Water - Springs.**

(1) General.

Springs vary greatly in their characteristics and they should be observed for some time prior to development to determine any flow and quality variations. Springs determined to be "under the direct influence of surface water" will have to be given "surface water treatment".

(2) Source Protection.

Public drinking water systems are responsible for protecting their spring sources from contamination. The selection of a spring should only be made after consideration of the requirements of R309-515-4. Springs must be located in an area which shall minimize threats from existing or potential sources of pollution. A Preliminary Evaluation Report on source protection issues is required by R309-600-13(2). If certain precautions are taken, sewer lines may be permitted within a public drinking water system's source protection zones at the discretion of the Executive Secretary. When sewer lines are permitted in protection zones both sewer lines and manholes shall be specially constructed as described in R309-515-6(4).

(3) Surface Water Influence.

Some springs yield water which has been filtered underground for years, other springs yield water which has been filtered underground only a matter of hours. Even with proper development, the untreated water from certain springs may exhibit turbidity and high coliform counts. This indicates that the spring water is not being sufficiently filtered in underground travel. If a spring is determined to be "under the direct influence of surface water", it shall be given "conventional surface water treatment" (refer to R309-505-6).

(4) Pre-construction Submittal

Before commencement of construction of spring development improvements the following information must be submitted to the Executive Secretary and approved in writing.

(a) Detailed plans and specifications covering the development work.

(b) A copy of an engineer's or geologist's statement indicating:

- (i) the historical record (if available) of spring flow variation,
- (ii) expected minimum flow and the time of year it will occur,
- (iii) expected maximum flow and the time of year it will occur,
- (iv) expected average flow,
- (v) the behavior of the spring during drought conditions.

After evaluating this information, the Division will assign a "firm yield" for the spring which will be used in assessing the number of and type of connections which can be served by the spring (see "desired design discharge rate" in R309-110).

(c) A copy of documentation indicating the water system owner has a right to divert water for domestic or municipal purposes from the spring source.

(d) A Preliminary Evaluation Report on source protection issues as required by R309-600-13.

(e) A copy of the chemical analyses required by R309-515-4(5).

(f) An assessment of whether the spring is "under the direct influence of surface water" (refer to R309-505-7(1)(a)).

(5) Information Required after Spring Development.

After development of a culinary spring, the following information shall be submitted:

(a) Proof of satisfactory bacteriologic quality.

(b) Information on the rate of flow developed from the spring.

(c) As-built plans of spring development.

(6) Operation Permit Required.

Water from the spring can be introduced into a public water system only after it has been approved for use, in writing, by the Executive Secretary (see R309-500-9).

(7) Spring Development.

The development of springs for drinking water purposes shall comply with the following requirements:

(a) The spring collection device, whether it be collection tile, perforated pipe, imported gravel, infiltration boxes or tunnels must be covered with a minimum of ten feet of relatively impervious soil cover. Such cover must extend a minimum of 15 feet in all horizontal directions from the spring collection device. Clean, inert, non-organic material shall be placed in the vicinity of the collection device(s).

(b) Where it is impossible to achieve the ten feet of relatively impervious soil cover, an acceptable alternate will be the use of an impermeable liner provided that:

(i) the liner has a minimum thickness of at least 40[40] mils,

(ii) all seams in the liner are folded or welded to prevent leakage,

(iii) the liner is certified as complying with ANSI/NSF Standard 61. This requirement is waived if certain that the drinking water will not contact the liner,

(iv) the liner is installed in such a manner as to assure its integrity. No stones, two inch or larger or sharp edged, shall be located within two inches of the liner,

(v) a minimum of two feet of relatively impervious soil cover is placed over the impermeable liner,

(vi) the soil and liner cover are extended a minimum of 15 feet in all horizontal directions from the collection devices.

(c) Each spring collection area shall be provided with at least one collection box to permit spring inspection and testing.

(d) All junction boxes and collection boxes, must comply with R309-545 with respect to access openings, venting, and tank overflow. Lids for these spring boxes shall be gasketed and the box adequately vented.

(e) The spring collection area shall be surrounded by a fence located a distance of 50 feet (preferably 100 feet if conditions allow) from all collection devices on land at an elevation equal to or higher than the collection device, and a distance of 15 feet from all collection devices on land at an elevation lower than the collection device. The elevation datum to be used is the surface elevation at the point of collection. The fence shall be at least "stock tight" (see R309-110). In remote areas where no grazing or public access is possible, the fencing requirement may be waived by the Executive Secretary. In populated areas a six foot high chain link fence with three strands of barbed wire may be required.

(f) Within the fenced area all vegetation which has a deep root system shall be removed.

(g) A diversion channel, or berm, capable of diverting all anticipated surface water runoff away from the spring collection area shall be constructed immediately inside the fenced area.

(h) A permanent flow measuring device shall be installed. Flow measurement devices such as critical depth meters or weirs shall be properly housed and otherwise protected.

(i) The spring shall be developed as thoroughly as possible so as to minimize the possibility of excess spring water ponding within the collection area. Where the ponding of spring water is unavoidable, the excess shall be collected by shallow piping or french drain and be routed beyond and down grade of the fenced area required above, whether or not a fence is in place.

KEY: drinking water, source development, source maintenance
Date of Enactment or Last Substantive Amendment: [September 10, 2008]2009

Notice of Continuation: April 2, 2007

Authorizing, and Implemented or Interpreted Law: 19-4-104



Environmental Quality, Drinking Water

R309-540-6

Hydropneumatic Systems

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32169

FILED: 11/26/2008, 11:44

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed change would allow those noncommunity public water systems that do not have at grade or elevated storage to continue to utilize hydropneumatic tanks pressurized by the pump or pumps located in their ground water sources.

SUMMARY OF THE RULE OR CHANGE: The amendment would only require unpressurized ground level or elevated storage for community type public water systems or nontransient noncommunity systems where a demand in excess of the capacity or their source(s) is required.

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

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None--Since the amendment eliminates the need for unpressurized ground level storage for transient noncommunity type public water systems and some if not all nontransient noncommunity type systems and does not require any additional personnel or other funds from the state budget.

❖ **LOCAL GOVERNMENTS:** None--Since the amendment eliminates the need for unpressurized ground level storage for transient noncommunity type public water systems and some if not all nontransient noncommunity type systems and does not require any additional personnel or other funds from local government.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** Savings--Since the amendment eliminates the need for unpressurized ground level storage for transient

noncommunity type public water systems and some if not all nontransient noncommunity type systems they will see a savings (not having to install storage).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Small noncommunity type public water systems will actually see a savings since the amendment eliminates the need for unpressurized ground level storage for transient noncommunity type public water systems and some if not all nontransient noncommunity type systems.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department agrees that the proposed changes to this rule will have little to no detrimental impact on existing water systems and in fact will result in a savings to small noncommunity type public water systems as a result of not having to install storage. Acting Executive Director, William Sinclair

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/14/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2009

AUTHORIZED BY: Ken Bousfield, Director

R309. Environmental Quality, Drinking Water.

R309-540. Facility Design and Operation: Pump Stations.

R309-540-6. Hydropneumatic Systems.

(1) General.

Hydropneumatic systems shall comply with all appropriate sections of R309-540-5 except as otherwise indicated herein.

Unpressurized ground level or elevated storage, designed in accordance with R309-545, shall be provided for community type public water systems or non-transient non-community systems where a demand in excess of the capacity of the source(s) is required, in addition to the diaphragm or air tanks. Diaphragm or air pressure tank storage shall not be considered for fire protection purposes or effective system storage for community type systems.

(2) Location.

If diaphragm or air tanks and appurtenances are located below ground, adequate provisions for drainage, ventilation, maintenance, and flood protection shall be made and the electrical controls shall be located above grade so as to be protected from flooding as required by

R309-540-5(6)(e). Any discharge piping from combination air release/vacuum relief valves (air/vac's) or pressure relief valves located in below ground chambers shall comply with all the pertinent requirements of R309-550-6(6).

(3) Operating Pressures.

The system shall be designed to provide minimum pressures in R309-105-9 at all points in the distribution system. A pressure gauge shall be installed on the pressure tank inlet line.

(4) Piping.

In addition to the bypass required by R309-540-5(4)(iv) on the pumps, the diaphragm or air tanks shall have sufficient bypass piping to permit operation of the hydropneumatic system while one or more of the tanks are being repaired, replaced or painted.

(5) Pumps.

At least two pumping units shall be provided except for those type systems not requiring unpressurized storage in R309-540-6(1); they may use the pump within their groundwater source to pressurize the diaphragm or air tanks. With any pump out of service the remaining pump or pumps shall be capable of providing the peak instantaneous demand of the system as described in R309-510-9(2), while recharging the pressure tank at 115 percent of the upper pressure setting. Pump cycling shall not exceed 15 starts per hour, with a maximum of ten starts per hour preferred.

(6) Pressure Tanks.

(a) Pressure tanks shall meet the requirement of state and local laws and regulations for the manufacture and installation of unfired pressure vessels. Interior coatings or diaphragms used in pressure tanks that will come into contact with the drinking water shall comply with ANSI/NSF Standard 61. Non diaphragm pressure tanks shall have an access manhole, a drain, control equipment consisting of pressure gauge, water sight glass, automatic or manual air blow-off, means for adding air, and pressure operated start-stop controls for the pumps.

(b) The minimum volume of the pressure tank or combination of tanks shall be greater than or equal to the sum of S and the value of CX divided by 4W.

where the following values are used in the equation above:

C = minutes per operating cycle, four minutes to meet the requirements of R309-540-6(5) above or preferably six minutes, and is equal to pump ON time plus pump OFF time.

X = output capacity rating of the pump(s) at the high pressure condition in the tank(s), in gpm.

W = percent of volume withdrawn during a given drop in tank pressure: specifically, between P_h and P_l . $W = 100(P_h - P_l)/P_h$ where P_h = high pressure in tank in psia (high absolute pressure) and P_l = low pressure in tank in psia (low absolute pressure). Values of W range typically from 0.26 to 0.31 for pressure differentials of 15 to 30 psi and high system pressures of 45 to 85 psi at elevations of approximately 5,000 feet.

S = water seal volume in gallons, the volume of inactive water remaining in tank at low pressure condition.

(7) Air Volume.

The method of adjusting the air volume shall be acceptable to the Executive Secretary. Air delivered by compressors to the pressure tank shall be adequately filtered, oil free, and be of adequate volume. Any intake shall be screened and draw clean air from a point at least 10 feet above the ground or other source of possible contamination, unless the air is filtered by an apparatus approved by the Executive Secretary. Discharge piping from air relief valves shall be designed and installed with screens to eliminate the possibility of contamination from this source.

(8) Water Seal.

For air pressure tanks without an internal diaphragm the volume of water remaining in a air pressure tank at the lower pressure setting shall be sufficient to provide an adequate water seal at the outlet to prevent the leakage of air.

The following water seal depths shall be considered as minimum requirements.

(a) Horizontal outlets shall maintain sufficient depth, as measured from the centerline of the horizontal outlet pipe, such that the depth is greater than or equal to the sum of d and twice the value v^2 divided by $2G$.

(b) Vertical outlets, if unbaffled, the depth shall be the same as in (a) except measured from the pipe outlet; if baffled, the depth shall be greater than or equal to the value v^2 divided by $2G$.

where the following values are used in the equations above:

v = the axial velocity in the pipe outlet for the peak instantaneous demand flow rate of the system.

d = the diameter of the outlet pipe in ft.

G = the gravitational constant of 32.2 ft/sec/sec.

(9) Standby Power Supply.

Where a hydropneumatic system is intended to serve a public water system, categorized as a community water system as defined in R309-110, a standby source of power shall be provided.

KEY: drinking water, pumps, hydropneumatic systems, individual home booster pumps

Date of Enactment or Last Substantive Amendment: [March 8, 2006]2009

Notice of Continuation: April 2, 2007

Authorizing, and Implemented or Interpreted Law: 19-4-104

◆ ————— ◆

Health, Children's Health Insurance Program R382-10 Eligibility

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32185

FILED: 12/01/2008, 16:36

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to modify criteria and deadlines for the Department to receive Children's Health Insurance Program (CHIP) applications and verifications in accordance with the "Working 4 Utah" initiative set forth by the governor. (DAR NOTE: There is a corresponding 120-day (emergency) rule published in the October 15, 2008, issue of the Bulletin under DAR No. 31977 that is effective as of 10/01/2008.)

SUMMARY OF THE RULE OR CHANGE: This amendment clarifies when the Department must receive CHIP applications and verifications in accordance with longer office hours and the new four-day work schedule. It also allows the Department to exclude income that the U.S. Census Bureau pays to temporary census takers.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-40-103

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Department does not expect costs or savings to result from the hour change because it only implements the new four-day work schedule. Further, the income that the U.S. Census Bureau pays to temporary census takers has been exempt and does not affect CHIP eligibility or premium requirements. This exemption was in place ten years ago for the previous census. An estimated five families may qualify for CHIP based on this exemption.

❖ LOCAL GOVERNMENTS: This change does not impact local governments because they do not determine eligibility nor receive monies from CHIP recipients.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no costs or savings to other persons and small businesses because they do not accept or process CHIP applications. Further, the income that the U.S. Census Bureau pays to temporary census takers is exempt and does not affect CHIP eligibility or premium requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs to a single person or entity because they do not accept or process CHIP applications. Further, the income that the U.S. Census Bureau pays to temporary census takers is exempt and does not affect CHIP eligibility or spenddown requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule is necessary to conform to the "Working 4 Utah" initiative and should not have a negative fiscal impact. David N. Sundwall, MD, Executive Director

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

HEALTH
CHILDREN'S HEALTH INSURANCE PROGRAM
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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 01/14/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2009

AUTHORIZED BY: David N. Sundwall, Executive Director

R382. Health, Children's Health Insurance Program.**R382-10. Eligibility.****R382-10-5. Verification and Information Exchange.**

(1) The applicant and enrollee upon renewal must provide verification of eligibility factors as requested by the agency.

(a) The agency will provide the enrollee a written request of the needed verifications.

(b) The enrollee has at least 10 calendar days from the date the agency gives or mails the verification request to the enrollee to provide verifications.

(c) The due date for returning verifications, forms or information requested by the agency is [~~5:00 p.m.~~] the close of business on the date the agency sets as the due date in a written request to the enrollee, but not less than 10 calendar days from the date such request is given to or mailed to the enrollee.

(d) The agency allows additional time to provide verifications if the enrollee requests additional time by the due date. The agency will set a new due date that is at least 10 calendar days from the date the enrollee asks for more time to provide the verifications or forms.

(e) If an enrollee has not provided required verifications by the due date, and has not contacted the agency to ask for more time to provide verifications, agency denies the application, renewal, or ends eligibility.

(2) The Department may release information concerning applicants and enrollees and their households to other state and federal agencies to determine eligibility for other public assistance programs.

(3) The Department must release information to the Title IV-D agency and Social Security Administration to determine benefits.

(4) The Department may verify information by exchanging information with other public agencies as described in 42 CFR 435.945, 435.948, 435.952, 435.955, and 435.960.

R382-10-13. Income Provisions.

To be eligible to enroll in the Children's Health Insurance Program, gross household income must be equal to or less than 200% of the federal non-farm poverty guideline for a household of equal size. All gross income, earned and unearned, received by the parents and stepparents of any child who is included in the household size, is counted toward household income, unless this section specifically describes a different treatment of the income.

(1) The Department does not count as income any payments from sources that federal law specifically prohibit from being counted as income to determine eligibility for federally-funded programs.

(2) Any income in a trust that is available to, or is received by a household member, is countable income.

(3) Payments received from the Family Employment Program, General Assistance, or refugee cash assistance or adoption support services as authorized under Title 35A, Chapter 3 is countable income.

(4) Rental income is countable income. The following expenses can be deducted:

(a) taxes and attorney fees needed to make the income available;

(b) upkeep and repair costs necessary to maintain the current value of the property;

(c) utility costs only if they are paid by the owner; and

(d) interest only on a loan or mortgage secured by the rental property.

(5) Deposits to joint checking or savings accounts are countable income, even if the deposits are made by a non-household

member. An applicant or enrollee who disputes household ownership of deposits to joint checking or savings accounts shall be given an opportunity to prove that the deposits do not represent income to the household. Funds that are successfully disputed are not countable income.

(6) Cash contributions made by non-household members are counted as income unless the parties have a signed written agreement for repayment of the funds.

(7) The interest earned from payments made under a sales contract or a loan agreement is countable income to the extent that these payments will continue to be received during the eligibility period.

(8) In-kind income, which is goods or services provided to the individual from a non-household member and which is not in the form of cash, for which the individual performed a service or is provided as part of the individual's wages is counted as income. In-kind income for which the individual did not perform a service or did not work to receive is not counted as income.

(9) SSI and State Supplemental Payments are countable income.

(10) Death benefits are not countable income to the extent that the funds are spent on the deceased person's burial or last illness.

(11) A bona fide loan that an individual must repay and that the individual has contracted in good faith without fraud or deceit, and genuinely endorsed in writing for repayment is not countable income.

(12) Child Care Assistance under Title XX is not countable income.

(13) Reimbursements of Medicare premiums received by an individual from Social Security Administration or the Department are not countable income.

(14) Needs-based Veteran's pensions are not counted as income. If the income is not needs-based, only the portion of a Veteran's Administration check to which the individual is legally entitled is countable income.

(15) Income of a child is excluded if the child is not the head of a household.

(16) Educational income such as educational loans, grants, scholarships, and work-study programs are not countable income. The individual must verify enrollment in an educational program.

(17) Reimbursements for expenses incurred by an individual are not countable income.

(18) Any payments made to an individual because of his status as a victim of Nazi persecution as defined in Pub. L. No. 103-286 are not countable income, including payments made by the Federal Republic of Germany, Austrian Social Insurance payments, and Netherlands WUV payments.

(19) Victim's Compensation payments as defined in Pub. L. No. 101-508 are not countable income.

(20) Disaster relief funds received if a catastrophe has been declared a major disaster by the President of the United States as defined in Pub. L. No. 103-286 are not countable income.

(21) Income of an alien's sponsor or the sponsor's spouse[;] is not countable income.

(22) If the household expects to receive less than \$500 per year in taxable interest and dividend income, then they are not countable income.

(23) Income paid by the U.S. Census Bureau to a temporary census taker to prepare for and conduct the census is not countable income.

R382-10-18. Effective Date of Enrollment and Renewal.

(1) The effective date of CHIP enrollment is the date a completed and signed application is received at a local office by ~~[5:00 p.m.]~~ the close of business on a business day. This applies to paper applications delivered in person or by mail, paper applications sent via facsimile transmission, and electronic applications sent via the internet. If a local office receives an application after ~~[5:00 p.m. of]~~ the close of business on a business day, the effective date of CHIP enrollment is the next business day.

(2) The effective date of CHIP enrollment for applications delivered to an outreach location is as follows:

(a) If the application is delivered at a time when the outreach staff is working at that location, the effective date of enrollment is the date the outreach staff receives the application.

(b) If the application is delivered on a non-business day or at a time when the outreach office is closed, ~~[including being closed for weekends or holidays]~~ the effective date of enrollment is the last business day that a staff person from the state agency was available to receive or pick up applications from the location.

(3) The Department may allow a grace enrollment period beginning no earlier than four days before the date a completed and signed application is received by the Department. The Department shall not pay for any services received before the effective enrollment date.

(4) For a family who has a child enrolled in CHIP and who adds a newborn or adopted child, the effective date of enrollment is the date of birth or adoption if the family requests the coverage within 30 days of the birth or adoption. If the request is made more than 30 days after the birth or adoption, enrollment in CHIP will be effective beginning the date of report, except as otherwise provided in R382-10-18(1).

(5) The effective date of enrollment for a renewal is the first day of the month after the renewal month, if the renewal process is completed by the end of the renewal month, or by the last day of the month immediately following the renewal month, and the child continues to be eligible.

(6) If the renewal process is not completed by the end of the renewal month, the case will be closed unless the enrollee has good cause for not completing the renewal process on time. Good cause includes a medical emergency, death of an immediate family member, or natural disaster, or other similar occurrence.

(7) The Department may require an interview with the parent, child, or adult who has assumed responsibility for the care or supervision of a child, or other authorized representative as part of the renewal process.

KEY: children's health benefits

Date of Enactment or Last Substantive Amendment: ~~[July 1, 2008]~~ **2009**

Notice of Continuation: **May 19, 2008**

Authorizing, and Implemented or Interpreted Law: **26-1-5; 26-40**

◆ _____ ◆

Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-308
Application, Eligibility Determinations
and Improper Medical Assistance

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32184

FILED: 12/01/2008, 16:25

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to modify rules regarding the due date for applications, verifications, and other information to conform to the state's four-day work week. (DAR NOTE: There is a corresponding 120-day (emergency) rule published in the October 15, 2008, issue of the Bulletin under DAR No. 31976 that is effective as of 10/01/2008.)

SUMMARY OF THE RULE OR CHANGE: This change updates the time and dates that the Department must receive applications, verifications, and other information to conform with the state's change to a four-day work week and longer office hours on business days.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Department does not expect costs or savings to result from this change as it only implements the new four-day work schedule.

❖ **LOCAL GOVERNMENTS:** This change does not impact local governments because they do not determine eligibility nor receive monies collected as spenddowns from Medicaid recipients.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There are no expected costs or savings for other persons and small businesses because they do not accept or process Medicaid applications.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this change does not require a person to pay more for coverage under Medicaid, nor does it change the services or benefits that a person may receive.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule is necessary to conform to the "Working 4 Utah" initiative and should not have a negative fiscal impact. 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:

Kimi McNutt at the above address, by phone at 801-538-6381, by FAX at 801-538-6099, or by Internet E-mail at KMCNUTT@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/14/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2009

AUTHORIZED BY: David N. Sundwall, Executive Director

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

R414-308. Application, Eligibility Determinations and Improper Medical Assistance.

R414-308-3. Application and Signature.

(1) An individual may apply for medical assistance by completing and signing any Department-approved application form for Medicaid, Qualified Medicare Beneficiaries, Specified Low-Income Medicare Beneficiaries, or Qualified Individuals assistance and delivering it to the agency. If available, an individual may complete an on-line application for medical assistance and send it electronically to the agency.

(a) If an applicant cannot write, the applicant must make his mark on the application form and have at least one witness to the signature.

(b) For on-line applications, the individual must either send the agency an original signature on a printed signature page, or if available on-line, submit an electronic signature that conforms with state law for electronic signatures.

(c) A representative may apply on behalf of an individual. A representative may be a legal guardian, a person holding a power of attorney, a representative payee or other responsible person acting on behalf of the individual. In this case, the agency may send notices, requests and forms to both the individual and the individual's representative, or to just the individual's representative.

(d) If the Division of Child and Family Services (DCFS) has custody of a child and the child is placed in foster care, DCFS completes the application. DCFS determines eligibility for the child pursuant to a written agreement with the Department. DCFS also determines eligibility for children placed under a subsidized adoption agreement.

(e) An authorized representative may apply for the individual if unusual circumstances or death prevent an individual from applying on his own. The individual must sign the application form

if possible. If the individual cannot sign the application, the representative must sign the application. The agency may assign someone to act as the authorized representative when the individual requires help to apply and is unable to appoint a representative.

(2) The date of application is determined as follows:

(a) The application date is the date the agency receives a completed, signed application at a local office by ~~[5:00 p.m.]~~the close of business on a business day. This applies to paper applications delivered in person or by mail, paper applications sent via facsimile transmission, and electronic applications sent via the Internet.

(b) ~~[If a local office receives an]~~For applications delivered to the agency by facsimile, Internet, or to an office dropbox after [5:00 p.m.]~~the close of business~~ of a business day, or on a non-business day, the date of application is the next business day.

(c) The application date for applications delivered to an outreach location is as follows:

(i) If the application is delivered at a time when the outreach staff is working at that location, the date of application is the date the outreach staff receives the application.

(ii) If the application is delivered on a non-business day or at a time when the outreach office is closed, ~~[including being closed for weekends or holidays,]~~the date of application is the last business day that a staff person from the state agency was available to receive or pick up applications from that location.

(d) The due date for verifications needed to complete an application and determine eligibility is ~~[5:00 p.m.]~~the close of business on the last day of the application period.

(3) The agency accepts a signed application sent via facsimile as a valid application and does not require it to be signed again.

(4) If an applicant submits an unsigned, completed application form to the agency, the agency will notify the applicant that he or she must sign the application within 30 days of the application date. The agency will send a signature page to the applicant within 10 days for the client to sign and return.

(a) If the agency receives a signature page signed by the applicant within 30 days of receiving the completed application, the original application date is retained.

(b) If the agency does not receive a signed signature page within 30 days of when it received the completed application, the application is void and the agency will send a denial notice to the applicant. The previous application date will not be protected.

(c) If the agency receives a signed signature page during the 30 days immediately after the denial notice is mailed, the agency will contact the applicant to ask if the applicant wants to reapply for medical assistance. If the applicant wants to reapply, the agency may use the previous completed application form, but the application date will be the date the agency received the signed signature page according to the same provisions in R414-308-3(2).

(d) If the agency receives a signed signature page more than 30 days after the denial notice is sent, the applicant will need to reapply. The original application date is not retained.

(5) If an application is not complete, but it is signed by the applicant, the eligibility worker will ask the applicant to complete the application. If the client completes and returns the application within 30 days of the date the agency received the application, the agency will determine eligibility based on the original application date. If the client does not complete the application within 30 days, the original application date is not retained and the agency denies the application.

R414-308-4. Verification of Eligibility and Information Exchange.

(1) Medical assistance applicants and recipients must verify all eligibility factors requested by the agency to establish or to redetermine eligibility. Medical assistance applicants and recipients must provide identifying information that the agency needs to meet the requirements of 42 CFR 435.945, 435.948, 435.952, 435.955, and 435.960.

(a) The agency will provide the client a written request of the needed verifications.

(b) The client has at least 10 calendar days from the date the agency gives or mails the verification request to the client to provide verifications.

(c) The due date for returning verifications, forms or information requested by the agency is ~~[5:00 p.m.]~~ the close of business on the date the agency sets as the due date in a written request to the client, but not less than 10 calendar days from the date such request is given to or mailed to the client.

(d) The agency allows additional time to provide verifications if the client requests additional time by the due date. The agency will set a new due date that is at least 10 days from the date the client asks for more time to provide the verifications, forms or information.

(e) If a client has not provided required verifications by the due date, and has not contacted the agency to ask for more time to provide verifications, the agency denies the application, re-certification, or ends eligibility.

(f) If the agency receives all necessary verifications during the 30 days after denying an application for lack of verifications, the date the agency receives all the verifications is the new application date. If the agency receives verifications more than 30 days after the application has been denied, the client will need to reapply for medical assistance.

(2) The agency must receive verification of an individual's income, both unearned and earned. To be eligible under Section 1902(a)(10)(A)(ii)(XIII), the Medicaid Work Incentive program, the agency may require proof such as paycheck stubs showing deductions of FICA tax; self-employment tax filing documents; or for newly self-employed individuals who have not filed tax forms yet, a written business plan and verification of gross receipts and business expenses, to verify that the income is earned income.

R414-308-6. Eligibility Period and Re-Certification.

(1) The eligibility period begins on the effective date of eligibility as defined in R414-306-4, which may be after the first day of a month, subject to the following requirements.

(a) If a client must pay a spenddown, the agency completes the eligibility process and grants eligibility when the agency receives the required payment or proof of incurred medical expenses equal to the required payment for the month or months, including partial months, for which the client wants medical assistance.

(b) If a client must pay a Medicaid Work Incentive premium, the agency completes the eligibility process and grants eligibility when the agency receives the required payment for the month or months, including partial months, for which the client wants medical assistance.

(c) If a client must pay an asset co-payment for prenatal coverage, the agency completes the eligibility process and grants eligibility when the agency receives the required payment for the period of prenatal coverage.

(d) The client must make the payment or provide proof of medical expenses, if applicable, within 30 calendar days from the mailing date of the notice that tells the client the amount owed.

(e) For ongoing months of eligibility, the client has until ~~[5:00 p.m.]~~ the close of business of the 10th day of the month after the benefit month to meet the spenddown or pay the Medicaid Work incentive premium. If the 10th day of the month is a ~~[weekend or holiday]~~ non-business day, the client has until ~~[5:00 p.m.]~~ the close of business on the first business day after the 10th to meet the spenddown or pay the premium.

(f) Residents who reside in a long-term care facility and who owe a cost-of-care contribution to the medical facility must pay the medical facility directly. The resident may use unpaid past medical bills, or current incurred medical bills other than the charges from the medical facility, to meet some or all of the cost-of-care contribution subject to the limitations in R414-304-9. The resident must pay any cost-of-care contribution not met with allowable medical bills to the medical facility. An unpaid cost-of-care contribution is not allowed as a medical bill to reduce the amount the client owes the facility.

(g) No eligibility exists in a month for which the client fails to meet a required spenddown or fails to pay a required Medicaid Work Incentive premium. Eligibility for the Prenatal program does not exist when the client fails to pay a required asset co-payment for the Prenatal program.

(2) The eligibility period ends on:

(a) the last day of the re-certification month;

(b) the last day of the month in which the recipient asks the agency to discontinue eligibility;

(c) the last day of the month the agency determines the individual is no longer eligible;

(d) for the Prenatal program, the last day of the month that is at least 60 days after the date the pregnancy ends, except that for Prenatal coverage for emergency services only, eligibility ends the last day of the month in which the pregnancy ends; or

(e) the date the individual dies.

(3) Recipients must re-certify eligibility for medical assistance at least once every 12 months. The agency may require recipients to re-certify eligibility more frequently when the agency:

(a) receives information about changes in a recipient's circumstances that may affect the recipient's eligibility;

(b) has information about anticipated changes in a recipient's circumstances that may affect eligibility; or

(c) knows the recipient has fluctuating income.

(4) To receive medical assistance without interruption, a recipient must complete the re-certification process by ~~[5:00 p.m.]~~ the close of business on the date printed on the re-certification form. The client must also provide verifications by the due date specified by the agency and must continue to meet all eligibility criteria, including meeting a spenddown or paying a Medicaid Work Incentive premium if one is owed.

(a) If the recipient does not complete the re-certification process on time, eligibility ends on the last day of the re-certification month.

(b) If the recipient does not complete the re-certification process on time, but completes the recertification including providing verifications by ~~[5:00 p.m.]~~ the close of business on the last business day of the month after the review month, the agency will determine whether the recipient continues to meet all eligibility criteria.

(i) The agency will reinstate benefits effective the beginning of the month after the re-certification month if the recipient continues to meet all eligibility criteria and meets any spenddown or pays the Medicaid Work Incentive premium, if applicable. The client must meet the spenddown or pay the premium no later than the close of business on the 30th day after the date printed on the notice ~~within 30 days~~. Otherwise, the recipient remains ineligible for medical assistance.

(ii) If the recipient does not complete the re-certification process before ~~5:00 p.m.~~ the close of business of the last business day of the month following the re-certification month, eligibility will not be reinstated. The recipient will have to reapply for medical assistance.

(c) If the recipient does not meet the spenddown or pay the Medicaid Work Incentive premium on time, then eligibility ends effective the last day of the re-certification month and the recipient will have to reapply.

(5) For individuals selected for coverage under the Qualified Individuals Program, eligibility extends through the end of the calendar year if the individual continues to meet eligibility criteria and the program still exists.

R414-308-7. Change Reporting and Benefit Changes.

(1) A client must report to the agency reportable changes in the client's circumstances. Reportable changes are defined in R414-301-2.

(a) The due date for reporting changes is ~~5:00 p.m.~~ the close of business on the 10th calendar day after the client learns of the change.

(b) When the change is receipt of income from a new source, or an increase in income the client receives, the due date for reporting the income change is ~~5:00 p.m.~~ the close of business on the day that is ten calendar days after the date the client receives such income.

(c) The due date for providing verifications of changes is ~~5:00 p.m.~~ the close of business on the date the agency sets as the due date in a written notice to the client.

(2) The agency may receive information from credible sources other than the client such as computer income matches, and from anonymous citizen reports. If the agency receives information from sources other than the client that may affect the client's eligibility, the agency will verify the information as needed depending on the source of information before using the information to change the client's eligibility for medical assistance. Information from citizen reports must always be verified by other reliable proofs.

(3) The date of report is the date the client reports the change to the agency by ~~5:00 p.m.~~ the close of business on a business day by phone, by mail, by fax transmission or in person, or the date the agency receives the information from another source.

(4) If the agency needs verification of the reported change from the client, the agency requests it in writing and provides at least ten calendar days for the client to respond.

(5) A client who provides change reports, forms or verifications by ~~5:00 p.m.~~ the close of business on the due date has provided the information on time.

(6)(a) If the reported information causes an increase in a client's benefits and the agency requests verification, the increase in benefits is effective the first day of the month following:

(i) the date of the report if the agency receives verifications within ten days of the request; or

(ii) the date the verifications are received if verifications are received more than ten days after the date of the request.

(b) The agency cannot increase benefits if the agency does not receive requested verifications.

(7) If the reported information causes a decrease in the client's benefits, the agency makes changes as follows:

(a) If the agency has sufficient information to adjust benefits, the change is effective the first day of the month after the month in which the agency sends proper notice of the decrease, regardless of whether verifications have been received.

(b) If the agency does not have sufficient information to adjust benefits, the agency requests verifications from the client. The due date is at least 10 days from the date of the request.

(i) Upon receiving the verifications, the agency adjusts benefits effective the first day of the month following the month in which the agency can send proper notice.

(ii) If the verifications are not returned on time, the agency discontinues benefits for the affected individuals effective the end of the month in which the agency can send proper notice.

(8) Any time the agency requests verifications to determine or redetermine eligibility for an individual or a household, the agency may discontinue benefits if all required factors of eligibility are not verified by the due date. If a change does not affect all household members and verifications are not provided, the agency discontinues benefits only for the individual or individuals affected by the change.

(9) If a client fails to timely report a change or return verifications or forms by the due date, the client must repay all services and benefits paid by the Department for which the client was ineligible.

(10) If a due date falls on a ~~weekend or holiday~~ non-business day, the due date will be ~~5:00 p.m.~~ the close of business on the first business day immediately after the due date.

R414-308-8. Case Closure and Redetermination.

(1) The agency terminates medical assistance upon recipient request or if the agency determines the recipient is no longer eligible.

(2) To maintain ongoing eligibility, a recipient must complete the re-certification process as provided in R414-308-6. Failure to complete the re-certification process makes the recipient ineligible.

(3) Before terminating a recipient's medical assistance, the agency will decide if the client is eligible for any other available medical assistance provided under Medicaid, the Medicare Cost-Sharing programs, the Children's Health Insurance Program, the Primary Care Network and the UPP program. ~~Children will be referred to the Children's Health Insurance Program when applicable.~~

(a) The agency does not require a recipient to complete a new application, but may request more information from the recipient to complete the redetermination for other medical assistance programs. If the recipient does not provide the necessary information by the close of business on the due date, the recipient's medical assistance ends.

(b) When redetermining eligibility for other programs, the agency cannot enroll an individual in a medical assistance program that is not in an open enrollment period, unless that program allows a person who becomes ineligible for Medicaid to enroll during a period when enrollments are stopped. An open enrollment period is a time when the agency accepts applications. Open enrollment

applies only to the Primary Care Network, the UPP Program and the Children's Health Insurance Program.

KEY: public assistance programs, application, eligibility, Medicaid

Date of Enactment or Last Substantive Amendment: [~~April 1, 2008~~]2009

Notice of Continuation: January 31, 2008

Authorizing, and Implemented or Interpreted Law: 26-18



Health, Health Care Financing, Coverage and Reimbursement Policy

R414-310

Medicaid Primary Care Network Demonstration Waiver

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 32186

FILED: 12/01/2008, 16:42

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to modify criteria and deadlines for the Department to receive Primary Care Network (PCN) applications and verifications in accordance with the "Working 4 Utah" initiative set forth by the governor. (DAR NOTE: There is a corresponding 120-day (emergency) rule published in the October 15, 2008, issue of the Bulletin under DAR No. 31978 that is effective as of 10/01/2008.)

SUMMARY OF THE RULE OR CHANGE: This amendment clarifies when the Department must receive PCN applications and verifications in accordance with longer office hours and the new four-day work schedule. It also allows the Department to exclude income that the U.S. Census Bureau pays to temporary census takers.

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** The Department does not expect costs or savings to result from this change because it only implements the new four-day work schedule. Further, the income that the U.S. Census Bureau pays to temporary census takers is exempt and does not affect PCN eligibility.
- ❖ **LOCAL GOVERNMENTS:** This change does not impact local governments because they do not determine eligibility nor receive monies from PCN recipients.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There are no costs or savings to other persons and small businesses because they do not accept or process PCN applications. Further, the income that the U.S. Census Bureau pays to temporary census takers is exempt and does not affect PCN eligibility.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs to a single individual or entity because they do not accept or process PCN applications. Further, the income that the U.S. Census Bureau pays to temporary census takers is exempt and does not affect PCN eligibility or spenddown requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule is necessary to conform to the "Working 4 Utah" initiative and should not have a negative fiscal impact. 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 01/14/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2009

AUTHORIZED BY: David N. Sundwall, Executive Director

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

R414-310. Medicaid Primary Care Network Demonstration Waiver.

R414-310-10. Income Provisions.

(1) To be eligible to enroll in the Primary Care Network program, a household's countable gross income must be equal to or less than 150% of the federal non-farm poverty guideline for a household of the same size. An individual with income above 150% of the federal poverty guideline is not allowed to spend down income to be eligible under the Primary Care Network program. All gross income, earned and unearned, received by the individual and the individual's spouse is counted toward household income, unless this section specifically describes a different treatment of the income.

(2) Any income in a trust that is available to, or is received by a household member, is countable income.

(3) Payments received from the Family Employment Program, Working Toward Employment program, refugee cash assistance or adoption support services as authorized under Title 35A, Chapter 3 are countable income.

(4) Rental income is countable income. The following expenses can be deducted:

- (a) taxes and attorney fees needed to make the income available;
- (b) upkeep and repair costs necessary to maintain the current value of the property;
- (c) utility costs only if they are paid by the owner; and
- (d) interest only on a loan or mortgage secured by the rental property.
- (5) Cash contributions made by non-household members are counted as income unless the parties have a signed written agreement for repayment of the funds.
- (6) The interest earned from payments made under a sales contract or a loan agreement is countable income to the extent that these payments will continue to be received during the certification period.
- (7) Needs-based Veteran's pensions are counted as income. Only the portion of a Veteran's Administration check to which the individual is legally entitled is countable income.
- (8) Child support payments received for a dependent child living in the home are counted as that child's income.
- (9) In-kind income, which is goods or services provided to the individual from a non-household member and which is not in the form of cash, for which the individual performed a service or which is provided as part of the individual's wages is counted as income. In-kind income for which the individual did not perform a service, or did not work to receive, is not counted as income.
- (10) Supplemental Security Income and State Supplemental payments are countable income.
- (11) Income, unearned and earned, shall be deemed from an alien's sponsor, and the sponsor's spouse, if any, when the sponsor has signed an Affidavit of Support pursuant to Section 213A of the Immigration and Nationality Act on or after December 19, 1997. Sponsor deeming will end when the alien becomes a naturalized U.S. citizen, or has worked 40 qualifying quarters as defined under Title II of the Social Security Act or can be credited with 40 qualifying work quarters. Beginning after December 31, 1996, a creditable qualifying work quarter is one during which the alien did not receive any federal means-tested public assistance.
- (12) Income that is defined in 20 CFR 416 Subpart K, Appendix, 2004 edition, which is incorporated by reference, is not countable.
- (13) Payments that are prohibited under other federal laws from being counted as income to determine eligibility for federally-funded medical assistance programs are not countable.
- (14) Death benefits are not countable income to the extent that the funds are spent on the deceased person's burial or last illness.
- (15) A bona fide loan that an individual must repay and that the individual has contracted in good faith without fraud or deceit, and genuinely endorsed in writing for repayment is not countable income.
- (16) Child Care Assistance under Title XX is not countable income.
- (17) Reimbursements of Medicare premiums received by an individual from Social Security Administration or the State Department of Health are not countable income.
- (18) Earned and unearned income of a child who is under age 19 is not counted if the child is not the head of a household.
- (19) Educational income, such as educational loans, grants, scholarships, and work-study programs are not countable income. The individual must verify enrollment in an educational program.
- (20) Reimbursements for employee work expenses incurred by an individual are not countable income.
- (21) The value of food stamp assistance is not countable income.

(22) Income paid by the U.S. Census Bureau to a temporary census taker to prepare for and conduct the census is not countable income.

R414-310-13. Application Procedure.

- (1) The Department adopts 42 CFR 435.907 and 435.908, 2004 ed., which are incorporated by reference. The Department shall maintain case records as defined in R414-308-8.
- (2) The applicant must complete and sign a written application or complete an application on-line via the Internet to enroll in the Primary Care Network program.
 - (a) The Department accepts any Department-approved application form for medical assistance programs offered by the state as an application for the Primary Care Network program. The local office eligibility worker may require the applicant to provide additional information that was not asked for on the form the applicant completed, and may require the applicant to sign a signature page from a hardcopy medical application form.
 - (b) If an applicant cannot write, he must make his mark on the application form and have at least one witness to the signature. A legal guardian or a person with power of attorney may sign the application form for the applicant.
 - (c) An authorized representative may apply for the applicant if unusual circumstances prevent the individual from completing the application process himself. The applicant must sign the application form if possible.
- (3) The application date is the date the agency receives a signed application form at a local office by ~~[5:00 p.m.]~~ the close of business on a business day. This applies to paper applications delivered in person or by mail, paper applications sent via facsimile transmission, and electronic applications sent via the internet. If a local office receives an application after ~~[5:00 p.m.]~~ the close of business on a business day, the date of application is the next business day.
- (4) The application date for applications delivered to an outreach location is as follows:
 - (a) If the application is delivered at a time when the outreach staff is working at that location, the date of application is the date the outreach staff receives the application.
 - (b) If the application is delivered on a non-business day or at a time when the outreach office is closed, ~~[including being closed for weekends or holidays,]~~ the date of application is the last business day that a staff person from the state agency was available to receive or pick up applications from the location.
- (5) The due date for verifications needed to complete an application and determine eligibility is ~~[5:00 p.m.]~~ the close of business on the last day of the application period.
- (6) If an applicant has a legal guardian, a person with a power of attorney, or an authorized representative, the local office shall send decision notices, requests for information, and forms that must be completed to both the individual and the individual's representative, or to just the representative if requested or if determined appropriate.
- (7) The Department shall reinstate a medical case without requiring a new application if the case was closed in error.
- (8) The Department shall continue enrollment without requiring a new application if the case was closed for failure to complete a recertification or comply with a request for information or verification:
 - (a) if the enrollee complies before the effective date of the case closure or by the end of the month immediately following the month the case was closed; and

(b) the individual continues to meet all eligibility requirements.

(9) An applicant may withdraw an application for the Primary Care Network program any time before the Department completes an eligibility decision on the application.

(10) The applicant shall pay an annual enrollment fee to enroll in the Primary Care Network Program once the local office has determined that the individual meets the eligibility criteria for enrollment.

(a) Coverage does not begin until the Department receives the enrollment fee.

(b) The enrollment fee covers both the individual and the individual's spouse if the spouse is also eligible for enrollment in the Primary Care Network Program.

(c) The enrollment fee is required at application and at each recertification.

(d) The enrollment fee must be paid to the local office in cash, or by check or money order made out to the Department of Health or to the Department of Workforce Services.

(e) The enrollment fee for an individual or married couple receiving General Assistance from the Department of Workforce Services is \$15. The enrollment fee for an individual or couple who does not receive General Assistance but whose countable income is less than 50 percent of the federal poverty guideline applicable their household size is \$25. The enrollment fee for any other individual or married couple is \$50.

(f) The Department may refund the enrollment fee if it decides the person was ineligible for the program; however, the Department may retain the enrollment fee to the extent that the individual owes any overpayment of benefits that were paid in error on behalf of the individual by the Department.

(11) If an eligible household requests enrollment for a spouse, the application date for the spouse is the date of the request. A new application form is not required; however, the household shall provide the information necessary to determine eligibility for the spouse, including information about access to creditable health insurance, including Medicare Part A or B, student health insurance, and the VA Health Care System.

(a) Coverage or benefits for the spouse will be allowed from the date of request or the date an application is received through the end of the current certification period.

(b) A new enrollment fee is not required to add a spouse during the current certification period.

(c) A new income test is not required to add the spouse for the months remaining in the current certification period.

(d) A spouse may be added only if the Department has not stopped enrollment under section R414-310-16.

(e) Income of the spouse will be considered and payment of the enrollment fee will be required at the next scheduled recertification.

KEY: Medicaid, primary care, covered-at-work, demonstration Date of Enactment or Last Substantive Amendment: [~~July 1, 2008~~2009]

Notice of Continuation: June 13, 2007

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



Health, Health Care Financing, Coverage and Reimbursement Policy **R414-320** Medicaid Health Insurance Flexibility and Accountability Demonstration Waiver

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 32187

FILED: 12/01/2008, 16:46

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to modify criteria and deadlines for the Department to receive applications and verifications for Utah's Premium Partnership for Health Insurance (UPP), in accordance with the "Working 4 Utah" initiative set forth by the governor. (DAR NOTE: There is a corresponding 120-day (emergency) rule published in the October 15, 2008, issue of the Bulletin under DAR No. 31979 that is effective as of 10/01/2008.)

SUMMARY OF THE RULE OR CHANGE: This amendment clarifies when the state must receive UPP applications and verifications in accordance with longer office hours and the new four-day work schedule. It also allows the Department to exclude income that the U.S. Census Bureau pays to temporary census takers and updates the deductible amount for an "employer-sponsored health plan".

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

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Department does not expect costs or savings to result from the new four-day work schedule. Further, the income that the U.S. Census Bureau pays to temporary census takers is exempt and does not affect UPP eligibility. Nevertheless, by increasing the maximum deductible, more employees will qualify to receive assistance when they participate in their employer's health plan. Although the Department has no exact figures on how many individuals may take advantage of this change, it estimates that approximately 50 individuals may gain coverage through this change. If UPP enrollment increases by 50, state costs will increase by \$150 per month per person (\$90,000) and state revenues will increase by \$63,000 based on a federal match. The estimated aggregate net cost of the change would be \$27,000 in state funds. No additional appropriations are necessary because the Department was originally appropriated state funds for 1,000 adults on UPP. There are currently 200 adults on UPP.

❖ **LOCAL GOVERNMENTS:** This change does not impact local governments because they do not determine UPP eligibility nor receive monies from UPP recipients.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The change only impacts groups who offer an employer-sponsored health plan with a deductible of more than \$1,000 but less than \$2,500. Employees of these groups may now qualify for UPP. If individual coverage costs \$4,000 per year and employers pay 75% of the cost of the premium, then employers will pay an additional \$3,000 per year for each new enrollee on UPP. These costs will be partially offset by an undetermined amount of employer savings due to decreased turnover because health benefits are a strong retention tool. Health insurance underwriters will enroll more individuals in employer-sponsored health plans and will receive an undetermined amount of additional commissions for these efforts. Individuals who are approved for UPP will receive up to \$150 per month to assist them in paying the premiums for their employer's health plan. They will also receive the benefits of their employer's health plan (estimated value of \$3,000 per year).

COMPLIANCE COSTS FOR AFFECTED PERSONS: An individual employee must pay a deductible of no more than \$2,500 in an employer-sponsored health plan to receive UPP coverage. The employer pays the remaining difference.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule is necessary to conform to the "Working 4 Utah" initiative and should not have a negative fiscal impact. 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 01/14/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2009

AUTHORIZED BY: David N. Sundwall, Executive Director

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

R414-320. Medicaid Health Insurance Flexibility and Accountability Demonstration Waiver.

R414-320-2. Definitions.

The following definitions apply throughout this rule:

(1) "Adult" means an individual who is at least 19 and not yet 65 years of age.

(2) "Applicant" means an individual who applies for benefits under the UPP program, but who is not an enrollee.

(3) "Best estimate" means the Department's determination of a household's income for the upcoming certification period based on past and current circumstances and anticipated future changes.

(4) "Child" means an individual who is younger than 19 years of age.

(5) "Children's Health Insurance Program" or "CHIP" provides medical services for children under age 19 who do not otherwise qualify for Medicaid.

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

(7) "Enrollee" means an individual who applies for and is found eligible for the UPP program.

(8) "Employer-sponsored health plan" means a health insurance plan offered through an employer where:

(a) the employer contributes at least 50 percent of the cost of the health insurance premium of the employee;

(b) coverage includes at least physician visits, hospital inpatient services, pharmacy, well child visits, and children's immunizations;

(c) lifetime maximum benefits are at least \$1,000,000;

(d) the deductible is no more than ~~[\$1,000]~~ \$2,500 per individual; and

(e) the plan pays at least 70% of an inpatient stay after the deductible.

(9) "Utah's Premium Partnership for Health Insurance" (UPP) program provides cash reimbursement for all or part of the insurance premium paid by an employee for health insurance coverage through an employer-sponsored health insurance plan that covers either the eligible employee, the eligible spouse of the employee, dependent children, or the family.

(10) "Income averaging" means a process of using a history of past and current income and averaging it over a determined period of time that is representative of future income.

(11) "Income anticipating" means a process of using current facts regarding rate of pay, number of working hours, and expected changes to anticipate future income.

(12) "Income annualizing" means a process of determining the average annual income of a household, based on the past history of income and expected changes.

(13) "Local office" means any Department of Workforce Services office location, outreach location, or telephone location where an individual may apply for medical assistance.

(14) "Open enrollment" means a time period during which the Department accepts applications for the UPP program.

(15) "Public Institution" means an institution that is the responsibility of a governmental unit or that is under the administrative control of a governmental unit.

(16) "Primary Care Network" or "PCN" program provides primary care medical services to uninsured adults who do not otherwise qualify for Medicaid.

(17) "Recertification month" means the last month of the eligibility period for an enrollee.

(18) "Spouse" means any individual who has been married to an applicant or enrollee and has not legally terminated the marriage.

(19) "Verifications" means the proofs needed to decide if an individual meets the eligibility criteria to be enrolled in the program. Verifications may include hard copy documents such as a birth certificate, computer match records such as Social Security benefits

match records, and collateral contacts with third parties who have information needed to determine the eligibility of the individual.

R414-320-10. Income Provisions.

(1) For an adult to be eligible to enroll, gross countable household income must be equal to or less than 150% of the federal non-farm poverty guideline for a household of the same size.

(2) For children to be eligible to enroll, gross countable household income must be equal to or less than 200% of the federal non-farm poverty guideline for a household of the same size.

(3) All gross income, earned and unearned, received by the individual and the individual's spouse is counted toward household income, unless this section specifically describes a different treatment of the income.

(4) Any income in a trust that is available to, or is received by a household member, is countable income.

(5) Payments received from the Family Employment Program, Working Toward Employment program, refugee cash assistance or adoption support services as authorized under Title 35A, Chapter 3 are countable income.

(6) Rental income is countable income. The following expenses can be deducted:

(a) Taxes and attorney fees needed to make the income available;

(b) Upkeep and repair costs necessary to maintain the current value of the property;

(c) Utility costs only if they are paid by the owner; and

(d) Interest only on a loan or mortgage secured by the rental property.

(7) Cash contributions made by non-household members are counted as income unless the parties have a signed written agreement for repayment of the funds.

(8) The interest earned from payments made under a sales contract or a loan agreement is countable income to the extent that these payments will continue to be received during the certification period.

(9) Needs-based Veteran's pensions are counted as income. Only the portion of a Veteran's Administration check to which the individual is legally entitled is countable income.

(10) Child support payments received for a dependent child living in the home are counted as that child's income.

(11) In-kind income, which is goods or services provided to the individual from a non-household member and which is not in the form of cash, for which the individual performed a service or which is provided as part of the individual's wages is counted as income. In-kind income for which the individual did not perform a service, or did not work to receive, is not counted as income.

(12) Supplemental Security Income and State Supplemental payments are countable income.

(13) Income that is defined in 20 CFR 416 Subpart K, Appendix, 2004 edition, which is incorporated by reference, is not countable.

(14) Payments that are prohibited under other federal laws from being counted as income to determine eligibility for federally-funded medical assistance programs are not countable.

(15) Death benefits are not countable income to the extent that the funds are spent on the deceased person's burial or last illness.

(16) A bona fide loan that an individual must repay and that the individual has contracted in good faith without fraud or deceit, and genuinely endorsed in writing for repayment is not countable income.

(17) Child Care Assistance under Title XX is not countable income.

(18) Reimbursements of Medicare premiums received by an individual from Social Security Administration or the Department are not countable income.

(19) Earned and unearned income of a child is not countable income if the child is not the head of a household.

(20) Educational income, such as educational loans, grants, scholarships, and work-study programs are not countable income. The individual must verify enrollment in an educational program.

(21) Reimbursements for employee work expenses incurred by an individual are not countable income.

(22) The value of food stamp assistance is not countable income.

(23) Income paid by the U.S. Census Bureau to a temporary census taker to prepare for and conduct the census is not countable income.

R414-320-15. Effective Date of Enrollment and Enrollment Period.

(1) The effective date of enrollment is the day that a completed and signed application [~~or an on-line application~~] is received [by ~~the~~] at a local office by the close of business on a business day [~~and the applicant meets all eligibility criteria. The effective date for applications submitted by fax and online is the date of the electronic transmission. The Department shall not provide any benefits before the effective enrollment date.~~] This applies to paper applications delivered in person or by mail, paper applications sent via facsimile transmission, and electronic applications sent via the internet. If a local office receives an application after the close of business on a business day, the effective date of UPP enrollment is the next business day.

(2) The application date for applications delivered to an outreach location is as follows:

(a) If the application is delivered at a time when the outreach staff is working at that location, the date of application is the date the outreach staff receives the application.

(b) If the application is delivered on a non-business day or at a time when the outreach office is closed, the date of application is the last business day that a staff person from the state agency was available to receive or pick up applications from the location.

(3) The due date for verifications needed to complete an application and determine eligibility is the close of business on the last day of the application period.

~~(2)4~~ The effective date of enrollment cannot be before the month in which the applicant pays a premium for the employer-sponsored health insurance and is determined as follows:

(a) The effective date of enrollment is the date an application is received and the person is found eligible, if the applicant enrolls in and pays the first premium for the employer-sponsored health insurance in the application month.

(b) If the applicant will not pay a premium for the employer-sponsored health insurance in the application month, the effective date of enrollment is the first day of the month in which the applicant pays a premium for the employer-sponsored health insurance. The applicant must enroll in the employer-sponsored health insurance no later than 30 days from the day on which the Department of Workforce Services sends the applicant written notice that he meets the qualifications for UPP.

(c) If the applicant does not enroll in the employer-sponsored health insurance within 30 days from the day on which the Department of Workforce Services sends the applicant written notice that he meets the qualifications for UPP, the application shall

be denied and the individual will have to reapply during another open enrollment period.

(3)5 The effective date of enrollment for a newborn or newly adopted child is the date the newborn or newly adopted child is enrolled in the employer-sponsored health insurance if the family requests the coverage within 30 days of the birth or adoption. If the request is more than 30 days after the birth or adoption, enrollment is effective the date of report.

(4)6 The effective date of re-enrollment for a recertification is the first day of the month after the recertification month, if the recertification is completed as described in R414-320-13.

(5)7 If the enrollee does not complete the recertification as described in R414-320-13, and the enrollee does not have good cause for missing the deadline, the case will remain closed and the individual may reapply during another open enrollment period.

(6)8 An individual found eligible shall be eligible from the effective date through the end of the first month of eligibility and for the following 12 months. If the enrollee completes the redetermination process in accordance with R414-320-13 and continues to be eligible, the recertification period will be for an additional 12 months beginning the month following the recertification month. Eligibility could end before the end of a 12-month certification period for any of the following reasons:

- (a) The individual turns age 65;
- (b) The individual becomes entitled to receive Medicare, or becomes covered by Veterans Administration Health Insurance;
- (c) The individual dies;
- (d) The individual moves out of state or cannot be located;
- (e) The individual enters a public institution or an Institute for Mental Disease.

(7)9 If an adult enrollee discontinues enrollment in employer-sponsored insurance coverage, eligibility ends. If the enrollment in employer-sponsored insurance is discontinued involuntarily and the individual notifies the local office within 10 calendar days of when the insurance ends, the individual may switch to the PCN program for the remainder of the certification period.

(8)10 A child enrollee may discontinue employer-sponsored health insurance and move to direct coverage under the Children's Health Insurance Program at any time during the certification period without any waiting period.

(9)11 An individual enrolled in the Primary Care Network or the Children's Health Insurance Program who enrolls in an employer-sponsored plan may switch to the UPP program if the individual reports to the local office within 10 calendar days of enrolling in an employer-sponsored plan and before coverage on the employer-sponsored plan begins.

(10)12 If a UPP case closes for any reason, other than to become covered by another Medicaid program or the Children's Health Insurance Program, and remains closed for one or more calendar months, the individual must submit a new application to the local office during an open enrollment period to reapply. The individual must meet all the requirements of a new applicant.

(11)13 If a UPP case closes because the enrollee is eligible for another Medicaid program or the Children's Health Insurance Program, the individual may reenroll if there is no break in coverage between the programs, even if the State has stopped enrollment under R414-320-15.

(a) If the individual's 12-month certification period has not ended, the individual may reenroll for the remainder of that certification period. The individual is not required to complete a new application or have a new income eligibility determination.

(b) If the 12-month certification period from the prior enrollment has ended, the individual may still reenroll. However, the individual must complete a new application and meet eligibility and income guidelines for the new certification period.

(c) If there is a break in coverage of one or more calendar months between programs, the individual must reapply during an open enrollment period.

KEY: Medicaid, PCN, CHIP

Date of Enactment or Last Substantive Amendment: ~~July 1, 2008~~2009

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



Human Services, Administration R495-888

Department of Human Services Related Parties Conflict Investigation Procedure

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 32154

FILED: 11/19/2008, 15:44

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being proposed to establish the criteria used to determine when a related party investigation is necessary and how the investigation will be conducted.

SUMMARY OF THE RULE OR CHANGE: When a Child Protective Services (CPS) referral is accepted which results in a potential conflict of interest, the Office of Service Review will be notified. The rule identifies the criteria that will be used to determine when a related party investigation is necessary and outlines the procedure to be used for the investigation.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 62A-1-110, 62A-1-111, 62A-4a-202.5, and 62A-4a-202.6, and Subsection 62A-4a-409(5)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There is no anticipated cost or saving to the state budget by this new rule because positions and resources already budgeted are being utilized.

❖ **LOCAL GOVERNMENTS:** There is no anticipated cost or saving to the local governments by this rule. There is no statutory responsibility for local government to conduct related parties investigation.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** This rule does not impact cost or saving to small businesses and persons. They have no statutory or financial responsibility.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no anticipated compliance cost for affected persons by this rule because this rule simply outlines the process of an

investigation. There are no costs to be incurred by affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses. No cost is connected to compliance with this rule. Lisa-Michele Church, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Julene H. Jones at the above address, by phone at 801-538-4521, by FAX at 801-538-4424, or by Internet E-mail at jhones@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/14/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2009

AUTHORIZED BY: Lisa-Michele Church, Executive Director

R495. Human Services, Administration.

R495-888. Department of Human Services Related Parties Conflict Investigation Procedure.

R495-888-1. Authority.

(1) This rule is authorized by Sections 62A-1-110, 62A-1-111, and 62A-4a-409.

R495-888-2. Definitions.

(1) The definitions contained in Title 62A apply. In addition, the following terms are defined for the purposes of this Rule:

(a) "Accepted referral" means a referral that has been screened by APS or DCFS intake and has met the agency's requirements for accepting a referral.

(b) "APS" means Adult Protective Services.

(c) "Case" means a referral that has been accepted for an investigation.

(d) "Child" means a person under eighteen years of age.

(e) "Client" means any person receiving services from DHS.

(f) "Conflict" means:

(i) There is a referral alleging child abuse, neglect or dependency and an employee, volunteer, board member, provider, or contractor of DHS has a relationship with the alleged victim, alleged perpetrator, or another person named in the investigation such that there is or might be a conflict of interest, the appearance of a conflict of interest, impropriety, or the appearance of impropriety if CPS or DCFS performed the investigation; or

(ii) There is a referral alleging abuse, neglect or exploitation of a vulnerable adult, and an employee, volunteer, board member, provider, or contractor of DHS has a relationship with the alleged victim, alleged perpetrator, or another person named in the

investigation such that there is or might be a conflict of interest, the appearance of a conflict of interest, impropriety, or the appearance of impropriety if APS or DAAS performed the investigation;

(iii) There is a referral alleging abuse, neglect or dependency of a minor that is in the custody and/or guardianship of DCFS, DJJS, or DSPD and the alleged perpetrator is an employee, volunteer, board member, provider, or contractor of DHS.

(g) "CPS" means Child Protective Services.

(h) "DHS" means the Department of Human Services, and includes all of the agencies and offices within the Department.

(i) "DCFS" means the Division of Child and Family Services, including its regional offices.

(j) "DAAS" means the Utah Division of Aging and Adult Services.

(k) "DJJS" means the Division of Juvenile Justice Services.

(l) "DJJS Investigator" means an employee of DJJS who conducts internal affairs investigations for DJJS.

(m) "DSPD" means the Division of Services for People with Disabilities.

(n) "Executive Director" is as defined in 62A-1-104 and includes the designee of the Executive Director.

(o) "Minor" means a child, or a person at least eighteen years of age and younger than twenty-one years of age who is in the custody and guardianship of the Division of Child and Family Services or the Division of Juvenile Justice Services.

(p) "OPG" means the Office of the Public Guardian.

(q) "OSR" means the Office of Services Review.

(r) "Reasonable Restraint" means: Justifiable restraint to protect the client or to protect others from the client's acts. Supported physical abuse does not include the use of reasonable and necessary physical restraint by an educator in accordance with Section 53A-11-802(2) or 76-2-401. Nor does it include conduct that constitutes the use of reasonable and necessary physical restraint or force in self-defense or otherwise appropriate to the circumstances to obtain possession of a weapon or other dangerous object in the client's possession or control, or to protect the client or another person from physical injury.

(i) In determining whether "reasonable restraint" was used, the Related Party Conflict Investigator shall take into account the nature and purpose of the facility.

(s) "Referral" means information provided to DCFS intake alleging abuse, neglect, or dependency of a child, or to APS intake alleging abuse, neglect or exploitation of a vulnerable adult.

(t) "Related Party Conflict Case" means that a conflict has been identified, and the case has been referred to a Related Party Conflict Investigator for a related party conflict investigation.

(u) "Related Parties Conflict Investigation" means the investigation of a conflict case by a Related Parties Conflict Investigator.

(v) "Related Parties Conflict Investigator" means an employee of DHS assigned to OSR to conduct related parties conflict investigations.

(w) "Secondary worker" means a DCFS employee or an APS employee assigned to a related parties conflict investigation to conduct limited casework activities requested by the Related Parties Conflict Investigator, including but not limited to the following: making priority face to face contact when the Related Parties Conflict Investigator is unable to do so; assisting with the removal of a child; booking the child into a shelter facility; and filing a petition for ongoing In-Home or Out-of-Home services.

(x) "USDC" means the Utah State Developmental Center.

(y) "USH" means the Utah State Hospital.

(z) "Vulnerable Adult" is the same as defined in 62A-3-301(28).

R495-888-3. Purpose.

(1) The purpose of this rule is to establish the criteria used to determine:

(a) when a related party investigation is necessary;

(b) how related party investigations will be conducted; and

(c) how on-going services will be provided to clients.

(2) It is the Department of Human Services' goal to avoid any impropriety or appearances of impropriety that may arise when a conflict exists and to ensure that investigations involving an employee, volunteer, board member, provider, or contractor of DHS are conducted fairly. Related party conflict investigations shall be conducted in a manner consistent with CPS and APS procedures and policies.

R495-888-4. Criteria Used to Determine When a Related Party Investigation Is Necessary.

(1) In general: OSR shall be notified that a potential conflict exists whenever:

(a) a referral has been accepted and a person's relationship with DHS may influence an investigation of abuse, neglect or dependency of a child, or abuse, neglect or exploitation of a vulnerable adult, or

(b) a conflict exists that may prevent the assigned agency from making an objective determination based on the facts of the case.

(c) an accepted referral alleges child abuse, neglect, or dependency by a DHS employee.

(d) an accepted referral alleges child abuse, neglect or dependency by a professional partner of DCFS, including but not limited to: an Assistant Attorney General, a Guardian ad litem, or a law enforcement officer who works directly with DCFS.

(e) an accepted referral alleges that a child has been abused and/or neglected while in the custody and/or guardianship of DCFS or DJJS, while placed in the USH or USDC or while placed with a contracted provider of any of these agencies, and the alleged perpetrator is an employee, volunteer or board member with DHS, or a provider, or contractor of DCFS.

(f) an accepted referral alleges abuse, neglect, or exploitation of a vulnerable adult by a DHS employee.

(g) an accepted referral alleges that an adult has been abused, neglected or exploited while in the and guardianship of OPG, placed at the USH or the USDC, or placed with a DHS contracted provider of any of these agencies, and the alleged perpetrator is an employee, volunteer, or board member of DHS, or a provider, or contractor of DAAS.

(2) The Executive Director of DHS may, at any time, designate a case a "related party conflict investigation" and direct that the case be assigned to a Related Party Conflict Investigator.

(3) If the conflict is identified after DCFS or APS has initiated an investigation, OSR shall be notified on the next business day after the conflict is identified. If the DCFS or APS worker is responding to an emergency or priority one call, the worker shall complete whatever protective actions are necessary and then staff the conflict with a supervisor.

R495-888-5. Procedure Used When a Related Party Investigation Is Necessary for Children.

(1) When a CPS intake worker identifies a potential conflict, the intake worker shall staff the referral with the OSR Services Review Manager to determine if a conflict exists. The OSR Services Review Manager shall determine whether there is a conflict, and will notify the CPS Intake Worker of its decision.

(2) If a conflict is identified after the initial referral, the assigned CPS worker and/or the CPS worker's supervisor shall notify the OSR Services Review Manager no later than the next business day after the conflict is identified.

(3) Once the accepted case is assigned to OSR, the case shall be assigned by OSR to a Related Party Conflicts Investigator, and the investigation activities from that point forward shall be supervised by the OSR Services Review Manager.

(4) A Related Party Conflict Investigator shall have training that is substantially similar to the training received by CPS workers.

(5) Related Parties Conflict Investigators have the same rights, duties, and authority to investigate referrals as CPS workers.

(6) The following duties are to remain the duties of CPS Intake: receipt of the referral; research; disposition of the referral; establish priority of the referral; and, establish allegation categories.

(7) DCFS shall review unaccepted Related Parties referrals in accordance with DCFS Practice Guidelines.

(8) A DCFS investigator may act as a secondary worker and assist the Related Parties Conflict Investigator.

(9) The Related Party Conflict Investigator shall determine whether the allegations are supported, unsupported, without merit, or false. The Related Parties Conflict Investigator shall report its findings to the appropriate DCFS employee to ensure that the findings are entered into the Licensing or Management Information System and that the appropriate Notices of Agency Action are issued.

(10) If the OSR Services Review Manager determines that no conflict exists, the case shall be referred back to CPS intake for investigation by DCFS.

(11) If the Executive Director has designated a case as a related party conflict case, the OSR Services Review Manager shall assign the case to a Related Parties Conflict Investigator.

R495-888-6. Procedure Used When a Related Party Investigation Is Necessary for Adults.

(1) Allegations of abuse, neglect, or exploitation of a vulnerable adult shall be referred to APS Intake.

(2) If APS Intake accepts the referral and identifies a potential conflict, the Intake worker shall staff the referral with the OSR Services Review Manager to determine if a conflict exists.

(3) The OSR Services Review Manager shall determine whether there is a conflict and will notify APS intake of its decision.

(4) In cases where a conflict exists, the OSR Services Review Manager shall accept the case, and assign the case to a Related Parties Conflict Investigator.

(5) A Related Parties Conflict Investigator shall have training that is substantially similar to the training received by APS investigators.

(6) Related Parties Conflict Investigators have the same rights, duties, and authority to investigate referrals as APS investigators and shall perform its investigation using the same policies, procedures, rules and laws that apply to APS investigations.

(7) An APS investigator may act as a secondary worker and assist the Related Parties Conflict Investigator.

(8) The Related Party Conflict Investigator shall determine whether the referral is supported, inconclusive or without merit. OSR will work with DAAS to ensure that the investigative finding is entered into the Statewide Database created in Section 62A-3-311.1, and that the appropriate Notices of Agency Action are issued.

(9) If the OSR Services Review Manager determines that no conflict exists, the case shall be referred back to APS intake for investigation by APS.

(10) If the Executive Director has designated a case as a related party conflict case, the OSR Services Review Manager shall assign the case to a Related Parties Conflict Investigator.

R495-888-7. Special Procedures for Related Parties Conflict Investigations.

(1) Nothing in this rule is intended to limit an agency's ability to conduct its own internal investigation of any incident that occurs in a facility or by an employee during working hours.

(2) The related parties' conflict investigation is meant to determine whether abuse, neglect or dependency of a child, or abuse, neglect or exploitation of an adult occurred. If, during the course of the investigation, the Related Parties Conflict Investigator believes that a separate investigation into policy or personnel matters is warranted, the Related Parties Conflict Investigator may notify the agency of its concerns.

(3) A Related Parties Conflict Investigator may determine that a person was not abused or neglected if reasonable restraint was used in a DJJS facility, the USH, the USDC, or other contracted facility or program of DJJS or DSPD.

(4) The Related Parties Conflict Investigator may notify the agency of the initiation of an investigation and/or the conclusion of an investigation.

KEY: related parties, investigations, conflict

Date of Enactment or Last Substantive Amendment: 2009

Authorizing Implemented or Interpreted Law: 62A-1-110; 62A-1-111; 62A-1-115; 62A-4A-101; 62A-4a-202.5; 62A-4a-202.6; 62A-4a-409(5)

Human Services, Administration,
Administrative Hearings
R497-100
Adjudicative Proceedings

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 32181
FILED: 12/01/2008, 10:18

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to make citation changes

subsequent to the recodification of Title 63 (H.B. 63, 2008 General Session), and to add an Authority section. (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: This amendment corrects citation and adds an Authority section.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 62A-1-110 and 62A-1-111

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--This change only corrects citations adds an Authority section.

❖ LOCAL GOVERNMENTS: None--This change only corrects citations adds an Authority section.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--This change only corrects citations adds an Authority section.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This change only corrects citations adds an Authority section.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses. No cost is connected in complying with this change. Lisa-Michele Church, Executive Director

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

HUMAN SERVICES
ADMINISTRATION, ADMINISTRATIVE HEARINGS
120 N 200 W 4TH FL
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Elizabeth Knight at the above address, by phone at 801-538-3902, by FAX at 801-538-4604, or by Internet E-mail at eaknight@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/14/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2009

AUTHORIZED BY: Elizabeth Knight, Director

R497. Human Services, Administration, Administrative Hearings. R497-100. Adjudicative Proceedings.

R497-100-1. Authority.

The Department of Human Services, Office of Administrative Hearings is given rulemaking authority pursuant to Utah Code Ann. Section 62A-1-111.

R497-100-2. Definitions.

The terms used in this rule are defined in Section ~~[63-46b-1]~~63G-4-102. In addition,

(1) For the purpose of this section, "agency" means the Department of Human Services or a division or office of the Department of Human Services including the Division of Child and Family Services (DCFS), the Division of Services to People with Disabilities (DSPD), the Division of Juvenile Justice Services (DJJS), the Division of Aging and Adult Services (DAAS), the Division of Mental Health (DMH), the Division of Substance Abuse (SA), the Office of Licensing (OL), the Utah State Developmental Center (USDC), the Utah State Hospital (USH), and any boards, commissions, officers, councils, committees, bureaus, or other administrative units, including the Executive Director and Director of the Department or other persons acting on behalf of or under the authority of the Executive Director or Director. For purposes of this section, the term "Department of Human Services" does not include the Office of Recovery Services (ORS). The rules regarding ORS are stated in R527-200.

(2) "Agency actions or proceedings" of the Department of Human Services include, but are not limited to the following:

(a) challenges to findings of abuse, neglect and dependency pursuant to Section 62A-4a-~~[116.5]~~1009;

(b) due process hearings afforded to foster parents prior to removal of a foster child from their home pursuant to Section 62A-4a-206;

(c) the denial, revocation, modification, or suspension of any Department foster home license, or group care license;

(d) the denial, revocation, modification or suspension of a license issued by the Office of Licensing pursuant to Section 62A-2-101, et seq.;

(e) challenges to findings of abuse, neglect or exploitation of a disabled or elder adult pursuant to Section 62A-3-301, et seq.;

(f) the licensure of community alternative programs by the Office of Licensing;

(g) actions by the Division of Juvenile Justice Services and the Youth Parole Authority relating to granting or revocation of parole, discipline or, resolution of grievances of, supervision of, confinement of or treatment of residents of any Juvenile Justice Services facility or institution;

(h) resolution of client grievances with respect to delivery of services by private, nongovernmental, providers within the Department's service delivery system;

(i) actions by Department owned and operated institutions and facilities relating to discipline or treatment of residents confined to those facilities;

(j) placement and transfer decisions affecting involuntarily committed residents of the Utah State Developmental Center pursuant to Sections 62A-5-313;

(k) protective payee hearings;

(l) Department records amendment hearings held pursuant to Section ~~[63-2-603]~~63G-3-603.

(3) "Aggrieved person" includes any applicant, recipient or person aggrieved by an agency action.

(4) "Declaratory Order" is an administrative interpretation or explanation of the applicability of a statute, rule, or order within the primary jurisdiction of the agency to specified circumstances.

(5) "Office" means the Office of Administrative Hearings in the Department of Human Services.

(6) "Presiding officer" means an agency head, or individual designated by the agency head, by these rules, by agency rule, or by statute to conduct an adjudicative proceeding and may include the following:

(a) hearing officers;

(b) administrative law judges;

(c) division and office directors;

(d) the superintendent of agency institutions;

(e) statutorily created boards or committees.

R497-100-~~[2]~~3. Exceptions.

The provisions of this section do not govern the following:

(1) The procedures for promulgation of agency rules, or the judicial review of those procedures. See Section ~~[63-46b-1(2)(a)]~~63G-4-102(2)(a).

(2) Department actions relating to contracts for the purchase or sale of goods or services by and for the state or by and for the Department, including terminations of contracts by the Department.

(3) Initial applications for and initial determinations of eligibility for state-funded programs.

R497-100-~~[3]~~4. Form of Proceeding.

(1) All adjudicative proceedings commenced by the Department of Human Services or commenced by other persons affected by the Department of Human Services' actions shall be informal adjudicative proceedings.

(2) However, any time before a final order is issued in any adjudicative proceeding, the presiding officer may convert an informal adjudicative proceeding to a formal adjudicative proceeding if:

(a) conversion of the proceeding is in the public interest; and

(b) conversion of the proceeding does not unfairly prejudice the rights of any party.

(3) If a proceeding is converted from informal to formal, the Procedure for Formal Adjudicative Proceedings in Section ~~[63-46b-4]~~63G-4-102, et seq. shall apply. In all other cases, the Procedures for Informal Proceedings in R497-100-6 shall apply.

R497-100-~~[4]~~5. Commencement of Proceedings.

(1) All adjudicative proceedings shall be commenced by either:

(a) a notice of agency action, if proceedings are commenced by the agency; or

(b) a request for agency action, if proceedings are commenced by persons other than the agency.

(2) (a) When adjudicative proceedings are commenced by the agency, the notice of agency action shall conform to Section ~~[63-46b-3(2)(a)]~~63G-4-201(2)(a) and shall also include:

(i) a statement that the adjudicative proceeding is to be conducted informally;

(ii) if a hearing is to be held in an informal adjudicative proceeding, a statement of the time and place of any scheduled hearing, a statement of the purpose for which the hearing is to be held, and a statement that a party who fails to attend or participate in the hearing may be held in default; and

(iii) if the agency's rules do not provide for a hearing, a statement that the parties may request a hearing within ten working days of the notice of agency action.

(b) The notice of agency action shall be mailed or published in conformance with Section ~~[63-46b-3(2)(b)]~~63G-4-201(2)(b).

(c) When adjudicative proceedings are commenced by a person other than the agency, the request for agency action shall conform to Section ~~[63-46b-3(3)(a) and (b)]~~63G-4-201(3)(a) and (b) and include the name of the adjudicative proceeding, if known.

(d) In the case of adjudicative proceedings commenced under Subsection (2)(c) by a person other than the agency, the presiding officer shall within ten working days give notice by mail to all parties. The written notice shall:

- (i) give the agency's file number or other reference number;
- (ii) give the name of the proceeding;
- (iii) designate that the proceeding is to be conducted informally;
- (iv) if a hearing is to be held in an informal adjudicative proceeding, state the time and place of any scheduled hearing, the purpose for which the hearing is to be held, and that a party who fails to attend or participate in the hearing may be held in default;
- (v) if the agency's rules do not provide for a hearing, state the parties' right to request a hearing within ten working days of the agency's response; and
- (vi) give the name, title, mailing address, and telephone number of the presiding officer.

R497-100-[5]6. Availability of Hearing.

(1) Hearings may be held in any informal adjudicative proceedings conducted in connection with an agency action if the aggrieved party requests a hearing and if there is a disputed issue of fact. If there is no disputed issue of fact, the presiding officer may deny a request for a hearing and determine all issues in the adjudicative proceeding, if done in compliance with the policies and standards of the applicable agency. If the aggrieved person objects to the denial of a hearing, that person may raise that objection as grounds for relief in a request for reconsideration.

(2) There is no issue of fact if:

- (a) the aggrieved person tenders facts which on their face establish the right of the agency to take the action or obtain the relief sought in the proceeding;
- (b) the aggrieved person tenders facts upon the request of the presiding officer and the fact does not conflict with the facts relied upon by the agency in taking its action or seeking its relief.

R497-100-[6]7. Procedures for Informal Proceedings.

In compliance with Section ~~[63-46b-5]~~63G-4-203, the procedure for the informal adjudicative proceedings is as follows:

- (1) (a) The respondent to a notice of agency action or request for agency action may, but is not required to, file an answer or responsive pleading to the allegations contained in the notice of agency action or the request for agency action within 10 working days following receipt of the adverse party's pleading.
- (b) A hearing shall be provided to any party entitled to request a hearing in accordance with Section ~~[63-46b-5]~~63G-4-203.
- (c) In the hearing, the party named in the notice of agency action or in the request for agency action may be represented by counsel and shall be permitted to testify, present evidence and comment on the issues.
- (d) Hearings will be held only after a timely notice has been mailed to all parties.
- (e) Discovery is prohibited, but the office may issue subpoenas or other orders to compel production of necessary evidence. The office may require that parties exchange documents prior to the hearing in order to expedite the process. All parties to the proceedings will be responsible for the appearance of witnesses.
- (f) All parties shall have access to information contained in the agency's files and to all materials and information gathered in any investigation, to the extent permitted by law.
- (g) Intervention is prohibited, except that intervention is allowed where a federal statute or rule requires that a state permit intervention.
- (h) Within a reasonable time after the close of the hearing, or after the party's failure to request a hearing within the time prescribed by the agency's rules, the presiding officer shall issue a signed order in writing that conforms to Section ~~[63-46b-5(1)(4)]~~63G-4-203(1)(I).

(i) All hearings shall be open to all parties.

(j) The presiding officer's order shall be based on the facts appearing in the agency's files and on the facts presented in evidence at the hearings.

(k) A copy of the presiding officer's order shall be promptly mailed to each of the parties.

(2) All hearings shall be ~~[tape]~~ recorded at the office's expense. A transcript of the record may be prepared pursuant to Section ~~[63-46b-5(2)(b)]~~63G-4-203(2)(b). The ~~[hearing-tape]~~recording will be maintained for one year after the order has been issued.

R497-100-[7]8. Declaratory Orders.

(1) Who May File. Any person or governmental entity directly affected by a statute, rule or order administered, promulgated or issued by an agency, may file a petition for a declaratory order by addressing and delivering the written petition to the presiding officer of the appropriate agency.

(2) Content of Petition.

(a) The petition shall be clearly designated as a request for an agency declaratory order and shall include the following information;

- (i) the statute, rule or order to be reviewed;
- (ii) a detailed description of the situation or circumstances at issue;
- (iii) a description of the reason or need for a declaratory order, including a statement as to why the petition should not be considered frivolous;

(iv) an address and telephone where the petitioner can be contacted during regular work days;

(v) a statement about whether the petitioner has participated in a completed or on-going adjudicative proceeding concerning the same issue within the past 12 months; and

(vi) the signature of the petitioner or an authorized representative.

(3) Exemptions from Declaratory Order Procedure. A declaratory order shall not be issued by any agency of the Department under the following circumstances:

- (a) the subject matter of the petition is not within the jurisdiction and competency of the agency;
- (b) the person requesting the declaratory ruling participated in an adjudicative proceeding concerning the same issue within 12 months of the date of the declaratory order request;
- (c) the declaratory order procedure is likely to substantially prejudice the rights of a person who would be a necessary party, unless that person consents in writing to a determination of the matter by a declaratory proceeding;
- (d) the declaratory order is trivial, irrelevant, or immaterial;
- (e) a declaratory order proceeding is otherwise prohibited by state or federal law;
- (f) a declaratory order is not in the best interest of the agency or the public;
- (g) the subject matter is not ripe for consideration; or
- (h) the issue is currently pending in a judicial proceeding.

(4) Intervention in Accordance with ~~[63-46b-5(1)(g) and 63-46b-24]~~Sections 63G-4-203(1)(g) and 63G-4-503.

(a) Intervention is prohibited in informal adjudicative proceedings, except where a federal statute or rule requires that intervention be permitted.

(b) In the case of an adjudicative proceeding that has been converted to a formal adjudicative proceeding, a person may intervene in a declaratory order proceeding by filing a petition to intervene with the presiding officer of the agency within 30 days after the conversion of the proceeding.

(c) The agency presiding officer may grant a petition to intervene if the petition meets the following requirements:

(i) the intervener's legal interests may be substantially affected by the declaratory order proceedings; and

(ii) the interests of justice and the orderly and prompt conduct of the declaratory order proceeding will not be materially impaired by allowing intervention.

(5) Review of Petition for Declaratory Order.

(a) After review and consideration of a petition for a declaratory order, the presiding officer of the agency may issue a written order that conforms to Section ~~[63-46b-21(6)(a)]~~63G-4-503(6)(a);

(b) If the matter is set for an adjudicative proceeding, written notice shall be mailed to all parties that shall:

(i) give the name, title, mailing address, and telephone number of the presiding officer;

(ii) give the agency's file number or other reference number;

(iii) give the name of the proceeding;

(iv) state whether the proceeding shall be conducted informally or formally;

(v) state the time and place of any scheduled hearing, the purpose for which the hearing is to be held, and that a party who fails to attend or participate in the hearing may be held in default; and

(vi) if the agency's rules do not provide for a hearing, state the parties' right to request a hearing within 10 working days of the agency's response.

(c) If the agency's presiding officer issues a declaratory order, it shall conform to Section ~~[63-46b-21(6)(b)]~~63G-4-503(6)(b) and shall also contain:

(i) a notice of any right of administrative or judicial review available to the parties; and

(ii) the time limits for filing an appeal or requesting review.

(d) A copy of all declaratory orders shall be mailed in accordance with Section ~~[63-46b-21(6)(c)]~~63G-4-503(6)(c).

(e) If the agency's presiding officer has not issued a declaratory order within 60 days after receipt of the petition, the petition is deemed denied.

R497-100-[8]9. Agency Review.

Agency review shall not be allowed. Nothing contained in this rule prohibits a party from filing a petition for reconsideration pursuant to Section ~~[63-46b-13]63G-4-302~~. If the 20th day for filing a request for reconsideration falls on a weekend or holiday the deadline will be extended until the next working day.

R497-100-[9]10. Scope and Applicability.

The provisions of this section supersede the provisions of any other Department rules which may conflict with the foregoing rules.

KEY: administrative procedures, social services

Date of Enactment or Last Substantive Amendment: ~~[September 15, 2003]2009~~

Notice of Continuation: November 2, 2005

Authorizing, and Implemented or Interpreted Law: 62A-1-110; 62A-1-111

◆ ————— ◆

Human Services, Child and Family Services **R512-309** Out-of-Home Services, Foster Parent Reimbursement of Motor Vehicle Insurance Coverage for Youth in Foster Care

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 32182

FILED: 12/01/2008, 13:11

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for this proposed new rule is to implement changes in legislation passed during the FY 2008 legislative session specific to foster reimbursement of motor vehicle insurance coverage for youth in foster care (H.B. 122). (DAR NOTE: H.B. 122 (2008) is found at Chapter 314, Laws of Utah 2008, and was effective 05/05/2008.)

SUMMARY OF THE RULE OR CHANGE: This proposed new rule establishes eligibility requirements, a method for determining the amount of reimbursement for foster parents, and the responsibility of Child and Family Services to foster parents regarding motor vehicle insurance coverage for youth in foster care.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-22-302, 31A-22-304, 41-12a-301, 62A-4a-121, 62A-4a-102, 53-3-211, and 78A-6-105

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** Enactment of this rule (required by H.B. 122) will require an appropriation of \$9,000 in fiscal year 2009 from General Funds to Child and Family Services to reimburse foster parents for automobile insurance for youth in custody.

❖ **LOCAL GOVERNMENTS:** There will be no cost or savings to local government because this rule does not apply to local government.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There will be no cost or savings to small businesses and persons other than businesses because it was determined that this rule does not apply to small businesses and persons other than businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance costs for affected persons because affected persons must first pay the costs, but will be reimbursed the costs by Child and Family Services.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no cost or savings on businesses because it was determined that this rule does not apply to businesses. Lisa-Michele Church, Executive Director

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
Room 225
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Miller at the above address, by phone at 801-538-4451, by FAX at 801-538-3993, or by Internet E-mail at CAROLMILLER@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/14/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2009

AUTHORIZED BY: Duane Betournay, Director

R512. Human Services, Child and Family Services.

R512-309. Out-of-Home Services, Foster Parent Reimbursement of Motor Vehicle Insurance Coverage for Youth in Foster Care.

R512-309-1. Purpose and Authority.

(1) The purpose of this rule is to establish parameters and a process in which Child and Family Services may, within amounts appropriated for this specific purpose, reimburse a foster parent for providing owner's or operator's security covering a youth in foster care's operation of a vehicle if the youth is in the legal custody of Child and Family Services.

(2) Section 62A-4a-121 provides Child and Family Services the authority to provide reimbursement to a foster parent who is willing to provide motor vehicle insurance for a youth in their care to operate a motor vehicle.

(3) This rule is authorized by Section 62A-4a-102.

R512-309-2. Definitions.

(1) The following terms are defined for the purposes of this rule:

(a) "Child and Family Services" means the Division of Child and Family Services.

(b) "Foster parent" means a licensed resource family, also known as a licensed foster family, and may also include a licensed kinship provider. Foster parent does not include a group home or residential facility that provides Out-of-Home Services under contract with Child and Family Services.

(c) "Guardianship" has the same meaning as defined in Section 78A-6-105.

(d) "Minor" has the same meaning as defined in Section 53-3-211.

(e) "Owner's or operator's security" is described in Section 41-12a-301.

R512-309-3. Eligibility Requirements.

(1) The child has been placed in the home of a foster parent who is receiving a foster care maintenance payment from Child and Family Services.

(2) Obtaining a driver's license is an objective of the Child and Family Plan that has been developed for the youth with Transition to Adult Living Services.

(3) The foster parent is willing to assume the responsibility for signing as the responsible adult for a youth in foster care to receive a driver's license under Section 53-3-211.

(a) The foster parent is willing to provide the minimum insurance coverage for the youth as described in Section 31A-22-304.

(b) The foster parent will sign a liability waiver in case they do not sustain the automobile insurance.

(c) The foster parent will ensure that the vehicle in which they have insured the youth is in good operating condition.

(4) The foster parent has full knowledge that by signing to be that responsible adult, the foster parent is jointly and severally liable with the minor for civil compensatory damages caused by the minor when operating a motor vehicle upon the highway as provided under Subsections 53-3-211(2) and (4).

(a) The foster parent's liability may not exceed the greater of the minimum liability insurance policy limits established under 31A-22-304 or the policy limits of the foster parent's liability insurance policy issued in accordance with Section 31A-22-302 that were in effect at the time damages were caused by the minor's operation of a motor vehicle.

(5) The foster parent who signs the application of a minor for a provisional license must certify that the minor applicant, under the authority of a permit issued, has completed at least 40 hours driving in a motor vehicle, of which at least 10 hours shall be during night hours after sunset.

R512-309-4. Method for Determining Amount of Reimbursement for a Foster Parent.

(1) In accordance with 62A-4a-121, Child and Family Services may reimburse a foster parent for providing owner's or operator's security covering a youth's operation of a motor vehicle in amounts required under Section 31A-22-304 if the youth is in the legal custody of Child and Family Services. Reimbursement will be limited to the minimum liability insurance policy limits established under 31A-22-304.

(a) As allowed within the amounts appropriated to Child and Family Services for this purpose, Child and Family Services will reimburse the additional cost of the insurance premium for a youth when the foster parent has met the eligibility requirements.

(i) The foster parent will submit to Child and Family Services a current and valid statement from the insurance company that will identify the actual cost of providing insurance coverage for the youth in foster care.

R512-309-5. Child and Family Services Responsibility to Foster Parent.

(1) Child and Family Services will notify the Driver License Division of a request that the permit or license of the youth be cancelled when a person who has signed the application makes a written request to Child and Family Services that the permit or license of a youth in foster care be cancelled.

(2) Child and Family Services will verify to the foster parent upon cancellation of the permit or license for the youth that they are relieved from liability for that youth operating a motor vehicle subsequent to the cancellation.

KEY: child welfare, foster care

Date of Enactment or Last Substantive Amendment: 2009
Authorizing, and Implemented or Interpreted Law: 31A-22-302;
31A-22-304; 41-12a-301; 62A-4a-121; 62A-4a-102; 53-3-211;
78A-6-105

◆ ————— ◆

Human Services, Substance Abuse and Mental Health **R523-1-5** Fee for Service

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32183

FILED: 12/01/2008, 15:15

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These amendments have been made to increase clarity for the local mental health authorities when they engage in the fee setting process, and to assure uniformity in fees that are charged to consumers within a local authority's jurisdiction.

SUMMARY OF THE RULE OR CHANGE: The division is no longer informed of changes in fee policies within ninety days. This change was made to emphasize the division's role as a monitor, and this process will be tracked and reviewed through the annual site visits. Additional guidance has been provided to ensure that fees do not exceed the average cost of delivering services. Finally, clarification around the definition of reasonable costs has been provided.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 62A-15-105(5) and 62A-15-713(7), and Sections 17-43-204 and 17-43-306

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There will be no impact on state budgets since the Division of Substance Abuse and Mental Health neither provides direct services nor collects fees for services.

❖ **LOCAL GOVERNMENTS:** No impact on local government budgets. This rule provides clarification and additional guidance to statutes that govern funds collected by contractors of local authorities who provide mental health and substance abuse services, and does not affect funds held by local governments.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** Currently all service providers, including those that would be considered small businesses, charge fees, have a fee policy, and have a sliding fee scale. Nothing in these amendments

dictate the need to change what is already in place so no cost saving or increases are anticipated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No anticipated compliance costs for these amendments. Fees by their very nature can impact a budget, but there is nothing in these amendments that would require programs to increase or decrease fees to clients who are already paying a certain amount for services, or assess fees to anyone who receives services now and do not pay a fee.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After careful review, the Department of Human Services has determined that the amendment to this rule will have no financial impact on businesses in the state of Utah. Lisa-Michele Church, Executive Director

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

HUMAN SERVICES
SUBSTANCE ABUSE AND MENTAL HEALTH
Room 209
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Thom Dunford at the above address, by phone at 801-538-4519, by FAX at 801-538-9892, or by Internet E-mail at TDUNFORD@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM ON 01/14/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2009

AUTHORIZED BY: Mark I Payne, Director

R523. Human Services, Substance Abuse and Mental Health.

R523-1. Procedures.

R523-1-5. Fee for Service.

(1) Each local authority:

(a) Shall require all programs that receive federal and state funds from the Division of Substance Abuse and Mental Health (Division) and provide services to clients to establish a policy [for the collection of] to set and collect fees.

(i) Each fee policy shall include:

(A) a fee reduction plan based on the client's ability to pay for services; and

(B) a provision that clients who have received an assessment and require mental health treatment or substance abuse services will not be denied services based on the lack of ability to pay.

(ii) Any adjustments to the assessed fee shall follow the procedures approved by the local authority.[

~~(iii) Any change to the fee policy will be made in writing to the Division within ninety days.]~~

- (b) Shall approve the fee policy; and
 (c) Shall set a usual and customary rate for services rendered.
 (2) All programs shall provide a written explanation of the fee policy to all clients at the time of intake except in the case of emergency services.
 (3) All clients shall be assessed fees based on:
 (a) the usual and customary rate established by the local authorities, or
 (b) a negotiated contracted cost of services rendered to clients.
(4) Fees assessed to clients shall not exceed the average cost of delivering the service.
(5) All fees assessed to clients, including upfront administrative fees, shall be reasonable as determined by the local authority.
~~(4)~~(6) All programs shall make reasonable effort to collect outstanding fee charges and may use an outside collection agency.
~~(5)~~(7) All programs may reduce the assessed fee for services if the fee is determined to be a financial hardship for the client.
~~(6)~~(8) The Division shall annually review each program's policy and fee schedule to ensure that the elements set ~~[for]~~ in this rule are incorporated.

KEY: bed allocations, due process, prohibited items and devices, fees

Date of Enactment or Last Substantive Amendment: ~~[May 14, 2007]~~2009

Notice of Continuation: March 31, 2008

Authorizing, and Implemented or Interpreted Law: 17-43-302; 62A-12-102; 62A-12-104; 62A-12-209.6(2); 62A-12-283.1(3)(a)(i); 62A-12-283.1(3)(a)(ii); 62A-15-103; 62A-15-105(5); 62A-15-603; 62A-15-612(2), 62A-15-713(7), 17-43-204, 17-43-306

Human Services, Recovery Services R527-5

Release of Information

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE No.: 32159

FILED: 11/24/2008, 13:13

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being repealed and reenacted to update the renumbering of the Government Records Access and Management Act (GRAMA) (Title 63G, Chapter 2), to add the office's legal authority for rulemaking, and to update the rule.

SUMMARY OF THE RULE OR CHANGE: All citations to GRAMA (Title 63G, Chapter 2) have been updated to reflect the renumbering of GRAMA. A subsection has been added to Section R527-5-1 to provide the office's rulemaking authority. The Location and Collection System (LCS) definition has been deleted from Section R527-5-2. The office's address information has been updated in Section R527-5-3. The instructions for appeal have been clarified in Section R527-5-4. References to records not maintained by the Office of

Recovery Services (ORS) have been deleted from Section R527-5-6. Sections R527-5-7, R527-5-8, and R527-5-9 have been simplified to refer to the terms in Utah Code. Section R527-5-10 has been updated to reflect current procedures for record access fees. The keywords have also been updated to better reflect the subject of the rule, and the citations for interpreted law have been updated to reflect renumbering and updates to statute.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 62A-11-107 and 62A-11-304.4, Title 63G, Chapter 2, and 42 USC 654(26)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** No costs or savings are anticipated because no additional processes or requirements have been created.

❖ **LOCAL GOVERNMENTS:** ORS administrative rules do not have impact on local governments. No costs or savings are anticipated for local governments.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** No costs or savings are anticipated because no additional processes or requirements have been created.

COMPLIANCE COSTS FOR AFFECTED PERSONS: ORS does not generally charge fees to access records. Compliance costs for this rule would only include nominal costs to submit a written request to the office in order to obtain records such as the cost of a piece of paper, envelope, and the postage to send the request, if sent by mail.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule does not address or regulate businesses and no impacts to businesses are anticipated from this rule. Lisa-Michele Church, Executive Director

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

HUMAN SERVICES
 RECOVERY SERVICES
 515 E 100 S
 SALT LAKE CITY UT 84102-4211, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kenneth Ransom or Catherine Taylor at the above address, by phone at 801-536-8948 or 801-536-8929, by FAX at 801-536-8509 or 801-536-8509, or by Internet E-mail at kransom@utah.gov or catherinetaylor@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/14/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2009

AUTHORIZED BY: Mark Brasher, Director

R527. Human Services, Recovery Services.**[R527-5. Release of Information.****R527-5-1. Statutory Authority.**

— The Office of Recovery Services' case information has been classified in accordance with Title 63, Chapter 2, the Government Records Access and Management Act (GRAMA):

R527-5-2. Definitions.

— 1. "LCS" means Location and Collection System, a national database maintained and controlled by the Federal Office of Child Support Enforcement (OCSE) within the Department of Health and Human Services (HHS), Administration for Children and Families (ACF). It contains several subsystems including "FPLS" (Federal Parent Locator Service), "NDNH" (National Directory of New Hires), and the Tax Refund/Administrative Offset program which has been expanded from the former Federal Tax Offset Program.

— 2. Terms used in this rule, other than LCS and FPLS, are defined either explicitly in section 63-2-103 or implicitly in the text of subsection 63-2-201(3)(b):

— 3. "Restricted", as used in subsection 63-2-201(3)(b), refers to records to which access is restricted pursuant to court rule, another state statute, federal statute, or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds. "Restricted" is not considered a GRAMA classification and restricted information is not subject to the procedures for access and disclosure outlined in GRAMA.

R527-5-3. Request for Release of Information.

— 1. Written requests for information governed by GRAMA shall be submitted in accordance with section 63-2-204 to the appropriate ORS office that maintains the record:

A. OFFICE OF RECOVERY SERVICES

— ATTN: GRAMA

— P.O. BOX 45011

— 515 East 100 South

— Salt Lake City, Utah 84145-0011.

B. OFFICE OF RECOVERY SERVICES

— ATTN: MSG UNIT/GRAMA

— 523 Heritage Blvd., Suite 1

— Layton, Utah 84041

C. OFFICE OF RECOVERY SERVICES

— ATTN: MSG UNIT/GRAMA

— 2540 Washington Blvd.

— Ogden, Utah 84401.

D. OFFICE OF RECOVERY SERVICES

— ATTN: MSG UNIT/GRAMA

— 150 East Center St.

— Provo, Utah 84606.

E. OFFICE OF RECOVERY SERVICES

— ATTN: MSG UNIT/GRAMA

— 1088 South Highway 89

— Richfield, Utah 84701.

F. OFFICE OF RECOVERY SERVICES

— ATTN: MSG UNIT/GRAMA

— 168 North 100 East

— St. George, Utah 84770.

— 2. Written requests for expedited release of information in accordance with section 63-2-204 shall be submitted to:

A. OFFICE OF RECOVERY SERVICES

— ATTN: GRAMA

— 515 East 100 South

— P.O. Box 45011

— Salt Lake City, Ut. 84145-0011

R527-5-4. Appeal of Denial of Request for Release of Information.

— A request to appeal the denial to access a record governed by GRAMA shall be submitted in accordance with Section 63-2-401 to:

— 1. the Director of the Office of Recovery Services for records maintained by Financial Services, Management Services, or ORSIS;

— 2. the Regional Director of the Bureau of Investigations and Collections (BIC) in charge of the BIC team that maintains the record;

— 3. the Regional Director of Child Support Services (CSS) in charge of the CSS team that maintains the record;

— 4. the Regional Director of the Bureau of Collections for Children in Care (CIC) in charge of the CIC team that maintains the record; or,

— 5. the Regional Director of the Bureau of Medicaid Collections (BMC) in charge of the BMC team that maintains the record.

R527-5-5. Public Information.

— 1. In accordance with Utah Code Section 63-2-201 et seq., information that is not classified as private, controlled, protected or restricted is public information.

— 2. In accordance with Utah Code Section 63-2-306, a record may be classified or reclassified after the record has been requested.

R527-5-6. Private Information.

— 1. Private records include the following:

— a. information obtained from the Department of Workforce Services;

— b. records concerning an individual's eligibility for unemployment insurance benefits;

— c. any information, including the social security number, about a IV-D applicant for or recipient of child support services or a recipient of IV-A, Medicaid and Food Stamps assistance;

— d. any information, including the social security number, about the children of a IV-D applicant for or recipient of child support services or a recipient of IV-A, Medicaid and Food Stamps assistance;

— e. the income of the obligee and the obligor;

— f. any information accessed about the obligor or obligee from a state automated database including:

— (i.) records concerning occupational and professional licenses;

— (ii.) ownership and control of business entities; and

— (iii.) records received from the state new hire registry;

— g. records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation or similar medical data; and

— h. information about state employees, former employees and applicants, except as provided for in 63-2-302.

— 2. Private records may be disclosed when:

— a. disclosure is required by other statutes;

— b. disclosure is for purposes directly connected with any investigation, prosecution, or criminal or civil proceeding conducted in connection with Utah's child support enforcement plan and all other programs administered by the Office of Recovery Services;

— c. the applicant or recipient has agreed in writing to the release of social security numbers;

— d. an obligor's attorney or the obligor acting pro se needs the obligee's address in order to serve legal process as the result of a judicial action to establish or modify an order or judgment for bona fide child support, spousal support, medical support, or child care. This

information may not be disclosed if the obligee has requested that case information be safeguarded;

— e. income information is needed to establish a support order or review a support order for possible modification. This information may only be released to the court or administrative Presiding Officer, the other party or the other party's authorized representative;

— f. the obligor's social security number is needed by certain governmental entities, including law enforcement agencies and certain state agencies and;

— (i.) the requesting entity enforces, litigates or investigates civil, criminal or administrative law and the record is necessary to a proceeding or investigation; or

— (ii.) the requesting entity is one that collects information for presentence, probationary or parole purposes.

— g. A governmental agency provides written assurance that the record is necessary to the governmental entity's duties and functions and will be used for a purpose similar to the purposes for which ORS collected or obtained the information and that the record use produces a public benefit outweighing the individual privacy right protecting the record;

— h. The name of the obligor's employer may be released to the obligee if the information is necessary for the obligee to file a health insurance claim;

— i. the obligor's address may be released to the obligee in locate only cases in which the obligee has not applied for child support enforcement, but has only applied for locate services as described in R527-069; or

— j. the obligor needs to be served with legal process as the result of a judicial action that has been initiated by the obligee pro se or obligee's attorney to establish or modify an order or judgment for bona fide child support, spousal support, medical support, or child care. This information may not be disclosed if the obligor has requested that case information be safeguarded.

— 3. A private record shall be disclosed in accordance with the requirements of Utah Code Section 63-2-202.

R527-5-7. Controlled Information.

— 1. A record is controlled if it meets the requirements of Utah Code Section 63-2-303.

— 2. In accordance with Utah Code Section 63-2-202, and for purposes of this rule, a governmental entity shall disclose a controlled record to:

— a. a physician, psychologist, certified social worker, insurance provider or agent, or a government public health agency upon submission of a release from the subject of the record that is dated no more than 90 days prior to the date the request is made and a signed acknowledgment of the terms of disclosure of controlled information; and

— b. any person to whom the record must be disclosed pursuant to court order.

R527-5-8. Protected Information.

— 1. A record is protected if it meets the requirements of Utah Code Section 63-2-304.

— 2. In accordance with Utah Code Section 63-2-202, and for purposes of this rule, a governmental entity shall upon request disclose a protected record to:

— a. the person who submitted the record;

— b. any other individual who:

— (i.) has a power of attorney from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification; or

— (ii.) who submits a notarized release from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification or from their legal representatives dated no more than 90 days prior to the date the request is made; or

— c. any person to whom the record must be provided pursuant to a court order.

R527-5-9. Restricted Information.

— 1. Information received from the LCS shall be considered restricted in all ORS cases and may be used to locate individuals for the purpose of establishing paternity or securing financial and medical child support, or in cases involving parental kidnapping or child custody and visitation determinations, and for no other purpose. If the information has been safeguarded, it may not be used except as required by court order.

— a. To pursue access to FPLS information for the purpose of establishing or enforcing a child custody or visitation order, a parent or legal guardian must:

— i. petition a court with proper jurisdiction to submit a request to the Office of Recovery Services (ORS) to access the LCS on behalf of the parent or legal guardian; and,

— ii. serve a copy of the petition upon the Office of the Attorney General, Child and Family Support Division.

— If the court subsequently determines the request to be appropriate, it should identify both parties' names and social security numbers (if known), the children's names, and send the request to the Utah IV-D Director, ORS, Attn: FPLS Request, P.O. Box 45011, Salt Lake City, Utah 84145-0011.

— 2. Information received from the Internal Revenue Service (IRS) shall be considered restricted and may be used to establish, modify or enforce a child support obligation, and to locate individuals owing child support, but for no other purpose.

— 3. Information received from data matches with financial institutions describing the parent's finances, assets or liabilities shall be considered restricted and may only be used to establish, modify or enforce a child support obligation. If the information has been safeguarded, it may not be used except as required by court order.

— 4. Information received from the Utah State Tax Commission (USTC) concerning a taxpayer shall be considered restricted and may only be used if the taxpayer has become obligated to ORS. ORS may provide the information to any other state child support agency involved in enforcing the obligation.

R527-5-10. Fees.

— 1. ORS will provide requested records without a charge unless:

— a. The request is for records which require compiling and reporting in another format. A fee of \$25 per hour may be charged, or \$50 per hour if the request requires programmer/analyst assistance;

— b. The request is for an entire policy manual. The charge for a policy manual is \$75. As provided for in Utah Code Section 63-2-203, a courtesy copy will be provided at no charge to community advocacy groups/agencies;

— c. The request is a repeat request by the same requester for information already provided within the last three months.

2. When fees are charged, the fee will be \$.25 per side of sheet, plus any applicable actual postage costs.

R527-5-11. Request to Amend a Record.

Written requests to contest the accuracy or completeness of a public, private, or protected record shall be submitted in accordance with 63-2-603 to the appropriate ORS office that maintains the record as listed in R527-5-3(1).

R527-5-12. Reconsideration of Denial to Amend a Record.

Reconsideration of a denial to a request to amend a public, private, or protected record shall be requested in accordance with section 63-46b-13, the Utah Administrative Procedures Act.

KEY: child support, confidentiality, privacy law

Date of Enactment or Last Substantive Amendment: January 2, 2002

Notice of Continuation: January 16, 2007

Authorizing, and Implemented or Interpreted Law: 59-10-545(2); 62A-11-107; 62A-11-304.4(4); 62A-11-304.5; 63-2; 45 CFR 303.15; 45 CFR 303.70]

R527-5. Release of Information.

R527-5-1. Statutory Authority and Purpose.

(1) The Office of Recovery Services (ORS) is authorized to adopt, amend, and enforce rules by Title 62A, Chapter 11, Section 107(8).

(2) This rule establishes how ORS records may be accessed under Title 63G, Chapter 2, the Government Records Access and Management Act (GRAMA).

R527-5-2. Definitions.

(1) Terms used in this rule are defined either explicitly in section 63G-2-103 or implicitly in the text of subsection 63G-2-201.

(2) "Restricted", as used in subsection 63G-2-201(3)(b), refers to records to which access is restricted pursuant to court rule, another state statute, federal statute, or federal regulation. These records are not subject to the procedures for access and disclosure outlined in GRAMA.

R527-5-3. Request for Release of Information.

(1) Written requests for information governed by GRAMA may be submitted in accordance with section 63G-2-204 to:

(a) Office of Recovery Services

ATTN: ORS Records

515 East 100 South

P.O. Box 45033

Salt Lake City, UT 84145-0033.

(2) Written requests for expedited release of information in accordance with section 63G-2-204 may be submitted to:

(a) Office of Recovery Services

ATTN: ORS Records

515 East 100 South

P.O. Box 45033

Salt Lake City, UT 84145-0033.

(3) Written requests for information sent by e-mail in accordance with section 63G-2-204 may be sent to:

(a) orsrecords@utah.gov.

R527-5-4. Appeal of Denial of Request for Release of Information.

A request to appeal the denial to access a record governed by GRAMA shall be submitted in accordance with Section 63G-2-401 to:

(1) the Director of the Office of Recovery Services for records maintained by ORS.

R527-5-5. Public Information.

(1) In accordance with Utah Code Sections 63G-2-103 (21) and 63G-2-201 a record is public unless classified as private, controlled, protected, or exempt.

(2) In accordance with Utah Code Section 63G-2-307, a record may be classified or reclassified at any time, including after the record has been requested.

R527-5-6. Private Information.

(1) Private records include the following:

(a) the address, date of birth, and Social Security number (SSN) of ORS case participants;

(b) information about state employees, former employees and applicants, except as provided for in 63G-2-302.

(2) Private records may be disclosed when:

(a) disclosure is required by other statutes;

(b) disclosure is for purposes directly connected with any investigation, prosecution, or criminal or civil proceeding conducted in connection with Utah's child support enforcement plan and all other programs administered by the Office of Recovery Services;

(c) a parent who has physical custody of the child, a parent without physical custody of the child, a relative to whom physical custody of the child has voluntarily been given, or a parent's attorney, demonstrates that the other party's address is required in order to serve legal process as the result of a judicial action to establish or modify an order or judgment for bona fide child support, spousal support, medical support, or child care. This information may not be disclosed if the person whose address is being sought has requested that case information be safeguarded;

(d) a parent who has physical custody of the child, a parent without physical custody of the child, a relative to whom physical custody of the child has been voluntarily given, or a parent's attorney, requests the other party's address related to parent-time based on Title 62A, Section 11, Subsection 304.4;

(e) income information is needed to establish a support order or review a support order for possible modification. This information may only be released to the court or administrative Presiding Officer, the other party or the other party's authorized representative;

(f) a case participant's Social Security number, address or employment information is needed by authorized governmental entities, including law enforcement agencies and;

(i) the requesting entity enforces, litigates or investigates civil, criminal or administrative law and the record is necessary to a proceeding or investigation; or

(ii) the requesting entity is one that collects information for pre-sentence, probationary or parole purposes.

(g) a governmental agency provides written assurance that the record is necessary to the governmental entity's duties and functions and will be used for a purpose similar to the purposes for which ORS collected or obtained the information and that the record use produces a public benefit outweighing the individual privacy right protecting the record;

(3) A private record shall be disclosed in accordance with the requirements of Utah Code Section 63G-2-202.

(4) Private records may not be released when a protective order has been issued in violation of 42 USC 654(26), or if there is reason to believe the release of information may result in physical or emotional harm to the person.

R527-5-7. Controlled Information.

(1) A record is controlled if it meets the requirements of Utah Code Section 63G-2-304.

(2) Controlled records can only be released under the provisions of Utah Code Section 63G-2-202(2).

R527-5-8. Protected Information.

(1) A record is protected if it meets the requirements of Utah Code Section 63G-2-305.

(2) Protected records can only be released under the provisions of Utah Code Section 63G-2-202(4).

R527-5-9. Restricted Records Exempt from Release Under GRAMA.

(1) A record is restricted from release by ORS if it meets the requirements of Utah Code Section 63G-2-201(3)(b).

R527-5-10. Fees.

(1) ORS may provide requested records without a charge unless:
(a) The request is for records which require programmer assistance.

(b) The request is a repeat request by the same requester for information already provided within the last three months.

(2) Contact ORS Records for specific fee amounts.

KEY: accessing records, record requests, GRAMA compliance, records fees

Date of Enactment or Last Substantive Amendment: 2009

Notice of Continuation: January 16, 2007

Authorizing, and Implemented or Interpreted Law: 62A-11-107; 62A-11-304.4(4); 63G-2



Insurance, Title and Escrow
Commission
R592-13
Minimum Charges for Escrow Services

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 32167

FILED: 11/26/2008, 10:47

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to establish minimum charges for escrow services.

SUMMARY OF THE RULE OR CHANGE: The rule sets a minimum escrow fee based upon the purchase price or loan amount of the property in a sales transaction. The rule also includes a Penalty section and Enforcement Date section allowing 90 days from the effective date of the rule before the provisions of the rule will be enforced.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-404 and 31A-19a-209

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: If approved, title licensees will no longer need to file escrow rates, which will then eliminate the filing fee they were paying the department. What impact the loss of this filing fee will have on state revenues is not known since the department does not track the revenues by lines of insurance.

❖ LOCAL GOVERNMENTS: This rule deals solely with the relationship between the Title and Escrow Commission and title insurance licensees. It has no effect on local governments.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Title producers, agencies and insurers will no longer be required to pay filing fees to the state. The amount of this cost savings is unknown since the department has not tracked it. A filing fee is \$25. Before this rule companies, agents, and producers filed their own minimum escrow rates. Now with the rule everyone will have to start with the new minimum, which will level the playing field. This will help the consumer because they will know where the escrow fee starting point will be based on the loan amount.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Title producers, agencies, and insurers will no longer be required to pay filing fees to the state. The amount of this cost savings is unknown since the department has not tracked it. A filing fee is \$25. Before this rule companies, agents, and producers filed their own minimum escrow rates. Now with the rule everyone will have to start with the new minimum, which will level the playing field. This will help the consumer because they will know where the escrow fee starting point will be based on the loan amount.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Licensees will see a cost savings as a result of no longer having to pay the filing fee. However, the fiscal impact of the new minimum escrow fee rule will vary from licensee to licensee. Much will depend on what they were charging before this minimum went into effect.
D. Kent Michie, Insurance Commissioner

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

INSURANCE
TITLE AND ESCROW COMMISSION
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 01/14/2009

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 1/12/2009 at 9:00 AM, Utah State Capitol, Room 250, 350 N State St, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2009

AUTHORIZED BY: Jilene Whitby, Information Specialist

R592. Insurance, Title and Escrow Commission.
R592-13. Minimum Charges for Escrow Services.
R592-13-1. Authority.

This rule is promulgated by the Title and Escrow Commission pursuant to the authority provided in Section 31A-2-404, authorizing the Title and Escrow Commission to write rules, and Section 31A-19a-209, authorizing rules to establish minimum charges for escrow services.

R592-13-2. Purpose and Scope.

- (1) The purpose of this rule is to establish minimum charges for escrow services.
- (2) This rule applies to all title insurers, agencies and producers providing escrow services in Utah.

R592-13-3. Definitions.

In addition to the definitions of Sections 31A-1-301, 31A-2-402, and 31A-19a-102, the following definitions shall apply for the purpose of this rule:

- (1) "Charge" means a dollar amount charged for a service rendered by a title insurer, title agency, or title producer.
- (2) "Minimum escrow fee" means the lowest amount that can be charged for escrow settlement services that are rendered which incorporates both the escrow closing charge and the basic document preparation charge.
- (3) "Pass through charges" means the actual and reasonable charge or expense for services rendered that are not included in the minimum escrow fee.

R592-13-4. Minimum Charge for Escrow Services.

(1) A title insurer, agency and producer providing escrow services in Utah must not charge less than the minimum escrow fee for each side of the transaction. The minimum escrow fee shall be as follows:

TABLE

Purchase Price/Loan Amount	Minimum Escrow Fee
\$0 to \$180,000.00	\$150.00 per side
\$180,000.01 to \$250,000.00	\$250.00 per side
\$250,000.01 and above	\$350.00 per side

- (a) As an example:
 - (i) On a real estate purchase of \$100,000 the minimum escrow fees would be as follows:
 - (A) \$150 charged to the buyer;
 - (B) \$150 charged to the seller.
 - (ii) On a refinance loan amount of \$300,000 the minimum escrow fee would be \$350 charged to the borrower.
- (2) All other charges or expenses must be actual and reasonable passed through to the consumer.

R592-13-5. Penalties.

A person found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

R592-13-6. Enforcement Date.

The commissioner will begin enforcing this rule 90 days from the rule's effective date.

R592-13-7. Severability.

If any provision of this rule or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of the provision to other persons or circumstances shall not be affected thereby.

KEY: title, escrow insurance

Date of Enactment or Last Substantive Amendment: 2009
Authorizing, and Implemented or Interpreted Law: 31A-2-404, 31A-19a-209



Transportation, Program Development
R926-10
 Tollway Development Agreements

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32179

FILED: 11/26/2008, 14:04

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule change is to correct numbering errors found in the rule. The rule also updates and clarifies language in the rule. The reason for the change is to simplify the language of the rule.

SUMMARY OF THE RULE OR CHANGE: The statutes referenced in the rule have been updated to reflect the recent code renumbering. Other referenced rules were corrected to fix typographical errors. Other language was removed to prevent redundancy.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 72-2-120, 72-6-118, and 72-6-201

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** No cost or savings are anticipated with this rule change. No new requirements were created with this rule change which will impact the state budget.
- ❖ **LOCAL GOVERNMENTS:** No cost or savings are anticipated for local governments with this rule change. No new requirements were created with this rule change that impact local governments.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** No cost or savings are anticipated for small businesses with this rule change. No new requirements were created with this rule change that impact small businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No new requirements were created with this rule change that impact affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule should have no fiscal impact on businesses. John Njord, Executive Director

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

TRANSPORTATION
PROGRAM DEVELOPMENT
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Maureen Short at the above address, by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at maureenshort@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/14/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2009

AUTHORIZED BY: John R. Njord, Executive Director

R926. Transportation, Program Development.

R926-10. Tollway Development Agreements.

R926-10-2. Authority.

(1) The provisions of this rule are authorized by the following grants of rulemaking authority and provisions of Utah Codes: Title 63G, Chapter 3; Title 63G, Chapter 6; Title 72, Chapter 2, Section 120; Title 72, Chapter 6, Section 118; and the Public-Private Partnerships for Tollways Act, Utah Code Sections 72-6-201 et seq.

(2) When the Executive Director or designee determines it appropriate and upon approval by the Commission, the Department may enter into tollway development agreements.

R926-10-3. Definitions.

Except as otherwise stated in this rule, terms used in this rule are defined in the applicable Statutes. The following additional terms are defined for this rule:

(1) "Commission" means the Utah Transportation Commission, which is created in Utah Code Ann. Section 72-1-301.

(2) "Department" means the Utah Department of Transportation, which is created in Utah Code Ann. Section 72-1-101.

(3) "Executive Director" means the executive director of the Department.

(4) "Proposer" means private entities that submit letters of interest, qualifications, or proposals under these rules for the purposes of entering into a tollway development agreement with the Department, and may include a person or persons, firms, partnerships or companies or any combination or consortium thereof.

(5) "Public-Private Partnership" means an agreement, including but not limited to tollway development agreements, between the Department and one or more public or private entities where there is private sector involvement in ~~the delivery of transportation projects, including but not limited to, private sector involvement in any or all of the following project phases:~~ predevelopment activities, design, construction, reconstruction, financing, acquisition, maintenance or operations. Public private partnership agreements may include reallocations of the traditional risk assignments between the parties to the agreement.

(6) "State" means the State of Utah.

R926-10-5. Unsolicited Proposals.

(1) The Department may accept delivery of unsolicited tollway development agreement proposals. An unsolicited proposal shall, at a minimum, provide the information required for tollway development agreement proposals set forth in Utah Code Section 72-6-204. The Department may determine that additional information or other requirements be provided in an unsolicited proposal. Any such additional requirements, along with contact information, will be posted on the Department's website.

(a) Any proposer submitting an unsolicited proposal must provide a minimum of 20 copies or the proposal will not be reviewed.

(b) The unsolicited proposal must state the period during which the proposal will remain valid, which shall be not less than 12 months following delivery.

(2) The Department may appoint an individual or a screening committee, as it deems appropriate, to screen and evaluate unsolicited proposals to determine whether to request competing proposals and qualifications or reject the unsolicited proposal. The review shall be in two stages:

(a) The initial screening shall be a summary review to determine whether the unsolicited proposal generally meets the minimum statutory and regulatory requirements and merits further review. Proposals that do not generally meet the minimum requirements established under statute and these rules or that the Department otherwise determines do not merit further review may be summarily rejected.

(b) The second stage of review shall be a more thorough review and evaluation of the unsolicited proposal for the purpose of allowing the Department to determine whether to issue a request for competing proposals and qualifications.

(3) The Department will consider an unsolicited proposal only if the proposed project is not substantially duplicative of transportation system projects that have been fully funded by the State, the Department, or any other public entity as of the date the proposal is submitted.

(4) The Department shall give priority to unsolicited proposals that address projects identified on the Statewide Transportation Improvement Program or Long-Range Plan and encourages submittal of proposals that would materially advance or accelerate their implementation.

(5) The Department may, in its sole discretion, reject any unsolicited proposal. If the Department elects to issue a request for competing proposals and qualifications, it may modify the project described in the unsolicited proposal. If the Department issues a request for competing proposals, the proposer that submitted the unsolicited proposal will be offered the opportunity to participate in the competition.

(6) The process for soliciting competing proposals and qualifications shall meet all requirements of Utah Code Section 63-56-502.5. The Department may issue a request for qualifications to prequalify potential proposers interested in responding to the solicitation separate from the request for competing proposals, or it may issue a solicitation package that combines the request for proposals and qualifications. The solicitation package shall include the information required under Utah Code Sections 72-6-205(3)(b) and any other information deemed advisable by the Department. The solicitation may request competing proposals, either at a conceptual or detailed level, or it may request proposals for alternative concepts, in which case the Department would review the concepts and determine whether to reject the proposals. ~~or proceed with a new request for competing proposals. All proposers that respond to a competing proposal, s~~ Solicitation, whether conceptual or detailed, must address the technical and financial portions of the proposed project.

(7) If the Department elects to issue a request for competing proposals, the Department shall provide public notice of the proposed project according to Section R926-10-4. Any entity that intends to submit a competing proposal shall provide a written letter of intent to the Department not later than 45 calendar days after the Department's publication of notice for competing proposals. Any letters of intent received by the Department after the expiration of the 45-day period shall not be valid and any competing proposal issued by an entity that did not comply with these letter of intent requirements shall not be considered. An entity that submits a letter of intent must submit its competing proposal in the manner specified in the request for competing proposals.

(8) If the Department elects not to issue a request for competing proposals in response to an unsolicited proposal, or if the Department issues a request for competing proposals that make significant modifications to the concepts in the original unsolicited proposal, the Department will notify the proposer that submitted the unsolicited proposal of the rejection or modification and reasons for the rejection or modification. The Department may also post information on the Department website regarding the reasons for rejection or modification.

(9) The Department will assess a screening fee for every unsolicited proposal received and an evaluation fee for every unsolicited proposal that is evaluated. The fees have been set with the intent of substantially covering the costs to the Department for review of the proposal. The unsolicited proposal shall be accompanied by a separate check for each fee, which must be a cashier's, certified, or official check drawn by a federally insured financial institution as follows:

(a) A check in the amount of \$10,000 for the initial screening; and

(b) A check for the evaluation fee equal to the lesser of (i) the sum of \$20,000 plus .01% of the total estimated cost of design and construction of the project or (ii) \$200,000. This check will be returned to the proposer if the proposal is rejected after the initial screening and prior to the more thorough evaluation.

(10) The Department may waive the fee for an unsolicited proposal, in whole or in part, if it determines that its costs have been substantially covered by a portion of the fee or if it is otherwise determined to be reasonable and in the best interests of the State.

(11) If the Department decides to solicit competing proposals, the Department may require each proposer that submits a competing proposal to submit a fee. The amount of the fee will be identified in the solicitation documents and will not exceed the amount of the

evaluation fee for the original unsolicited proposal. The proposer that submitted the original unsolicited proposal will be exempt from this fee.

R926-10-7. Request for Qualifications (RFQ).

(1) The Department may issue a Request for Qualifications (RFQ) in order to solicit qualification statements from entities wishing to submit proposals for a tollway development agreement project. The RFQ may be required to be submitted prior to or with a conceptual proposal or detailed proposal.

(2) Any RFQ shall require that potential proposers provide the information described in Utah Code Section ~~[63-56-502.5(3)(e)]~~ [63G-6-502(4)(c)]; and any other information the Department, in its sole discretion, required as stated in the RFQ.

(3) The selection committee shall narrow the field of proposers by short-listing the most qualified proposers, not to exceed the maximum number designated in the RFQ.

(4) If only one entity responds to the RFQ or if only one proposer meets the minimum qualification requirements in the RFQ, the Department may negotiate with that single proposer in accordance with section R926-10-10(2).

(5) Engineering and consultant firms who participated in preparation of specifications or other solicitation documents used by the Department for the procurement of a portion, but not all, of the project may participate as proposers or as a member of the proposing entities, upon approval of the Department.

R926-10-14. Protests.

(1) Protests prior to notice of intent to award shall be governed by the Utah Code Sections ~~[63-56-801]~~ [63G-6-801 and 802] and ~~[63-56-803]~~ [63G-6-811].

(2) Upon notice of intent to award, a proposer who would be adversely affected by the selection announced may, within ten calendar days after the date of such notice, submit to the Department a written protest of the selection of the apparent successful proposer.

(3) For purposes of this rule, a protesting proposer is adversely affected by a selection only if the proposer has submitted a responsive competing proposal and is next-in-line for selection. In other words the protesting proposer must demonstrate that all higher-ranked proposers are ineligible for selection because either:

(a) The higher-scoring proposals were not responsive to the requirements stated in the Department's solicitation documents; or

(b) The protesting proposer would have been ranked higher than the other proposers but for Departments (i) material failure to follow the procedures set forth in the RFP and other solicitation documents, (ii) material failure to conform to requirements set forth in these rules or in applicable state statutes, or (iii) abuse of discretion in evaluating and ranking the revised proposals.

(4) A proposer's written protest must state facts and arguments that demonstrate how the selection process was flawed or how selection of the apparent successful proposer constituted an abuse of Department's discretion. If the Department receives no written protest within the ten-day period, then any protesting proposer shall lose any rights or opportunity to advance any claim against the department or state relating to the proposed project.

(5) In response to a proposer's timely filed protest that complies with this rule, the Department will issue a written decision that resolves the issues raised in the protest. In considering a timely protest, the Department may request further information from the protesting proposer and from the apparent successful proposer identified in the Department's notice issued under subsection (2) of

this section. The Department will make its written determination available, by mail or by electronic means, to the protesting proposer and to the apparent successful proposer.

(6) The Department shall have the authority, prior to the commencement of an action in court concerning the controversy, to settle and resolve the protest.

KEY: transportation, highways, public-private partnerships, tolls
Date of Enactment or Last Substantive Amendment: [~~October 16, 2008~~2009
Authorizing, and Implemented or Interpreted Law: 72-1-201; 72-6-118



End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive public comment that requires the PROPOSED RULE to be altered before it goes into effect. A CHANGE IN PROPOSED RULE allows an agency to respond to comments it receives.

As with a PROPOSED RULE, a CHANGE IN PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the CHANGE IN PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the CHANGE IN PROPOSED RULE is usually printed. The text shows only those changes made since the PROPOSED RULE was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [~~example~~]). A row of dots in the text between paragraphs (.) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends January 14, 2009. At its option, the agency may hold public hearings.

From the end of the waiting period through April 14, 2009, the agency may notify the Division of Administrative Rules that it wants to make the CHANGE IN PROPOSED RULE effective. When an agency submits a NOTICE OF EFFECTIVE DATE for a CHANGE IN PROPOSED RULE, the PROPOSED RULE as amended by the CHANGE IN PROPOSED RULE becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by Section 63G-3-303; and Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

The Changes in Proposed Rules Begin on the Following Page.

**Crime Victim Reparations,
Administration
R270-1-19
Medical Awards**

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 31950
Filed: 11/18/2008, 13:15

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During the comment period, the Crime Victim Reparations (CVR) Board recognized changes that needed to be made to the proposed rule in order to clarify the proposal and to hold victims harmless.

SUMMARY OF THE RULE OR CHANGE: The change removes language that restricts CVR's ability to pay portions of a medical bill for which the victim is responsible by terms of an insurance contract. The change also provides clarifying language. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the October 1, 2008, issue of the Utah State Bulletin, on page 13. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63M-7-521.5

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** In some circumstances, CVR will pay more on a medical bill than would have been the case with the original proposal. This rule change will allow CVR to pay the entire portion of the medical bill that the victim is obligated to pay according to the terms of the medical insurance agreement (e.g. the victim's copay or deductible). Under the original proposal, CVR could have paid no more than the difference between 70% of the billed charges and the amount that the insurance paid. CVR estimates that the increased payments resulting from this change will be less than \$150,000 per year.

❖ **LOCAL GOVERNMENTS:** These payments are not made to local government nor are these payments made on behalf of local government. Therefore, this change will have not impact local government.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** In some circumstances, medical providers that bill CVR directly for the victim's copay or deductible will receive more money that would be the case under the original proposal. This change will permit CVR to pay the entire amount of the copay or deductible whereas the original proposal would have limited payment of the copay or deductible to no more than the difference between 70% of the billed charges and the amount that the insurance paid.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This change will not involve any additional compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It is my understanding that the business affected by this change may actually receive more money than under the original proposal. Robert Yeates, Executive Director, Commission on Criminal and Juvenile Justice

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

CRIME VICTIM REPARATIONS
ADMINISTRATION
Room 200
350 E 500 S
SALT LAKE CITY UT 84111-3347, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Ronald B Gordon at the above address, by phone at 801-238-2367, by FAX at 801-533-4127, or by Internet E-mail at rbgordon@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/14/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2009

AUTHORIZED BY: Ronald B Gordon, Director

**R270. Crime Victim Reparations, Administration.
R270-1. Award and Reparation Standards.
R270-1-19. Medical Awards.**

A. Pursuant to Subsection 63M-7-511(4)(b), medical awards are subject to limitations as follows:

1. All medical costs must be related directly to the victimization and all treatment must be considered usual and customary.

2. The reparation officer reserves the right to audit any and all billings associated with medical care.

3. The reparation officer will not pay any interest, finance, or collection fees as part of the award.

4.[-]a. If the claimant has no medical insurance or other collateral source for payment of the victim's medical bill, the Office of Crime Victim Reparations shall pay 70% of billed charges for eligible medical bills.

b. If the claimant has medical insurance or another collateral source for payment of the victim's medical bills, the Office of Crime Victim Reparations shall pay the portion of the eligible medical bills that the claimant is obligated to pay pursuant to the insurance agreement [~~except that payment from all sources including insurance shall not exceed 70% of billed charges~~].

c. This subsection (4) does not apply to expenses governed by R270-1-4 or R270-1-22.

5. This rule supersedes any other agreements regarding payment of medical bills by the Office of Crime Victim Reparations.

6. Child endangerment examinations for children that have been exposed to drugs shall be paid for when the health and safety of the

child is at risk and no other collateral source is available. The cost of the exam needs to be an expense incurred by the victim. The writing of evidentiary reports and any form of lab testing shall not be covered as part of the examination.

KEY: victim compensation, victims of crimes

Date of Enactment or Last Substantive Amendment: ~~2008~~2009

Notice of Continuation: July 3, 2006

Authorizing, and Implemented or Interpreted Law: 63M-7-501 et seq.

◆ ————— ◆

Environmental Quality, Radiation Control **R313-21** General Licenses

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 32050
Filed: 11/26/2008, 13:26

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change in proposed rule is filed subsequent to a request from the Nuclear Regulatory Commission after a compatibility review.

SUMMARY OF THE RULE OR CHANGE: This filing adds the text "or initially transferred" to Subsection R313-21-21(5)(b) and replaces the text "importer" with "initial transferor" in Subsection R313-21-22(7)(c)(ii). (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the November 1, 2008, issue of the Utah State Bulletin, on page 47. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-3-104

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. The proposed changes do not add or remove significant requirements that affect the radiation control program or the Utah Radiation Control Board.

❖ **LOCAL GOVERNMENTS:** Some local government agencies hold a radioactive material license, but there is no anticipated cost or savings for local government agencies. The proposed changes do not add or remove significant requirements that affect the radiation control program or the Utah Radiation Control Board.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** Small businesses and persons other than businesses may hold a radioactive material license, but there is no anticipated

cost or savings for small businesses and persons other than businesses. The proposed changes do not add or remove significant requirements that affect the radiation control program or the Utah Radiation Control Board.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no changes in compliance costs for persons affected by Rule R313-21. The proposed changes do not add or remove significant requirements that affect the radiation control program or the Utah Radiation Control Board.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses with a radioactive material license will not see a fiscal impact due to the proposed changes to Rule R313-21. The proposed changes do not add or remove significant requirements that affect the radiation control program or the Utah Radiation Control Board.
Richard W. Sprott, Executive Director

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

ENVIRONMENTAL QUALITY
RADIATION CONTROL
Room 212
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mario A. Bettolo at the above address, by phone at 801-536-4256, by FAX at 801-533-4097, or by Internet E-mail at mbettolo@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/15/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 02/15/2009

AUTHORIZED BY: Dane Finerfrock, Director

R313. Environmental Quality, Radiation Control.

R313-21. General Licenses.

R313-21-21. General Licenses--Source Material.

(1) A general license is hereby issued authorizing commercial and industrial firms, research, educational and medical institutions, and state and local government agencies to use and transfer not more than 6.82 kilogram (15 lb) of source material at any one time for research, development, educational, commercial, or operational purposes. A person authorized to use or transfer source material, pursuant to this general license, may not receive more than a total of 68.2 kilogram (150 lb) of source material in any one calendar year.

(2) Persons who receive, possess, use, or transfer source material pursuant to the general license issued in R313-21-21(1) are exempt from the provisions of R313-15 and R313-18, to the extent that such receipt, possession, use or transfer is within the terms of the general license; provided, however, that this exemption shall not be deemed to apply to a person who is also in possession of source material under a specific license issued pursuant to R313-22.

(3) Persons who receive, possess, use, or transfer source material pursuant to the general license in R313-21-21(1) are prohibited from administering source material, or the radiation therefrom, either externally or internally, to human beings except as may be authorized by the Executive Secretary in a specific license.

(4) A general license is hereby issued authorizing the receipt of title to source material without regard to quantity. This general license does not authorize a person to receive, possess, use, or transfer source material.

(5) Depleted uranium in industrial products and devices.

(a) A general license is hereby issued to receive, acquire, possess, use, or transfer, in accordance with the provisions of R313-21-21(5)(b), (c), (d), and (e), depleted uranium contained in industrial products or devices for the purpose of providing a concentrated mass in a small volume of the product or device.

(b) The general license in R313-21-21(5)(a) applies only to industrial products or devices which have been manufactured or initially transferred, either in accordance with a specific license issued to the manufacturer of the products or devices pursuant to R313-22-75(11) or in accordance with a specific license issued to the manufacturer by the Nuclear Regulatory Commission, an Agreement State, or a Licensing State which authorizes manufacture of the products or devices for distribution to persons generally licensed by the Nuclear Regulatory Commission, an Agreement State, or a Licensing State.

(c)(i) Persons who receive, acquire, possess, or use depleted uranium pursuant to the general license established by R313-21-21(5)(a) shall file form DRC-12 "Registration Form-Use of Depleted Uranium Under General License," with the Executive Secretary. The form shall be submitted within 30 days after the first receipt or acquisition of depleted uranium. The registrant shall furnish on form DRC-12 the following information and other information as may be required by that form:

(A) name and address of the registrant;

(B) a statement that the registrant has developed and will maintain procedures designed to establish physical control over the depleted uranium described in R313-21-21(5)(a) and designed to prevent transfer of such depleted uranium in any form, including metal scrap, to persons not authorized to receive the depleted uranium; and

(C) name and title, address, and telephone number of the individual duly authorized to act for and on behalf of the registrant in supervising the procedures identified in R313-21-21(5)(c)(i)(B).

(ii) The registrant possessing or using depleted uranium under the general license established by R313-21-21(5)(a) shall report in writing to the Executive Secretary any changes in information previously furnished on form DRC-12 "Registration Form - Use of Depleted Uranium Under General License." The report shall be submitted within 30 days after the effective date of the change.

(d) A person who receives, acquires, possesses, or uses depleted uranium pursuant to the general license established by R313-21-21(5)(a):

(i) shall not introduce depleted uranium, in any form, into a chemical, physical, or metallurgical treatment or process, except a treatment or process for repair or restoration of any plating or other covering of the depleted uranium;

(ii) shall not abandon depleted uranium;

(iii) shall transfer or dispose of depleted uranium only by transfer in accordance with the provisions of R313-19-41. In the case where the transferee receives the depleted uranium pursuant to the general license established by R313-21-21(5)(a), the transferor shall furnish the transferee a copy of R313-21 and a copy of form DRC-12. In the case

where the transferee receives the depleted uranium pursuant to a general license contained in the Nuclear Regulatory Commission's or Agreement State's regulation equivalent to R313-21-21(5)(a), the transferor shall furnish the transferee a copy of this rule and a copy of form DRC-12 accompanied by a note explaining that use of the product or device is regulated by the Nuclear Regulatory Commission or Agreement State under requirements substantially the same as those in R313-21;

(iv) within 30 days of any transfer, shall report in writing to the Executive Secretary the name and address of the person receiving the depleted uranium pursuant to the transfer;

(v) shall not export depleted uranium except in accordance with a license issued by the Nuclear Regulatory Commission pursuant to 10 CFR Part 110; and

(vi) shall pay annual fees pursuant to R313-70.

(e) Any person receiving, acquiring, possessing, using, or transferring depleted uranium pursuant to the general license established by R313-21-21(5)(a) is exempt from the requirements of R313-15 and R313-18 of these rules with respect to the depleted uranium covered by that general license.

R313-21-22. General Licenses*--Radioactive Material Other Than Source Material.

NOTE: *Different general licenses are issued in this section, each of which has its own specific conditions and requirements.

(1) Certain devices and equipment. A general license is hereby issued to transfer, receive, acquire, own, possess, and use radioactive material incorporated in the following devices or equipment which have been manufactured, tested and labeled by the manufacturer in accordance with a specific license issued to the manufacturer by the Executive Secretary, the Nuclear Regulatory Commission, an Agreement State, or a Licensing State for use pursuant to 10 CFR 31.3.

This general license is subject to the provisions of R313-12-51 through R313-12-70, R313-14, R313-15, R313-18 and R313-19 as applicable.

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(6) Ownership of radioactive material. A general license is hereby issued to own radioactive material without regard to quantity. Notwithstanding any other provisions of R313-21, this general license does not authorize the manufacture, production, transfer, receipt, possession, use, import, or export of radioactive material except as authorized in a specific license.

(7) Calibration and reference sources.

(a) A general license is hereby issued to own, receive, acquire, possess, use and transfer, in the form of calibration or reference sources, americium-241, plutonium or radium-226 in accordance with the provisions of R313-21-22(7)(b) and (c), to a person who holds a specific license issued by the Executive Secretary which authorizes that person to receive, possess, use and transfer radioactive material.

(b) The general license in R313-21-22(7)(a) applies only to calibration or reference sources which have been manufactured or initially transferred in accordance with the specifications contained in a specific license issued to the manufacturer or importer of the sources by the Nuclear Regulatory Commission pursuant to 10 CFR 32.57 or 10 CFR 70.39 or which have been manufactured in accordance with the specifications contained in a specific license issued to the manufacturer by the Executive Secretary, a Licensing State, or an Agreement State in accordance with requirements equivalent to 10 CFR 32.57 or 10 CFR 70.39.

(c) The general license provided in R313-21-22(7)(a) is subject to the provisions of R313-12-51 through R313-12-53, R313-12-70, R313-14, R313-19-34, R313-19-41, R313-19-61, R313-19-100, R313-15 and R313-18. In addition, persons who own, receive, acquire, possess, use or transfer one or more calibration or reference sources pursuant to these general licenses:

(i) shall not possess at any one time, at any one location of storage or use, more than 185.0 kilobecquerel (5 uCi) of americium-241, 185.0 kilobecquerel (5 uCi) of plutonium, or 185.0 kilobecquerel (5 uCi) of radium-226 in such source;

(ii) shall not receive, possess, use or transfer a source unless the source, or the storage container, bears a label which includes one of the following statements or a substantially similar statement which contains the information called for in the following statement:

The receipt, possession, use and transfer of this source, Model No., Serial No., are subject to a general license and the regulations of the United States Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.

CAUTION - RADIOACTIVE MATERIAL
THIS SOURCE CONTAINS (AMERICIUM-241)(PLUTONIUM)(RADIUM-226)*

DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.

.....
Typed or printed name of the manufacturer or ~~importer~~ initial transferor

NOTE: *Show the name of the appropriate material.

(iii) shall not transfer, abandon, or dispose of a source except by transfer to a person authorized by a license from the Executive Secretary, the Nuclear Regulatory Commission, an Agreement State, or a Licensing State to receive the source;

(iv) shall store a source, except when the source is being used, in a closed container adequately designed and constructed to contain americium-241, plutonium, or radium-226 which might otherwise escape during storage; and

(v) shall not use a source for any purpose other than the calibration of radiation detectors or the standardization of other sources.

(f) These general licenses do not authorize the manufacture, import, or export of calibration or reference sources containing americium-241, plutonium, or radium-226.

(8) RESERVED.

(9) General license for use of radioactive material for certain in vitro clinical or laboratory testing.*

NOTE: *The New Drug provisions of the Federal Food, Drug and Cosmetic Act also govern the availability and use of any specific diagnostic drug in interstate commerce.

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KEY: radioactive materials, general licenses, source materials
Date of Enactment or Last Substantive Amendment: ~~2008~~2009
Notice of Continuation: December 10, 2003
Authorizing, and Implemented or Interpreted Law: 19-3-104



End of the Notices of Changes in Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by Section 63G-3-305.

Public Safety, Criminal Investigations and Technical Services, Criminal Identification

R722-900

Review and Challenge of Criminal Record

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 32148
FILED: 11/17/2008, 12:09

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 53-10-108(8)(a) requires the Commissioner of Public Safety to establish procedures to allow an individual to review his criminal history record information. Subsection 53-10-108(8)(c) requires the Commissioner to establish procedures to allow an individual to challenge the completeness and accuracy of his criminal history record information as contained in the department's computerized criminal history files. The purpose of this rule is to establish those procedures.

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 so individuals can review their criminal history to make sure the information is accurate and complete. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PUBLIC SAFETY
CRIMINAL INVESTIGATIONS AND

TECHNICAL SERVICES, CRIMINAL IDENTIFICATION
3888 W 5400 S
TAYLORSVILLE UT 84118, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Alice Erickson at the above address, by phone at 801-965-4939, by FAX at 801-965-4944, or by Internet E-mail at aerickso@utah.gov

AUTHORIZED BY: Alice Erickson, Bureau Chief

EFFECTIVE: 11/17/2008



Public Service Commission, Administration **R746-360**

Universal Public Telecommunications Service Support Fund

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 32162
FILED: 11/25/2008, 10:59

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 54-8b-15 requires that the Public Service Commission (PSC) establish rules governing the administration of the fund. This rule governs maintenance of the fund, establishes its revenue sources and disbursement procedures, to support residential local access networks from the fund and amounts collected through rates and charges paid by service end-users. All qualifying telecommunications corporations are able to draw from the fund, which collects and distributes funds in a nondiscriminatory and a competitively and technologically neutral way.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: In 2004 comments were received from the Division of Public Utilities regarding changes to the one-time distribution portions of the rule. The Division suggested to lower the cap amount of the fund to \$10,000 per customer. Qwest concurred with the proposed amendment submitted by the Division of Public Utilities but had concerns with unintended effects on Utah customers and the telecommunications market. After consideration of submitted comments the PSC amended the rule, changing the total amount of money the Universal Service Support Fund will pay for a project from \$25,000 to \$10,000. The change also increased the percentage of the costs of a relatively low-cost project that is paid for by the Universal Service Support fund. It decreased the percentage of costs paid for by the Fund for relatively expensive projects. In 2006 the Division of Public Utilities recommended the Universal Service Fund surcharge should decrease from 0.9% to 0.5% which would decrease the fund balance from \$6,500,000 to about \$4,000,000 over the projected time period. Qwest responded in comments by requesting the rule change be made effective the first of the month to coincide with the start of the new billing cycle. The PSC amended the rule to reduce the surcharge and made the change effective in July 2006. In September of 2008 comments were received suggesting changes to amend the definition of basic telecommunications service in Utah. The proposal was to add CLASS calling features and voice-mail features whose costs would be recovered through the state fund. The PSC considered the proposals but denied the request to amend the rule. The PSC did not believe amending the definition of basic service to include these optional services was warranted at this time and consistent with the purpose of the state and federal universal service funds. The PSC desires to see what changes arise from the federal government's efforts to revise the federal universal service fund support mechanisms that may cover these services and take advantage of federal funding if these services are to be supported through subsidies. Also in September 2008 the Division of Public Utilities suggested decreasing the surcharge rate to decrease the prospect of a higher Fund balance not warranted by anticipated future expenditures. PSC amended the rule and changed the existing surcharge of 0.5 percent to 0.45%.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary so that the PSC can continue governing the administration and maintenance of the fund and to establish its revenue sources and disbursement procedures and should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sandy Mooy or Sheri Bintz at the above address, by phone at 801-530-6708 or 801-530-6714, by FAX at 801-530-6796 or 801-530-6796, or by Internet E-mail at smooy@utah.gov or sbintz@utah.gov

AUTHORIZED BY: Sandy Mooy, Legal Counsel

EFFECTIVE: 11/25/2008



School and Institutional Trust Lands,
Administration
R850-61
Native American Grave Protection and
Repatriation

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 32147

FILED: 11/17/2008, 08:43

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsections 53C-1-302(1)(a)(ii) and 53C-2-201(1)(a) authorize the Director of the School and Institutional Trust Lands Administration to prescribe the management of cultural resources on trust lands. Subsection 53C-1-201(5)(b) directs the agency to provide for the ownership and control of Native American remains as defined in Section 9-9-402, when they are discovered on trust lands.

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 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: As the agency continues to develop various uses for lands granted to the specific trusts, proper handling of cultural resources located on those trust lands is of great importance. The need for this rule outlining the manner by which the agency provides for the ownership and control of Native American remains discovered on trust lands continues to be important. Therefore, this rule should be continued.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS
ADMINISTRATION
Room 500

675 E 500 S
SALT LAKE CITY UT 84102-2818, or
at the Division of Administrative Rules.

AUTHORIZED BY: Kevin S. Carter, Director

EFFECTIVE: 11/17/2008

DIRECT QUESTIONS REGARDING THIS RULE TO:
Effie Burns at the above address, by phone at 801-538-5161,
by FAX at 801-355-0922, or by Internet E-mail at
eburns@utah.gov



End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file an extension with the Division of Administrative Rules. The extension permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed extensions for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date. The five-year review extension is governed by Subsection 63G-3-305(4) and (5).

Health

Community and Family Health Services, Children with Special Health Care Needs

No. 32158: R398-10. Autism Spectrum Disorders and Mental Retardation Reporting.

ENACTED OR LAST REVIEWED: 11/20/2003 (No. 26672, NEW, filed 09/30/2003 at 10:54 a.m., published 10/15/2003).

EXTENDED DUE DATE: 03/20/2009

End of the Notices of Five-Year Review Extensions Section

NOTICES OF EXPIRED RULES

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file an extension with the Division of Administrative Rules (Division). However, if the agency fails to file either the review or the extension by the five-year anniversary date of the rule, the rule expires. Upon expiration of the rule, the Division is required to remove the rule from the *Utah Administrative Code*. The agency may no longer enforce the rule, and it must follow regular rulemaking procedures to replace the rule if necessary.

The rules listed below were *not* reviewed in accordance with Section 63G-3-305. These rules have expired and have been removed from the *Utah Administrative Code*. The expiration of administrative rules for failure to comply with the five-year review requirement is governed by Subsection 63G-3-305(8).

Transportation

Operations, Traffic and Safety

No. 32165: R920-7. Public Safety Program Signing.

ENACTED OR LAST REVIEWED: 11/25/2003 (No. 26815, 5YR, filed 11/25/2003 at 2:37 p.m., published 12/15/2003).

EXPIRED: 11/26/2008

End of the Notices of Expired Rules 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

Commerce

Occupational and Professional Licensing

No. 31425 (AMD): R156-17b. Pharmacy Practice Act Rule.

Published: June 1, 2008

Effective: November 24, 2008

No. 31425 (CPR): R156-17b. Pharmacy Practice Act Rule.

Published: October 15, 2008

Effective: November 24, 2008

No. 31966 (AMD): R156-55d. Utah Construction Trades Licensing Act Burglar Alarm Licensing Rule.

Published: October 15, 2008

Effective: November 24, 2008

No. 31975 (AMD): R156-64. Deception Detection Examiners Licensing Act Rule.

Published: October 15, 2008

Effective: November 24, 2008

No. 31967 (AMD): R156-71-202. Naturopathic Physician Formulary.

Published: October 15, 2008

Effective: November 24, 2008

Community and Culture

Housing and Community Development

No. 31921 (AMD): R199-8-3. Application Requirements.

Published: September 15, 2008

Effective: November 18, 2008

Governor

Economic Development

No. 31981 (NEW): R357-4. Government Procurement Private Proposal Program.

Published: October 15, 2008

Effective: November 21, 2008

Insurance

Administration

No. 31939 (AMD): R590-157. Surplus Lines Insurance Premium Tax and Stamping Fee.

Published: October 1, 2008

Effective: November 18, 2008

No. 31937 (AMD): R590-176. Health Benefit Plan Enrollment.

Published: October 1, 2008

Effective: November 18, 2008

Labor Commission

Adjudication

No. 31991 (AMD): R602-1-5. Official Record.

Published: October 15, 2008

Effective: November 25, 2008

No. 31986 (NEW): R602-4. Procedures for Termination of Temporary Total Disability Compensation Pursuant to Reemployment Under Section 34A-2-410.5.

Published: October 15, 2008

Effective: November 25, 2008

Natural Resources

Wildlife Resources

No. 31960 (NEW): R657-61. Valuation of Real Property Interests for Purposes of Acquisition or Disposal.

Published: October 15, 2008

Effective: November 24, 2008

Public Safety

Fire Marshal

No. 31713 (NEW): R710-13. Reduced Cigarette Ignition Propensity and Firefighter Protection Act.

Published: August 1, 2008

Effective: November 24, 2008

Highway Patrol

No. 31987 (AMD): R714-158. Vehicle Safety Inspection Program Requirements.

Published: October 15, 2008

Effective: December 1, 2008

No. 31989 (AMD): R714-200. Standards for Vehicle Lights and Illuminating Devices.

Published: October 15, 2008

Effective: December 1, 2008

Peace Officer Standards and Training

No. 31930 (AMD): R728-403-2. United States
Citizenship Requirement.
Published: October 1, 2008
Effective: November 25, 2008

No. 31990 (NEW): R728-503. Utah Minimum
Standards for All Emergency Pursuit Policies to be
Adopted by Public Agencies that Operate Authorized
Emergency Pursuit Vehicles.
Published: October 15, 2008
Effective: November 25, 2008

Tax Commission

Property Tax

No. 31764 (AMD): R884-24P-33. 2008 Personal
Property Valuation Guides and Schedules Pursuant to
Utah Code Ann. Section 59-2-301.
Published: August 15, 2008
Effective: December 1, 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 December 1, 2008, the effective dates of which are no later than December 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
R13-1	Public Petitions for Declaratory Orders	31936	5YR	09/10/2008	2008-19/78
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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R17-5	Definitions for Rules in Title R17	31553	NEW	08/20/2008	2008-13/2
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
R23-19	Facility Use Rules	31931	AMD	12/04/2008	2008-19/3
R23-22	General Procedures For Acquisition and Selling of Real Property	31607	EMR	06/25/2008	2008-14/120
R23-22	General Procedures For Acquisition and Selling of Real Property	31606	NEW	09/11/2008	2008-14/3
R23-22	General Procedures For Acquisition and Selling of Real Property	31799	NSC	10/01/2008	Not Printed
R23-30	State Facility Energy Efficiency Fund	31942	NEW	11/10/2008	2008-19/5
<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
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R865-19S-94	Tips, Gratuities, and Cover Charges Pursuant to Utah Code Ann. Section 59-12-103	31531	AMD	08/18/2008	2008-13/115
R865-19S-99	Sales and Use Taxes on Vehicles Purchased in Another State Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-104(26), (28)	31272	NSC	06/23/2008	Not Printed
R865-19S-105	Procedures for Refund of Sales and Use Taxes Paid on Food Donated to a Qualified Emergency Food Agency Pursuant to Utah Code Ann. Section 59-12-902	31258	AMD	07/01/2008	2008-10/132
R865-19S-121	Sales and Use Tax Exemptions for Certain Purchases by a Mining Facility Pursuant to Utah Code Ann. Section 59-12-104	30841	AMD	02/25/2008	2008-1/37
R865-20T-13	Calculation of Tax on Moist Snuff Pursuant to Utah Code Ann. Section 59-14-302	31533	AMD	08/18/2008	2008-13/116
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R873-22M-41	Issuance of Salvage Certificate in Certain Circumstances Pursuant to Utah Code Ann. Section 41-1a-1005	31264	AMD	06/27/2008	2008-10/133
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R884-24P-38	Nonoperating Railroad Properties Pursuant to Utah Code Ann. Section 59-2-201(4)	31418	NSC	08/18/2008	Not Printed
R884-24P-62	Valuation of State Assessed Unitary Properties Pursuant to Utah Code Ann. Section 59-2-201	30931	AMD	03/28/2008	2008-4/30
R884-24P-62	Valuation of State Assessed Unitary Properties Pursuant to Utah Code Ann. Section 59-2-201	31274	NSC	06/23/2008	Not Printed
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R940-1	Establishment of HOT Lane Toll Rates	31637	AMD	10/16/2008	2008-14/115
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ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

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<u>access</u> Crime Victim Reparations, Administration	31324	R270-4	NSC	05/05/2008	Not Printed
<u>access to information</u> Administrative Services, Administration	31343	R13-2	NSC	05/05/2008	Not Printed
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	31702	R17-5	NSC	08/20/2008	Not Printed
	31554	R17-6	NEW	08/20/2008	2008-13/2
	31555	R17-7	NEW	08/20/2008	2008-13/3
	31556	R17-8	NEW	08/20/2008	2008-13/5
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	31138	R151-46b	CPR	09/22/2008	2008-16/53
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	31188	R477-3	AMD	07/01/2008	2008-10/87
	31210	R477-12	AMD	07/01/2008	2008-10/110
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	31388	R307-302-3	AMD	08/07/2008	2008-11/91
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	30706	R307-417	AMD	02/08/2008	2007-23/43
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	31320	R25-7	AMD	07/01/2008	2008-10/4
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	31264	R873-22M-41	AMD	06/27/2008	2008-10/133
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	31966	R156-55d	AMD	11/24/2008	2008-20/4
	31588	R156-55d	NSC	08/25/2008	Not Printed
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	31754	R714-500	AMD	10/15/2008	2008-16/31
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Alcoholic Beverage Control, Administration	31254	R81-1-2	AMD	06/27/2008	2008-10/10
	31273	R81-1-9	AMD	06/27/2008	2008-10/11
	31275	R81-1-10	AMD	06/27/2008	2008-10/13
	31279	R81-1-11	AMD	06/27/2008	2008-10/14
	31630	R81-1-11	NSC	08/25/2008	Not Printed

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	31329	R81-3-13	AMD	06/27/2008	2008-10/20
	31330	R81-3-14	AMD	06/27/2008	2008-10/21
	31154	R81-4C	NSC	05/01/2008	Not Printed
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	31287	R81-5-11	AMD	06/27/2008	2008-10/25
	31332	R81-7-1	AMD	06/27/2008	2008-10/26
	31334	R81-10	NEW	06/27/2008	2008-10/27
	31786	R81-10B	5YR	07/31/2008	2008-16/67
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<u>allowance</u> Administrative Services, Finance	31321	R25-8	AMD	07/01/2008	2008-10/7
	31982	R25-8	5YR	10/01/2008	2008-20/51
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<u>alternative fuels</u> Environmental Quality, Administration	31391	R305-4	NEW	10/08/2008	2008-11/84
	31391	R305-4	CPR	10/08/2008	2008-17/70
Environmental Quality, Air Quality	31389	R307-121	AMD	08/07/2008	2008-11/87
	30889	R307-121-3	NSC	01/30/2008	Not Printed
	31390	R307-123	NEW	10/08/2008	2008-11/89
	31390	R307-123	CPR	10/08/2008	2008-17/71
<u>alternative licensing</u> Education, Administration	32005	R277-503-4	NSC	11/17/2008	Not Printed
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<u>Americans with Disabilities Act 1992</u> Human Services, Administration	31367	R495-878	NSC	05/05/2008	Not Printed
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	31936	R13-1	5YR	09/10/2008	2008-19/78
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	31260	R123-3-2	NSC	05/05/2008	Not Printed
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	31546	R994-508	5YR	06/10/2008	2008-13/153
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	31071	R994-508-118	NSC	04/14/2008	Not Printed
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	31625	R657-59	EMR	06/27/2008	2008-14/129
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	32110	R414-59-4	EMR	11/01/2008	2008-22/50
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	31080	R710-5-3	AMD	05/23/2008	2008-8/35
	31747	R710-5-7	NSC	10/01/2008	Not Printed
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<u>birth defects</u> Health, Community and Family Health Services, Children with Special Health Care Needs	31070	R398-5	AMD	07/03/2008	2008-8/16
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	31598	R651-219-3	NSC	10/01/2008	Not Printed
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	31566	R859-1-501	AMD	09/01/2008	2008-13/106
	31899	R859-1-501	AMD	11/01/2008	2008-18/58
	31585	R859-1-506	AMD	09/01/2008	2008-13/108
	31898	R859-1-506	NSC	10/21/2008	Not Printed
	31586	R859-1-509	AMD	09/01/2008	2008-13/109
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	31754	R714-500	AMD	10/15/2008	2008-16/31
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	30573	R156-56-420	AMD	01/01/2008	2007-21/57
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	31050	R657-45-2	AMD	05/08/2008	2008-7/49
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	30841	R865-19S-121	AMD	02/25/2008	2008-1/37
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	30846	R277-470-7	AMD	02/07/2008	2008-1/9
	32024	R277-470-17	AMD	12/08/2008	2008-21/31
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	31857	R512-200	5YR	08/20/2008	2008-18/71
	31858	R512-201	5YR	08/20/2008	2008-18/71
	31859	R512-202	5YR	08/20/2008	2008-18/72
	31728	R512-202-2	NSC	10/01/2008	Not Printed
	31043	R512-204	NEW	05/08/2008	2008-7/31
	31729	R512-300	NSC	10/01/2008	Not Printed
	31860	R512-300	5YR	08/20/2008	2008-18/72
	31730	R512-301	NSC	10/01/2008	Not Printed
	31861	R512-301	5YR	08/20/2008	2008-18/73
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	31499	R986-700-752	NSC	07/02/2008	Not Printed

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	32079	R495-879	5YR	10/23/2008	2008-22/55
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	31151	R527-34	AMD	06/09/2008	2008-9/43
	30891	R527-39	5YR	01/10/2008	2008-3/78
	31498	R527-39-2	NSC	06/18/2008	Not Printed
	30939	R527-56	5YR	01/31/2008	2008-4/46
	31134	R527-56	AMD	06/09/2008	2008-9/44
	31409	R527-200	NSC	08/18/2008	Not Printed
	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	2008-18/75
	31163	R527-302	AMD	06/25/2008	2008-10/120
	31792	R527-302	NSC	10/01/2008	Not Printed
	30978	R527-305	5YR	02/12/2008	2008-5/58
	31025	R527-305	AMD	04/21/2008	2008-6/8
	30905	R527-430	5YR	01/14/2008	2008-3/78
	31161	R527-475	5YR	04/21/2008	2008-10/147
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	31808	R527-475-1	NSC	10/01/2008	Not Printed
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	31384	R527-601-1	NSC	08/18/2008	Not Printed
	31159	R527-920	NEW	06/27/2008	2008-10/122
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	31357	R382-10	AMD	07/01/2008	2008-10/55
	31977	R382-10	EMR	10/01/2008	2008-20/42
	31454	R382-10	5YR	05/19/2008	2008-12/53
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	31509	R645-102	5YR	06/02/2008	2008-12/58
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	31758	R645-401	5YR	07/28/2008	2008-16/72
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	31292	R156-55a	AMD	06/24/2008	2008-10/42
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	31902	R940-2	NSC	10/21/2008	Not Printed
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	31386	R861-1A-13	NSC	08/18/2008	Not Printed
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	31084	R539-9	AMD	05/22/2008	2008-8/26
	31593	R539-15	NEW	08/21/2008	2008-14/60
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	30845	R277-423	AMD	02/07/2008	2008-1/8
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	30969	R307-224	5YR	02/08/2008	2008-5/45
	30704	R307-224-2	AMD	02/08/2008	2007-23/39
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	30721	R512-50	NSC	01/07/2008	Not Printed
	30718	R512-50	REP	01/07/2008	2007-23/60
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	31190	R477-5	AMD	07/01/2008	2008-10/90
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	31373	R746-100	NSC	05/05/2008	Not Printed
	31372	R746-101-4	NSC	05/05/2008	Not Printed
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	31479	R33-3	NSC	06/18/2008	Not Printed

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	32059	R652-6-200	NSC	11/17/2008	Not Printed
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	31404	R861-1A-29	NSC	08/18/2008	Not Printed
	31406	R861-1A-30	NSC	08/18/2008	Not Printed
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	31460	R865-9I-12	AMD	08/14/2008	2008-12/45
	31463	R865-9I-13	AMD	08/14/2008	2008-12/45
	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
<u>income withholding fees</u>					
Human Services, Recovery Services	31163	R527-302	AMD	06/25/2008	2008-10/120
	31792	R527-302	NSC	10/01/2008	Not Printed
	31160	R527-302	5YR	04/21/2008	2008-10/147
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Health, Health Care Financing, Coverage and Reimbursement Policy	30925	R414-303	5YR	01/25/2008	2008-4/44
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	30912	R230-1	AMD	07/16/2008	2008-3/12
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Health, Epidemiology and Laboratory Services, Environmental Services	31908	R392-510	NSC	10/21/2008	Not Printed

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	30637	R317-13	NEW	02/04/2008	2007-22/61
<u>infectious waste</u>					
Environmental Quality, Air Quality	30702	R307-222	AMD	02/08/2008	2007-23/36
	30967	R307-222	5YR	02/08/2008	2008-5/44
	30833	R307-222-1	NSC	02/08/2008	Not Printed
<u>informal adjudicative proceedings</u>					
Labor Commission, Industrial Accidents	31251	R612-9-1	NSC	05/05/2008	Not Printed
<u>injury prevention</u>					
Health, Administration	31280	R380-210-6	NSC	05/05/2008	Not Printed
<u>inmates</u>					
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Agriculture and Food, Plant Industry	31006	R68-5	5YR	02/15/2008	2008-5/39
	30611	R68-7	AMD	01/07/2008	2007-22/11
	31800	R68-7-8	AMD	10/09/2008	2008-17/7
	31127	R68-8-2	AMD	07/02/2008	2008-9/7
Agriculture and Food, Regulatory Services	31380	R70-530	R&R	09/25/2008	2008-11/2
	31430	R70-560	AMD	07/25/2008	2008-11/47
	31992	R70-910	AMD	12/08/2008	2008-21/6
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
Public Safety, Highway Patrol	31987	R714-158	AMD	12/01/2008	2008-20/18
<u>instructional materials</u>					
Education, Administration	30781	R277-469	AMD	01/22/2008	2007-24/4
	31035	R277-469	5YR	03/03/2008	2008-7/62
	31577	R277-469	AMD	08/07/2008	2008-13/21
<u>insurance</u>					
Human Resource Management, Administration	31191	R477-6	AMD	07/01/2008	2008-10/91
	31782	R477-6-4	AMD	09/22/2008	2008-16/14
	31698	R590-148-12	NSC	10/16/2008	Not Printed
	31696	R590-149	NSC	10/16/2008	Not Printed
	31766	R590-151	NSC	10/01/2008	Not Printed
	31131	R590-154	5YR	04/09/2008	2008-9/54
	32098	R590-160	5YR	10/30/2008	2008-22/55
	32096	R590-161	5YR	10/30/2008	2008-22/56
	32097	R590-162	5YR	10/30/2008	2008-22/57
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	31767	R590-186	5YR	07/29/2008	2008-16/70

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	31523	R590-222	5YR	06/02/2008	2008-12/58
	31500	R590-222	AMD	08/04/2008	2008-12/36
	31081	R590-245	CPR	11/12/2008	2008-14/118
	31647	R590-250	NEW	08/25/2008	2008-14/63
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	31939	R590-157	AMD	11/18/2008	2008-19/34
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	31132	R590-94	5YR	04/09/2008	2008-9/53
	31765	R590-121-5	NSC	10/01/2008	Not Printed
	31062	R590-131	AMD	10/02/2008	2008-7/37
	31062	R590-131	CPR	10/02/2008	2008-13/141
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	31551	R590-164	AMD	08/26/2008	2008-13/83
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<u>international baccalaureate</u>					
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	31025	R527-305	AMD	04/21/2008	2008-6/8
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Workforce Services, Unemployment Insurance	31075	R994-106-106	AMD	05/30/2008	2008-8/48
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<u>inventories</u>					
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	31901	R728-409-23	NSC	10/21/2008	Not Printed
<u>job creation</u>					
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	30859	R357-2-7	NSC	01/30/2008	Not Printed
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Judicial Conduct Commission, Administration	31604	R595-1-1	NSC	10/21/2008	Not Printed
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	31932	R547-7	AMD	11/12/2008	2008-19/32
	31913	R547-10	AMD	11/12/2008	2008-18/45
	31914	R547-12	AMD	11/12/2008	2008-18/46
	31912	R547-13	AMD	11/12/2008	2008-18/47
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	31589	R512-500	EMR	06/18/2008	2008-14/123
	31864	R512-500	5YR	08/20/2008	2008-18/74
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	31243	R610-3	NSC	05/05/2008	Not Printed
	30876	R610-3-4	EMR	01/03/2008	2008-3/70
	30941	R610-3-4	AMD	03/24/2008	2008-4/20
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	31237	R600-1	NSC	05/05/2008	Not Printed
	31705	R600-2-1	AMD	09/09/2008	2008-15/43
	31778	R600-2-1	EMR	08/04/2008	2008-16/64
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	30919	R710-9-6	AMD	03/10/2008	2008-3/52
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	31434	R722-320	5YR	05/14/2008	2008-11/127
<u>law enforcement officers</u>					
Public Safety, Peace Officer Standards and Training	31719	R728-101	NSC	10/01/2008	Not Printed
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<u>lead-based paint</u>					
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	30708	R307-840	AMD	02/08/2008	2007-23/48
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	31788	R477-7	AMD	09/22/2008	2008-16/16
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	30923	R634-1	5YR	01/25/2008	2008-4/47
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	31050	R657-45-2	AMD	05/08/2008	2008-7/49
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	31803	R156-1-109	AMD	10/09/2008	2008-17/10
	30935	R156-3a-303	AMD	03/27/2008	2008-4/5
	32003	R156-5a	NSC	11/17/2008	Not Printed
	32002	R156-5a	5YR	10/07/2008	2008-21/104
	31425	R156-17b	CPR	11/24/2008	2008-20/35
	31425	R156-17b	AMD	11/24/2008	2008-11/49
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	31763	R156-26a	AMD	09/23/2008	2008-16/5
	30715	R156-26a	CPR	03/31/2008	2008-4/35
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	31889	R156-31b-701	NSC	10/21/2008	Not Printed
	31423	R156-37	AMD	09/09/2008	2008-11/62
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	30654	R156-38a	AMD	01/07/2008	2007-23/14
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	32027	R156-39a	5YR	10/13/2008	2008-21/105
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	31802	R156-55a	AMD	10/09/2008	2008-17/15
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	31616	R156-55a-102	NSC	08/25/2008	Not Printed
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	31801	R156-55b	AMD	10/09/2008	2008-17/24
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	31181	R156-55d	NSC	05/05/2008	Not Printed
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	30573	R156-56-420	AMD	01/01/2008	2007-21/57
	31142	R156-56-701	AMD	07/01/2008	2008-9/30
	31626	R156-56-801	NSC	07/01/2008	Not Printed
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	30915	R156-61	CPR	05/08/2008	2008-7/55
	31182	R156-63	NSC	05/05/2008	Not Printed
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	31700	R156-63a	CPR	11/13/2008	2008-19/53
	31701	R156-63b	NEW	11/13/2008	2008-15/19
	31701	R156-63b	CPR	11/13/2008	2008-19/54
	31975	R156-64	AMD	11/24/2008	2008-20/6
	31183	R156-67	NSC	05/05/2008	Not Printed
	31083	R156-68	5YR	03/27/2008	2008-8/53
	31185	R156-68	NSC	05/05/2008	Not Printed
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	31516	R156-74	AMD	07/22/2008	2008-12/7
	30694	R156-76	AMD	01/08/2008	2007-23/17
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	31017	R501-16	5YR	02/22/2008	2008-6/25
	31026	R501-17	5YR	02/27/2008	2008-6/25
	31923	R501-21	NSC	10/21/2008	Not Printed
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	31812	R655-4-5	NSC	10/01/2008	Not Printed
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	31172	R859-1-102	NSC	06/18/2008	Not Printed
	31029	R859-1-302	AMD	05/01/2008	2008-6/16
	31899	R859-1-501	AMD	11/01/2008	2008-18/58
	31585	R859-1-506	AMD	09/01/2008	2008-13/108
	31898	R859-1-506	NSC	10/21/2008	Not Printed
	31586	R859-1-509	AMD	09/01/2008	2008-13/109
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	31176	R156-38a-105a	NSC	05/05/2008	Not Printed
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	31748	R710-6-5	NSC	10/01/2008	Not Printed
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	31559	R307-250	AMD	11/10/2008	2008-13/37
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	30981	R410-14-17	EMR	02/15/2008	2008-5/36
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	31771	R414-1-16	NSC	10/01/2008	Not Printed
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	32105	R414-21-2	EMR	11/01/2008	2008-22/46
	31046	R414-27	NSC	03/25/2008	Not Printed
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	32106	R414-52	EMR	11/01/2008	2008-22/47
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	32107	R414-53	EMR	11/01/2008	2008-22/48
	31528	R414-53	5YR	06/05/2008	2008-13/148
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	32109	R414-54	EMR	11/01/2008	2008-22/49
	32119	R414-54	EMR	11/04/2008	2008-23/39
	31737	R414-55	5YR	07/18/2008	2008-16/69
	31645	R414-59	R&R	10/02/2008	2008-14/47
	32120	R414-59-4	EMR	11/04/2008	2008-23/40
	32110	R414-59-4	EMR	11/01/2008	2008-22/50
	31505	R414-70	R&R	08/04/2008	2008-12/24
	30378	R414-71	CPR	03/31/2008	2008-3/66
	30378	R414-71	AMD	03/31/2008	2007-18/40
	31507	R414-71	REP	08/04/2008	2008-12/28
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	30937	R414-305	5YR	01/31/2008	2008-4/45
	30945	R414-305	AMD	04/01/2008	2008-4/9
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	31205	R647-1-106	NSC	05/05/2008	Not Printed
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	31206	R647-5	NSC	05/05/2008	Not Printed
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	30941	R610-3-4	AMD	03/24/2008	2008-4/20
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	30699	R307-170-7	AMD	02/08/2008	2007-23/29
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	31123	R708-44-4	NSC	05/05/2008	Not Printed
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	31988	R714-240	AMD	12/10/2008	2008-20/22
	32038	R714-300-2	NSC	11/17/2008	Not Printed
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	31391	R305-4	CPR	10/08/2008	2008-17/70
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	30889	R307-121-3	NSC	01/30/2008	Not Printed
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	30655	R156-1-102a	AMD	01/08/2008	2007-23/3
	31803	R156-1-109	AMD	10/09/2008	2008-17/10
	31179	R156-46b	NSC	05/05/2008	Not Printed
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	31840	R156-46b	AMD	10/23/2008	2008-18/13
	31595	R156-46b-103	NSC	10/01/2008	Not Printed
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	30892	R156-55a	AMD	03/11/2008	2008-3/3
	31802	R156-55a	AMD	10/09/2008	2008-17/15
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	32009	R156-55a-301	NSC	11/17/2008	Not Printed
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	30706	R307-417	AMD	02/08/2008	2007-23/43
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	31754	R714-500	AMD	10/15/2008	2008-16/31
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	31392	R307-328	AMD	11/10/2008	2008-11/93
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	30708	R307-840	AMD	02/08/2008	2007-23/48
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	30779	R810-5	AMD	03/06/2008	2007-24/23
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	30836	R810-9	AMD	03/06/2008	2008-1/29
	30839	R810-10	AMD	03/06/2008	2008-1/30
	30840	R810-11	AMD	03/06/2008	2008-1/31
	30843	R810-12	NEW	03/06/2008	2008-1/32
<u>parks</u>					
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	31995	R251-103	5YR	10/02/2008	2008-21/106
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	30927	R414-308-7	AMD	04/01/2008	2008-4/16
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	31703	R17-8-2	NSC	08/20/2008	Not Printed
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	31798	R746-345	5YR	08/07/2008	2008-17/81
	31045	R746-347	5YR	03/07/2008	2008-7/66
	31628	R746-349	AMD	08/25/2008	2008-14/91
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	31403	R861-1A-28	NSC	08/18/2008	Not Printed
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	31488	R311-210	NSC	06/18/2008	Not Printed
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<u>victims of crimes</u> Crime Victim Reparations, Administration	30593	R270-1-11	AMD	01/02/2008	2007-22/33
	31013	R270-1-22	AMD	05/19/2008	2008-6/3
	31504	R270-1-23	AMD	07/28/2008	2008-12/12
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	30984	R315-317	5YR	02/14/2008	2008-5/57
	31382	R315-317-3	NSC	08/18/2008	Not Printed
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	30637	R317-13	NEW	02/04/2008	2007-22/61
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	30968	R307-223	5YR	02/08/2008	2008-5/45
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	30636	R317-14	NEW	02/04/2008	2007-22/62
	31103	R317-101	5YR	04/02/2008	2008-9/53
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Public Service Commission, Administration	31044	R746-330	5YR	03/07/2008	2008-7/66
	31095	R746-331	5YR	04/01/2008	2008-8/55
	31091	R746-332	5YR	04/01/2008	2008-8/55
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	30940	R653-2	NSC	02/25/2008	Not Printed

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	31431	R655-14	AMD	07/08/2008	2008-11/104
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	31348	R525-6	NSC	05/01/2008	Not Printed
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