

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Division of Administrative Rules, 4120 State Office Building, Salt Lake City, Utah 84114-1201, telephone 801-538-3764, FAX 801-538-1773. Additional rulemaking information, and electronic versions of all administrative rule publications are available at: <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 Occupational and Professional Licensing

Public Notice of 2010 Board and Committee Meeting Schedule

NOTE: Meetings are subject to change. Contact the Division at (801) 530-6628 to confirm meetings. Most meetings are held in the Heber M. Wells Building, 160 East 300 South, Salt Lake City, Utah.

January

01/05/2010, Hearing Instrument Specialist Licensing Board, 9:00 a.m.; 01/05/2010, Massage Therapy Education Peer Committee, 9:00 a.m.; 01/06/2010, Plumbers Licensing Board, 9:00 a.m.; 01/06/2010, Utah Board of Accountancy, 1:00 p.m.; 01/07/2010, Alarm System Security and Licensing Board, 9:00 a.m.; 01/07/2010, Social Worker Licensing Board, 9:00 a.m.; 01/07/2010, Osteopathic Physician/Surgeon Licensing Board, 9:00 a.m.; 01/07/2010, UBCC Plumbing Advisory Committee, 9:00 a.m.; 01/07/2010, Radiology Technologist Licensing Board, 1:00 p.m.; 01/12/2010, UBCC Mechanical Advisory Committee and UBCC Architectural Advisory Committee, 1:00 p.m.; 01/13/2010, Residence Lien Recovery Fund Advisory Board, 8:15 a.m.; 01/13/2010, Physicians Licensing Board, 9:00 a.m.; 01/13/2010, Uniform Building Code Commission, 9:00 a.m.; 01/14/2010, Nursing Education Peer Committee, 7:30 a.m.; 01/14/2010, Board of Nursing, 9:00 a.m.; 01/14/2010, Chiropractic Physician Licensing Board, 9:00 a.m.; 01/19/2010, Psychologist Board, 9:00 a.m.; 01/19/2010, Board of Massage Therapy, 9:00 a.m.; 01/19/2010, Hunting Guides and Outfitters Licensing Board, 1:00 p.m.; 01/19/2010, UBCC Education Advisory Committee, 1:00 p.m.; 01/20/2010, Professional Engineer and Professional Land Surveyor Licensing Board, 9:00 a.m.; 01/20/2010, Substance Abuse Counselor Licensing Board, 9:00 a.m.; 01/20/2010, Speech-Language Pathology and Audiology Licensing Board, 9:00 a.m.; 01/21/2010, Electricians Licensing Board, 9:00 a.m.; 01/21/2010, Contract Security Education Peer Committee, 10:00 a.m.; 01/21/2010, Licensed Direct-Entry Midwife Board, 1:00 p.m.; 01/21/2010, Dentist and Dental Hygienist Licensing Board, 1:30 p.m.; 01/26/2010, State Board of Pharmacy, 8:00 a.m.; 01/26/2010, Professional Counselor Licensing Board, 9:00 a.m.; 01/27/2010, Construction Services Commission, 9:00 a.m.

February

02/03/2010, Plumbers Licensing Board, 9:00 a.m.; 02/03/2010, Utah Board of Accountancy, 1:00 p.m.; 02/04/2010, UBCC Plumbing Advisory Committee, 9:00 a.m.; 02/04/2010, Social Worker Licensing Board, 9:00 a.m.; 02/04/2010, Podiatric Physician Board, 9:00 a.m.; 02/04/2010, Veterinary Board, 9:00 a.m.; 02/09/2010, UBCC Mechanical Advisory Committee and UBCC Architectural Advisory Committee, 1:00 p.m.; 02/10/2010, Residence Lien Recovery Fund Advisory Board, 8:15 a.m.; 02/10/2010, Uniform Building Code Commission, 9:00 a.m.; 02/10/2010, Physicians Licensing Board, 9:00 a.m.; 02/10/2010, Optometrists Licensing Board, 9:00 a.m.; 02/10/2010, Architects Licensing Board, 9:00 a.m.; 02/11/2010, Nursing Education Peer Committee, 7:30 a.m.; 02/11/2010, Board of Nursing, 9:00 a.m.; 02/11/2010, Professional Geologist Licensing Board, 9:00 a.m.; 02/11/2010, Security Services Licensing Board, 9:00 a.m.; 02/11/2010, Naturopathic Physician Licensing Board, 9:00 a.m.; 02/16/2010, Occupational Therapy Licensing Board, 9:00 a.m.; 02/16/2010, UBCC Education Advisory Committee, 1:00 p.m.; 02/17/2010, Board of Funeral Service, 9:00 a.m.; 02/18/2010, Electricians Licensing Board, 9:00 a.m.; 02/18/2010, Dentist and Dental Hygienist Licensing Board, 1:30 p.m.; 02/23/2010, State Board of Pharmacy, 8:00 a.m.; 02/23/2010, Physical Therapy Licensing Board, 9:00 a.m.; 02/24/2010, Construction Services Commission, 9:00 a.m.; 02/25/2010, Acupuncture Licensing Board, 9:00 a.m.; 02/25/2010, Controlled Substance Precursor Advisory Board, 2:00 p.m.

March

03/01/2010, Barbering, Cosmetology/Barbering, Esthetics, Electrology and Nail Technology Licensing Board, 9:00 a.m.; 03/03/2010, Plumbers Licensing Board, 9:00 a.m.; 03/03/2010, Utah Board of Accountancy, 1:00 p.m.; 03/04/2010, UBCC Plumbing Advisory Committee, 9:00 a.m.; 03/04/2010, Alarm System Security and Licensing Board, 9:00 a.m.; 03/04/2010, Physician Assistant Licensing Board, 9:00 a.m.; 03/04/2010, Social Worker Licensing Board, 9:00 a.m.; 03/09/2010, UBCC Mechanical Advisory Committee and UBCC Architectural Advisory Committee, 1:00 p.m.; 03/10/2010, Residence Lien Recovery Fund Advisory Board, 8:15 a.m.; 03/10/2010, Uniform Building Code Commission, 9:00 a.m.; 03/10/2010, Physicians Licensing Board, 9:00 a.m.; 03/11/2010, Nursing Education Peer Committee, 7:30 a.m.; 03/11/2010, Board of Nursing, 9:00 a.m.; 03/11/2010, Marriage and Family Therapist Licensing Board, 9:00 a.m.; 03/16/2010, Board of Massage Therapy, 9:00 a.m.; 03/16/2010, Professional Counselor Licensing Board, 9:00 a.m.; 03/16/2010, Building Inspector Licensing Board, 10:00 a.m.; 03/16/2010, UBCC Education Advisory Committee, 1:00 p.m.; 03/17/2010, Professional Engineer and Professional Land Surveyor Licensing Board, 9:00 a.m.; 03/17/2010, Deception Detection Examiners Licensing Board, 1:00 p.m.; 03/18/2010, Electricians Licensing Board, 9:00 a.m.; 03/18/2010, Genetic Counselor Licensing Board, 9:00 a.m.; 03/18/2010, Dentist and Dental Hygienist Licensing Board, 1:30 p.m.; 03/23/2010, State Board of Pharmacy, 8:00 a.m.; 03/23/2010, Respiratory Care Licensing Board, 9:00 a.m.; 03/23/2010, Health Facility Administrators Licensing Board, 9:00 a.m.; 03/31/2010, Construction Services Commission, 9:00 a.m.

SPECIAL NOTICES

April

04/01/2010, Social Worker Licensing Board, 9:00 a.m.; 04/01/2010, Osteopathic Physician/Surgeon Licensing Board, 9:00 a.m.; 04/01/2010, UBCC Plumbing Advisory Committee, 9:00 a.m.; 04/01/2010, Radiology Technologist Licensing Board, 1:00 p.m.; 04/06/2010, Hearing Instrument Specialist Licensing Board, 9:00 a.m.; 04/07/2010, Plumbers Licensing Board, 9:00 a.m.; 04/07/2010, Utah Board of Accountancy, 1:00 p.m.; 04/08/2010, Nursing Education Peer Committee, 7:30 a.m.; 04/08/2010, Board of Nursing, 9:00 a.m.; 04/08/2010, Security Services Licensing Board, 9:00 a.m.; 04/08/2010, Chiropractic Physician Licensing Board, 9:00 a.m.; 04/13/2010, UBCC Mechanical Advisory Committee and UBCC Architectural Advisory Committee, 1:00 p.m.; 04/14/2010, Residence Lien Recovery Fund Advisory Board, 8:15 a.m.; 04/14/2010, Architects Licensing Board, 9:00 a.m.; 04/14/2010, Uniform Building Code Commission, 9:00 a.m.; 04/14/2010, Physicians Licensing Board, 9:00 a.m.; 04/14/2010, Environmental Health Scientist Board, 9:00 a.m.; 04/15/2010, Electricians Licensing Board, 9:00 a.m.; 04/15/2010, Contract Security Education Peer Committee, 10:00 a.m.; 04/15/2010, Licensed Direct-Entry Midwife Board, 1:00 p.m.; 04/20/2010, Physical Therapy Licensing Board, 9:00 a.m.; 04/20/2010, Hunting Guides and Outfitters Licensing Board, 1:00 p.m.; 04/20/2010, UBCC Education Advisory Committee, 1:00 p.m.; 04/21/2010, Substance Abuse Counselor Licensing Board, 9:00 a.m.; 04/21/2010, Landscape Architects Board, 9:00 a.m.; 04/22/2010, Dentist and Dental Hygienist Licensing Board, 1:30 p.m.; 04/27/2010, State Board of Pharmacy, 8:00 a.m.; 04/27/2010, Psychologist Board, 9:00 a.m.; 04/27/2010, Massage Therapy Education Peer Committee, 9:00 a.m.; 04/28/2010, Construction Services Commission, 9:00 a.m.; 04/29/2010, Recreational Therapy Board, 9:00 a.m.; 04/29/2010, Certified Court Reporters Licensing Board, 2:00 p.m.

May

05/05/2010, Physicians Licensing Board, 9:00 a.m.; 05/05/2010, Plumbers Licensing Board, 9:00 a.m.; 05/05/2010, Utah Board of Accountancy, 1:00 p.m.; 05/06/2010, UBCC Plumbing Advisory Committee, 9:00 a.m.; 05/06/2010, Alarm System Security and Licensing Board, 9:00 a.m.; 05/06/2010, Podiatric Physician Board, 9:00 a.m.; 05/06/2010, Social Worker Licensing Board, 9:00 a.m.; 05/11/2010, UBCC Mechanical Advisory Committee and UBCC Architectural Advisory Committee, 1:00 p.m.; 05/12/2010, Residence Lien Recovery Fund Advisory Board, 8:15 a.m.; 05/12/2010, Uniform Building Code Commission, 9:00 a.m.; 05/12/2010, Alternative Dispute Resolution Providers Certification Board, 9:00 a.m.; 05/12/2010, Dietitian Board, 9:00 a.m.; 05/13/2010, Nursing Education Peer Committee, 7:30 a.m.; 05/13/2010, Board of Nursing, 9:00 a.m.; 05/18/2010, Board of Massage Therapy, 9:00 a.m.; 05/18/2010, Professional Counselor Licensing Board, 9:00 a.m.; 05/18/2010, UBCC Education Advisory Committee, 1:00 p.m.; 05/19/2010, Board of Funeral Service, 9:00 a.m.; 05/19/2010, Professional Engineer and Professional Land Surveyor Licensing Board, 9:00 a.m.; 05/20/2010, Athlete Agents Licensing Board, 8:30 a.m.; 05/20/2010, Electricians Licensing Board, 9:00 a.m.; 05/20/2010, Dentist and Dental Hygienist Licensing Board, 1:30 p.m.; 05/25/2010, State Board of Pharmacy, 8:00 a.m.; 05/26/2010, Construction Services Commission, 9:00 a.m.

June

06/02/2010, Plumbers Licensing Board, 9:00 a.m.; 06/02/2010, Utah Board of Accountancy, 1:00 p.m.; 06/03/2010, UBCC Plumbing Advisory Committee, 9:00 a.m.; 06/03/2010, Social Worker Licensing Board, 9:00 a.m.; 06/03/2010, Physician Assistant Licensing Board, 9:00 a.m.; 06/03/2010, Veterinary Board, 9:00 a.m.; 06/07/2010, Barbering, Cosmetology/Barbering, Esthetics, Electrology and Nail Technology Licensing Board, 9:00 a.m.; 06/08/2010, UBCC Mechanical Advisory Committee and UBCC Architectural Advisory Committee, 1:00 p.m.; 06/09/2010, Residence Lien Recovery Fund Advisory Board, 8:15 a.m.; 06/09/2010, Uniform Building Code Commission, 9:00 a.m.; 06/09/2010, Architects Licensing Board, 9:00 a.m.; 06/09/2010, Physicians Licensing Board, 9:00 a.m.; 06/10/2010, Nursing Education Peer Committee, 7:30 a.m.; 06/10/2010, Board of Nursing, 9:00 a.m.; 06/10/2010, Professional Geologist Licensing Board, 9:00 a.m.; 06/10/2010, Security Services Licensing Board, 9:00 a.m.; 06/10/2010, Marriage and Family Therapist Licensing Board, 9:00 a.m.; 06/10/2010, Naturopathic Physician Licensing Board, 9:00 a.m.; 06/15/2010, Occupational Therapy Licensing Board, 9:00 a.m.; 06/15/2010, Building Inspector Licensing Board, 10:00 a.m.; 06/15/2010, UBCC Education Advisory Committee, 1:00 p.m.; 06/17/2010, Electricians Licensing Board, 9:00 a.m.; 06/17/2010, Private Probation Provider Licensing Board, 10:00 a.m.; 06/17/2010, Dentist and Dental Hygienist Licensing Board, 1:30 p.m.; 06/22/2010, State Board of Pharmacy, 8:00 a.m.; 06/22/2010, Respiratory Care Licensing Board, 9:00 a.m.; 06/22/2010, Athletic Trainers Licensing Board, 10:00 a.m.; 06/30/2010, Construction Services Commission, 9:00 a.m.

July

07/01/2010, Osteopathic Physician/Surgeon Licensing Board, 9:00 a.m.; 07/01/2010, UBCC Plumbing Advisory Committee, 9:00 a.m.; 07/01/2010, Social Worker Licensing Board, 9:00 a.m.; 07/01/2010, Radiology Technologist Licensing Board, 1:00 p.m.; 07/01/2010, UBCC Structural Advisory Committee, 1:00 p.m.; 07/06/2010, Hearing Instrument Specialist Licensing Board, 9:00 a.m.; 07/06/2010, Massage Therapy Education Peer Committee, 9:00 a.m.; 07/06/2010, Unified Code Analysis Council, 9:00 a.m.; 07/07/2010, Plumbers Licensing Board, 9:00 a.m.; 07/07/2010, Utah Board of Accountancy, 1:00 p.m.; 07/08/2010, Nursing Education Peer Committee, 7:30 a.m.; 07/08/2010, Board of Nursing, 9:00 a.m.; 07/08/2010, Alarm System Security and Licensing Board, 9:00 a.m.; 07/08/2010, Chiropractic Physician Licensing Board, 9:00 a.m.; 07/08/2010, UBCC Electrical Advisory Committee, 1:00 p.m.; 07/13/2010, UBCC Mechanical Advisory Committee and UBCC Architectural Advisory Committee, 1:00 p.m.; 07/14/2010, Residence Lien Recovery Fund Advisory Board, 8:15 a.m.; 07/14/2010, Uniform

Building Code Commission, 9:00 a.m.; 07/14/2010, Physicians Licensing Board, 9:00 a.m.; 07/15/2010, Contract Security Education Peer Committee, 10:00 a.m.; 07/15/2010, Licensed Direct-Entry Midwife Board, 1:00 p.m.; 07/20/2010, Professional Counselor Licensing Board, 9:00 a.m.; 07/20/2010, Board of Massage Therapy, 9:00 a.m.; 07/20/2010, UBCC Education Advisory Committee, 1:00 p.m.; 07/21/2010, Substance Abuse Counselor Licensing Board, 9:00 a.m.; 07/21/2010, Speech-Language Pathology and Audiology Licensing Board, 9:00 a.m.; 07/21/2010, Professional Engineer and Professional Land Surveyor Licensing Board, 9:00 a.m.; 07/22/2010, Electricians Licensing Board, 9:00 a.m.; 07/22/2010, Dentist and Dental Hygienist Licensing Board, 1:30 p.m.; 07/27/2010, State Board of Pharmacy, 8:00 a.m.; 07/27/2010, Psychologist Board, 9:00 a.m.; 07/28/2010, Construction Services Commission, 9:00 a.m.

August

08/03/2010, Unified Code Analysis Council, 9:00 a.m.; 08/04/2010, Plumbers Licensing Board, 9:00 a.m.; 08/04/2010, Utah Board of Accountancy, 1:00 p.m.; 08/05/2010, UBCC Plumbing Advisory Committee, 9:00 a.m.; 08/05/2010, Social Worker Licensing Board, 9:00 a.m.; 08/05/2010, Podiatric Physician Board, 9:00 a.m.; 08/05/2010, UBCC Structural Advisory Committee, 1:00 p.m.; 08/10/2010, UBCC Mechanical Advisory Committee and UBCC Architectural Advisory Committee, 1:00 p.m.; 08/11/2010, Residence Lien Recovery Fund Advisory Board, 8:15 a.m.; 08/11/2010, Architects Licensing Board, 9:00 a.m.; 08/11/2010, Uniform Building Code Commission, 9:00 a.m.; 08/11/2010, Physicians Licensing Board, 9:00 a.m.; 08/11/2010, Optometrists Licensing Board, 9:00 a.m.; 08/11/2010, UBCC Architectural Advisory Committee, 1:00 p.m.; 08/12/2010, Nursing Education Peer Committee, 7:30 a.m.; 08/12/2010, Board of Nursing, 9:00 a.m.; 08/12/2010, Security Services Licensing Board, 9:00 a.m.; 08/12/2010, UBCC Electrical Advisory Committee, 1:00 p.m.; 08/17/2010, Physical Therapy Licensing Board, 9:00 a.m.; 08/17/2010, Health Facility Administrators Licensing Board, 9:00 a.m.; 08/17/2010, UBCC Education Advisory Committee, 1:00 p.m.; 08/17/2010, Hunting Guides and Outfitters Licensing Board, 1:00 p.m.; 08/18/2010, Board of Funeral Service, 9:00 a.m.; 08/19/2010, Dentist and Dental Hygienist Licensing Board, 1:30 p.m.; 08/24/2010, State Board of Pharmacy, 8:00 a.m.; 08/25/2010, Construction Services Commission, 9:00 a.m.

September

09/01/2010, Plumbers Licensing Board, 9:00 a.m.; 09/01/2010, Utah Board of Accountancy, 1:00 p.m.; 09/02/2010, UBCC Plumbing Advisory Committee, 9:00 a.m.; 09/02/2010, Alarm System Security and Licensing Board, 9:00 a.m.; 09/02/2010, Social Worker Licensing Board, 9:00 a.m.; 09/02/2010, Veterinary Board, 9:00 a.m.; 09/02/2010, UBCC Structural Advisory Committee, 1:00 p.m.; 09/07/2010, Unified Code Analysis Council, 9:00 a.m.; 09/08/2010, Residence Lien Recovery Fund Advisory Board, 8:15 a.m.; 09/08/2010, Physicians Licensing Board, 9:00 a.m.; 09/08/2010, Uniform Building Code Commission, 9:00 a.m.; 09/08/2010, Alternative Dispute Resolution Providers Certification Board, 9:00 a.m.; 09/09/2010, Nursing Education Peer Committee, 7:30 a.m.; 09/09/2010, Board of Nursing, 9:00 a.m.; 09/09/2010, Marriage and Family Therapist Licensing Board, 9:00 a.m.; 09/09/2010, UBCC Electrical Advisory Committee, 1:00 p.m.; 09/13/2010, Barbering, Cosmetology/Barbering, Esthetics Electrology and Nail Technology Licensing Board, 9:00 a.m.; 09/14/2010, UBCC Mechanical Advisory Committee and UBCC Architectural Advisory Committee, 1:00 p.m.; 09/15/2010, Professional Engineer and Professional Land Surveyor Licensing Board, 9:00 a.m.; 09/15/2010, Deception Detection Examiners Licensing Board, 1:00 p.m.; 09/16/2010, Electricians Licensing Board, 9:00 a.m.; 09/16/2010, Dentist and Dental Hygienist Licensing Board, 1:30 p.m.; 09/21/2010, Professional Counselor Licensing Board, 9:00 a.m.; 09/21/2010, Board of Massage Therapy, 9:00 a.m.; 09/21/2010, Building Inspector Licensing Board, 10:00 a.m.; 09/21/2010, UBCC Education Advisory Committee, 1:00 p.m.; 09/23/2010, Physician Assistant Licensing Board, 9:00 a.m.; 09/28/2010, State Board of Pharmacy, 8:00 a.m.; 09/28/2010, Respiratory Care Licensing Board, 9:00 a.m.; 09/29/2010, Construction Services Commission, 9:00 a.m.; 09/30/2010, Acupuncture Licensing Board, 9:00 a.m.

October

10/05/2010, Hearing Instrument Specialist Licensing Board, 9:00 a.m.; 10/05/2010, Massage Therapy Education Peer Committee, 9:00 a.m.; 10/05/2010, Unified Code Analysis Council, 9:00 a.m.; 10/06/2010, Plumbers Licensing Board, 9:00 a.m.; 10/06/2010, Athletic Trainers Licensing Board, 10:00 a.m.; 10/06/2010, Utah Board of Accountancy, 1:00 p.m.; 10/07/2010, UBCC Plumbing Advisory Committee, 9:00 a.m.; 10/07/2010, Osteopathic Physician/Surgeon Licensing Board, 9:00 a.m.; 10/07/2010, Social Worker Licensing Board, 9:00 a.m.; 10/07/2010, UBCC Structural Advisory Committee, 1:00 p.m.; 10/07/2010, Radiology Technologist Licensing Board, 1:00 p.m.; 10/13/2010, Residence Lien Recovery Fund Advisory Board, 8:15 a.m.; 10/13/2010, Uniform Building Code Commission, 9:00 a.m.; 10/13/2010, Architects Licensing Board, 9:00 a.m.; 10/13/2010, Physicians Licensing Board, 9:00 a.m.; 10/13/2010, UBCC Architectural Advisory Committee, 1:00 p.m.; 10/14/2010, Nursing Education Peer Committee, 7:30 a.m.; 10/14/2010, Board of Nursing, 9:00 a.m.; 10/14/2010, Security Services Licensing Board, 9:00 a.m.; 10/14/2010, Chiropractic Physician Licensing Board, 9:00 a.m.; 10/14/2010, Professional Geologist Licensing Board, 9:00 a.m.; 10/14/2010, UBCC Electrical Advisory Committee, 1:00 p.m.; 10/19/2010, Occupational Therapy Licensing Board, 9:00 a.m.; 10/19/2010, UBCC Education Advisory Committee, 1:00 p.m.; 10/20/2010, Landscape Architects Board, 9:00 a.m.; 10/21/2010, Electricians Licensing Board, 9:00 a.m.; 10/21/2010, Naturopathic Physician Licensing Board, 9:00 a.m.; 10/21/2010, Contract Security Education Peer Committee, 10:00 a.m.; 10/21/2010, Licensed Direct-Entry Midwife Board, 1:00 p.m.; 10/21/2010, Dentist and Dental Hygienist Licensing Board, 1:30 p.m.; 10/26/2010, State

SPECIAL NOTICES

Board of Pharmacy, 8:00 a.m.; 10/26/2010, Psychologist Board, 9:00 a.m.; 10/27/2010, Substance Abuse Counselor Licensing Board, 9:00 a.m.; 10/27/2010, Construction Services Commission, 9:00 a.m.; 10/28/2010, Recreational Therapy Board, 9:00 a.m.; 10/28/2010, Certified Court Reporters Licensing Board, 2:00 p.m.

November

11/03/2010, Plumbers Licensing Board, 9:00 a.m.; 11/03/2010, Utah Board of Accountancy, 1:00 p.m.; 11/04/2010, Podiatric Physician Board, 9:00 a.m.; 11/04/2010, Alarm System Security and Licensing Board, 9:00 a.m.; 11/04/2010, Social Worker Licensing Board, 9:00 a.m.; 11/10/2010, Residence Lien Recovery Fund Advisory Board, 8:15 a.m.; 11/10/2010, Uniform Building Code Commission, 9:00 a.m.; 11/10/2010, Physicians Licensing Board, 9:00 a.m.; 11/16/2010, State Board of Pharmacy, 8:00 a.m.; 11/16/2010, Professional Counselor Licensing Board, 9:00 a.m.; 11/16/2010, Board of Massage Therapy, 9:00 a.m.; 11/16/2010, UBCC Education Advisory Committee, 1:00 p.m.; 11/17/2010, Board of Funeral Service, 9:00 a.m.; 11/17/2010, Professional Engineer and Professional Land Surveyor Licensing Board, 9:00 a.m.; 11/18/2010, Nursing Education Peer Committee, 7:30 a.m.; 11/18/2010, Board of Nursing, 9:00 a.m.; 11/18/2010, Electricians Licensing Board, 9:00 a.m.; 11/18/2010, Dentist and Dental Hygienist Licensing Board, 1:30 p.m.; 11/24/2010, Construction Services Commission, 9:00 a.m.

December

12/01/2010, Plumbers Licensing Board, 9:00 a.m.; 12/01/2010, Utah Board of Accountancy, 1:00 p.m.; 12/02/2010, Social Worker Licensing Board, 9:00 a.m.; 12/02/2010, Physician Assistant Licensing Board, 9:00 a.m.; 12/06/2010, Barbering, Cosmetology/Barbering, Esthetics Electrology and Nail Technology Licensing Board, 9:00 a.m.; 12/08/2010, Residence Lien Recovery Fund Advisory Board, 8:15 a.m.; 12/08/2010, Uniform Building Code Commission, 9:00 a.m.; 12/08/2010, Physicians Licensing Board, 9:00 a.m.; 12/08/2010, Architects Licensing Board, 9:00 a.m.; 12/09/2010, Nursing Education Peer Committee, 7:30 a.m.; 12/09/2010, Board of Nursing, 9:00 a.m.; 12/09/2010, Security Services Licensing Board, 9:00 a.m.; 12/09/2010, Marriage and Family Therapist Licensing Board, 9:00 a.m.; 12/14/2010, State Board of Pharmacy, 8:00 a.m.; 12/14/2010, Massage Therapy Education Peer Committee, 9:00 a.m.; 12/16/2010, Private Probation Provider Licensing Board, 10:00 a.m.; 12/16/2010, Electricians Licensing Board, 9:00 a.m.; 12/16/2010, Dentist and Dental Hygienist Licensing Board, 1:30 p.m.; 12/21/2010, Physical Therapy Licensing Board, 9:00 a.m.; 12/21/2010, Building Inspector Licensing Board, 10:00 a.m.; 12/21/2010, Hunting Guides and Outfitters Licensing Board, 1:00 p.m.; 12/21/2010, UBCC Education Advisory Committee, 1:00 p.m.; 12/29/2010, Construction Services Commission, 9:00 a.m.

End of the Special Notices Section

EXECUTIVE DOCUMENTS

As part of his or her constitutional duties, the Governor periodically issues **EXECUTIVE DOCUMENTS** comprised of Executive Orders, Proclamations, and Declarations. "Executive Orders" set policy for the Executive Branch; create boards and commissions; provide for the transfer of authority; or otherwise interpret, implement, or give administrative effect to a provision of the Constitution, state law or executive policy. "Proclamations" call special or extraordinary legislative sessions; designate classes of cities; publish states-of-emergency; promulgate other official formal public announcements or functions; or publicly avow or cause certain matters of state government to be made generally known. "Declarations" designate special days, weeks or other time periods; call attention to or recognize people, groups, organizations, functions, or similar actions having a public purpose; or invoke specific legislative purposes (such as the declaration of an agricultural disaster).

The Governor's Office staff files **EXECUTIVE DOCUMENTS** that have legal effect with the Division of Administrative Rules for publication and distribution. All orders issued by the Governor not in conflict with existing laws have the full force and effect of law during a state of emergency when a copy of the order is filed with the Division of Administrative Rules. (See Section 63K-4-401).

Governor's Executive Order 2009/04/EO: Wildland Fire Management

EXECUTIVE ORDER

Wildland Fire Management

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

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

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

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

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

NOW THEREFORE, I, Gary R. Herbert, Governor of the State of Utah by virtue of the power vested in me by the constitution and the laws of the State of Utah, do hereby order that:

It is found, determined and declared that a "State of Emergency" exists statewide due to the threat to public safety, property, natural resources and the environment for thirty days, effective as of October 10, 2009 requiring aid, assistance and relief available pursuant to the provisions of state statutes, and the State Emergency Operations Plan, which is hereby activated.

IN TESTIMONY, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 10th day of October 2009

(State Seal)

Gary R. Herbert
Governor

attest:

Greg S Bell
Lieutenant Governor

2009/04/EO

Governor's Proclamation 2009/05/E: Calling the Fifty-Eighth Legislature into the Fifth Extraordinary Session

PROCLAMATION

WHEREAS, since the close of the 2009 General Session of the 58th Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

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

NOW, THEREFORE, I, GARY R. HERBERT, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and Laws of the State of Utah, do by this Proclamation call the Senate only of the 58th Legislature into the Fifth Extraordinary Session at the State Capitol in Salt Lake City, Utah, on the 21st day of October, 2009, at 12:00 noon, for the following purpose:

For the Senate to consent to appointments made by the Governor to positions within state government of the State of Utah since the close of the 2009 General Session of the Legislature of the State of Utah.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the Utah State Capitol in Salt Lake City, Utah, this 6th day of October, 2009.

(State Seal)

Gary R. Herbert
Governor

Greg Bell
Lieutenant Governor

2009/05/E

End of the Executive Documents 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 October 02, 2009, 12:00 a.m., and October 15, 2009, 11:59 p.m. are included in this, the November 01, 2009 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 December 1, 2009. The agency may accept comment beyond this date and will indicate 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 hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through March 1, 2010, 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 OF a CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** 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; Rule R15-2; and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page

**Alcoholic Beverage Control,
Administration
R81-1-3
General Policies**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 33023
FILED: 10/05/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Subsection R81-1-3(5) deals with how the Department of Alcoholic Beverage Control (DABC) handles the issue of returned checks. The rule is currently written in absolute terms with rigid time lines which have proven to be unaccommodating in differing situations. The department's director of finance has asked the Commission to amend the rule to allow the department more flexibility when dealing with returned checks.

SUMMARY OF THE RULE OR CHANGE: Subsection R81-1-3(5), as written, lays out very strict guidelines that the department must follow before an applicant, licensee, or permittee may be assigned "cash only" status. The rule is unforgiving and offers no flexibility for department staff to consider circumstances that may be unique to an individual applicant, licensee, or permittee. The Commission is recommending that the rule be amended to allow department staff the authority to determine when an applicant, licensee, or permittee should be placed on or removed from "cash only" status based on reasonable business standards. The recommended language is much simpler and more straightforward than the language in the current rule.

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

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** None--This rule amendment does not change the net effect of the current returned check policy. It merely assigns authority to DABC staff to make the determination when an applicant, licensee, or permittee should be placed on "cash only" status due to individual circumstances.

◆ **LOCAL GOVERNMENTS:** None--This rule regulates policies for handling returned checks that are written to the Department of Alcoholic Beverage Control for any number of reasons, including purchase of liquor and payment of licensing application and renewal fees. These checks are written directly to the DABC and do not involve local governments.

◆ **SMALL BUSINESSES:** Many license and permit holders are small businesses. This rule amendment may permit DABC officials to take quick action in placing these businesses on "cash only" status when purchasing liquor from a liquor store if the licensee or permittee has given the department cause to believe their personal or business checks will not clear the bank. If an applicant, licensee, or permittee remains in good standing with DABC by writing checks that are paid by the bank, the applicant, licensee, or permittee may continue to enjoy the convenience of paying for liquor and licensing with personal and business checks.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--This rule amendment only affects those who have written DABC a check that has been returned by the bank due to insufficient funds. The rule does not affect other businesses or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no actual compliance cost attached to this rule amendment. The rule already assesses a \$20 charge for returned checks. The proposed amendment does not change that.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule amendment should not have a fiscal impact on businesses. The rule simply requires that applicants, licensees, permittees, and other patrons be accountable for checks they write to the DABC. Those who do not act responsibly are no longer afforded the benefit of paying for liquor and licensing with a personal or business check.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY, UT 84104-1630
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Sharon Mackay by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at smackay@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2009

AUTHORIZED BY: Dennis Kellen, Director

**R81. Alcoholic Beverage Control, Administration.
R81-1. Scope, Definitions, and General Provisions.
R81-1-3. General Policies.**

(1) Labeling.

No licensee or permittee shall sell or deliver any alcoholic beverage in containers not marked, branded or labeled in conformity with regulations enacted by the agencies of the United States government pertaining to labeling and advertising.

(2) Manner of Paying Fees.

Payment of all fees for licenses or permits, or renewals thereof, shall be made in legal tender of the United States of America, certified check, bank draft, cashier's check, United States post office money order, or personal check.

(3) Copy of Commission Rules.

Copies of the commission rules shall be available at the department's office, 1625 South 900 West, P. O. Box 30408, Salt Lake City, Utah 84130-0408 for an administrative cost of \$20 per copy, or on the department's website at <http://www.abc.utah.gov>.

(4) Interest Assessment on Delinquent Accounts.

The department may assess the legal rate of interest provided in Sections 15-1-1 through -4 for any debt or obligation owed to the department by a licensee, permittee, package agent, or any other person.

(5) Returned Checks.

(a) The department will assess a \$20 charge for any check payable to the department returned for the following reasons:

- (i) insufficient funds;
- (ii) refer to maker; or
- (iii) account closed.

(b) Receipt of a check payable to the department which is returned by the bank for any of the reasons listed in Subsection [(6)] (5)(a) may result in the immediate suspension of the license, permit, or operation of the package agency of the person tendering the check until legal tender of the United States of America, certified check, bank draft, cashier's check, or United States post office money order is received at the department offices, 1625 South 900 West, Salt Lake City, Utah, plus the \$20 returned check charge. Failure to make good the returned check and pay the \$20 returned check charge within thirty days after the license, permit, or operation of the package agency is suspended, is grounds for revocation of the license or permit, or termination of the package agency contract, and the forfeiture of the licensee's, permittee's, or package agent's bond.

(c) In addition to the remedies listed in Subsection [(6)] (5)(b), the department [shall] may require that the licensee, permittee, or package agent transact business with the department on a "cash only" basis [under the following guidelines:

(i) Except as provided in Subsection (6)(c)(ii):

~~(A) two or more returned checks received by the department from or on behalf of a licensee, permittee, or package agent within three consecutive months shall require that the licensee, permittee, or package agent be on "cash only" status for a period of three to six consecutive months from the date the department received notice of the second returned check;~~

~~(B) one returned check received by the department from or on behalf of a licensee, permittee, or package agent within six consecutive months after the licensee, permittee, or package agent has come off "cash only" status shall require that the licensee, permittee, or package agent be returned to "cash only" status for an additional period of six to 12 consecutive months from the date the department received notice of the returned check;~~

~~(C) one returned check received by the department from or on behalf of a licensee, permittee, or package agent at any time~~

~~after the licensee, permittee, or package agent has come off "cash only" status for a second time shall require that the licensee, permittee, or package agent be on "cash only" for an additional period of 12 to 24 consecutive months from the date the department received notice of the returned check;~~

~~(D) a returned check received by the department from or on behalf of an applicant for a license, permit, or package agency for either an application or initial license or permit fee shall require that the applicant be on "cash only" status for a period of three consecutive months from the date the department received notice of the returned check;~~

~~(E) a returned check received by the department from or on behalf of a licensee or permittee for a license or permit renewal fee shall require that the licensee or permittee be on "cash only" status for a period of three consecutive months from the date the department received notice of the returned check;~~

~~(ii) a returned check received by the department from or on behalf of an applicant for or holder of a single event permit or temporary special event beer permit shall require that the person or entity that applied for or held the permit be on "cash only" status for any future events requiring permits from the commission that are conducted within a period of up to 18 consecutive months from the date the department received notice of the returned check;~~

~~(iii) in instances where the department has discretion with respect to the length of time a licensee, permittee, or package agent is on "cash only" status, the department may take into account:~~

~~(A) the dollar amount of the returned check(s);~~

~~(B) the length of time required to collect the amount owed the department;~~

~~(C) the number of returned checks received by the department during the period in question; and~~

~~(D) the amount of the licensee, permittee, or package agency bond on file with the department in relation to the dollar amount of the returned check(s).~~

~~(iv) for purposes of this Subsection (6)(c), a licensee, permittee, or package agent that is on "cash only" status may make payments to the department in cash, with a cashier's check, or with a current debit card with an authorized pin number; and~~

~~(v) the department may immediately remove a licensee, permittee, or package agent from "cash only" status if it is determined that the cause of the returned check was due to bank error, and was not the fault of the person tendering the check.~~

~~(d) In addition to the remedies listed in Subsections (6) (a), (b) and (c), the department may pursue any legal remedies to effect collection of any returned check]. The determination of when to put a licensee, permittee, or package agency operator on "cash only" basis and how long the licensee, permittee, or package agency operator remains on "cash only" basis shall be at the discretion of the department and shall be based on the following factors:~~

~~(i) dollar amount of the returned check(s);~~

~~(ii) the number of returned checks;~~

~~(iii) the length of time the licensee, permittee, or package agency operator has had a license, permit, or package agency with the department;~~

~~(iv) the time necessary to collect the returned check(s); and~~

~~(v) any other circumstances.~~

~~(d) A returned check received by the department from or on behalf of an applicant for or holder of a single event permit or~~

temporary special event beer permit may, at the discretion of the department, require that the person or entity that applied for or held the permit be on "cash only" status for any future events requiring permits from the commission.

(e) In addition to the remedies listed in Subsections (5) (a), (b), (c) and (d), the department may pursue any legal remedies to effect collection of any returned check.

(6) Disposition of unsaleable merchandise.

The department, after determining that certain alcoholic products are distressed or unsaleable, but consumable, may make those alcoholic products available to the Utah Department of Public Safety for education or training purposes.

All merchandise made available to the Utah Department of Public Safety must be accounted for as directed by the Department of Alcoholic Beverage Control.

(7) Administrative Handling Fees.

(a) Pursuant to 32A-12-212(1)(b) a person, on a one-time basis, who moves the person's residence to this state from outside of this state may have or possess for personal consumption and not for sale or resale, liquor previously purchased outside the state and brought into this state during the move if the person obtains department approval before moving the liquor into the state, and the person pays the department a reasonable administrative handling fee as determined by the commission.

(b) Pursuant to 32A-12-212(1)(c) a person who as a beneficiary inherits as part of an estate liquor that is located outside the state, may have or possess the liquor and transport or cause the liquor to be transported into the state if the person obtains department approval before moving the liquor into the state, the person provides sufficient documentation to the department to establish the person's legal right to the liquor as a beneficiary, and the person pays the department a reasonable administrative handling fee as determined by the commission.

(c) The administrative handling fee to process any request for department approval referenced in subsections (1)(b) and (1)(c) is \$20.00.

KEY: alcoholic beverages

Date of Enactment or Last Substantive Amendment: [June 24], 2009

Notice of Continuation: August 31, 2006

Authorizing, and Implemented or Interpreted Law: 32A-1-106(9); 32A-1-107; 32A-1-119(5)(c); 32A-1-702; 32A-1-703; 32A-1-704; 32A-1-807; 32A-3-103(1)(a); 32A-4-103(1)(a); 32A-4-106(1)(a); 32A-4-203(1)(a); 32A-4-304(1)(a); 32A-4-307(1)(a); 32A-4-401(1)(a); 32A-5-103(1)(a); 32A-6-103(2)(a); 32A-7-103(2)(a); 32A-7-106(5); 32A-8-103(1)(a); 32A-8-503(1)(a); 32A-9-103(1)(a); 32A-10-203(1)(a); 32A-10-206(14); 32A-10-303(1)(a); 32A-10-306(5); 32A-11-103(1)(a); 32A-12-212(1)(b) and (c)

Commerce, Occupational and Professional Licensing

R156-3a Architect Licensing Act Rule

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 33030
FILED: 10/08/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Architects Licensing Board reviewed the rule and determined that changes need to be made. The current definition of incidental practice was determined by both the Architects Licensing Board and Professional Engineers and Professional Land Surveyors Licensing Board to be too vague. Both Boards determined there was a need to further define and clarify incidental practice not only for the licensed professionals but also for building inspectors. The two Boards worked together and came up with the language in this proposed rule change. Proposed amendments also update when continuing education is due and eliminate an outdated portion of the rule that pertains to the initial implementation of continuing education. Also, an additional definition of unprofessional conduct is being added with respect to a supervising architect failing to verify work experience when so requested.

SUMMARY OF THE RULE OR CHANGE: In Subsection R156-3a-102(6), the definition of "incidental practice" is being updated to restrict incidental work to an occupant load of 49 and prohibits work on occupancy category III or IV structures as defined by the 2006 International Building Code. Additionally, incidental work would be limited to 15 percent of the overall construction value of a project. In Section R156-3a-304, the two-year continuing education reporting period is being changed from December 31 of each odd numbered year to March 31 of each even numbered year to coincide with the renewal date for the profession. Also, an outdated provision in Subsection R156-3a-304(1)(a) that pertains to the initial implementation of continuing education is being deleted. In Section R156-3a-305, rule citations are being updated. Subsection R156-3a-502(5) is being added to define as unprofessional conduct the failing as a supervising architect to verify work experience when so requested to do so.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-3a-101 and Section 58-3a-303.5 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$50 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

◆ LOCAL GOVERNMENTS: Due to the clarification of the definition of incidental practice, there could be a cost savings to local governments in that local governments would save time and resources in determining if a licensee could actually perform work that was submitted for review.

◆ SMALL BUSINESSES: There may be an unknown fiscal impact to a limited number of individuals/licensees and firms, which may qualify as a small business, that may be doing work which is prohibited under the proposed rule amendments regarding incidental practice. The Division, however, is unable to determine any exact fiscal impact due to a wide range of circumstances.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The proposed amendments only apply to licensed architects and applicants for licensure in that classification. There may be an unknown fiscal impact to a limited number of licensees that may be doing work which is prohibited under the proposed rule amendments regarding incidental practice. The Division, however, is unable to determine any exact fiscal impact due to a wide range of circumstances. Also if a licensed architect failed to verify work experience if requested to do so, the licensee could be charged with unprofessional conduct against his license, which may result in some costs to the licensee to defend a possible licensure action.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed architects and applicants for licensure in that classification. There may be an unknown fiscal impact to a limited number of licensees that may be doing work which is prohibited under the proposed rule amendments regarding incidental practice. The Division, however, is unable to determine any exact fiscal impact for affected persons due to a wide range of circumstances. Also if a licensed architect failed to verify work experience if requested to do so, the licensee could be charged with unprofessional conduct against his license, which may result in some costs to the licensee to defend a possible licensure action.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing clarifies definitions, changes the continuing education deadline to coordinate with the license renewal date, removes an outdated provision, and makes it unprofessional conduct for a supervisor to fail to verify work experience of a supervisee. No fiscal impact to businesses is anticipated beyond those addressed in the rule summary.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Dennis Meservy by phone at 801-530-6375, by FAX at 801-530-6511, or by Internet E-mail at dmeservy@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2009

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 11/18/2009 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 475 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2009

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.

R156-3a. Architect Licensing Act Rule.

R156-3a-102. Definitions.

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

(1) "ARE" means the NCARB Architectural Registration Examination.

(2) "Committee" means the IDP Committee created in Section R156-3a-201.

(3) "Complete and final" as used in Subsection 58-3a-603(1) means "complete construction plans" as defined in Subsection 58-3a-102(4).

(4) "EESA" means the Education Evaluation Services for Architects.

(5) "Employee, subordinate, associate, or drafter of an architect" as used in Subsections 58-3a-102(8), 58-3a-603(1)(b) and this rule means one or more individuals not licensed as an architect who are working for, with, or providing architectural services directly to the licensed architect under the supervision of the licensed architect.

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

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

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

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

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

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

~~(f) is work that affects not greater than 49 occupants as determined in Section 1004 of the 2006 International Building Code;~~

(e) is work included on a project with a construction value not greater than 15 percent of the overall construction value for the project including all changes or additions to the contracted or agreed upon work; and

(f) shall not include work on a building or related structure in an occupancy category of III or IV as defined in Section 1604.5 of the 2006 International Building Code.

(7) "Intern Development Program" or "IDP" as used in Subsection R156-3a-302(2) means a NCARB approved training program.

(8) "NAAB" means the National Architectural Accrediting Board.

(9) "NCARB" means the National Council of Architectural Registration Boards.

(10) "Program of diversified practical experience" as used in Subsection 58-3a-302(1)(e) means:

(a) current licensure in a recognized jurisdiction; or

(b) the training standards and requirements set forth in the Intern Development Program.

(11) "Recognized jurisdiction" as used in Subsections 58-3a-302(2)(d)(i) and (iii), for licensure by endorsement, means any state, district, territory of the United States, or any foreign country who issues licenses for architects, and whose licensure requirements include:

(a) a bachelors or post graduate degree in architecture or equivalent education as set forth in Subsection R156-3a-301(2);

(b) a program of diversified practical experience as set forth in Subsection R156-3a-102(10), or an equivalent training program; and

(c) passing the ARE or passing a professional architecture examination that is equivalent to the ARE.

(12) "Responsible charge" as used in Subsections 58-3a-102(7), 58-3a-302(2)(d)(iv) and 58-3a-304(6) means direct control and management by a principal over the practice of architecture by an organization.

(13) "Under the direction of the architect" as used in Subsection 58-3a-102(8), as part of the definition of "supervision of an employee, subordinate, associate, or drafter of an architect" means that the unlicensed employee, subordinate, associate, or drafter of the architect engages in the practice of architecture only on work initiated by the architect, and only under the administration, charge, control, command, authority, oversight, guidance, jurisdiction, regulation, management, and authorization of the architect.

(14) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 3a, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-3a-502.

R156-3a-304. Continuing Professional Education for Architects.

In accordance with Section 58-3a-303.5, the qualifying continuing professional education standards for architects are established as follows:

(1) During each two year period ending on ~~December~~ March 31 of each ~~odd~~ even numbered year, a licensed architect shall be required to complete not less than 16 hours of qualified professional education directly related to the licensee's professional practice. ~~]~~

~~(a) Transition requirement. During the two year period ending on December 31, 2007, an architect shall be required to complete five hours of qualifying continuing professional education.]~~

(2) The required number of hours of professional education for an individual who first becomes licensed during the two year period shall be decreased in a pro-rata amount equal to any part of that two year period preceding the date on which that individual first became licensed.

(3) Qualified continuing professional education under this section shall:

(a) have an identifiable, clear statement of purpose and defined objective for the educational program directly related to the practice of an architect and directly related to topics involving the public health, safety, and welfare of architectural practice and the ethical standards of architectural practice;

(i) health, safety, welfare and ethical standards as used in this subsection are defined to include the following:

(A) The definition of "health" shall include, but not be limited to, aspects of architecture that have salutary effects among users of buildings or sites and that address environmental issues. Examples include all aspects of air quality, provisions of personal hygiene, and use of non-toxic materials and finishes.

(B) The definition of "safety" shall include, but not be limited to, aspects of architecture intended to limit or prevent accidental injury or death among users of buildings or construction sites. Examples include fire-rated egress enclosures, automatic sprinkler systems, stairs with correct rise-to-run proportions, and accommodations for users with disabilities.

(C) The definition of "welfare" shall include, but not be limited to, aspects of architecture that consist of values that may be spiritual, physical, aesthetic and monetary in nature. Examples include spaces that afford natural light or views of nature or whose proportions, color or materials engender positive emotional responses from its users.

(D) The definition of "ethical standards of architectural practice" shall include, but not be limited to the NCARB rules of conduct specified in Subsection R156-3a-502(4).

(b) be relevant to the licensee's professional practice;

(c) be presented in a competent, well organized and sequential manner consistent with the stated purpose and objective of the program;

(d) be prepared and presented by individuals who are qualified by education, training and experience; and

(e) have associated with it a competent method of registration of individuals who actually completed the professional education program and records of that registration and completion are available for review.

(4) Credit for qualified continuing professional education shall be recognized in accordance with the following:

(a) unlimited hours shall be recognized for professional education completed in blocks of time of not less than one hour in formally established classroom courses, seminars, or conferences;

(b) a maximum of eight hours per two year period may be recognized for teaching in a college or university or for teaching qualified continuing professional education courses in the field of architecture, provided it is the first time the material has been taught during the preceding 12 months;

(c) a maximum of three hours per two year period may be recognized for preparation of papers, articles, or books directly related to the practice of architecture and submitted for publication; and

(d) unlimited hours may be recognized for continuing professional education that is provided via the Internet or through home study courses provided the course verifies registration and participation in the course by means of a test which demonstrates that the participant has learned the material presented.

(5) A licensee shall be responsible for maintaining records of completed qualified continuing professional education for a period of four years after the two year period to which the records pertain. It is the responsibility of the licensee to maintain information with respect to qualified continuing professional education to demonstrate it meets the requirements under this section.

(6) If a licensee exceeds the 16 hours of qualified continuing professional education during the two year period, the licensee may carry forward a maximum of 8 hours of qualified continuing professional education into the next two year period.

(7) A licensee who is unable to complete the continuing professional education requirement for reasons such as a medical or related condition, humanitarian or ecclesiastical services, or extended presence in a geographical area where continuing professional education is not available, may be excused from the requirement for a period of up to three years as provided in Section R156-1-308d.

(8) Any licensee who fails to timely complete the continuing professional education hours required by this rule shall be required to complete double the number of hours missed to be eligible for renewal or reinstatement of licensure.

(9) Any applicant for reinstatement shall be required to complete 16 hours of continuing professional education complying with this rule within two years prior to the date of application for reinstatement of licensure.

R156-3a-305. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licenses under Title 58, Chapter 3a is established by rule in Section R156-1-308a(1).

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

R156-3a-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) submitting an incomplete final plan, specification, report, or set of construction plans to:

(a) a client, when the licensee represents, or could reasonably expect the client to consider, the plan, specification, report, or set of construction plans to be complete and final; or

(b) a building official for the purpose of obtaining a building permit;

(2) failing as a principal to exercise reasonable charge;

(3) failing as a supervisor to exercise supervision of an employee, subordinate, associate or drafter; ~~or~~

(4) failing to conform to the generally accepted and recognized standards and ethics of the profession including those

established in the July 2007 edition of the NCARB "Rules of Conduct", which is hereby incorporated by reference; or

(5) failing as a supervising architect to verify actual work experience when requested by a subordinate, associate or drafter of an architect who is or has been an employee.

KEY: architects, licensing

Date of Enactment or Last Substantive Amendment: ~~March 27, 2008~~ **2009**

Notice of Continuation: April 10, 2006

Authorizing, and Implemented or Interpreted Law: 58-3a-101; 58-1-106(1)(a); 58-1-202(1)(a), 58-3a-303.5

**Commerce, Occupational and
Professional Licensing
R156-55c
Construction Trades Licensing Act
Plumber Licensing Rule**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33029

FILED: 10/08/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division, Plumbers Licensing Board, and Construction Service Commission have reviewed and approved the proposed amendments. Amendments are being proposed to implement changes made in H.B. 15 which was passed by the 2009 Legislature. (DAR NOTE: H.B. 15 (2009) is found at Chapter 346, Laws of Utah 2009, and was effective 07/01/2009.)

SUMMARY OF THE RULE OR CHANGE: In Subsection R156-55c-302b(5)(a), the amendment identifies bodies that can approve formal plumbing educational programs. In Section R156-55c-303, rule citations are updated.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-55-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$50 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

♦ **LOCAL GOVERNMENTS:** The proposed amendments only apply to licensed plumbers and applicants for licensure in those classifications. As a result, the proposed amendments do not apply to local governments.

♦ **SMALL BUSINESSES:** The proposed amendments only apply to licensed plumbers and applicants for licensure in those classifications. Licensees and applicants for licensure may work in a small business; however, the proposed amendments would not directly affect the business. The Division does not anticipate any costs or savings as a result of these proposed amendments beyond those previously identified in fiscal notes prepared in connection with H.B. 15.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendments only apply to licensed plumbers and applicants for licensure in those classifications. The Division does not anticipate any costs or savings as a result of these proposed amendments beyond those previously identified in fiscal notes prepared in connection with H.B. 15.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed plumbers and applicants for licensure in those classifications. The Division does not anticipate any costs or savings as a result of these proposed amendments beyond those previously identified in fiscal notes prepared in connection with H.B. 15. There should also be no impact to the state apprenticeship colleges or students. The Utah Board of Regents and Utah College of Applied Technology Board of Trustees have established procedures for reviewing and approving programs of instruction for the institutions they oversee.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: To be consistent with recent statutory amendments, this rule filing adds the Utah College of Applied Technology Board of Trustees as an entity that may determine whether the instruction offered at a particular plumbing education program is to be approved. No fiscal impact to businesses is anticipated.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Dennis Meservy by phone at 801-530-6375, by FAX at 801-530-6511, or by Internet E-mail at dmeservy@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2009

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 11/25/2009 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2009

AUTHORIZED BY: Mark Steinagel, Director

**R156. Commerce, Occupational and Professional Licensing.
 R156-55c. Construction Trades Licensing Act Plumber Licensing Rule.**

R156-55c-302b. Qualification for Licensure - Training and Instruction Requirement.

In accordance with Subsections 58-1-203(2) and 58-1-301(3), the training and instruction requirements for licensure in Subsection 58-55-302(3)(c) and (d) are defined, clarified, or established as follows:

(1) An applicant for a journeyman plumber's license shall demonstrate successful completion of the requirements of either paragraph (a) or (b):

(a)(i) 8,000 hours of training and instruction in not less than four years that meets the requirements of Subsections R156-55c-302b(4) and (6).

(ii) the 8,000 hours shall include 576 clock hours of related classroom instruction that meets the requirements of Subsection R156-55c-302b(5);

(iii) the apprenticeship shall be obtained while licensed as an apprentice plumber or residential apprentice plumber;

(iv) the apprenticeship shall include on the job training and instruction in seven of the nine work process areas listed in Table I; and

(v) the hours obtained in any work process area shall be at least the number of hours listed in Table I.

(b)(i) 16,000 hours of on the job training and instruction in not less than eight years;

(ii) the apprenticeship shall be obtained while licensed as an apprentice plumber;

(iii) the hours shall include on the job training and instruction in seven of the nine work process areas listed in Table I; and

(iv) the hours obtained in any work process shall be at least the number of hours listed in Table I.

Work Process	Minimum Hours
A. Use of hand tools, equipment and pipe machinery	200
B. Installation of piping for waste, soil, sewer and vent lines	2,000
C. Installation of hot and cold water for domestic purposes	1,400
D. Installation and setting of plumbing appliances and fixtures	1,400
E. Maintenance and repair of plumbing	600
F. General pipe work including process and industrial hours	600
G. Gas piping or service piping	400

- H. Welding, soldering and brazing as it applies to the trade 100
- I. Service and maintenance of gas controls and equipment 100

(2) An applicant for a residential journeyman plumber's license shall demonstrate successful completion of the requirements of paragraph (a) or (b):

- (a)(i) 6,000 hours of training and instruction in not less than three years that meets the requirements of Subsections R156-55c-302b(4) and (6).
- (ii) the 6,000 hours shall include 432 clock hours of related classroom instruction that meets the requirements of Subsection R156-55c-302b(5);
- (iii) the 6,000 hours shall be obtained while licensed as an apprentice plumber or residential apprentice plumber;
- (iv) the apprenticeship shall include on the job training and instruction in six of the eight work process areas listed in Table II; and
- (v) the hours obtained in any work process area shall include at least the number of hours listed in Table II.
- (b)(i) 12,000 hours of experience in not less than six years which has been documented using a form provided by the division;
- (ii) the experience shall be obtained while licensed as an apprentice plumber or residential apprentice plumber;
- (iii) at least 9,000 hours of experience shall be directly involved in the plumbing trade;
- (iv) the hours shall be in six of the eight work process areas listed in Table II; and
- (v) the hours obtained in any work process area shall include at least the number of hours listed in Table II.

TABLE II

Work Process	Minimum Hours
A. Use of hand tools, equipment and pipe machinery	100
B. Installation of piping for waste, soil, sewer and vent lines	1,600
C. Installation of hot and cold water for domestic purposes	1,200
D. Installation and setting of plumbing appliances and fixtures	1,000
E. Maintenance and repair of plumbing	600
F. Gas piping or service piping	400
G. Service and maintenance of gas controls and equipment	100
H. Welding, soldering and brazing as it applies to the trade	100

(3) A licensed residential journeyman plumber applying for a journeyman plumber's license shall complete 2,000 hours of on the job training in industrial or commercial plumbing while

licensed as an apprentice plumber or residential apprentice plumber, which shall include successful completion of an approved fourth year course of classroom instruction.

(4) On the job training and instruction required in this section shall include measurements of an apprentice's performance in the plumbing trade.

(5) Formal classroom instruction required by this section shall meet the following requirements:

(a) instruction shall be conducted by an entity approved by the Utah Board of Regents, Utah College of Applied Technology Board of Trustees or by another ~~[entity that demonstrates to the division and board that it conducts equivalent classroom instruction]~~ similar out of state body that approves formal plumbing educational programs; and

(b) instruction shall be conducted by competent qualified staff and shall include measures of competency and achievement level of each apprentice.

(6) Apprentice plumbers and residential apprentice plumbers shall engage in the plumbing trades only in accordance with the following:

(a) except as provided in Subsection 58-55-302(3)(e)(ii) for fourth through tenth year apprentices, while engaging in the plumbing trade, an apprentice plumber or residential apprentice plumber shall be under the immediate supervision of a journeyman plumber for commercial or industrial work, and by a residential journeyman or journeyman plumber for residential work;

(b) the apprentice shall engage in the plumbing trade in accordance with the instruction of the supervising plumber; and

(c) the apprentice shall work in a ratio of not to exceed two apprentice plumbers to one supervising plumber.

R156-55c-303. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 55, is established by rule in Section R156-1-308a(1).

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

KEY: occupational licensing, licensing, plumbers, plumbing Date of Enactment or Last Substantive Amendment: [November 10, 2008]2009

Notice of Continuation: November 8, 2006

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-55-101

Commerce, Occupational and Professional Licensing
R156-79
Hunting Guides and Outfitters Licensing Act Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33065

FILED: 10/15/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Hunting Guides and Outfitters Licensing Board further reviewed this rule after an August 2009 rule hearing and written comments received by the Division with respect to this rule. As a result of that review, additional amendments are being proposed.

SUMMARY OF THE RULE OR CHANGE: In Subsection R156-79-102(2), the American Heart Association is being added as an additional provider of first aid/cardiopulmonary resuscitation (CPR) courses. Subsection R156-79-302d(1)(d) is amended to reduce the number of conviction of misdemeanors from three to one or more involving wildlife violations. In Subsections R156-79-302d(1)(f) and (g), minor wording changes are made. In Section R156-79-303, the renewal cycle is updated from one year to two years as provided in the governing statute. Subsection R156-79-502(14) is updated with respect to general liability insurance coverage required by the United States Forest Service or the Bureau of Land Management. In Sections R156-79-601 and R156-79-602, in addition to the American Heart Association amendments being added, these two sections are amended to remove the 30 days of basic instruction requirement and give the Board the responsibility of approving the training programs for the hunting guide and outfitter programs. Also, the training requirements of orienteering and map reading are being added. Section R156-79-701 is being deleted as it is inappropriate and has created confusion in the outfitter and hunting guide industry.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-79-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$75 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

◆ **LOCAL GOVERNMENTS:** The proposed amendments only apply to licensed hunting guides and outfitters and applicants for licensure in those classifications. As a result, the proposed amendments do not apply to local governments.

◆ **SMALL BUSINESSES:** The proposed amendments only apply to licensed hunting guides and outfitters and applicants for licensure in those classifications. Licensees and applicants for licensure may work in a small business; however, the proposed amendments would not directly affect the business. The Division does not anticipate that these proposed amendments will create any additional costs or savings to the regulated industry.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendments only apply to licensed hunting guides and outfitters and applicants for licensure in those classifications. The Division does not anticipate that these proposed amendments will create any additional costs or savings to the regulated industry.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed hunting guides and outfitters and applicants for licensure in those classifications. The Division does not anticipate that these proposed amendments will create any additional costs or savings to the regulated industry.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated from this rule filing which clarifies existing provisions based on comments received during a rule hearing.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2009

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 11/10/2009 01:00 PM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2009

AUTHORIZED BY: Mark Steinagel, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-79. Hunting Guides and Outfitters Licensing Act Rule.
R156-79-102. Definitions.**

In addition to the definitions in Sections 58-1-102 and 58-79-102, which shall apply to this rule:

(1) "Client" means the person who engages the professional services of a licensed outfitter.

(2) "Certification of completion of a first aid and CPR course" means a valid certificate issued by the American Red Cross or American Heart Association to denote the individual whose name

and signature appear thereon has successfully completed an applicable American Red Cross or American Heart Association first aid and CPR course.

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

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

(b) a guilty plea;

(c) a plea of nolo contendere;

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

(e) a pending diversion agreement;

(f) a conviction which has been reduced pursuant to Subsection 76-3-402(1); or

(g) an equivalent of any of the above in another jurisdiction.

(4) "Packing" means transporting for hire or compensation hunters, game animals or equipment in the field.

(5) "Protecting" means the hunting guide and outfitter protects any clientele.

(6) "Responsible charge" means having principal care for the safety and welfare of a client when and where the hunting guide services are being provided.

(7) "Unprofessional conduct", as defined in Title 58, Chapters 1 and 79, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-79-502.

R156-79-302d. Qualifications for Licensure - Good Moral Character.

(1) Any one or more of the following may disqualify an individual from obtaining or holding a hunting guide or outfitters license:

(a) a violation of a state or federal wildlife, hunting guide or outfitter statute or regulation that includes:

(i) an imprisonment for more than five days within the previous five years;

(ii) an unsuspended fine of more than \$2,000 imposed in the previous 12 months;

(iii) an unsuspended fine of more than \$3,000 imposed in the previous 36 months; or

(iv) an unsuspended fine of more than \$5,000 imposed in the previous 60 months;

(b) any felony conviction within the last five years;

(c) a conviction for a felony offense against a person under Title 76, Chapter 5, Utah Criminal Code, Offenses Against the Person, within the last ten years;

(d) a conviction for ~~three~~one or more misdemeanors involving wildlife violations;

(e) a conviction for a misdemeanor crime of moral turpitude;

(f) a suspension or disciplinary action involving an individual~~'s right to~~ obtaining or exercis[e]ing the privileges granted by a hunting guide or outfitter license in this state or another state of the United States, province of Canada, by the Federal Bureau of Land Management or by the United States Forest Service; and

(g) a loss of the ~~right~~privilege to hunt in this state or another state of the United States or province of Canada.

R156-79-303. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the ~~one~~two-year renewal cycle applicable to licensees under Title 58, Chapter 79 is established by rule in Section R156-1-308a.

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

R156-79-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) engaging in fraud in advertising or soliciting hunting guide or outfitter services to the public;

(2) intentionally obstructing or hindering or attempting to obstruct or hinder lawful hunting by a person who is not a client or an employee of the licensee;

(3) failing to promptly report, unless a reasonable means of communication is not readily available, and in no event later than 20 days, a violation of a state or federal wildlife, game or guiding statute that the licensee believes was committed by a client or an employee of the licensee;

(4) materially breaching a contract with a person using the hunting guide or outfitting services of the licensee;

(5) failing to provide any animal used in the conduct of business with proper food, drink and subjecting any animal used in the conduct of business to needless abuse or cruel and inhumane treatment;

(6) failing to allow the Division or its agents access at all times to inspect hunting camps, whether or not the licensee is present;

(7) failing to provide a hunting guide for every two hunters in wilderness areas and for up to six hunters in all other areas of the state;

(8) failing to maintain a neat, orderly and sanitary camp by not disposing of garbage, debris and human waste appropriately;

(9) failing to provide clean drinking water or failing to protect all food from contamination;

(10) failing to separate livestock facilities and camp facilities and to protect streams from contamination;

(11) failing to report any serious injury or fatality to the client or outfitter staff to a federal, state, county or local law enforcement authority;

(12) failing to comply with state and federal laws and rules regarding hunting guides and outfitters;

(13) failing to comply with state and federal wildlife laws and rules;

(14) failing to ~~provide and~~adequately maintain general liability insurance coverage ~~[during the entire licensing period]~~as required by the United States Forest Service or the Bureau of Land Management;

(15) failing as a licensee to carry an original license, as issued by the Division, at all times when providing outfitting or hunting guide services;

(16) providing outfitter services to a person who is not properly licensed to hunt for the species sought by that person; and

(17) failing to conform to the generally accepted and recognized standards and ethics of the profession including those established by the Utah Guides and Outfitters Association, adopted July 1, 2006, which is hereby incorporated by reference.

R156-79-601. Content of the Hunting Guide Basic Training Program.

The basic training program for hunting guides as required in Subsection 58-79-302(1)(e) shall be approved by the Division in collaboration with the Board and may~~contain at least 30 days of basic instruction to~~ include the following components or their equivalent:

- (1) hunter ethics and attitude;
- (2) horsemanship;
- (3) packing skills;
- (4) transporting livestock;
- (5) shoeing skills;
- (6) use of a crosscut saw and ax;
- (7) use of a chain saw;
- (8) general weapon knowledge;
- (9) guiding skills;
- (10) game care;
- (11) setting up camps;
- (12) hunting guide regulations;
- (13) an American Red Cross or American Heart

Association first aid and CPR course;

- (14) orienteering and map reading;
- ~~(14)~~15) a basic off highway vehicle safety course;
- ~~(15)~~16) basic survival skills;~~[-and]~~
- ~~(16)~~17) trophy judging skills;
- ~~(18)~~ other topics pertinent to the hunting guide industry as approved by the Division in collaboration with the Board.

R156-79-602. Content of the Outfitter Basic Training Program.

The basic training program for outfitters as required in Subsection 58-79-302(2)(e) shall be approved by the Division in collaboration with the Board and may~~contain at least 30 days of basic instruction to~~ include the following components or their equivalent:

- (1) hunter ethics and attitude;
- (2) horsemanship;
- (3) packing skills;
- (4) transporting livestock;
- (5) shoeing skills;
- (6) use of a crosscut saw and ax;
- (7) use of a chain saw;
- (8) general weapon knowledge;
- (9) guiding skills;
- (10) game care;
- (11) setting up camps;
- (12) outfitter regulations;
- (13) an American Red Cross or American Heart

Association first aid and CPR course;

- (14) a basic off highway vehicle safety course;
- (15) supervising clientele;
- (16) hiring and supervising personnel;
- (17) outfitter advertising;
- (18) booking clientele;
- (19) going into business for oneself;
- (20) wilderness and back country manners;
- (21) applying federal and state land use policies;
- (22) obtaining all necessary licenses and permits and permissions for the client;

(23) providing staff and facilities for hunting;

(24) providing a hunting guide;

~~(25)~~ orienteering and map reading;

~~(25)~~26) basic survival skills;~~[-and]~~

~~(26)~~27) trophy judging skills;

~~(28)~~ other topics pertinent to the outfitter industry as approved by the Division in collaboration with the Board.

R156-79-701. Effective Date of Rule.

~~The effective date of this rule shall be January 1, 2010.~~

KEY: licensing, hunting guides, outfitters

Date of Enactment or Last Substantive Amendment:
~~September 10,~~2009

Authorizing, and Implemented or Interpreted Law: 58-79-101; 58-1-106(1)(a); 58-1-202(1)(a)

Commerce, Real Estate **R162-3-6** Renewal and Reinstatement

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33057

FILED: 10/14/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment clarifies the continuing education requirement to state explicitly that the hours submitted must be non-duplicative, such that a licensee may not take the same class multiple times within a renewal period.

SUMMARY OF THE RULE OR CHANGE: The word "non-duplicative" is added to the sections that outline the number of continuing education hours that are required to renew a license.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2-5.5(1)(a) and Subsection 61-2-9(2)(a)(i)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** Neither the state nor its agents participate in continuing education.

◆ **LOCAL GOVERNMENTS:** Local governments do not participate in continuing education.

◆ **SMALL BUSINESSES:** Small businesses do not participate in continuing education unless they voluntarily choose to pay for the continuing education taken by their licensed mortgage officers. Even in that situation, this rule does not increase the costs associated with continuing education.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Affected persons will have to pay the fees associated with the continuing education classes that they choose to take for renewal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: To comply, affected persons must choose non-duplicative continuing education classes and pay the associated fees. Those fees vary from class to class. There are no other compliance costs associated with this rule amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing clarifies that continuing education courses may not be duplicated. No fiscal impact to businesses is anticipated.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Jennie Jonsson by phone at 801-530-6706, by FAX at 801-526-4387, or by Internet E-mail at jjonsson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2009

AUTHORIZED BY: Deanna Sabey, Director

R162. Commerce, Real Estate.

R162-3. License Status Change.

R162-3-6. Renewal and Reinstatement.

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

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

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

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

3.6.2 Renewal Requirements.

3.6.2.1 Continuing Education. To renew a license on active status before January 1, 2010, an applicant must submit to the division proof of having completed, during the previous license period and by the 15th day of the month of expiration, 12 non-duplicative hours of continuing education from courses certified by the division. To renew a license on active status after January 1, 2010, an applicant must submit to the division proof of having completed, during the previous license period and by the 15th day of the month of expiration, 18 non-duplicative hours of continuing education from courses certified by the division.

3.6.2.1.1 During the first license period, a licensee must take the 12-hour "New Sales Agent Course" certified by the division. Licensees in their first license period who renew their licenses before January 1, 2010 will satisfy their continuing education requirement ("core" and "elective") by taking the 12-hour "New Sales Agent Course." Licensees in their first license period who renew their licenses after January 1, 2010 will need to complete 6 additional non-duplicative hours of continuing education (either "core" or "elective") as defined in R162.9.2.1 - 9.2.10.

3.6.2.1.2 During subsequent license periods before January 1, 2010 a licensee must take at least 6 hours of non-duplicative continuing education from courses certified by the division as "core" as defined in Rule R162.9.2.1. A licensee must take any remaining hours of continuing education from courses certified by the division as "elective" as defined in Rules R162.9.2.2 - 9.2.2.10. During subsequent license periods after January 1, 2010, a licensee must take at least 9 hours of non-duplicative continuing education from courses certified by the division as "core" as defined in R162.9.2.1. A licensee must take any remaining hours of continuing education from courses certified by the division as "elective" as defined in R162.9.2.2 - 9.2.2.10.

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

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

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

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

KEY: real estate business

Date of Enactment or Last Substantive Amendment: ~~July 30, 2008~~2009

Notice of Continuation: April 18, 2007

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

Education, Administration

R277-516

Education Employee Required Reports
of Arrests and Required Background
Check Policies for Non-licensed
Employees

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33052

FILED: 10/14/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide new language clarifying that the Utah State Office of Education (USOE) will review background check information only for licensed educators. New definitions used within the new language have also been added to the rule.

SUMMARY OF THE RULE OR CHANGE: The amended rule provides new definitions and changes the language to clarify the process for USOE responsibility for review of arrest/conviction information for licensed educators.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 53A-1-401(1)(a)(i) and (iii)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There are no anticipated costs or savings to the state budget. The changes simply clarify the process for USOE review of arrest/conviction information. The Utah State Office of Education will carry out the review within existing staff and budgets.

◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local government. The changes simply clarify the process for USOE review of arrest/conviction information.

◆ **SMALL BUSINESSES:** There are no anticipated costs or savings to small businesses. The changes simply clarify the process for USOE review of arrest/conviction information and do not involve businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings to persons other than small business, businesses, or local government entities. The changes simply clarify the process for USOE review of arrest/conviction information.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The changes simply clarify the process for USOE review of arrest/conviction information.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2009

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.**R277-516. Education Employee Required Reports of Arrests and Required Background Check Policies for Non-licensed Employees.****R277-516-1. Definitions.**

A. "Board" means the Utah State Board of Education.

B. "Computer Aided Credentials of Teachers in Utah System (CACTUS)" means the database maintained on all licensed Utah educators. The database includes information such as:

(1) personal directory information;

(2) educational background;

(3) endorsements;

(4) employment history;

(5) professional development information;

(6) completion of employee background checks; and

(7) a record of disciplinary action taken against the educator.

C. "DPS" means the Department of Public Safety.

[B]D. "Licensed educator" means an individual who holds a valid Utah educator license and has satisfied all requirements to be a licensed educator in the Utah public school system (examples are traditional public school teachers, charter school teachers, school administrators, USOE and school district specialists). A licensed educator may or may not be employed in a position that requires an educator license. Licensed educators include individuals who are student teaching, who are in alternative routes to licensing programs or positions and individuals who hold district- or charter school-specific licenses.

[E]E. "Public education employer" means the education entity that hires and employs an individual, including public school

districts, the Utah State Office of Education, Regional Service Centers, and charter schools.

[D]E. "USOE" means the Utah State Office of Education.

R277-516-4. Non-licensed Public Education Employee Background Check Policies.

A. School districts and charter schools shall adopt policies for non-licensed public education employee background checks that include at least the following components:

(1) periodic background checks of non-licensed employees;

(2) non-licensed employees shall submit to criminal background checks at least every six years;

[E]B. School district and charter school policies shall determine the background check process necessary based on the non-licensed employee's assignment.

[D]C. School districts and charter schools shall submit to the Utah Department of Public Safety a complete list of non-licensed employees including names, dates of birth, and social security numbers.

R277-516-5. Non-licensed Public Education Employee Arrest Reporting Policy Required from School Districts and Charter Schools.

A. School districts/charter schools shall have a policy requiring reporting of designated offenses by non-licensed public employees and all employees who drive motor vehicles as an employment responsibility.

B. School districts/charter schools shall have an employee reporting policy for non-licensed employees adopted in an open board meeting no later than September 15, 2009. The policy shall be available on the school district/charter school website or provided to the USOE or both.

C. The policy shall include the following minimum components:

(1) reporting of the following:

(a) convictions, including pleas in abeyance and diversion agreements;

(b) any matters involving arrests for alleged sex offenses;

(c) any matters involving arrests for alleged drug-related offenses;

(d) any matters involving arrests for alleged alcohol-related offenses; and

(e) any matters involving arrests for alleged offenses against the person under Title 76, Chapter 5, Offenses Against the Person.

(2) a timeline for receiving reports ~~[required under R277-516-3B from licensed educators who drive as an employment assignment and from other]~~ from non-licensed public education employees;

(3) immediate suspension from student supervision responsibilities for alleged sex offenses and other alleged offenses which may endanger students during the period of investigation;

(4) immediate suspension from transporting students or public education vehicle operation or maintenance for alleged offenses involving alcohol or drugs during the period of investigation;

(5) adequate due process for the accused employee consistent with Section 53A-3-410(10);

(6) a process to review arrest information and make employment decisions that protect both the safety of students and the confidentiality and due process rights of employees;

(7) timelines and procedures for maintaining records of arrests and convictions of non-licensed public education employees. Records shall:

(a) include final administrative determinations and actions following investigation; and

(b) be maintained only as necessary to protect the safety of students and with strict requirements for the protection of confidential employment information.

R277-516-7. USOE Responsibility for Review of Arrest/Conviction Information ~~[from Licensed Educators]~~ Regarding Current or Prospective Licensees.

A. The USOE shall review self-disclosure reports received from [licensed educators]public education employers who received the information from licensed educators pursuant to this rule, or reports from DPS regarding arrests/convictions of current or prospective licensees in a timely manner.

~~[B. The USOE shall investigate information received from educators under this rule consistent with procedures under Section 53A-6-401 and R686-100.~~

~~C. The USOE shall cooperate with school districts/charter schools in the investigative and disciplinary process.]B. The USOE shall:~~

(1) require the current or prospective licensee to immediately submit his fingerprints to DPS for a background check;

(2) place a flag on the licensee's CACTUS file indicating a background check issue;

(3) evaluate, after consultation with the public education employer and consistent with procedures under Section 53A-6-401 and R686-100, for potential licensing action.

KEY: school employees, self reporting

Date of Enactment or Last Substantive Amendments: 2009

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-301(3)(a); 53A-1-301(3)(d)(x); 53A-1-402(1)(a)(i); 53A-1-402(1)(a)(iii)

Education, Administration
R277-613
 School District and Charter School
 Bullying and Hazing Policies and
 Training

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 33053

FILED: 10/14/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to require school districts and charter schools to implement bullying and hazing policies district and school wide, to provide for regular and meaningful training of school employees and students and to provide for enforcement of the policies in public schools.

SUMMARY OF THE RULE OR CHANGE: The new rule provides definitions, Utah State Board of Education responsibilities, local school district and charter school responsibilities, training by school districts and charter schools specific to participants in public school athletic programs and school clubs, and professional responsibilities of employee and volunteer coaches.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There are no anticipated costs or savings to the state budget. This new rule provides guidance to school districts and charter schools for implementation of local bullying and hazing policies and training.

◆ **LOCAL GOVERNMENTS:** There could be minimal costs to school districts and charter schools for training of staff and students. However, it is most likely that the majority of school districts and charter schools will provide training to students and employees with existing staff and within existing budgets. The Utah State Office of Education has developed a model policy to assist school districts/charter schools in the implementation of their policies and to minimize development costs for school districts/charter schools.

◆ **SMALL BUSINESSES:** There are no anticipated costs or savings to small businesses. The requirements of this rule relate to public school districts and charter schools.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities. If there are minimal costs, the costs would be to school districts and charter schools for training purposes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There could be minimal compliance costs to school districts and charter schools for providing required training, although it is anticipated that the majority of school districts and charter schools will provide training using existing staff and within existing budgets.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.

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

EDUCATION
ADMINISTRATION

250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2009

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.**R277-613. School District and Charter School Bullying and Hazing Policies and Training.****R277-613-1. Definitions.**

A. "Board" means the Utah State Board of Education.
B(1) "Bullying" means intentionally or knowingly committing an act that is done for the purpose of placing a school employee or student in fear of:

(a) physical harm to the school employee or student; or
(b) harm to property of the school employee or student.
(2) Acts of bullying may include:
(a) endangerment to the physical health or safety of a school employee or student;

(b) any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements to a school employee or student;

(c) forced or unwilling consumption of any food, liquor, drug, or other substance by a school employee or student;

(d) any forced or coerced act or activity of a sexual nature or with sexual connotations such as asking a student to remove articles of clothing or expose or touch private areas of the body;

(e) other physical activity that endangers the physical health and safety of a school employee or student; or

(f) physically obstructing a school employee's or student's freedom to move.

(3) The conduct described in R277-613-B(2) constitutes bullying, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.

C. Cyberbullying" means the use of e-mail, instant messaging, chat rooms, pagers, cell phones, or other forms of information technology to deliberately harass, threaten, or intimidate someone for the purpose of placing a school employee or student in fear of:

(a) physical harm to the school employee or student; or
(b) harm to property of the school employee or student.

D. "Hazing" means intentionally or knowingly committing an act that is:

(1) done for the purpose of initiation or admission into, affiliation with, holding office in, or as a condition for, membership or acceptance, or continued membership or acceptance, in any school or school sponsored team, organization, program, or event.

(2) Acts of hazing may include:

(a) endangerment to the physical health or safety of a school employee or student;

(b) any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements to a school employee or student;

(c) forced or unwilling consumption of any food, liquor, drug, or other substance by a school employee or student;

(d) any forced or coerced act or activity of a sexual nature or with sexual connotations such as asking a student to remove articles of clothing or expose or touch private areas of the body;

(e) other physical activity that endangers the physical health and safety of a school employee or student; or

(f) physically obstructing a school employee's or student's freedom to move.

(4) The conduct described in R277-613-D(3) constitutes hazing, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.

E. "Policy" means a set of standards and procedures that includes the provisions of Section 53A-11-301(3) and additional standards, procedures, and training adopted in an open meeting by a local board of education or charter school board that define hazing and bullying, prohibit hazing and bullying, require annual discussion and training designed to prevent hazing and bullying among school employees and students and provide for enforcement through employment action or student discipline.

R277-613-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, and the responsibility of the Board to provide assistance with and ensure school district/charter school compliance with Section 53A-11a-301.

B. The purpose of the rule is to require school districts and charter schools to implement bullying and hazing policies district and school wide, to provide for regular and meaningful training of school employees and students and to provide for enforcement of the policies in schools, at the state level and in public school athletic programs.

R277-613-3. Utah State Board of Education Responsibilities.

A. To the extent of resources available, the Board shall provide training opportunities or materials or both for employees of school districts and charter schools on bullying and hazing.

B. The Board may interrupt disbursements of funds consistent with Section 53A-1-401(3) for failure of a school district or charter school to comply with this rule.

R277-613-4. Local School District and Charter School Responsibilities.

A. Each school district and charter school shall implement a policy prohibiting bullying and hazing consistent with Section 53A-11a-301.

B. Each school district and charter school shall, no later than December 1, 2009:

(1) post a copy of its policy on the school district/charter school website; and

(2) provide a copy of the school district/charter school policy or uniform resource locator (URL) to the State Superintendent of Public Instruction at the Utah State Office of Education.

C. Each school district and charter school shall post a copy of its policy on district or school website no later than November 1, 2009.

D. Policies shall provide for training to students, staff, and volunteers consistent with the following:

(1) training specific to overt aggression that may include physical fighting such as punching, shoving, kicking, and verbal threatening behavior, such as name calling, or both physical and verbal aggression or threatening behavior;

(2) training specific to relational aggression or indirect, covert, or social aggression, including rumor spreading, intimidation, enlisting a friend to assault a child, and social isolation;

(3) training specific to prohibitions against bullying or hazing of a sexual nature or with sexual overtones;

(4) training specific to cyber bullying, including use of email, web pages, text messaging, instant messaging, three-way calling or messaging or any other electronic means for aggression inside or outside of school;

E. Policies shall also:

(1) complement existing safe and drug free school policies and school harassment and hazing policies; and

(2) include strategies for providing students and staff, including aides, custodians, kitchen and lunchroom workers, secretaries, paraprofessionals, and coaches, with awareness and intervention skills such as social skills training.

F. The policy shall also provide direction to employees about bullying and dealing with disruptive students. This part of the policy shall:

(1) direct schools to determine the range of behaviors and establish the continuum of administrative procedures that may be used by school personnel to address the behavior of habitually disruptive students;

(2) provide for identification, by position(s), of individual(s) designated to issue notices of disruptive student behavior;

(3) designate to whom notices shall be provided;

(4) provide for documentation of disruptive student behavior prior to referral of disruptive students to juvenile court;

(5) include strategies to provide for necessary adult supervision;

(6) be clearly written and consistently enforced;

(7) include administration, instruction and support staff, students, parents, community council and other community members in policy development, training and prevention implementation so as to create a community sense of participation, ownership, support and responsibility; and

(8) provide notice to employees that violation(s) of this rule may result in employment discipline or action.

R277-613-5. Training by School Districts and Charter Schools Specific to Participants in Public School Athletic Programs and School Clubs.

A. Prior to any student or employee or volunteer coach participating in a public school sponsored athletic program, both curricular and extracurricular, or extracurricular club or activity, a student or coach shall participate in bullying and hazing prevention training.

B. School districts and charter schools may collaborate with the Utah High School Activities Association to develop and provide training.

C. Student athletes and extracurricular club members shall be informed of prohibited activities under this rule and notified of potential consequences for violation of the law or the rule or both.

D. School districts and charter schools that offer athletics shall provide annual training to all new students and new employees and require refresher training for all students and employees at least once every three years.

E. Training curriculum outlines, training schedules, and participant lists or signatures shall be maintained by each school or school district and provided to the Utah State Office of Education upon request.

R277-613-6. Professional Responsibilities of Employee and Volunteer Coaches.

A. All public school coaches shall act consistent with professional standards of R277-515 in all responsibilities and activities of their assignments.

B. Failure to act consistently with R277-515 toward students, colleagues and parents may result in discipline against an educator's license.

KEY: bullying, hazing, policies, training

**Date of Enactment or Last Substantive Amendment: 2009
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-11a-301**

Education, Administration

R277-750

Education Programs for Students with
Disabilities

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 33054

FILED: 10/14/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for this rule amendment is to update the current dates and status of the Utah State Board of Education Special Education Rules.

SUMMARY OF THE RULE OR CHANGE: The changes provide updated and corrected dates and citations and remove outdated language.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 53A-1-402(1)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There are no anticipated costs or savings to the state budget. The changes to the rule merely provide updated and corrected dates and citations and remove outdated language.

♦ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local government. The changes to the rule merely provide updated and corrected dates and citations and remove outdated language.

♦ **SMALL BUSINESSES:** There are no anticipated costs or savings to small businesses. The changes to the rule merely provide updated and corrected dates and citations and remove outdated language and do not relate to businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities. The changes to the rule merely provide updated and corrected dates and citations and remove outdated language.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The changes to the rule merely provide updated and corrected dates and citations and remove outdated language.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2009

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

KEY: special education

Date of Enactment or Last Substantive Amendment: ~~[December 5, 2001]~~2009

Notice of Continuation: September 6, 2007

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-402(1); 53A-17a-111; 53A-15-301; 53A-1-401(3)

R277. Education, Administration.

R277-750. Education Programs for Students with Disabilities.

R277-750-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-402(1) which directs the Board to adopt rules regarding ~~[programs for students]~~services for persons with disabilities, Section 53A-15-301 which directs the Board to set standards for state funds appropriated for students with disabilities and Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to specify standards and procedures for special education programs.

R277-750-3. Standards and Procedures.

A. As its rules for programs for students with disabilities, the Board adopts and hereby incorporates by reference~~[- Education of the Handicapped Act, 20 U.S.C., Chapter 33, Section 1401 et seq. as amended by Public Law 102-119; and] the Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C., 1400.~~

B. The Board shall act in accordance with:

(1) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C.A. 794, incorporated by reference in R277-112;

(2) ~~[The State Board of Education]R277-750[-];~~

(3) ~~State Board of Education Special Education Rules, August 2007; and~~

(4) ~~The annual Utah State Federal Application under Part B of the Individuals with Disabilities Education Act as amended in 2004. June, 2000 including the following appendices:~~

~~(a) Appendix A, Utah Specialist Education Law (UCA 53A-15-301-305);~~

~~(b) Appendix B, State Licensor Endorsements: Special Education, School Psychologist, School Social Workers, and Paraeducator qualifications Standards;~~

~~(c) Appendix C, Elementary and Secondary Program of Studies and High School Graduation Requirements;~~

~~(d) Appendix D, Coordination Council for Persons with Disabilities;~~

~~(e) Appendix E, Vocational Rehabilitation Services;~~

~~(f) Appendix F, Selection of Least Restrictive Behavioral Interventions for Use with Students with Disabilities, June, 2001; and~~

~~(3) Utah State Federal Application, as amended, for fiscal years 1993-1995, June 1992, under Part B of the Individuals with Disabilities Education Act, (20 U.S.C., Chapter 33, Section 1412) as amended by Public Law 102-119.]~~

C. Students with disabilities shall be entitled to dual enrollment consistent with Section 53A-11-102.5 and R277-438.

Education, Administration

R277-800

Administration of the Utah School for the Deaf and the Utah School for the Blind

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 33055

FILED: 10/14/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is repealed and reenacted to provide major changes resulting from discussion by a Utah State Board of Education authorized task force during the past year and further changes due to 2009 legislation (H.B. 296). (DAR NOTE: H.B. 296 (2009) is found at Chapter 294. Laws of Utah 2009, and was effective 05/12/2009.)

SUMMARY OF THE RULE OR CHANGE: The changes include: 1) the definitions in the repealed rule were limited. Definitions in the reenacted rule are much more extensive and define terms used in H.B. 296 including a new definition of "Advisory Council" (instead of "Institutional Council"), a new definition of "Assessment," a definition of "Child Find" consistent with the Individuals with Disabilities Education Act (IDEA), a new definition of "Designated LEA (local education agency)" (to determine the local education agency primarily responsible for providing services to an eligible student), a new definition for "Hearing impairment/deafness" and for "Visual impairment" (including blindness), and other new and required definitions; 2) the reenacted rule includes new and more specific provisions for the Utah Schools for the Deaf and the Blind (USDB) Advisory Council. The repealed rule had provisions for an Institutional Council; 3) the reenacted rule provides criteria for the determination of a student-designated LEA. There was no requirement or discussion for a designated LEA in the repealed rule; 4) the reenacted rule explains USDB programs and student eligibility for those programs and for outreach services provided by USDB. The repealed rule did not adequately explain USDB programs or student eligibility criteria; 5) the reenacted rule explains USDB fiscal procedures. The repealed rule did not provide information about USDB and LEA's joint responsibilities and

fiscal eligibility; and 6) the reenacted rule provides information about the Utah State Instructional Materials Access Center (USIMAC) and availability of materials for students from USIMAC. The repealed rule had no discussion of USIMAC or its resources.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-25b-203 and Section 53A-25b-302 and Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. The USDB is funded by a legislative appropriation and operates within that funding.

◆ LOCAL GOVERNMENTS: Primarily students are eligible for USDB services through the legislative appropriation. There may be some services provided to students jointly with USDB funding and LEA funds consistent with the students individual education plans (IEP). Most of the local funding used to serve students are reimbursable to LEAs consistent with IDEA.

◆ SMALL BUSINESSES: There are no anticipated costs or savings to small businesses. This rule is relative to public education students and services and has no effect on businesses.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities. State and federal funding pays for services to USDB eligible students.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. There are no costs to individuals to comply with this rule because the rule outlines funding, student eligibility and other services that are funded by the state.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schoools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2009

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.

~~[R277-800. Administration of the Utah School for the Deaf and the Utah School for the Blind.~~

R277-800-1. Definitions.

~~_____ A. "Board" means the board of trustees for USDB which is the Utah State Board of Education.~~

~~_____ B. "USDB" means the Utah School for the Deaf and the Utah School for the Blind.~~

~~_____ C. "Schools" means the Utah School for the Deaf and the Utah School for the Blind.~~

~~_____ D. "USOE" means the Utah State Office of Education.~~

~~_____ E. "Superintendent" means the Superintendent for USDB.~~

~~_____ F. "Current funds" means economic resources of USDB that may be expended for the primary and supporting missions of the USDB.~~

~~_____ G. "Institutional Council" means a statutory council established to advise the Board as to the needs of those who are deaf or hard of hearing, blind or visually impaired, or dual sensory impaired with membership, appointment of terms and powers consistent with Section 53A-25-302 through 305.~~

~~_____ H. "Restricted fund balance" means the difference between the assets and liabilities of the restricted fund identified at the closeout of the fiscal year.~~

R277-800-2. Authority and Purpose.

~~_____ A. This rule is authorized by Sections 53A-25-104 and 53A-25-203 which vest the Board with governance and control of USDB, and management of its property and affairs, Section 53A-25-103(4) which requires the Board to establish policies regarding the acceptance of nonresident students, Section 53A-25-107 which allows the Board to adopt rules for internal management of the School for the Deaf and Section 53A-25-204 which makes the School for the Blind subject to all provisions of law governing the School for the Deaf.~~

R277-800-3. Governance.

~~_____ A. The Board shall:~~

~~_____ (1) direct USOE to support, provide necessary assistance, and work in a cooperative manner with the Schools in implementing the policies and rules associated with the Schools;~~

~~_____ (2) direct the Schools, with the support of the USOE, to conduct periodic reviews of practices and procedures for best serving students at the Schools;~~

~~_____ (3) adopt an annual budget for the Schools;~~

~~_____ (4) adopt an annual legislative program for the Schools to be presented to the Legislature; and~~

~~_____ (5) appoint the Superintendent in accordance with Section 53A-25-109, approve employees appointed by the Superintendent, and approve their salaries and duties.~~

~~_____ B(1) In addition to its statutory duties, the Institutional Council established under Section 53A-25-301 shall:~~

~~_____ (a) establish operating procedures for the Council;~~

~~(b) establish committees it deems necessary to fulfill its responsibilities, subject to ratification by the Board;~~
~~(c) facilitate communication between the Schools and the community;~~
~~(d) advise the Superintendent in the operation of the Schools and in the fulfillment of his or her duties; and~~
~~(e) seek resources from other funding sources for the Schools.~~
~~(2) members of the Institutional Council shall receive reimbursement for their expenses for attending Council meetings as established by the director of the Division of Finance in Section 53A-25-302(4).~~
~~C. In addition to the duties in Section 53A-25-109 the Superintendent shall:~~
~~(1) assure proper procedures for diagnosis, evaluation, and placement of students at the Schools;~~
~~(2) participate in, encourage, and supervise relevant research and evaluation of programs and teaching practices;~~
~~(3) conduct in-service training for USDB staff;~~
~~(4) encourage cooperative efforts and utilize input of patrons, staff, and other interested persons in achieving the goals and purposes of the Schools;~~
~~(5) file the minutes of the Institutional Council meetings with the State Superintendent of Public Instruction; and~~
~~(6) be responsible for control of students, instructors, and employees of the Schools.~~

R277-800-4. Staff and Personnel.

~~A. The Superintendent shall appoint personnel for the Schools, subject to Section 53A-25-109. Personnel employed in positions for which the Board requires certification shall be appropriately certified.~~
~~B. Personnel employed at USDB are covered by employment procedures and salary schedules approved by the Board.~~
~~C. Faculty and employees of USDB, and USOE staff associated with the purposes of USDB, shall conduct themselves and carry out their duties in a professional and competent manner so that USDB may provide the strongest possible program for its students.~~

R277-800-5. Accreditation.

~~The Schools shall be accredited by the Board.~~

R277-800-6. Student Eligibility; Admission.

~~A. Student eligibility for and admission to USDB is determined in accordance with Sections 53A-25-103 and 53A-2-201.~~
~~B. USDB may conduct programs and establish eligibility criteria, as approved by the Board, for children under 5 years of age.~~
~~C. Children who are not residents of the state but who meet other eligibility criteria may be admitted as students at USDB on a space-available basis and upon payment of out-of-state tuition set under Section 7.~~

R277-800-7. Out-of-state Tuition.

~~The annual tuition for students attending USDB who are not residents of the state is determined according to a formula~~

~~which is based on the costs of providing educational, residential, and related services to such students.~~

R277-800-8. Student Transportation.

~~USDB shall provide transportation required by a student's IEP.~~

R277-800-9. Capital Facilities.

~~A. USDB shall follow standard procedures adopted by the Board governing capital facilities.~~
~~B. All capital facility requests, including land acquisition, shall be submitted to the Board in accordance with its capital facility request procedure.~~

R277-800-10. Building Rental.

~~A(1) The Board establishes a uniform fee schedule for the use of USDB facilities by the public. The fee shall reflect the maintenance and operation costs of USDB during the time rented. The fee schedule shall distinguish between those renting USDB facilities for non-profit type activities and those renting the facilities for profit-making type activities. Fees may be waived by the Superintendent for non-profit activities which are in harmony with the objectives of the USDB;~~
~~(2) in addition to the rental fees, custodial and maintenance personnel time is charged for rental of USDB facilities at time and a half for a minimum of 4 hours. Weekend and additional hours require additional charges as negotiated by the Superintendent and those renting the facilities. The Superintendent may assess charges in addition to those covered by the rental agreement for property damage and for use in exception to the rental agreement.~~
~~B. A rental agreement must be completed between persons seeking to rent the facilities and the Superintendent prior to use of the facilities. Only the equipment and facilities expressly rented in the rental agreement may be used. The Superintendent is responsible for administering this section, including collection of all fees and amounts due and submission of those amounts to the USDB Business Office.~~
~~C. Persons using USDB facilities must comply with state laws, Board rules and policies, and USDB rules and policies, including those governing conduct in public buildings and on school grounds.~~

~~D. USDB functions have preference for facility use over rental use. USDB facilities shall not be used for activities conducted by the public which interfere in any way with USDB educational purposes.~~

R277-800-11. Fiscal Procedures.

~~A. USDB shall keep fiscal, program, and accounting records as required by the Board and the State Department of Finance, and as needed by USDB, and shall submit reports required by the Board and the State Department of Finance. USDB shall follow the standards established by the state for fiscal procedures, auditing, and accounting.~~
~~B. Fund accounting standards~~
~~(1) Current funds include the following two subgroups:~~
~~(a) Unrestricted current funds are those funds received for which the source of the money made no requirements for specific use of the money.~~

~~(b) Restricted current funds are those resources available for financing operations, but which are limited by the source of the money for use for specific purposes, programs, departments or schools. Externally imposed restrictions are different than internal designations imposed by the agency on restricted funds. Internal designations do not create restricted funds if the removal of the designation remains at the agency's discretion.~~

~~(2) Fund balance limits~~

~~(a) Unrestricted current fund balance not externally restricted and not internally reserved for inventories, investment in general fixed assets, or purchase order encumbrances, in all current funds, shall not exceed, combined and at year end, seven and one-half percent of the total combined unrestricted revenues in those accounting funds for the year then ended.~~

~~(b) The Institutional Council may recommend to the Board an amount greater than that provided in Subsection 11B(2)(a) up to 10 percent of the total combined unrestricted revenues.~~

~~(c) Exceptional revenue items received late in the fiscal year due to circumstances not in the control of the USDB or due to mandate from a governing authority at Board level or higher to spend such revenue item(s) in a subsequent time period, such as a supplemental appropriation for expenditure in a subsequent fiscal year, shall be excluded from fund balances when calculating fund balance percentages for these purposes.~~

~~(d) Restricted current funds:~~

~~(i) are restricted by external sources for specific future operating purposes;~~

~~(ii) shall be expended in the term designated for the specific fund;~~

~~(iii) shall not be available to specific future operating purposes; and~~

~~(iv) shall not be available for allocation by the Institutional Council.~~

~~C. USDB is considered a state agency for insurance purposes. As such, the USDB shall comply with the policies and rules of the State Risk Management Office and maintain proper coverage at all times by appropriate types and levels of insurance through that office.~~

~~D. USDB shall follow an internal policy to maintain and account for capital inventory.~~

~~R277-800-12. Dormitories.~~

~~USDB establishes procedures which promote the health, safety, and welfare of students residing in its dormitories. USDB establishes procedures for maintaining its dormitories in a condition which is in accordance with applicable state laws, rules, and policies.]~~

~~R277-800. Utah Schools for the Deaf and the Blind.~~

~~R277-800-1. Definitions.~~

~~A. "Accessible media producer" means companies or agencies that create fully-accessible specialized, student-ready formats for curriculum materials, such as Braille, large print, audio, or digital books.~~

~~B. "Advisory Council" means the Advisory Council for the Utah Schools for the Deaf and the Blind with members, responsibilities, and other provisions under Section 53A-25b-203 and R277-800-4.~~

~~C. "Assessment" means the process of documenting, usually in measurable terms, knowledge, skills, attitudes and~~

~~abilities pertaining to the fields of vision and hearing. These assessments may include the following areas of focus:~~

~~(1) valid, reliable and appropriate assessments given to determine eligibility for placement and services by a team of qualified professionals and the student's parent(s);~~

~~(2) functional assessments accomplished by observation and measurement of daily living skills and functional use of vision or hearing;~~

~~(3) academic evaluations as part of the Utah Performance Assessment System for Student (U-PASS), criterion reference tests (CRTs), or the Utah Alternative Assessment with appropriate accommodations as indicated on the individual education program (IEP).~~

~~D. "Board" means the Utah State Board of Education.~~

~~E. "The Chafee Amendment to the Copyright Act, 17 U.S.C. Section 121" (Chafee Amendment) is a federal law that allows an authorized entity to reproduce or distribute copyrighted materials in specialized formats for students who are blind or have other print disabilities without the need to obtain permission of the copyright owner. Authorized entities are governmental or nonprofit organizations that have a primary mission to provide copyrighted works in specialized formats for students who are blind or have other print disabilities.~~

~~F. "Child Find" means activities and strategies designed to locate, evaluate and identify individuals eligible for services under the IDEA.~~

~~G. "Consultation" means a meeting for discussion or the seeking of advice.~~

~~H. "Designated LEA" means the local education agency assigned by a student's IEP or Section 504 team to have primary responsibility for ensuring that all rights and requirements regarding individual student assessment, eligibility services and procedural safeguards are satisfied consistent with the Individuals with Disabilities Education Act (IDEA) 20 U.S.C. 1400, Part B, or Section 504 of the Rehabilitation Act of 1973.~~

~~I. "Deafblindness" or "deafblind" means written verification provided by a medical professional stating that an individual has concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for students with deafness or students with blindness. The definition of deafblindness also includes the provisions of 53A-25b-102 and 301.~~

~~J. "Educational Resource Center" (ERC) is a center under the direction of the USDB that provides information, technology, and instructional materials to assist Utah children with sensory impairments in progressing in the curriculum. It is also the mission of the ERC to facilitate access to materials, information and training for teachers and parents of children with sensory impairments.~~

~~K. "Hearing impairment/deafness" ('hard of hearing' for purposes of this rule) is defined as follows:~~

~~(1) Hearing impairment is an impairment in hearing, whether permanent or fluctuating, that adversely affects a student's educational performance but that is not included under the definition of deafness.~~

~~(2) Deafness is a hearing impairment that is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification, and that adversely affects a student's educational performance.~~

L. "Local education agency" (LEA) means an agency that has administrative control and direction for public education. School districts, charter schools, and the USDB are LEAs.

M. "National Instructional Materials Access Center (NIMAC) is a central national repository that receives file sets in the NIMAS from publishers to maintain, catalogue and house for future reference file sets for states to use with students who have print disabilities and require accessible alternate formats.

N. "National Instructional Materials Accessibility Standard" (NIMAS) means the electronic standard that enables all producers of alternate formats for students with print disabilities to work from one standard format available from publishers for this purpose.

O. "Outreach program" is a program provided by the USDB that offers an alternative to a campus-based program for students who are blind or visually impaired, deaf or hard of hearing, or deafblind (ages three to 22). Services are provided at a student's resident school or at a designated school by a qualified teacher of the blind or visually impaired, deaf or hard of hearing, or deafblind.

P. "Related services" means those supportive services that are necessary for the appropriate implementation of the IEP. These may include but are not limited to speech pathology, audiology, low vision services, orientation and mobility, school counselor, transportation, school nurse, occupational therapy, or physical therapy.

Q. "Section 504 accommodation plan" required by Section 504 of the Rehabilitation Act of 1973 means a plan designed to accommodate an individual who has been determined, as a result of an evaluation, to have a physical or mental impairment that substantially limits one or more major life activities.

R. "Technical assistance" means assistance to public education employees or licensed educators, and parents and families in significant areas of need by someone who has the expertise necessary to give council and training in designated areas.

S. "USDB" means the Utah Schools for the Deaf and the Blind.

T. "USOE" means the Utah State Office of Education.

U. "Utah State Instructional Materials Access Center (USIMAC) is a center that receives NIMAS electronic file sets and produces them in the accessible alternate format required by students with print disabilities.

V. Visual impairment (including blindness) is an impairment in vision that, even with correction, adversely affects a student's educational performance. The term includes both partial sight and blindness that adversely affects a student's educational performance.

W. "WPU" means weighted pupil unit, the basic unit used to calculate the amount of state funds for which a school district or charter school is eligible.

R277-800-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-25b-203 which directs the Board to appoint Advisory Council members and assign a USOE staff member as a liaison between the Board and the Advisory Council, Section 53A-25b-302 which directs the Board to establish entrance policies and procedures to be considered, consistent with IDEA, for student placement recommendations at the USDB,

Section 53A-25b-501 to establish USIMAC and outline collaboration and operating procedures for USIMAC and USDB resources, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to provide standards and procedures for the operation of the USDB and the USDB outreach programs and services.

R277-800-3. Board Authority Over and Support for USDB.

A. Consistent with Section 53A-25b-201, The Board is the governing board of the USDB.

B. The USDB superintendent, appointed consistent with Section 53A-25b-201(2), is subject to the direction of the Board and its executive officer, the State Superintendent of Public Instruction.

C. The Board shall appoint the USDB superintendent on the basis of outstanding qualifications.

(1) The USDB superintendent's term of office is for two years and until a successor is appointed and qualified.

(2) The Board shall set the USDB superintendent's compensation for services.

(3) The USDB superintendent shall have, at a minimum, an annual evaluation, as directed by the Board.

D. The Board shall direct the USOE to support, provide assistance and work cooperatively with the USDB in providing services to designated Utah students.

E. The Board shall assign a liaison as provided in Section 53A-25b-202(8) to provide appropriate supervision to the USDB to ensure compliance with the law.

F. The Board and USOE staff, as assigned, shall assist the USDB and its superintendent and associate superintendents in adopting policies and preparing an annual budget that are consistent with the law.

(1) The USDB superintendent and associates may hire staff and teachers as needed for the USDB. Teachers and staff shall be appropriately licensed, credentialed or trained for their specific assignments.

(2) In employment practices and decisions, the USDB and the USDB superintendent shall maintain the accreditation of the USDB school and programs.

(3) The USDB superintendent and associates shall communicate regularly and effectively with the USOE and provide a report to the Board at least annually or as requested by the Board.

R277-800-4. USDB Advisory Council.

A. The Board shall appoint and support Advisory Council members as directed in Section 53A-25b-203.

B. Advisory Council members shall be appointed for two year terms and may serve no more than three consecutive terms. Advisory Council members serve at the pleasure of the Board.

C. If an Advisory Council member resigns or is asked to resign, the Board shall appoint another member in a timely manner by seeking nominations from the representative group of the resigning member.

D. The Board shall assist the Advisory Council in developing and passing by-laws establishing procedures for nominating and recommending dismissal of Advisory Council members, and setting ethical standards for Advisory Council members.

(1) The bylaws shall include operating procedures for the Advisory Council; and

(2) the bylaws may allow for representation on the Advisory Council of constituencies within the USDB community.

E. Advisory Council membership and school community council membership:

(1) Members of the Advisory Council may serve as school community council members under Section 53A-1a-108(4) and R277-491.

(2) The USDB school community council and election process shall be consistent with Section 53A-1a-108 and R277-491.

(3) The USDB may implement electronic voting and consider encouraging school community council participation through electronic meetings and technology that facilitate participation of parents of USDB students in voting and school community council meetings.

R277-800-5. USDB or Student's District of Residence/Charter School as Designated LEA.

A. To be eligible to receive services from the USDB, a student must be a resident of Utah and meet requirements of Section 53A-25b-301.

B. A student's placement at USDB, in a school/school district or charter school shall be determined by the student's IEP under IDEA or Section 504 accommodation plan.

C. Consistent with Section 53A-25b-301(3)(c), an IEP team or Section 504 team shall determine the appropriate placement for each blind, deaf or deafblind student consistent with IDEA using the Blind/Visually Impaired Outline, Deaf/Hard of Hearing Outline, or Deafblind Outline as guidance. The outlines are hereby incorporated by reference and included with this rule.

D. It is the responsibility of the student's district of residence or charter school to conduct Child Find under R277-800-1E, and to convene the initial IEP or Section 504 team meeting in order to determine a student's placement.

(1) A representative from the student's district of residence or charter school and a representative from the USDB shall be invited to the student's initial IEP or Section 504 accommodation plan meeting.

(2) The parental preference shall be considered in the IEP or Section 504 accommodation plan process consistent with Section 53A-25b-301(3)(c).

E. When USDB is the designated LEA, USDB has full responsibility for all services defined in the IEP/Section 504 accommodation plan. A representative from the district of residence or charter school remains a required member of the IEP or Section 504 accommodation team.

F. When the district of residence or charter school is the LEA designated to provide services to a student with an IEP or Section 504 accommodation plan, the district of residence or charter school has the responsibility for providing instruction and services for the student except that the USDB may be designated by the team as a related service provider. The USDB remains a required member of the student's IEP or 504 accommodation plan team.

G. The IEP or Section 504 accommodation plan shall clearly define what services are to be provided by the related service provider(s).

H. The IEP or Section 504 team shall determine the designated LEA for student placement.

I. Parent complaints regarding student placement at district of residence or USDB:

(1) If a parent is dissatisfied with a student's placement at USDB or district of residence or charter school, the parent may access dispute resolution procedures, consistent with Utah State Board of Education Special Education Rules, August 2007.

(2) If a student's IEP or Section 504 accommodation plan provides for services to be provided by both the USDB and district of residence, or for the USDB and district of residence to share responsibility for serving a student, the parent may access dispute resolution procedures consistent with Utah State Board of Education Special Education Rules, August 2007.

R277-800-6. LEA and Board Interagency Agreement.

A. The Board, USOE and LEAs, with assistance from the USDB shall develop an Interagency Agreement that further explains roles, services, and financial obligations to students and participating entities and a basic process for resolving disagreements among the parties to the Agreement.

B. The Board shall also designate a USOE arbitrator or a panel of arbitrators to resolve disagreements among the USOE, the USDB, and LEAs regarding services to blind, visually impaired, deaf, hard of hearing, and deafblind students in order to provide ser-

R277-800-7. USDB Programs and Services-Student Eligibility.

A. The USDB shall provide services and resources only for students who are deaf, blind or deafblind.

(1) A student with multiple disabilities whose disabilities include blindness, deafness or deafblindness may receive USDB services consistent with the student's IEP.

(2) Non-disabled preschool-age children may participate in USDB funded preschool programs consistent with the requirements of IDEA that students with disabilities must be served in the least restrictive environment and that groups or classes of students with disabilities must include non-disabled peers. Non-disabled children participating in these programs shall pay fees or tuition or both in order to participate.

B. When the USDB is the designated LEA, the USDB shall provide all appropriate services to the student consistent with the student's IEP or Section 504 accommodation plan. Services may include:

(1) USDB instructional supports:

(a) assessments for eligibility, placement, and educational programming and evaluation;

(b) Utah Augmentative Communication Team (UAAACT) assessments to determine assistive technology needs;

(c) augmentative communication devices;

(d) assistive technology as needed;

(e) educational technology as needed;

(f) access to ERC;

(g) extended school year as determined by the IEP team;

(2) USDB related services to support student needs:

(a) audiology services as needed;

(b) behavior intervention;

(c) low vision services;

(d) nursing;

(e) occupational therapy;

(f) orientation and mobility;

(g) psychology;

(h) physical therapy;
(i) speech and language therapy;
(j) social work as needed;
(k) transportation, consistent with the USDB transportation policy.

(3) Services for students who are deaf/hard of hearing:
(a) American Sign Language/English bilingual instruction;

(b) auditory/oral instruction;
(c) auditory therapy;
(d) cued speech transliteration;
(e) American Sign Language interpretation;
(f) oral transliteration.

(4) Services for students who are blind/visually impaired:
(a) Braille instruction;
(b) instruction in the expanded core curriculum;
(c) environmental awareness;
(d) orientation and mobility support.
(5) Services for students who are deafblind:
(a) deafblind consultant;
(b) communication intervener.

C. When the USDB is determined by the IEP or Section 504 accommodation plan team to act as the outreach program provider, the USDB shall provide technical assistance, consultation, and professional development on issues related to sensory disabilities available to LEAs from the USDB at no charge. Services consistent with the student's IEP or Section 504 accommodation plan may include:

(1) assessments for eligibility, placement, and educational programming and evaluation;
(2) assistive and educational technology;
(3) technology demonstration labs;
(4) transition planning;
(5) audiology services as needed;
(6) instructional strategies;
(7) instructional materials;
(8) Braille or large print or both;
(9) communication methodologies;
(10) accommodations as necessary for educational gain;
(11) modifications as necessary for educational gain;
(12) educational interventions;
(13) low vision services;
(14) occupational therapy;
(15) physical therapy;
(16) psychology;
(17) speech/language pathology;
(18) vision and hearing screening;
(19) interpreter training.

D. The following services shall be provided by the USDB to the LEA of a student with sensory disabilities at no cost to the LEA:

(1) deafblind services (as determined through the IEP):
(a) consultation with the student's teacher, parent and the student;
(b) communication intervener;
(2) orientation and mobility;
(3) diagnostic services;

(a) Utah Augmentative Communication Team (UAACT) assessments to determine assistive technology needs;
(b) deafblind state assessment and coaching team.

E. The following designated services shall be available from USDB at no charge for LEAs with less than three percent of the total Utah student population:

(1) outreach teacher:
(a) sensory-specific services to students;
(i) instruction;
(ii) assessments for eligibility, placement, and educational programming and evaluation;
(iii) monitoring of student progress.

(b) supports to classroom teacher:
(i) consultation;
(ii) technical assistance.

(2) Related services to support the student:
(a) audiology;
(b) low vision services.

(3) The USOE shall designate annually the LEAs that meet the three percent eligibility standards for specific identified services.

F. LEAs may contract with USDB to provide the following services, if qualified personnel are available:

(1) outreach teacher;
(2) related services;
(3) ASL interpretation;
(4) assessment;
(5) assistive and educational technology instruction.

G. The following materials are available to LEAs on loan from the USDB. The duration of the loan and immediate availability of resources may vary:

(1) ERC:
(a) textbooks (Braille, large print);
(b) teaching aids;
(c) library materials;
(d) professional library;
(e) described and captioned media.

(2) technology loan programs (limited to 30 days):
(a) assistive and adaptive technology loan program;
(b) related services technology loan program.

(3) The USDB shall develop a policy and process for publishing annually a list of materials available for loan, LEAs to whom materials may be loaned, and loan periods.

(a) The policy shall emphasize communication among LEAs and the USDB about availability of resources. Resources shall be determined by a student's IEP or Section 504 accommodation plan; the origin of the resources may be determined between an LEA and the USDB.

(b) The USDB shall develop a protocol for use in reviewing and ordering materials not immediately available when requested, as part of a student's education program.

(c) Students/parents/guardians are on notice that materials are loaned for the use of the student for a designated period for educational purposes. If loaned materials are lost, stolen, or damaged intentionally or due to student negligence, the student/parent/guardian shall be responsible to reimburse the LEA or USDB for the costs of the materials.

R277-800-8. Payment by LEAs for USDB Services Beyond USDB Obligation.

A. Certain services provided by USDB personnel, employees or contract employees are identified in R277-800-7 and shall be provided to LEAs at no cost consistent with the student's IEP or Section 504 accommodation plan.

B. Other services and resources may be available to LEAs from the USDB for a reasonable charge or fee paid by the LEA, to the extent of resources or personnel available. These services include:

- (1) outreach teachers;
- (2) related services;
- (3) American Sign Language;
- (4) student assessment; and
- (5) assistive and educational technology instruction.

C. The USOE, USDB and LEAs shall determine appropriate fees, consistent statewide, for services subject to review by the Board, and notice to LEAs and parents of children currently receiving services from the USDB. The USDB shall review and publish its fee schedule for services to LEAs annually.

R277-800-9. Assessment of USDB Students with Visual and Hearing Impairments Served in LEAs of Residence.

A. Students shall be assessed consistent with Section 53A-1-601 et seq., R277-402, R277-700, R277-705, IDEA, Section 504 of the Rehabilitations Act, and Section 53A-25B-304.

B. The USDB shall establish an assessment policy and guidelines to implement required assessments and address:

- (1) appropriate, complete and timely evaluations of students;
- (2) procedures for administration of assessments in addition to those required by the law, as determined by IEPs, Section 504 accommodation plans and individual teachers;
- (3) complete and accurate required assessments available to eligible students consistent with state and school district assessment timelines and availability of materials for non-disabled students;
- (4) staff training and preparation on appropriate administration of assessments and reporting of assessment results; and
- (5) procedures to ensure appropriate interpretation of assessments and results for parents and use of assessment results by USDB personnel.

R277-800-10. Outreach Programs.

A. The USDB and school districts or charter schools may negotiate to share the costs for providing more efficient, cost-effective, and convenient services to students who are deaf, blind, or deafblind in public school classrooms in locations other than the USDB campus.

B. School districts or charter schools shall provide:

- (1) classroom(s);
- (2) basic instructional materials;
- (3) physical education, music, media, school lunch, and other programs and services, consistent with those programs and services provided to other students within the school district or charter school;
- (4) administrative support;
- (5) basic secretarial services;

(6) special education related services.

C. The USDB shall provide:

- (1) classroom instructors, including aides;
- (2) instructional materials specific to the disability of the students.

D. The responsibilities of the USDB and a school district or charter school may be reassigned as negotiated between the school district or charter school and the USDB.

E. A school district or charter school shall claim the state WPU if the school district or charter school provides all items or services identified in R277-800-10B.

R277-800-11. USDB Fiscal Procedures.

A. The USDB shall keep fiscal, program and accounting records as required by the Board and shall submit reports required by the Board.

B. The USDB shall follow state standards for fiscal procedures, auditing and accounting, consistent with Section 53A-25b-105.

C. The USDB is a public state entity under the direction of the Board and as such is subject to state laws identified in Section 53A-25b-105 including State Money Management Act, Open and Public Meetings Act, Risk Management, State Building Board and Division of Facilities Construction and Management, Information Technology Services, Archives and Records Services, Utah Procurement Code, Budgetary Procedures Act, and Utah State Personnel Management Act.

D. The USDB shall prepare and present an annual budget to the Board that includes no more than a five percent carryover of any one fund, including reimbursement funds from federal programs.

E. Federal reimbursement funds (IDEA and Medicaid) shall be recovered quarterly during the year. Reimbursement amounts shall be identified in the current year's or no later than the subsequent year's budget.

F. The revenue from the federal land grant designated for the maintenance of the School for the Blind and for the School for the Deaf shall be used solely for the benefit of USDB students and the recommended or designated use of the fund is subject to review by the Board.

R277-800-12. Utah State Instructional Materials Access Center (USIMAC).

A. The Board authorizes the establishment of the USIMAC to produce core instructional materials in alternative formats to ensure that all students with print disabilities qualified under the Chafee Amendment receive their materials in a timely manner.

B. The USIMAC shall provide materials for all students with print disabilities who are qualified under the Chafee Amendment or otherwise eligible through an IEP or Section 504 accommodation plan.

C. The USOE shall oversee the operations of the USIMAC.

D. The USDB is the fiscal agent and operates the USIMAC to the extent of funds received annually from the Utah Legislature.

E. LEAs may purchase accessible instructional materials using their own funding or request the production of accessible

instructional materials in alternate formats from the USIMAC in accordance with established procedures to ensure timely access for students with print disabilities.

F. For LEA textbook requests submitted by April 1 of the preceding school year, the USIMAC shall provide the textbook in the requested alternate format by the beginning of the following school year.

G. The USDB ERC shall serve as the repository and distribution center for the USIMAC.

H. Operation of the USIMAC

(1) Qualifying students: A student qualifies for accessible instructional materials from USIMAC (Braille, audio, large print, digital formats) following LEA determination that the student has a print disability in accordance with the Chafee Amendment, IDEA, or Section 504 of the Rehabilitation Act.

(2) Costs for developing core instructional materials:

(a) Textbooks for blind, vision impaired or deafblind students served by the USDB or LEAs shall be requested by the LEA consistent with the student's IEP or Section 504 accommodation plan.

(b) When an LEA requests a core instructional textbook that was published before August 2006, the USIMAC shall conduct a search for the textbook within existing resources and, if available, the textbook shall be sent to the ERC for distribution to the LEA.

(i) If the textbook is not available within existing resources, the USIMAC will conduct a search to determine if the textbook is available for purchase through another source.

(ii) If the textbook is available through the American Printing House for the Blind (APH) the textbook shall be ordered and sent to the ERC for distribution to the LEA.

(iii) If the textbook is not available from APH, but is available from another accessible media producer, the textbook shall be purchased and sent to the ERC for distribution to the LEA.

(iv) If the textbook is not available for purchase, the USIMAC will produce the textbook and send it to the ERC for distribution.

(A) The USIMAC shall purchase the LEA-requested textbook in accordance with copyright law. The cost of the student edition textbook shall be charged to the requesting LEA.

(B) The USIMAC shall produce the textbook in the LEA requested alternate format in accordance with the cost sharing outlined in the Interagency Agreement described in R277-800-6.

(c) The sharing of costs for purchases described in R277-800-12 shall be outlined in the Interagency Agreement described in R277-800-5. The presumption is that the LEA shall pay 75 percent of the cost and USIMAC shall pay 25 percent of the cost.

(d) For textbooks published since August 2006, the USIMAC shall follow the same procedures outlined in R277-800-11H(2)(b). If the USIMAC is unable to obtain the NIMAS file set in a timely manner as a result of publisher negligence, the Board shall authorize USIMAC to seek damages from publisher(s) as a result of the failure to meet contract provisions.

(3) Textbook publishers required to meet NIMAS requirements:

(a) All approved textbook contracts for the state of Utah for instructional materials published since August 2006 shall include a provision for making NIMAS file sets available through

the NIMAC in accordance with IDEA and USOE Instructional Materials Contract timelines.

(b) If the USIMAC is unable to obtain the NIMAS file set from the NIMAC because the publisher fails to provide the NIMAS file set to the NIMAC in accordance with IDEA and USOE Instructional Materials Contract timelines, the USIMAC shall bill the textbook publisher the difference in the cost of producing the alternate format textbook without benefit of the NIMAS file set.

(c) The publisher shall be advised of the rule; the Utah Instructional Materials Commission under R277-469 shall not approve textbooks and materials from publishers that have a pattern of not providing materials and textbooks for students with disabilities in a timely manner, consistent with the law and Board rules.

(d) Requests for audio books shall be accessed through the USIMAC as appropriate or through the Recording for the Blind and Dyslexic (RFB&D) and Bookshare. Membership is required for RFB&D and Bookshare and the request is the responsibility of the LEA designated as the responsible entity for serving the student in the IEP or Section 504 accommodation plan.

KEY: educational administration]; educational facilities]

Date of Enactment or Last Substantive Amendment: ~~March 10, 1997~~2009

Notice of Continuation: July 23, 2009

Authorizing, and Implemented or Interpreted Law: ~~53A-25-104; 53A-25-203; 53A-25-103(4); 53A-25-107; 53A-25-204; 53A-25-109; 53A-25-301; 53A-25-302(4); 53A-25-103; 53A-2-201~~Art X Sec 3; 53A-25b-203; 25b-302; 25b-501; 53A-1-401(3)

**Health, Health Systems Improvement,
Emergency Medical Services
R426-13
Emergency Medical Services Provider
Designations**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33025

FILED: 10/05/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to remove a redundant reference to the requirement to use a certified Emergency Medical Dispatcher and remove criminal penalties that are no longer authorized by statute.

SUMMARY OF THE RULE OR CHANGE: The reference to the Emergency Medical Dispatch Center is removed as redundant in Section R426-13-200. Reference to sufficient

staff in Subsection R426-13-500(5) is removed as unclear. Facilities need to have a certified dispatcher at all times under the current rule. Acronym EMD spelled out as Emergency Medical Dispatch or Dispatcher. Reference to obsolete criminal penalties removed.

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

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: The proposed changes will not alter the current practice and no cost to the state is expected.
- ◆ LOCAL GOVERNMENTS: The proposed changes will not alter the current practice and no cost to local government is expected.
- ◆ SMALL BUSINESSES: The proposed changes will not alter the current practice and no cost to business, small or otherwise, is expected.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The proposed changes will not alter the current practice and no compliance costs for any regulated entity are expected.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed changes will not alter the current practice and no compliance costs for any regulated entity are expected.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Removing obsolete criminal penalties, and emphasizing the need to have a certified Emergency Medical Dispatcher at all times will impose no new fiscal impact and is justified to protect the public.

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT,
EMERGENCY MEDICAL SERVICES
3760 S HIGHLAND DR
SALT LAKE CITY, UT 84106
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Guy Dansie by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at gdansie@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2009

AUTHORIZED BY: David Sundwall, MD, Executive Director

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

R426-13. Emergency Medical Services Provider Designations.

R426-13-200. Designation Types.

(1)(a) An entity that provides pre-hospital emergency medical care, but that does not provide ambulance transport or paramedic service, may obtain a designation from the Department as a quick response unit.

(b) An entity that accepts calls for 911 EMS assistance from the public, and dispatches emergency medical vehicles and field EMS personnel must first obtain a designation from the Department as an emergency medical dispatch center.

(2) A hospital that provides on-line medical control for prehospital emergency care must first obtain a designation from the Department as a resource hospital.[]

~~_____ (3) Emergency Medical Dispatch centers that provide pre-arrival medical instructions to a caller may only provide them through a certified EMD.]~~

R426-13-500. Emergency Medical Dispatch Center Minimum Designation Requirements.

An emergency medical dispatch center must:

(1) Have in effect a selective medical dispatch system approved by the off-line medical directors and the Department, which includes:

(a) systemized caller interrogation questions;

(b) systemized pre-arrival instructions; and

(c) protocols matching the dispatcher's evaluation of injury or illness severity with vehicle response mode and configuration;

(2) Have a current updated plan of operations, which shall include:

(a) the number, training, and certification of Emergency Medical Dispatch personnel;

(b) operational procedures; and

(c) a description of how the designee proposes to communicate with EMS agencies;

(3) Have a certified off-line medical director;

~~(3)4~~ have an ongoing medical call review quality assurance program; and

~~(4)5~~ ~~[sufficient staff to]~~ provide pre-hospital arrival instructions by a certified Emergency Medical Dispatcher at all times.

R426-13-1300. Penalties.

As required by Subsection 63G-3-201(5): Any person that violates any provision of this rule may be assessed a civil money penalty not to exceed the sum of \$[5]10,000 ~~[or be punished for violation of a class B misdemeanor for the first violation and for any subsequent similar violation within two years for violation of a class A misdemeanor]~~ for each occurrence as provided in Section 26-23-6.

KEY: emergency medical services

Date of Enactment or Last Substantive Amendment: [February 1, 2005]2009

Notice of Continuation: October 1, 2004

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

Human Services, Aging and Adult Services
R510-401
Utah Caregiver Support Program

NOTICE OF PROPOSED RULE

(Repeal and Reenact)
 DAR FILE NO.: 33027
 FILED: 10/06/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Caregiver rule has not been updated for several years and requires a number of changes to comply with updated federal requirements and improved processes. The rule has been completely updated and reorganized.

SUMMARY OF THE RULE OR CHANGE: While the content of the rule is not dramatically different, service levels, allowable costs and other limits to the program have been updated to reflect updates. Rather than major content changes, the structure of the rule has been changed and has been regrouped and reorganized making a regular marked-up copy difficult to follow. Updates have been made with regard to to services to grandparents, ages of potential clients, coordination with other services, and general updates.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-3-104

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The rule is being changed to reflect current practices which are already budgeted and will have no cost increase or savings as a result.
- ◆ **LOCAL GOVERNMENTS:** The rule is being changed to reflect current practices which are already budgeted and will have no cost increase or savings as a result.
- ◆ **SMALL BUSINESSES:** The rule is being changed to reflect current practices which are already budgeted and will have no cost increase or savings as a result.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The rule is being changed to reflect current practices which are already budgeted and will have no cost increase or savings as a result.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None-- The change brings the rule into compliance with current procedures and does not have a cost for compliance.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:
 No fiscal impact on the program.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 HUMAN SERVICES
 AGING AND ADULT SERVICES
 ROOM 325
 120 N 200 W
 SALT LAKE CITY, UT 84103-1500
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at nholmgrn@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2009

AUTHORIZED BY: Nels Holmgren, Director

R510. Human Services, Aging and Adult Services.
[R510-401. Utah Caregiver Support Program (UCSP):
R510-401-1. Utah Caregiver Support Program Purpose.

~~_____ The Utah Caregiver Support Program is created under authority of the Older Americans Act of 1965 as amended in 2000 (PL 89-73) Part E - National Family Caregiver Support Program (NFCSP).~~

~~_____ The purpose of the program is to provide support services including information and assistance, counseling, support groups, respite and other home and community-based services to family caregivers of frail older individuals. The program also recognizes the needs of grandparents who are caregivers of grandchildren and other older individuals who are relative caregivers of children who are 18 years of age and under.~~

~~_____ Operation of the program is a joint responsibility of the State Division of Aging and Adult Services and local Area Agencies on Aging (AAA). Funds are distributed by formula (R510-100-1) to local AAAs.~~

R510-401-2. Definitions.

~~_____ (1) "Adult" means an individual who is 18 years of age or older.~~

~~_____ (2) "Agency or Area Agency on Aging (AAA)" means the agency designated by the Division of Aging and Adult Services (DAAS) to coordinate and provide services for a defined geographical area.~~

~~_____ (3) "Agency Director" means the director of the Agency.~~

~~_____ (4) "Caregiver or Family Caregiver" means an adult family member, or another adult individual, who is an informal provider of in-home and community care to an older individual who is:~~

~~(a) 60 years of age or older; or is a
(b) caregiver 60 years of age or older who is caring for persons with mental retardation or related developmental disabilities; or is a~~

~~(c) grandparent or older individual who is a relative caregiver of a child not more than 18 years of age.~~

~~This definition excludes agency and privately paid supportive service providers.~~

~~(5) "Care Receiver" means an adult 60 years of age or older who receives assistance from, or is dependent upon, another for care and is:~~

~~(a) unable to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision; or~~

~~(b) due to a cognitive or other mental impairment, requires substantial supervision.~~

~~(6) "Companion Services" means non-medical, basic supervisory services which are provided to the eligible care receiver in his home on a short-term, intermittent basis. Companion Services provide respite to a caregiver who is caring for eligible care receivers who do not require any personal care assistance, medical assistance, or housekeeping services during the time when companion services are provided.~~

~~(7) "Child" means an individual who is not more than 18 years of age.~~

~~(8) "Counseling, Support Groups, or Caregiver Training" means provision of advice, guidance, and education about options and methods of caregiving to provide support to caregivers in an individual or group setting.~~

~~(9) "Director" means the director of the Division of Aging and Adult Services (DAAS), Utah Department of Human Services).~~

~~(10) "Division" means the Division of Aging and Adult Services (DAAS), Utah Department of Human Services.~~

~~(11) "Formal Resources" means an entity or individual that provides services for a fee or reimbursement.~~

~~(12) "Grandparent or Older Individual who is a Relative Caregiver" means a grandparent or step-grandparent of a child, or a relative of a child by blood or marriage, who is 60 years of age or older and:~~

~~(a) lives with the child;~~

~~(b) is the primary caregiver of the child because the biological or adoptive parents are unable or unwilling to serve as the primary caregiver of the child; and;~~

~~(c) has a legal relationship to the child, such as legal custody or guardianship, or is raising the child informally.~~

~~(13) "Informal Resources" means family, friends, neighbors, community organizations or others who offer resources and support and are not assigned by formal agencies or organizations, irrespective of any payment received.~~

~~(14) "Multifaceted Systems" means a variety of systems of support for the caregiver including but not limited to those described in the required five service categories of the (NFCSP), Title III of the Older Americans Act, as amended in 2000.~~

~~(15) "National Family Caregiver Support Program or NFCSP" is the federal program enacted as P. L. 106-501, Title III of the Older Americans Act, P. L. 89-73, 42 USC Section 3001 et seq., as amended in 2000.~~

~~(16) "Relief" means ease from or lessening of discomfort, anxiety, fear, stress, or burden.~~

~~(17) "Respite or Respite Care" is temporary, substitute supports or living arrangements to provide a brief period of relief or rest for caregivers as outlined in the service plan developed by a case manager following a formal assessment. It can be in the form of in-home respite, adult day care respite, or institutional respite for an overnight stay on an intermittent, occasional, or emergency basis. Respite can be provided for a caregiver for no more than 12 consecutive months from the date of enrollment and shall not exceed the annual service expenditure limit per client, as established by the Division in consultation the Area Agencies on Aging annually. If either condition is met, the caregiver must come off of the program and then may reapply on the anniversary of the start of services. Temporary respite may not be provided by the twenty-percent (20%) maximum supplemental services funds.~~

~~(18) "Service Plan" means a written plan which contains a description of the needs of the caregiver, the care recipient, and the services and goals necessary to meet those needs.~~

~~(19) "Supplemental Services" means other services to complement the care of caregivers, on a limited basis as determined by a case manager through the assessment process and included in a service plan. Supplemental services shall serve to maximize the support of caregivers and shall be flexible, adaptable, and responsive to the needs of the individual caregiver or care receiver wherever they reside in the State of Utah. Services provided under supplemental services shall not fall into other categories defined in the UCSP or the NFCSP.~~

~~Expenditures for Supplemental Services are not included in the annual established service expenditure limit for Respite.~~

~~Necessity for Supplemental Services shall be specified in the service plan goals. Reimbursement shall include the purchase and/or rental, installation, removal, replacement, or repair of approved items or services for the twelve months that the caregiver is on the program. The case manager will document in the caregiver file all funding resources explored and reasons alternative funding cannot be accessed. Items or services exceeding \$250 per purchase must be prior approved by the Agency Director based on a formal written request by the case manager or designee documenting the determination of need and estimated cost. The original approved waiver request will be placed and maintained by the Agency in the caregiver file.~~

~~(a) "Supplies or Equipment" means durable and non-durable goods purchased and/or rented under supplemental services to provide support and assistance to caregivers in their caregiving responsibilities. Reimbursement shall include the purchase of supplies, and the purchase, and/or rental, installation, removal, replacement or repair of approved equipment.~~

~~(b) "Modifications or durable adaptive aids and devices" purchased as supplemental services shall be one-time purchases to provide support and assistance to caregivers in their caregiving responsibilities. Minor modifications of homes shall facilitate the ability of older individuals to remain at home or provide for the safety of the care receiver. Adaptive aids and devices shall assist the caregivers helping care receivers to perform normal living activities, and shall include the cost of any necessary installation, fitting, adjustment, repair, and training. Adaptive aids and devices may be fabricated by a professional if the care receiver needs specialized aids and devices.~~

~~_____ (c) "Legal, Financial, or Placement Services" purchased as supplemental services shall provide support and assistance to caregivers in their caregiving responsibilities. Services will provide the caregiver with legal, financial, and placement advice, counseling, and representation by an attorney, certified financial advisor, or other person acting under the supervision of an attorney, certified financial advisor, or placement professional.~~

~~_____ (d) "Miscellaneous" services shall provide support and assistance to caregivers in their caregiving responsibilities. Miscellaneous services will facilitate the ability to provide services to caregivers that arise from unusual circumstances and shall assist the caregiver in performing their caregiving responsibilities.~~

~~_____ (20) "Waiver" means an intentional release in writing by the Agency Director or designee, as authorized in the rules, from a program limitation included in these rules.~~

R510-401-3. Eligibility for Services.

~~_____ (1) Services listed in Section R510-401-5 are available to caregivers, grandparents and older individuals who are relative caregivers.~~

~~_____ (2) Respite care and Supplemental Services are available to caregivers who are:~~

- ~~_____ (a) caregivers of adults 60 years of age or older~~
- ~~_____ (b) caregivers 60 years of age or older caring for persons with mental retardation or related developmental disabilities; or are~~
- ~~_____ (c) grandparents or older individuals who are a relative caregiver of a child not more than 18 years of age.~~

~~_____ (3) To provide respite and Supplemental Services to caregivers of adults 60 years of age or older, the care receiver must be:~~

- ~~_____ (a) Functionally impaired because the individual is unable to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing or supervision; or~~
- ~~_____ (b) Due to a cognitive or other mental impairment, requires substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or to another individual.~~

~~_____ (c) The caregiver must demonstrate a medium-to-high risk score according to the DAAS Approved Demographic Intake and Screening tool and complete the DAAS-approved Assessment and DAAS-approved Burden score.~~

~~_____ (4) In the event that there is insufficient funds to bring an individual on the program the Agency shall maintain a list of potential applicants. All potential applicants will be served in turn by using the DAAS-approved Demographic Intake and Risk Screening tool, and a Caregiver Burden score to determine eligibility for services.~~

R510-401-4. Responsibilities of the Division.

~~_____ (1) Pursuant to UCA 62A-3-104, the Division shall:~~

- ~~_____ (a) establish a funding formula for the distribution of the funds as approved by the Board;~~
- ~~_____ (b) monitor, and at the request of the Area Agency on Aging, consult and assist in UCSP;~~
- ~~_____ (c) provide training opportunities;~~
- ~~_____ (d) define minimal documentation and client assessment standards; and~~
- ~~_____ (e) approve or disapprove waivers and exceptions.~~

R510-401-5. Program Content.

~~_____ (1) Each Area Agency on Aging shall provide a multifaceted system of caregiver support services for caregivers and, if funded, for grandparents or older individuals who are relative caregivers to include:~~

- ~~_____ (a) information to caregivers about available services;~~
- ~~_____ (b) individual, one-on-one assistance to caregivers in gaining access to services in the form of information and assistance or case management. Assistance may include but is not limited to such activities as phone contact and home visits;~~
- ~~_____ (c) individual counseling, support groups, and caregiver training to assist the caregivers in making decisions and solving problems relating to their caregiving roles;~~
- ~~_____ (d) respite care to enable caregivers to be temporarily relieved from their caregiving responsibilities; and~~
- ~~_____ (e) Supplemental Services, on a limited basis, to complement the care provided by caregivers.~~

~~_____ (2) The Area Agency on Aging shall use the DAAS-approved Demographic Intake and Risk Screening form and assessment tool to determine eligibility for respite and supplemental services and said tools shall be kept in the client file.~~

~~_____ (3) Prior to receiving respite or supplemental services the Area Agency on Aging shall develop a written service plan including goals and objectives for the caregiver, which shall be kept in the client file.~~

~~_____ (4) The Area Agency on Aging shall ensure the provision of the full range of caregiver support services in the community by coordinating its activities with the activities of other community agencies and voluntary organizations providing supportive services to family caregivers and, if funded, grandparents or older individuals who are relative caregivers of children.~~

~~_____ (5) Older Americans Act information and services shall be provided to family caregivers in a direct and helpful manner. In cases where caregiver support programs already exist within the community, coordination of these programs and the UCSP is essential to maximize the dollars available for family caregivers and avoid duplication of services.~~

~~_____ (6) To assure coordination of caregiver services in the planning and service area, the Area Agency on Aging shall convene a minimum of one joint planning meeting annually with other local providers who currently provide support services to family caregivers. As practical, the Area Agency on Aging shall coordinate the activities under this program with other community agencies and voluntary organizations providing services to caregivers.~~

~~_____ (7) Funds allocated on an annual basis under the UCSP for services provided by an Area Agency on Aging shall be expended as follows:~~

- ~~_____ (a) Information to caregivers about available services: the Area Agency on Aging may not use less than three percent of the funds allocated under the UCSP to provide these services.~~
- ~~_____ (b) Assistance to caregivers in gaining access to the services: the Area Agency on Aging may not use less than five percent of the funds allocated under the UCSP to provide these services.~~
- ~~_____ (c) Individual counseling, organization of support groups, and caregiver training to caregivers to assist the caregivers in making decisions and solving problems relating to their caregiving roles: The Area Agency on Aging may not use less than five percent of the funds allocated under the UCSP to provide these services.~~

~~(d) Respite care to enable caregivers to be temporarily relieved from their caregiving responsibilities: The Area Agency on Aging may not use less than five percent of the funds allocated under the UCSP to provide these services.~~

~~(e) Supplemental Services, on a limited basis, to complement the care provided by caregivers: The Area Agency on Aging may not use more than twenty percent of the funds allocated under the UCSP to provide these services.~~

~~(f) The Area Agency on Aging shall spend no more than ten percent of funds on services provided to grandparents and other individuals who are relative caregivers of children.~~

~~(8) If a customer discontinues Respite and/or Supplemental Services before the end of the twelve-month period and before the annual established service expenditure limit per client is reached, the case shall be closed:~~

~~(a) If funds are available, the caregiver may be readmitted to the program subsequent to the case closing but shall do so within twelve months from the original date of enrollment.~~

~~(b) If no funds are available, the person will be placed at the top of the list to be the first person to be admitted to the program if the person still has time left on the program.~~

~~(c) If funds become available, but there is no time remaining based on the original admission, then the caregiver needs to reapply and be considered for admission to the program with all other applicants.~~

R510-401-6. Caregiver Advisory Council.

~~(1) The Area Agency on Aging shall develop and maintain a Caregiver Advisory Council.~~

~~(2) The Caregiver Advisory Council may be a subgroup of the Area Agency on Aging Advisory Council providing they meet the requirements set forth in the rule.~~

~~(a) The Caregiver Advisory Council may be comprised of no less than five members, some of whom shall be caregivers.~~

~~(3) The Caregiver Advisory Council shall meet no less than semiannually, and meetings shall be scheduled by each Area Agency on Aging.~~

~~(4) The primary duty of the Caregiver Advisory Council shall include but not be limited to conducting an annual caregiver satisfaction survey for the caregiver program.~~

~~(5) The Caregiver Advisory Council shall advise the Area Agency on Aging in determining service needs and developing action plans. When there is a concern over the use of limited resources for Respite Care and Supplemental Services, the Area Agencies on Aging, in consultation with their Caregiver Advisory Council, may further limit the amount of services provided to an individual caregiver. This local policy decision shall be in writing and shall be uniform for all caregivers for the current fiscal year.~~

~~(6) The Area Agency on Aging shall be responsible for developing orientations for Caregiver Advisory Councils on caregiver issues and responding to community needs.~~

R510-401-7. Voluntary Contributions.

~~(1) Individuals receiving services from this program may be encouraged to participate in voluntary contributions for services, provided that the method of solicitation is non-coercive.~~

~~(2) Voluntary contributions shall in no way be based on a means test of an individual client's income.~~

~~(3) Each Area Agency on Aging shall implement procedures for voluntary contributions in the UCSP, and shall comply, at a minimum, with the following:~~

~~(a) provide each recipient with an opportunity to voluntarily contribute to the cost of the services;~~

~~(b) clearly inform each recipient that there is no obligation to contribute and that the contribution is purely voluntary;~~

~~(c) protect the privacy and confidentiality of each recipient with respect to the recipient's contribution or lack of contribution; and~~

~~(d) establish appropriate procedures to safeguard and account for voluntary contributions.~~

~~(4) Use all collected voluntary contributions to expand the service for which such contributions were given.~~

~~(5) In no instance shall services be denied if individuals do not participate in voluntary contributions.~~

~~(6) Area Agencies on Aging will consult with relevant service providers and older individuals in their planning and service area to determine the best method for accepting voluntary contributions.~~

R510-401-8. Reporting.

~~(1) The Area Agency on Aging shall collect data and maintain records relating to the UCSP in the format specified by the Division.~~

~~(2) The Area Agency on Aging shall furnish the records to the DAAS as specified.~~

~~(3) The Area Agency on Aging shall report to DAAS, as specified, the activities and determinations of the Caregiver Advisory Council.~~

R510-401-10. Waiver Requests for Respite and Supplemental Services.

~~An Area Agency on Aging may request in writing a waiver for Respite and Supplemental Services in order to enable the caregiver to carry out their duties in assisting the care receiver. In requesting a waiver, the Area Agency on Aging must demonstrate that effort has been made to access other sources of services or funds. The Agency Director may grant a waiver for Supplemental Services or Respite on a case-by-case basis provided that such waiver is consistent with the law. A copy of the approved waiver request must be placed in the client file and a copy sent in writing to the Division.]~~

R510-401. Utah Caregiver Support Program (UCSP).

R510-401-1. Utah Caregiver Support Program Purpose.

~~The Utah Caregiver Support Program is created under authority of the Older Americans Act of 1965 as amended in 2000 (PL 89-73) Part E - National Family Caregiver Support Program (NFCSP) and 2006 (PL 109-365) Subpart 1 - Caregiver Support Program.~~

~~The purpose of the program is to provide support services including information and assistance, counseling, support groups, respite and other home and community-based services to family caregivers of frail older individuals. The program also recognizes the needs of grandparents and other relatives (not biological or adoptive parents) 55 years of age and older providing care to children under the age of 18 years as well as to grandparents and~~

other relatives (not biological or adoptive parents) 55 years of age and older providing care to adults, age 18 to 59 years, with disabilities. Adult family members (age 18 years or older) or other adult informal caregivers providing care to individuals of any age with Alzheimer's disease and related disorders are also served under this program.

Operation of the program is a joint responsibility of the State Division of Aging and Adult Services and local Area Agencies on Aging (AAA). Funds are distributed by formula (R510-100-1) to local AAAs.

R510-401-2. Authority.

This Rule is authorized by 62A-3-104; 42 USC Section 3001.

R510-401-3. Definitions.

(1) "Adult" means an individual who is 18 years of age or older.

(2) "Agency or Area Agency on Aging (AAA)" means the agency designated by the Division of Aging and Adult Services (DAAS) to coordinate and provide services for a defined geographical area.

(3) "Agency Director" means the director of the Agency.

(4) "Caregiver or Family Caregiver" means an adult family member, or another adult individual, who is an informal provider of in-home and community care to an older individual who is:

(a) 60 years of age or older; or is a
(b) caregiver 60 years of age or older who is caring for persons with mental retardation or related developmental disabilities; or is an

(c) adult family member (age 18 years or older) or other adult informal caregiver providing care to individuals of any age with Alzheimer's disease and related disorders; or is a

(d) grandparent 55 years of age or older individual who is a relative caregiver (not biological or adoptive parents) of a child not more than 18 years of age; or is a

(e) grandparent and other relatives (not biological or adoptive parents) 55 years of age and older providing care to adults, age 18 to 59 years, with disabilities.

(f) This definition excludes agency and privately-paid supportive service providers.

(5) "Care Receiver" means an adult 60 years of age or older who receives assistance from, or is dependent upon, another for care and is:

(a) unable to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision; or

(b) due to a cognitive or other mental impairment, requires substantial supervision; or

(6) "Child" means an individual who is not more than 18 years of age or who is an individual with a disability.

(7) "Companion Services" means non-medical, basic supervisory services which are provided to the eligible care receiver in his home on a short-term, intermittent basis. Companion Services provide respite to a caregiver who is caring for eligible care receivers who do not require any personal care assistance, medical assistance, or housekeeping services during the time when companion services are provided.

(8) "Counseling, Support Groups, or Caregiver Training" means provision of advice, guidance, and education about options and methods of caregiving to provide support to caregivers in an individual or group setting.

(9) "Director" means the director of the Division of Aging and Adult Services (DAAS), Utah Department of Human Services).

(10) "Disability" means a disability attributable to mental or physical impairment, or a combination of mental and physical impairments, that results in substantial functional limitation in 1 or more of the following areas of major life activity:

(a) self care,

(b) receptive and expressive language,

(c) learning,

(d) mobility,

(e) self-direction,

(f) capacity for independent living,

(g) economic self-sufficiency,

(h) cognitive functions, and

(i) emotional adjustment.

(11) "Division" means the Division of Aging and Adult Services (DAAS), Utah Department of Human Services.

(12) "Formal Resources" means an entity or individual that provides services for a fee or reimbursement.

(13) "Grandparent or Older Individual who is a Relative Caregiver" means a grandparent or step- grandparent of a child, or a relative of a child by blood, marriage, or adoption who is 55 years of age or older and:

(a) lives with the child;

(b) is the primary caregiver of the child because the biological or adoptive parents are unable or unwilling to serve as the primary caregiver of the child; and,

(c) has a legal relationship to the child, such as legal custody or guardianship, or is raising the child informally.

(14) "Informal Resources" means family, friends, neighbors, community organizations or others who offer resources and support and are not assigned by formal agencies or organizations, irrespective of any payment received.

(15) "Multifaceted Systems" means a variety of systems of support for the caregiver including but not limited to those described in the required five service categories of the (NFCSP), Title III E of the Older Americans Act, as amended in 2000.

(16) "National Family Caregiver Support Program or NFCSP" is the federal program enacted as P. L. 106-501, Title III E of the Older Americans Act, P. L. 89-73, 42 USC Section 3001 et seq., as amended in 2000.

(17) "Relief means ease from or lessening of discomfort, anxiety, fear, stress, or burden.

(18) "Respite or Respite Care" is temporary, substitute supports or living arrangements to provide a brief period of relief or rest for caregivers as outlined in the service plan developed by a case manager following a formal assessment. It can be in the form of in-home respite, adult day care respite, or institutional respite for an overnight stay on an intermittent, occasional, or emergency basis. Respite can be provided for a caregiver for no more than 12 consecutive months from the date of enrollment and shall not exceed the annual service expenditure limit per client, as established by the Division in consultation the Area Agencies on Aging annually. If either condition is met, the caregiver must come

off of the program and then may reapply on the anniversary of the start of services. Temporary respite may not be provided by the twenty percent (20%) maximum supplemental services funds.

(19) "Severe Disability" means a severe, chronic disability attributable to mental or physical impairment, or a combination of mental and physical impairments, that:

(a) is likely to continue indefinitely; and

(b) results in substantial functional limitation in 3 or more of the following major life activities:

(i) self care,

(ii) receptive and expressive language,

(iii) learning,

(iv) mobility,

(v) self-direction,

(vi) capacity for independent living, and

(vii) economic self-sufficiency.

(20) "Service Plan" means a written plan which contains a description of the needs of the caregiver, the care recipient, and the services and goals necessary to meet those needs.

(21) "Supplemental Services" means other services to complement the care of caregivers, on a limited basis as determined by a case manager through the assessment process and included in a service plan. Supplemental services shall serve to maximize the support of caregivers and shall be flexible, adaptable, and responsive to the needs of the individual caregiver or care receiver wherever they reside in the State of Utah. Services provided under supplemental services shall not fall into other categories defined in the UCSP or the NFCSP.

(a) Expenditures for Supplemental Services are not included in the annual established service expenditure limit for Respite.

(b) Necessity for Supplemental Services shall be specified in the service plan goals. Reimbursement shall include the purchase and/or rental, installation, removal, replacement, or repair of approved items or services for the twelve months that the caregiver is on the program. The case manager will document in the caregiver file all funding resources explored and reasons alternative funding cannot be accessed. Items or services exceeding \$250 per purchase must be prior approved by the Agency Director, or designee, based on a formal written request by the case manager or designee documenting the determination of need and estimated cost. The original approved waiver request will be placed and maintained by the Agency in the caregiver file and a copy sent in writing to the Division.

(c) "Supplies or Equipment" means durable and non-durable goods purchased and/or rented under supplemental services to provide support and assistance to caregivers in their caregiving responsibilities. Reimbursement shall include the purchase of supplies, and the purchase, and/or rental, installation, removal, replacement or repair of approved equipment.

(d) "Modifications or durable adaptive aids and devices" purchased as supplemental services shall be one-time purchases to provide support and assistance to caregivers in their caregiving responsibilities. Minor modifications of homes shall facilitate the ability of older individuals to remain at home or provide for the safety of the care receiver. Adaptive aids and devices shall assist the caregivers helping care receivers to perform normal living activities, and shall include the cost of any necessary installation fitting, adjustment, repair, and training. Adaptive aids and devices

may be fabricated by a professional if the care receiver needs specialized aids and devices.

(e) "Legal, Financial, or Placement Services" purchased as supplemental services shall provide support and assistance to caregivers in their caregiving responsibilities. Services will provide the caregiver with legal, financial, and placement advice, counseling, and representation by an attorney, certified financial advisor, or other person acting under the supervision of an attorney, certified financial advisor, or placement professional.

(f) "Miscellaneous" services shall provide support and assistance to caregivers in their caregiving responsibilities. Miscellaneous services will facilitate the ability to provide services to caregivers that arise from unusual circumstances and shall assist the caregiver in performing their caregiving responsibilities.

(22) "Waiver" means an intentional release in writing by the Agency Director or designee, as authorized in the rules, from a program limitation included in these rules.

R510-401-4. Eligibility for Services.

(1) Services listed in Section R510-406-5 are available to caregivers, grandparents and older individuals who are relative caregivers.

(2) Priority to receive services shall be given in the order below:

(a) caregivers who are older individuals with greatest social need, and older individuals with greatest economic need (with particular attention to low-income older individuals); and

(b) family caregivers who provide care for individuals with Alzheimer's disease and related disorders with neurological and organic brain dysfunction; and

(c) older individuals providing care to individuals with severe disabilities, including children with severe disabilities; and

(d) grandparents or older individuals who are relative caregivers who provide care for children with severe disabilities.

(3) Respite care and Supplemental Services are available to caregivers who are:

(a) caregivers of adults 60 years of age or older; or are

(b) adult family members (age 18 years or older) or other adult informal caregivers providing care to individuals of any age with Alzheimer's disease and related disorders; or are

(c) caregivers 60 years of age or older caring for persons with mental retardation or related developmental disabilities; or are

(d) grandparents or older individuals (not biological or adoptive parents) 55 years of age or older who are a relative caregiver of a child not more than 18 years of age.; or are

(e) grandparents and other relatives (not biological or adoptive parents) 55 years of age and older providing care to adults, age 18 to 59 years, with disabilities.

(4) To provide Respite and Supplemental Services to eligible the care receiver must be:

(a) Functionally impaired because the individual is unable to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing or supervision; or

(b) Due to a cognitive or other mental impairment, requires substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or to another individual; or

(c) A child physically or mentally impaired because the individual is unable to perform at least two areas of major life activity.

(d) The caregiver must demonstrate a medium-to-high risk score according to the DAAS Approved Demographic Intake and Screening tool and complete the DAAS-approved Assessment and DAAS-approved Burden score.

(5) In the event that there is insufficient funds to bring an individual on the program the Agency shall maintain a list of potential applicants. All potential applicants will be served in turn by using the DAAS-approved Demographic Intake and Risk Screening tool, and a Caregiver Burden score to determine eligibility for services.

R510-401-5. Responsibilities of the Division.

(1) Pursuant to UCA 62A-3-104, the Division shall:

(a) establish a funding formula for the distribution of the funds as approved by the Board;

(b) monitor, and at the request of the Area Agency on Aging, consult and assist in UCSP;

(c) provide training opportunities;

(d) define minimal documentation and client assessment standards; and

(e) approve or disapprove waivers and exceptions.

R510-401-6. Program Content.

(1) Each Area Agency on Aging shall provide a multifaceted system of caregiver support services for caregivers and for grandparents or older individuals who are relative caregivers to include:

(a) information to caregivers about available services;

(b) individual, one-on-one assistance to caregivers in gaining access to services in the form of information and assistance or case management. Assistance may include but is not limited to such activities as phone contact and home visits;

(c) individual counseling, support groups, and caregiver training to assist the caregivers in making decisions and solving problems relating to their caregiving roles;

(d) respite care to enable caregivers to be temporarily relieved from their caregiving responsibilities; and

(e) Supplemental Services, on a limited basis, to complement the care provided by caregivers.

(2) The Area Agency on Aging shall use the DAAS-approved Demographic Intake and Risk Screening form and assessment tool to determine eligibility for respite and supplemental services and said tools shall be kept in the client file.

(3) Prior to receiving respite or supplemental services the Area Agency on Aging shall develop a written service plan including goals and objectives for the caregiver, which shall be kept in the client file.

(4) The Area Agency on Aging shall ensure the provision of the full range of caregiver support services in the community by coordinating its activities with the activities of other community agencies and voluntary organizations providing supportive services to family caregivers and grandparents or older individuals who are relative caregivers of children.

(5) Older Americans Act information and services shall be provided to family caregivers in a direct and helpful manner. In cases where caregiver support programs already exist within the

community, coordination of these programs and the UCSP is essential to maximize the dollars available for family caregivers and avoid duplication of services.

(6) To assure coordination of caregiver services in the planning and service area, the Area Agency on Aging shall convene a minimum of one joint planning meeting annually with other local providers who currently provide support services to family caregivers. As practical, the Area Agency on Aging shall coordinate the activities under this program with other community agencies and voluntary organizations providing services to caregivers.

(7) Funds allocated on an annual basis under the UCSP for services provided by an Area Agency on Aging shall be expended as follows:

(a) Information to caregivers about available services: the Area Agency on Aging may not use less than three percent of the funds allocated under the UCSP to provide these services.

(b) Assistance to caregivers in gaining access to the services: the Area Agency on Aging may not use less than five percent of the funds allocated under the UCSP to provide these services.

(c) Individual counseling, organization of support groups, and caregiver training to caregivers to assist the caregivers in the areas of health, nutrition and financial literacy and in making decisions and solving problems relating to their caregiving roles. The Area Agency on Aging may not use less than five percent of the funds allocated under the UCSP to provide these services.

(d) Respite care to enable caregivers to be temporarily relieved from their caregiving responsibilities: The Area Agency on Aging may not use less than five percent of the funds allocated under the UCSP to provide these services.

(e) Supplemental Services, on a limited basis, to complement the care provided by caregivers: The Area Agency on Aging may not use more than twenty percent of the funds allocated under the UCSP to provide these services.

(f) The Area Agency on Aging shall spend no more than ten percent of funds on services provided to grandparents and other individuals who are relative caregivers of a child not more than 18 years of age.

(8) If a customer discontinues Respite and/or Supplemental Services before the end of the twelve-month period and before the annual established service expenditure limit per client is reached, the case shall be closed.

(a) If funds are available, the caregiver may be readmitted to the program subsequent to the case closing but shall do so within twelve months from the original date of enrollment.

(b) If no funds are available, the person will be placed at the top of the list to be the first person to be admitted to the program if the person still has time left on the program.

(c) If funds become available, but there is no time remaining based on the original admission, then the caregiver needs to reapply and be considered for admission to the program with all other applicants.

(9) The Area Agency on Aging shall make use of trained volunteers to expand the provision of available resources and, if possible, work in coordination with organizations that have experience in providing training, placement, and stipends for volunteers or participants (such as organizations carrying out Federal service programs administered by the Corporation for National and Community Service), in community settings.

R510-401-7. Caregiver Advisory Council.

(1) The Area Agency on Aging shall develop and maintain a Caregiver Advisory Council.

(2) The Caregiver Advisory Council may be a subgroup of the Area Agency on Aging Advisory Council providing they meet the requirements set forth in the rule.

(a) The Caregiver Advisory Council may be comprised of no less than five members, some of who shall be caregivers.

(3) The Caregiver Advisory Council shall meet no less than semiannually, and meetings shall be scheduled by each Area Agency on Aging.

(4) The primary duty of the Caregiver Advisory Council shall include but not be limited to conducting an annual caregiver satisfaction survey for the caregiver program.

(5) The Caregiver Advisory Council shall advise the Area Agency on Aging in determining service needs and developing action plans. When there is a concern over the use of limited resources for Respite Care and Supplemental Services, the Area Agencies on Aging, in consultation with their Caregiver Advisory Council, may further limit the amount of services provided to an individual caregiver. This local policy decision shall be in writing and shall be uniform for all caregivers for the current fiscal year.

R510-401-8. Voluntary Contributions.

(1) Individuals receiving services from this program may be encouraged to participate in voluntary contributions for services, provided that the method of solicitation is non-coercive.

(2) Voluntary contributions shall in no way be based on a means test of an individual client's income.

(3) Each Area Agency on Aging shall implement procedures for voluntary contributions in the UCSP, and shall comply, at a minimum, with the following:

(a) provide each recipient with an opportunity to voluntarily contribute to the cost of the services;

(b) clearly inform each recipient that there is no obligation to contribute and that the contribution is purely voluntary;

(c) protect the privacy and confidentiality of each recipient with respect to the recipient's contribution or lack of contribution; and

(d) establish appropriate procedures to safeguard and account for voluntary contributions.

(4) Use all collected voluntary contributions to expand the service for which such contributions were given.

(5) In no instance shall services be denied if individuals do not participate in voluntary contributions.

(6) Area Agencies on Aging will consult with relevant service providers and older individuals in their planning and service area to determine the best method for accepting voluntary contributions.

R510-401-9. Reporting.

(1) The Area Agency on Aging shall collect data and maintain records relating to the UCSP in the format specified by the Division.

(2) The Area Agency on Aging shall furnish the records to the DAAS as specified.

(3) The Area Agency on Aging shall report to DAAS, as specified, the activities and determinations of the Caregiver Advisory Council.

(4) The Area Agency on Aging shall report to DAAS any mechanisms used with caregivers regarding information about and access to various services so that the persons can better carry out their caregiver responsibilities.

R510-401-10. Waiver Requests for Respite and Supplemental Services.

(1) An Area Agency on Aging may request in writing a waiver for Respite and Supplemental Services in order to enable the caregiver to carry out their duties in assisting the care receiver. In requesting a waiver, the Area Agency on Aging must demonstrate that effort has been made to access other sources of services or funds. The Agency Director, or designee, may grant a waiver for Supplemental Services or Respite on a case-by-case basis provided that such waiver is consistent with the law. A copy of the approved waiver request must be placed in the client file and a copy sent in writing to the Division.

KEY: caregiver, care receiver, elderly, respite

Date of Enactment or Last Substantive Amendment: ~~February 23, 2006~~ 2009

Notice of Continuation: June 22, 2005

Authorizing, and Implemented or Interpreted Law: 63A-3-104(4); 62A-3-104(5)

Human Services, Substance Abuse and Mental Health **R523-1** Procedures

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 33038

FILED: 10/13/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Two actions were taken during the 2009 legislative session that had an effect on the division's rules. First, funding for the Rural Mental Health Scholarship and Grant was removed and there are no other funding sources available to continue to offer the scholarship as outlined in rule. Second, rulemaking boards were disbanded and rulemaking authority was granted to individual service agencies. The division has several subsections in Rule R523-1 referring to the Board of Substance Abuse and Mental Health that need to be amended. The division is also updating rule information and organizing it to reflect current practice.

SUMMARY OF THE RULE OR CHANGE: This amendment: 1) deletes all references to the Board of Substance Abuse and Mental Health, and replaces those references with The Division of Substance Abuse and Mental Health where appropriate; 2) adds Authority and Purpose sections; 3) deletes redundant program standard sections; 4) deletes the Private Practice section; 5) updates the ten mandated services to be provided by local mental health authorities; 6) adds a funding formula for distribution of substance abuse treatment and prevention funds; 7) deletes the Rural Mental Health Scholarship and Grants subsection; 8) adds a Distribution of Fee-On-Fine (DUI) Funds section; and 9) adds a 20% Match Required to Be County Tax Revenue section.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 17-43-302 and Section 62A-15-1003 and Section 62A-15-103 and Section 62A-15-108 and Section 62A-15-603 and Section 62A-15-612 and Subsection 62A-15-105(5) and Subsection 62A-15-704(3)(a)(i) and Subsection 62A-15-704(3)(a)(ii)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The State will save \$13,000 each year by not paying for board members to participate in the review and guidance process, and \$28,000 annually, which is the amount of general funds allocated to the rural mental health scholarship and grant on a yearly basis. Total anticipated savings will be \$41,000 annually.

◆ **LOCAL GOVERNMENTS:** There are no monetary savings or costs to local governments since the board and rural mental health scholarship and grant were not managed or administered through local governments or human service agencies. There is a possible personnel cost to counties who used the scholarship and grant as a means of recruiting employees into their public mental health agencies.

◆ **SMALL BUSINESSES:** There are no costs or savings to small businesses. All community mental health centers affected by this rule change for the rural mental health scholarship and fund provide services through county employee except Summit and Tooele Counties who contract for services through Valley Mental Health. Valley Mental Health employs over 50 people.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The cost to all others is \$5,000 to each individual who applied and was eligible to receive the scholarship to obtain their education or received the grant after their education was completed to help offset the cost and pay student loans. There have been between seven and eight participants each year for the past couple of years.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no financial compliance costs to effected individuals, because these amendments do not impose additional activities or obligations.

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 this rule will have no financial impact on businesses in the state of Utah.

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 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 NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: Mark Payne, Director

R523. Human Services, Substance Abuse and Mental Health.

R523-1. Procedures.

~~**[R523-1-1. Board of Substance Abuse and Mental Health-Responsibilities.**~~

~~———— (1) The State Board of Substance Abuse and Mental Health is the program policy making body for the Division of Substance Abuse and Mental Health and for programs funded with state and federal monies. The Board has the authority and the responsibility to establish by rule procedures for developing its policies which seek input from local mental health authorities, consumers, providers, advocates, division staff and other interested parties (Section 62A-15-105). In order to ensure public input into the policy making procedure the Board will:~~

~~———— (a) Convene an annual meeting, inviting local mental health authorities, consumers, providers, advocates and division staff to provide them an opportunity to comment and provide input on new policy or proposed changes in existing policy.~~

~~———— (b) The Board shall include, as necessary, a time on the agenda at each regularly scheduled board meeting to entertain public comment on new policy or proposed changes in existing policy.~~

~~———— (c) Public requests to revise existing policy or consider new policy shall be made in writing to the Board in care of the Division of Substance Abuse and Mental Health.~~

~~———— (d) The Division shall prepare, for the Board's review, any comments they are in receipt of relative to public policy, which will be addressed at a regularly scheduled board meeting.~~

~~———— (e) The Board may direct the Division to follow up on any unresolved issues raised as a result of policy review and report their findings at the next scheduled board meeting.~~

[R523-1-1. Authority.

(1) This rule establishes procedures and standards for administration of substance abuse and mental health services as granted by Subsection 62A-15-105(5).

R523-1-2. Purpose.

- (1) The purpose of this rule is to provide:
- (a) procedures for rulemaking by the division;
- (b) clarification of the relationship between the division and the local authorities;
- (c) program standards for community mental health programs;
- (d) a process for local authorities to set fees for service;
- (e) a priority for treatment in community mental health centers;
- (f) guidance on carryover from funds generated through collections by community mental health centers;
- (g) a list of consumer rights;
- (h) guidance in the use of division local authority data for evaluations, research and statistical analysis;
- (i) allocation of Utah State Hospital adult beds to local mental health authorities;
- (j) standards for designated examiner certifications;
- (k) distribution formulas for the appropriation of funds to the local substance abuse and mental health authorities;
- (l) allocation of Utah State Hospital child and youth beds to local mental health authorities;
- (m) procedures for administering antipsychotic medications to children;
- (n) procedures for administering electroshock therapy to children;
- (o) clarification of items prohibited from public mental health facilities;
- (p) guidance on the use of family involvement in therapeutic settings;
- (q) guidance for the use of a declaration of mental health treatment;
- (r) standards for case manager certification;
- (s) set a competitive bid process for contract and subcontracts;
- (t) set maintenance of effort standards for local substance abuse authorities;
- (u) set the distribution of Fee-On-Fine (DUI) funds; and
- (v) clarify the 20% match required by the counties on general funds passed through to the local authorities.

R523-1-[2]3. State and Local Relationships.

(1) Local Mental Health Authorities (LMHA) are the "service designees" of the State Division of Substance Abuse and Mental Health (Division) to provide comprehensive mental health services as defined by state law pursuant to Section 17-43-302.

(2) When the Division requires other services outside the comprehensive range specified by law, it shall provide LMHAs the first opportunity to accept or reject the service contract. If the LMHA rejects the contract in writing or fails to meet the terms of the contract as determined by the Division, the Division may contract with any qualified provider, through a Request For Proposal (RFP) process. If an agency other than the LMHA receives a contract to provide a mandated service, the contracted service provider shall inform the LMHA that they have been awarded the contract and offer to coordinate the service with existing services provided by the LMHA.

(3) The Division has the responsibility and authority to monitor LMHA contracts. Each mental health catchment area shall

be visited at least once annually to monitor compliance. The mental health center will be provided preliminary findings from the site review and an opportunity to comment. A written report will be sent to each LMHA describing the findings from the site visit.

(4) The Division shall oversee the continuity of care for services provided to consumers and resolve conflicts between the Utah State Hospital (USH) and LMHA, and also those between LMHA's.

(a) if negotiations between LMHA's and the USH regarding admissions, discharges or provisions of consumer services fail to be resolved at the local level, the following steps shall be taken:

(i) the director of the Division or designee shall appoint a committee to review the facts of the conflict and make recommendations;

(ii) if the recommendations of the committee do not adequately resolve the conflict, the clinical or medical director of the local mental health center and USH clinical director shall meet and attempt to resolve the conflict;

(iii) if a resolution cannot be reached, the community mental health center director and the superintendent of the USH shall meet and attempt to resolve the conflict;

(iv) if a resolution cannot be reached, the director of the Division or designee shall make the final decision.

(b) If conflicts arise between LMHA's regarding admissions, discharges, or provisions of consumer services, the final authority for resolution shall rest with the director of the Division or designee.

[R523-1-3. Program Standards.

~~(1) The State Board of Substance Abuse and Mental Health, in compliance with law, adopts the policy that available state funds will be distributed on a 80% State, 20% local match basis to local mental health authorities which provide the continuum of care and meet the public policy priority adopted by the Board (17-43-102, 62A-1-107(6)). The Division of Substance Abuse and Mental Health will carry out this policy. A comprehensive mental health program includes:~~

- ~~(a) Inpatient care and services (hospitalization)~~
- ~~(b) Residential care and services~~
- ~~(c) Day treatment and psycho-social rehabilitation~~
- ~~(d) Outpatient care and services~~
- ~~(e) Twenty-four hour crisis care and services~~
- ~~(f) Outreach care and services~~
- ~~(g) Follow-up care and services~~
- ~~(h) Screening for referral services~~
- ~~(i) Consultation, education and preventive services (case consultation, public education and information, etc.)~~
- ~~(j) Case management.~~

~~(2) Each local mental health authority shall be responsible for providing these services directly or contracting for these services.~~

~~(3) The primary responsibility of the Division of Substance Abuse and Mental Health will be to insure the provision of services for those citizens who enter the mental health system directly as consumers and to work cooperatively with other agencies. Other public agencies such as Education, Corrections, Health and Social Services will have primary responsibility for arranging for or providing and paying for the mental health needs of~~

~~citizens served by their agency when the required service directly benefits or is tied to their agency responsibility. The Division of Substance Abuse and Mental Health will clearly define items 1-9 above so that evaluation and implementation is feasible. These definitions will be approved by the State Board of Substance Abuse and Mental Health.~~

R523-1-4. Private Practice.

~~(1) Private practice policies shall be determined by local community mental health authorities. These policies will be available in written form for State review.~~

]R523-1-9. Statewide Program Evaluation, Research, and Statistics.

(1) Responsibility for Statewide program evaluation, research, and statistics belongs to the Division of Substance Abuse and Mental Health. This responsibility includes data system leadership, coordination, implementation, and monitoring.

(2) The Division of Substance Abuse and Mental Health shall develop and maintain, in collaboration with local mental health providers, a set of data system principles that address at least the following topics: standardization of data variables and definitions; variable integration across data sets; procedures for requesting data from MHOs; procedures for data review and dissemination; MHC participation in planning new statistical reports and requests; cost-effective and practical data collection procedures; confidentiality and data security; accuracy and data quality control; updating regular reports; and procedures for reviewing and updating the principles.

(3) The Division of Substance Abuse and Mental Health, in collaboration with the local Mental Health Authorities and their providers, shall assess service effectiveness (outcomes) and efficiency (productivity) and report the results ~~[to the State Board of Substance Abuse and Mental Health]~~ in an annual report. This report or reports shall contain data results on effectiveness and efficiency for the previous year, and a plan for assessing these variables for the following year. ~~[Changes in procedures for data collection and analysis for the previous year, and changes in data system principles shall also be reported to the Board.]~~

R523-1-10. Allocation of Utah State Hospital Bed Days to Local Mental Health Authorities.

1. Pursuant to UCA 62A-15-611(2)(a), the ~~[Board]~~Division of Substance Abuse and Mental Health herein establishes, by rule, a formula to allocate to local mental health authorities adult beds for persons who meet the requirements of UCA 62A-15-610(2)(a).

2. The formula established provides for allocation based on (1) the percentage of the state's adult population located within a mental health catchment area; and (2) a differential to compensate for the additional demand for hospital beds in mental health catchment areas that are located within urban areas.

3. The ~~[Board]~~Division hereby establishes a formula to determine adult bed allocation:

a. The most recent available population estimates are obtained from the Utah Population Estimates Committee.

b. The total adult population figures for the State are identified which includes general adults and geriatric populations.

Adult means age 18 through age 64. Geriatric means age 65 and older.

c. Adult and Geriatric population numbers are identified for each county.

d. The urban counties are identified (county classifications are determined by the lieutenant governor's office pursuant to UCA 17-50-501 and 17-50-502 and the most recent classifications are used to determine which counties are defined as urban) and given a differential as follows:

i. The total number of adult beds available at the Utah State Hospital are determined, from which the total number of geriatric beds and adult beds are identified.

ii. 4.8% is subtracted from the total number of beds available for adults to be allocated as a differential.

iii. 4.8% is subtracted from the total number of beds available for geriatrics to be allocated as a differential.

e. The total number of available adult beds minus the differential is multiplied by the county's percentage of the state's total adult and geriatric populations to determine the number of allocated beds for each county.

f. Each catchments area's individual county numbers are added to determine the total number of beds allocated to a catchment area. This fractional number is rounded to the nearest whole bed.

g. The differential beds are then distributed to urban counties based on their respective percentage of urban counties as a whole.

h. At least one adult (18 - 64) bed is allocated to each community mental health center.

4. In accordance with UCA 62A-15-611(6), the ~~[Board]~~Division shall periodically review and make changes in the formula as necessary to accurately reflect changes in population.

5. Applying the formula.

a. Adjustments of adult beds, as the formula is applied, shall become effective at the beginning of the next fiscal year.

b. The Division of Substance Abuse and Mental Health, ~~[as staff to the Board,]~~ is responsible to calculate adult bed allocation ~~[as directed by the Board or as required by statute].~~

c. Each local mental health authority will be notified of changes in adult bed allocation.

6. The number of allocated adult beds shall be reviewed and adjusted as necessary or at least every three years as required by statute.

7. A local mental health authority may sell or loan its allocation of adult beds to another local mental health authority.

R523-1-12. Program Standards.

(1) The ~~[State Board]~~Division of Substance Abuse and Mental Health ~~[has the power and the duty to]~~ establishes by rule, minimum standards for community mental health programs ~~[(Section 62A-15-105)].~~

(a) Each Community Mental Health Center shall have a current license issued by the Office of Licensing, Department of Human Services.

(b) Each Center shall have a comprehensive plan of service which shall be reviewed and updated at least annually to reflect changing needs. The plan shall:

(i) Be consistent with the "Comprehensive Mental Health Plan For Services To The Seriously Mentally Ill",

(ii) Designate the projected use of state and federal contracted dollars,

(iii) Define the Center's priorities for service and the population to be served.

(c) Each Center shall provide or arrange for the provision of services within the following continuum of care[-]:

(i) Inpatient care and services (hospitalization),

(ii) Residential care and services,

(iii) Day treatment and Psycho-social rehabilitation,

(iv) Outpatient care and services,

(v) Twenty-four hour crisis care and services,

(vi) ~~Outreach care and services~~ Psychotropic medication management,

(vii) ~~Follow-up care and services~~ Case management services,

(viii) ~~Screening for referral services~~ Community supports including in-home services, housing, family support services and respite services,

(ix) Consultation, education and preventive services, including case consultation, collaboration with other county service agencies, public education and public information,

(x) ~~Case management~~ Services to persons incarcerated in a county jail or other county correctional facility.

(d) Each Center shall participate in a yearly on-site evaluation conducted by the Division.

(e) The local mental health authority shall be responsible for monitoring and evaluating all subcontracts to ensure:

(i) Services delivered to consumers commensurate with funds provided,

(ii) Progress is made toward accomplishing contract goals and objectives.

(f) The local mental health authority shall conduct a minimum of one site visit per year with each subcontractor. There shall be a written report to document the review activities and findings, a copy of which will be made available to the Division.

R523-1-15. Funding Formula.

(1) The ~~Board shall~~ Division establishes by rule a formula for the annual allocation of funds to local substance abuse and mental health authorities through contracts ~~—(Section 62A-12-105)].~~

(2) The funding formula for mental health services shall be applied annually to state and federal funds appropriated by the legislature to the Division and is intended for the annual equitable distribution of these funds to the state's local mental health authorities.

(a) Appropriated funds will be distributed annually on a per capita basis, according to the most current population data available from the Office of Planning and Budget. New funding and/or decreases in funding shall be processed and distributed through the funding formula.

(b) The funding formula shall utilize a rural differential to compensate for additional costs of providing services in a rural area which may consider: the total population of each county, the total population base served by the local mental health center and/or population density.

(c) ~~In accordance with UCA Section 62A-12-105-~~ the The funding formula may utilize a determination of need other

than population if the ~~board~~ Division establishes by valid and acceptable data, that other defined factors are relevant and reliable indicators of need.

(d) Each Local Mental Health Authorities shall provide funding equal to at least 20% of the state funds that it receives to fund services described in that local mental health authority's annual plan ~~in accordance with, UCA Section 17A-3-602].~~

~~[(e) Application of the formula for allocation of state and federal funds may be subject to a phase-in plan for FY 03 through FY 06. At the latest, appropriations for FY 06 shall be allocated in accordance with the funding formula without any phase-in provisions.~~

~~(f)~~ (e) The formula does not apply to:

(i) Funds that local mental health authorities receive from sources other than the Division.

(ii) Funds that local mental health authorities receive from the Division to operate a specific program within its jurisdiction that is available to all residents of the state.

(iii) Funds that local mental health authorities receive from the Division to meet a need that exists only within the jurisdiction of that local mental health authority.

(iv) Funds that local mental health authorities receive from the Division for research projects.

(3) The funding formula for substance abuse services shall be applied annually to state and federal funds appropriated by the legislature to the Division and is intended for the annual equitable distribution of these funds to the state's local substance abuse authorities.

(a) Up to 15% of the purchase of service funds may be allocated by the State Division of Substance Abuse and Mental Health for statewide services; the remaining 85% of these funds will be allocated to the Local Substance Abuse Authorities as follows:

(i) Rural counties (all counties in the state except Utah, Salt Lake, Davis, and Weber) shall be allocated a rural differential of \$11,600:

(ii) Sixty percent of the remaining funds will be allocated to each county based on the need factor derived from the Incidence and Prevalence Studies;

(iii) The remaining forty percent of the funds will be allocated to each county based on the county's percent of the General Population as estimated by the Utah Office of Planning and Budget;

(b) Cost of Living Adjustments shall be determined by the State Division of Substance Abuse and Mental Health in accordance with legislative appropriations.

(c) Funds approved for a local authority, based on the funding formula, belong to that authority. In the event that there is an unexpended amount at the end of the year, the local authority will be allowed to carry these unexpended funds over into the next contract period, provided that the Division can carry the funds over. The only exception to this carryover authority will be that if the unexpended funds cause the state to not meet the statewide set-aside requirements. The division will contract these unexpended funds to other local authorities who can provide the services to fulfill the set-aside requirements. The division shall monitor the fund balances and the set-aside spending throughout the year. The decision to transfer funds will be negotiated in March of each year with any local authority that will not expend all of their funds.

R523-1-16. Allocation of Utah State Hospital Pediatric Beds to Local Mental Health Authorities.

~~[1-](1) [Pursuant to UCA 62A-15-612(2), the Board herein]~~The Division establishes, by rule, a formula to allocate to local mental health authorities pediatric beds~~[for persons who meet the requirements of UCA 62A-15-610(2)(b)].~~

~~[2-](2)~~ The formula established provides for allocation based on the percentage of the state's population of persons under the age of 18 located within a mental health catchment area.

~~[3-](3)~~ Each community mental health center shall be allocated at least one pediatric bed.~~[(UCA 62A-15-612(3))]~~

~~[4-](4)~~ The ~~[board hereby establishes a]~~formula to determined pediatric bed allocation:

~~[a-](a)~~ The most recent available population estimates are obtained from the Governor's Office of Planning and Budget.

~~[b-](b)~~ The total pediatric population figures for the State are identified. Pediatric means under the age of 18.

~~[e-](c)~~ Pediatric population figures are identified for each county.

~~[d-](d)~~ The total number of pediatric beds available is multiplied by the county's percentage of the state's total pediatric population. This will determine the number of allocated pediatric beds for each county.

~~[e-](e)~~ Each catchment area's individual county numbers are added to determine the total number of pediatric beds allocated to a catchment area. This fractional number is rounded to the nearest whole bed.

~~[5-](5) [In accordance with UCA 62A-15-612(6), the Board]~~The Division shall periodically review and make changes in the formula as necessary.

~~[6-](6)~~ Applying the formula.

~~[a-](a)~~ Adjustments of pediatric beds, as the formula is applied, shall become effective at the beginning of the new fiscal year.

~~[b- The Division of Substance Abuse and Mental Health, as staff to the Board, is responsible to calculate pediatric bed allocation as directed by the Board or as required by statute.~~

~~_____e-](b)~~ Each local mental health authority ~~[will]~~shall be notified of changes in pediatric bed allocation.

~~[7-](7)~~ The number of allocated pediatric beds shall be reviewed and adjusted as necessary or at least every three years as required by statute.

~~[8-](8)~~ A local mental health authority may sell or loan its allocation of adult beds to another local mental health authority.

R523-1-17. Medication Procedures for Children, Legal Authority.

(1) The Division of Substance Abuse and Mental Health hereby establishes due process procedures for children prior to the administration of antipsychotic medication~~[, pursuant to Section 62A-15-704(3)(a)(i)].~~

(a) This policy applies to persons under the age of 18 who are committed to the physical custody of a local mental health authority and/or committed to the legal custody of the Division of Substance Abuse and Mental Health.

(b) Antipsychotic medication means any antipsychotic agent usually and customarily prescribed and administered in the chemical treatment of psychosis.

(c) A legal custodian is one who has been appointed by the Juvenile Court and may include the Division of Child and Family Services, the Division of Juvenile Justice Services, and the Division of Substance Abuse and Mental Health.

(d) A legal guardian is one who is appointed by a testamentary appointment or by a court of law.

(e) A person under the age of 18 may be treated with antipsychotic medication when, as provided in this section, any one or more of the following exist:

(i) The child and parent/legal guardian/legal custodian give consent.

(ii) The child or the parent/legal guardian/legal custodian does not give consent, but a Neutral and Detached Fact Finder determines that antipsychotic medication is an appropriate treatment.

(iii) The medication is necessary in order to control the child's dangerous behavior and it is administered for an exigent circumstance according to this rule.

(f) A local mental health authority has the obligation to provide a child and parent/legal guardian/legal custodian with the following information when recommending that the child be treated with antipsychotic medications:

(i) The nature of the child's mental illness.

(ii) The recommended medication treatment, its purpose, the method of administration, and dosage recommendations.

(iii) The desired beneficial effects on the child's mental illness as a result of the recommended treatment.

(iv) The possible or probable mental health consequences to the child if recommended treatment is not administered.

(v) The possible side effects, if any of the recommended treatment.

(vi) The ability of the staff to recognize any side effects which may actually occur and the possibility of ameliorating or abating those side effects.

(vii) The possible, if any, alternative treatments available and whether those treatments are advisable.

(viii) The right to give or withhold consent for the proposed medication treatment.

(ix) When informing a child and his/her parent/legal guardian/legal custodian that they have the right to withhold consent the staff must inform them that the mental health authority has the right to initiate a medication hearing and have a designated examiner determine whether the proposed treatment is necessary.

(g) The child and parent/legal guardian/legal custodian shall then be afforded an opportunity to sign a consent form stating that they have received the information under subsection F of this section, and that they consent to the proposed medication treatment.

(h) If either the child or parent/legal guardian/legal custodian refuses to give consent, the mental health authority may initiate a medication hearing in accordance with subsection J of this rule.

(i) Antipsychotic medication may be administered under the following exigent circumstances:

(i) A qualified physician has determined and certifies that he/she believes the child is likely to cause injury to him/herself or to others if not immediately treated. That certification shall be recorded in the Physician's Orders of the child's medical record and shall contain at least the following information:

(A) A statement by the physician that he/she believes the child is likely to cause injury to himself/herself or others if not immediately restrained and provided medication treatment.

(B) The basis for that belief (including a statement of the child's behaviors).

(C) The medication administered.

(D) The date and time the medication was begun.

(j) Involuntary treatment in exigent circumstances may be continued for 48 hours, excluding Saturdays, Sundays, and legal holidays. At the expiration of that time period, the child shall not be involuntarily treated unless a Notice to Convene a Medication Hearing has been prepared and provided to the child pursuant to the provision of subsection K of this section.

(k) If the child and/or parent/legal guardian/legal custodian refuse to give consent the treating staff may request a medication hearing be held to determine if medication treatment is appropriate.

(i) The treating physician shall document in the child's medical record, the child's diagnosis, the recommended treatment, the possible side effects of such treatment, the desired benefit of such treatment, and the prognosis.

(ii) The treating staff shall complete a Request to Convene a Medication Hearing form and submit it to the Director/Designee of the local mental health authority who will contact a Neutral and Detached Fact Finder and set a date and time for the hearing. The child and parent/legal guardian/legal custodian shall be provided notice of the medication hearing and the hearing shall be set as soon as reasonably possible after a request has been made, but no sooner than 24 hours of notification being provided to the child and parent/legal guardian/legal custodian.

(iii) Prior to the hearing, the Neutral and Detached Fact Finder is provided documentation regarding the child's mental condition, including the child's medical records, physician's orders, diagnosis, nursing notes, and any other pertinent information.

(l) Medication hearings shall be conducted by a Neutral and Detached Fact Finder, shall be heard where the child is currently being treated, and shall be conducted in an informal, non-adversarial manner as to not have a harmful effect upon the child.

(i) The child has the right to attend the hearing, have an adult informant (parent/legal guardian/legal custodian/foster parent, etc.) present, and to ask pertinent questions. Other persons may attend the hearing if appropriate.

(ii) The Neutral and Detached Fact Finder shall begin each medication hearing by explaining the purpose and procedure of the hearing to the child, parent/legal guardian/legal custodian, and any other persons present.

(iii) The Neutral and Detached Fact Finder will review the child's current condition and recommended course of treatment.

(iv) The child, parent/legal guardian/legal custodian, and others present shall then be afforded an opportunity to comment on the issue of medication treatment.

(v) Following the review of the case and hearing of comments, the Neutral and Detached Fact Finder shall render a decision.

(vi) If needed the Neutral and Detached Fact Finder may ask everyone to leave the room to allow him/her time to deliberate.

(m) The Neutral and Detached Fact Finder may order medication treatment of a child if, after consideration of the record

and deliberation, the Neutral and Detached Fact Finder finds that the following conditions exist:

(i) The child has a mental illness; and

(ii) The child is gravely disabled and in need of medication treatment for the reason that he/she suffers from a mental illness such that he/she (a) is in danger of serious physical harm resulting from a failure to provide for his essential human needs of health or safety, or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his/her actions and is not receiving such care as is essential for his/her health safety; and/or

(iii) Without medication treatment, the child poses a likelihood of serious harm to him/herself, others, or their property. Likelihood of serious harm means either (a) substantial risk that physical harm will be inflicted by an individual upon his/her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on one's own self, or (b) a substantial risk that physical harm will be inflicted by an individual upon another, as evidenced by behavior which has caused such harm or which placed another person or persons in reasonable fear of sustaining such harm, or (c) a substantial risk that physical harm will be inflicted by an individual upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; and

(iv) The proposed medication treatment is in the medical best interest of the patient, taking into account the possible side effects as well as the potential benefits of the treatment; and

(v) The proposed medication treatment is in accordance with prevailing standards of accepted medical practice.

(n) The basis for the decision is supported by adequate documentation. The Neutral and Detached Fact Finder shall complete and sign a Medication Hearing form at the end of the hearing. A copy shall be provided to the child and/or parent/legal guardian/legal custodian.

(o) A child and/or parent/legal guardian/legal custodian may appeal the decision of a Neutral and Detached Fact Finder according to the following process, by submitting a written appeal to the Director/Designee of the Local Mental Health Authority providing treatment to the child, within 24 hours (excluding Saturdays, Sundays, and legal holidays) of the initial hearing.

(i) Upon receipt of the appeal, a panel consisting of two physicians and a non-physician licensed professional (RN, LCSW, PhD, etc.) shall be assigned to hear the appeal.

(ii) The panel shall review the available documentation and make a decision within 48 hours (excluding Saturdays, Sundays, and legal holidays) of the date of the appeal.

(iii) A written decision from the panel shall be provided to the child, the child's parent/legal guardian/legal custodian, the local mental health authority providing treatment to the child, and any other appropriate party.

(p) In the event that a significant medication change is proposed, the child and/or parent/legal guardian/legal custodian shall be provided an opportunity to give consent in accordance to subsection F of this section. If the child and parent/legal guardian/legal custodian refuse to give consent, a medication hearing may be initiated in accordance with subsection K of this section.

(q) Medication treatment ordered pursuant to subsection P of this section may continue after the initial hearing according to the following process:

(i) A Neutral and Detached Fact Finder shall review the case within 180 days of the initial hearing.

(ii) The Neutral and Detached Fact Finder shall review the medical record before rendering a decision to continue medication treatment.

(iii) The Neutral and Detached Fact Finder may order continued medication treatment if he/she finds the following conditions are met:

(A) The child is still mentally ill; and

(B) Absent continued medication treatment, the child will suffer severe and abnormal mental and emotional distress as indicated by recent past history, and will experience deterioration in his/her ability to function in the least restrictive environment, thereby making him/her a substantial danger to him/herself or others, and

(C) The medication treatment is in the medical best interest of the patient, taking into account the possible side effects as well as the potential benefits of the treatment; and

(D) The medication treatment is in accordance with prevailing standards of accepted medical practice.

(iv) If the neutral and Detached Fact Finder approves continued medication treatment, he/she shall complete a Review of Continued Medication form, which shall be placed in the child's medical record. A copy shall be provided to the child and/or parent/legal guardian/legal custodian.

(v) At the end of 12 months, the case shall again be reviewed as outlined in this subsection (Q), and shall be reviewed every 6 months while the course of treatment is being administered.

R523-1-18. Psychosurgery and Electroshock Therapy Procedures for Children, Legal Authority.

(1) By this rule, the Division of Substance Abuse and Mental Health establishes the following due process procedure for children prior to their being administered psychosurgery or electroshock therapy[~~as provided by Section 62A-15-704(3)(a)(ii)~~].

(a) This policy applies to persons under the age of 18 who are committed to the physical custody of a local mental health authority and/or committed to the legal custody of the Division of Substance Abuse and Mental Health. The following terms are herein defined:

(b) ECT means electroconvulsive therapy.

(c) A Legal Custodian means a person who is appointed by the juvenile court. Such a person may have been selected from the Division of Child and Family Services, the Division of Juvenile Justice Services, or the Division of Substance Abuse and Mental Health.

(d) A Legal Guardian means a person who holds a testamentary appointment or is appointed by a court of law.

(e) Psychosurgery means a neurosurgical intervention to modify the brain to reduce the symptoms of a severely ill psychiatric patient.

(f) A local mental health authority has the obligation to provide a child and parent/legal guardian/legal custodian with the following information when recommending that the child be treated with ECT or Psychosurgery:

(i) The nature of the child's mental illness;

(ii) The recommended ECT/Psychosurgery treatment, its purpose, the method of administration, and recommended length of time for treatment;

(iii) The desired beneficial effects on the child's mental illness as a result of the recommended treatment

(iv) The possible or probable mental health consequences to the child if recommended treatment is not administered

(v) The possible side effects, if any, of the recommended treatment

(vi) The ability of the staff to recognize any side effects, should any actually occur, and the possibility of ameliorating or abating those side effects

(vii) The possible, if any, alternative treatments available and whether those treatments are advisable

(viii) The right to give or withhold consent for the proposed ECT/psychosurgery.

(ix) When informing a child and his/her parent/legal guardian/legal custodian they have the right to withhold consent, the local mental health authority must inform them that regardless of whether they give or withhold consent, a due process procedure will be conducted before two designated examiners to determine the appropriateness of such treatment.

(g) The child and parent/legal guardian/legal custodian shall then be afforded an opportunity to sign a consent form stating that they have received the information listed in subsection E of this section, and that they consent or do not consent to the proposed treatment.

(h) If the parent/legal guardian/legal custodian refuses to consent to ECT/psychosurgery, the local mental health authority shall consider a treatment team dispositional review to determine whether the child is appropriate for treatment through their services.

(i) Regardless of whether the child or parent/legal guardian/legal custodian agrees or disagrees with the proposed ECT/psychosurgery, a due process procedure shall be conducted before the treatment can be administered.

(j) A physician shall request ECT or psychosurgery for a child by completing a Request to Treat With ECT or Psychosurgery form and submitting to the Director/Designee of the Local Mental Health Authority providing treatment.

(k) Upon receipt of the request, the Director/Designee shall contact two Designated Examiners, one of which must be a physician, and set a date and time for an ECT/Psychosurgery Hearing.

(l) The child and parent/legal guardian/legal custodian shall be provided notice of the hearing.

(m) Prior to the hearing, the two designated examiners shall be provided documentation regarding the child's mental condition, including the child's medical records, physician's orders, diagnosis, nursing notes, and any other pertinent information. The attending physician shall document his/her proposed course of treatment and reason(s) justifying the proposal in the medical record.

(n) ECT/psychosurgery hearings shall be conducted by two Designated Examiners, one of whom is a physician, Hearings shall be held where the child is currently being treated, and shall be conducted in an informal, non-adversarial manner as to not have a harmful effect upon the child.

(i) The child has the right to attend the hearing, have an adult informant (parent/legal guardian/legal custodian/foster parent, etc.) present, and to ask pertinent questions.

(ii) If the child or others become disruptive during the hearing, the Designated Examiners may request that those persons be removed. The hearing shall continue in that person's absence.

(iii) The hearing shall begin with the child, parent/legal guardian/legal custodian, and any others being informed of the purpose and procedure of the hearing.

(iv) The record shall be reviewed by the Designated Examiners and the proposed treatment shall be discussed.

(v) The child, parent/legal guardian/legal custodian, and others present shall be afforded an opportunity to comment on the issue of ECT or psychosurgery.

(vi) Following the review of the case and the hearing of comments, the Designated Examiners shall render a decision

(vii) If needed the Designated Examiners may ask everyone to leave the room to allow them time to deliberate.

(o) The Designated Examiners may order ECT or psychosurgery if, after consideration of the record and deliberation, they both find that the following conditions exist:

(i) The child has a mental illness as defined in the current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association (DSM); and

(ii) The child is gravely disabled and in need of ECT or Psychosurgery for the reason that he/she suffers from a mental illness such that he/she (a) is in danger of serious physical harm resulting from a failure to provide for his essential human needs of health or safety, or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his/her actions and is not receiving such care as is essential for his/her health safety; and/or

(iii) Without ECT or psychosurgery, the child poses a likelihood of serious harm to self, others, or property. Likelihood of serious harm means either

(A) substantial risk that physical harm will be inflicted by an individual upon his/her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on one's own self, or

(B) a substantial risk that physical harm will be inflicted by an individual upon another, as evidenced by behavior which has caused such harm or which has placed another person or persons in reasonable fear of sustaining such harm, or

(C) a substantial risk that physical harm will be inflicted by an individual upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; and

(iv) The proposed treatment is an appropriate and accepted method of treatment for the patient's mental condition; and

(v) The proposed medication treatment is in accordance with prevailing standards of accepted medical practice.

(p) The basis for the decision shall be supported by adequate documentation. The Designated Examiners shall complete and sign an ECT or Psychosurgery form at the end of the hearing. A copy of the decision shall be provided to the child and/or parent/legal guardian/legal custodian.

(q) The child and/or parent/legal guardian/legal custodian may request a second opinion of a decision to treat with ECT or psychosurgery by filing a Request for a Second Opinion form with

the Clinical Director/designee of the Division of Substance Abuse and Mental Health within 24 hours (excluding Saturdays, Sundays, and legal holidays) of the initial hearing.

(r) ECT or psychosurgery may be commenced within 48 hours of the decision by the Designated Examiners, if no request for a second opinion is made. If a request is made, treatment may be commenced as soon as the Clinical Director/designee physician renders his/her decision if he/she agrees with the decision.

(s) Upon receipt of a Request, the Clinical Director/designee will review the record, consult with whomever he/she believes is necessary, and render a decision within 48 hours (excluding Saturdays, Sundays, and legal holidays) of receipt of the Request. The Clinical Director/designee shall sign a Second Opinion for Decision to Treat with ECT/Psychosurgery form which is placed in the child's record. A copy shall be provided to the child and the parent/legal guardian/legal custodian prior to the commencement of treatment.

(t) If a child has been receiving ECT treatment and requires further treatment than that outlined in the original ECT plan, the procedures set forth in subsections F through S of this section shall be followed before initiating further treatment.

R523-1-20. Family Involvement.

(1) Each mental health authority shall annually prepare and submit to the Division of Substance Abuse and Mental Health a plan for mental health funding and service delivery[~~(17A-3-602(4)(b), (62A-15-109))~~]. Included in the plan shall be a method to educate families concerning mental illness and to promote family involvement when appropriate, and with patient consent, in the treatment program of a family member.

(2) The State Division of Substance Abuse and Mental Health will monitor for compliance as part of the annual quality of care site visits[~~(62A-15-1003)~~].

R523-1-21. Declaration for Mental Health Treatment.

(1) The State Division of Substance Abuse and Mental Health will make available information concerning the declaration for mental health treatment[~~(62A-15-1003)~~]. Included will be information concerning available assistance in completing the document.

(2) Each local mental health center shall have information concerning declarations for mental health treatment. Information will be distributed with consumer rights information at the time of intake.[~~(R523-1-8)~~]

(3) Utah State Hospital will provide information concerning the declaration for mental health treatment at the time of admittance to the hospital.

(4) Consumers who choose to complete a declaration for mental health treatment may deliver a copy to their mental health therapist, to be included as part of their medical record.

~~R523-1-22. Rural Mental Health Scholarship and Grants.~~

~~The State Division of Substance Abuse and Mental Health hereby establish by rule an eligibility criteria and application process for the recipients of rural mental health scholarship funds, pursuant to the requirements of Section 62A-15-103.~~

~~(1) Eligibility criteria. The following criteria must be met by an applicant to qualify for this program.~~

~~(a) An applicant must be a current employee at an eligible Employment Site or have a firm commitment from an Eligible Employment Site for full time employment. Any sites that provide questionable or controversial mental health and/or substance abuse treatment methodologies will not be approved as eligible employment sites. Eligible Employment sites must be one of the following:~~

~~(i) Primary Employment Sites are community mental health centers and/or substance abuse providers that receive federal funds through a contract with the Division to provide mental health or substance treatment services.~~

~~(ii) Secondary Employment Sites are mental health or substance abuse providers that are licensed to provide mental health/substance treatment services by the Utah Division of Occupational and Professional Licensing, and serve more than 75% of Utah residents in their programs.~~

~~(b) An applicant must also agree to work in a designated eligible underserved rural area. Underserved rural areas must be classified as a Health Professional Shortage Areas (HPSA). The State Division of Substance Abuse and Mental Health can be contacted for a current list of HPSA sites.~~

~~(c) For Scholarship Grants; show registration in a course leading to a degree from a educational institution in the United States or Canada that will qualify them to receive licensure in Utah as a Mental Health Therapist s defined in Section 62A-13-102(4).~~

~~(d) For Loan Repayment Grants; show the amount of loans needing repayment, verify that the loans are all current, licensure as a Mental Health Therapist as defined in Section 62A-13-102(4).~~

~~(2) Grants. Two types of grants are available to eligible applicants:~~

~~(a) A loan Repayment Grant is to repay bona fide loans for educational expenses at an institution that provided training toward an applicant's degree, or to pay for the completion of specified additional course work that meets the educational requirements necessary for licensure as a Mental Health Therapist.~~

~~(b) A Scholarship is to pay for current educational expenses from an Educational Program that meets the educational requirements necessary for licensure as a Mental Health Therapist, at a school within the United States.~~

~~(3) Funding. Grants for applicants will be based upon the availability of funding the matching of community needs (i.e., how critical the shortage of Mental Health Therapists), the applicant's field of practice, and requested employment site. Primary employment sites are given priority over secondary employment sites.~~

~~(a) The award for each applicant may not exceed \$5,000 per person. The Division will notify the grantee of the award amount. Exceptions in the amount of the award may be made due to unique circumstances as determined by the Division.~~

~~(b) An applicant may receive multiple awards, as long as the total awards do not exceed the recommended amount of \$5,000, unless the Division approves an exception.~~

~~(4) Grantee obligation:~~

~~(a) The service obligation for applicants consists of 24 continuous months of full time (40) hours per week) employment as a Mental Health Therapist at an approved eligible employment site. The Division may change this service obligation if the Division~~

~~Director determines that due to unforeseen circumstances, the completion of the obligation would be unfair to the recipient.~~

~~(b) Failure to finish the education program or complete the service obligation results in a repayment of grant funds according to Section 62A13-108.~~

~~(5) Application forms and instructions for grants or scholarships can be obtained from the Division of Substance Abuse and Mental Health, 120 North 200 West, Room 209, Salt Lake City, Utah. Only complete applications supported by all necessary documents will be considered. All applicants will be notified in writing of application disposition within 60 days. A written appeal may be made to the Division Director within 30 days from the date of notification.~~

R523-1-24. Distribution of Fee-On-Fine (DUI) Funds.

(1) The Fee-On-Fine funds collected by the court system under the criminal surcharge law and remitted to the State Treasurer will be allocated to the Local Substance Abuse Authorities based upon each county's percent of the total state population as determined at the time of the funding formula as described in R523-1-15. The Division shall authorize quarterly releases of these funds to the county commission of each county for which they are allocated unless notified in writing by the local authority's governing board to send the funds to the local service provider.

R523-1-25. 20% Match Required to Be County Tax Revenue.

(1) The Division determines that the funds required by Subsection 17-43-301(4)(k) (normally called the 20% match requirement) shall be paid from tax revenues assessed by the county legislative body and collected by the County Clerk.

(2) Failure by any county to meet its obligations under this requirement shall result in the amount of State General Funds allocated to that county by formula as described in R523-1-15 being lowered by the percent by which the county under-matches these funds.

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

Date of Enactment or Last Substantive Amendment: [January 22, 2009

Notice of Continuation: March 31, 2008

Authorizing, and Implemented or Interpreted Law: 17-43-302; 17-43-204; 17-43-306; [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-15-108; 62A-15-704(3)(a)(ii); 62A-15-704(3)(a)(i); 62-15-713(7); 62A-15-1003

Human Services, Substance Abuse
and Mental Health

R523-20

Division Rules of Administration

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33039

FILED: 10/13/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The division is updating this rule to eliminate sections that are outdated/unneeded or a restatement of code, and to move Sections R523-20-1, Allocation of Substance Abuse Purchase-of-Service Money; R523-20-9, Distribution of Fee-On-Fine (DUI) Funds; and R523-20-10, 20% Match Required to Be County Tax Revenue; to Rule R523-1 where they more appropriately match the intent of that rule.

SUMMARY OF THE RULE OR CHANGE: This amendment: 1) adds an authority section; 2) adds a purpose section; 3) deletes the Allocation of Substance Abuse Purchase-of-Service Money, which is being moved to Section R523-1-15; 4) deletes the Training Priorities and Responsibilities section permanently; 5) deletes the Research/Evaluation Priorities and Responsibilities section permanently; 6) deletes the Competition-Contracting/Subcontracting section permanently; 7) deletes the Maintenance of Effort section permanently; 8) deletes the Distribution of Fee-On-Fine (DUI) Funds, which is being moved to Section R523-1-24; 9) deletes the 20% Match Required to Be County Tax Revenue, which is being moved to Section R523-1-25; and 10) makes technical changes to numbering.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 62A-15-105(5)

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There are no costs or savings to the state budget. All changes to this rule are technical in nature and the sections that are deleted do not carry a fiscal impact.
- ◆ LOCAL GOVERNMENTS: There are no costs or savings to local governments. All changes to this rule are technical in nature and the sections that are deleted do not carry a fiscal impact.
- ◆ SMALL BUSINESSES: There are no costs or savings to small businesses. All changes to this rule are technical in nature and the sections that are deleted do not carry a fiscal impact.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no costs or savings to other persons. All changes to this rule are technical in nature and the sections that are deleted do not carry a fiscal impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance cost associated with this amendment.

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 this rule will have no financial impact on businesses in the state of Utah.

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 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 NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: Mark Payne, Director

R523. Human Services, Substance Abuse and Mental Health.**R523-20. Division Rules of Administration.****~~[R523-20-1. Allocation of Substance Abuse Purchase-of-Service Money.~~**

~~1. The Board of Substance Abuse and Mental Health is granted authority pursuant to Section 62A-15-108 Utah Code to establish a funding formula that allocates funds to the Local Substance Abuse Authorities. The funding formula adopted by the State Board of Substance Abuse and Mental Health (Board) is as follows:~~

~~a. Up to 15% of the purchase of service funds may be allocated by the State Division of Substance Abuse and Mental Health for statewide services; the remaining 85% of these funds will be allocated to the Local Substance Abuse Authorities as follows:~~

~~i. Rural counties (all counties in the state except Utah, Salt Lake, Davis, and Weber) shall be allocated a rural differential of \$11,600;~~

~~ii. Sixty percent of the remaining funds will be allocated to each county based on the need factor derived from the Incidence and Prevalence Studies;~~

~~iii. The remaining forty percent of the funds will be allocated to each county based on the county's percent of the General Population as estimated by the Utah Office of Planning and Budget;~~

~~2. Cost of Living Adjustments shall be determined by the State Division of Substance Abuse and Mental Health in accordance with legislative appropriations.~~

~~3. Funds approved for a local authority, based on the funding formula, belong to that authority. In the event that there is an unexpended amount at the end of the year, the local authority will be allowed to carry these unexpended funds over into the next contract period, provided that the Division can carry the funds over. The only exception to this carryover authority will be that if the unexpended funds cause the state to not meet the statewide set-aside~~

requirements. The division will contract these unexpended funds to other local authorities who can provide the services to fulfill the set-aside requirements. The division shall monitor the fund balances and the set-aside spending throughout the year. The decision to transfer funds will be negotiated in March of each year with any local authority that will not expend all of their funds.]

R523-20-1. Authority.

(1) This rule establishes procedures and standards for administration of substance abuse and mental health services as granted by Subsection 62A-15-105(5).

R523-20-2. Purpose.

(1) The purpose of this rule is to:

(a) establish a continuum of substance abuse standards;

(b) clarify funding for Medical detoxification programs; and

(c) establish the Addiction Severity Index as the instrument used for determining a persons severity of substance abuse.

R523-20-3. Training Priorities and Responsibilities.

1. The Division of Substance Abuse and Mental Health shall make State staff training the number one training priority. Statewide training shall be limited to the Fall Conference, Networking Conference, Governor's Youth Conference, and joint conferences with the State Office of Education. Local programs shall have the primary responsibility to assure training is available for their staff. The Division assists the local programs by being the central clearing point for training needs and educational opportunities.

R523-20-4. Research/Evaluation Priorities and Responsibilities.

1. The Division of Substance Abuse and Mental Health shall have, as a primary focus under research and evaluation, the following areas:

a. Evaluation of needs;

b. Evaluation of program outcomes;

c. Evaluation of community impact; and

d. Evaluation of cost benefit.

2. The Division of Substance Abuse and Mental Health shall:

a. Provide the State Board of Substance Abuse with evaluation or other research findings to be considered in the formulation of program policy and contracting for services;

b. Assist parties in obtaining funding for evaluation or other research activities pertaining to substance abuse;

c. Review and disseminate evaluation or other research findings to the Board, service providers and the general public;

d. Whenever feasible, consider contracting as a means of conducting evaluation or other research projects;

e. Notify the Utah Behavioral Health Care Network and the Board of Substance Abuse and Mental Health of the proposed research activity and before beginning any research activity obtain approval of the proposed research activity from the Board at its next regularly scheduled meeting;

f. The Division shall establish with the Board an evaluation process in consultation with the providers.

R523-20-5. Continuum of Services.

[1.](1) Prevention means a proactive comprehensive program which provides a broad array of activities and services designed to discourage the use of alcohol, tobacco and other drugs directed at individuals who have not been identified to be in need of treatment. These activities and services must be provided in a variety of settings for both the general population as well as targeted subgroups who are at high risk for substance abuse.

[2.](2) Treatment means those services which target individuals or families who are functionally impaired psychologically, physically, or socially in association with the patterned abuse of or dependence on alcohol, tobacco, or other drugs. This includes only those individuals upon whom a written consumer record, as defined in licensing standards (Rule R501-2-5B) as adopted by the [Board]Division of Substance Abuse and Mental Health, is maintained.

R523-20-6. Funding of Medical Detoxification Programs.

(1) Medical detoxification programs shall not be funded by the Division on an ongoing basis.

R523-20-7. Competition - Contracting/Subcontracting.

1. It is the policy of the Board of Substance Abuse and Mental Health to accept the September 1985 recommendation on contracting/subcontracting made by the Role Review Committee.

- a. The Division is responsible for:
- i. Defining the continuum of services that must be provided within and across the district(s);
- ii. Establishing and assisting in the establishment of contracts that specifically identify the districts' responsibilities in regard to bidding, technical assistance, MIS reporting, deadlines, local match, etc;
- iii. Requiring that each district submit its district plan for review and acceptance by the Division and/or Board prior to funding being authorized;
- iv. The establishment of monitoring and evaluation procedures which will insure:
- A. That state or local procurement policies are followed on all bids;
- B. That MIS data is accurate, reported as required and on time;
- C. That costs accurately reflect the actual costs of providing the service;
- D. That district programming is in compliance with its objectives and those required by the Division;
- v. Continued direct contracting and monitoring of all programs operated in/by State institutions;
- vi. The Division will also continue to contract directly with other agencies/institutions, on a competitive bid basis, for research and demonstration projects when necessary. The criteria the Division will use when deciding to directly contract out for these services, rather than apportioning the money across districts, will reflect the need to keep the limited resources intact to accomplish the designated task. These projects are typically time limited rather than ongoing;
- vii. A multi-region provider of services will continue to directly contract with and receive reimbursement from the Division within the following guidelines. The local authority will write the

State subcontractors' program into its district plan of continuum of services. The local authority will participate with the Division in monitoring and evaluating the program.

~~viii. It is required that any program receiving state funds be included in the district plan.~~

~~ix. All bids let by the Division will be in compliance with the State of Utah Procurement Act.~~

~~x. Every agency/program in the state using funds appropriated to the Division by the State legislature shall have the goal of total abstinence for anyone under the age of twenty-one years.~~

R523-20-8. Maintenance of Effort.

~~1. The Board of the Division of Substance Abuse and Mental Health pursuant to Section 62A-15-108 has required the Local Substance Abuse Authorities to provide a consistent funding base for substance abuse services. This requirement will become effective beginning July 1, 1993.~~

~~For the state fiscal year 1994, each Local Substance Abuse Authority shall provide an amount not less than half the sum of the county tax revenues contributed toward substance abuse services during the 1991 and 1992 state fiscal years.~~

~~For subsequent state fiscal years, each Local Substance Abuse Authority shall provide an amount of county tax revenue not less than the average computed by dividing by two the sum of Local Substance Abuse Authority county tax revenue contributed toward substance abuse services for the two most recently completed fiscal years.~~

R523-20-9. Distribution of Fee-On-Fine (DUI) Funds.

~~1. The Fee-On-Fine funds collected by the court system under the criminal surcharge law and remitted to the State Treasurer will be allocated to the Local Substance Abuse Authorities based upon each county's percent of the total state population as determined at the time of the funding formula as described in R523-20-1.~~

~~Unless notified in writing by the local authority's governing board to send the funds to the local service provider, the Division of Substance Abuse and Mental Health shall authorize quarterly releases of these funds to the county commission of each county for which they are allocated.~~

R523-20-10. 20% Match Required to Be County Tax Revenue.

~~1. The Board of Substance Abuse and Mental Health under the authority granted to it in Section 62A-15-105 has determined that the funds required by Subsection 17-43-301(4)(k) (normally called the 20% match requirement) shall be paid from tax revenues assessed by the county legislative body and collected by the County Clerk.~~

~~2. Failure by any county to meet its obligations under this requirement, or Rule R523-20-8, shall result in the amount of State General Funds allocated to that county by formula as described in R523-20-1 being lowered by the percent by which the county undermatches these funds.~~

~~3. This rule shall take effect for the State Fiscal Year starting June 1, 1995 and shall remain in effect until changed or repealed by the Board of Substance Abuse and Mental Health or its successor.~~

]R523-20-11. Use of Standard Criteria.

~~[1.](1) [The Board of Substance Abuse and Mental Health under authority granted by 62A-15-105 has determined (a) the]The assessment instrument that all contractors and subcontractors must use to determine the degree of severity of a substance abuse problem [with]shall be the Addiction Severity Index, (ASI)[;].~~

~~[(b)](2) [that the]The placement decisions for all patients treated in programs funded by or contracting with the Division of Substance Abuse and Mental Health or subcontracted to any local authority shall be based upon the placement criteria developed by the American Society of Additive Medicine (ASAM)[as adapted for use in Utah Behavioral Health Network;].~~

~~[(c)](3) [documentation]Documentation of the use of [this]ASAM placement criteria must be included in each patient's record.~~

~~[2.](4) At least one staff member for each contractor and subcontractor shall be trained in the proper use of the ASI and ASAM instruments. This training must be documented in individual personnel files.~~

KEY: substance abuse, financing of programs, service continuum, assessment instruments

Date of Enactment or Last Substantive Amendment: [January 30, 2007]2009

Notice of Continuation: June 5, 2007

Authorizing, and Implemented or Interpreted Law: 62A-15-105(5)

Judicial Performance Evaluation Commission, Administration

R597-3

Judicial Performance Evaluations

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 33062
FILED: 10/15/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is being changed so that the jury and attorney surveys will be on the same time line as the other statutorily-mandated surveys. The protocol for distributing, collecting, and disseminating survey results is being simplified to accommodate electronic distribution of results to judges.

SUMMARY OF THE RULE OR CHANGE: The amendment changes the time line for attorney and juror surveys for the 2012 retention election so that these surveys are on the same time line as the litigant, witness, and court staff surveys. The

amendment also changes the procedures for distributing, collecting, and disseminating the results of the juror surveys.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 78A-12-101 through 78A-12-206

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: Because the rule only explains the timing of evaluation cycles and the conditions under which surveys will be conducted, there are no anticipated costs or savings to the state budget.

♦ LOCAL GOVERNMENTS: Because the commission has no authority with respect to local government, there is no anticipated cost or savings to local government.

♦ SMALL BUSINESSES: Because the commission has no authority with respect to small businesses, there is no anticipated cost or savings to small businesses.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Because the commission has no authority with respect to persons other than small businesses, businesses, or local government entities, there is no anticipated cost or savings to these entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The commission assumes all compliance costs. Any affected persons do not assume compliance costs of the statute.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because the commission does not regulate business, there is no fiscal impact on business.

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

JUDICIAL PERFORMANCE EVALUATION
COMMISSION
ADMINISTRATION
420 N STATE ST
SENATE BUILDING B-330
SALT LAKE CITY, UT 84114
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Joanne Slotnik by phone at 801-538-1652, by FAX at 801-538-1024, or by Internet E-mail at jslotnik@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2009

AUTHORIZED BY: V. Lowry Snow , Chair

R597. Judicial Performance Evaluation Commission, Administration.

R597-3. Judicial Performance Evaluations.

R597-3-1. Evaluation Cycles.

(1) For judges not serving on the supreme court:

(a) The mid-term evaluation cycle. The mid-term evaluation cycle begins upon the appointment of the judge or on the first Monday in January following the retention election of the judge and ends 2 1/2 years later, on June 30th of the third year preceding the year of the judge's next retention election.

(b) The retention evaluation cycle. The retention evaluation cycle begins the day after the mid-term evaluation cycle is finished and ends two years later, on June 30th of the year preceding the year of the judge's next retention election.

(2) For justices serving on the supreme court:

(a) The initial evaluation cycle. The initial evaluation cycle begins upon the appointment of the justice or on the first Monday in January following the retention election of the justice and ends 2 1/2 years later, on June 30th of the seventh year preceding the year of the justice's next retention election.

(b) The mid-term evaluation cycle. The mid-term evaluation cycle begins the day after the initial evaluation cycle is finished and ends four years later, on June 30th of the third year preceding the year of the justice's next retention election.

(c) The retention evaluation cycle. The retention evaluation cycle begins the day after the mid-term evaluation cycle is finished and ends two years later, on June 30th of the year preceding the year of the justice's next retention election.

(3) Transition Evaluation Cycles

(a) For judges standing for retention election in 2012:

(i) The mid-term evaluation cycle shall be conducted in 2009, ending on December 31, 2009.

(ii) ~~[The retention evaluation cycle for surveys of attorneys and jurors shall begin on January 1, 2010, and end on June 30, 2011, for attorneys and jurors.~~

~~_____ (iii) [The retention evaluation cycle for all [pilot program categories] surveys shall begin no later than July 1, 2010, and end on June 30, 2011.~~

(b) For judges not on the supreme court standing for retention election in 2014:

(i) The mid-term evaluation cycle for surveys of attorneys and jurors shall begin in 2009 and finish on June 30, 2011.

(ii) The mid-term evaluation cycle for all pilot program categories shall begin no later than July 1, 2010, and end on June 30, 2011.

(iii) The retention evaluation cycle will be as described in R597-3-1(1)(b), supra.

(c) For supreme court justices standing for retention election in 2014:

(i) The mid-term evaluation cycle for surveys of attorneys shall begin in 2009 and end on June 30, 2011.

(ii) The mid-term evaluation cycle for relevant pilot programs categories shall begin no later than July 1, 2010, and end on June 30, 2011.

(iii) The retention evaluation cycle shall be as described in R597-3-1(2)(b)-(c).

(d) For supreme court justices standing for retention election in 2016:

(i) The initial evaluation cycle shall be combined with the mid-term evaluation, beginning in 2009 and ending on June 30, 2013.

(ii) The combined initial/mid-term evaluation cycle for surveys of attorneys shall begin in 2009 and end on June 30, 2013.

(iii) The combined initial/mid-term evaluation cycle for relevant pilot programs categories shall begin no later than July 1, 2010.

(iv) The retention evaluation cycle shall be as described in R597-3-1(2)(c).

R597-3-2. Survey.

(1) General provisions.

(a) All surveys shall be conducted according to the evaluation cycles described in R597-3-1, supra.

(b) The commission shall distribute the survey questionnaires upon which the judge shall be evaluated to each judge at the beginning of the survey cycle. Within a single evaluation cycle, all survey questions shall remain the same.

(c) In 2010, the commission shall finalize survey questionnaires and implementation procedures for each respondent classification.

(2) Respondent Classifications

(a) Attorneys

(i) Identification of survey respondents. Within 10 business days of the end of the evaluation cycle, the clerk for the judge or the Administrative Office of the Courts shall identify as potential respondents all attorneys who have appeared before the judge who is being evaluated at a minimum of one hearing or trial during the evaluation cycle.

(ii) Number of survey respondents. For each judge who is the subject of a survey, the surveyor shall identify 180 potential respondents or all attorneys appearing before the judge, whichever is less.

(iii) Sampling. The surveyor shall make a random selection of respondents and shall otherwise design the survey to comply with generally-accepted principles of surveying.

(iv) Distribution of surveys. Surveys shall be distributed by the third-party contractor engaged by the commission to conduct the survey.

(b) Jurors

(i) Identification and number of survey respondents. All jurors who participate in deliberation~~[rendering a verdict in a case and all jurors with at least three hours of trial time with the judge]~~ shall be given a juror questionnaire.

(ii) Distribution of surveys. Prior to the jury being dismissed, the bailiff or clerk in charge of the jury shall distribute ~~surveys~~~~[questionnaires and comment cards]~~ to the jurors. The bailiff or clerk shall collect completed surveys, seal them in an envelope, and mail them ~~[completed questionnaires in sealed envelopes]~~ to the surveyor. ~~[The bailiff or clerk shall deliver comment cards that the jurors have sealed in separate envelopes directly to the judge.]~~The surveyor shall deliver survey results electronically to each judge.

(c) Court Staff

(i) Identification of survey respondents. Court staff who have worked with the judge shall include, where applicable:

(A) court clerks;

(B) bailiffs;

(C) law clerks;

(D) probation and intake officers;

(E) courthouse staff;

(F) Administrative Office of the Courts staff.

(ii) Pilot program. The commission shall run a pilot program in 2009 to evaluate the methodology, content, and administrative feasibility of surveying court staff.

(d) Litigants

(i) Identification of survey respondents. A litigant is a party to a cause of action before a judge who is being evaluated.

(A) The following categories of litigants may be surveyed:

(I) any competent person 14 years of age or older;

(II) the parent, guardian, or legal custodian of any minor;

(III) the designated representative of a corporate or like entity.

(B) The representative of the prosecuting entity in a criminal case shall be

surveyed as an attorney. Prosecutor responses to the judicial temperament part of the survey shall be reported in both the attorney and litigant portions of the judicial evaluation report.

(ii) Pilot Program. The commission shall run a pilot program in 2009 to evaluate the methodology, content, and administrative feasibility of surveying litigants.

(e) Witnesses

(i) Identification of survey respondents. A witness is anyone not surveyed as a litigant who testifies in court before a judge who is being evaluated. Any witness who is competent and who is 14 years of age or older is qualified as a witness survey respondent.

(ii) Pilot Program. The commission shall run a pilot program in 2009 to evaluate the methodology, content, and administrative feasibility of surveying witnesses.

KEY: judicial performance evaluations, judges, evaluation cycles, surveys

Date of enactment or Last Substantive Amendment: May 1, 2009

Authorizing, and Implemented or Interpreted Law: 78A-12

Labor Commission, Industrial Accidents

R612-4-2

Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 33064
FILED: 10/15/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Workers' compensation insurance premiums in Utah include an assessment to fund the Employers' Reinsurance Fund (ERF) and the Uninsured Employers Fund (UEF). Employers that self-insure their workers' compensation liabilities are required to pay an equivalent assessment. Based on actuarial projections, current assessment rates will generate more income than is necessary to fund the ERF and UEF. The proposed rule therefore reduces the assessment rates.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment lowers that portion of the workers' compensation insurance premium assessment used to fund the ERF from 5% for 2009 to 3.5% for 2010, and the portion used to fund the UEF from 0.25% to 0.05%. The amendment also removes an unnecessary reference to the assessment for the Workplace Safety Account.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-2-202 and Section 59-9-101.3 and Subsection 59-9-101(2)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The proposed amendment is expected to reduce the state's expense for workers' compensation insurance by 1.7% from what that expense would be if the proposed amendment were not adopted.
- ◆ **LOCAL GOVERNMENTS:** The proposed amendment is expected to reduce local government expense for workers' compensation insurance by 1.7% from what such expense would be if the proposed amendment were not adopted.
- ◆ **SMALL BUSINESSES:** The proposed amendment is expected to reduce small businesses' expense for workers' compensation insurance by 1.7% from what such expense would be if the proposed amendment were not adopted.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendment is expected to reduce expense for workers' compensation insurance by 1.7% from what such expense would be if the proposed amendment were not adopted.

COMPLIANCE COSTS FOR AFFECTED PERSONS: By reducing the overall premium assessment rate, the proposed amendment will lower workers' compensation costs for employers. The amendment imposes no compliance costs on any affected person.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: By reducing the ERF and UEF assessment rates, businesses will enjoy a reduction in workers' compensation coverage

costs. This reduction in one component of business costs will have a positive fiscal impact on businesses.

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

LABOR COMMISSION
INDUSTRIAL ACCIDENTS
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:

- ◆ Larry Bunkall by phone at 801-530-6988, by FAX at 801-530-6844, or by Internet E-mail at lbunkall@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2009

THIS RULE MAY BECOME EFFECTIVE ON: 01/01/2010

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R612. Labor Commission, Industrial Accidents.

R612-4. Premium Rates.

R612-4-2. Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund.

A. Pursuant to Section 59-9-101(2), Section 59-9-101.3 and 34A-2-202 the workers' compensation premium rates effective January 1, 2009, as established by the Labor Commission, shall be:

1. [~~0.25%~~]0.05% for the Uninsured Employers' Fund;
2. [~~5.00%~~]3.5% for the Employers' Reinsurance Fund;[
3. 0.25% for the workplace safety account.]

B. The premium rates are a percentage of the total workers' compensation insurance premium income as detailed in Section 59-9-101(2)(a).

KEY: workers' compensation, rates

Date of Enactment or Last Substantive Amendment: [January 1,]2009

Notice of Continuation: January 12, 2006

Authorizing, and Implemented or Interpreted Law: 59-9-101(2)

Labor Commission, Industrial Accidents

R612-8

**Procedural Guidelines for the
Reemployment Act**

NOTICE OF PROPOSED RULE
(Repeal and Reenact)

DAR FILE NO.: 33063
FILED: 10/15/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In enacting S.B. 15, the 2009 Utah Legislature renumbered and substantially modified the Utah Injured Worker Reemployment Act (Title 34A, Chapter 8a). Among other changes, the newly amended Act imposes several reporting requirements on insurers and self-insured employers. The purpose of the "proposed repeal and reenactment" is to eliminate the Commission's former rule, which reflected the previous version of the Injured Worker Reemployment Act, and to substitute a new rule that is consistent with the recently amended provisions of the Injured Worker Reemployment Act. (DAR NOTE: S.B. 15 (2009) is found at Chapter 85, Laws of Utah 2009, and was effective 03/20/2009.)

SUMMARY OF THE RULE OR CHANGE: The Commission's existing rule R612-8 is repealed and replaced with a new rule. The new rule explains the rule's purpose and the Commission's authority to promulgate the rule. It also references applicable definitions from the Injured Worker Reemployment Act. The rule authorizes and describes the forms insurers or employers must use to satisfy their reporting requirements under the Act. Finally, the rule references the statutory penalties that may be imposed for failure to comply with the Act's quarterly reporting requirements and defines the nature of administrative proceedings that may be used to resolve disputes under the Act.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-1-104 and Section 34A-8-109

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The Labor Commission will incur some costs in monitoring and enforcing the reporting requirements of the Utah Injured Worker Reemployment Act. The Commission anticipates these duties will require approximately one-quarter of a staff position, which translates to approximately \$20,000. As to the cost to the state in its capacity as an employer, the state's workers' compensation insurance carrier will submit any necessary reports on behalf of the state, at no cost to the state.

◆ **LOCAL GOVERNMENTS:** In those cases where local governments purchase workers' compensation insurance, their insurance carrier will submit any necessary reports at no cost to the local government entity. If a local government is self-insured, it will be required to submit such reports on its own behalf. The reports are limited in number, simple to complete, and require information that should be readily available. The Commission therefore anticipates that the cost of completing such forms will be minimal.

◆ **SMALL BUSINESSES:** Small businesses are almost always covered by workers' compensation insurance. Their insurance carrier will submit any necessary reports at no cost to the business. In the rare instances in which a small

business is self-insured, it will be required to submit such reports on its own behalf. The reports are limited in number, simple to complete, and require information that should be readily available. The Commission therefore anticipates negligible costs to such businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Workers' compensation insurance carriers will be required to comply with the reporting requirements of this rule. The reports are limited in number, simple to complete, and require information that should be readily available. The Commission therefore anticipates negligible costs to workers' compensation insurance carriers or any other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Utah Injured Worker Reemployment Act imposes various monitoring, referral, and reporting requirements on insurance carriers and self-insured employers regarding efforts to return injured workers to employment. In implementing the Act, the Commission has required submission of only those forms and reports required by the Act itself. The Commission has also designed the forms as simply as possible. The Commission expects that insurance carriers and self-insured employers will be able to incorporate these reports into routine business processes and that the cost of compliance will be minimal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In reenacting and amending the Utah Injured Worker Reemployment Act, the Utah Legislature declared a public policy in favor of monitoring the efforts of insurance carriers and employers to return injured workers to gainful employment. While the monitoring and reporting requirements of the Act and this proposed rule impose some compliance costs on insurance carriers and employers, the Commission has attempted to minimize such costs by proposing simple rules and forms. But to the extent that the Act and rules assist insurance carriers and employers in returning injured workers to employment, there will be a much greater cost savings from reduced workers' compensation payments and increased worker productivity.

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

LABOR COMMISSION
INDUSTRIAL ACCIDENTS
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:

◆ Larry Bunkall by phone at 801-530-6988, by FAX at 801-530-6844, or by Internet E-mail at lbunkall@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2009

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R612. Labor Commission, Industrial Accidents.

R612-8. Procedural Guidelines for the Reemployment Act.

[R612-8-1. Definitions:

A. The definitions under Title 34A, Chapter 8 apply to this rule.

B. In addition to the foregoing definitions, all definitions in Rule R612-1 apply to this section.

R612-8-2. Authority:

This rule is enacted under the authority of Section 34A-8-111.

R612-8-3. Procedural Guidelines:

This rule is enacted to outline the procedural guidelines for the reemployment program.

R612-8-4. Initial Status Report:

Status Report – Form 206. When it appears that an injured worker is or shall be a disabled worker, or when the period of the injured worker's temporary total disability compensation period exceeds 90 days, whichever comes first, the employer or its workers' compensation insurance carrier shall, within 30 days thereafter file with the division and serve on the injured worker a Status Report. The report shall contain claimant demographics, insurance coverage details, and address the need for vocational assistance. The report shall also contain information regarding employer and employee expectations of return to work. In the event an injured worker returns to employment, or is deemed to have transferable skills but doesn't have a job to return to, the insurance carrier shall monitor the injured worker for sixty (60) days prior to closure to ensure transition into employment. If the injured worker is unsuccessful in a return to work effort, the issue of need for vocational assistance will then be addressed. A final 206 shall be submitted at the end of the monitoring period indicating whether the injured worker was successful or unsuccessful in a return to work effort.

R612-8-5. Initial Assessment:

An initial assessment shall be completed for injured workers who are unable to return to work in the same or similar occupation because of functional limitations, and for workers who have been unsuccessful in their return to work effort. The initial assessment shall be completed by a qualified rehabilitation provider and shall include the employee's work history, functional limitations, transferable skills analysis detailing a list of transferable skills and recommendations for viable job opportunities. The assessment shall be filed with the Reemployment Office within 120 days of the date of injury. For injured workers that have been unsuccessful in their return to work effort, the initial assessment shall be filed within 30 days after the determination.

R612-8-6. Postponement:

a. In the event an insurance carrier postpones an injured worker's status due to medical reasons, the insurance carrier shall

submit a summary statement outlining the diagnosis and medical treatment plan, along with the Status Report (Form 206), documenting the need for postponement to the Reemployment Program. An updated summary of the medical status shall be provided by the insurance carrier every 90 days of postponement, or at the time the injured worker's status changes.

b. The potential for rehabilitation shall be addressed during the period of postponement, and the insurance carrier/rehabilitation provider shall identify possible work related activities and/or training options the injured worker might engage in to encourage return to work at the end of medical treatment, i.e., attaining their G.E.D., attending English as a second language (E.S.L.) classes, on-the-job training with an employer, or other work related activities. These work related activities or training options may be suggested to the injured worker, as an alternative to light duty during postponement, in the event light duty work is not available.

R612-8-7. Administrative Review:

The Request for Administrative Review (Form 207) shall be made available to the injured worker upon request. This form is completed when the employee wishes to contest the information/decision made by the carrier or employer on the Status Report (206) or initial assessment. In the event it is determined through Administrative Review that the employee has a valid dispute, the division may initiate a voluntary alternative dispute resolution conference between all parties involved, i.e., carrier, rehabilitation agency, medical personnel, employer, and employee.

R612-8-8. Rehabilitation Progress Report:

A Rehabilitation Progress Report (Form 208A) shall be requested from the Utah State Office of Rehabilitation at each stage of the reemployment process (eligibility determination, reemployment plan development/implementation and case closure) or at any interruption of the process. An Individualized Written Rehabilitation Program (USOR 5-IWRP) shall also be requested when a plan is developed. All other private rehabilitation providers shall submit a Form 206 for any plan progress, postponement, or interruption in the plan.

R612-8-9. Reemployment Plan:

A Reemployment Plan (Form 209) shall be provided for injured workers who are identified on the initial assessment as needing reemployment assistance, due to an industrial accident or illness which creates a significant barrier preventing a return to the work force. Significant barriers include, but are not limited to: 1) impairment(s) resulting from the industrial accident(s) or illness which prevent the employee from performing the essential functions of the work activity for which the employee has been qualified until the time of the industrial accident; 2) lack of transferable skills; 3) education/training; and 4) age. The plan shall not be provided for those injured workers who have previously been screened out through Form 206. The report should contain a return-to-work plan outlining employee demographics, functional limitations, type of plan, specific job target or employment category, specific tasks, time frames for completion and costs. Parties responsible for carrying out each task shall be identified (i.e., employee, employer, qualified rehabilitation provider, and insurance carrier). The plan shall be completed by a qualified rehabilitation provider (as defined

by Section 34A-8-109) and filed within 30 days of the Initial Assessment.

R612-8-10. Reemployment Plan Closure.

Upon completion of the Reemployment Plan, a Reemployment Plan Closure Report (Form 210) shall be submitted to the division. The closure report shall detail costs in dollar amounts. The report shall also contain all the details on the return to work status of the employee.]

R612-8-1. Purpose, Authority and Definitions.

A. These rules guide insurance carriers and employers in complying with reporting and other requirements of the Utah Injured Workers Reemployment Act, Title 34A, Chapter 8a, Utah Code Annotated.

B. The Utah Labor Commission enacts these rules under the authority of section 34A-8a-202 and section 34A-8a-203.

C. Definitions established by section 34A-8a-102, section 34A-8a-203(1) and rule R612-1 apply to this rule. The following definitions also apply to this rule:

1. "Insurance Carrier" includes insurance carriers providing workers' compensation coverage and the Uninsured Employers Fund;
2. "Employer" includes self-insured employers and uninsured employers that are paying an injured workers' claim for benefits.
3. "disabled Injured Worker" means an injured worker who:
 - a. because of the injury or disease that is the basis fo the employee being an injured worker:
 - i. is or will be unable to return to work in the injured worker's usual and customary occupation; or
 - ii. is unable to perform work for which the injured worker has previous training and experience; and
 - b. reasonably can be expected to attain gainful employment after an evaluation provided for in accordance with the Utah Injured Worker Reemployment Act, Title 34A, Chapter 8a.

R612-8-2. Form 206 - Insurer/Employer Initial Reemployment Report for Injured Worker.

A. Pursuant to section 34A-8a-301, a worker who has suffered a work-related injury or disease must be provided an initial written report (Form 206) that assesses the injured worker's need for vocational reemployment assistance. Form 206 is only required in those instances in which:

1. it appears the injured worker is or will be a "disabled injured worker"; or
2. the duration of the injured workers' temporary total disability compensation exceeds 90 days.

B. If the injured worker was covered by workers' compensation insurance at the time of injury or disease or the claim is being paid by the Uninsured employers' Fund (UEF), the insurance carrier or UEF must prepare and submit Form 206. If the injured worker's claim is being paid by a self-insured employer or an uninsured employer, the employer must prepare and submit Form 206.

C. Form 206 must be mailed or otherwise delivered to the injured worker and to the Division within 30 days after the insurance carrier or employer knows or should know that the

injured worker's circumstances satisfy either of the conditions described in subsection A. (1)of A. (2).

R612-8-3. Referral of Disabled Injured Worker for Evaluation; Permission to Waive or Postpone Referral.

A. If Form 206 determinates that an injured worker satisfies the definition of a "disabled injured worker", the insurance carrier or employer shall refer the injured worker to the Utah State Office of Rehabilitation or to a private rehabilitation or reemployment service for evaluation and development of a reemployment plan. This referral must be made within 10 days after the insurance carrier or employer submits Form 206 to the Division unless the Division grants a waiver or postponement as provided in the following submstion B of this rule.

B. Section 34A-8a-302(3) authorizes the Labor Commission through the Division of Industrial Accidents to waive or postpone an insurance carrier or employer's referral obligation. An insurance carrier or employer shall make its request by completing and submitting "Form 215 - Insurer/Employer Request to Waive/Postpone Reemployment Referral" to the Division and mailing a copy of the completed form to the injured worker. The Division will consider such requests on a case-by-case basis. The Division will generally grant requests for waiver or postponement for the following reasons, or for other reasons similarly establishing good cause:

1. the injured worker was not medically stable;
2. the injured worker's physical capacity has not been determined; or
3. liability for the injured worker's claim is under review provided, however, that the Division may require the insurance carrier or employer to refer the injured worker for the free services offered by the Utah State Office of Rehabilitation.

R612-8-4. Form 239 - Insurer/Employer Quarterly Report on Reemployment Efforts to the Division; Penalties.

A. Beginning with the calendar quarter commencing on July 1, 2009, and continuing for each quarter thereafter, section 34A-8a-203(2) requires insurance carriers and employers (referred to as "reporting entities") to file quarterly reports enumerating their efforts to return injured workers to gainful employment.

B. Reporting entities shall submit their quarterly reports by completing Form 239 - Insurer/Employer Quarterly Report on Reemployment Efforts," and filing the form with the Division no later than 45 days after the end of each calendar quarter.

C. Section 34A-8a-203(4) requires the Commission to impose a civil penalty of up to \$500 against a reporting entity that fails to file Form 206. Initial proceedings to assess such penalty are hereby designated as informal adjudicatory proceedings, while all subsequent proceedings with respect to assessment of such penalty are hereby designated as formal proceedings.

R612-8-5. Administrative Review.

An injured worker, insurance carrier or employer may submit any dispute arising from the provisions of the Utah Injured Worker Reemployment Act or these rules to the Labor Commission's Adjudication Division for resolution according to the procedures established by the Utah Administrative Procedures Act, Title 63G, Chapter 4, Utah Code Annotated.

KEY: reemployment workers' compensation guidelines
Date of Enactment or Last Substantive Amendment: [~~June 15, 1995~~2009]
Notice of Continuation: September 30, 2004
Authorizing, and Implemented or Interpreted Law: 34A-1-104; 34A-8-109

Labor Commission, Occupational
Safety and Health
R614-2-11
Drilling Industry - Walking, Working
Surfaces

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33061
FILED: 10/15/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to bring Utah standards for fall protection on walking and working surfaces in the drilling industry into conformity with federal standards. The Utah Labor Commission's Rule R614-2, which establishes safety standards for the drilling industry, has not been substantively updated since 1998. Section R614-2-11 as currently in effect requires guardrails, handrails and/or covers to protect workers from falls of 6 feet or more. However, federal safety standards at 29 CFR 1910.23(b)(3) now require such protection against falls of 4 feet or more. In order to maintain the status of Utah's occupational safety and health program "as effective as" the federal program, it is necessary that the state standard conform to the federal standard.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment changes the height that triggers the requirement for guarding of openings from 6 feet to 4 feet.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 34A, Chapter 5

ANTICIPATED COST OR SAVINGS TO:
♦ **THE STATE BUDGET:** The proposed amendment will result in no increase or decrease in state regulatory or enforcement costs. The proposed amendment will not result in any compliance costs or savings, since existing federal standards already apply the 4 foot height standard that is being proposed by this amendment.

♦ **LOCAL GOVERNMENTS:** The proposed amendment will not result in any compliance costs or savings, since existing federal standards already apply the 4 foot height standard that is being proposed by this amendment.
♦ **SMALL BUSINESSES:** The proposed amendment will not result in any compliance costs or savings, since existing federal standards already apply the 4 foot height standard that is being proposed by this amendment.
♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendment will not result in any compliance costs or savings, since existing federal standards already apply the 4 foot height standard that is being proposed by this amendment.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Persons subject to this proposed amendment to Utah standards are already subject to, and complying with, federal safety standards that require safety devices for protection against falls of 4 feet or more. Consequently modifying the Utah standards to also require protection against falls of 4 feet or more will not impose any additional compliance costs on affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because this proposed amendment mirrors the existing federal rule, the change is not expected to have any fiscal impact on businesses. It will, however, eliminate a point of possible confusion between state and federal regulations.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
LABOR COMMISSION
OCCUPATIONAL SAFETY AND HEALTH
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:
♦ Louis Silva by phone at 801-530-6872, by FAX at 801-538-6390, or by Internet E-mail at lsilva@utah.gov
♦ William Adams by phone at 801-530-6897, by FAX at 801-530-7606, or by Internet E-mail at wadams@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2009

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2009

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R614. Labor Commission, Occupational Safety and Health.**R614-2. Drilling Industry.****R614-2-11. Drilling Industry -- Walking, Working Surfaces.****A. Guardrails, Handrails and Covers.****1. Guarding of Floor Openings and Floor Holes.**

Floor openings and floor holes shall be guarded by a standard railing and toeboards and/or cover.

2. Guarding of Wall Openings.

Wall openings from which there is a drop of more than [6]4 feet shall be guarded.

3. Guarding of Open-Sided Floors, Platforms, and Runways

a. Every open-sided floor or platform [6]4 feet or more above adjacent floor or ground level shall be guarded by a standard railing, or equivalent.

b. Standard railing shall be provided on the inside of all mud tank runways unless other means are available to prevent an employee from falling into the mud tanks.

c. Regardless of height, open-sided floors, walkways, platforms, or runways above or adjacent to dangerous equipment and similar hazards shall be guarded with a standard railing and toeboard.

4. Stairway Railings and Guards.

Every flight of stairs having four or more risers shall be equipped with standard stair railings on open sides.

B. Floors, Stairways, and Platforms.

1. Floors, stairways, and platforms shall be free of dangerous projections or obstructions and shall be maintained in good repair and reasonably free from oil, grease, water, or other materials of similar nature. Where the type of operation necessitates working on slippery floor areas, such surfaces shall be protected against slipping by the use of mats, grates, cleats, or other methods to provide reasonable protection.

2. Each corner of a crown block shall be securely bolted or welded to the mast or derrick.

3. Each finger of a finger board shall be bolted or welded to its support beam.

4. Any temporary stabbing board or other temporary boards placed in the derrick shall be securely fastened.

5. On all derricks, ladder platforms shall be installed adjacent to, and shall provide safe access to the work platforms.

6. Ladder platforms are to be located at the crown of all drilling rigs.

7. With the exception of the stabbing board and derrick board, every platform erected on the inside of a derrick shall completely cover the space from the working edge of the platform back to the legs and girts of the derrick.

C. Exits, Access, and Egress.

1. Exits shall be provided to the outside on at least 3 sides of the derrick floor.

2. All work stations shall have two means of egress, except for hopper house.

3. No exit door of the derrick floor, including all doors of the doghouse, shall be held closed with a lock or outside latch while anyone is on the derrick floor.

4. No employee shall slide down any pipe, kelly hose, cable, or rope line except in the event of an extreme emergency.

5. No employee shall use the catline as a means of ascending to or descending from any point in the derrick except in

an emergency. Even then, the rotary table shall be locked out and qualified employees shall operate the cathead and controls.

KEY: safety

Date of Enactment or Last Substantive Amendment: [December 4, 1998]2009

Notice of Continuation: November 2, 2007

Authorizing, and Implemented or Interpreted Law: 34A-6

Natural Resources, Water Rights

R655-16

Administrative Procedures for Declaring Beneficial Use Limitations for Supplemental Water Rights

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 33066

FILED: 10/15/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to define procedures for resolving supplemental water right beneficial use quantification issues by agreement among the water right owners. The rule also defines state engineer assistance in apportioning beneficial use among water rights in a water use group.

SUMMARY OF THE RULE OR CHANGE: This rule provides for a "Declaration of Individual Beneficial Use Amounts" form to enable water right holders to declare beneficial use information and document agreement with that declaration by those with supplemental water rights. The rule provides conditions under which a water user may petition the state engineer for assistance in apportioning beneficial use among water rights in a water use group. The rule formalizes the procedure the state engineer will follow in the apportioning beneficial use among water rights in a water use group.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 73-1-3 and Section 73-5-8 and Subsection 73-2-1(3) and Subsection 73-2-1(5)(e) and Subsection 73-3-3(4)(b)(vii)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The state engineer currently assists the public with issues and questions related to the apportionment of beneficial use. This rule will formalize and standardize that process. The rule will require more effort on the part of the water user before state engineer assistance can be requested, so the water user may provide more of the

information needed for an apportionment and also there may be fewer requests for assistance. However, in those cases where the state engineer is not requested to apportion the beneficial uses, the state engineer will still be required to review all of the beneficial use information submitted by water users to determine if it is in agreement with the water right record. Overall there probably will not be a reduction in effort required and no increased costs incurred or savings made.

◆ LOCAL GOVERNMENTS: Local government will not be affected unless the government entity is an owner of water right involved in a water use group that required quantification of the beneficial uses. In this case, the effect will be as described under "other persons" below.

◆ SMALL BUSINESSES: Small business in general will not be affected unless the business is an owner of water right involved in a water use group that required quantification of the beneficial uses. In this case, the effect will be as described under "other persons" below.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This rule will provide a defined process to assure all impacted parties have an opportunity to participate in the quantification of supplemental water right beneficial use. It also creates an obligation for individual water right holders to participate.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be a cost if the water users choose to hire professional help in completing a Declaration of Individual Beneficial Use Amounts. The cost will vary depending upon the complexity of the water right involved.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No impact on businesses.

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

NATURAL RESOURCES
WATER RIGHTS
ROOM 220
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Kaelyn Anfinen by phone at 801-538-7370, by FAX at 801-538-7442, or by Internet E-mail at kaelynanfinen@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2009

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 11/17/2009 10:00 AM, DNR Auditorium, 1594 W North Temple, SLC, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2009

AUTHORIZED BY: Kent Jones, State Engineer/Director

R655. Natural Resources, Water Rights.

R655-16. Administrative Procedures for Declaring Beneficial Use Limitations for Supplemental Water Rights.

R655-16-1. Authority.

Section 73-1-3 declares, "Beneficial use shall be the basis, the measure and the limit of all rights to the use of water in this state."

Subsection 73-2-1(3) declares, "The State Engineer shall be responsible for the general administrative supervision of the waters of the state and the measurement, appropriation, apportionment, and distribution of those waters."

Subsection 73-2-1(5)(e) authorizes the State Engineer to make rules governing the form and content of applications and related documents, maps and reports.

Subsection 73-3-3(4)(b)(vii) requires the State Engineer to supply an application form for the permanent or temporary change of a water right which shall set forth, among other information, "the place, purpose, and extent of the present use."

Section 73-5-8 states, "Every person using water from any river system or water source, when requested by the State Engineer, shall within 30 days after such request report to the State Engineer in writing: (1) the nature of the use of any such water; (2) the area on which it is used; (3) the kind of crops grown; and (4) water elevations on wells or tunnels and quantity of underground water used."

R655-16-2. Justification.

Proper water right administration requires a quantification of the beneficial use(s) to which the holder of a water right is entitled. To facilitate record keeping, each unique beneficial use or set of beneficial uses is assigned a water use group number in the State Engineer's records. Some such records indicate the beneficial uses in a water use group are authorized under two or more water rights (supplemental rights), but do not quantify the amount of beneficial use authorized under each individual right. Administrative activities requiring an evaluation of the beneficial use of a water right may necessitate the quantification of the beneficial use allowed under each supplemental water right in a water use group.

This rule provides for a "Declaration of Individual Beneficial Use Amounts" form to enable water right holders to declare beneficial use information and document agreement with that declaration by those with supplemental water rights.

R655-16-3. Purpose.

The purpose of this rule is to allow water right holders to declare the amount of beneficial use that each water right contributes to the total beneficial use of a water use group. To accomplish this, a Declaration of Individual Beneficial Use Amounts form may be completed and submitted to the State Engineer. To complete the form, the water right holders must quantify, by agreement, the amount of beneficial use that each supplemental water right contributes to the water use group within which it is listed.

R655-16-4. Application of Rule.

This rule applies to all water use groups defined in the State Engineer's water right records for which no individual beneficial use amounts have been established.

R655-16-5. Definitions.

(1) Terms used in this rule are defined as follows:

(a) "Application for Apportionment of Beneficial Use Amounts" means an application requesting that the State Engineer apportion the beneficial uses of a water use group among the supplemental water rights that make up the water use group.

(b) "Beneficial use" means the purpose to which water diverted under a water right is applied and the amount of that beneficial use. Examples include irrigation (amounts measured in acres); stock watering (amounts measured in numbers of animals); domestic (indoor residential - amounts measured in numbers of families); commercial, industrial, municipal (amounts measured in acre-feet); power generation (amounts measured in cubic-feet-per-second diversion rate); and fish culture (amounts measured in acre-feet or cubic-feet-per-second flow rate). By statute, the established and continued beneficial use of a water right will define the basis, measure and limit of that right.

(c) "Change application" means an application for permanent or temporary change of a water right as defined in Section 73-3-3.

(d) "Declaration of Individual Beneficial Use Amounts" (DIBUA) means either a form provided by the State Engineer, or an alternative document containing the same information, for use by water right holders to declare the individual beneficial use amount of each of the individual water rights to a water use group.

(e) "Individual Beneficial Use Amount" means the amount of beneficial use a water right contributes to a water use group that includes the subject water right.

(f) "Party" means only the applicant and other water right holders within the water use group.

(g) "Proof" means proof of beneficial use for an appropriation or permanent change as described in Section 73-3-16 or as may be required by the State Engineer under 73-3-20(2).

(h) "Sole supply" means the amount of beneficial use allowed under a particular water right when used alone and separate from all supplemental rights. If a water right has been assigned to more than one water use group, the sole supply of the water right is the sum of its individual beneficial use amounts.

(i) "Supplemental right" means a water right that is used together with one or more other water rights for a common beneficial use.

(j) "Water right holder" means the entity, person, or persons documented as owning a water right in the records of the State Engineer.

(k) "Water use group" means one or more water rights listed and assigned a unique number in the records of the State Engineer as being applied to a common beneficial use.

R655-16-6. Declaration of Individual Beneficial Use Amounts.

(1) A DIBUA shall be prepared by water right holders using either a form provided by the State Engineer or an alternative document containing the same information.

(a) To be considered acceptably complete, a DIBUA must:

(i) declare the individual beneficial use amount of each and every water right in the water use group; and

(ii) be signed by all water right holders in the water use group; and

(iii) include documentation supporting the individual beneficial use amounts declared.

(b) A DIBUA shall apportion the individual beneficial use amount of a water right in the water use group according to the average annual individual beneficial use of each water right in the water use group on a long-term basis or by any other evaluation method consistent with the information contained in the State Engineer's records.

(c) The DIBUA form shall include a statement acknowledged by those signing the form and recognizing that the individual beneficial use amounts declared by the DIBUA is not a general adjudication of the water rights involved under Section 73-4.

(d) The State Engineer may require additional documentation to support the individual beneficial use amounts declared in a DIBUA.

(e) The State Engineer will review and evaluate a DIBUA as described in Section R655-16-7 of this rule.

(2) A DIBUA filed in connection with a change application

(a) shall be required in situations where:

(i) the change application is filed on fewer than all of the water rights in a water use group;

(ii) the change application seeks to remove a water right from a water use group;

(iii) the individual beneficial use amount of a water right to be removed from the water use group has not been quantified; and

(iv) the nature of the change requires a quantification of the sole supply of the water right being changed.

(b) shall be prepared for each water use group to which the water right or the portion of the water right to be changed has been assigned.

(c) must, together with any other DIBUAs required by the change application, declare the sole supply of the water right or the portion of the water right to be changed.

(3) A DIBUA to declare the individual beneficial use amount of a water right for which proof has been filed:

(a) may be required in situations where:

(i) the individual beneficial use amount has not been quantified for the water right in the water use group for which proof has been filed; and

(ii) the proof is filed on fewer than all of the water rights in the water use group; or

(iii) the water right holder who has filed proof does not hold all the water rights in the water use group.

(b) shall be prepared for each water use group to which the water right for which proof has been filed belongs.

(c) must, together with any other DIBUAs required for the proof, declare the sole supply of the water right for which proof has been filed.

(4) The filing of a DIBUA does not limit the ability of a water right holder to continue to use the water rights together supplementally as they have historically been used. Regardless of the individual beneficial use amounts declared in a DIBUA, the

previous supplemental use of the water rights may continue, with the exclusion of any water right removed from the group through an approved change application; lapsed through a water right administrative process; or disallowed (the disallowance published and unprotested) through the water right adjudication process.

(5) Once accepted for filing, a DIBUA may only be revised by filing a new DIBUA:

(a) that is signed by at least all water right holders within the water use group affected by the revision and whose individual beneficial use amounts were previously declared by the filing of a DIBUA; and

(b) that addresses only water rights that have not been previously removed from the water use group through an approved change application or invalidated through other legal or administrative process.

R655-16-7. State Engineer Review and Evaluation.

(1) If a DIBUA is filed with the State Engineer:

(a) The State Engineer shall review the DIBUA for consistency with the water right information contained in the State Engineer's records.

(b) If the DIBUA is inconsistent with the water right information contained in the State Engineer's records, it will be returned without further action to the water right holder who submitted the DIBUA with an explanation of the inconsistencies.

(c) If there is reason to believe the DIBUA is consistent with the State Engineer's records, the State Engineer shall update the water right records of all water rights listed in the DIBUA, consistent with the individual beneficial use amounts included in the DIBUA.

(2) A water right holder may request, by writing to the State Engineer, a review of the database entries and the documentary records of a water use group.

(a) Such a review is not a request for agency action pursuant to Section 63G-4-101 et seq and shall be limited to a determination as to whether the database entries are consistent with official documentary records for the rights in the group.

(b) A request for a records review filed pursuant to this rule shall set forth a statement as to how the submitter believes the electronic record should be modified to be consistent with the official documentary records and shall include acceptable copies of any documentation believed to be absent from the current record.

(c) The State Engineer shall complete a review of the record within a reasonable time from receipt of the written request and shall notify the requester in writing when the review has been completed.

(d) A copy of the State Engineer's reply to the request for a records review shall be placed on the water right file for each water right in the water use group reviewed.

(3) The State Engineer may modify water use group records at any time to resolve errors, deficiencies, or ambiguities.

R655-16-8. Application to State Engineer for Apportionment of Beneficial Use Amounts.

(1) An applicant may submit an application to the State Engineer requesting an informal adjudicative proceeding pursuant to Section 63G-4-101, et seq, for the apportionment of the beneficial use amounts of the water rights in the water use group if:

(a) an apportionment is necessary for an administrative action on a change application or proof of beneficial use; and

(b) the applicant has exhausted all reasonable efforts and has been unable to produce a DIBUA because:

(i) It is impossible to identify and/or contact one or more of the parties or their successors in interest in the water use group. In this case the applicant must document:

(A) the attempts to identify and contact the parties or their successors in interest; and

(B) the reasons why the parties or their successors in interest cannot be identified or no contact can be made.

(ii) One or more of the parties or their successors in interest refuses to participate in completing the DIBUA or refuses to sign the DIBUA. In this case the applicant must document:

(A) the attempts to reach agreement with the parties or their successors in interest; and

(B) the reasons, in detail, why no agreement could be reached.

(iii) Any other reason or reasons the applicant cannot cure, which prevents the completion of the DIBUA. In this case the applicant must document why the DIBUA cannot be completed.

(2) An application for Apportionment of Beneficial Use Amounts shall be made on a form provided by the State Engineer and shall comply with Section 63G-4-201 as a request for agency action.

(a) The applicant shall provide all information requested on the form provided by the State Engineer including all affidavits and documentation gathered in the effort to prepare a DIBUA.

(b) The application form shall include a statement acknowledged by the applicant signing the form and recognizing that the State Engineer's apportionment of the beneficial use amounts of the water rights within the water use group is not a general adjudication of the water rights involved under Section 73-4.

(c) To the extent possible, the applicant shall provide notice to the other parties pursuant to Section 63G-4-201(3)(b).

(3) The State Engineer shall review the application for completeness and compliance with the criteria described in (1). As part of the review, the State Engineer shall determine whether the applicants effort to complete a DIBUA without success has been sufficient.

(4) If the application is incomplete or does not meet the criteria described in (1), or if the State Engineer believes the applicant should make additional effort to complete the DIBUA, the State Engineer shall return the application to the applicant without further action.

(5) If the application is complete and does meet the criteria described in (1), and if the State Engineer believes the applicant has exerted all reasonable efforts to complete the DIBUA without success, the State Engineer shall accept the application for filing and apportion the beneficial uses of the water rights in the water use group accordingly.

(6) For the purposes of this rule, the State Engineer shall apportion the individual beneficial use amounts of the water rights in the water use group according to the following procedure:

(a) The State Engineer shall notify all parties in accordance with Section 63G-4-201(3)(d)(iii) and (e)(ii) and shall issue a request for information to each party as authorized in Section 73-5-8.

(b) The parties will be allowed at least thirty (30) days for submittal of the requested information.

(c) Upon expiration of the allotted response time, the State Engineer will review:

(i) all information received with the application; and

(ii) all information received pursuant to the State Engineer's request (including historical records of flows diverted, historical water use patterns, etc.); and

(iii) any other pertinent information from a reliable source, including the State Engineer's water right records (such as, relative priority and water flow limitations, distribution records, etc.) of the water rights in the water use group.

(d) Based upon a review of the information described in (c), the State Engineer shall make a preliminary apportionment of the individual beneficial use amount for each of the water rights in the water use group.

(7) The State Engineer shall notify all parties by regular mail of the preliminary apportionment of the individual beneficial use amounts apportioned to each of the water rights in the water use group. This notification is not a final agency action.

(a) The parties shall be advised of their right to protest the preliminary individual beneficial use amounts apportioned by the State Engineer.

(b) The parties will be allowed at least thirty (30) days for submittal of protests or other information.

(8) The State Engineer may hold a hearing if deemed necessary to obtain further information regarding the apportionment of the individual beneficial use amounts of the water rights within the water use group.

(9) The State Engineer shall review any further information obtained either through protest or the hearing process and may revise the preliminary apportionment of the individual beneficial use amounts if necessary to ensure a proper apportionment of the beneficial use among the water rights in the water use group.

(10) The State Engineer shall issue an Order, which shall be the agency's final action, setting forth the individual beneficial use amount of each water right in the water use group consistent with the apportionment.

(11) Orders of the State Engineer regarding the apportionment of beneficial use shall be subject to the provisions of Rule R655-6-17 of the Division of Water Rights and to Sections 63G-4-302, 63G-4-402, and 73-3-14 which provide for filing either a Request for Reconsideration with the State Engineer or an appeal with the appropriate District Court. A Request for Reconsideration must be filed with the State Engineer within 20 days of the date of the Order. However, a Request for Reconsideration is not a prerequisite to filing a court appeal. A court appeal must be filed within 30 days after the date of the Order, or if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken within 20 days after the request is filed.

(12) Once the time to seek de novo review of a State Engineer Order has passed, or if such review has been sought, once the courts have issued a final, non-appealable order, the State Engineer shall update the Division's documentary and electronic records for each of the water rights in the water use group consistent

with the State Engineer's Order, or the court order if one has been issued.

R655-16-9. Exceptions.

(1) At any time during a change application or proof process, if it becomes apparent, through State Engineer review, protest, or otherwise, that a DIBUA is necessary to complete the administrative process, the State Engineer may require the water right holder to submit a DIBUA.

(2) A water right holder who wishes to declare that a water right contributes no individual beneficial use amount to a water use group, where the holder is the sole owner of the non-contributing water right, may make that declaration by filing a partial DIBUA signed only by that water right holder. The partial DIBUA may address only those rights declared to be non-contributing. Once accepted for filing, a partial DIBUA filed to declare no individual beneficial use amount may not be withdrawn or modified by the water right holder. No effort will be made to contact the other water right holders in the water use group concerning such filing.

(3) If the individual beneficial use amount of a water right has been quantified by a court order or other legal instrument of equivalent effect, and which instrument is not a part of the State Engineer's documentary records, such instrument may be submitted by any person for consideration by the State Engineer.

(4) The State Engineer may administratively cancel the assignment of a water right to a water use group if the water right is owned by a mutual irrigation company, a water-supplying entity, a municipal water system, or a federal agency and if such action provides for more efficient or proper water right administration.

KEY: beneficial use, supplemental water rights, water rights

Date of Enactment or Last Substantive Amendment: 2009

Authorizing, and Implemented or Interpreted Law: 73-1-3; 73-2-1(3); 73-2-1(5)(e); 73-3-3(4)(b)(vii); 73-5-8

Natural Resources, Wildlife Resources **R657-13** Taking Fish and Crayfish

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33042

FILED: 10/13/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife's fish and crayfish management program.

SUMMARY OF THE RULE OR CHANGE: The proposed revision to the above listed rule amends Section R657-13-9, Underwater Spearfishing, to clarify the hours fish can be taken with spearfishing tackle.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-14-18 and Section 23-14-19

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This amendment only clarifies the hours spearfishing may take place on certain bodies of water. The Division of Wildlife Resources (DWR) determines that these amendments do not create a cost or savings impact to the state budget or DWR's budget, since the changes will not increase workload and can be carried out with existing budget.

◆ **LOCAL GOVERNMENTS:** Since this amendment only clarifies regulations already in place this should have little to no effect on the local government. This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

◆ **SMALL BUSINESSES:** This amendment clarifies the hours allowed for the act of spearfishing. Therefore, this rule does not impose any additional financial requirements on small businesses, nor generate a cost or saving impact to other persons.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amendment clarifies the hours allowed for the act of spearfishing. Therefore, this rule does not impose any additional financial requirements on persons, nor generate a cost or saving impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR determines that these amendments do not create a cost or savings impact to individuals who participate in spearfishing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2009

AUTHORIZED BY: James Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-13. Taking Fish and Crayfish.

R657-13-9. Underwater Spearfishing.

(1) Underwater spearfishing is permitted from official sunrise to official sunset only, except as provided in Subsection (6).

(2) Use of artificial light is unlawful while engaged in underwater spearfishing, except as provided in Subsection (6).

(3) Free shafting is prohibited while engaged in underwater spearfishing.

(4) Causey Reservoir, Deer Creek Reservoir, ~~[Fish Lake,~~ Flaming Gorge Reservoir, Jordanelle Reservoir, Ken's Lake, Lake Powell, Lost Creek Reservoir, Pineview Reservoir (with the exception of tiger muskie), Red Fleet Reservoir, Steinaker Reservoir, Starvation Reservoir, Willard Bay Reservoir and Yuba Reservoir are open to taking game and nongame fish by means of underwater spearfishing from 6:00 a.m. on the first Saturday of June[-4] through November [30. These are the only waters]30, except as specified in subsections 5 and 6 below. Fish Lake is open to taking game and nongame fish by means of underwater spearfishing [for game and nongame fish, except as provided in Subsection (9) below.]from 6:00 a.m. on the first Saturday of June through September 15.

(5) Lake Powell is open to taking carp and striped bass by means of underwater spearfishing from January 1 through December 31.

(6) Flaming Gorge is open to taking burbot by means of underwater spearfishing from January 1 through December 31, 24 hours each day. Artificial light is permitted while engaged in underwater spearfishing for burbot at Flaming gorge. Artificial light may not be used at other waters nor may it be used when pursuing other fish species in Flaming Gorge. No other species of fish may be taken with underwater spearfishing techniques at Flaming Gorge between official sunset and official sunrise.

(7) The bag and possession limit for underwater spearfishing is the same as the bag and possession limit applied to anglers using other techniques in the waters listed in Subsection (4) above and as identified in the annual Utah Fishing Proclamation issued by the Utah Wildlife Board.

(8) Nongame fish may be taken by underwater spearfishing only in the waters listed in Subsection (4) above and as provided in Section R657-13-14.

(9) The waters listed above in subsection 4 are the only waters open to underwater spearfishing except that [C]carp may be taken by means of underwater spearfishing from any water open to angling during the open angling season set for a given body of water.

R657-13-10. Dipnetting.

(1) Hand-held dipnets may be used to land game fish legally taken by angling. However, they may not be used as a primary method to take game fish from Utah waters except at Bear Lake where they are permitted for Bonneville Cisco.

(2) The opening of the dipnet may not exceed 18 inches.

(3) When dipnetting through the ice, the size of the hole is unrestricted.

(4) Hand held dipnets may also be used to take crayfish and nongame fish, except prohibited fish.

KEY: fish, fishing, wildlife, wildlife law

Date of Enactment or Last Substantive Amendment: [January 7], 2009

Notice of Continuation: October 11, 2007

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19; 23-19-1; 23-22-3

Natural Resources, Wildlife Resources R657-58 Fishing Contests and Clinics

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33041

FILED: 10/13/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife's fish and crayfish management program.

SUMMARY OF THE RULE OR CHANGE: This proposed amendment will: 1) add criteria for "Type I fishing contest" to include the number of boats allowed and the monetary amount that can be awarded; 2) add the protocol for decontaminating vessels to reduce the spread of invasive mussels; 3) adds Scofield Reservoir as a Type I fishing location for rainbow trout only; and 4) re-orders the tagged fish bodies of water to be listed alphabetically.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-14-18 and Section 23-14-19

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** This amendment clarifies restrictions on "Type I fishing contests" and adds standard language on decontaminating vessels. The Division of Wildlife Resources (DWR) determines that these amendments do not create a cost or savings impact to the

state budget or DWR's budget, since the changes will not increase workload and can be carried out with existing budget.

♦ **LOCAL GOVERNMENTS:** Since this amendment only clarifies restrictions placed on groups holding "Type I fishing contests" and adds standard wording on decontaminating vessels this should have little to no effect on the local government. This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

♦ **SMALL BUSINESSES:** Since this amendment only clarifies restrictions placed on groups holding "Type I fishing contests" and adds standard wording on decontaminating vessels, this should have little to no effect on small businesses. This filing does not create any direct cost or savings impact to small businesses because they are not directly affected by the rule. Nor are small businesses indirectly impacted because the rule does not create a situation requiring services from small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amendment clarifies restrictions placed on groups holding "Type I fishing contests" and may limit the amount of prize money an individual can be awarded in a year and so it may impose an additional financial requirement on persons participating in a fishing contest.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR determines that these amendments do not create a cost or savings impact to individuals who sponsor fishing contests, however it may limit the monetary amount a participant may be awarded in one year.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

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

NATURAL RESOURCES

WILDLIFE RESOURCES

1594 W NORTH TEMPLE

SALT LAKE CITY, UT 84116-3154

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2009

AUTHORIZED BY: James Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-58. Fishing Contests and Clinics.

R657-58-2. Definitions.

(1) Terms used in this rule are defined in Sections 23-13-2 and R657-13-2.

(2) In addition:

(a) "Certificate of Registration (COR)" means a license or permit issued by the division that authorizes a contest organizer to conduct a contest and spells out any special provisions and conditions that must be followed.

(b) "cold water fish species" means: mountain whitefish, Bonneville whitefish, Bear Lake whitefish, Bonneville cisco, Bear Lake cutthroat, Bonneville cutthroat, Colorado River cutthroat, Yellowstone cutthroat, rainbow trout, lake trout, brook trout, arctic grayling, brown trout, and kokanee salmon.

(c) "cull" or "high-grade" means to release alive and in good condition, a fish that has been held as part of a possession limit for the purpose of including larger fish in the possession limit.

(d) "fishing clinic" means an organized gathering of anglers for non-competitive, educational purposes that does not offer cash, awards or prizes for their individual or team catches.

(e) "live weigh" or "live weigh-in" means that fish are held in possession by contest participants and transported live to a specified location to be weighed.

(f) "possession" means active or constructive possession.

(g) "tagged fish contest" means any fishing contest where prizes are awarded for the capture of fish previously tagged or marked specifically for that contest.

(h) "Type I fishing contest" means a competitive event for warm or cold water fish species, other than a tagged fish contest, that meets any of the following criteria:

i) involves 50 or more participants or 25 or more boats;

ii) [awards]includes cash and/or prizes [valued]awarded individually or cumulatively per year at \$2,000 or more for a contest or a series of contests; or

iii) utilizes a live weigh-in.

(i) "Type II fishing contest" means a competitive event for warm or cold water fish species, other than a tagged fish contest, that meets all of the following criteria:

(a) involves fewer than 50 contestants or fewer than 25 boats;

(b) [awards]includes cash and/or prizes [valued]awarded individually or cumulatively per year at less than \$2,000 for a contest or a series of contests; and

(c) does not utilize a live weigh-in.

(j) "warmwater fish species" means: walleye, yellow perch, striped bass, largemouth bass, white bass, smallmouth bass, bullhead, channel catfish, black crappie, northern pike, green sunfish, wipers, bluegill, tiger muskellunge, common carp, and burbot.

R657-58-3. Certificate of Registration (COR) and General.

(1) A COR is required for all Type I fishing contests and all tagged fish contests. The requirements are listed in Sections R657-58-4 through R657-58-6.

(2) An AIS Decontamination Certification Form found at http://wildlife.utah.gov/mussels/PDF/self_certify.pdf is required for all boating participants in fishing contests regardless of the size or type of contest. The form must be completed by each boat operator and displayed in the windshield of the boat transport vehicle for the duration of the fishing contest.

(3) Regardless of the size or type of contest, the contest sponsor shall verify and confirm that all boats participating in the fishing contest possess completed AIS Decontamination Certification forms.

(4) A COR is not required for Type II fishing contests and fishing clinics.

([3]5) A COR is valid for only one fishing tournament/tagged fish contest on one water.

([4]6) The division may request public comment before issuing a COR if, in the opinion of the division, the proposed contest has potential impacts to the public or could substantially impact a public fishery.

([5]7)(a) A COR may be denied for:

(i) failure to comply with the fishing proclamation and rule;

(ii) potential for resource damage;

(iii) location;

(iv) occurrence on a legal holiday or Free Fishing Day;

(v) public safety issues;

(vi) conflicts with the public;

(vii) failure to adequately protect state waters from invasive species;

(viii) problems with the applicants prior performance record; and

(ix) failure to comply with other state laws, including those applying to raffles and lotteries in Utah.

(b) The reason for denial will be identified and reported to the applicant in a timely manner. The division may impose conditions on the issuance of the Certification of Registration in order to achieve a management objective or adequately protect a fishery. Any conditions will be listed on the COR.

([6]8) All COR applications submitted for Type I fishing contests must include a written protocol for participants to disinfect boats and equipment to prevent the spread of aquatic nuisance species. The protocol must be consistent with division policy and rule.

([7]9)(a) COR applications are available at all division offices and online at the division's website.

(b) Applications must be received by the division at least 45 days prior to the contest. In some cases a public comment process may alter the 45-day COR review period.

(c) Variances to the COR review period may only be granted by the director.

([8]10) A COR application must include:

(a) a copy of proposed rules for the contest, and

(b) a complete schedule of entry fees, cash awards and prize values.

([9]11) Anyone conducting a Type I fishing contest or tagged fish contest must complete a post-contest report and that report must be received by the division within 30 days after the event is completed.

~~[(10)12]~~ Anyone conducting a Type I fishing contest or tagged fish contest who fails to obtain a COR or to follow the rules set by the division may be prohibited from conducting any fishing contests, and may be subject to other penalties.

R657-58-5. Requirements for Type I Fishing Contests for Cold Water Fish Species.

(1) A COR from the division is required for all Type I fishing contests for cold water fish species.

(2) Type I fishing contests for cold water fish may not:

- (a) involve more than 200 participants.
- (b) offer more than \$2,000 in total prizes.
- (c) utilize live weigh-ins.

(3) Type I fishing contests for cold water fish species are prohibited on waters where the Wildlife Board has imposed more restrictive special harvest rules for targeted cold water fish species including tackle restrictions, size restrictions, and other exceptions to the general fishing regulations, except ~~[as provided in (4)]~~ at Scofield Reservoir where Type I fishing contests are allowed for rainbow trout only.

(4) ~~[At Flaming Gorge and Echo Reservoirs t]~~ There is no limit to the number of participants or total prizes at Flaming Gorge and Echo Reservoirs.

(5) Type I fishing contests for cold water fish species may not be held

(a) on Free Fishing Day except at Echo Reservoir.

(6) Fish taken in Type I cold water fishing contests may not be culled.

R657-58-6. Requirements for Tagged Fish Contests.

(1) A COR from the Division of Wildlife Resources is required to conduct any tagged fish contest, regardless of number of contestants or value of prizes or awards.

(2) All COR application for a tagged fish contest must be received by the division between December 1st and December 31st of the year prior to when the contest is to be held.

(3) If more than one application is received for a water in a year then a drawing will be held to select the applicant to receive the COR.

(4) Only one tagged fish contest per year may be held on any water approved for tagged fish contests.

(5) Tagged fish contests must have the start date and end date identified on the COR Application.

(6) Tagging of fish for tagged fish contests must be conducted only by division personnel, or by designated representatives working under the direct supervision of the division.

(7) Without prior authorization from the division, it is prohibited to:

(a) tag, fin-clip or mark fish in any way, or

(b) introduce tagged, fin-clipped or marked fish into a water.

(8) The organizer of a tagged fish contest will assume all responsibility for the contest and the purchase of tags and tagging equipment.

(9) Tagged fish contests are permitted only on the following waters and only for the fish species listed for those waters:

(a) ~~[Lake Powell for striped bass;]~~ Deer Creek Reservoir for trout;

(b) East Canyon Reservoir for smallmouth bass;

~~[(b)c]~~ Echo Reservoir for yellow perch, trout;

~~(d)~~ Flaming Gorge Reservoir for burbot, lake trout;

~~[(e)~~ East Canyon Reservoir for smallmouth bass;

~~(d)~~ Scofield Reservoir for rainbow trout;

~~(e)~~ Willard Bay for carp, hybrid striped bass;

~~(f)~~ Utah Lake for white bass, carp;

~~(g)~~ Starvation Reservoir for walleye;

~~(h)~~ Yuba Reservoir for walleye;

~~(i)~~ Millsite Reservoir for trout;

~~(j)~~ Deer Creek Reservoir for trout;

~~(k)~~ Gunlock Reservoir for crappie, bass;

~~[(h)f]~~ Hyrum Reservoir for yellow perch, trout;

~~[(m)g]~~ Lake Powell for striped bass;

~~(h)~~ Jordanelle Reservoir for yellow perch, trout, bass;

~~[(n)i]~~ Millsite Reservoir for trout;

~~(j)~~ Otter Creek Reservoir for trout;

~~[(e)k]~~ Palisade for trout;

~~[(p)l]~~ Piute Reservoir for trout;

~~[(e)m]~~ Quail Creek Reservoir for trout, bass;

~~(n)~~ Red Fleet Reservoir for trout, bluegill;

~~[(r)~~ Steinaker Reservoir for trout, bluegill;

~~(s)~~ Sand Hollow Reservoir for bluegill, bass;

~~[(t)q]~~ Rockport Reservoir for yellow perch, trout;

~~(p)~~ Sand Hollow Reservoir for bluegill, bass;

~~(q)~~ Scofield Reservoir for rainbow trout;

~~(r)~~ Starvation Reservoir for walleye;

~~(s)~~ Steinaker Reservoir for trout, bluegill;

~~(t)~~ Utah Lake for white bass, carp;

~~(u)~~ [Echo Reservoir for yellow perch, trout; and] Willard Bay for carp, hybrid striped bass; and

~~(v)~~ [Quail Creek] Yuba Reservoir for [trout, bass.] walleye.

KEY: fish, fishing, wildlife, wildlife law

Date of Enactment or Last Substantive Amendment: ~~[March 10, 2008]~~ 2009

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19; 23-19-1; 23-22-3

Public Safety, Driver License
R708-41
Requirements for Acceptable
Documentation

NOTICE OF PROPOSED RULE
(Repeal and Reenact)
DAR FILE NO.: 33056
FILED: 10/14/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being changed in response to the provisions of S.B. 40 (2009 General Session) which directed the Driver License Division to clarify what constitutes acceptable documentation for the purposes of acquiring a Utah license certificate or Utah identification card. The rule will also establish procedures for storage and maintenance of those documents. (DAR NOTE: S.B. 40 (2009) is found at Chapter 315, Laws of Utah 2009, and will be effective 01/01/2010.)

SUMMARY OF THE RULE OR CHANGE: Some acceptable forms of documentation that had been approved in the old rule are being removed. All other substantive provisions of the old rule will remain. Substantive provisions that are being added by the new rule include: 1) requiring individuals who are citizens to prove their U. S. citizenship; 2) requiring individuals who are in the country temporarily to prove their legal presence; and 3) adding other types of acceptable documentation.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-3-205 and Section 53-3-214 Section 53-3-104 and Section 53-3-410 and Section 53-3-804

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** In order to accommodate new licensing types, some computer programming will be required to modify the current system, and further programming to accommodate imaging of the required documentation. Costs to cover the programming were part of the fiscal note attached to S.B. 40. During the first five years of implementation, persons seeking license certificates or ID cards will be required to appear in person at a driver license facility; this is to allow them to provide the necessary documentation. The fee for in-person appearance to renew is \$5 higher than renewing by Internet or mail, thus the state will see some increase in revenue during that five-year period.

◆ **LOCAL GOVERNMENTS:** Local governments are not involved in providing licenses or identification cards.

◆ **SMALL BUSINESSES:** Small businesses are not involved in providing licenses or identification cards.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** During the first five years of implementation, persons seeking license certificates or ID cards will be required to appear in person at a driver license facility; this is to allow them to provide the necessary documentation. The fee for in-person appearance to renew is \$5 higher than renewing by Internet or mail, thus these persons will see some increase in cost during that five-year period.

COMPLIANCE COSTS FOR AFFECTED PERSONS: During the first five years of implementation, persons seeking license certificates or ID cards will be required to appear in person at a driver license facility; this is to allow them to provide the necessary documentation. The fee for in-person appearance to renew is \$5 higher than renewing by Internet or mail, thus

these persons will see some increase in cost during that five-year period.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on business.

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

PUBLIC SAFETY
DRIVER LICENSE
CALVIN L RAMPTON COMPLEX
4501 S 2700 W 3RD FL
SALT LAKE CITY, UT 84119-5595
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Jill Laws by phone at 801-964-4469, by FAX at 801-964-4482, or by Internet E-mail at jlaws@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2009

AUTHORIZED BY: Nannette Rolfe, Director

R708. Public Safety, Driver License.

R708-41. Requirements for Acceptable Documentation, Storage and Maintenance.

[R708-41-1. Purpose.

~~_____ The purpose of this rule is to define acceptable documentation pursuant to Title 53, Chapter 3.~~

R708-41-2. Authority.

~~_____ This rule is authorized by Section 53-3-104.~~

R708-41-3. Definitions.

~~_____ (1) "Utah Residence address" means the place where an individual has a fixed permanent home and principal establishment in Utah and in which the individual voluntarily resides, that is not for a special or temporary purpose. Under unique situations that require an individual to be under temporary care, custody or treatment of a government, public or private business the Division may authorize the sponsoring agency to sign an affidavit verifying the residence of the applicant. Upon approval from the Division Director or designee, the Division will recognize the sponsoring agency's address as the Utah residence address for the individual.~~

~~_____ (2) "Legal Presence" means that an individual's presence in the United States does not violate state or federal law.~~

R708-41-4. Obtaining a Utah Driving Privilege Card, Driver License, Commercial Driver License or an Identification Card.

~~_____ (1) An applicant seeking to obtain a Utah Driving Privilege Card, Driver license, Commercial Driver License or an Identification Card must:~~

~~_____ (a) provide two different forms of identification from the following list to verify full legal name, date of birth, and gender pursuant to Section 53-3-205(9)(a) and 53-3-804 (2):~~

- ~~_____ (i) Certificate of Naturalization;~~
~~_____ (ii) Certificate of Citizenship;~~
~~_____ (iii) driver license issued in the United States;~~
~~_____ (iv) foreign birth certificate with certified translation;~~
~~_____ (v) I-94 card or INS I-551 card;~~
~~_____ (vi) Indian Blood Certificate;~~
~~_____ (vii) Matricular Consular ID Card (Issued in Utah);~~
~~_____ (viii) Resident Alien Card;~~
~~_____ (ix) U.S. Birth Certificate (from Vital Records);~~
~~_____ (x) U.S. Certificate of Birth Abroad;~~
~~_____ (xi) U.S. Military Identification Card or DD-214;~~
~~_____ (xii) U.S. Passport; and~~
~~_____ (xiii) other documentation furnished by the individual if it can be determined that the documentation unequivocally demonstrates proof of identity.~~

~~_____ (b) provide the applicant's Utah residence address. PO Boxes and business addresses are not accepted; and~~

~~_____ (c) provide two different types of original (current and valid) documents from the following list as proof of a Utah resident address:~~

- ~~_____ (i) property tax notice, statement or receipt, within one year;~~
~~_____ (ii) utility bill, billing date within 60 days, (no cell phone bills);~~
~~_____ (iii) Utah vehicle registration or title;~~
~~_____ (iv) bank statement, within 60 days;~~
~~_____ (v) recent mortgage papers;~~
~~_____ (vi) current residential rental contract;~~
~~_____ (vii) major credit card bill, within 60 days;~~
~~_____ (viii) court order of probation, order of parole or order of mandatory release, must display residential address;~~
~~_____ (ix) transcripts from an accredited college, university, or high school; or~~
~~_____ (x) other documentation furnished by the individual if it can be determined that the documentation unequivocally demonstrates proof of residency or domicile.~~

~~_____ (2) An applicant for a Utah Driving Privilege Card must also provide:~~

~~_____ (a) a valid Individual Tax Identification Number (ITIN) card issued by the Internal Revenue Service; or~~

~~_____ (b) effective July 1, 2005, documentation from the following list, as requested by the division, to verify that the applicant is a citizen of a country other than the United States, is legally present in the United States, and does not qualify for a Social Security Number:~~

- ~~_____ (i) valid foreign passport with appropriate immigration document(s);~~
~~_____ (ii) INS I-551 Resident Alien Card issued since 1997 (cards issued prior to this date need to be screened for appropriate security features);~~
~~_____ (iii) INS I-688 Temporary Resident Identification Card;~~
~~_____ (iv) INS I-688B, I-766 Employment Authorization Card;~~
~~_____ (v) U.S. Department of Receptions and Placement Program Assurance Form (Refugee); or~~
~~_____ (vi) other documentation furnished by the individual if it can be determined that the documentation unequivocally~~

~~demonstrates that the applicant is a citizen of a country other than the United States, is legally present in the United States, and does not qualify for a Social Security Number.]~~

R708-41-1. Authority.

~~_____ This rule is authorized by Section 53-3-104.~~

R708-41-2. Purpose.

~~_____ The purpose of this rule is to define acceptable documentation for a Utah license certificate or Utah Identification card and to establish procedures for storage and maintenance of those documents pursuant to Title 53, Chapter 3.~~

R708-41-3. Definitions.

~~_____ (1) "Acceptable Document" means an original document or a copy certified by the issuing agency, which the division accepts for determining the validity of information submitted in connection with a license certificate or identification card (ID card) application which may include but is not limited to, the applicant's identification, legal/lawful presence, social security number (SSN), or ineligibility to obtain a social security number, individual tax identification number (ITIN) or the Utah residence address. Any document that has been or appears to have been duplicated, traced over, mutilated, defaced, tampered with, or altered in any manner or that is not legible may not be accepted for licensing and identification card purposes.~~

~~_____ (2) "Alternate Document" means a document that may be accepted when the applicant is, for reasons beyond their control, unable to present all necessary documents to establish identity or date of birth as required in definition (6)(a) or U.S. Citizenship as required for proof of legal/lawful presence in definition (8)(a) subject to approval by the Department of Homeland Security (DHS) or the division director or designee.~~

~~_____ (3) "Driving Privilege Card" (DPC) means a driving certificate that may only be issued to an applicant who meets the requirements of definition (14) for an undocumented immigrant.~~

~~_____ (4) "Exception Process" means a written, defined process for persons who, for reasons beyond their control, are unable to present all necessary documents and must rely on alternate documents to establish identity, date of birth or U.S. Citizenship.~~

~~_____ (5) "Full Legal Name Evidence" means the name established on the identity document referenced in definition (6). Any name variation from the original or certified document(s) must be accompanied by legal authorizing documentation, except that, the name established on the division's database may be considered to be the full legal name unless otherwise determined by the division. Upon application for any license certificate or ID card, a change of the applicant's full legal name must be accompanied by an acceptable document which authorizes the name change.~~

~~_____ (6) "Identity Document" means an original, government-issued document which contains identifying information about the subject of the document including the full legal name and date of birth or a document approved by DHS or the division director or designee. A copy of an original document must be certified by the issuing agency.~~

~~_____ (a) Group A documents are acceptable for applicants for a regular driver license, Commercial Driver License (CDL) or ID card referenced in definition (9)(a):~~

~~_____ (i) Valid, unexpired U.S. passport or passport card which may provide evidence of both legal/lawful presence and identity;~~

(ii) Certified copy of a birth certificate filed with the State Office of Vital Statistics or equivalent agency in the individual's State of birth which may provide evidence of both legal/lawful presence and identity;

(iii) Consular Report of Birth Abroad (CRBA) issued by the U.S. Department of State, Form FS-240, DS-1350 or FS-545 which may provide evidence of both legal/lawful presence and identity;

(iv) Valid, unexpired Permanent Resident Card, Form I-551, which may provide evidence of both legal/lawful presence and identity;

(v) Certificate of Naturalization issued by DHS, Form N-550 or Form N-570, which may provide evidence of both legal/lawful presence and identity;

(vi) Certificate of Citizenship, Form N-560 or Form N-561, issued by DHS which may provide evidence of both legal/lawful presence and identity;

(vii) Regular Utah driver license, CDL or ID card that has been issued on or after January 1, 2010 is only acceptable for renewal or duplicate certificates and may provide evidence of both legal/lawful presence and identity; or

(viii) Alternate documents may be accepted if approved by DHS or the division director or designee.

(b) Group B documents are acceptable for applicants for a limited-term driver license, limited-term CDL or limited-term ID card referenced in definition (9)(b):

(i) Unexpired employment authorization document (EAD) issued by DHS, Form I-766, or Form I-688B verified through the Systematic Alien Verification for Entitlements system (SAVE) which may provide evidence of both legal/lawful presence; or

(ii) Unexpired foreign passport with documentary evidence of the applicant's most recent admittance into the United States verified through SAVE which may provide evidence of both legal/lawful presence.

(c) Group C documents are acceptable for applicants for a DPC referenced in definition (14) and at least one of the documents listed below must be presented with a foreign birth certificate including a certified translation if the birth certificate is not in English:

(i) Church records;

(ii) Court records;

(iii) Driver License;

(iv) Employee ID;

(v) Insurance ID card;

(vi) Matricular Consular Card (issued in Utah);

(vii) Mexican Voter Registration card;

(viii) School records;

(ix) Utah DPC;

(x) Other evidence considered acceptable by the division director or designee.

(7) "Individual Tax Identification Number (ITIN) Evidence" means an official document(s) used to verify an individual's assigned ITIN including:

(a) ITIN card issued by the Internal Revenue Service (IRS); or

(b) Document or letter from the IRS verifying the ITIN.

(8) "Legal/lawful Presence or Status" means that an individual's presence in the United States does not violate state or federal law and includes:

(a) Group A applicants who may qualify for a regular driver license, CDL or ID card if they are a:

(i) United States citizen;

(ii) National; or

(iii) Legal Permanent Resident Alien.

(b) Group B applicants who may qualify for a limited-term driver license, limited-term CDL, or limited-term ID card if they are an immigrant who has:

(i) Unexpired immigrant or nonimmigrant visa status for admission into the United States;

(ii) Pending or approved application for asylum in the United States;

(iii) Admission into the United States as a refugee;

(iv) Pending or approved application for temporary protected status in the United States;

(v) Approved deferred action status; or

(vi) Pending application for adjustment of status to legal permanent resident or conditional resident.

(9) "Legal/Lawful Presence or Status Evidence" means a document(s) issued by the United States Government or approved by DHS or the division director or designee which shows legal presence of an individual including:

(a) Group A documents are acceptable for applicants referenced in definition (8)(a) for a regular driver license, CDL, or ID card:

(i) Valid, unexpired U.S. passport or passport card which may provide evidence of both legal/lawful presence and identity;

(ii) Certified copy of a birth certificate filed with the State Office of Vital Statistics or equivalent agency in the individual's State of birth which may provide evidence of both legal/lawful presence and identity;

(iii) Consular Report of Birth Abroad (CRBA) issued by the U.S. Department of State, Form FS-240, DS-1350 or FS-545 which may provide evidence of both legal/lawful presence and identity;

(iv) Valid, unexpired Permanent Resident Card, Form I-551, which may provide evidence of both legal/lawful presence and identity;

(v) Certificate of Naturalization issued by DHS, Form N-550 or Form N-570, which may provide evidence of both legal/lawful presence and identity;

(vi) Certificate of Citizenship, Form N-560 or Form N-561, issued by DHS which may provide evidence of both legal/lawful presence and identity;

(vii) Regular Utah driver license, CDL or ID card that has been issued on or after January 1, 2010 is only acceptable for renewal or duplicate certificates and may provide evidence of both legal/lawful presence and identity; or

(viii) Alternate documents may be accepted if approved by DHS or the division director or designee.

(b) Group B documents are acceptable for applicants referenced in definition (8)(b) for a limited-term driver license, limited-term CDL or limited-term ID card with verification from SAVE:

(i) Unexpired employment authorization document (EAD) issued by DHS, Form I-766 or Form I-688B;

(ii) Unexpired foreign passport with documentary evidence of the applicant's most recent admittance into the United States;

(iii) A document issued by the U.S. Federal Government that provides proof of one of the statuses listed below verifies lawful entrance into the United States of America:

(A) Unexpired immigrant or nonimmigrant visa status for admission into the United States issued by the U.S. Federal Government;

(B) Pending or approved application for asylum in the United States;

(C) Admission into the United States as a refugee;

(D) Pending or approved application for temporary protected status in the United States;

(E) Approved deferred action status; or

(F) Pending application for adjustment of status to legal permanent resident or conditional resident.

(10) "SAVE Verification" means a document issued by the U.S. Federal government has been verified through the DHS SAVE, or such successor or alternate verification system approved by the Secretary of Homeland Security.

(11) "Social Security Number Evidence" means an official document(s) used to verify an individual's assigned U.S. Social Security Number (SSN) and must be verified through the Social Security On-Line Verification system (SSOLV) during every application process and includes:

(a) Social Security card issued by the U.S. government that has been signed and has not been laminated or;

(b) If the Social Security card is not available, the applicant may present one of the following documents which contain the applicant's name and SSN:

(i) W-2 form;

(ii) SSA-1099 form;

(iii) Non SSA-1099 form;

(iv) Pay stub showing the applicant's name and SSN; or

(v) Other documents approved by DHS or the division director or designee.

(12) "Social Security Number Ineligibility" means an individual is ineligible to receive a Social Security Number.

(13) "Social Security Number Ineligibility Evidence" means letter from the Social Security Administration indicating the individual is not eligible to receive a Social Security Number.

(14) "Undocumented Immigrant" means a person who does not meet the qualifications outlined in definition (8) and does not possess the documentation outlined in definition (9) and is only eligible for a DPC.

(15) "U.S. Citizen" means a native or naturalized person of the United States of America.

(16) "Utah Residence Address" means the place where an individual has a fixed permanent home and principal establishment in Utah and in which the individual voluntarily resides, that is not for a special or temporary purpose. Under unique situations that require an individual to be under temporary care, custody, or treatment of a government, public, or private business the division may authorize the sponsoring agency to sign an affidavit verifying the residence of the applicant. Upon approval of the division

director or designee, the division will recognize the sponsoring agency's address as the Utah residence address of the applicant.

(17) "Utah Residence Address Evidence" means the Utah residence address recorded on the Utah Driver License Division database unless otherwise determined by the division or, upon application for a Utah license certificate or ID card if the applicant's Utah residence address has not been recorded by the division or has changed from what is recorded on the division's database, two documents which display the applicant's name and principle Utah residence address including:

(a) Bank statement (dated within 60 days);

(b) Court documents;

(c) Current mortgage or rental contract;

(d) Major credit card bill (dated within 60 days);

(e) Property tax notice (statement or receipt dated within one year);

(f) School transcript (dated within 90 days);

(g) Utility bill (billing date within 60 days), cell phone bills will not be accepted;

(h) Valid Utah vehicle registration or title;

(i) Other documents acceptable to the division upon review, except that only one document printed from the internet may be accepted.

R708-41-4. Obtaining a Utah Learner Permit, Provisional License Certificate, Regular License Certificate, Limited-Term License Certificate, Driving Privilege Card, CDL certificate, Limited-Term CDL certificate, Identification card, or Limited-term Identification card.

(1) An individual who is applying for a Learner Permit must provide the following documents:

(a) One legal/lawful presence document as outlined in definition (9)(a) and one identity document as outlined in definition (6)(a); or

(b) One legal/lawful presence document as outlined in definition (9)(b) and one identity document as outlined in definition (6)(b); or

(c) Two identity documents as outlined in definition (6)(c) for undocumented immigrants; and

(d) Evidence of their SSN as outlined in definition (11), or evidence of their ineligibility to obtain a SSN as outlined in definition (12), or evidence of their ITIN as outlined in definition (7); and

(e) Evidence of their current Utah residence address as outlined in definition (17).

(2) An individual who is applying for a provisional license certificate, regular license certificate, CDL certificate, or identification card must provide the following documents, except that an applicant for an identification card does not need to comply with (2)(e):

(a) One legal/lawful presence document as outlined in definition (9)(a), unless previously recorded by the division during an application process on or after January 1, 2010; and

(b) One identity document as outlined in definition (6)(a), unless previously recorded by the division during an application process on or after January 1, 2010; and

(c) Evidence of their SSN as outlined in definition (11), unless previously recorded by the division during an application

process on or after January 1, 2010, or evidence of ineligibility to obtain a SSN as outlined in definition (12), except that applicants for a CDL must provide their Social Security card for every application; and

(d) Evidence of their current Utah residence address as outlined in definition (17); and

(e) Evidence of completion of a course in driver training approved by the commissioner, or evidence that the individual was issued a driving privilege in another state or country.

(f) CDL applicants must provide a current DOT Medical card.

(3) An individual who is applying for a renewal of a regular license certificate, provisional license certificate, or CDL certificate card must provide the following documents:

(a) One legal/lawful presence document as outlined in definition (9)(a), unless previously recorded by the division during an application process on or after January 1, 2010; and

(b) One identity document as outlined in definition (6)(a), unless previously recorded by the division during an application process on or after January 1, 2010; and

(c) Evidence of their SSN as outlined in definition (11), unless previously recorded by the division during an application process on or after January 1, 2010, or evidence of ineligibility to obtain a SSN as outlined in definition (12), except that applicants for a CDL must provide their Social Security card for every application; and

(d) Evidence of their current Utah residence address as outlined in definition (17).

(4) An individual who is applying for a duplicate of a regular license certificate, a provisional license certificate, or CDL certificate must provide the following documents:

(a) One legal/lawful presence document as outlined in definition (9)(a), unless previously recorded by the division during an application process on or after January 1, 2010; and

(b) One identity document as outlined in definition (6)(a), unless previously recorded by the division during an application process on or after January 1, 2010; and

(c) Evidence of their SSN as outlined in definition (11), unless previously recorded by the division during an application process on or after January 1, 2010, or evidence of ineligibility to obtain a SSN as outlined in definition (12), except that applicants for a CDL must provide their Social Security card for every application; and

(d) Evidence of their current Utah residence address as outlined in definition (17).

(5) An individual who is applying for a limited-term license certificate, limited-term provisional certificate, limited CDL certificate, or limited-term identification card must provide the following documents, except that an applicant applying for a limited-term identification card does not need to comply with (5) (e):

(a) One legal/lawful presence document as outlined in definition (9)(b); and

(b) One identity document as outlined in definition (6)(b) unless previously recorded by the division during an application process on or after January 1, 2010; and

(c) Evidence of their SSN as outlined in definition (11), unless previously recorded by the division during an application process on or after January 1, 2010, or evidence of ineligibility to

obtain a SSN as outlined in definition (12), except that applicants for a limited-term CDL must provide their Social Security card for every application; and

(d) Evidence of their current Utah residence address as outlined in definition (17); and

(e) Evidence of completion of a course in driver training approved by the commissioner, or evidence that the individual was issued a driving privilege in another state or country.

(6) An individual who is applying for a renewal of a limited-term license certificate, a limited-term provisional license certificate, or limited-term CDL certificate must provide the following documents:

(a) One legal/lawful presence document as outlined in definition (9)(b); and

(b) One identity document as outlined in definition (6)(b) unless previously recorded by the division during an application process on or after January 1, 2010; and

(c) Evidence of their SSN as outlined in definition (11), unless previously recorded by the division during an application process on or after January 1, 2010, or evidence of ineligibility to obtain a SSN as outlined in definition (12), except that applicants for a limited-term CDL must provide their Social Security card for every application; and

(d) Evidence of their current Utah residence address as outlined in definition (17);

(7) An individual who is applying for a duplicate of a limited-term license certificate, a limited-term provisional license certificate or a limited-term CDL certificate, must provide the following documents:

(a) One legal/lawful presence document as outlined in definition (9)(b); and

(b) One identity document as outlined in definition (6)(b) unless previously recorded by the division during an application process on or after January 1, 2010; and

(c) Evidence of their SSN as outlined in definition (11), unless previously recorded by the division during an application process on or after January 1, 2010, or evidence of ineligibility to obtain a SSN as outlined in definition (12), except that applicants for a limited-term CDL must provide their Social Security card for every application; and

(d) Evidence of their current Utah residence address as outlined in definition (17);

(8) An individual who is applying for a Driving Privilege card must provide the following documents:

(a) Two identity documents as outlined in definition (6) (c) for undocumented immigrants unless previously recorded by the division during an application process on or after January 1, 2010; and

(b) Evidence of a SSN as outlined in definition (11); or evidence of an ITIN as outlined in definition (7); and

(c) Evidence of their current Utah residence address as outlined in definition (17); and

(d) Evidence of completion of a course in driver training approved by the commissioner, or evidence that the individual was issued a driving privilege in another state or country.

(9) An individual who is applying for a renewal of a Driving Privilege card must provide the following documents:

(a) Two identity documents as outlined in definition (6) (c) for undocumented immigrants unless previously recorded by the

division during an application process on or after January 1, 2010; and

(b) Evidence of a SSN as outlined in definition (11); or evidence of an ITIN as outlined in definition (7); and

(c) Evidence of their current Utah residence address as outlined in definition (17).

(10) An individual who is applying for a duplicate of a Driving Privilege card must provide the following documents:

(a) Two identity documents as outlined in definition (6) (c) for undocumented immigrants unless previously recorded by the division during an application process on or after January 1, 2010; and

(b) Evidence of a SSN as outlined in definition (11); or evidence of an ITIN as outlined in definition (7); and

(c) Evidence of their current Utah residence address as outlined in definition (17).

R708-41-5. Exceptions.

This rule does not apply when issuing driver license certificates or identification cards in support of Federal, State, or local criminal justice agencies or other programs that require special licensing or identification or safeguard the persons or in support of their official duties.

R708-41-6. Document Storage.

All documents provided to the division by an applicant during a license certificate or identification card application process as proof of identity, proof of lawful/legal presence, proof of SSN, or ineligibility to obtain a SSN, ITIN, address verification, or proof of name change will be imaged and stored in a secure database with controlled access.

KEY: license certificate, limited-term license certificate, identification card, acceptable document[ation]s

Date of Enactment or Last Substantive Amendment: [September 23, 2008] January 1, 2010

Authorizing, and Implemented or Interpreted Law: 53-3-104, 53-3-205, 53-3-214, 53-3-410, 53-3-804

Tax Commission, Administration

R861-1A-36

Signatures Defined Pursuant to Utah
Code Ann. Sections 41-1a-209,
59-10-512, 59-12-107, 59-13-206,
59-13-107

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33047

FILED: 10/14/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment updates methods of meeting the statutory requirement of signing a tax return.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment indicates that taxpayers who file a tax return under the Individual Income Tax Act electronically and meet IRS signature requirements are deemed to meet Utah signature requirements; and taxpayers who file a corporate return electronically and meet IRS signature requirements are deemed to meet Utah signature requirements; repeals reference to Tax Express which is no longer in operation.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 41-1a-209 and Section 59-10-512 and Section 59-12-107 and Section 59-7-505

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** None--Matches current Tax Commission practice.

◆ **LOCAL GOVERNMENTS:** None--Matches current Tax Commission practice.

◆ **SMALL BUSINESSES:** None--Matches current Tax Commission practice.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--Matches current Tax Commission practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Taxpayers who file individual and corporate returns electronically with federal returns are no longer required to send in a separate Utah signature form.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts.

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

TAX COMMISSION

ADMINISTRATION

210 N 1950 W

SALT LAKE CITY, UT 84134-0002

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ D'Arcy Dixon by phone at 801-297-3906, by FAX at 801-297-3901, or by Internet E-mail at ddixon@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2009

AUTHORIZED BY: Pam Hendrickson, Commission Chair

R861. Tax Commission, Administration.

R861-1A. Administrative Procedures.

R861-1A-36. Signatures Defined Pursuant to Utah Code Ann. Sections 41-1a-209, 59-7-505, 59-10-512, 59-12-107, 59-13-206, and 59-13-307.

~~[A. "TaxExpress" means the filing of tax returns and tax payment information by telephone and Internet web site.~~

~~_____B. Taxpayers who file tax return information, other than electronic funds transfers, through the Tax Commission's TaxExpress system shall use the Tax Commission assigned personal identification number as their signature for all tax return information filed through that system.~~

~~_____C.](1) Individuals who submit an application to renew their vehicle registration on the Internet web site authorized by the Tax Commission shall use the Tax Commission assigned personal identification number included with their registration renewal information as their signature for the renewal application submitted over the Internet.~~

~~[D.](2) Taxpayers who use the Tax Commission authorized Internet web site to file tax return information for tax types that may be filed on that web site shall use the personal identification number provided by the Tax Commission as their signature for the tax return information filed on that web site.~~

~~[E.](3) Taxpayers who file [an individual income]a tax return under Title 59, Chapter 10, Individual Income Tax Act, electronically and who [met]meet the signature requirement of the Internal Revenue Service shall be deemed to meet the signature requirement of Section 59-10-512.~~

~~(4) Taxpayers who file a corporate franchise and income tax return electronically and who meet the signature requirement of the Internal Revenue Service shall be deemed to meet the signature requirement of Section 59-7-505.~~

KEY: developmentally disabled, grievance procedures, taxation, disclosure requirements

Date of Enactment or Last Substantive Amendment: [December 4, 2008]2009

Notice of Continuation: March 20, 2007

Authorizing, and Implemented or Interpreted Law: 41-1a-209, 59-7-505, 59-10-512, 59-12-107, 59-13-206, and 59-13-307

**Tax Commission, Auditing
R865-12L-14**

**Quarterly List of Local Sales and Use
Tax Distributions Pursuant to Utah
Code Ann. Section 59-12-109**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33048

FILED: 10/14/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: S.B. 235 (2009 General Session) enacted Section 59-12-210.1. This section requires the commission to define, by rule, "extraordinary circumstances" that trigger the commission to redistribute sales tax dollars from an original recipient of those dollars to a secondary recipient. (DAR NOTE: S.B. 235 (2009) is found at Chapter 240, Laws of Utah 2009, and was effective 05/12/2009.)

SUMMARY OF THE RULE OR CHANGE: The proposed rule defines "extraordinary circumstances" as certain errors that impact sales tax distribution to a locality by \$10,000 or more; provides that a notice of redistribution will be sent only if a locality is impacted \$1,000 or more by a redistribution.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-12-210 and Section 59-12-210.1

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: None--Any impacts were considered in S.B. 235 (2009).
- ◆ LOCAL GOVERNMENTS: None--Any impacts were considered in S.B. 235 (2009).
- ◆ SMALL BUSINESSES: None--Any impacts were considered in S.B. 235 (2009).
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None--Any impacts were considered in S.B. 235 (2009).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The criteria in this proposed change will trigger redistributions of local sales tax revenues previously distributed. As a result of these redistributions, some local entities will receive increased revenues, while others will receive decreased revenues.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are none. The rule impacts local sales tax distributions in limited instances.

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

TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY, UT 84134
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ D'Arcy Dixon by phone at 801-297-3906, by FAX at 801-297-3901, or by Internet E-mail at ddixon@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2009

AUTHORIZED BY: Pam Hendrickson, Commission Chair

R865. Tax Commission, Auditing.

R865-12L. Local Sales and Use Tax.

R865-12L-14. ~~Quarterly List of~~ Local Sales and Use Tax Distributions and Redistributions Pursuant to Utah Code Ann. ~~Section 59-12-109~~ Sections 59-12-210 and 59-12-210.1.

(1) For purposes of making a redistribution of sales and use tax revenues under Section 59-12-210.1:

(a) "de minimis" means less than \$1,000; and

(b) "extraordinary circumstances" means the following circumstances that the commission becomes aware of:

(i) an error in the commission's tax systems or procedures that increases or decreases the overall distribution of sales and use tax revenues to a county, city, or town by \$10,000 or more; or

(ii) an error in the calculation, collection, or reporting of a locally imposed sales and use tax by a significant segment of an industry if the error increases or decreases the overall distribution of sales and use tax revenues to a county, city, or town by \$10,000 or more.

~~[A-](2) [Upon receipt of a written request from the head of a political subdivision of the state of Utah, the Tax Commission shall periodically furnish the governing body quarterly] The commission shall, on a monthly basis, furnish each county, city, and town with the listings of local ~~sales/use~~ sales and use taxes remitted ~~[by businesses]~~ for transactions located within the ~~political subdivision~~ county, city, or town.~~

~~[+](a) After receiving each listing, the ~~governing body of the political subdivision~~ county, city, or town shall advise the ~~Tax Commission~~ commission within 90 days:~~

~~[(a)(i) [that] if the listing is ~~correct, or alternatively~~ incorrect; and~~

~~[(b)(ii) make corrections regarding firms omitted from the list or firms listed but not doing business in their taxing jurisdiction.~~

~~[2-](b) [Once the Tax Commission receives notification from a political subdivision] The commission shall make subsequent distributions based on the notification the commission receives from a county, city, or town under Subsection (2)(a) [that the listing is correct, or corrects any errors disclosed on the list, subsequent distributions will be based on that listing as verified or adjusted].~~

~~[3- If the governing body of the political subdivision fails to notify the Tax Commission of any omitted businesses within the ninety-day period, the political subdivision is precluded from making any claims based upon such omission and the Tax Commission shall not be held liable for any such omissions.~~

~~B. The information furnished is confidential data. No official or employee of a municipality or county shall use this local sales and use tax information for other than tax or license purposes. The written request for informational listings must acknowledge these confidentiality provisions and accept responsibility for safeguarding the listings.] (3) If a redistribution is required by Section 59-12-210.1, the commission shall provide the notice of redistribution described in Subsection 59-12-210.1(2) to each original and secondary recipient political subdivision that is impacted by the redistribution in an amount that exceeds the de minimis amount.~~

KEY: taxation, sales tax, restaurants, collections

Date of Enactment or Last Substantive Amendment: ~~January 4], 2009~~

Notice of Continuation: March 16, 2007

Authorizing, and Implemented or Interpreted Law: 59-12-210 and 59-12-210.1

**Tax Commission, Auditing
R865-20T-14
Directory of Cigarettes Approved for
Stamping Pursuant to Utah Code Ann.
Sections 59-14-603 and 59-14-607**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33044

FILED: 10/13/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 59-14-603 requires the commission to publish a directory of cigarettes approved for sale on its website. Section 59-14-607 provides the commission rulemaking authority to make rules regarding that directory.

SUMMARY OF THE RULE OR CHANGE: The proposed section provides that the directory of cigarettes approved for stamping shall be updated on the first business day of each month, and that additions or modifications shall be made to the directory on the next scheduled update after 30 days notice to the commission.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-14-603 and Section 59-14-607

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** None--Since current statutes require modifications or additions to the directory be made by supplemental certificate 30 days in advance, the proposed rule only modifies the statute by stating that changes will be published in the directory on the first business day of each month.

♦ **LOCAL GOVERNMENTS:** None--Since current statutes require modifications or additions to the directory be made by supplemental certificate 30 days in advance, the proposed rule only modifies the statute by stating that changes will be published in the directory on the first business day of each month.

♦ **SMALL BUSINESSES:** None--Since current statutes require modifications or additions to the directory be made by supplemental certificate 30 days in advance, the proposed rule only modifies the statute by stating that changes will be

published in the directory on the first business day of each month.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None--Since current statutes require modifications or additions to the directory be made by supplemental certificate 30 days in advance, the proposed rule only modifies the statute by stating that changes will be published in the directory on the first business day of each month.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Since current statutes require modifications or additions to the directory be made by supplemental certificate 30 days in advance, the proposed rule only modifies the statute by stating that changes will be published in the directory on the first business day of each month.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts.

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

TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY, UT 84134
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ D'Arcy Dixon by phone at 801-297-3906, by FAX at 801-297-3901, or by Internet E-mail at ddixon@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2009

AUTHORIZED BY: Pam Hendrickson, Commission Chair

R865. Tax Commission, Auditing.

R865-20T. Tobacco Tax.

R865-20T-14. Directory of Cigarettes Approved for Stamping Pursuant to Utah Code Ann. Sections 59-14-603 and 59-14-607.

(1) The commission shall update the directory of cigarettes approved for stamping required under Section 59-14-603 on the first business day of each month.

(2) Additions or modifications of brand families shall be by supplemental certification delivered to the commission by the manufacturer no later than 30 days before the next scheduled monthly update of the directory.

(3) Approved brand family additions or modifications shall be made to the directory on the next scheduled monthly update only if the manufacturer submitted a complete and accurate supplemental certification with requested additions or modifications 30 days prior to the scheduled monthly directory update.

(4) If the manufacturer does not submit a complete and accurate supplemental certification to the commission within 30 days of the next scheduled monthly update, approved brand family additions or modifications will not be made to the directory until the following monthly update.

(5) Directory updates between the regularly scheduled monthly updates are generally only permitted to correct errors or omissions in the directory made by the commission.

KEY: taxation, tobacco products

Date of Enactment or Last Substantive Amendment: [~~August 18, 2008~~2009]

Notice of Continuation: March 19, 2007

Authorizing, and Implemented or Interpreted Law: 59-14-603; 59-14-607

Tax Commission, Motor Vehicle
R873-22M-41
Issuance of Salvage Certificate in
Certain Circumstances Pursuant to
Utah Code Ann. Section 41-1a-1005

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33050

FILED: 10/14/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment clarifies the criteria an insurance company must satisfy to receive a salvage certificate in certain circumstances.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment clarifies that when an insurance company applies to the commission to receive a salvage certificate for a vehicle for which the owner of the salvage vehicle does not provide title for the vehicle to the insurance company, or provides an improperly endorsed title, the insurance company must provide evidence to the commission that the letters sent requesting information from the vehicle's registered owner were also sent to any lienholder of the salvage vehicle.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 41-1a-1005

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: None--The proposed amendment reflects current commission requirements.

◆ LOCAL GOVERNMENTS: None--The proposed amendment reflects current commission requirements.

♦ **SMALL BUSINESSES:** None--The proposed amendment reflects current commission requirements.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--The proposed amendment reflects current commission requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The proposed amendment reflects current commission requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts.

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

TAX COMMISSION
MOTOR VEHICLE
210 N 1950 W
SALT LAKE CITY, UT 84134
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ D'Arcy Dixon by phone at 801-297-3906, by FAX at 801-297-3901, or by Internet E-mail at ddixon@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2009

AUTHORIZED BY: Pam Hendrickson, Commission Chair

R873. Tax Commission, Motor Vehicle.

R873-22M. Motor Vehicle.

R873-22M-41. Issuance of Salvage Certificate in Certain Circumstances Pursuant to Utah Code Ann. Section 41-1a-1005.

(1) Subject to Subsection (3), an insurance company shall receive a salvage certificate in the insurance company's name if the insurance company provides the commission:

(a) evidence that the insurance company has declared a particular vehicle a salvage vehicle;

(b) a copy of the check issued to the registered owner of the vehicle; and

(c) a copy of at least two letters the insurance company has mailed to the registered owner of the vehicle and any lien holder of that vehicle requesting:

(i) in the case of an insurance company that has not received a certificate of title from the registered owner of the vehicle, a copy of the certificate of title or other evidence of ownership; or

(ii) in the case of an insurance company that has received an improperly endorsed certificate of title from the registered owner of the vehicle, correction of the improperly endorsed certificate of title.

(2) The information described in Subsection (1) shall accompany the Application for Utah Title.

(3) If the requirements of Subsections (1) and (2) are satisfied, the Motor Vehicle Division shall issue a salvage certificate to an insurance company:

(a) in the case of an insurance company that has not received a certificate of title from the registered owner of the vehicle, no sooner than 30 days from the settlement of the loss; or

(b) in the case of an insurance company that has received an improperly endorsed certificate of title from the registered owner of the vehicle, no sooner than 30 days from the insurance company's receipt of an improperly endorsed certificate of title.

KEY: taxation, motor vehicles, aircraft, license plates

Date of Enactment or Last Substantive Amendment: [January 4], 2009

Notice of Continuation: March 12, 2007

Authorizing, and Implemented or Interpreted Law: 41-1a-1005

**Tax Commission, Motor Vehicle
Enforcement
R877-23V-6
Issuance of In-Transit Permits Pursuant
to Utah Code Ann. Section 41-3-305**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33046

FILED: 10/13/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 41-3-305 allows the Motor Vehicle Enforcement Division to issue 96-hour in-transit permits through rulemaking.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment provides criteria for the issuance of 96-hour in-transit permits to entities in the business of auctioning motor vehicles.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 41-3-305

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** None--The proposed amendments reflects long-standing commission practice.

♦ **LOCAL GOVERNMENTS:** None--The proposed amendments reflects long-standing commission practice.

♦ **SMALL BUSINESSES:** None--The proposed amendments reflects long-standing commission practice.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None--The proposed amendments reflects long-standing commission practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The proposed amendments reflects long-standing commission criteria for issuing 96-hour in-transit permits.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts.

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

TAX COMMISSION
MOTOR VEHICLE ENFORCEMENT
210 N 1950 W
SALT LAKE CITY, UT 84134
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
◆ D'Arcy Dixon by phone at 801-297-3906, by FAX at 801-297-3901, or by Internet E-mail at ddixon@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2009

AUTHORIZED BY: Pam Hendrickson, Commission Chair

**R877. Tax Commission, Motor Vehicle Enforcement.
R877-23V. Motor Vehicle Enforcement.
R877-23V-6. Issuance of In-Transit Permits Pursuant to Utah Code Ann. Section 41-3-305.**

~~[A-](1)(a)~~ Transported semitractors are piggy-backed when all of the semitractors being transported are touching the ground.

~~(b) Each piggy-backed vehicle must have a separate in-transit permit or be properly registered for operation in Utah.~~

~~[B-](2)~~ In-transit permits may not be issued for loaded motor vehicles over 12,000 pounds gross laden weight.

~~[C- Each piggy-backed vehicle must have a separate in-transit permit or be properly registered for operation in Utah.~~

~~D-](3)~~ A semitractor hauling unlicensed trailers must obtain an in-transit permit for any trailer in contact with the ground.

~~(4) Subject to Subsections (5) and (6), the following entities may issue in-transit permits:~~

~~(a) a licensed dealer that is primarily engaged in the business of auctioning consigned motor vehicles to other dealers or the public; and~~

~~(b) a state or local government agency that is engaged in the business of auctioning motor vehicles to dealers or the public.~~

~~(5) An entity issuing an in-transit permit under Subsection (4) shall maintain records of all in-transit permits obtained from the division. These records shall include:~~

- ~~(a) vehicle purchaser information;~~
- ~~(b) vehicle identification number; and~~
- ~~(c) evidence that the purchaser has met the requirements for issuance of the in-transit permit.~~
- ~~(6) An entity described in Subsection (4) that fails to maintain the records required under Subsection (5) may be prohibited from issuing in-transit permits.~~

KEY: taxation, motor vehicles
Date of Enactment or Last Substantive Amendment: [March 3], 2009
Notice of Continuation: March 14, 2007
Authorizing, and Implemented or Interpreted Law: 41-3-305

**Tax Commission, Property Tax
R884-24P-52
Criteria for Determining Primary
Residence Pursuant to Utah Code Ann.
Sections 59-2-102, 59-2-103, and
59-2-103.5**

**NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33043
FILED: 10/13/2009**

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment corrects an incorrect statutory citation and clarifies the residential exemption.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment replaces the incorrect statutory citation for the definition of "household" with the correct statutory citation; clarifies an additional exception to the rule that the residential exemption is limited to one primary residence per household.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-2-102 and Section 59-2-103 and Section 59-2-103.5

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: None--The proposed amendments reflect current commission practice.
- ◆ LOCAL GOVERNMENTS: None--The proposed amendments reflect current commission practice.
- ◆ SMALL BUSINESSES: None--The proposed amendments reflect current commission practice.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None--The proposed amendments reflect current commission practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The proposed amendments reflect current commission practice.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts.

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

TAX COMMISSION
PROPERTY TAX
210 N 1950 W
SALT LAKE CITY, UT 84134
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ D'Arcy Dixon by phone at 801-297-3906, by FAX at 801-297-3901, or by Internet E-mail at ddixon@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/01/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2009

AUTHORIZED BY: Pam Hendrickson, Commission Chair

R884. Tax Commission, Property Tax.

R884-24P. Property Tax.

R884-24P-52. Criteria for Determining Primary Residence Pursuant to Utah Code Ann. Sections 59-2-102, 59-2-103, and 59-2-103.5.

[A-](1) "Household" is as defined in Section [59-2-1202]59-2-102.

[B-](2) "Primary residence" means the location where domicile has been established.

[C-](3) Except as provided in [D-]Subsections (4) and [F-3-](6)(c) and (f), the residential exemption provided under Section 59-2- 103 is limited to one primary residence per household.

[D-](4) An owner of multiple properties may receive the residential exemption on all properties for which the property is the primary residence of the tenant.

[E-](5) Factors or objective evidence determinative of domicile include:

[1-](a) whether or not the individual voted in the place he claims to be domiciled;

[2-](b) the length of any continuous residency in the location claimed as domicile;

[3-](c) the nature and quality of the living accommodations that an individual has in the location claimed as domicile as opposed to any other location;

[4-](d) the presence of family members in a given location;

[5-](e) the place of residency of the individual's spouse or the state of any divorce of the individual and his spouse;

[6-](f) the physical location of the individual's place of business or sources of income;

[7-](g) the use of local bank facilities or foreign bank institutions;

[8-](h) the location of registration of vehicles, boats, and RVs;

[9-](i) membership in clubs, churches, and other social organizations;

[10-](j) the addresses used by the individual on such things as:

[a-](i) telephone listings;

[b-](ii) mail;

[e-](iii) state and federal tax returns;

[d-](iv) listings in official government publications or other correspondence;

[e-](v) driver's license;

[f-](vi) voter registration; and

[g-](vii) tax rolls;

[11-](k) location of public schools attended by the individual or the individual's dependents;

[12-](l) the nature and payment of taxes in other states;

[13-](m) declarations of the individual:

[a-](i) communicated to third parties;

[b-](ii) contained in deeds;

[e-](iii) contained in insurance policies;

[d-](iv) contained in wills;

[e-](v) contained in letters;

[f-](vi) contained in registers;

[g-](vii) contained in mortgages; and

[h-](viii) contained in leases.

[14-](n) the exercise of civil or political rights in a given location;

[15-](o) any failure to obtain permits and licenses normally required of a resident;

[16-](p) the purchase of a burial plot in a particular location;

[17-](q) the acquisition of a new residence in a different location.

[F-](6) Administration of the Residential Exemption.

[1-](a) Except as provided in [F-2-, F-4-, and F-5-]Subsections (6)(b), (d), and (e), the first one acre of land per residential unit shall receive the residential exemption.

[2-](b) If a parcel has high density multiple residential units, such as an apartment complex or a mobile home park, the amount of land, up to the first one acre per residential unit, eligible to receive the residential exemption shall be determined by the use of the land. Land actively used for residential purposes qualifies for the exemption.

[3-](c) If the county assessor determines that a property under construction will qualify as a primary residence upon completion, the property shall qualify for the residential exemption while under construction.

[4-](d) A property assessed under the Farmland Assessment Act shall receive the residential exemption only for the homesite.

[5-](e) A property with multiple uses, such as residential and commercial, shall receive the residential exemption only for the percentage of the property that is used as a primary residence.

[6-](f) If the county assessor determines that an unoccupied property will qualify as a primary residence when it is occupied, the property shall qualify for the residential exemption while unoccupied.

[7-a)(g)(i) An application for the residential exemption required by an ordinance enacted under Section 59-2-103.5 shall contain the following information for the specific property for which the exemption is requested:

[(+)(A) the owner of record of the property;

[(2)(B) the property parcel number;

[(3)(C) the location of the property;

[(4)(D) the basis of the owner's knowledge of the use of the property;

[(5)(E) a description of the use of the property;

[(6)(F) evidence of the domicile of the inhabitants of the property; and

[(7)(G) the signature of all owners of the property certifying that the property is residential property.

[b)(ii) The application under [F-7-a)Subsection (6)(g)(i) shall be:

[(+)(A) on a form provided by the county; or

[(2)(B) in a writing that contains all of the information listed in [F-7-a)Subsection (6)(g)(i).

KEY: taxation, personal property, property tax, appraisals
Date of Enactment or Last Substantive Amendment: [March 3], 2009
Notice of Continuation: March 12, 2007
Authorizing, and Implemented or Interpreted Law: 59-2-102, 59-2-103, and 59-2-103.5.

End of the Notices of Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended 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 upon filing.

NOTICES are governed by Section 63G-3-305.

Health, Health Care Financing, Coverage and Reimbursement Policy **R414-31** Inpatient Psychiatric Services for Individuals Under Age 21

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 33022
FILED: 10/05/2009

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-1-5 grants the Department of Health the power to adopt, amend, or rescind rules that shall have the force and effect of law. In addition, 42 USC 1396d(a) authorizes provision of this service.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because it outlines inpatient psychiatric services for individuals under age 21.

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 by phone at 801-538-6381, by FAX at 801-538-6099, or by Internet E-mail at kmcnutt@utah.gov

AUTHORIZED BY: David Sundwall, MD, Executive Director

EFFECTIVE: 10/05/2009

Health, Health Care Financing, Coverage and Reimbursement Policy **R414-33B** Substance Abuse Targeted Case Management

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 33058
FILED: 10/14/2009

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS

ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-1-5 grants the Department of Health the power to adopt, amend, or rescind rules that shall have the force and effect of law. In addition, 42 U.S.C. Sec.1396n(g) authorizes the Department to govern targeted case management services.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because it outlines eligibility requirements, access requirements, service coverage, and reimbursement for Medicaid clients receiving targeted case management services.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Kimi McNutt by phone at 801-538-6381, by FAX at 801-538-6099, or by Internet E-mail at kmcnutt@utah.gov

AUTHORIZED BY: David Sundwall, MD, Executive Director

EFFECTIVE: 10/14/2009

Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-34
Substance Abuse Services

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 33059
FILED: 10/14/2009

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-1-5 grants the Department of Health the power to adopt, amend, or rescind rules that shall have the force and effect of law. In addition, 42 CFR 440.130 authorizes the Department to provide substance abuse services to Medicaid clients.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because it outlines eligibility requirements, access requirements, service coverage, and reimbursement for Medicaid clients receiving substance abuse services.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Kimi McNutt by phone at 801-538-6381, by FAX at 801-538-6099, or by Internet E-mail at kmcnutt@utah.gov

AUTHORIZED BY: David Sundwall, MD, Executive Director

EFFECTIVE: 10/14/2009

Human Services, Aging and Adult
Services
R510-104
Nutrition Programs for the Elderly
(NPE)

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 33028
FILED: 10/08/2009

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The rule is enacted under rulemaking authority granted to the Utah Division of Aging and Adult Services by Section 62A-3-104 and by the Older Americans Act, which requires the maintenance of a nutrition program for the elderly as a condition of the state receiving federal funding.

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 THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: As stated above, the state is required to create and maintain a nutrition program for the elderly in order to be considered a State Unit on Aging by the federal government and to continue receiving federal funding. Therefore, this rule should be continued.

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

HUMAN SERVICES
AGING AND ADULT SERVICES
ROOM 325
120 N 200 W
SALT LAKE CITY, UT 84103-1500
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at nholmgren@utah.gov

AUTHORIZED BY: Nels Holmgren, Director

EFFECTIVE: 10/08/2009

**Insurance, Administration
R590-194**

**Coverage of Dietary Products for
Inborn Errors of Amino Acid or Urea
Cycle Metabolism**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 33031
FILED: 10/08/2009

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is promulgated pursuant to Subsections 31A-2-201(1) and 31A-2-201(3)(a) in which the commissioner is empowered to administer and enforce this title and to make rules to implement the provisions of this title. The authority to set minimum standards by rule for coverage of dietary products for inborn errors of amino acid or urea cycle metabolism is provided by Subsection 31A-22-623(2).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has not received any written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes minimum standards of coverage for dietary products, including formulas and low protein modified food products, which are required to be covered by insurers and are used for the treatment of inborn errors of amino acid or urea cycle metabolism. This coverage will be provided at levels consistent with the major medical benefit provided under a disability insurance policy. This rule entails the identification of a uniform billing code standard to be used by health insurers to expedite the processing of claims covering dietary formulas in conjunction with the treatment of these specific inborn metabolic errors. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Jilene Whitby by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 10/08/2009

**Natural Resources, Water Rights
 R655-4
 Water Well Drillers**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**

DAR FILE NO.: 33040

FILED: 10/13/2009

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 73-2-1(4)(b): The state engineer shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with the purposes and provisions of this title, regarding: the construction of water wells and licensing of water well drillers. Subsection 73-3-25(3): The state engineer may make rules establishing: the amount, form, and general administrative requirements of a water well driller bond, the amount of a well driller fine, minimum well drilling standards, well driller reporting requirements, the requirements for obtaining a well driller license, a procedure to enforce well drilling standards, or other well drilling requirement.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments received during and since the last five-year review of the rule either in support of or in opposition to the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule should continue because there is an ongoing need to regulate the construction of wells that take water from or interact with the groundwater aquifers of the state to ensure adequate protection of those aquifers. There is also an ongoing need to license water well drillers to ensure they are qualified to construct water wells for the protection of well owners and the state's groundwater aquifers.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 NATURAL RESOURCES
 WATER RIGHTS
 ROOM 220
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Kaelyn Anfinen by phone at 801-538-7370, by FAX at 801-538-7442, or by Internet E-mail at kaelynanfinen@utah.gov

AUTHORIZED BY: Kent Jones, State Engineer/Director

EFFECTIVE: 10/13/2009

**Public Safety, Highway Patrol
 R714-500
 Chemical Analysis Standards and
 Training**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**

DAR FILE NO.: 33024

FILED: 10/05/2009

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Section 41-6a-515 which requires the commissioner of the Department of Public Safety to establish standards for the administration and interpretation of chemical analysis of a person's breath, including standards of training.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Over the past five years, the Utah Highway Patrol has not received comments from any party opposing or supporting this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Chemical Analysis Standards and Training rule sets the standards used by officers in the state to utilize the breath testing instrument. It also sets forth the

requirements to become a breath testing technician. The rule also establishes the requirement for an instrument to be used to collect breath test samples to test for alcohol. This rule is frequently used in courts by both prosecutors and defense attorneys. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED,
DURING REGULAR BUSINESS HOURS, AT:
PUBLIC SAFETY
HIGHWAY PATROL
CALVIN L RAMPTON COMPLEX

4501 S 2700 W
SALT LAKE CITY, UT 84119-5994
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Steve Winward by phone at 801-256-2326, by FAX at 801-256-0600, or by Internet E-mail at swinward@utah.gov

AUTHORIZED BY: Lance Davenport, Commissioner

EFFECTIVE: 10/05/2009

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 Subsections 63G-3-305(4) and (5).

Technology Services, Administration
R895-10
Standards, Best Practices, and
Institutional Knowledge Requirements
for Executive Branch Agencies

FIVE-YEAR REVIEW EXTENSION

DAR FILE NO.: 33019

FILED: 10/05/2009

EXTENSION REASON AND NEW DEADLINE: The Department of Technology Services is currently reviewing the rule to determine if the IT Council is a duplication of duties of other councils formed in the agency, such as the Architecture Review Board. New deadline: 03/08/2010.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Stephanie Weiss by phone at 801-538-3284, by FAX at 801-538-3622, or by Internet E-mail at stweiss@utah.gov

AUTHORIZED BY: J Stephen Fletcher , CIO and Executive Director

EFFECTIVE: 10/05/2009

End of the Notices of Five-Year Review Extensions Section

NOTICES OF FIVE-YEAR EXPIRATIONS

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).

Health, Health Systems Improvement,
Emergency Medical Services

R426-100

Emergency Medical Services Do Not
Resuscitate

FIVE-YEAR EXPIRATION

DAR FILE NO.: 33026

FILED: 10/05/2009

SUMMARY: Because a five-year review was not filed, the rule has expired and is removed from the Administrative Code.

EFFECTIVE: 10/02/2009

End of the Notices of Notices of Five Year Expirations Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES OF CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to file a notice of effective date any time after the close of comment plus seven days. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to file a notice of effective date on any date including or after the thirtieth day after the rule's publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses and the agency must start the rulemaking process over.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), 63G-3-303, and Sections R15-4-5a and 5b.

Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal & Reenact

REP = Repeal

Administrative Services

Facilities Construction and Management

No. 32772 (NEW): R23-23. Health Reform -- Health

Insurance Coverage in State Contracts -- Implementation

Published: 07/15/2009

Effective: 10/08/2009

No. 32772 (CPR): R23-23. Health Reform -- Health

Insurance Coverage in State Contracts -- Implementation

Published: 09/01/2009

Effective: 10/08/2009

Fleet Operations

No. 32886 (AMD): R27-4. Vehicle Replacement and

Expansion of State Fleet

Published: 09/01/2009

Effective: 10/08/2009

Records Committee

No. 32684 (AMD): R35-1-1. Scheduling Committee Meetings

Published: 06/15/2009

Effective: 10/13/2009

No. 32685 (AMD): R35-1-2. Procedures for Appeal Hearings

Published: 06/15/2009

Effective: 10/13/2009

No. 32686 (AMD): R35-3-2. Scheduling Prehearing
Conferences

Published: 06/15/2009

Effective: 10/13/2009

Capitol Preservation Board (State)

Administration

No. 32778 (NEW): R131-13. Health Reform -- Health

Insurance Coverage in State Contracts -- Implementation

Published: 07/15/2009

Effective: 10/08/2009

No. 32778 (CPR): R131-13. Health Reform -- Health

Insurance Coverage in State Contracts -- Implementation

Published: 09/01/2009

Effective: 10/08/2009

Health

No. 32882 (R&R): R414-501. Preadmission and continued

Stay Review

Published: 09/01/2009

Effective: 10/14/2009

Transportation

Motor Carrier

No. 32819 (AMD): R909-19. Safety Regulations for Tow

Truck Operations - Tow Truck Requirements for Equipment,

Operation and Certification

Published: 08/01/2009

Effective: 10/15/2009

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, 2009, including notices of effective date received through October 15, 2009. 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 is not included in this issue of the Utah State Bulletin. The release of eRules version 2.0 has introduced different functionality with regards to the index; this functionality has yet to be fully tested. Persons interested in alternative methods of acquiring the same information should visit "Researching Administrative Rules" at: <http://www.rules.utah.gov/research.htm>

Questions regarding the index and the information it contains should be addressed to 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/>).
