

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah State Government. The Department of Administrative Services, Division of Administrative Rules produces the *Bulletin* under authority of Section 63G-3-402.

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, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3764, FAX 801-537-9240. 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

Health Health Care Financing, Coverage and Reimbursement Policy

Notice for July 2012 Medicaid Rate Changes

Effective July 1, 2012, Utah Medicaid will adjust its rates consistent with legislative intent and appropriations. Rate adjustments include new codes priced consistent with approved Medicaid methodologies as well as potential adjustments to existing codes. Nursing home rate changes will include adjustments to the flat rate, fair rental value and case mix components consistent with adopted payment methodology. All rate changes are posted to the web and can be viewed at: <http://health.utah.gov/medicaid/stplan/bcrp.htm>

Health Health Care Financing, Coverage and Reimbursement Policy

Medicaid Physician Reimbursement

The Division of Medicaid and Health Financing (DMHF) is submitting changes to the Medicaid State Plan through Attachment 4.19-B, SPA 12-002-UT Reimbursement for Physician and Anesthesia Services. The changes proposed would require that the physician fee schedule be updated annually using then current relative value units and a budget neutral conversion factor to establish rates. It proposes annual updates to the anesthesia fee schedule. It also makes other technical changes (e.g., removal of the "Rate Adjustment -- Access" program which is no longer in practice).

DMHF does not anticipate any impact to the budget as a result of this amendment.

The proposed effective date for these changes is July 1, 2012. The amendment is pending Centers for Medicare and Medicaid Services approval.

A copy of the changes may be obtained from Craig Devashrayee (801-538-6641), or by writing the Technical Writing Unit, Utah Department of Health, P.O. Box 143102, Salt Lake City, UT 84114-3102. Comments are welcome at the same address. Copies of the changes are also available at local county health department offices.

Health Health Care Financing, Coverage and Reimbursement Policy

Federally Qualified Health Centers

The Division of Medicaid and Health Financing (DMHF) is submitting a change to the Medicaid State Plan through Attachment 4.19-B, SPA 12-006-UT Federally Qualified Health Centers. The purpose of this change is to clarify alternative payment methods for federally qualified health centers (FQHCs). This amendment, therefore, clarifies that a FQHC must calculate only covered beneficiary charges when it calculates the Ratio of Beneficiary Charges to Total Charges Applied to Allowable Cost as part of its agreement with the federal government.

DMHF does not anticipate any impact to total annual expenditures as a result of this amendment.

The proposed effective date of this change is July 1, 2012, and it is pending Centers for Medicare and Medicaid Services approval.

A copy of the change may be obtained from Craig Devashrayee (801-538-6641), or by writing the Technical Writing Unit, Utah Department of Health, P.O. Box 143102, Salt Lake City, UT 84114-3102. Comments are welcome at the same address. Copies of the change are also available at local county health department offices.

Health
Health Care Financing, Coverage and Reimbursement Policy
Increase of Dental Benefits

The Division of Medicaid and Health Financing is submitting a change to the Utah Medicaid State Plan. In accordance with mandates set forth in the 2012 General Session of the Utah Legislature, [SPA 12-007-UT Dental Services](#) will allow limited emergency dental services for non-pregnant clients and non-EPSTD clients.

The total annual expenditures that result from this amendment are approximately \$832,225. Policy regarding this change is available on the Utah Medicaid website at <http://health.utah.gov/medicaid/>.

The proposed effective date of this change is July 1, 2012, and it is pending Centers for Medicare and Medicaid Services approval.

A copy of the change may be obtained from Craig Devashrayee (801-538-6641), or by writing the Technical Writing Unit, Utah Department of Health, P.O. Box 143102, Salt Lake City, UT 84114-3102. Comments are welcome at the same address. Copies of the change are also available at local county health department offices.

Health
Health Care Financing, Coverage and Reimbursement Policy
Rehabilitative Services

The Division of Medicaid and Health Financing (DMHF) will submit a change to the Medicaid State Plan to recognize the capitation of outpatient substance abuse treatment services for Medicaid recipients.

To accomplish this purpose, DMHF will submit [SPA 12-010-UT Rehabilitative Mental Health and Substance Abuse Treatment Services](#), which adds outpatient substance abuse treatment services to the Prepaid Mental Health Plan Waiver in all counties except for Box Elder County, Cache County, and Rich County.

DMHF does not anticipate any impact to total annual expenditures as a result of this amendment.

The proposed effective date of this change is July 1, 2012, and it is pending Centers for Medicare and Medicaid Services approval.

A copy of the change may be obtained from Craig Devashrayee (801-538-6641), or by writing the Technical Writing Unit, Utah Department of Health, P.O. Box 143102, Salt Lake City, UT 84114-3102. Comments are welcome at the same address. Copies of the change are also available at local county health department offices.

Health
Health Care Financing, Coverage and Reimbursement Policy
Rural Hospital Disproportionate Share Payments

The Division of Medicaid and Health Financing is submitting a change to the Medicaid State Plan. Attachment 4.19-A, [SPA 12-009-UT DSH Payments](#), proposes a change to the current reimbursement methodology for Disproportionate Share Hospital (DSH) payments to General Acute Rural Hospitals.

This change will allow non-government hospitals that have the support of a government entity (e.g., Special Services District, County government) for the non-federal match dollars to participate in the DSH payments outlined in Section 415.

It is anticipated that total annual expenditures will not be affected by this change.

This proposed change, if approved, becomes effective on July 1, 2012. The proposed change is pending Centers for Medicare and Medicaid Services approval.

A copy of this change may be obtained from Craig Devashrayee (801-538-6641), or by writing the Technical Writing Unit, Utah Department of Health, P.O. Box 143102, Salt Lake City, UT 84114-3102. Comments are welcome at the same address. Copies of this change are also available at local county health department offices.

Health
Health Care Financing, Coverage and Reimbursement Policy
Medicaid Will Deny Payment for Provider-Preventable Conditions

The Division of Medicaid and Health Financing (DMHF) is submitting a change to the Medicaid State Plan (SPA 11-009-UT, Provider-Preventable Conditions).

In addition to Attachment 4.19-A of this State Plan Amendment, which DMHF previously submitted to include provisions for provider-preventable conditions, Attachment 4.19-B is amended to note that Medicaid will not reimburse providers for other provider-preventable conditions that include incorrectly applied surgeries and procedures. The Division is adopting this change in accordance with 42 CFR 447.26.

DMHF anticipates no substantive cost decrease as provider-preventable conditions are generally not billed to the Medicaid program by providers in Utah.

This proposed change, if approved, becomes effective on July 1, 2012. The proposed change is pending Centers for Medicare and Medicaid Services approval.

A copy of the change may be obtained from Craig Devashrayee (801-538-6641), or by writing the Technical Writing Unit, Utah Department of Health, P.O. Box 143102, Salt Lake City, UT 84114-3102. Comments are welcome at the same address. Copies of the change are also available at local county health department offices.

Health
Health Care Financing, Coverage and Reimbursement Policy
Medicaid Home Health Reimbursement

The Division of Medicaid and Health Financing (DMHF) is submitting changes to the Medicaid State Plan through Attachment 4.19-B, SPA 12-012-UT Reimbursement for Home Health Services. The changes proposed will update the date the agency's rates are set to July 1, 2012. This change is being done based on additional budget appropriations from the Utah Legislature.

DMHF anticipates an annual increase in total expenditures of \$1,350,900 as a result of this amendment.

The proposed effective date for all other changes is July 1, 2012. The amendment is pending Centers for Medicare and Medicaid Services approval.

A copy of the changes may be obtained from Craig Devashrayee (801-538-6641), or by writing the Technical Writing Unit, Utah Department of Health, P.O. Box 143102, Salt Lake City, UT 84114-3102. Comments are welcome at the same address. Copies of the changes are also available at local county health department offices.

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 EO/003/2012: Wildland Fire Management

EXECUTIVE ORDER

Wildland Fire Management

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

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

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

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

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

NOW THEREFORE, I, 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 May 10, 2012 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 May 2012

(State Seal)

Gary R. Herbert
Governor

ATTEST:

**Lieutenant Governor
Greg Bell**

EO/003/2012

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 May 16, 2012, 12:00 a.m., and June 01, 2012, 11:59 p.m. are included in this, the June 15, 2012 issue of the *Utah State Bulletin*.

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

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

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least July 16, 2012. 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 October 13, 2012, 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

Administrative Services, Administration
R13-2-4
Requests for Access

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36285

FILED: 05/30/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During the spring of 2011, the department reviewed all of its administrative rules for impacts on businesses. As part of that review, the department identified several items requiring change that do not uniquely affect business. These changes are associated with organizational changes made by the department and authorized by the Legislature during the 2011 General Session, or physical moves that have occurred.

SUMMARY OF THE RULE OR CHANGE: This amendment updates addresses for program changes that have been made during the past year. The Office of State Debt Collection was organizationally placed under the Division of Finance. Surplus Property was transferred by S.B. 130 (2011) from the Division of Fleet Operations to the Division of Purchasing and General Services. The Division of Administrative Rules moved offices.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63G-2-204(2)(d)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This amendment will not result in any direct or indirect fiscal or nonfiscal cost or savings to state budgets. This amendment does not change the procedures outlined in the rule. This amendment makes the rule consistent with statutory, organizational, and physical changes that have already been made.

◆ **LOCAL GOVERNMENTS:** This amendment will not result in any direct or indirect fiscal or nonfiscal cost savings to local government. This rule does not require action by local governments. This amendment does not change the procedures outlined in the rule. This amendment makes the rule consistent with statutory, organizational, and physical changes that have already been made.

◆ **SMALL BUSINESSES:** This amendment will not result in any direct or indirect fiscal or nonfiscal cost or savings to small businesses. This rule does not require action by small businesses. This amendment does not change the procedures outlined in the rule. This amendment makes the rule consistent with statutory, organizational, and physical changes that have already been made.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amendment will not result in any direct or indirect fiscal

or nonfiscal cost or savings to other persons. This rule does not require action by persons. This amendment does not change the procedures outlined in the rule. This amendment makes the rule consistent with statutory, organizational, and physical changes that have already been made.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment does not affect compliance costs. This rule does not require any action. It does not change the procedures outlined in the rule. It corrects address information so that requests made pursuant to the Government Records Access and Management Act (GRAMA) will be directed to the right location for review and response.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment has no fiscal impact on businesses.

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

ADMINISTRATIVE SERVICES
 ADMINISTRATION
 ROOM 3120 STATE OFFICE BLDG
 450 N STATE ST
 SALT LAKE CITY, UT 84114-1201
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Kenneth Hansen by phone at 801-538-3777, by FAX at 801-537-9240, or by Internet E-mail at khansen@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2012

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2012

AUTHORIZED BY: Kimberly Hood, Executive Director

R13. Administrative Services, Administration.

R13-2. Access to Records.

R13-2-4. Requests for Access.

(1) Except as provided by R13-2-8, a request for access to records shall be directed to the records officer of the office or division which the requester believes generated or possesses the records.

(2) The offices and divisions of the department are as described in Sections 63A-1-104 and 63A-1-109 and are located at the corresponding address indicated below:

(a) Administrative Services Executive Director's Office, 3120 State Office Building, Salt Lake City, UT 84114.

(b) Administrative Rules, [4120]5110 State Office Building, Salt Lake City, UT 84114.

(c) Archives and Records Service, 346 S. Rio Grande Street, Salt Lake City, UT 84101-1106.

(d) Child Welfare Parental Defense, 3120 State Office Building, Salt Lake City, UT 84114.

(e) Debt Collection, [~~5110 State Office Building, Salt Lake City, UT 84114~~] Division of Finance, 2110 State Office Building, Salt Lake City, UT 84114.

(f) Facilities Construction and Management, 4110 State Office Building, Salt Lake City, UT 84114.

(g) Finance, 2110 State Office Building, Salt Lake City, UT 84114.

(h) Fleet Operations, 4120 State Office Building, Salt Lake City, UT 84114.

(i) Purchasing and General Services, 3150 State Office Building, Salt Lake City, UT 84114.

(j) Risk Management, 5120 State Office Building, Salt Lake City, UT 84114.

(k) Surplus Property, [~~Division of Fleet Operations, 4120 State Office Building, Salt Lake City, UT 84114~~] Division of Purchasing and General Services, 3150 State Office Building, Salt Lake City, UT 84114.

KEY: freedom of information, public information, confidentiality of information, access to information
Date of Enactment or Last Substantive Amendment: [May 22, 2007]2012

Notice of Continuation: October 4, 2011

Authorizing, and Implemented or Interpreted Law: 63G-2-204(2)(d); 63A-12-104(2)

Agriculture and Food, Animal Industry **R58-10** Meat and Poultry Inspection

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 36249

FILED: 05/21/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is redundant and repetitive to that which is found in Utah Code Section 4-32-2.1.

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

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-32-2.1

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The repeal of this rule will not affect state budget as Section 4-32-2.1, requires Utah to adopt federal rules that govern meat and poultry inspection in the State of Utah.

◆ **LOCAL GOVERNMENTS:** This rule did not affect local governments and the repeal of the rule will not affect these entities.

◆ **SMALL BUSINESSES:** The repeal of this rule will not affect small business because they are still bound under the state and federal regulations.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The repeal of this rule will not affect other entities because they are still bound under the state and federal regulations.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance cost for affected persons with the repeal of this rule because they are still bound under the state and federal regulations.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The repeal of Rule R58-10 is needed as the rule is redundant to Section 4-32-2.1. Section 4-32-2.1 allows the Utah Meat and Poultry Inspection Program within the Utah Department of Agriculture and Food to adopt Federal acts and rules associated with the inspection of meat and poultry products as required by the Federal Meat and Poultry Act.

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

AGRICULTURE AND FOOD
 ANIMAL INDUSTRY
 350 N REDWOOD RD
 SALT LAKE CITY, UT 84116-3034
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Bruce King by phone at 801-538-7162, by FAX at 801-538-7169, or by Internet E-mail at bking@utah.gov
- ◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
- ◆ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov
- ◆ Wyatt Frampton by phone at 801-538-7165, by FAX at 801-538-7169, or by Internet E-mail at wframpton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2012

AUTHORIZED BY: Leonard Blackham, Commissioner

R58. Agriculture and Food, Animal Industry.

~~**R58-10. Meat and Poultry Inspection.**~~

~~**R58-10-1. Authority.**~~

~~Promulgated under authority of Section 4-32-7.~~

~~**R58-10-2. Purpose.**~~

~~The purpose of this rule is to establish standards and procedures for the meat and poultry product inspection programs, which shall at least equal those imposed by the Federal Meat Inspection Act and Poultry Inspection Act.~~

R58-10-3. Federal Regulations Adopted by Reference.

~~Accordingly, the Division adopts the meat and poultry inspection standards and procedures as specified in Title 9, Chapter III, Sub-Chapter A, Agency Organization and Terminology; Mandatory Meat and Poultry Products Inspection and Voluntary Inspection and Certification, Part 300 through 381; Sub-Chapter D, Food Safety and Inspection Service Administrative Provisions, Part 390 and 391, Sub-Chapter E, Regulatory Requirements Under the Federal Meat Inspection Act and the Poultry Products Inspection Act, Part 416, 417, 424, 430, 441, and 500. Code of Federal Regulations, Animal and Animal Products, 9 CFR 300 through 500, January 1, 2007 edition, which is incorporated by reference within this rule.~~

KEY: food inspection

~~Date of Enactment or Last Substantive Amendment: November 8, 2007~~

~~Notice of Continuation: January 14, 2010~~

~~Authorizing, and Implemented or Interpreted Law: 4-32-7]~~

Agriculture and Food, Animal Industry

R58-16

Swine Garbage Feeding

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 36248

FILED: 05/21/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule has to be repealed to be consistent to changes in Title 4, Chapter 31, that were enacted in the 2012 legislative general session with the passage of H.B. 505 that disallowed the feeding of garbage and plate waste to swine.

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

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-31-112

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The repeal of this rule will not affect state budget as there have been no garbage feeders licensed by the State of Utah for some time.
- ◆ **LOCAL GOVERNMENTS:** This rule did not affect local governments and the repeal of the rule will not affect these entities.
- ◆ **SMALL BUSINESSES:** The repeal of this rule will not affect small businesses as there were no garbage feeders licensed with the State of Utah for a number of years.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The repeal of this rule will not affect other entities as there

has been no garbage feeders licensed by the State of Utah for some time.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance cost will be affected with the repeal of this rule as there has been no garbage feeders licensed with the State of Utah for a number of years.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The repeal of Rule R58-16 is needed as result of passage of H.B. 505 during the 2012 legislative session that no longer allows the feeding of garbage and plate waste to swine.

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

AGRICULTURE AND FOOD

ANIMAL INDUSTRY

350 N REDWOOD RD

SALT LAKE CITY, UT 84116-3034

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Bruce King by phone at 801-538-7162, by FAX at 801-538-7169, or by Internet E-mail at bking@utah.gov
- ◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
- ◆ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov
- ◆ Wyatt Frampton by phone at 801-538-7165, by FAX at 801-538-7169, or by Internet E-mail at wframpton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2012

AUTHORIZED BY: Leonard Blackham, Commissioner

R58. Agriculture and Food, Animal Industry.

~~[R58-16. Swine Garbage Feeding.~~

~~R58-16-1. Authority.~~

~~Promulgated under authority of Sections 4-31-10, 4-31-11, 4-31-12; and Subsection 4-2-2(1)(c), (f), and (j).~~

~~R58-16-2. State Requirement.~~

~~For purposes of this rule, no swine which are raised, held or sold in this state for commercial intent shall be fed garbage, except as permitted by R58-16-3.~~

~~R58-16-3. Federal Regulations Adopted by Reference.~~

~~Exceptions to R58-16-2 are defined in regulations which were promulgated by the United States Department of Agriculture (or designated agencies), as contained in 9 CFR 166 and 167, January 1, 2001 edition, which is adopted and incorporated by reference within this rule.~~

~~KEY: food inspection~~

~~Date of Enactment or Last Substantive Amendment: January 1, 1997~~

~~Notice of Continuation: August 24, 2010~~

~~Authorizing, and Implemented or Interpreted Law: 4-2-2; 4-34]~~

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

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36271

FILED: 05/22/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Since at least 1999, the practice of the Department of Alcoholic Beverage Control (DABC) has been to impose a case handling markup on alcoholic beverages. With the passage of H.B. 354 (2012 General Session), and the creation in that bill of the Markup Holding Fund, it is necessary to codify this practice. A previous rule filing (DAR No. 36058) was published in the May 1, 2012, Utah State Bulletin. After that publication, the DABC received written comment from the Utah State Tax Commission, whose auditing team had reviewed the filing. The Tax Commission made recommendations to make the rule filing more consistent with their interpretation of H.B. 354. This filing reflects those recommendations. The DABC intends to allow DAR No. 36058 to lapse without making it effective.

SUMMARY OF THE RULE OR CHANGE: This rule codifies the practice of imposing a case handling markup. It allows flexibility within the DABC to ensure that the case handling markup generates revenues to match the actual appropriation the DABC receives for warehouse operations and costs to ship the product from the warehouse to retail stores.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32B-1-607 and Section 32B-2-202

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** None--This rule codifies existing practice. The DABC will continue to manage the markup to ensure it generates revenue to the state equivalent to the relevant appropriations.

♦ **LOCAL GOVERNMENTS:** None--Local governments are not involved in the sale or warehousing of alcoholic beverages.

♦ **SMALL BUSINESSES:** None--This rule codifies existing practice. The DABC will continue to manage the markup to ensure it generates revenue to the state equivalent to the

relevant appropriations. Manufacturers of alcoholic beverages will continue to see an across-the-board markup to all alcoholic beverages sold in Utah.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--This rule codifies existing practice. The DABC will continue to manage the markup to ensure it generates revenue to the state equivalent to the relevant appropriations. Manufacturers of alcoholic beverages will continue to see an across-the-board markup to all alcoholic beverages sold in Utah.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This rule codifies existing practice regarding the case handling markup. The DABC will continue to manage the markup to ensure it generates revenue to the state equivalent to the relevant appropriations. Manufacturers of alcoholic beverages will continue to see an across-the-board markup to all alcoholic beverages sold in Utah.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change codifies what has been the practice for years. Utah's case handling markup is the lowest in the nation, and will remain that way for the foreseeable future. This filing will enable the DABC to continue to warehouse product in an efficient and transparent manner.

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:

♦ Vickie Ashby by phone at 801-977-6801, by FAX at 801-977-6889, or by Internet E-mail at vickieashby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2012

AUTHORIZED BY: Francine Giani, Executive 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, permits, certificates of approval, 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 (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 (5)(b), the department may require that the licensee, permittee, or package agent transact business with the department on a "cash only" basis. 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 32B-4-414(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 32B-4-414(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 (7)(a) and (7)(b) is \$20.00.

(8) Case Handling Markup

(a) For purposes of the landed case cost defined in Section 32B-2-304, "cost of the product" includes a case handling markup determined by the department.

(b) If a manufacturer and the Department have agreed to allow the manufacturer to ship an alcoholic beverage directly to a state store or package agency without being received and stored by the Department in the Department's warehouse, the manufacturer shall receive a credit equaling the case handling markup for the product that is not warehoused by the Department.

(c) The Department shall collect and remit the case handling markup as outlined in Utah Code Ann. Section 32B-2-304.

KEY: alcoholic beverages

Date of Enactment or Last Substantive Amendment: [March 1, 2012]

Notice of Continuation: May 10, 2011

Authorizing, and Implemented or Interpreted Law: 32B-2-201(10); 32B-2-202; 32B-3-203(3)(c); 32B-1-305; 32B-1-306; 32B-1-307; 32B-1-607; 32B-1-304(1)(a); 32B-6-702; 32B-6-805(3); 32B-9-204(4); 32B-4-414(1)(b) and (c)

Commerce, Occupational and
Professional Licensing
R156-3a
Architect Licensing Act Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36282

FILED: 05/29/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During the 2012 Legislative General Session, H.B. 82 was passed which amended the Architect Licensing Act by removing the number of continuing education hours required in statute and requiring that the Division establish the number of required hours by rule. Other proposed rule amendments are made at the request of the Architect Licensing Board.

SUMMARY OF THE RULE OR CHANGE: The following rule amendments are made throughout Rule R156-3a: capitalization, updating of references, renumbering of paragraphs and minor grammatical changes. Subsection R156-3a-102(13) is added to further define the term "technical submissions" as used in proposed amendments to Section R156-3a-601. In Subsection R156-3a-301(2), standards for determining equivalency of a foreign degree are further defined. The term "NCARB Certification" replaces "NCARB Council Record" to reflect current National Council of Architectural Registration Boards (NCARB) terminology. In Sections R156-3a-302 and R156-3a-303, the term "NCARB Certification" replaces "NCARB Council Record" to reflect current NCARB terminology. In Section R156-3a-304, throughout this section, subsections are renumbered and the term "continuing education" replaces "continuing professional education", "qualified professional education" and "professional education". In passing H.B. 82, the Legislature intended that the Division adopt National Council of Architectural Registration Boards (NCARB) continuing education (CE) standards in rule. The Legislature's intent was communicated by the bill sponsor in comments before the Senate Business and Labor Standing Committee on 02/22/2012. NCARB recommends that jurisdictions adopt common standards to ease the burden on architects licensed in multiple jurisdictions. The Board supports adoption of NCARB's standards. Adopting the standards requires the following rule amendments: 1) changing the end of the period within which CE must be completed to December 31 of each odd numbered year; 2) increasing the number of CE hours required every 2 years from 16 to 24; 3) requiring completion of at least 12 CE hours annually; and 4) requiring that records of documented hours be maintained for a minimum of six years. The majority of architects living in Utah already complete over 24 CE hours biannually as members of the Utah Chapter of American Institute of Architects (AIA Utah). Thirty-six of fifty jurisdictions across the United States already require completion of 24 or more CE hours biannually to maintain architect licensure. Subsection R156-3a-306(6) is removed to be consistent with the NCARB standard. Subsection R156-3a-306(4), a stylistic change is made and the number of CE hours required to activate an inactive license is increased from 16 to 24 for reasons described above. In Section R156-3a-502, the proposed amendment

updates the July 2010 edition of the NCARB "Rules of Conduct" to the July 2011 edition. The differences between the 2010 and 2011 editions are limited to document formatting. In Section R156-3a-601, the current rule does not allow for electronic signatures on architectural seals. The Board believes this standard is overly restrictive and supports a proposed amendment allowing electronic signatures. The proposed amendment allows electronic signatures, removes unnecessary language and clarifies that sheets subsequent to the cover of specifications are not required to be sealed, signed, and dated.

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)

MATERIALS INCORPORATED BY REFERENCE:

- ◆ Updates NCARB Rules of Conduct, published by National Council of Architectural Registration Boards (NCARB), July 2011

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$100 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 architects and applicants for licensure in that classification. Allowing for electronic signatures on architectural seals will expedite the building permit application process for some local governments which may translate into a cost savings; but the Division is unable to estimate the extent of the savings.
- ◆ **SMALL BUSINESSES:** The proposed amendments only apply to licensed architects and applicants for licensure in that classification. Allowing for electronic signatures on architectural seals will decrease the amount of time some architectural firms spend preparing technical submissions for local government approval. This will translate into cost savings for these firms; but the Division is unable to estimate the extent of the savings.
- ◆ **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. Allowing for electronic signatures on architectural seals will decrease the amount of time some architects spend preparing technical submissions for local government approval. This will translate into a cost savings for these architects; but the Division is unable to estimate the extent of the savings. Increasing the number of CE hours required biannually from 16 to 24 will not have a cost impact on architects that already complete over 24 CE hours. For example, AIA Utah members must complete at least 36 CE hours biannually to maintain membership in AIA Utah. A majority of architects living in Utah are members of AIA Utah. Architects who currently limit completion of CE to the required minimum of 16 CE hours biannually will be required to complete eight

additional CE hours. The cost of CE ranges from \$0 to \$40 per CE hour. It is important to note that the rise in the number of CE hours required reflects the national NCARB standard and that 36 of 50 jurisdictions across the United States have already adopted the standard. Due to a wide degree of circumstances, the Division is not able to determine an aggregate amount for licensed architects to obtain additional required continuing education hours.

COMPLIANCE COSTS FOR AFFECTED PERSONS: (The proposed amendments only apply to licensed architects and applicants for licensure in that classification. Allowing for electronic signatures on architectural seals will decrease the amount of time some architects spend preparing technical submissions for local government approval. This will translate into a cost savings for these architects; but the Division is unable to estimate the extent of the savings. Increasing the number of CE hours required biannually from 16 to 24 will not have a cost impact on architects that already complete over 24 CE hours. For example, AIA Utah members must complete at least 36 CE hours biannually to maintain membership in AIA Utah. A majority of architects living in Utah are members of AIA Utah. Architects who currently limit completion of CE to the required minimum of 16 CE hours biannually will be required to complete eight additional CE hours. The cost of CE ranges from \$0 to \$40 per CE hour. It is important to note that the rise in the number of CE hours required reflects the national NCARB standard and that 36 of 50 jurisdictions across the United States have already adopted the standard. Due to a wide degree of circumstances, the Division is not able to determine an exact cost for licensed architects to obtain additional required continuing education hours.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As indicated in the rule summary, this filing could result in cost savings to licensees based on the electronic signature provision. Raising the continuing education requirement to 24 hours each 2-year period is not expected to have a significant effect on licensees, as it is the national standard and most licensees already meet this requirement as part of their membership in the professional association. No impact is anticipated from the remaining technical changes made in this filing.

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:

◆ Rich Oborn by phone at 801-530-6767, by FAX at 801-530-6511, or by Internet E-mail at roborn@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 06/25/2012 10:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2012

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 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;

(c) 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);

(d) is work that affects not greater than 49 occupants as determined in Section 1004 of the 2009 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 2009 International Building Code.

(7) "Intern Development Program" or "IDP" as used in Subsection R156-3a-302(2)1 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 jurisdiction that is a member of NCARB.

(12) "Responsible charge" by a principal, as used in Subsection 58-3a-102(7), means direct control and management by a principal over the practice of architecture by an organization.

(13) "Technical submissions", as used in Section R156-3a-601, means documents which are:

(a) required by public authorities for building permits or regulatory approvals; or

(b) intended for construction purposes, including all addenda and other changes to submissions.

(14) "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.

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

R156-3a-301. Qualifications for Licensure - Architecture Program Criteria.

In accordance with Subsection 58-3a-302(1)(d), the architecture program criteria are established as follows.

(1) The architecture program shall be accredited by either the National Architectural Accrediting Board (NAAB), or the Canadian Architectural Certification Board (CACB), or an architectural program equivalent to a NAAB accredited program.

(2) Equivalency shall be documented by submitting one of the following:

(a) If educated in a foreign country, an applicant shall submit a comprehensive report prepared by EESA stating that the applicant has successfully completed an educational program that is equivalent to the NAAB accredited educational program. ~~or~~

(i) Deficiencies in general education or history, human behavior and environment may be satisfied by successfully completing the deficiencies in course work at a recognized college or university or by passing the College Level Examination Program (CLEP) demonstrating proficiency in the deficient areas.

(ii) Deficiencies in design, technical systems, or practice course work may be completed at an NAAB accredited educational program.

(b) ~~Alternatively, an applicant may submit verification of a current NCARB [Council Record] Certification.~~

(c)(i) If an applicant was previously licensed and practicing in Utah under a license that was granted under prior statute or rule but allowed the license to lapse for more than two years, the applicant may reinstate the license by demonstrating that their combined education, supervised experience and licensed practice demonstrate that the applicant's training is equivalent to an NAAB accredited educational program.

(ii) If the combined education and experience is not demonstrated to be equivalent, the Division, in collaboration with the Board, may:

(A) determine whether continuing education can bring the combined education and experience up to equivalency, and if so, specify the type of continuing education required; or

(B) determine that the applicant shall be required to obtain the actual degree under Subsection (1).

R156-3a-302. Qualifications for Licensure - Program of Diversified Practical Experience.

In accordance with Subsection 58-3a-302(1)(e), an applicant shall establish completion of a program of diversified practical experience requirement by submitting documentation of:

(1) IDP;

(2) current licensure in a recognized jurisdiction; or

(3) ~~current NCARB [Council Record] Certification.~~

R156-3a-303. Qualifications for Licensure - Examination Requirements.

(1) In accordance with Subsections 58-3a-302(1)(f) and 58-3a-302(2)(e), an applicant for licensure as an architect (whether by education and experience or by endorsement) shall submit documentation establishing:

(a) ~~current NCARB [Council Record] Certification;~~ or

(b) passing scores on all divisions of the ARE as established by ~~the~~ NCARB.

(2) An applicant for licensure may apply directly to NCARB to sit for any part of the ARE examination anytime after having completed the education requirements specified in Section R156-3a-301.

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) ~~(a)~~ During each two year period ending on ~~May~~ December 31 of each ~~even~~ odd numbered year, a licensed architect shall ~~be required to~~ complete not less than ~~16~~ 24 hours of ~~qualified professional~~ continuing education directly related to the licensee's professional practice.

~~(b) At least 12 hours should be completed each year.~~

(2) The required number of hours of ~~professional~~ continuing 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] Continuing 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)(a) 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] continuing 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] continuing 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] six 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 [6] 24 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] Subsection R156-1-308a(1).

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

R156-3a-306. Inactive Status.

(1) The requirements for inactive licensure specified in Subsection R156-1-305(3) shall also include certification that the licensee shall not engage in the practice of architecture while the license is on inactive status except to identify the individual as an inactive licensee.

(2) A license, prior to being placed on inactive status, shall be active and in good standing.

(3) Inactive status licensees are not required to fulfill the continuing education requirement.

(4) In addition to the requirements in Subsection R156-1-305(6) to reactivate an inactive license, a licensee shall provide documentation that the licensee, within two years prior to [of] the license being reactivated, completed [6] 24 hours of continuing education.

(5) Prior to a license being reactivated, a licensee shall meet the requirements for license renewal.

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;
- (4) failing to conform to the generally accepted and recognized standards and ethics of the profession including those established in the July [2010]2011 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.

R156-3a-503. Administrative Penalties.

(1) In accordance with S[ubs]ection 58-3a-502, the following fine schedule shall apply to citations issued to individuals licensed under Title 58, Chapters 1 and 3a:

TABLE
FINE SCHEDULE

Violation	First Offense	Second Offense
58-1-501(1)(a)	\$ 800.00	\$1,600.00
58-1-501(1)(b)	\$1,000.00	\$2,000.00
58-1-501(1)(c)	\$1,000.00	\$2,000.00
58-1-501(1)(d)	\$1,000.00	\$2,000.00
58-3a-501(1)	\$ 800.00	\$1,600.00
58-3a-501(2)	\$ 800.00	\$1,600.00

- (2) Citations shall not be issued for third offenses, except in extraordinary circumstances approved by the investigative supervisor. If a citation is issued for a third offense, the fine is double the second offense amount, with a maximum amount not to exceed the maximum fine allowed under Subsection 58-3a-502(1)(i).
- (3) If multiple offenses are cited on the same citation, the fine shall be determined by evaluating the most serious offense.
- (4) An investigative supervisor may authorize a deviation from the fine schedule based upon the aggravating or mitigating circumstances.
- (5) In all cases the presiding officer shall have the discretion, after a review of the aggravating and mitigating circumstances, to increase or decrease the fine amount based upon the evidence reviewed.

R156-3a-601. Architectural Seal - Requirements.

In accordance with Section 58-3a-601, all ~~final plans and specifications of buildings erected in this state;~~technical submissions prepared by the licensee or prepared under the supervision of the licensee, shall be ~~sealed in accordance with the following:~~signed and dated with the licensee's seal. Electronically generated seals and signatures are acceptable. It is the responsibility of the licensee to provide adequate security when documents with electronic seals and electronic signatures are distributed. Sheets subsequent to the cover of specifications are not required to be sealed, signed and dated.

- (1) Each seal shall be a circular seal, 1-1/2 inches minimum diameter and[-
- ~~(2) Each seal]~~ shall include the licensee's name, license number, "State of Utah", and "Licensed Architect".[-
- ~~(3) Each seal shall be signed and dated with the signature and date appearing across the face of each seal imprint.~~

- ~~(4) Each original set of final plans and specifications, as a minimum, shall have the original seal imprint, original signature and date placed on the cover or title sheet.~~
- ~~(5) A seal may be a wet stamp, embossed, or electronically produced.~~
- ~~(6) Copies of the original set of plans and specifications which contain the original seal, original signature and date is permitted, if the seal, signature and date is clearly recognizable.~~

KEY: architects, licensing
Date of Enactment or Last Substantive Amendment:
[September 8, 2011]2012
Notice of Continuation: January 31, 2011
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
R156-60d
Substance Abuse Counselor Act Rule**

**NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 36228
FILED: 05/16/2012**

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During the 2012 Legislative General Session, H.B. 496 was passed which modified the Mental Health Professional Practice Act by amending the licensing provisions in the Substance Use Disorder Counselor Act. As a result of H.B. 496, various corresponding amendments need to be made to Rule R156-60d. Other amendments are proposed at the request of the Substance Use Disorder Counselor Licensing Board.

SUMMARY OF THE RULE OR CHANGE: The following rule amendments are made throughout Rule R156-60d: capitalization, updating of statutory references and license titles due to statutory amendments, and renumbering. In Section R156-60d-102, subsections are renumbered throughout the section. In Subsection R156-60d-102(1), the proposed amendment updates statutory references to be consistent with statutory amendments. The proposed amendment also updates the definition of "accredited institution" to include any school that has accreditation that is recognized by the Council for Higher Education Accreditation of the American Council on Education (CHEA). The current definition is outdated. Subsection R156-60d-102(4) is deleted because it is no longer needed due to the statutory amendments. In Subsection R156-60d-102(6), the proposed amendment updates the name of an organization that administers licensing examinations. Subsection R156-60d-102(9) is deleted because the term "qualified continuing

education" is no longer used in the rule. Subsection R156-60d-102(11) is added to provide further definition of a new term used in statutory amendments. In Section Subsection R156-60d-302a, the proposed amendments remove text that is no longer necessary and add a list of prerequisite courses under authority granted in the statutory amendments. In Section R156-60d-302b, the statutory amendments require replacing the current Section R156-60d-302b with new language. The proposed language outlines standards for supervised experience similar to standards currently in place. In Section R156-60d-302c, the proposed amendment restructures this section due to the creation of an additional licensure level in H.B. 496. Section R156-60d-502 currently includes any violation of the 2008 version of the Ethical Standard of Alcoholism and Drug Abuse Counselors established by the National Association of Alcohol and Drug Abuse Counselors (NAADAC) under the definition of unprofessional conduct. In 2011, NAADAC amended the 2008 version of the ethical standards and created a "teaching tool" document that expands on the Code of Ethics. The Board believes that incorporation of the teaching tool is needed because the Code of Ethics only provides a list of general principles.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-60-501 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

MATERIALS INCORPORATED BY REFERENCE:

- ◆ Removes Ethical Standards of Alcoholism and Drug Abuse Counselors, published by NAADAC, August 18, 2008
- ◆ Adds NAADAC Code of Ethics: Teaching Tool, published by National Association of Alcohol and Drug Abuse Counselors (NAADAC), January 2011

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$100 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. Any additional cost impact to the state budget comes as a result of statutory amendments and was covered in the fiscal note which was completed for H.B. 496 (2012).
- ◆ **LOCAL GOVERNMENTS:** The proposed amendments only apply to substance use disorder counselors 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 substance use disorder counselors and applicants for licensure in those various classifications. Small businesses that employ substance use disorder counselors will be impacted as well. Any cost impact to small businesses comes as a result of statutory amendments and was covered in the fiscal note which was completed for H.B. 496 (2012).
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendments only apply to substance use disorder counselors and applicants for licensure in those

various classifications. Small businesses that employ substance use disorder counselors will be impacted as well. Any cost impact to substance use disorder counselors and applicants for the various substance use disorder license classifications comes as a result of statutory amendments and was covered in the fiscal note which was completed for H.B. 496 (2012).

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to substance use disorder counselors and applicants for licensure in those various classifications. Small businesses that employ substance use disorder counselors will be impacted as well. Any cost impact to substance use disorder counselors and applicants for the various substance use disorder license classifications comes as a result of statutory amendments and was covered in the fiscal note which was completed for H.B. 496 (2012).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing implements recent statutory changes and no fiscal impact to businesses is anticipated beyond those addressed by the legislature during the 2012 General Session. Additional amendments are clarifying in nature and are not expected to result in any fiscal impact to businesses.

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:

- ◆ Rich Oborn by phone at 801-530-6767, by FAX at 801-530-6511, or by Internet E-mail at roborn@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

- ◆ 07/11/2012 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2012

AUTHORIZED BY: Mark Steinagel, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-60d. Substance [Abuse]Use Disorder Counselor Act Rule.
R156-60d-101. Title.**

This rule is known as the "Substance [Abuse]Use Disorder Counselor Act Rule."

R156-60d-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 60, as used in Title 58, Chapters 1 and 60 or this rule:

(1) "Accredited institution of higher education that meet division standards", as used in Subsections 58-60-506(2)(a)(i) and (5)(a)(i), [(2)(b)(i), (2)(c)(i), (2)(d)(i), (3)(a)(i), (3)(b)(i), (3)(c) and (3)(d);] means an educational institution [identified in the "~~Accredited Institution of Postsecondary Education~~", published for the Commission of Recognition of Postsecondary Accreditation of the American Council on Education at the same time the applicant obtained the education] that has accreditation that is recognized by the Council for Higher Education Accreditation of the American Council on Education (CHEA).

(2) "ASAM" means the American Society of Addiction Medicine Patient Placement Criteria.

(3) "DSM-IV" means the Diagnostic Statistical Manual of Mental Health Disorders published by the American Psychiatric Association.

(4) [~~"Formal classroom education", as used in Subsection R156-60d-302a, means college or university coursework at an accredited institution.~~

(5)]"General supervision" means that the supervisor provides consultation with the supervisee by personal face to face contact, or direct voice contact by telephone or some other means within a reasonable time consistent with the acts and practices in which the supervisee is engaged.

(6) [~~5] "ICRC[~~AODA, Inc.~~]" means the International Certification and Reciprocity Consortium[~~Alcohol and Other Drug Abuse, Inc.~~~~

(7) [~~6] "Initial [A]assessment" means the procedure of gathering psycho-social information, which may include the application of the Addiction Severity Index, in order to recommend a level of treatment and to assist the mental health therapist supervisor in the information collection process and may include a referral to an appropriate treatment program.~~

(8) [~~7] "NAADAC" means the National Association of Alcohol and Drug Abuse Counselors.~~

(9) [~~"Qualified continuing education" means continuing education that meets the standards set forth in Section R156-60d-304.]~~

(10) [~~"Prerequisite courses, as used in Subsection 58-60-506(2)(a)(iii) and (5)(a)(iii) means courses completed before qualifying for licensure.~~

(11) [~~9] "SASSI" means Substance Abuse Subtle Screening Inventory.~~

(12) [~~10] "Screening", as used in Subsection 58-60-502[(6)(a)](9)(b) and (10)(b), means a brief interview conducted in person or by telephone to determine if there is a potential substance abuse problem. If a potential problem is identified, the screening may include a referral for an [F]initial [A]assessment or a [S]substance [Ab]use disorder [Treatment-E]evaluation. The screening may also include a preliminary ASAM level recommendation in order to expedite the subsequent assessment and evaluation process. Screening instruments such as the SASSI may be included in the screening process.~~

(13) [~~11] "Substance [Ab]use disorder[Treatment-E]evaluation" means the process used to interpret information gathered from an initial assessment, other instruments as needed, and a face to face interview by a licensed mental health therapist in~~

order to determine if an individual meets the DSM-IV criteria for substance abuse or dependence and is in need of treatment. If the need for treatment is determined, the [S]substance [Ab]use disorder [Treatment-E]evaluation process includes the determination of a DSM-IV diagnosis and the determination of an individualized treatment plan.

(12) "Substance use disorder education program", as used in Subsection 58-60-506(2)(b) and (5)(b), means college or university coursework at an accredited institution.

(13) "Unprofessional conduct," as defined in Title 58 Chapters 1 and 60, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-60d-502.

R156-60d-302a. Qualifications for Licensure - Education Requirements.

[~~— The 300 hours of addiction counseling specific education set forth in Subsection 58-60-502(9) is defined as formal classroom education emphasizing alcohol and other drug addictions related to the practice of substance abuse counseling consisting of:~~

(1) a minimum of 18 hours in professional ethics and responsibilities; and

(2) a minimum of ten clock hours of training in each of the areas of practice as defined in Subsection 58-60-502(7).

(1) In accordance with Subsection 58-60-506(2)(a)(iii) and (5)(a)(iii), three prerequisite courses shall be completed at an accredited institution and shall cover the following subjects:

(a) human development across the lifespan;

(b) general psychology; and

(c) human biology.

R156-60d-302b. Qualifications for Licensure - Experience Requirements.

(1) In accordance with Subsections 58-60-506(2)(a)(iii) (A), (2)(b)(iii)(A), (2)(c)(ii)(A), (2)(d)(ii)(A), the supervised qualifying experience shall:

(a) be supervised experience providing substance abuse counseling services as defined in Subsection 58-60-502(7);

(b) be completed in an approved agency as defined in Subsection 58-60-502(1);

(c) be supervised at a ratio of one hour of face to face direct supervision for every 40 hours of substance abuse counseling services provided by a supervisor who shall:

(i) until July 1, 2011, be licensed as a substance abuse counselor with at least one year of experience as a licensed substance abuse counselor;

(ii) beginning on July 1, 2011, be licensed as a substance abuse counselor with at least two years of experience as a licensed substance abuse counselor; or

(iii) be a licensed mental health therapist qualified by education and experience to treat substance abuse.

(d) be completed only when a licensed substance abuse counselor or mental health therapist is at the site where the supervised experience is occurring.

(2) In accordance with Subsection 58-60-511(1), hours of experience required by Section 58-60-506 that are earned after January 1, 2008 shall be earned while the person earning the hours is licensed as a certified substance abuse counselor, certified substance abuse counselor intern or certified substance abuse counselor extern.

] (1) In accordance with Subsection 58-60-506(2)(c), the 4,000 hours of supervised experience in substance use disorder treatment required to qualify an applicant for the advanced substance use disorder counselor license shall be:

(a) supervised experience providing substance use disorder counseling services as defined in Subsection 58-60-502(9);

(b) supervised at a ratio of one hour of face to face direct supervision for every 40 hours of substance use disorder counseling supervision provided by a supervisor meeting qualifications established in Section 58-60-508; and

(c) completed only under the direct supervision of an advanced substance use disorder counselor or mental health therapist unless otherwise approved by the Division in collaboration with the Board.

(2) In accordance with Subsection 58-60-506(5)(c), the 2,000 hours of supervised experience in substance use disorder treatment required to qualify an applicant for the substance use disorder counselor license shall be:

(a) supervised experience providing substance use disorder counseling services as defined in Subsection 58-60-502(10);

(b) supervised at a ratio of one hour of face to face direct supervision for every 40 hours of substance use disorder counseling supervision provided by a supervisor meeting qualifications established in Section 58-60-508; and

(c) completed only when under the direct supervision of a substance use disorder counselor or mental health therapist unless otherwise approved by the Division in collaboration with the Board.

R156-60d-302c. Qualifications for Licensure - Examination Requirements.

In accordance with Subsections 58-60-506(1)(e) and 58-60-1115(5)(b), the examination required ~~[for licensure]~~ is ~~[one of the following]:~~

(1) for licensure as a certified advanced substance use disorder counselor and an advanced substance use disorder counselor:

(a) the written NAADAC National Certification Exam Level ~~[s-1]~~ II ~~;~~ or MAC with a minimum criterion score set by NAADAC; or

~~[(2)]b) the written ICRC Advanced Alcohol and Drug (AADC) Examination [International Certification Examination for Alcohol and Drug Counselors of the ICRC/AODA, Inc.], with a minimum criterion score as set by ICRC [AODA, Inc.]; and~~

(2) for licensure as a certified substance use disorder counselor or substance use disorder counselor:

(a) the written NAADAC National Certification Exam Levels I, II or MAC with a minimum criterion score set by NAADAC; or

(b) the written ICRC Alcohol and Drug Counselor (ADC) or Advanced Alcohol and Drug Counselor (AADC) Examination with a minimum criterion score as set by ICRC.

R156-60d-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 60, Part 5 is established by rule in ~~[Section]~~ Subsection R156-1-308a(1).

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

R156-60d-304. Continuing Education ~~[for Licensed Substance Abuse Counselors and Certified Substance Abuse Counselors].~~

(1) In accordance with Section 58-60-105, there is created a continuing education requirement as a condition for renewal or reinstatement of a licensed advanced substance [ab]use disorder counselor, [or] certified advanced substance [ab]use disorder counselor, licensed substance use disorder counselor, or a certified substance use disorder counselor issued under Title 58, Chapter 60, Part 5.

(2) Continuing education shall consist of 40 hours of education directly related to the licensee's professional practice. A licensed advanced substance [ab]use disorder counselor and licensed substance use disorder counselor shall complete the requirement during each two year license renewal cycle, ~~and a~~ certified advanced substance [ab]use disorder counselor and a certified substance use disorder counselor shall complete the requirement during each two year period following the date of initial licensure. At least six of the 40 required hours must be in the area of professional ethics and responsibilities.

(3) The required number of hours of continuing education for a licensed advanced substance [ab]use disorder counselor or a licensed substance use disorder counselor who first becomes licensed during the two year renewal cycle shall be decreased in a pro rata amount equal to any part of that two year renewal cycle preceding the date on which that individual first became licensed.

(4) The standards for continuing education shall include:

(a) a clear statement of purpose and defined objective for the educational program directly related to the practice of a substance [ab]use disorder counselor;

(b) documented relevance to the licensee's professional practice;

(c) a competent, well-organized, and sequential presentation consistent with the stated purpose and objective of the program;

(d) preparation and presentation by individuals who are qualified by education, training, and experience; and

(e) a competent method of registration of individuals who actually completed the continuing education program and records of that registration completion available for review.

(5) Credit for continuing education shall be recognized in accordance with the following:

(a) unlimited hours shall be recognized for continuing education completed in blocks of time of not less than 50 minutes in formally established classroom courses, seminars, conferences, workshops, institutes, or in services;

(b) a maximum of ten hours per two year period may be recognized for teaching in a college or university, or teaching continuing education courses in the field of substance [ab]use disorder counseling; and

(c) a maximum of six hours per two year period may be recognized for clinical readings or internet-based courses directly related to practice as a substance [ab]use disorder counselor.

(6) A licensee shall be responsible for maintaining competent records of completed continuing education for a period of four years after close of the two year period to which the records pertain. It is the responsibility of the licensee to maintain such

information with respect to ~~[qualified professional]~~ continuing education to demonstrate it meets the requirements under this section.

(7) A licensee who documents he is engaged in full time activities or is subjected to circumstances which prevent that licensee from meeting the continuing ~~[professional]~~ education requirements established under this section may be excused from the requirement for a period of up to five years. However, it is the responsibility of the licensee to document the reasons and justify why the requirement could not be met.

R156-60d-307. License Reinstatement - Requirements.

In accordance with ~~S[ubs]ection~~ R156-1-308g, an applicant for reinstatement of a license after two years following expiration of that license shall demonstrate competency by:

(1) meeting with the Board upon request for the purpose of evaluating the applicant's current ability to engage safely and competently in practice as a substance ~~[ab]use~~ disorder counselor and to make a determination of any additional education, experience or examination requirements which will be required before reinstatement;

(2) passing the examination required in Section R156-60d-302c ~~[written International Certification Examination for Alcohol and Drug Counselors of the ICRC/AODA, Inc. or the NAADAC National Certification Exam Levels I, II, or MAC]~~ if it is determined necessary by the Board ~~[that current taking and passing of the examination is necessary]~~ to demonstrate the applicant's ability to engage safely and competently in practice as a substance ~~[ab]use~~ disorder counselor; and

(3) completing at least 40 hours of continuing education in subjects determined by the Board as necessary to ensure the applicant's ability to engage safely and competently in practice as a substance ~~[ab]use~~ disorder counselor.

R156-60d-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) violation of any provision of the ~~["Ethical Standards of Alcoholism and Drug Abuse Counselors" established by the NAADAC, August 18, 2008]~~ NAADAC Code of Ethics: Teaching Tool, January 2011 edition, which is hereby incorporated by reference;

~~(2) acting as a supervisor without ensuring that the supervisee holds the requisite license;~~

~~(2)3~~ exercising undue influence over the clinical judgment of a supervisor over whom the licensee has administrative control;

~~(3)4~~ if licensed as a licensed advanced substance ~~[ab]use~~ disorder counselor or a licensed substance use disorder counselor, accepting the duties as a supervisor of a certified advanced substance ~~[ab]use~~ disorder counselor, ~~[or a]~~ certified advanced substance ~~[ab]use~~ disorder counselor intern, certified substance use disorder counselor, or a certified substance use disorder counselor intern who has any supervisory control over the licensed advanced substance ~~[ab]use~~ disorder counselor or licensed substance use disorder counselor; and

~~(4)5~~ directing one's mental health therapist supervisor to engage in a practice that would violate any statute, rule, or generally accepted professional or ethical standard of the supervisor's profession.

[R156-60d-601. Scope of Practice.

~~———— The scope of practice of a licensed substance abuse counselor, certified substance abuse counselor, certified substance abuse counselor intern and certified substance counselor extern as used in Subsection 58-60-502(7) and the duties of the supervisor of a licensed substance abuse counselor, certified substance abuse counselor, certified substance abuse counselor intern and certified substance abuse counselor extern as used in Section 58-60-508 are further defined and clarified as follows:~~

~~———— (1) A licensed substance abuse counselor, certified substance abuse counselor, certified substance abuse counselor intern and certified substance abuse counselor extern may perform a Screening as defined in R156-60d-102(11), may perform an Initial Assessment as defined in R156-60d-102(7), and may assist in the evaluation process by meeting with the client to gather parts of the psycho-social information as directed by the supervising licensed mental health therapist. However, the licensed mental health therapist supervisor must see the individual face to face to conduct the Substance Abuse Treatment Evaluation as defined in R156-60d-102(12).~~

~~———— (2) A licensed substance abuse counselor, certified substance abuse counselor, certified substance abuse counselor intern and certified abuse counselor extern may also participate as part of the multi-disciplinary team in the development of the treatment plan, but may not independently diagnose and develop treatment plans, which are the responsibility of the licensed mental health therapist supervisor.~~

KEY: licensing, substance ~~[ab]use~~ disorder counselors
Date of Enactment or Last Substantive Amendment: [August 24, 2010]2012
Notice of Continuation: January 31, 2011
Authorizing, and Implemented or Interpreted Law: 58-60-501; 58-1-106(1)(a); 58-1-202(1)(a)

Corrections, Administration
R251-115
 Contract County Jail Programming
 Payment

NOTICE OF PROPOSED RULE
 (New Rule)
 DAR FILE NO.: 36292
 FILED: 05/30/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The department is proposing this rule as a result of H.B. 153, County Correctional Facilities Funding, passed during the 2011 General Legislative Session. Within Section 64-13e-103, language was added requiring the department to establish a rule related to contract funding rates paid to county jails that provide programming services to state inmates housed in the jail facility.

SUMMARY OF THE RULE OR CHANGE: This rule outlines the procedures, requirements, and standards for the qualification and payment of 73% of the final state daily incarceration rate paid for by the department for approved programs for state inmates housed at contract jail facilities as funds are appropriated.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 64-13e-103

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This rule, and the associated statute, provides for payment at higher rate to contract county jail facilities that provide programming, approved by the department, to state inmates. Funding at this higher rate is at the discretion of the legislature via appropriations. If funding is not allocated, the higher rate cannot be paid.

◆ **LOCAL GOVERNMENTS:** If funding is allocated by the legislature for jail contracting and if the county engages in a contract with the State of Utah for the housing and approved programming of state inmates, the county may therefore be benefited. Assessing the benefit to the county will be a condition of the counties operations and their respective costs to provide housing and programming services to state inmates. Therefore only the county governments will be able to access the value of this rule against their budgets and operations.

◆ **SMALL BUSINESSES:** Does not apply--This could only be determined at the county level through the county contracting for services. This is not determined by the state.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Does not apply--This could only be determined at the county level through the county contracting for services. This is not determined by the state.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated. If funds are available and appropriated, the higher payment rate would be paid where applicable.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will not have a fiscal impact on businesses. The rule allows for funds, if available, to flow to contract county jails that provide department-approved programming to state inmates. It is conceivable there would be a positive impact on businesses if the contract county jail contracts with the private vendors to provide approved programming.

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

CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER, UT 84020-9549
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Greg Peay by phone at 801-201-6052, by FAX at 801-545-5572, or by Internet E-mail at gpeay@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2012

AUTHORIZED BY: Thomas Patterson, Executive Director

R251. Corrections, Administration.

R251-115. Contract County Jail Programming Payment.

R251-115-1. Authority and Purpose.

(1) This rule is authorized under Sections 64-13e-103(3)(b)(i) and 64-13-10 of the Utah Code.

(2) The purpose of this rule is to provide policy, procedures, requirements and standards for the qualification and payment of 73% of the final state daily incarceration rate paid for Utah Department of Corrections approved programs for state inmates housed at contract jail facilities as funds are appropriated.

R251-115-2. Definitions.

(1) "contract state inmate" means an inmate who has been sentenced to the Utah Department of Corrections and is transferred to a contracted county jail facility for housing.

(2) "BOPP" means the Utah Board of Pardons and Parole.

(3) "DOPL" means the Division of Occupational and Professional Licensing.

(4) "final state daily incarceration rate" as defined by Section 64-13e-102(5) of the Utah Code.

(5) "IPP" means the Inmate Placement Program within the Utah Department of Corrections.

(6) "screening committee" means Utah Department of Corrections employees assigned to screen inmate-specific treatment and continuing care programs for validity and department need.

(7) "UDC/department" means the Utah Department of Corrections.

R251-115-3. Programming Rate.

(1) Payment for UDC approved and legislatively funded substance abuse or sex offender programs in contract county facilities is pursuant to Section 64-13e-103 of the Utah Code. Establishing this rate is dependent upon the following conditions being met:

(a) the 73% rate will only be paid for beds dedicated for department approved treatment. If a contract county jail includes a mix of treatment and non-treatment beds, 73% will be paid for the beds dedicated to treatment and 70% will be paid for the beds not dedicated to treatment.

(b) the department has sufficient funds appropriated to pay this rate for those beds in contract county facilities for department approved program services; and

(c) the department can pay this programming rate without impacting the total number of contract county jail beds the department can access during the fiscal year.

R251-115-4. Program Requirements and Standards.

(1) The following is the information that must be submitted to the department from a provider requesting consideration/approval for payment to provide a substance abuse or sex offender program at a contract county facility:

(a) evidence the program therapist(s) hold a valid license through DOPL to provide treatment in a mental health profession in the State of Utah;

(b) documentation of program goals, objectives, curriculum outline and performance measures;

(c) a copy of any assessment instruments that will be used;

(d) the number of inmates anticipated to participate in program services at any given time; and

(e) the screening criteria requirements for inmates to enroll and participate.

(2) Pursuant to Section 64-13e-103 of the Utah Code, the program must be approved by the department, and approval is subject to the funds appropriated by the legislature.

(3) The department screening committee shall evaluate the information provided by a provider to determine its viability to assist the department in meeting its programming goals, based on the needs of the current inmate population.

R251-115-5. Program Provider Requirements.

(1) Potential providers for substance abuse or sex offender programs in contract county facilities shall:

(a) hold a valid license through DOPL to provide treatment in a mental health profession in the State of Utah;

(b) be pre-approved by the department if providing sex offender treatment;

(c) adhere to the requirements as outlined by the laws of the State of Utah and department policy

(d) appear in court or BOPP hearings, when there is reasonable notification, as needed without additional compensation; and

(e) provide reports as needed by the courts, BOPP or the department.

(2) County jail providers of sex offender treatment shall be in compliance with the UDC approved sex offender treatment program. Detailed structure/criteria of the UDC sex offender treatment program will be made available to county jail providers upon request. Approved county jail sex offender treatment programs shall be subject to at least yearly peer reviews from the department's Sex Offender Treatment Program Director or designee.

(3) County jail providers of substance abuse treatment shall be in compliance with the UDC approved substance abuse treatment program. Detailed structure/criteria of the UDC substance abuse treatment program will be made available to county jail providers upon request. Approved county jail substance abuse treatment programs shall be subject to at least yearly peer reviews from the department's Substance Abuse Treatment Program Director or designee or by a representative from the Division of Substance Abuse and Mental Health.

R251-115-6. Program Compliance Review Process.

(1) UDC peer reviews shall be conducted at least yearly to review compliance with the UDC approved program curriculum and treatment protocols in accordance with the UDC sex offender

treatment program or UDC substance abuse treatment program. Reviews shall include, but are not limited to:

(a) intake documents;

(b) discharge summaries;

(c) group and individual session notes; and

(d) confidential notes.

(2) A report showing the result of the peer review will be submitted in writing to the jail commander within ten (10) working days of the review.

(3) If any noncompliance is cited, the jail commander shall have ten (10) working days after receiving the report to submit a written plan to bring the program into compliance or to begin the appeal process.

R251-115-7. Program Noncompliance Appeal Process.

(1) The jail commander shall have ten (10) working days to submit a written plan to bring the program into compliance

(a) after receiving the result of the peer review citing noncompliance; or

(b) after a final decision is made on an appeal.

(2) The following is the appeal process for noncompliance:

(a) Within ten (10) working days of receiving the report, the jail commander may appeal any cited noncompliance to the Director of IPP.

(b) The Director of IPP has five (5) working days after receiving the written plan or appeal to review, make a determination and inform the jail commander in writing of the noncompliance status.

(c) If the Director of IPP denies the appeal or rejects the written plan, the jail commander may appeal the decision in writing to the UDC Programming Director within five (5) working days of receiving the response from the Director of IPP.

(d) The UDC Programming Director has five (5) working days after receipt of the appeal from the jail commander to review and respond in writing to the jail commander with a copy of the response provided to the sheriff.

(e) Should the contract facility sheriff not be satisfied with the findings and response the jail commander has received after utilizing the two (2) level review/appeal process, the sheriff may request a review by the Executive Director of Corrections. This request shall:

(i) be in writing and be made within ten (10) working days of receipt of the decision received from the UDC Programming Director; and

(ii) specify why the responses provided in the first two (2) levels did not remedy the request.

(f) The Executive Director of Corrections has ten (10) working days to review the request from the sheriff and provide a final decision to the appeal. A copy of the Executive Director's decision will be distributed as appropriate.

R251-115-8. Program Appropriated Funds: Notice of Funding.

(1) Projections for the 73% contract county facility programming funding shall be evaluated by UDC monthly by using the previous month's payments, the current month's billings, the remaining appropriated funds and the department's programming needs.

(2) The UDC shall notify each participating contract county facility if all appropriated funds have been expended.

(3) If the department projects these funds will be exhausted during the following month, those funds remaining shall be dispersed proportionally across all participating contract county facilities.

KEY: jail programming, jail contracting

Date of Enactment or Last Substantive Amendment: 2012

Authorizing, and Implemented or Interpreted Law: 64-13e-102

Education, Administration
R277-617
 Smart School Technology Program

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 36308

FILED: 06/01/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to provide criteria and procedures for the Utah State Board of Education to select schools to participate in the Smart School Technology Program (Program).

SUMMARY OF THE RULE OR CHANGE: The new rule provides definitions, school selection criteria, and procedures for Program application and evaluation.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3) and Subsection 53A-1-709(8)(d)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. The 2012 Legislature appropriated funding for the Program.

◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. Schools selected for participation in the Program will receive funding.

◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. This rule applies to public schools and does not affect businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. Public schools will receive funding for participation in the Program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance costs for affected persons. Public schools selected will participate in the Program consistent with state law and this rule.

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 07/16/2012

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2012

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

R277. Education, Administration.

R277-617. Smart School Technology Program.

R277-617-1. Definitions.

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

B. "Independent Evaluating Committee" means the committee established under Section 53A-1-709 (b).

C. "Smart School Technology Program (Program)" means a three-year program developed by a selected technology provider for a customized whole-school technology deployment plan individualized for each school selected by the Board.

D. "Technology," for purposes of this rule, means technology provided as examples under Section 53A-1-709(7) or other technology approved by the independent evaluating committee.

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

F. "Whole-school technology deployment plan" means a plan:

(1) developed and implemented in a selected public school;

(2) that involves every student and every teacher;

(3) that uses technology identified in the school's application; and

(4) that will assist the school staff in improving student academic achievement during the period of the Program.

R277-617-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests the general control and supervision of public education in the Board, by Section 53A-1-401(3) which authorizes the Board to adopt rules in accordance with its responsibilities, and by Section 53A-1-709(8)(d) that directs the Board to make rules

specifying procedures and criteria to be used for selecting schools that may participate in the Program.

B. The purpose of this rule is to provide criteria and procedures for the Board to select schools to participate in the Smart School Technology Program.

R277-617-3. School Selection Criteria.

A. The independent evaluating committee shall select a minimum of 3 schools and a maximum of 10 schools, based on number of applicants, cost of developing/implementing Program in the applicant schools, school needs, funds available and other relevant information.

B. Public schools that include grade levels K-12 are eligible.

C. The independent evaluating committee shall recommend and the Board shall select proposals from schools that represent, to the extent possible, geographic, economic and demographic diversity.

R277-617-4. Procedures.

A. A Program application shall be available from the USOE by June 3, 2012.

B. The application must be received by the USOE before June 29, 2012.

C. All applications shall be evaluated by the independent evaluating committee and a joint recommendation provided to the Board by July 20, 2012.

D. The Board shall make final school selections at the August, 2012 meeting of the Board.

R277-617-5. Evaluation.

The Program shall be evaluated and reports submitted by the Board consistent with Section 53A-1-709(9).

KEY: schools, technology

Date of Enactment or Last Substantive Amendment: 2012
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-1-709(8)(d)

Governor, Planning and Budget,
 Inspector General of Medicaid Services
 (Office of)
R367-1
 Office of Inspector General of Medicaid
 Services

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36307

FILED: 06/01/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These amendments are made in response to

public comment received by the Office of Inspector General (OIG).

SUMMARY OF THE RULE OR CHANGE: This amendment removes certain provisos for fines and assessments, provider agreements, and certain incorporation by reference statutes.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63J-4a-101 and Section 63J-4a-201

MATERIALS INCORPORATED BY REFERENCE:

- ◆ Removes Utah Administrative Procedure Act, Utah Code 63G-4-202 through 209, 302, 401, 402, 403, 405, 501, 502, 503, and 601, published by Office of Legislative Research and General Council, 2012

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: The amendment of Rule R367-1 will not have any aggregate cost to the state budget. The rule further clarifies the duties and procedures of the OIG outlined in Sections 63J-4a-101 through 63J-4a-602. There will be savings to the state budget, this rule will further assist the OIG to recoup and recover misappropriated Medicaid funds. This amount will vary year to year based upon the results of the audits.

◆ LOCAL GOVERNMENTS: The amendment of this rule will not result in direct and measurable costs for local governments. Local governments are not involved in the Medicaid Program. Additionally, the OIG will be collecting wrongfully acquired Medicaid funds. These are funds that the local governments were not originally entitled to; any funds paid by the local government, if any, would be a reimbursement of state and federal money.

◆ SMALL BUSINESSES: The amendment of this rule will not result in direct and measurable costs for small businesses. The OIG will be collecting wrongfully acquired Medicaid funds from small and solo practice medical providers. These are funds that the providers were not originally entitled to; any monies paid by the providers to the OIG, if any, would be a reimbursement of state monies. Therefore there would be no additional costs to small businesses, just a reimbursement to the state.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The amendment of this rule will not result in direct and measurable costs for other entities. The OIG will be collecting wrongfully acquired Medicaid funds from hospitals, large provider groups, pharmacies. These are funds that the providers were not originally entitled to; any monies paid by the providers to the OIG, if any, would be a reimbursement of state monies. Therefore there would be no additional costs to other entities, just a reimbursement to the state.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendment does not create new compliance costs for any local government or business. There are no regulatory mandates created by this rule. This change is made after public comment; the changes will remove assessment of civil

finances, provider agreement language and incorporation by reference. There are no costs associated.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Following public comment, Rule R367-1 has been amended. It addresses several concerns raised by various interested parties in the health care field. I have reviewed this rule and I concur with the changes that have been made.

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

GOVERNOR
PLANNING AND BUDGET, INSPECTOR GENERAL
OF MEDICAID SERVICES (OFFICE OF)
288 N 1460 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Michael Green by phone at 801-538-6123, by FAX at 801-538-6382, or by Internet E-mail at mkgreen@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2012

AUTHORIZED BY: Michael Green, Policy and Training Coordinator

R367. Governor, Planning and Budget, Inspector General of Medicaid Services (Office of).

R367-1. Office of Inspector General of Medicaid Services.

R367-1-1. Introduction and Authority.

(1) This rule generally characterizes the scope of the Office of Inspector General of Medicaid Services in Utah, and defines all of the provisions necessary to administer the Office.

(2) The rule is authorized under Section 63J-4a-602 pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~[(3) If any policy conflict arises between providers and or any party with regard to the Medicaid Program the Utah State Plan under Title XIX of the Social Security Act Medical Assistance Program shall be supreme and govern.~~

](3) If any provider manual or policy guide is inconsistent with Administrative Rule, the Administrative Rule shall be supreme.

R367-1-2. Definitions.

(1) The terms used in this rule are defined in Section 63J-4a-102.

R367-1-3. The Office of Inspector General.

(1) The Utah Department of Health is the Single State Agency designated to administer or supervise the administration of the Medicaid program under Title XIX of the federal Social Security Act, The Office of Inspector General must ensure that the

Medicaid Program is managed in an efficient and effective manner to minimize fraud, waste, and abuse, in the Medicaid program as outlined in Section 63J-4a-202. The Office of Inspector General has entered into a Memorandum of Understanding (MOU) with the Department outlining the delegation of duties from the Department to the Office and as required by federal and state statutes.

R367-1-4. Office Duties.

(1) The Office of the Inspector General shall perform the following duties:

(a) Adhere to appropriate standards as outlined in the Government Accounting Office's Government Auditing Standards.

(b) The Office will receive reports of potential fraud, waste, or abuse in the state Medicaid program through phone, website, or other electronic means open to the public:

(i) establish a 24-hour, toll free hotline monitored by staff, or voicemail as appropriate.

(ii) establish a separate identifiable email to report fraud, waste or abuse of Medicaid funds.

(c) The Office will investigate and identify potential or actual fraud, waste, or abuse in the state Medicaid program by post payment review of claims paid under fee-for service, managed care, capitation, waiver, contracts or other payment methods where funds are expended by the Department for Medicaid related services or programs.

(d) The Office will obtain, develop, and utilize computer algorithms to identify fraud, waste, or abuse in the state Medicaid program by either developing an in-house program, by contract with private vendors, or other suitable methods as agreed upon with the Department. The Office may also develop in-house programs in consultation with the Department.

(e) The Office will establish an MOU with the Medicaid Fraud Control Unit to identify and recover improperly or fraudulently expended Medicaid funds.

(f) The Office will determine appropriate methodology for identifying risk associated with the Division and its programs under Medicaid funding.

(g) The Office will regularly report to the Department regarding all identified cases of fraud, waste or abuse. The Office will report how the Department can reduce cost or improve performance through changes in policies or claims payment systems. The Office will operate the program integrity function and audit function to the extent possible and as described under a MOU with the Department to be established each state fiscal year beginning in July and ending In June of the following year. The MOU must be renewed each year by both the DOH and OIG.

(h) The Office will establish a means for providers to return payments to the Office. The Office will return all collected overpayments to the Department, except to pay Recovery Audit Contractors.

(i) The Office will provide training to agencies, providers and employees on identifying potential fraud, waste, or abuse of Medicaid funds regularly. All training materials and curriculum will be developed in consultation with the Department and may include Department representation.

R367-1-5. Incorporations by Reference.

(1) All rules, regulations, and laws below are incorporated by reference.

- (a) 42 CFR 431.107(b)(2)
- (b) 42 CFR 456, Subpart B
- (c) 42 CFR 455.13
- (d) 42 CFR 455.21
- (e) 42 CFR 1007
- ~~(f) Title 63G, Chapter 2~~
- ~~(g) Title 26-1-17.5~~
- ~~(h) Section 26-1-24~~
- ~~(i) Section 63G-4-102~~
- ~~([f]j) 42 USC 139a(a)(3)~~
- ~~([g]k) 42 CFR 431, Subpart E~~

~~(l) Utah Administrative Procedure Act, Utah Code 63G-4-202 through 209, 302, 401, 402, 403, 405, 501, 502, 503, and 601~~

R367-1-6. Discrimination Prohibited.

(1) In accordance with Title VI of the Civil Rights Act of 1964 (42 USC 2000d et seq.), Section 504 of the Rehabilitation Act of 1973 (29 USC 70b), and the regulations at 45 CFR Parts 80 and 84, the Office assures that no individual shall be subjected to discrimination under the plan on the grounds of race, color, gender, national origin, or handicap.

R367-1-7. Utilization Review and Medicaid Services Provided under the Utah Medicaid Program.

(1) The Office may request records that support provider claims for payment under programs funded through the Department. These requests shall be in writing and identify the records to be reviewed. Written responses to requests must be returned within 30 days of the date of the written request. Responses must include the complete record of all services and supporting services for which reimbursement is claimed. If the provider is unable to produce the documents on request, the provider shall be granted 24 hours to provide all necessary and appropriate information supporting and documenting the need for services. However, if there is no response within the 30 day period, the Office will close the record and will evaluate the payment based on the records available.

(2) The Office may conduct announced or unannounced onsite reviews and visits. On-site reviews require that the provider submit records on request based on 42 CFR 431.107(b)(2). All announced visits will receive reasonable notice from the Office.

(3) The Office shall conduct hospital utilization reviews as outlined in the Department's Superior System Waiver in effect at the time service was rendered.

(a) The Office shall determine medical necessity and appropriateness of inpatient admissions during utilization review by use of InterQual criteria, published by McKesson Corporation~~], or another suitable industry standard substitute~~.

(b) The standards in the InterQual criteria, or other suitable industry standard substitute, shall not apply to services in which a determination has been made to utilize criteria customized by the Department or that are excluded as a Medicaid benefit by rule or contract.

(c) Where InterQual or other suitable industry standard substitute criteria are silent, the Office shall approve or deny services based upon appropriate administrative rules or the Department's criteria as incorporated in the Medicaid provider manuals.

(4) Providers shall refund payments to the Office upon written request if any of the following occur:

(a) the Department pays for a service which is later determined not to be a benefit of the Utah Medicaid program; or
 (b) does not comply with state or federal policies and regulations.

(c) If services cannot be properly verified or when a provider refuses to provide or grant access to records.

(d) Unless appealed, all refunds must be made to the Office within 30 days of written notification. An appeal of this determination must be filed within 30 days of written notification as specified in Rule R367-1-14.

(e) A provider shall reimburse the Office for all overpayments regardless of the reason for the overpayment. Including, but not limited to agency errors, inadvertent errors, or other program errors. The Office may make a request to the Department to deduct an equal amount from future reimbursements.

~~(5) The Office may include monetary penalties, fees for auditing, interest including any applicable and reasonable fees that do not exceed 10% of the total cost of the recovery or identified overpayment.~~

]

~~**R367-1-8. Provider and Client Agreements.**~~

~~(1) The Department contracts with each provider who furnishes services under the Utah Medicaid Program.~~

~~(2) By signing a provider agreement with the Department, the provider agrees to follow the terms incorporated into the provider agreements, including policies and procedures, provider manuals, Medicaid Information Bulletins, and provider letters.~~

~~(3) By signing an application for Medicaid coverage, the client agrees that the Department's obligation to reimburse for services is governed by contract between the Department and the provider.~~

~~(4) The Office will adhere to the agreements between the provider and the Department as long as there is no violation of state and or federal regulations.~~

R367-1-9. Medicaid Fraud.

(1) The Office establishes and maintains methods, criteria, and procedures that meet all federal and state requirements for prevention, control of program fraud and abuse; and provider sanctioning and termination.

(2) The Office will enter into an MOU with The Medicaid Fraud Control Unit and the Department to ensure appropriate measures are established to reduce and prevent fraud and abuse in the Medicaid program.

R367-1-10. Confidentiality.

(1) Title 63G, Chapter 2, and Section 26-1-17.5 impose legal sanctions and provide safeguards that restrict the use or disclosure of information concerning providers, applicants, clients, and recipients to purposes directly connected with the administration of the plan. The Office will adopt those principles through incorporation of the references note.

R367-1-11. Right to Contract with Recovery Audit Organizations.

(1) The Office may contract for the investigation, notification and recovery of overpayments under any funds paid by

the Department through the Medicaid program, Title XIX of the Social Security Act, under a contingency fee arrangement not to exceed the maximum amount set by CMS of the state's share actually recovered from overpayments according to federal regulations.

R367-1-12. Auditing of the Department of Health.

12.1. Audit Responsibilities.

(1) Audits will be conducted under the regular supervision of the Inspector General.

(2) The audit reports will then be released to the Director of the Governor's Office of Planning and Budget to which the Inspector General reports administratively.

(3) Audits will primarily be determined through a risk assessment approved by the Office.

(4) All activities of the Office will remain free of influence from any Department, Division, private or contracted entities.

(5) The Office audit group will follow the Generally Accepted Government Auditing Standards (GAGAS) as it relates to audit standards and training.

(6) The auditors will immediately notify the Inspector General of any serious deficiency or the suspicion of significant fraud during its review.

(7) Pursuant to Utah Code 63J-4a-301 the Office will have unrestricted access to all records of state executive branch entities, all local government entities, and all providers relating directly or indirectly to the state Medicaid program.

12.2. Audit Plan.

(1) An audit plan will be prepared by the Office at least annually and shall:

(a) Identify the audits to be performed, based on audit risk assessment reviewed annually;

(b) Identify resources to be devoted to audits in plan;

(c) Ensure that audits evaluate the efficiency and effectiveness of tax payer dollars in the Medicaid program;

(d) Determine adequacy of Medicaid's controls over federal and state compliance.

(2) An OIG audit shall:

(a) Issue regular audit reports on the effectiveness and efficiency of the defined audits within the Medicaid program in Utah;

(b) Ensure that such audits are conducted within professional standards such as those defined by the Institute of Internal Auditors and Generally Accepted Governmental Auditing Standards (GAGAS);

(c) Report annually to the Governor's office on or before October 1, and to the Utah Legislature before November 30 as stated in 63J-4a-502.

12.3. Access to Records and Employees.

(1) In order to fulfill the duties described in Section 63J-4a-202, the Office shall have access to all records of state executive branch entities, all local government entities, and all providers relating, directly or indirectly, as stated in 63J-4a-301. Access to employees that the inspector general determines may assist in the fulfilling of the duties of the Office shall be granted as stated in 63J-4a-302.

12.4. Subpoena Power.

(1) The Office shall have the power to issue a subpoena to obtain record or interview a person that the Office has the right to access as stated in 63J-4a-401.

R367-1-13. Billing Codes.

(1) In submitting claims to the Department, every provider shall use billing codes compliant with Health Insurance Portability and Accountability Act of 1996 (HIPAA), along with other national accredited coding standards as defined under the federal law or other nationally accepted coding standards and as established under the Affordable Care Act of 2010 which requires all Medicaid providers to bill according to National Correct Coding Initiatives (N.C.C.I) that are in effect at the time of submitting claims to the Medicaid Agency for payments.

R367-1-14. Provider Communication.

(1) In completing the work as outlined in 63J-4a-202(k), to identify and recoup overpayments, the Office will communicate overpayments information as follows:

(a) Any suspected recoupment or take back against future funds less than ~~\$5,000~~[\$50,000] shall be communicated to the provider via email including a verification certificate attached to verify delivery.

(b) Any suspected recoupment or take back against future funds greater than ~~\$5,000~~[\$50,000] shall be communicated to the provider through certified mail or similar guaranteed delivery mechanism.

(c) Administrative hearing notice requirements will also comply with (a) and (b) above.

(d) In addition to the methods set forth in this rule, a party may be served as permitted by the Utah Rules of Civil Procedure.

(2) Any request for records or documents will also comply with subsections (a) through (d).

R367-1-16. General Rule Format.

(1) The following format is used generally throughout the rules of the Office. Section headings as indicated and the following general definitions are for guidance only. The section headings are not part of the rule content itself. In certain instances, this format may not be appropriate and will not be implemented due to the nature of the subject matter of a specific rule.

(2) Introduction and Authority. A concise statement as to what Medicaid service is covered by the rule, and a listing of specific federal statutes and regulations and state statutes that authorize or require the rule.

(3) Definitions. Definitions that have special meaning to the particular rule.

(4) Other Sections. As necessary under the particular rule, additional sections may be indicated. Other sections include regulatory language that does not fit into sections (1) through (4).

KEY: Inspector General, health, Medicaid fraud waste abuse
Date of Enactment or Last Substantive Amendment: [April 23, 2012
Authorizing, and Implemented or Interpreted Law: 63J-4a-101; 63J-4a-201; 63J-4a-602

**Health, Disease Control and
Prevention, Epidemiology
R386-702
Communicable Disease Rule**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36247

FILED: 05/18/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to modify or add reportable conditions to include or be compatible with new nationally-notifiable conditions, as well as to provide clarification regarding reportable conditions, reporting methodology, public food handlers, and information regarding management of typhoid disease carriers and contacts. Language was added to clarify requirements for submission of isolates, especially suspect bioterrorism (BT) agents, to the Unified State Laboratories: Public Health (USLPH). Language was also added to facilitate retrospective surveillance projects and cooperation by facilities and other entities in disease investigations. Also, two references were updated to reflect the most current available editions.

SUMMARY OF THE RULE OR CHANGE: Modifications to the list of Reportable Diseases, Emergency Illnesses, and Health Conditions, (Section R386-702-3) were made, including: addition of a nationally-notifiable condition (babesiosis), modification of Hantavirus to remove "infection" and require reporting of Hantavirus pulmonary syndrome only, removal of Pelvic Inflammatory Disease, clarification of reporting requirements for HIV in pregnant women, clarification of types of meningitis that are reportable, replacement of Rocky Mountain Spotted Fever with Spotted fever rickettsioses (including Rocky Mountain Spotted Fever) to be consistent with nationally-notifiable condition language, and clarification of reporting requirements for Streptococcal disease. Also, infant botulism was excluded from the immediately-notifiable conditions list (R386-702-4 (4)). Clarification regarding acceptable reporting methodology was included to allow reporting by phone, secured fax, secured email, or mail, and to indicate that laboratories may report information electronically. Syphilis was removed from the immediately-notifiable condition list since its management does not require an immediate response. Information regarding requirements and authorization for full reporting of case information was clarified. Language was added to require notification of USLPH by phone when suspect BT agents are being submitted, and notation was made within the list of organisms required to be submitted for testing of which are suspect BT agents. Because USLPH does not provide culture testing for Bordetella pertussis, it was removed from the list of organisms required to be submitted to USLPH for testing. Language was added to facilitate

cooperation by facilities, medical providers, laboratories, and other reporters in retrospective surveillance projects. Language was also added to clarify the responsibility of cases, carriers, contacts, other persons, or entities to cooperate with public health in investigation of a case or outbreak, and in carrying out control measures to prevent or mitigate spread of disease. Clarification was made within Subsections R386-702-5(5) and R386-702-5(6) to ensure information applies to individuals working in any facility related to food or drink, not just those related to dairy products. Clarification was made within the Special Measures for Control of Typhoid section (Section R386-702-7) regarding case management of cases, carriers, and contacts, as well as to clarify authority of the local health officer to impose restrictions, or to approve removal of restrictions. Two references were updated to reflect the most current available editions.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-30 and Section 26-6-3 and Title 26, Chapter 23b

MATERIALS INCORPORATED BY REFERENCE:

- ◆ Updates Control of Communicable Diseases Manual, published by APHA, 19th Edition
- ◆ Updates Red Book Plus: 2009 Report of the Committee on Infectious Diseases, published by American Academy of Pediatrics, 28th Edition

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There may be some savings related to a decrease in resources needed to investigate Pelvic Inflammatory Disease, and there may be a small increase in resources needed to investigate reports of babesiosis. Also, presumably, case load may increase as laboratories report electronically, which may result in more complete case ascertainment. It is not possible to quantify what these costs or savings may be; they are expected to be negligible, at least until laboratories uniformly report electronically.
- ◆ **LOCAL GOVERNMENTS:** There may be some savings related to a decrease in resources needed to investigate Pelvic Inflammatory Disease, and there may be a small increase in resources needed to investigate reports of babesiosis. Also, presumably, case load may increase as laboratories report electronically, which may result in more complete case ascertainment. It is not possible to quantify what these costs or savings may be; they are expected to be negligible, at least until laboratories uniformly report electronically.
- ◆ **SMALL BUSINESSES:** Impact should be minimal for small businesses; reporting burden for small clinics/facilities should not increase since incidence of babesiosis is presumed to be low.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Impact should be minimal; reporting burden should not increase significantly since incidence of babesiosis is presumed to be low, and should be counteracted by removal of Pelvic Inflammatory Disease from the list of reportable

conditions. Laboratories who wish to report electronically may incur costs associated with implementation of this reporting method; however, this is not mandated and would be on a voluntary basis at this time.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no direct compliance costs associated with this amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: My review of the rule supports that there should be either no increased cost for business as a result of this rule change, or a small decrease as coordination and reporting requirements are simplified.

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

HEALTH
DISEASE CONTROL AND PREVENTION,
EPIDEMIOLOGY
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:

♦ Melissa Stevens Dimond by phone at 801-538-6810, by FAX at 801-538-9923, or by Internet E-mail at melissastevens@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2012

AUTHORIZED BY: David Patton, Executive Director

R386. Health, Disease Control and Prevention, Epidemiology.

R386-702. Communicable Disease Rule.

R386-702-1. Purpose Statement.

(1) The Communicable Disease Rule is adopted under authority of Sections 26-1-30, 26-6-3, and 26-23b.

(2) This rule outlines a multidisciplinary approach to communicable and infectious disease control and emphasizes reporting, surveillance, isolation, treatment and epidemiological investigation to identify and control preventable causes of infectious diseases. Reporting requirements and authorizations are specified for communicable and infectious diseases, outbreaks, and unusual occurrence of any disease. Each section has been adopted with the intent of reducing disease morbidity and mortality through the rapid implementation of established practices and procedures.

(3) The successes of medicine and public health dramatically reduced the risk of epidemics and early loss of life due to infectious agents during the twentieth century. However, the recent emergence of new diseases, such as Human Immunodeficiency Virus, Hantavirus, and Severe Acute Respiratory

Syndrome, and the rapid spread of diseases to the United States from other parts of the world, such as West Nile virus, made possible by advances in transportation, trade, food production, and other factors highlight the continuing threat to health from infectious diseases. Continual attention to these threats and cooperation among all health care providers, government agencies and other entities that are partners in protecting the public's health are crucial to maintain and improve the health of the citizens of Utah.

R386-702-2. Definitions.

(1) Terms in this rule are defined in Section 26-6-2 and 26-23b-102, except that for purposes of this rule, "Department" means the Utah Department of Health.

(2) In addition:

(a) "Outbreak" means an epidemic limited to a localized increase in incidence of disease.

(b) "Case" means a person identified as having a disease, health disorder, or condition that is reportable under this rule or that is otherwise under public health investigation.

(c) "Suspect" case means a person who a reporting entity, local health department, or Department believes might be a case, but for whom it has not been established that the criteria necessary to become a case have been met.

R386-702-3. Reportable Diseases, Emergency Illnesses, and Health Conditions.

(1) The Utah Department of Health declares the following conditions to be of concern to the public health and reportable as required or authorized by Section 26-6-6 and Title 26, Chapter 23b of the Utah Health Code.

(a) [-] Acquired Immunodeficiency Syndrome

(b) Adverse event resulting after smallpox vaccination

(c) Amebiasis

(d) Anthrax

(e) Arbovirus infection, including Saint Louis encephalitis and West Nile virus infection

(f) Babesiosis

[~~(f)~~](g) Botulism

[~~(g)~~](h) Brucellosis

[~~(h)~~](i) Campylobacteriosis

[~~(i)~~](j) Chancroid

[~~(j)~~](k) Chickenpox

[~~(k)~~](l) Chlamydia trachomatis infection

[~~(l)~~](m) Cholera

[~~(m)~~](n) Coccidioidomycosis

[~~(n)~~](o) Colorado tick fever

[~~(o)~~](p) Creutzfeldt-Jakob disease and other transmissible

human spongiform encephalopathies

[~~(p)~~](q) Cryptosporidiosis

[~~(q)~~](r) Cyclospora infection

[~~(r)~~](s) Dengue fever

[~~(s)~~](t) Diphtheria

[~~(t)~~](u) Echinococcosis

[~~(u)~~](v) Ehrlichiosis, human granulocytic, human monocytic, or unspecified

[~~(v)~~](w) Encephalitis

[~~(w)~~](x) Shiga toxin-producing Escherichia coli (STEC) infection

~~[(x)]~~(y) Giardiasis
~~[(y)]~~(z) Gonorrhea: sexually transmitted and ophthalmia neonatorum
~~[(z)]~~(aa) Haemophilus influenzae, invasive disease
~~[(aa)]~~(bb) Hansen Disease (Leprosy)
~~[(bb)]~~(cc) Hantavirus [~~infection and~~]pulmonary syndrome
~~[(ee)]~~(dd) Hemolytic Uremic Syndrome, postdiarrheal
~~[(dd)]~~(ee) Hepatitis A
~~[(ee)]~~(ff) Hepatitis B, cases and carriers
~~[(ff)]~~(gg) Hepatitis C, acute and chronic infection
~~[(gg)]~~(hh) Hepatitis, other viral
~~[(hh)]~~(ii)(1) Human Immunodeficiency Virus Infection.
 Reporting requirements are listed in R388-803.
(ii)(2) Pregnancy in a HIV case
~~[(ii)]~~(jj) Influenza-associated hospitalization
~~[(jj)]~~(kk) Influenza-associated death, in a person less than 18 years of age
~~[(kk)]~~(ll) Legionellosis
~~[(ll)]~~(mm) Listeriosis
~~[(mm)]~~(nn) Lyme Disease
~~[(nn)]~~(oo) Malaria
~~[(oo)]~~(pp) Measles
~~[(pp)]~~(qq) Meningitis (aseptic, bacterial, fungal, parasitic, protozoan, and viral)
~~[(qq)]~~(rr) Meningococcal Disease
~~[(rr)]~~(ss) Mumps
~~[(ss)]~~(tt) Norovirus, formerly called Norwalk-like virus, infection
~~[(tt)]~~(uu) Pelvic Inflammatory Disease
~~[(uu)]~~(vv) Pertussis
~~[(vv)]~~(ww) Plague
~~[(ww)]~~(xx) Poliomyelitis, paralytic
~~[(xx)]~~(yy) Poliovirus infection, nonparalytic
~~[(yy)]~~(zz) Psittacosis
~~[(zz)]~~(aaa) Q Fever
~~[(aaa)]~~(bbb) Rabies, human and animal
~~[(bbb)]~~(ccc) Relapsing fever, tick-borne and louse-borne
~~[(ccc)]~~(ddd) Rocky Mountain spotted fever
~~[(ddd)]~~(eee) Rubella
~~[(eee)]~~(ddd) Rubella, congenital syndrome
~~[(ddd)]~~(eee) Salmonellosis
~~[(eee)]~~(fff) Severe Acute Respiratory Syndrome (SARS)
~~[(fff)]~~(ggg) Shigellosis
~~[(ggg)]~~(hhh) Smallpox
(iii) Spotted fever rickettsioses (including Rocky Mountain Spotted Fever)
~~[(iii)]~~(jjj) Staphylococcus aureus with resistance or intermediate resistance to vancomycin isolated from any site
~~[(jjj)]~~(kkk) Streptococcal disease, invasive, including Streptococcus pneumoniae and Groups A, B, C, and G streptococci ~~organism~~ isolated from a normally sterile site
~~[(kkk)]~~(lll) Syphilis, all stages and congenital
~~[(lll)]~~(mmm) Tetanus
~~[(mmm)]~~(nnn) Toxic-Shock Syndrome, staphylococcal or streptococcal
~~[(nnn)]~~(ooo) Trichinosis
~~[(ooo)]~~(ppp) Tuberculosis. Special Measures for the Control of Tuberculosis are listed in R388-804.

(qqq) Tularemia
 (rrr) Typhoid, cases and carriers
 (sss) Vibriosis
 (ttt) Viral hemorrhagic fever
 (uuu) Yellow fever
 (vvv) Any unusual occurrence of infectious or communicable disease or any unusual or increased occurrence of any illness that may indicate a Bioterrorism event or public health hazard, including any single case or multiple cases of a newly recognized, emergent or re-emergent disease or disease-producing agent, including newly identified multi-drug resistant bacteria or a novel influenza strain such as a pandemic influenza strain.
 (www) Any outbreak, epidemic, or unusual or increased occurrence of any illness that may indicate an outbreak or epidemic. This includes suspected or confirmed outbreaks of foodborne disease, waterborne disease, disease caused by antimicrobial resistant organisms, any infection that may indicate a bioterrorism event, or of any infection that may indicate a public health hazard.
 (2) In addition to the reportable conditions set forth in R386-702-3(1) the Department declares the following reportable emergency illnesses or health conditions to be of concern to the public health and reporting is authorized by Title 26, Chapter 23b, Utah Code, unless made mandatory by the declaration of a public health emergency:
 (a) respiratory illness (including upper or lower respiratory tract infections, difficulty breathing and Adult Respiratory Distress Syndrome);
 (b) gastrointestinal illness (including vomiting, diarrhea, abdominal pain, or any other gastrointestinal distress);
 (c) influenza-like constitutional symptoms and signs;
 (d) neurologic symptoms or signs indicating the possibility of meningitis, encephalitis, or unexplained acute encephalopathy or delirium;
 (e) rash illness;
 (f) hemorrhagic illness;
 (g) botulism-like syndrome;
 (h) lymphadenitis;
 (i) sepsis or unexplained shock;
 (j) febrile illness (illness with fever, chills or rigors);
 (k) nontraumatic coma or sudden death; and
 (l) other criteria specified by the Department as indicative of disease outbreaks or injurious exposures of uncertain origin.

R386-702-4. Reporting.

(1) Each reporting entity shall report each confirmed case and any case who the reporting entity believes in its professional judgment is likely to harbor an illness, infection, or condition reportable under R386-702-3(1), and each outbreak, epidemic, or unusual occurrence described in R386-702-3(1)(vvv) or (www) to the local health department or to the Bureau of Epidemiology, Utah Department of Health. Unless otherwise specified, the report of these diseases to the local health department or to the Bureau of Epidemiology, Utah Department of Health shall provide the following information: name, age, sex, address, date of onset, and all other information as prescribed by the Department. A standard report form has been adopted and is supplied to physicians and other reporting entities by the Department. Upon receipt of a report, the local health department shall promptly forward a written

or electronic copy of the report to the Bureau of Epidemiology, Utah Department of Health.

(2) Where immediate reporting is required, the reporting entity shall report as soon as possible, but not later than 24 hours after identification. Immediate reporting shall be made by telephone to the local health department or to the Bureau of Epidemiology, Utah Department of Health at 801-538-6191 or 888-EPI-UTAH (888-374-8824). All diseases not required to be reported immediately or by number of cases shall be reported within three working days from the time of identification. Reporting entities shall send reports to the local health department by phone, secured fax, secured email, or mail; or the Bureau of Epidemiology by phone (801-538-6191), secured fax (801-538-9923), secured email (please contact the Bureau of Epidemiology at 801-538-6191 for information on this option), or by mail(288 North 1460 West, P. O. Box 142104, Salt Lake City, Utah 84114-2104). Laboratories may report case information electronically in a manner approved of by the Department if the laboratory has capacity to do so (please contact the Bureau of Epidemiology at 801-538-6191 for information on this option).

(3) Entities Required to Report Communicable Diseases: Title 26, Chapter 6, Section 6 Utah Code lists those individuals and facilities required to report diseases known or suspected of being communicable.

(a) Physicians, hospitals, health care facilities, home health agencies, health maintenance organizations, and other health care providers shall report details regarding each case.

(b) Schools, child ~~day~~-care centers, and citizens shall provide any relevant information.

(c) Laboratories and other testing sites shall report laboratory evidence confirming any of the reportable diseases. Laboratories and other testing sites shall also report any test results that provide presumptive evidence of infection such as positive tests for HIV, syphilis, measles, and viral hepatitis.

(d) Pharmacists shall report unusual prescriptions or patterns of prescribing as specified in section 26-23b-105.

(4) Immediately Reportable Conditions: Cases and suspect cases of anthrax, botulism (except for infant botulism), cholera, diphtheria, Haemophilus influenzae (invasive disease), hepatitis A, measles, meningococcal disease, plague, poliomyelitis, rabies, rubella, Severe Acute Respiratory Syndrome (SARS), smallpox, Staphylococcus aureus with resistance (VRSA) or intermediate resistance (VISA) to vancomycin isolated from any site, ~~syphilis (primary or secondary stage);~~ tuberculosis, tularemia, typhoid, viral hemorrhagic fever, yellow fever, and any condition described in R386-702-3(1)(vvv) or (www) are to be made immediately as provided in R386-702-4(2).

(5) Full reporting of all relevant patient information related to ~~methicillin-resistant Staphylococcus aureus (MRSA) infections, vancomycin-resistant enterococcal (VRE) infections, and~~ laboratory-confirmed influenza ~~are~~ is authorized and may be required by local or state health department personnel for purposes of public health investigation of a documented threat to public health.

(6) Reports of emergency illnesses or health conditions under R386-702-3(2) shall be made as soon as practicable using a process and schedule approved by the Department. Full reporting of all relevant patient information is authorized. The report shall include at least, if known:

- (a) name of the facility;
- (b) a patient identifier;
- (c) date of visit;
- (d) time of visit;
- (e) patient's age;
- (f) patient's sex;
- (g) zip code of patient's residence;
- (h) the reportable condition suspected; and
- (i) whether the patient was admitted to the hospital.

(7) An entity reporting emergency illnesses or health conditions under R386-702-3(2) is authorized to report on other encounters during the same time period that do not meet definition for a reportable emergency illness or health condition. Submission of an isolate does not replace the requirement to report the case also to the local health department or Bureau of Epidemiology, Utah Department of Health. The report shall include the following information for each such encounter:

- (a) facility name;
- (b) date of visit;
- (c) time of visit;
- (d) patient's age;
- (e) patient's sex; and
- (f) patient's zip code for patient's residence.

(8) Mandatory Submission of Isolates: Laboratories shall submit all isolates of the following organisms to the Utah Department of Health, public health laboratory. Laboratories should alert the Unified State Laboratories: Public Health (USLPH), via telephone during business hours (801) 965-2560 or after hours (888) EPI-UTAH, on all bioterrorism (BT) agents that are being submitted. BT agents are marked below (as (BT)) with other organisms mandated for submission:

- (a) Bacillus anthracis (BT);
- ~~(b) Bordetella pertussis;~~
- ~~(b)~~ Brucella species (BT);
- ~~(c)~~ Campylobacter species;
- ~~(d)~~ Clostridium botulinum (BT);
- ~~(e)~~ Corynebacterium diphtheriae;
- ~~(f)~~ Shiga toxin-producing Escherichia coli (STEC) (including enrichment and/or MacConkey broths that tested positive by enzyme immunoassay for Shiga toxin);
- ~~(g)~~ Francisella tularensis (BT);
- ~~(h)~~ Haemophilus influenzae, from normally sterile sites;
- ~~(i)~~ Influenza (hospitalized cases only), types A and B;
- ~~(i)~~ Legionella species;
- ~~(k)~~ Listeria monocytogenes;
- ~~(m)~~ Mycobacterium tuberculosis complex;
- ~~(m)~~ Neisseria gonorrhoeae;
- ~~(n)~~ Neisseria meningitidis, from normally sterile sites;
- ~~(o)~~ Salmonella species;
- ~~(p)~~ Shigella species;
- ~~(q)~~ Staphylococcus aureus with resistance or intermediate resistance to vancomycin isolated from any site;
- ~~(r)~~ Vibrio species;
- ~~(s)~~ Yersinia species (Yersinia pestis, BT); and
- ~~(t)~~ any organism implicated in an outbreak when instructed by authorized local or state health department personnel.

(9) **Epidemiological Review:** The Department or local health department may conduct an investigation, including review of the hospital and health care facility medical records and contacting the individual patient to protect the public's health.

(10) **Confidentiality of Reports:** All reports required by this rule are confidential and are not open to public inspection. Nothing in this rule, however, precludes the discussion of case information with the attending physician or public health workers. All information collected pursuant to this rule may not be released or made public, except as provided by Section 26-6-27. Penalties for violation of confidentiality are prescribed in Section 26-6-29.

(11) If public health conducts a retrospective surveillance project, such as to assess completeness of case finding or assess another measure of data quality, the department may, at its discretion, waive any penalties for participating facilities, medical providers, laboratories, or other reporters if cases are found that were not originally reported for whatever reason.

R386-702-5. General Measures for the Control of Communicable Diseases.

(1) The local health department shall maintain all reportable disease records as needed to enforce Chapter 6 of the Health Code and this rule, or as requested by the Utah Department of Health.

(2) **General Control Measures for Reportable Diseases.**

(a) The local health department shall, when an unusual or rare disease occurs in any part of the state or when any disease becomes so prevalent as to endanger the state as a whole, contact the Bureau of Epidemiology, Utah Department of Health for assistance, and shall cooperate with the representatives of the Utah Department of Health.

(b) The local health department shall investigate and control the causes of epidemic, infectious, communicable, and other disease affecting the public health. The local health department shall also provide for the detection, reporting, prevention, and control of communicable, infectious, and acute diseases that are dangerous or important or that may affect the public health. The local health department may require physical examination and measures to be performed as necessary to protect the health of others.

(c) If, in the opinion of the local health officer it is necessary or advisable to protect the public's health that any person shall be kept from contact with the public, the local health officer shall establish, maintain and enforce involuntary treatment, isolation and quarantine as provided by Section 26-6-4. Control measures shall be specific to the known or suspected disease agent. Guidance is available from the Bureau of Epidemiology, Utah Department of Health or official reference listed in R386-702-1[+]2.

(3) **Prevention of the Spread of Disease From a Case.**

The local health department shall take action and measures as may be necessary within the provisions of Section 26-6-4; Title 26, Chapter 6b; and this rule, to prevent the spread of any communicable disease, infectious agent, or any other condition which poses a public health hazard. Action shall be initiated upon discovery of a case or upon receipt of notification or report of any disease.

(4) Prevention of the Spread of Disease or Other Public Health Hazard.

A case, suspected case, carrier, contact, other person, or entity (e.g. facility, hotel, organization) shall, upon request of a public health authority, promptly cooperate during:

(a) An investigation of the circumstances or cause of a case, suspected case, outbreak, or suspected outbreak.

(b) The carrying out of measures for prevention, suppression, and control of a public health hazard, including, but not limited to, procedures of restriction, isolation, and quarantine.

([4]5) Public Food Handlers.

A person known to be infected with a communicable disease that can be transmitted by food[~~water~~] or drink products[~~milk~~], or who is suspected of being infected with such a disease, may not engage in the commercial handling of food[~~water~~] or other drink products, or be employed in a dairy or on any premises handling [~~milk or milk~~]those types of products, unless those products are packaged off-site and remain in a closed container until purchased for consumption, until the person is determined by the local health department to be free of communicable disease, or incapable of transmitting the infection.

([5]6) Communicable Diseases in Places Where [~~Milk or~~]Food or Drink Products are Handled or Processed.

If a case, carrier, or suspected case of a disease that can be conveyed by [~~milk or~~]food or drink products is found at any place where [~~milk or~~]food or drink products are handled or offered for sale, or if a disease is found or suspected to have been transmitted by these [~~milk or~~]food or drink products, the local health department may immediately prohibit the sale, or removal of drink [~~milk~~]and all other food products from the premises. Sale or distribution of [~~milk or~~]food or drink products from the premises may be resumed when measures have been taken to eliminate the threat to health from the [~~food~~]product and its processing as prescribed by R392-100.

([6]7) Request for State Assistance.

If a local health department finds it is not able to completely comply with this rule, the local health officer or his representative shall request the assistance of the Utah Department of Health. In such circumstances, the local health department shall provide all required information to the Bureau of Epidemiology. If the local health officer fails to comply with the provisions of this rule, the Utah Department of Health shall take action necessary to enforce this rule.

([7]8) Approved Laboratories.

Laboratory analyses [~~which~~]that are necessary to identify the causative agents of reportable diseases or to determine adequacy of treatment of patients with a disease shall be ordered by the physician or other health care provider to be performed in or referred to a laboratory holding a valid certificate under the Clinical Laboratory Improvement Amendments of 1988.

R386-702-6. Special Measures for Control of Rabies.

(1) **Rationale of Treatment.**

A physician must evaluate individually each exposure to possible rabies infection. The physician shall also consult with local or state public health officials if questions arise about the need for rabies prophylaxis.

(2) **Management of Biting Animals.**

(a) A healthy dog, cat, or ferret that bites a person shall be confined and observed at least daily for ten days from the date of bite as specified by local animal control ordinances. It is

recommended that rabies vaccine not be administered during the observation period. Such animals shall be evaluated by a veterinarian at the first sign of illness during confinement. A veterinarian or animal control officer shall immediately report any illness in the animal to the local health department. If signs suggestive of rabies develop, a veterinarian or animal control officer shall direct that the animal be euthanized, its head removed, and the head shipped under refrigeration, not frozen, for examination of the brain by a laboratory approved by the Utah Department of Health.

(b) If the dog, cat, or ferret shows no signs of rabies or illness during the ten day period, the veterinarian or animal control officer shall direct that the unvaccinated animal be vaccinated against rabies at the owner's expense before release to the owner. If a veterinarian is not available, the animal may be released, but the owner shall have the animal vaccinated within 72 hours of release. If the dog, cat, or ferret was appropriately vaccinated against rabies before the incident, the animal may be released from confinement after the 10-day observation period with no further restrictions.

(c) Any stray or unwanted dog, cat, or ferret that bites a person may be euthanized immediately by a veterinarian or animal control officer, if permitted by local ordinance, and the head submitted, as described in R386-702-6(2)(a), for rabies examination. If the brain is negative by fluorescent-antibody examination for rabies, one can assume that the saliva contained no virus, and the person bitten need not be treated.

(d) Wild animals include raccoons, skunks, coyotes, foxes, bats, the offspring of wild animals crossbred to domestic dogs and cats, and any carnivorous animal other than a domestic dog, cat, or ferret.

(e) Signs of rabies in wild animals cannot be interpreted reliably. If a wild animal bites or scratches a person, the person or attending medical personnel shall notify an animal control or law enforcement officer. A veterinarian, animal control officer or representative of the Division of Wildlife Resources shall kill the animal at once, without unnecessary damage to the head, and submit the brain, as described in R386-702-6(2)(a), for examination for evidence of rabies. If the brain is negative by fluorescent-antibody examination for rabies, one can assume that the saliva contained no virus, and the person bitten need not be treated.

(f) Rabbits, opossums, squirrels, chipmunks, rats, and mice are rarely infected and their bites rarely, if ever, call for rabies prophylaxis or testing. Unusual exposures to any animal should be reported to the local health department or the Bureau of Epidemiology, Utah Department of Health.

(g) When rare, valuable, captive wild animals maintained in zoological parks approved by the United States Department of Agriculture or research institutions, as defined by Section 26-26-1, bite or scratch a human, the Bureau of Epidemiology, Utah Department of Health shall be notified. The provisions of subsection R386-702-6(2)(e) may be waived by the Bureau of Epidemiology, Utah Department of Health if zoological park operators or research institution managers can demonstrate that the following rabies control measures are established:

(i) Employees who work with the animal have received preexposure rabies immunization.

(ii) The person bitten by the animal voluntarily agrees to accept postexposure rabies immunization provided by the zoological park or research facility.

(iii) The director of the zoological park or research facility shall direct that the biting animal be held in complete quarantine for a minimum of 180 days. Quarantine requires that the animal be prohibited from direct contact with other animals or humans.

(h) Any animal bitten or scratched by a wild, carnivorous animal or a bat that is not available for testing shall be regarded as having been exposed to rabies.

(i) For maximum protection of the public health, unvaccinated dogs, cats, and ferrets bitten or scratched by a confirmed or suspected rabid animal shall be euthanized immediately by a veterinarian or animal control officer. If the owner is unwilling to have the animal euthanized, the local health officer shall order that the animal be held in strict isolation in a municipal or county animal shelter or a veterinary medical facility approved by the local health department, at the owner's expense, for at least six months and vaccinated one month before being released. If any illness suggestive of rabies develops in the animal, the veterinarian or animal control officer shall immediately report the illness to the local health department and the veterinarian or animal control officer shall direct that the animal be euthanized and the head shall be handled as described in subsection R386-702-6(2)(a).

(j) Dogs, cats, and ferrets that are currently vaccinated and are bitten by rabid animals, shall be revaccinated immediately by a veterinarian and confined and observed by the animal's owner for 45 days. If any illness suggestive of rabies develops in the animal, the owner shall report immediately to the local health department and the animal shall be euthanized by a veterinarian or animal control officer and the head shall be handled as described in subsection R386-702-6(2)(a).

(k) Livestock exposed to a rabid animal and currently vaccinated with a vaccine approved by the United States Department of Agriculture for that species shall be revaccinated immediately by a veterinarian and observed by the owner for 45 days. Unvaccinated livestock shall be slaughtered immediately. If the owner is unwilling to have the animal slaughtered, the animal shall be kept under close observation by the owner for six months.

(l) Unvaccinated animals other than dogs, cats, ferrets, and livestock bitten by a confirmed or suspected rabid animal shall be euthanized immediately by a veterinarian or animal control officer.

(3) Measures for Standardized Rabies Control Practices.

(a) Humans requiring either pre- or post-exposure rabies prophylaxis shall be treated in accordance with the recommendations of the U.S. Public Health Service Immunization Practices Advisory Committee, as adopted and incorporated by reference in R386-702-11(2). A copy of the recommendations shall be made available to licensed medical personnel, upon request to the Bureau of Epidemiology, Utah Department of Health.

(b) A physician or other health care provider that administers rabies vaccine shall immediately report all serious systemic neuromuscular or anaphylactic reactions to rabies vaccine to the Bureau of Epidemiology, Utah Department of Health, using the process described in R386-702-4.

(c) The Compendium of Animal Rabies Prevention and Control, as adopted and incorporated by reference in R386-702-11(3), is the reference document for animal vaccine use.

(d) A county, city, town, or other political subdivision that requires licensure of animals shall also require rabies vaccination as a prerequisite to obtaining a license.

(e) Animal rabies vaccinations are valid only if performed by or under the direction of a licensed veterinarian in accordance with the Compendium of Animal Rabies Prevention and Control.

(f) All agencies and veterinarians administering vaccine shall document each vaccination on the National Association of State Public Health Veterinarians (NASPHV) form number 51, Rabies Vaccination Certificate, which can be obtained from vaccine manufacturers. The agency or veterinarian shall provide a copy of the report to the animal's owner. Computer-generated forms containing the same information are also acceptable.

(g) Animal rabies vaccines may be sold or otherwise provided only to licensed veterinarians or veterinary biologic supply firms. Animal rabies vaccine may be purchased by the Utah Department of Health and the Utah Department of Agriculture.

(4) Measures to Prevent or Control Rabies Outbreaks.

(a) The most important single factor in preventing human rabies is the maintenance of high levels of immunity in the pet dog, cat, and ferret populations through vaccination.

(i) All dogs, cats, and ferrets in Utah should be immunized against rabies by a licensed veterinarian; and

(ii) Local governments should establish effective programs to ensure vaccination of all dogs, cats, and ferrets and to remove strays and unwanted animals.

(b) If the Utah Department of Health determines that a rabies outbreak is present in an area of the state, the Utah Department of Health may require that:

(i) all dogs, cats, and ferrets in that area and adjacent areas be vaccinated or revaccinated against rabies as appropriate for each animal's age;

(ii) any such animal be kept under the control of its owner at all times until the Utah Department of Health declares the outbreak to be resolved;

(iii) an owner who does not have an animal vaccinated or revaccinated surrender the animal for confinement and possible destruction; and

(iv) such animals found at-large be confined and possibly destroyed.

R386-702-7. Special Measures for Control of Typhoid.

(1) Because typhoid control measures depend largely on sanitary precautions and other health measures designed to protect the public, the local health department shall investigate each case of typhoid and strictly manage the infected individual according to the following outline:

(2) Cases: Standard precautions are required during hospitalization. Use contact precautions for diapered or incontinent children under 6 years of age for the duration of illness. Hospital care is desirable during acute illness. Release of the patient from supervision by the local health department shall be based on three or more negative cultures of feces[;] (and of urine in patients with schistosomiasis)[;] taken at least 24 hours apart. Cultures must have been taken at least 48 hours after antibiotic therapy has ended and not earlier than one month after onset of illness as specified in R386-702-7(6). If any of these cultures is positive, repeat cultures at intervals of one month during the 12-month period following onset until at least three consecutive negative cultures are obtained

as specified in R386-702-7(6). The patient shall be restricted from food handling, child care, and from providing patient care during the period of supervision by the local health department.

(3) Contacts: Administration of typhoid vaccine is recommended~~required~~ for all household members of known typhoid carriers. ~~[Household and close contacts shall not be employed in occupations likely to facilitate transmission of the disease, such as food handling, during the period of contact with the infected person until at least two negative feces and urine cultures, taken at least 24 hours apart, are obtained from each contact.]~~Household and close contacts of a carrier shall be restricted from food handling, child care, and patient care until two consecutive negative stool specimens, taken at least 24 hours apart, are submitted, or when approval is granted by the local health officer according to local jurisdiction.

(4) Carriers: If a laboratory or physician identifies a carrier of typhoid, the attending physician shall immediately report the details of the case by telephone to the local health department or the Bureau of Epidemiology, Utah Department of Health using the process described in R386-702-4. Each infected individual shall submit to the supervision of the local health department. Carriers are prohibited from food handling, child care, and patient care until released in accordance with R386-702-7(4)(a) or R386-702-7(4)(b). All reports and orders of supervision shall be kept confidential and may be released only as allowed by Subsection 26-6-27(2)(c).

(a) Convalescent Carriers: Any person who harbors typhoid bacilli for three but less than 12 months after onset is defined as a convalescent carrier. Release from occupational and food handling restrictions may be granted at any time from three to 12 months after onset, as specified in R386-702-7(6).

(b) Chronic Carriers: Any person who continues to excrete typhoid bacilli for more than 12 months after onset of typhoid is a chronic carrier. Any person who gives no history of having had typhoid or who had the disease more than one year previously, and whose feces or urine are found to contain typhoid bacilli is also a chronic carrier.

(c) Other Carriers: If typhoid bacilli are isolated from surgically removed tissues, organs, including the gallbladder or kidney, or from draining lesions such as osteomyelitis, the attending physician shall report the case to the local health department or the Bureau of Epidemiology, Utah Department of Health. If the person continues to excrete typhoid bacilli for more than 12 months, he is a chronic carrier and may be released after satisfying the criteria for chronic carriers in R386-702-7(6).

(5) Carrier Restrictions and Supervision: The local health department shall report all typhoid carriers to the Bureau of Epidemiology, and shall:

(a) Require the necessary laboratory tests for release;

(b) Issue written instructions to the carrier;

(c) Supervise the carrier.

(6) Requirements for Release of Convalescent and Chronic Carriers: The local health officer or his representative may release a convalescent or chronic carrier from occupational and food handling restrictions only if at least one of the following conditions is satisfied:

(a) For carriers without schistosomiasis, three consecutive negative cultures obtained from fecal specimens authenticated by the attending physician, hospital personnel, laboratory personnel, or local health department staff taken at least

one month apart and at least 48 hours after antibiotic therapy has stopped;

(b) for carriers with schistosomiasis, three consecutive negative cultures obtained from both fecal and urine specimens authenticated by the attending physician, hospital personnel, laboratory personnel, or local health department staff taken at least one month apart and at least 48 hours after antibiotic therapy has stopped; ~~[-or]~~

(c) the local health officer or his representative determine that additional treatment such as cholecystectomy or nephrectomy has terminated the carrier state ~~[-]; or~~

(d) the local health officer or his representative determines the carrier no longer presents a risk to public health according to the evaluation of other factors.

R386-702-8. Special Measures for the Control of Ophthalmia Neonatorum.

Every physician or midwife practicing obstetrics or midwifery shall, within three hours of the birth of a child, instill or cause to be instilled in each eye of such newborn one percent silver nitrate solution contained in wax ampules, or tetracycline ophthalmic preparations or erythromycin ophthalmic preparations, as these are the only antibiotics of currently proven efficacy in preventing development of ophthalmia neonatorum. The value of irrigation of the eyes with normal saline or distilled water is unknown and not recommended.

R386-702-9. Special Measures to Prevent Perinatal and Person-to-Person Transmission of Hepatitis B Infection.

(1) A licensed healthcare provider who provides prenatal care shall routinely test each pregnant woman for hepatitis B surface antigen (HBsAg) at an early prenatal care visit. The provisions of this section do not apply if the pregnant woman, after being informed of the possible consequences, objects to the test on the basis of religious or personal beliefs.

(2) The licensed healthcare provider who provides prenatal care should repeat the HBsAg test during late pregnancy for those women who tested negative for HBsAg during early pregnancy, but who are at high risk based on:

(a) evidence of clinical hepatitis during pregnancy;

(b) injection drug use;

(c) occurrence during pregnancy or a history of a sexually transmitted disease;

(d) occurrence of hepatitis B in a household or close family contact; or

(e) the judgement of the healthcare provider.

(3) In addition to other reporting required by this rule, each positive HBsAg result detected in a pregnant woman shall be reported to the local health department or the Utah Department of Health, as specified in Section 26-6-6. That report shall indicate that the woman was pregnant at time of testing if that information is available to the reporting entity.

(4) A licensed healthcare provider who provides prenatal care shall document a woman's HBsAg test results, or the basis of the objection to the test, in the medical record for that patient.

(5) Every hospital and birthing facility shall develop a policy to assure that:

(a) when a pregnant woman is admitted for delivery, or for monitoring of pregnancy status, the result from a test for HBsAg

performed on that woman during that pregnancy is available for review and documented in the hospital record ;

(b) when a pregnant woman is admitted for delivery if the woman's test result is not available to the hospital or birthing facility, the mother is tested for HBsAg as soon as possible, but before discharge from the hospital or birthing facility;

(c) if a pregnant woman who has not had prenatal care during that pregnancy is admitted for monitoring of pregnancy status only, if the woman's test result is not available to the hospital or birthing facility, the mother is tested for HBsAg status before discharge from the hospital or birthing facility;

(d) positive HBsAg results identified by testing performed or documented during the hospital stay are reported as specified in this rule;

(e) infants born to HBsAg positive mothers receive hepatitis B immune globulin (HBIG) and hepatitis B vaccine, administered at separate injection sites, within 12 hours of birth;

(f) infants born to mothers whose HBsAg status is unknown receive hepatitis B vaccine within 12 hours of birth, and if the infant is born preterm with birth weight less than 2,000 grams, that infant also receives HBIG within 12 hours; and

(g) if at the time of birth the mother's HbsAg status is unknown and the HBsAg test result is later determined to be positive, that infant receives HBIG as soon as possible but within 7 days of birth.

(6) Local health departments shall perform the following activities or assure that they are performed:

(a) Infants born to HBsAg positive mothers complete the hepatitis B vaccine series as specified in Table 3.18, page 328 and Table 3.21, page 333 of the reference listed in subsection (9).

(b) Children born to HBsAg positive mothers are tested for HBsAg and antibody against hepatitis B surface antigen (anti-HBs) at 9 to 15 months of age (3-9 months after the third dose of hepatitis B vaccine) to monitor the success of therapy and identify cases of perinatal hepatitis B infection.

(i) Children who test negative for HBsAg and do not demonstrate serological evidence of immunity against hepatitis B when tested as described in (b) receive additional vaccine doses and are retested as specified on page 332 of the reference listed in subsection (9).

(c) HBsAg positive mothers are advised regarding how to reduce their risk of transmitting hepatitis B to others.

(d) Household members and sex partners of HBsAg positive mothers are evaluated to determine susceptibility to hepatitis B infection and if determined to be susceptible, are offered or advised to obtain vaccination against hepatitis B.

(7) The provisions of subsections (5) and (6) do not apply if the pregnant woman or the child's guardian, after being informed of the possible consequences, objects to any of the required procedures on the basis of religious or moral beliefs. The hospital or birthing facility shall document the basis of the objection.

(8) Prevention of transmission by individuals with chronic hepatitis B infection.

(a) An individual with chronic hepatitis B infection is defined as an individual who is:

(i) HBsAg positive, and total antibody against hepatitis B core antigen (anti-HBc) positive (if done) and IgM anti-HBc negative; or

(ii) HBsAg positive on two tests performed on serum samples obtained at least 6 months apart.

(b) An individual with chronic hepatitis B infection should be advised regarding how to reduce the risk that the individual will transmit hepatitis B to others.

(c) Household members and sex partners of individuals with chronic hepatitis B infection should be evaluated to determine susceptibility to hepatitis B infection and if determined to be susceptible, should be offered or advised to obtain vaccination against Hepatitis B.

(9) The Red Book Plus;[~~5~~] 200[~~3~~]2 Report of the Committee on Infectious Diseases, as referenced in R386-702-12(4) is the reference source for details regarding implementation of the requirements of this section.

R386-702-10. Public Health Emergency.

(1) Declaration of Emergency: With the Governor's and Executive Director's or in the absence of the Executive Director, his designee's, concurrence, the Department or a local health department may declare a public health emergency by issuing an order mandating reporting emergency illnesses or health conditions specified in sections R386-702-3 for a reasonable time.

(2) For purposes of an order issued under this section and for the duration of the public health emergency, the following definitions apply.

(a) "emergency center" means:

(i) a health care facility licensed under the provisions of Title 26, Chapter 21, Utah Code, that operates an emergency department; or

(ii) a clinic that provides emergency or urgent health care to an average of 20 or more persons daily.

(b) "encounter" means an instance of an individual presenting at the emergency center who satisfies the criteria in section R386-702-3(2); and

(c) "diagnostic information" means an emergency center's records of individuals who present for emergency or urgent treatment, including the reason for the visit, chief complaint, results of diagnostic tests, presenting diagnosis, and final diagnosis, including diagnostic codes.

(3) Reporting Encounters: The Department shall designate the fewest number of emergency centers as is practicable to obtain the necessary data to respond to the emergency.

(a) Designated emergency centers shall report using the process described in R386-702-4.

(b) An emergency center designated by the Department shall report the encounters to the Department by:

(i) allowing Department representatives or agents, including local health department representatives, to review its diagnostic information to identify encounters during the previous day; or

(ii) reviewing its diagnostic information on encounters during the previous day and reporting all encounters by 9:00 a.m. the following day, or

(iii) identifying encounters and submitting that information electronically to the Department, using a computerized analysis method, and reporting mechanism and schedule approved by the Department; or

(iv) by other arrangement approved by the Department.

(4) For purposes of epidemiological and statistical analysis, the emergency center shall report on encounters during the public health emergency that do not meet the definition for a reportable emergency illness or health condition. The report shall be made using the process described in R386-702-[~~9(3)(b)~~]4 (6) and shall include the following information for each such encounter:

(a) facility name;

(b) date of visit;

(c) time of visit;

(d) patient's age;

(e) patient's sex;

(f) patient's zip code for patient's residence.

(5) If either the Department or a local health department collects identifying health information on an individual who is the subject of a report made mandatory under this section, it shall destroy that identifying information upon the earlier of its determination that the information is no longer necessary to carry out an investigation under this section or 180 days after the information was collected. However, the Department and local health departments shall retain identifiable information gathered under other sections of this rule or other legal authority.

(6) Reporting on encounters during the public health emergency does not relieve a reporting entity of its responsibility to report under other sections of this rule or other legal authority.

R386-702-11. Penalties.

Any person who violates any provision of R386-702 may be assessed a penalty as provided in Section 26-23-6.

R386-702-12. Official References.

All treatment and management of individuals and animals who have or are suspected of having a communicable or infectious disease that must be reported pursuant to this rule shall comply with the following documents, which are adopted and incorporated by reference:

(1) American Public Health Association. "Control of Communicable Diseases Manual". 1[8]9th ed., Heymann, David L., editor, 200[4]8.

(2) Centers for Disease Control and Prevention. Recommendation of the Immunization Practices Advisory Committee (ACIP): Human rabies Prevention - United States, 1999. "Morbidity and Mortality Weekly Report." 1999; 48: RR-1, 1-21.

(3) The National Association of State Public Health Veterinarians, Inc., "Compendium of Animal Rabies Prevention and Control, 2008."

(4) American Academy of Pediatrics. "Red Book Plus: 200[~~3~~]2 Report of the Committee on Infectious Diseases" 2[6]8th Edition. Elk Grove Village, IL, American Academy of Pediatrics; 200[3]2.

KEY: communicable diseases, quarantine, rabies, rules and procedures

Date of Enactment or Last Substantive Amendment: [~~March 15, 2010~~]2012

Notice of Continuation: October 12, 2011

Authorizing, and Implemented or Interpreted Law: 26-1-30; 26-6-3; 26-23b

**Health, Family Health and
Preparedness, Children with Special
Health Care Needs
R398-15
Autism Treatment Account**

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 36281

FILED: 05/29/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to govern the administration of the Autism Treatment Account.

SUMMARY OF THE RULE OR CHANGE: This rule includes qualification criteria and procedures for selecting children who may qualify for assistance from the account, qualifications, criteria, and procedures for evaluating the services and providers to include in the program, and provisions to address and avoid conflicts of interest that may arise in relation to the committee's work.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-52-201 and Section 26-52-202

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** Costs include staff time to administer the account and volunteer time from committee members to serve an advisory role, develop application process and review applications from treatment providers, and monitor reports from providers. As this is a new program, the division does not have records to indicate cost burden or savings.

◆ **LOCAL GOVERNMENTS:** None anticipated--Funds will be disbursed through treatment providers to eligible children.

◆ **SMALL BUSINESSES:** Cost--Time for providers to prepare applications to receive funds to treat eligible children. As this is a new program, the division does not have records to indicate cost burden or savings.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Cost to families--Time to identify contracted providers and enroll children for treatment. Savings to families--Treatment will be provided free to families up to the full amount appropriated. The division estimates that approximately 30 children will receive services through the current amount appropriated. As this is a new program, the division does not have records to indicate cost burden or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Cost to providers and families--Time to complete application processes involved. As this is a new program, the division does not have records to indicate cost burden or savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Families fortunate enough to be selected to receive the treatment will be greatly benefited by this program. The committee will carefully evaluate the effectiveness of treatment and provide important data to guide future public policy in this area. Provider participation is totally voluntary.

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

HEALTH

FAMILY HEALTH AND PREPAREDNESS,

CHILDREN WITH SPECIAL HEALTH CARE NEEDS

44 N MARIO CAPECCHI DR

SALT LAKE CITY, UT 84113

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Rebecca Giles by phone at 801-538-6259, or by Internet E-mail at rgiles@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

THIS RULE MAY BECOME EFFECTIVE ON: 07/30/2012

AUTHORIZED BY: David Patton, Executive Director

R398. Health, Family Health and Preparedness, Children with Special Health Care Needs.

R398-15. Autism Treatment Account.

R398-15-1. Purpose and Authority.

The purpose of this rule is to identify criteria and procedures for selecting children who may qualify for assistance from the account and identify qualifications, criteria, and procedures for selecting service and treatment providers that receive disbursements from the Autism Treatment Restricted Account.

This rule is authorized by Section 26-52-202(4) which provide that the Autism Treatment Account Advisory Committee, hereafter known as the "Committee", may make rules governing the Committee's activities.

R398-15-2. Qualification Criteria and Procedures for Selecting Children Who May Qualify for Assistance from the Account.

(1) Qualification Criteria

a. Child who is at least two but younger than six years of age upon enrollment.

b. Resident of Utah.

c. Diagnosed by a qualified professional as having an autism spectrum disorder, and

d. Have a need that can be met within the requirements of UCA 26-52.

i. Must need and be able to receive a minimum of six months of applied behavior analysis (ABA) therapy, and

ii. Cannot be receiving formal ABA therapy services from other state funded sources under this law (Medicaid Waiver or PEHP) or ABA therapy for a minimum of 20 hours per week

covered at 80 percent or more of cost of treatment by other insurance while receiving services funded through this account.

(2) Procedures for selecting children

a. Providers selected through the request for application (RFA) process are responsible for enrollment and determining if a child meets qualification criteria utilizing UDOH enrollment forms for children

b. If applications for enrollment of children exceeds capacity of this funding, providers shall select children using a random process

R398-15-3. Qualifications, Criteria and Procedures for Evaluating Service and Treatment Providers to Include in the Program.

(1) Providers are qualified to receive funds if:

a. They utilize ABA for treatment alone or in conjunction with other proven effective treatments as outlined in an RFA process;

b. Treatment is provided by or supervised by a board certified behavior analyst or licensed psychologist with equivalent university training and supervised experience who is working toward board certification in ABA;

c. They are willing to collaborate with existing telehealth networks to reach children in rural and underserved areas of the state;

d. They utilize methods to engage family members in the treatment process; and

e. They agree to serve and treat only eligible children with this funding.

(2) Procedures for evaluating providers

a. Funding requests to the Committee from providers will be made on a standard RFA which will be developed and authorized by the Committee and made available by the Department

b. Providers that meet the minimum requirements in Subsection 3.1., will be evaluated for funding by a review committee.

c. Criteria used to select providers for funding will include:

i. Per eligible child cost for treatment proposed by provider;

ii. Provider or organization's background and qualifications;

iii. Description of treatment and services to be provided;

iv. Additional consideration will be given to those with existing connections to telehealth or evidence of written policies and procedures for providing ABA services via telehealth; and

v. Additional consideration will be given to those who show evidence of providing services in rural and underserved communities.

(3) Funded providers will submit required reports as outlined in the RFA to UDOH/Committee on use of funds, two of which shall include:

a. Detailed description of how provider will report evaluation of benefits and outcomes for children receiving services; and

b. Monthly invoice and justification of expenditures consistent with uses as specified in UCA 26-52.

(4) RFAs will be authorized contingent on funds available.

R398-15-4. Conflict of Interest within the Advisory Committee.

(1) Committee members will sign a conflict of interest form identifying affiliations with providers that apply for funding from the Autism Treatment Account, and/or known family members that may receive treatment or evaluation services directly funded through the Autism Treatment Account from a provider that has submitted an application for funding. The conflict of interest form will be signed prior to review of funding requests.

(2) If an issue is to be decided by the Advisory Committee that involves potential conflict of interest with a member of the committee, it is the responsibility of the member to:

a. Identify the potential conflict of interest.

b. Not participate in discussion of the program or motion being considered.

c. Not vote on the issue.

(3) It is the responsibility of the Committee to:

a. Award funds based on quality of application regardless of committee affiliation.

b. Record in the minutes of the Advisory Committee Meeting the potential conflict of interest, and the use of the procedures and criteria of this policy.

KEY: autism treatment, applied behavior analysis (ABA), autism spectrum disorders

Date of Enactment or Last Substantive Amendment: 2012

Authorizing, and Implemented or Interpreted Law: 26-52-201; 26-52-202

Human Services, Administration
R495-884
 Kinship Locate

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 36284

FILED: 05/29/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to provide information on the services provided by the Office of Recovery Services (ORS) when a kinship locate request is received from the Division of Child and Family Services. The rule defines what is required when making a kinship locate request. This rule incorporates by reference 42 USC 653 (2008) which defines "authorized persons". The rule describes what locate information may be provided from ORS when a kinship locate is received. Although the rule describes what information may be provided by ORS, this rule involves more agencies than just ORS and is being submitted as a Human Services Administrative Rule.

SUMMARY OF THE RULE OR CHANGE: Section R495-884-1 contains two subsections. The first subsection states the legal authority that has been granted to ORS/CSS to create rules. The second subsection contains a statement

describing the purpose of this specific rule. Section R495-884-2 specifies who may request a kinship locate services from ORS. In addition, it defines who an authorized person is for kinship locate purposes by incorporation of 42 USC 653 (2011). Section R495-884-3 outlines what information must be included when making a request for kinship locate. Section R495-884-4 explains what resources ORS will use to provide kinship locate services when the individual being located is not known on an existing ORS case. It also provides details as to what information may be provided to the requestor when a kinship locate is received contingent on what information is found using the defined locate resources.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 42 U.S.C. 653 and 45 CFR 302.35 and 45 CFR 303.21 and 45 CFR 303.70 and Section 62A-11-107

MATERIALS INCORPORATED BY REFERENCE:

- ◆ Adds 42 U.S.C. 653, published by United States Code, October 2008

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There are no anticipated savings to the state budget due to this administrative rule. There may be minimal costs associated with the time required for workers at the Division of Child and Family Services and workers at the Office of Recovery Services to communicate and verify kinship locate information when a child is in the custody of the state; however, any other costs or savings to the state budget would be due to the underlying statute's requirements.

◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local government because administrative rules of the Office of Recovery Services/Child Support Services (ORS/CSS) do not apply to local government.

◆ **SMALL BUSINESSES:** The procedures contained in this rule do not affect small businesses; therefore, there are no anticipated costs or savings for small business due to this rule.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings to other persons due to the procedures contained in this administrative rule. Any costs or savings to other persons would be due to the underlying statute's requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated compliance costs for affected persons due to the procedures contained in this rule. Any costs to other persons would be due to the underlying statute's requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses are not addressed in the proposed rule, and it is not anticipated this rule will create any fiscal impact on them.

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

HUMAN SERVICES
ADMINISTRATION
DHS ADMINISTRATIVE OFFICE MULTI STATE
OFFICE BUILDING
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Shancie Nance by phone at 801-536-8191, by FAX at 801-536-8833, or by Internet E-mail at snance@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2012

AUTHORIZED BY: Palmer DePaulis, Executive Director

R495. Human Services, Administration.

R495-884. Kinship Locate.

R495-884-1. Authority and Purpose.

(1) The Office of Recovery Services (ORS) is authorized to adopt, amend, and enforce rules as necessary by U.C.A. 62A-11-107.

(2) The purpose of this rule is to provide information about kinship locate services including, who is authorized to request kinship locate services, what information is required to make a request, and what information may be provided from ORS.

R495-884-2. Authorized Persons.

(1) 42 USC 653 (2008) defines "authorized persons" and is incorporated by reference.

(2) ORS provides locate information to authorized persons who request location information about the parents, putative father and/or non-parental relatives of children in the custody of the Department of Child and Family Services (DCFS).

(3) An authorized person for kinship locate purposes is a State agency that administers a program under Title IV-B (Child and Family Services) or Title IV-E (Foster Care and Adoption Assistance).

R495-884-3. Requesting Kinship Locate Services.

(1) A request from an authorized person must include the following information:

(a) the child's name;

(b) the child's date of birth or social security number;

(c) the individual's name;

(d) the individual's relationship to the child; and,

(e) the individual's date of birth or social security number.

R495-884-4. Information Provided for Kinship Locate.

(1) ORS will only provide locate information found using the Federal Parent Locator Service (Federal PLS) and the State Parent Locator Services (State PLS).

(2) ORS will provide the following kinship locate information, if known, about a parent, alleged father or non-parent relative.

- (a) the individual's name;
- (b) the individual's social security number;
- (c) the individual's most recent address; and
- (d) the individual's employer name, employer identification number (EIN), address.

(3) If a safeguard determination has been made for an individual on an ORS case, the individual's information will not be released in accordance with 45 CFR 303.21.

KEY: child support, foster care, kinship locate

Date of Enactment or Last Substantive Amendment: 2012
Authorizing and Implemented or Interpreted Law: 45 CFR 302.35; 45 CFR 303.21; 45 CFR 303.70; 42 USC 653; UCA 62A-11-107

**Labor Commission, Occupational
 Safety and Health
 R614-1-4
 Incorporation of Federal Standards**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36306

FILED: 06/01/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment incorporates into Utah's Occupational Safety and Health rules the recent modifications to corresponding federal standards for chemical hazard communications. This will allow consistency with international standards and will better apprise employees of chemical hazards, thereby reducing the danger of chemical-related occupational illnesses and injuries.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment revises criteria for classifying chemical hazards and also revises labeling requirements to include standardized pictograms, hazard statements, and precautionary statements. The amendment specifies the format for safety data sheets and requires employee training on labeling and safety data sheets.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 34A, Chapter 6

MATERIALS INCORPORATED BY REFERENCE:

- ◆ Adds 77 FR 17574 through 17896, "29 CFR Part 1019 Hazard Communication", published by Government Printing Office, 03/26/2012

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** Existing regulations already include standards for chemical hazard communications; the proposed modification of those standards will not affect Labor Commission costs of administering the standards. The amendment's chemical hazard classification and labeling requirements will have no impact on the state. As to the state in its capacity as an employer, the amendment will require employee training on the modified standards for labeling and safety data sheets. This can be incorporated into existing safety training at no additional expense. On the other hand, improved communication will reduce employee exposure to hazardous chemicals, thereby reducing costs of occupational illnesses and diseases. On balance, the commission anticipates that the proposed amendment will result in net long-term savings to the state from a reduction in occupational illness and injury.

◆ **LOCAL GOVERNMENTS:** The amendment's chemical hazard classification and labeling requirements will have no impact on local governments. As to local governments in their capacity as employers, the amendment will modify existing employee training on labeling and safety data sheets. Such modifications can be incorporated into existing safety training at no additional expense. On the other hand, improved chemical hazard communication will reduce employee exposure to hazardous chemicals, thereby reducing costs of occupational illnesses and diseases. On balance, the commission anticipates that the proposed amendment will result in net long-term savings to local governments from a reduction in occupational illness and injury.

◆ **SMALL BUSINESSES:** Federal OSHA's detailed analysis of the proposed amendment predicts average cost per small business of approximately \$50 per year, fully offset by savings from reductions in occupational illnesses and injuries related to hazardous chemical exposure. On balance, the commission anticipates that the proposed amendment will result in net long-term savings to small businesses from the reduction in occupational illness and injury.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Compliance costs are concentrated in the chemical industry, with the primary cost arising from the requirement to update and modify chemical labels and safety data sheets. This cost is estimated at an average of \$208 for each subject chemical, multiplied by the number of such chemicals produced by any particular chemical manufacturer. This cost will be fully offset by savings from reductions in occupational illnesses and injuries related to hazardous chemical exposure.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Apart from the cost of updating chemical labels and safety data sheets, discussed above, compliance costs will involve updated training of employees who handle hazardous chemicals, which can be incorporated at negligible cost into already-existing training and safety meeting schedules.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendment will reduce business costs for occupational disease and injury by improving chemical-hazard information and enhancing employee comprehension of such hazards, especially for limited-literacy employees. Because the proposed amendment involves modifications of existing requirements, it is not expected to have a significant fiscal impact on businesses. Furthermore, because the proposed amendment incorporates national and international standards, it would be necessary for Utah's chemical industry to follow the modified standards in any event, in order to do business in other states and foreign countries. In summary, the modifications will reduce costs and burdens while also improving the quality and consistency of information provided to employers and employees regarding chemical hazards and associated protective measures.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2012

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R614. Labor Commission, Occupational Safety and Health.

R614-1. General Provisions.

R614-1-4. Incorporation of Federal Standards.

A. General Industry Standards.

1. Sections 29 CFR 1910.21 to 1910.999 and 1910.1000 through the end of part 1910 of the July 1, 2011, edition are incorporated by reference.

2. 29 CFR 1908, July 1, 2011, is incorporated by reference.

3. 29 CFR 1904, July 1, 2011, is incorporated by reference.

4. FR Vol. 77, Monday, March 26, 2012, Pages 17574 to and including 17896 "29CFR Part 1910 Hazard Communication:" Final Rule is incorporated by reference.

B. Construction Standards.

1. Section 29 CFR 1926.20 through the end of part 1926, of the July 1, 2011, edition is incorporated by reference.

2. FR Vol. 77, Monday, March 26, 2012, Pages 17574 to and including 17896 "29CFR Part 1910 Hazard Communication:" Final Rule is incorporated by reference.

KEY: safety

Date of Enactment or Last Substantive Amendment: [January 27, 2011] 2012

Notice of Continuation: November 2, 2007

Authorizing, and Implemented or Interpreted Law: 34A-6

Natural Resources, Parks and Recreation **R651-201-7** Low Capacity Vessel

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36237

FILED: 05/16/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The use of the term "low capacity vessel" has expanded outside of the carrying passengers for hire program to the recreational boating program, so the definition needs to be moved out of the carrying passengers for hire rule and into Rule R651-201. When the definition for low capacity vessels was approved, it was specific to the carrying passengers for hire program and only identified the types of low capacity vessels in use at the time. This definition was intended for manually propelled vessels. The main purpose of the definition is to allow those rowing or paddling to be able to wear a less restrictive life jacket.

SUMMARY OF THE RULE OR CHANGE: Over the years there have been a number of new types of low capacity vessels that have been designed and are currently in use. Additionally, the use of the term has expanded outside of the carrying passengers for hire program to the recreational boating program, so the definition needs to be moved out of the carrying passengers for hire rule and into Rule R651-201. There is also an inconsistency in the rule concerning the number of persons to be considered a low capacity vessel. The Boating Advisory Council felt that low capacity vessels should be considered two or fewer occupants.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 73, Chapter 18

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: There is no additional cost or savings. This amendment moves the information from Subsection R651-206-1(11) to Rule R651-201. (DAR NOTE: The proposed amendment to Rule R651-206 is under DAR No. 36238 in this issue, June 15, 2012, of the Bulletin.)

- ◆ LOCAL GOVERNMENTS: There is no additional cost or savings. This amendment moves the information from Subsection R651-206-1(11) to Rule R651-201.
- ◆ SMALL BUSINESSES: There is no additional cost or savings. This amendment moves the information from Subsection R651-206-1(11) to Rule R651-201.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no additional cost or savings. This amendment moves the information from Subsection R651-206-1(11) to Rule R651-201.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs. This amendment moves the information from Subsection R651-206-1(11) to Rule R651-201.

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

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

NATURAL RESOURCES
PARKS AND RECREATION
1594 W NORTH TEMPLE ROOM 116
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2012

AUTHORIZED BY: Fred Hayes, Acting Director

R651. Natural Resources, Parks and Recreation.

R651-201. Definitions.

R651-201-7. Low Capacity Vessel.

Low Capacity Vessel means a manually propelled vessel designed or intended to carry no more than two occupants.

KEY: boating, parks

Date of Enactment or Last Substantive Amendment: ~~July 27, 2011~~ July 23, 2012

Notice of Continuation: January 26, 2011

Authorizing, and Implemented or Interpreted Law: 73-18

Natural Resources, Parks and
Recreation
R651-205-2
Deer Creek Reservoir

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 36242
FILED: 05/16/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: There are 17 waterbodies that have been zoned by the Board of Parks and Recreation. Many have been in effect for a number of years. Recently, the agency contacted park managers from each of these zoned areas to see if the zoning was still applicable. Two responded with minor changes. The original rule only prohibited waterskiing in Wallsburg Bay.

SUMMARY OF THE RULE OR CHANGE: For many years Deer Creek State Park has installed wakeless buoys which prohibit any activity above a wakeless speed in the bay. That portion of the lake is narrow and congested, so a wakeless area has been managed by the park as a safety precaution. A rule change is needed to accurately reflect the current management of that part of the lake.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 73-18-4(1)(c)

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There is no anticipated cost of savings for this amendment. This addresses a zoning clarification only.
- ◆ LOCAL GOVERNMENTS: There is no anticipated cost of savings for this amendment. This addresses a zoning clarification only.
- ◆ SMALL BUSINESSES: There is no anticipated cost of savings for this amendment. This addresses a zoning clarification only.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost of savings for this amendment. This addresses a zoning clarification only.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no anticipated cost of savings for this amendment. This addresses a zoning clarification only.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No impact anticipated.

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

NATURAL RESOURCES
PARKS AND RECREATION
1594 W NORTH TEMPLE ROOM 116
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2012

AUTHORIZED BY: Fred Hayes, Acting Director

R651. Natural Resources, Parks and Recreation.

R651-205. Zoned Waters.

R651-205-2. Deer Creek Reservoir.

Vessels and all other water activities are prohibited within 1500 feet of the dam. ~~[No water skiing]~~ A vessel may not be operated at a speed greater than wakeless speed at any time in Wallsberg Bay.

KEY: boating, parks

Date of Enactment or Last Substantive Amendment: ~~[March 10, 2008]~~ July 23, 2012

Notice of Continuation: January 26, 2011

Authorizing, and Implemented or Interpreted Law: 73-18-4(1)(c)

Natural Resources, Parks and
Recreation

R651-205-15

Lost Creek Reservoir

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36234

FILED: 05/16/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: There are 17 waterbodies that have been zoned by the Board of Parks and Recreation. Many of these zoned areas have been in effect for a number of years. Recently the agency contacted park managers from each of these zoned areas to see if the zoning was still applicable. Two managers responded with minor changes. One of those changes was

regarding Lost Creek Reservoir in Morgan County. The original rule does not identify which "Lost Creek" is zoned.

SUMMARY OF THE RULE OR CHANGE: There are a number of waterbodies with the word "lost" as part of the name. There has been some confusion as to which is zoned. By adding the county location, future confusion should be eliminated. In addition to the Lost Creek Reservoir in Morgan County, there is a Lost Creek Reservoir in Sevier County and two Lost Lakes, one in Garfield County and one in Duchesne County.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 73-18-4(1)(c)

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: There is no anticipated cost of savings for this amendment. This addresses a zoning clarification only.

♦ LOCAL GOVERNMENTS: There is no anticipated cost of savings for this amendment. This addresses a zoning clarification only.

♦ SMALL BUSINESSES: There is no anticipated cost of savings for this amendment. This addresses a zoning clarification only.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost of savings for this amendment. This addresses a zoning clarification only.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for this amendment. This addresses a zoning clarification only.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No impact anticipated.

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

NATURAL RESOURCES
PARKS AND RECREATION
1594 W NORTH TEMPLE ROOM 116
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2012

AUTHORIZED BY: Fred Hayes, Acting Director

R651. Natural Resources, Parks and Recreation.**R651-205. Zoned Waters.****R651-205-15. Lost Creek Reservoir in Morgan County.**

A vessel may not be operated at a speed greater than wakeless speed at any time.

KEY: boating, parks

Date of Enactment or Last Substantive Amendment: [~~March 10, 2008~~2012]

Notice of Continuation: January 26, 2011

Authorizing, and Implemented or Interpreted Law: 73-18-4(1)(c)

Natural Resources, Parks and
Recreation
R651-206-1
Definitions

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 36238
FILED: 05/16/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: When the term "low capacity vessel" was approved, it was specific to the carrying passengers for hire program. The use of the term "low capacity vessel" has expanded outside of the carrying passengers for hire program to the recreational boating program, so the definition needs to be moved out of the carrying passengers for hire rule and into Rule R651-201. The rule only identified the types of low capacity vessels in use at the time. This definition was intended for manually propelled vessels. The main purpose of the definition is to allow those rowing or paddling to be able to wear a less restrictive life jacket.

SUMMARY OF THE RULE OR CHANGE: Over the years there have been a number of new types of low capacity vessels that have been designed and are currently in use. Additionally, the use of the term has expanded outside of the carrying passengers for hire program to the recreational boating program, so the definition needs to be moved out of the carrying passengers for hire rule and into Rule R651-201. There is also an inconsistency in the rule concerning the number of persons to be considered a low capacity vessel. The Boating Advisory Council felt that low capacity vessels should be considered two or fewer occupants.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 73-18-4(4)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There is no additional cost or savings. This amendment moves the information from

Subsection R651-206-1(11) to Rule R651-201. (DAR NOTE: The proposed amendment to Rule R651-201 is under DAR No. 36237 in this issue, June 15, 2012, of the Bulletin.)

♦ **LOCAL GOVERNMENTS:** There is no additional cost or savings. This amendment moves the information from Subsection R651-206-1(11) to Rule R651-201.

♦ **SMALL BUSINESSES:** There is no additional cost or savings. This amendment moves the information from Subsection R651-206-1(11) to Rule R651-201.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no additional cost or savings. This amendment moves the information from Subsection R651-206-1(11) to Rule R651-201.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs. This amendment moves the information from Subsection R651-206-1(11) to Rule R651-201.

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

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

NATURAL RESOURCES
PARKS AND RECREATION
1594 W NORTH TEMPLE ROOM 116
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2012

AUTHORIZED BY: Fred Hayes, Acting Director

R651. Natural Resources, Parks and Recreation.**R651-206. Carrying Passengers for Hire.****R651-206-1. Definitions.**

(1) "Agent" means a person(s) designated by an outfitting company to act in behalf of that company in certifying:

(a) The verification of a license or permit applicant's vessel operation experience, appropriate first aid and CPR certificates and identifying information.

(b) The verification of an annual dockside or a five-year dry dock inspection of a vessel.

(2) "Certificate of maintenance and inspection" means a document produced by the Division and signed by a marine or vessel inspector and an agent of the outfitting company that a vessel has met the requirements of a required inspection. For float trip

vessels, the certificate of maintenance and inspection will be issued to the outfitting company and not an individual vessel.

(3) "Certificate of outfitting company registration" means a document produced by the Division annually, indicating that an outfitting company is registered and in good standing with the Division.

(4) "Certifying experience" means vessel operation or river running experience obtained within ten years of the date of application for the license or permit.

(5) "CFR" means U.S. Code of Federal Regulations.

(6) "Deck rail" means a guard structure at the outer edge of a vessel deck consisting of vertical solid or tubular posts and horizontal courses made of metal tubing, wood, cable, rope or suitable material.

(7) "Dockside inspection" means an annual examination of a vessel when the vessel is afloat in the water so that all of the exterior of the vessel above the waterline and the interior of the vessel may be examined. For float trip vessels, the annual dockside inspection may be performed at the company's place of business.

(8) "Dry dock inspection" means an examination of a vessel, conducted once every five years, when the vessel is out of the water and supported so all the exterior and interior of the vessel may be examined. For float trip vessels, the five-year dry dock inspection may be performed at the company's place of business.

(9) "Good marine practices and standards" means those methods and ways of maintaining, operating, equipping, repairing and restructuring a vessel according to commonly accepted standards, including 46 CFR, the American Boat and Yacht Council, the American Bureau of Shipping, the National Marine Manufacturers Association, and other appropriate generally accepted standards as sources of reference.

(10) "License" means a Utah Captain's/Guide's License or a U.S. Coast Guard Master's License.

~~_____ (11) "Low capacity vessel" means a vessel with a carrying capacity of three or fewer occupants (e.g. canoe, kayak, inflatable kayak, or similar vessel).~~

] (12) "Marine inspector" means a person who has been trained to perform a dry dock inspection and is registered with the Division as a person who is eligible to perform a dry dock inspection of a vessel.

(13) "Other rivers" means all rivers or river sections in Utah not defined in Subsection (18) of this rule as a whitewater river.

(14) "Permit" means a Utah Boat Crew Permit.

(15) "Sole state waters," means all waters of this state, except for the waters of Bear Lake, Flaming Gorge and Lake Powell.

(16) "Towing for hire" means the activity of towing vessels or providing on-the-water assistance to vessels for consideration.

(a) Towing for hire is considered carrying passengers for hire

(b) Towing for hire does not include a person or entity performing salvage or abandoned vessel retrieval operations.

(17) "Vessel inspector" means a person who has been trained to perform a dockside inspection and is registered with the Division as a person who is eligible to perform a dockside inspection on a vessel.

(18) "Whitewater river" means the following river sections: the Green and Yampa Rivers within Dinosaur National Monument, the Green River in Desolation-Gray Canyon (Mile 96 to Mile 20), the Colorado River in Westwater Canyon, the Colorado River in Cataract Canyon, or other Division recognized whitewater rivers in other states.

(19) "Float trip vessel" means a vessel, or the components and equipment used to configure such a vessel that is designed to be operated on a whitewater river or section of river. A float trip vessel may be a raft with inflatable chambers or a configuration of metal and/or wood frames, straps or chains, and inflatable pontoon tubes that are integral in maintaining the flotation, structural integrity and general seaworthiness of the vessel.

KEY: boating, parks

Date of Enactment or Last Substantive Amendment: ~~July 27, 2011~~ **July 23, 2012**

Notice of Continuation: January 11, 2011

Authorizing, and Implemented or Interpreted Law: 73-18-4(4)

Natural Resources, Parks and Recreation

R651-206-3

Utah Captain's/Guides License and Utah Boat Crew Permit

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36243

FILED: 05/16/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Several years ago when the agency was updating the carrying passengers for hire rule (Rule R651-206), the agency did not take into consideration that the standards for first aid and CPR would change over the years.

SUMMARY OF THE RULE OR CHANGE: When the rules were established, the 2005 standards were current. Now the agency has moved into the 2010 standards. The agency is updating this rule to reflect the most current standards. The avoid changing the rule on a regular basis, the agency proposes changing the rule to state that the "most current standard applies".

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 73-18-4(4)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There will be a cost savings by eliminating the need for periodic rule changes to keep up with changing standards.

♦ **LOCAL GOVERNMENTS:** There is no additional cost or savings to local government. This is a wording change only.

♦ **SMALL BUSINESSES:** There is no additional cost or savings. This is a wording change only.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no additional cost or savings. This is a wording change only.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs. This is a wording change only.

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

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

NATURAL RESOURCES
PARKS AND RECREATION
1594 W NORTH TEMPLE ROOM 116
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2012

AUTHORIZED BY: Fred Hayes, Acting Director

R651. Natural Resources, Parks and Recreation.

R651-206. Carrying Passengers for Hire.

R651-206-3. Utah Captain's/Guides License and Utah Boat Crew Permit.

(1) No person shall operate a vessel engaged in carrying passengers for hire on sole state waters unless that person has in his possession a valid and appropriately endorsed Utah Captain's/Guide's License or Utah Boat Crew Permit issued by the Division, or a valid and appropriately endorsed U.S. Coast Guard Master's License.

(a) When carrying passengers for hire on a motorboat on the waters of Bear Lake, Flaming Gorge or Lake Powell, the operator must have a valid and appropriately endorsed U.S. Coast Guard Master's License.

(b) A Utah Captain's/Guide's License is valid on the waters of Bear Lake, Flaming Gorge, and Lake Powell when the holder is carrying or leading persons for hire on non-motorized vessels.

(c) A Utah Captain's/Guide's License or Utah Boat Crew Permit, with the appropriate whitewater river or other river endorsement, is valid when operating a vessel exiting from a river to the first appropriate and usable take-out or launch ramp on a lake or reservoir.

(d) A boat operator, carrying passengers within a migratory bird production area created under Title 23, Chapter 28, Migratory Bird Production Area shall comply with the guidelines for safe boat operation adopted by the management of the Migratory Bird Production Area.

(2) License and Permit Requirements.

(a) The license or permit must be accompanied by current and appropriate first aid and CPR certificates. A photocopy of both sides of the first aid and CPR certificates is allowed when carrying passengers for hire on rivers.

(b) A license with a "Lake and Reservoir Captain" endorsement is required when carrying passengers for hire on any lake or reservoir.

(c) A license with a "Tow Vessel Captain" endorsement is required when towing or assisting other vessels for hire on waters of this state.

(d) A license with a "Whitewater River guide" endorsement is required when carrying passengers for hire on any river section, including "whitewater," "other," and "flatwater" river designations.

(e) A license with an "Other River Guide" endorsement is required when carrying passengers for hire on any river or river section designated as "other" or "flatwater."

(f) A permit with a "lake and Reservoir Crew" endorsement is valid only when the holder is accompanied, on board the vessel, by a qualified license holder with a "Lake and Reservoir Captain" endorsement.

(g) A permit with a "Tow Vessel Crew" endorsement is valid only when the holder is accompanied, on board the vessel, by a qualified license holder with a "Tow Vessel Captain" endorsement.

(h) A permit with a "Whitewater River Crew" endorsement is valid only when the holder is accompanied on the river trip, by a qualified license holder with a "Whitewater River Guide" endorsement.

(i) A permit with an "Other River Crew" endorsement is valid only when the holder is accompanied on the river trip, by a qualified license holder with either a "Whitewater River Guide" or "Other River Guide" endorsement.

(j) All Vessel Operator Permits and River Guide 1, 2, 3, and 4 Permits will expire at the end of their current term. Applications for renewal or duplicate of a Vessel Operator or River Guide Permit will be changed to the respective Utah Captain's/Guide's License or Utah Boat Crew Permit.

(k) All Boatman Permits issued by the Division are expired.

(3) Requirements to obtain a Utah Captain's/Guides License.

(a) The applicant shall be at least 18 years of age as of the date the application is received by the Division.

(b) The applicant shall complete the prescribed application form.

(i) Information on the application form must be verified by an agent of the employing/sponsoring outfitting company.

(ii) The completed application form must be signed by the applicant and by an agent of the employing/sponsoring outfitting company.

(iii) For persons who are applying for their first license, the application, testing, and issuance of the license shall be done in a manner accepted by the Division.

(c) The applicant shall pay a \$50 application fee for the license and first endorsement. A fee of \$10 will be charged for each additional license endorsement.

(d) The applicant shall choose from the four types of license endorsements:

- (i) Lake and Reservoir Captain (LCG)
- (ii) Tow Vessel Captain (TCG)
- (iii) Whitewater River Guide (WCG)
- (iv) Other River Guide (OCG)

(e) The applicant shall provide an original proof of current and valid first aid and CPR certifications:

(i) The first aid certificate must be issued for an American Red Cross "Emergency Response" course or an equivalent course from a reputable provider whose curriculum is in accordance with the USDOT First Responder Guidelines or the Wilderness Medical Society Guidelines for Wilderness First Responder.

(ii) The CPR certificate must be issued for an American Red Cross, American Heart Association, American Safety and Health Institute, National Safety Council CPR or BLS course, or an equivalent course from a reputable provider whose curriculum is in accordance with the [2005]most current Consensus on Science for Cardiopulmonary Resuscitation (CPR) and Emergency Cardiovascular Care (ECC).

(iii) First aid and CPR certificates must include the following information: name, or title of the course; course provider; length of certification; name of the person certified and legible name of the course instructor.

(f) A current Utah Vessel Operator Permit holder, whose permit was issued prior to January 1, 2008, and who is renewing and converting their permit to a Utah Captain's/Guide's License, is exempt from showing proof of completion of a National Association of State Boating Law Administrators (NASBLA) approved boating safety course.

(g) The applicant shall complete a multiple-choice, written examination administered by an agent of the Division:

- (i) 80 percent correct is required to pass.
- (ii) In relation to the respective endorsement, the examination will have a specific focus on the carrying passengers for hire laws and rules along with general safety, etiquette and courtesy.

(iii) If an applicant fails to pass the exam, there is a seven-day waiting period to re-test.

(iv) Pay a \$15 fee for each re-test.

(h) The applicant shall provide documentation of vessel operation experience that has been obtained within 10 years previous to the date of application.

(i) Lake and Reservoir Captain (LCG) - a minimum of at least 80 hours of actual vessel operation experience. At least 40 of these hours must be obtained while operating the vessel, or a similar vessel, that will be carrying passengers for hire on the specific lake or reservoir on which the operator will be carrying passengers for hire. The applicant shall provide proof of successful completion of a NASBLA approved boating safety course.

(ii) Tow Vessel Captain (TCG) - A minimum of at least 80 hours of actual vessel operation experience. At least 40 of these hours must be obtained while operating the vessel, or a similar vessel, that will be towing for hire on the specific lake or reservoir on which the operator will be towing vessels for hire. The applicant

shall provide proof of successful completion of a NASBLA approved boating safety course.

(iii) Whitewater River Guide (WCG) - A minimum of nine river trips on whitewater river sections. At least one of these trips must be obtained while operating the vessel, or similar vessel, on the respective river section on which the operator will be carrying passengers for hire. A Whitewater River Guide endorsement meets the requirements for an Other River Guide endorsement.

(iv) Other River Guide (OCG) - A minimum of six river trips on any river section. At least one of these trips must be obtained while operating the vessel or similar vessel, on the respective river section on which the operator will be carrying passengers for hire.

(4) A Utah Captain's/Guide's License is valid for a term of five years. The license will expire five years from the date of issue, unless suspended or revoked.

(a) A Utah Captain's/Guide's License may be renewed within the six months prior to its expiration.

(b) To renew a Utah Captain's/Guide's License, the applicant must complete the prescribed application form along with adhering to the requirements described above. A current license holder may renew his license in a manner accepted by the Division

(c) The renewed license will have the same month and day expiration as the original license.

(d) A Utah Captain's/Guide's License that has expired shall not be renewed and the applicant shall be required to apply for a new license.

(5) Requirements to obtain a Utah Boat Crew Permit.

(a) The applicant shall be at least 18 years of age as of the date the application is received by the Division.

(b) The applicant shall complete the prescribed application form.

(i) Information on the application form must be verified by an agent of the employing/sponsoring outfitting company.

(ii) The completed application form must be signed by the applicant and by an agent of the employing/sponsoring outfitting company.

(iii) For persons who are applying for their first permit, the application and issuance of the permit shall be done in a manner accepted by the Division.

(c) The applicant shall pay a \$50 application fee for the original permit and first endorsement. A \$10 fee shall be charged for each additional crew permit endorsement.

(d) The applicant shall choose from the four types of permit endorsements:

- (i) Lake and Reservoir Crew (LRC)
- (ii) Tow Vessel Crew (TVC)
- (iii) Whitewater River Crew (WRC)
- (iv) Other River Crew (ORC)

(e) The applicant shall provide original proof of current and valid first aid and CPR certifications:

(i) The first aid certificate must be issued for an American Red Cross "Standard" or "Basic" first aid course, or an equivalent course from a reputable provider.

(ii) The CPR certificate must be issued for an American Red Cross, American Heart Association, American Safety and Health Institute, National Safety Council CPR or BLS course, or an equivalent course from a reputable provider whose curriculum is in

accordance with the [2005]most current Consensus on Science for Cardiopulmonary Resuscitation (CPR) and Emergency Cardiovascular Care (ECC).

(iii) First aid and CPR certificates must include the following information: name, or title of the course; course provider; length of certification; name of the person certified and legible name of the course instructor.

(f) The applicant shall provide documentation of vessel operation experience that has been obtained within the 10 years previous to the date of application.

(i) Lake and Reservoir Crew (LRC) - A minimum of at least 20 hours of actual vessel operation experience. At least 10 of these hours must be obtained while operating the vessel, or a similar vessel, on which the operator will be carrying passengers for hire. The applicant shall provide proof of successful completion of a NASBLA approved boating safety course.

(ii) Tow Vessel Crew (TVC) - A minimum of at least 20 hours of actual vessel operation experience. At least 10 of these hours must be obtained while operating the vessel, or a similar vessel, that will be towing for hire on the specific lake or reservoir on which the operator will be towing vessels for hire. The applicant shall provide proof of successful completion of a NASBLA approved boating safety course.

(iii) Whitewater River Crew (WRC) - A minimum of three river trips on "whitewater" rivers or river sections. At least one of these trips must be obtained while operating the vessel, or similar vessel, on the respective river or river section on which the operator will be carrying passengers for hire. A Whitewater River Crew endorsement meets the requirements for an Other River Crew endorsement.

(iv) Other River Crew (ORC) - A minimum of three river trips on any river or river section. At least one of these trips must be obtained while operating the vessel on a respective river or river section on which the operator will be carrying passengers for hire.

(6) A Utah Boat Crew Permit is valid for a term of five years. The permit will expire five years from the date of issue, unless suspended or revoked.

(a) A Utah Boat Crew Permit may be renewed within the six months prior to its expiration.

(b) To renew a Utah Boat Crew Permit, the applicant must complete the prescribed application form along with the requirements described above. A current permit holder may renew his license in a manner accepted by the Division.

(c) The renewed permit will have the same month and day expiration as the original permit.

(d) A Utah Boat Crew Permit that has expired shall not be renewed and the applicant shall be required to apply for a new permit.

(e) A Utah Boat Crew Permit holder who upgrades to a Utah Captain's/Guide's License, within one year of when the permit was issued, shall receive a \$25 discount on the fee for the Utah Captain's/Guide's License.

(7) In the event a Utah Captain's/Guide's License or a Utah Boat Crew permit is lost or stolen, a duplicate license or permit may be issued with the same expiration date as the original license or permit.

(a) The applicant must complete the prescribed application form.

(b) The fee for a duplicate license or permit is \$15.

(8) Current Utah Captain's/Guide's License and Utah Boat Crew Permit holders shall notify the Division within 30 days of any change of address.

(9) A Utah Captain's/Guide's License or Utah Boat Crew Permit may be suspended, revoked, or denied for a length of time determined by the Division director, or individual designated by the Division director, if one of the following occurs:

(a) The license or permit holder is convicted of three violations of the Utah Boating Act, Title 73, Chapter 18, or rules promulgated thereunder during a three-year period.

(b) The license or permit holder is convicted of driving under the influence of alcohol or any drug while carrying passengers for hire, or refuses to submit to any chemical test that determines blood or breath alcohol content resulting from an incident while carrying passengers for hire;

(c) The license or permit holder's negligence or recklessness causes personal injury or death as determined by due process of the law;

(d) The license or permit holder is convicted of utilizing a private trip permit to carry passengers for hire;

(e) The license or permit holder is convicted of violating a resource protection regulation or public safety regulation in effect by the respective land managing and/or access permitting agency.

(f) The Division determines that the license or permit holder intentionally provided false or fictitious statements or qualifications to obtain the license or permit.

(10) A Utah Captain's/Guide's License or Utah Boat Crew Permit holder shall not carry passengers for hire while operating an unfamiliar vessel or operating on an unfamiliar lake, reservoir, or river section, unless there is a license holder aboard who is familiar with the vessel and the lake, reservoir, or river section. An exception to this rule allows a license or permit holder to lead passengers for hire on a lake, reservoir, or designated flatwater river section, as long as there is a license holder who is familiar with the vessel and the lake, reservoir, or river section and remains within sight of the rest of the group.

(11) Number of passengers carried for each license or permit holder.

(a) On a vessel that is carrying more than 49 passengers for hire, there shall be at least one license holder and one permit holder or two license holders on board.

(b) On a vessel carrying more than 24 passengers for hire, and operating more than one mile from shore, there shall be an additional license or permit holder on board.

(c) On a vessel carrying passengers for hire, there shall be a minimum of one license or permit holder on board for each passenger deck on the vessel.

(12) Low capacity vessels being led requirements.

(a) On all river sections, except as noted in Subsection (b) below, there shall be at least one qualified license or permit holder for every four low capacity vessels being led in a group.

(b) On lakes, reservoirs, and designated flatwater river sections, there shall be at least one qualified license or permit holder for every six low capacity vessels being led in a group.

(13) A license or permit holder shall not operate a vessel carrying passengers for hire for more than 12 hours in a 24 hour period.

(14) A license or permit holder shall conduct a safety and emergency protocols discussion with passengers prior to the vessel

getting underway. This discussion shall include the topics of water safety, use and stowage of safety equipment, wearing and usage of life jackets and initiating the rescue of a passenger(s).

(15) Vessel operators who are licensed or permitted to carry passengers for hire in another state, and possess a state-issued vessel captain's license, or similar license or permit accepted and recognized by the Division, where the state has similar vessel operator licensing provisions, shall not be required to obtain and possess a Utah Captain's/Guide's License or Utah Boat Crew Permit as required by this section.

KEY: boating, parks

Date of Enactment or Last Substantive Amendment: ~~July 27, 2011~~ **July 23, 2012**

Notice of Continuation: January 11, 2011

Authorizing, and Implemented or Interpreted Law: 73-18-4(4)

**Natural Resources, Parks and
Recreation
R651-206-4
Additional PFD Requirements for
Vessels Carrying Passengers for Hire**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36239

FILED: 05/16/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: When the definition for low capacity vessels was approved, it was specific to the carrying passengers for hire program and only identified the types of low capacity vessels in use at the time. This definition was intended for manually propelled vessels. Over the years, there have been a number of new types of low capacity vessels that have been designed and are currently in use. The use of the term has expanded outside of the carrying passengers for hire program. There is also an inconsistency in the rule concerning the number of persons to be considered a low capacity vessel. The Boating Advisory Council felt that low capacity vessels should be considered two or fewer occupants. The purpose of this rule change is to include all "low capacity vessels" in the rule and not limit the type of vessels to hard-hulled kayak or white water canoe operators, since there are many types of low capacity vessels now.

SUMMARY OF THE RULE OR CHANGE: Over the years there have been a number of new types of low capacity vessels that have been designed and are currently in use. Additionally, the use of the term has expanded outside of the carrying passengers for hire program. There is also an inconsistency in the rule concerning the number of persons to be considered a low capacity vessel. The Boating Advisory

Council felt that low capacity vessels should be considered two or fewer occupants.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 73-18-4(4)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no additional cost or savings. This amendment adds the term "low capacity vessel" and redacts the more restrictive wording of "hard-hulled kayak or white water canoe operators", since there are many types of low capacity vessels.

◆ **LOCAL GOVERNMENTS:** There is no additional cost or savings. This amendment adds the term "low capacity vessel" and redacts the more restrictive wording of "hard-hulled kayak or white water canoe operators", since there are many types of low capacity vessels.

◆ **SMALL BUSINESSES:** There is no additional cost or savings. This amendment adds the term "low capacity vessel" and redacts the more restrictive wording of "hard-hulled kayak or white water canoe operators", since there are many types of low capacity vessels.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no additional cost or savings. This amendment adds the term "low capacity vessel" and redacts the more restrictive wording of "hard-hulled kayak or white water canoe operators", since there are many types of low capacity vessels.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs. This amendment adds the term "low capacity vessel" and redacts the more restrictive wording of "hard-hulled kayak or white water canoe operators" since there are many types of low capacity vessels.

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

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

NATURAL RESOURCES
PARKS AND RECREATION
1594 W NORTH TEMPLE ROOM 116
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2012

AUTHORIZED BY: Fred Hayes, Acting Director

R651. Natural Resources, Parks and Recreation.**R651-206. Carrying Passengers for Hire.****R651-206-4. Additional PFD Requirements for Vessels Carrying Passengers for Hire.**

(1) Type I PFDs are required. Each vessel shall have an adequate number of Type I PFDs on board, that meets or exceeds the number of persons on board the vessel. A Type V PFD may be used in lieu of a Type I PFD if the Type V PFD is approved for the activity in which it is going to be used.

(2) In situations where infants, children and youth are in enclosed cabin areas of vessels over 19 feet in length and not wearing PFDs, a minimum of ten percent of the wearable PFDs on board the vessel must be of an appropriate type and size for infants, children and youth passengers.

(3) Type I PFDs or Type V PFDs - used in lieu of the Type I PFD, must be listed for commercial use on the label.

(4) If PFDs are not being worn by passengers, and the PFDs are being stowed on the vessel, the PFDs shall be stowed in readily accessible containers that legibly and visually indicate their contents.

(5) Each PFD must be marked with the name of the outfitting company, in one-inch high letters that contrast with the color of the device.

(6) The Type IV PFD shall be a ring life buoy on vessels 26 feet or more in length.

(a) Vessels that are 40 feet or more in length shall carry a minimum of two Type IV PFDs.

(b) Ring life buoys shall have a minimum of 60 feet of line attached.

(7) If U.S. Coast Guard approved Type I PFDs are not available for infants under the weight of 30 pounds, Type II PFDs may be used, provided they are the correct size for the intended wearer.

(8) On rivers, any low capacity vessel operator [~~hard-hulled kayak or white water canoe operators~~] or a working employee of the outfitting company, may wear a Type III PFD in lieu of the Type I PFD.

(9) On lakes and reservoirs, any low capacity vessel operator or a working employee may wear or carry [~~for hard-hulled kayak or sea kayak operators~~], a Type III PFD may be carried or worn in lieu of the required Type I PFD.

(10) All passengers and crew members shall wear a PFD when a vessel is being operated in hazardous conditions.

(11) The license or permit holder is responsible for the passengers on his vessel to be in compliance with this section and R651-215.

KEY: boating, parks

Date of Enactment or Last Substantive Amendment: [~~July 27, 2011~~] **July 23, 2012**

Notice of Continuation: January 11, 2011

Authorizing, and Implemented or Interpreted Law: 73-18-4(4)

**Natural Resources, Parks and
Recreation
R651-219-3
Spare Propulsion**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36241

FILED: 05/16/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: When the term "low capacity vessel" was approved, it was specific to the carrying passengers for hire program. The use of the term "low capacity vessel" has expanded outside of the carrying passengers for hire program to the recreational boating program, so the definition needs to be moved out of the carrying passengers for hire rule and into Rule R651-201. The rule only identified the types of low capacity vessels in use at the time. This definition was intended for manually propelled vessels. The main purpose of the definition is to allow those rowing or paddling to be able to wear a less restrictive life jacket.

SUMMARY OF THE RULE OR CHANGE: Over the years there have been a number of new types of "low capacity vessels" that have been designed and are currently in use. Additionally, the use of the term has expanded outside of the carrying passengers for hire program to the recreational boating program, so the definition needs to be moved out of the carrying passengers for hire rule (Rule R651-206) and into Rule R651-201. There is also an inconsistency in the rule concerning the number of persons to be considered a low capacity vessel. The Boating Advisory Council felt that low capacity vessels should be considered two or fewer occupants.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 73-18-4(4)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There is no additional cost or savings. This amendment coincides with the amendments that move the information from Subsection R651-206-1(11) to Rule R651-201. (DAR NOTE: The proposed amendment to R651-206 is under DAR No. 36238 and the proposed amendment to Rule R651-201 is under DAR No. 36237 in this issue, June 15, 2012, of the Bulletin.)

♦ **LOCAL GOVERNMENTS:** There is no additional cost or savings. This amendment coincides with the amendments that move the information information from Subsection R651-206-1(11) to Rule R651-201.

♦ **SMALL BUSINESSES:** There is no additional cost or savings. This amendment coincides with the amendments that move the information information from Subsection R651-206-1(11) to Rule R651-201.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no additional cost or savings. This amendment coincides with the amendments that move the information from Subsection R651-206-1(11) to Rule R651-201.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs. This amendment coincides with the amendments that move the information from Subsection R651-206-1(11) to Rule R651-201.

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

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

NATURAL RESOURCES
PARKS AND RECREATION
1594 W NORTH TEMPLE ROOM 116
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2012

AUTHORIZED BY: Fred Hayes, Acting Director

R651. Natural Resources, Parks and Recreation.

R651-219. Additional Safety Equipment.

R651-219-3. Spare Propulsion.

Vessels less than 21 feet in length shall have on board at least one spare motor, paddle or oar capable of maneuvering the vessel when necessary. On rivers when low capacity vessels ~~one- or two-man capacity vessels~~ less than 16 feet in length are traveling in a group, the above requirement may be met by carrying one spare oar or paddle for every three vessels in the group. ~~On hard-hulled white water kayaks,~~ [P]addles designed to be strapped to or worn on the hand meet this requirement.

KEY: boating, parks, life jackets

Date of Enactment or Last Substantive Amendment: ~~[May 9, 2011]~~ 2012

Notice of Continuation: February 10, 2011

Authorizing, and Implemented or Interpreted Law: 73-18-8(6)

Natural Resources, Parks and
Recreation
R651-226-2
Safety Vessels Permitted

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 36240

FILED: 05/16/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: There is no provision in law or rule to allow motorized safety vessels to accompany non-motorized vessels practicing or competing in events in an area designated for non-motorized use.

SUMMARY OF THE RULE OR CHANGE: A rowing club seeking to do business on the Jordan River, which is in an area designated for non-motorized use, presented information to the Boating Advisory Council concerning the scope of need and use of safety vessels associated with the sport of rowing. There is a growing interest in Utah for the development of rowing clubs and with the proper facilities, even the possibility of local high school and college level teams and events.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 73-18-16

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: There are no costs or savings associated with this amendment. This change would not affect state budgets and was changed at the request of a small business. It allows for motorized safety vessels to accompany non-motorized vessels practicing or competing in events in an area designated for non-motorized use.

◆ LOCAL GOVERNMENTS: There are no costs or savings associated with this amendment. It was changed at the request of a small business and allows for motorized safety vessels to accompany non-motorized vessels practicing or competing in events in an area designated for non-motorized use.

◆ SMALL BUSINESSES: Rule was changed at the request of a small business. It allows for motorized safety vessels to accompany non-motorized vessels practicing or competing in events in an area designated for non-motorized use.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no additional costs or savings associated with this amendment. This change would not affect persons other than small businesses and was changed at the request of a small business. It allows for motorized safety vessels to accompany non-motorized vessels practicing or competing in events in an area designated for non-motorized use.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with this change. It allows for motorized safety vessels to accompany non-motorized vessels practicing or competing in events in an area designated for non-motorized use.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Should help business and events.

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

NATURAL RESOURCES
PARKS AND RECREATION
1594 W NORTH TEMPLE ROOM 116
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2012

AUTHORIZED BY: Fred Hayes, Acting Director

R651. Natural Resources, Parks and Recreation.

R651-226. Regattas and Races.

R651-226-2. Safety Vessels Permitted.

Designated safety vessels associated with permanent, long-term or short-term human powered marine events are permitted on any waterway zoned by the State Parks Board as wakeless or motor restricted and within any area marked by waterway markers as a controlled area under the following conditions:

(1) The person responsible for the event has permission from the managing agency to hold the event.

(2) The safety vessels used shall be:

(a) designed and operated to create a minimal wake.

(b) operated by representatives of the person responsible for the event.

(c) operated only for the coaching, support and safety of the event.

KEY: boating

Date of Enactment or Last Substantive Amendment: [1987]2012

Notice of Continuation: February 10, 2011

Authorizing, and Implemented or Interpreted Law: 73-18-16

**Natural Resources, Parks and
Recreation
R651-227
Boating Safety Course Fees**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36235

FILED: 05/16/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes have occurred since the agency made our mandatory personal watercraft course and voluntary adult boating courses available online. The Division has been charging, through the online providers, a \$5 fee for the issuance of the Division's state issued Boating Education Certificate. This fee covers the costs of staff, printing, supplies, and postage. This information needs to be included in the rule and wording clarified between the Division of Parks and Recreation fees and the online provider's fees. Wording changes are also needed for the certificate as well. It was previously called a "personal watercraft education certificate" and is now titled "Boating Education Certificate".

SUMMARY OF THE RULE OR CHANGE: Clarification is needed in the rule stating that it is the Division's course that is \$12, since our online providers charge their own fee not subject to our rules. The Division also needs to update the name of the card issued to "Boating Education Certificate" as the Division no longer calls the card a "personal watercraft education certificate".

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 73-18-15(7)(a)

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: There are no additional costs or savings to the state budget. These changes are for clarification purposes only.

♦ LOCAL GOVERNMENTS: There are no additional costs or savings to local government. These changes are for clarification purposes only.

♦ SMALL BUSINESSES: There are no additional costs or savings to small businesses. These changes are for clarification purposes only.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no additional costs or savings to other persons. These changes are for clarification purposes only. The fees remain the same.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs. These changes are for clarification purposes only.

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

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
PARKS AND RECREATION
1594 W NORTH TEMPLE ROOM 116
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2012

AUTHORIZED BY: Fred Hayes, Acting Director

R651. Natural Resources, Parks and Recreation.

R651-227. Boating Safety Course Fees.

R651-227-1. Boating Safety Course Fees.

(1) The fee for the Division's personal watercraft education course is \$12.

(2) The fee to replace a lost or stolen Boating Education Certificate[~~personal watercraft education certificate~~] is \$5.00.

(3) The fee for issuance of a state issued Boating Education Certificate is \$5.00.

KEY: boating, safety, course, fee

Date of Enactment or Last Substantive Amendment:
[~~December 1, 1998~~] **July 23, 2012**

Notice of Continuation: October 22, 2007

Authorizing, and Implemented or Interpreted Law: 73-18-15(7)
(a)

Natural Resources, Parks and
Recreation
R651-401-1
Stickers

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36233

FILED: 05/16/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Since 1971 off-highway vehicles have been

required to be registered. In that 40-year period, OHVs have been required to display two stickers. The Division has realized that these stickers are not displayed according to rules. In all instances, stickers shall be mounted in a visible location. In some situations, they come off at car washes, owners will only display one, and, in general, the public doesn't know how to properly display under current Section R651-401-1. Taking these and other situations into account, the OHV program is proposing to go with the display of just one annual sticker. This is a current requirement for the display of the non-resident permit sticker and motor vehicles are required to only display one annual sticker as well.

SUMMARY OF THE RULE OR CHANGE: Due to the "two sticker" issues, the Division of Parks and Recreation OHV program is proposing to go with the display of just one annual sticker. This is a current requirement for the display of the non-resident permit sticker and motor vehicles are required to only display one annual sticker as well.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 41-22-8

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There are no additional costs or savings to the state budget associated with this amendment. The amendment reduces the number of stickers for display only.

♦ **LOCAL GOVERNMENTS:** There are no additional costs or savings to the local government associated with this amendment. The amendment reduces the number of stickers for display only.

♦ **SMALL BUSINESSES:** There are no additional costs or savings to small businesses associated with this amendment. The amendment reduces the number of stickers for display only.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no additional costs or savings to other persons associated with this amendment. The amendment reduces the number of stickers for display only.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with this amendment. The amendment reduces the number of stickers for display only.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:
No impact on business is expected.

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

NATURAL RESOURCES
PARKS AND RECREATION
1594 W NORTH TEMPLE ROOM 116
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2012

AUTHORIZED BY: Fred Hayes, Acting Director

R651. Natural Resources, Parks and Recreation.**R651-401. Off-Highway Vehicle and Registration Stickers.****R651-401-1. Stickers.**

Upon receipt of the application in the approved form, the Division of Motor Vehicles shall issue annual registration stickers which shall be displayed on the off-highway vehicle as follows: on snowmobiles, a sticker shall be mounted ~~on both sides~~ the left side of the hood, tunnel or pan; on motorcycles, a sticker shall be mounted on ~~both sides of the fork~~ the left fork, or on the left side body plastic; and on all-terrain type I and type II vehicles, stickers shall be mounted on the ~~front and the~~ rear of the vehicle. Vehicle types are defined in 41-22-2. In all instances, sticker shall be mounted in a visible location.

KEY: off-highway vehicles

Date of Enactment or Last Substantive Amendment: ~~April 7, 2011~~ **2012**

Notice of Continuation: March 28, 2011

Authorizing, and Implemented or Interpreted Law: 41-22-3(4)

**Natural Resources, Parks and
Recreation
R651-406-1
Annual Registration Fee**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36232

FILED: 05/16/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Off-Highway Vehicle (OHV) registration fees have remained constant for many years. The Division, in an effort to operate as a business identified that the snowmobile grooming program was exceeding expenses, compared to revenue collected. In 2012, there was legislation introduced (S.B. 15) that would allow the Board of Parks and Recreation to increase the annual snowmobile registration fee to a maximum of \$26. In addition, the annual registration fee for each ATV and OHM would increase to \$18, with \$1 being

provided to the Utah Highway Patrol Aero Bureau restricted account.

SUMMARY OF THE RULE OR CHANGE: OHV registration fees are currently set at \$17 per registration. In addition to the registration fee, several additional fees are charged, including a \$2 education fee, a \$2 DMV electronic payment fee, a 50 cent search and rescue fee, \$1.50 towards School and Trust Lands Administration and a \$1 transaction fee bringing the total fee to \$17. OHV owners must also pay a property tax assessment to their county of residence prior to registering an OHV. During calendar year 2011, 199,070 off-highway vehicles were registered in Utah. These registrations produced a net revenue to the Division of approximately \$3,300,000. Beginning 07/01/2012, the Utah Highway Patrol Aero Bureau will receive \$1 automatically from each OHV registration, potentially costing the Division \$199,070 per year at the current registration rates. The only way for the Division to recoup this lost revenue is through a registration fee increase for each ATV and OHM. Simultaneously, by increasing the snowmobile registration fee, as identified with the passing and signing of S.B. 15 (2012 General Session), this will increase revenue by approximately \$104,000. This additional revenue will be used exclusively for the snowmobile grooming operations.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 41-22-8

ANTICIPATED COST OR SAVINGS TO:

- ♦ **THE STATE BUDGET:** In order to offset the \$104,000 cut to the OHV Off-Highway Restricted Fund budget, a \$1 fee increase is proposed for each registered Off Highway Vehicle. The snowmobile registration fees will increase to \$4 to cover operational costs of the snowmobile grooming program.
- ♦ **LOCAL GOVERNMENTS:** There are no additional costs or savings to local government. This affects state government and users only.
- ♦ **SMALL BUSINESSES:** This could affect small businesses associated with registration of Off-Highway Vehicles. On each ATV and snowmobile registration, the fees will increase \$1 to cover the costs associated with the Utah Highway Patrol Aero Bureau Division. On snowmobiles, the registration fees will increase \$4 to cover operational costs of the snowmobile grooming program.
- ♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** On each ATV and snowmobile registration, the fees will increase \$1 to cover the costs associated with the Utah Highway Patrol Aero Bureau Division. On snowmobiles the registration fees will increase \$4 to cover operational costs of the snowmobile grooming program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: On each ATV and snowmobile registration, the fees will increase \$1 to cover the costs associated with the Utah Highway Patrol Aero Bureau Division. On snowmobiles the registration fees will increase \$4 to cover operational costs of the snowmobile grooming program.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:
No impact anticipated.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
PARKS AND RECREATION
1594 W NORTH TEMPLE ROOM 116
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2012

AUTHORIZED BY: Fred Hayes, Acting Director

**R651. Natural Resources, Parks and Recreation.
R651-406. Off-Highway Vehicle Registration Fees.
R651-406-1. Annual Registration Fee.**

The annual All-terrain Vehicle and off-highway motorcycle registration fee is \$[17]18. The annual snowmobile registration fee is \$22.

R651-406-2. Fee For Duplicate Registration.
The fee for a duplicate certificate of registration is \$3.

R651-406-3. Fee For Duplicate Numbered Stickers.
The fee for duplicate numbered stickers is \$5.

KEY: off-highway vehicles
Date of Enactment or Last Substantive Amendment: [~~August 18, 2006~~July 23, 2012
Notice of Continuation: March 28, 2011
Authorizing, and Implemented or Interpreted Law: 41-22-8

Natural Resources, Parks and
Recreation
R651-407-1
Appointment and Description of Vehicle
Advisory Council Membership

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 36230
FILED: 05/16/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Recent changes within the off-highway vehicle industry have created a situation where the Division of Parks and Recreation feels it is necessary to address the composition of the Utah OHV Advisory Council. The OHV program staff believes it is necessary to add one additional at-large member to the OHV Advisory Council to assist with current OHV issues within the State of Utah. This twelfth member would focus on OHV trends and issues at the time the vacancy is announced. This representative should be considered an at-large member to simplify the current needs and composition of the OHV Advisory Council.

SUMMARY OF THE RULE OR CHANGE: Currently, this rule defines the OHV Advisory Council as an eleven-member council, appointed by the Board of Parks and Recreation and representing the varied interests of the OHV community. One member will be from each of the following interests: the Bureau of Land Management; the USDA Forest Service; the Utah School and Institutional Trust Lands Administration; snowmobiling; motorcycling; all-terrain vehicle usage; four-wheel drive vehicle usage; off-highway vehicle dealers; off-highway vehicle safety; a youth member and a member-at-large.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 41-22-10(1)

ANTICIPATED COST OR SAVINGS TO:
♦ **THE STATE BUDGET:** There is no additional cost or savings to the state budget, because this amendment addresses membership of the OHV advisory council only.
♦ **LOCAL GOVERNMENTS:** There is no additional cost or savings to local government, because this amendment addresses membership of the OHV advisory council only.
♦ **SMALL BUSINESSES:** There is no additional cost or savings to small businesses, because this amendment addresses membership of the OHV advisory council only.
♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no additional cost or savings to persons other than small businesses, businesses or local government, because this amendment addresses adding an at-large member to the OHV advisory council only.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs. This does not affect persons in a budgetary sense.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:
No effect on business anticipated.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
PARKS AND RECREATION

1594 W NORTH TEMPLE ROOM 116
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2012

AUTHORIZED BY: Fred Hayes, Acting Director

R651. Natural Resources, Parks and Recreation.
R651-407. Off-Highway Vehicle Advisory Council.
R651-407-1. Appointment and Description of Vehicle Advisory Council Membership.

The board will appoint an [eleven]twelve-member off-highway vehicle advisory council representing off-highway vehicle users in the state. One member will be from each of the following interests: the Bureau of Land Management; the U.S.D.A. Forest Service; the Utah School and Institutional Trust Lands Administration; snowmobiling; motorcycling; all-terrain vehicle usage; four-wheel drive vehicle usage; off-highway vehicle dealers; off-highway vehicle safety; a youth member; and [a]two [member]members-at-large.

KEY: off-highway vehicles
Date of Enactment or Last Substantive Amendment: [July 5, 2004]July 23, 2012
Notice of Continuation: July 7, 2008
Authorizing, and Implemented or Interpreted Law: 41-22-10(1)

**Natural Resources, Parks and
Recreation
R651-612
Firearms, Traps and Other Weapons**

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 36229
FILED: 05/16/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: A conversation with Representative Curt Oda and the Division of State Parks and Recreation's Assistant Attorney General Representative led to the examination of Rule R651-612. These conversations and examinations of this rule have illuminated error in establishing Rule R651-612

which governs the discharge of firearms within the State Park system.

SUMMARY OF THE RULE OR CHANGE: The legislature has reserved to itself the authority to determine where and under what circumstances firearms may be discharged, and the Division of Parks and Recreation is acting outside its legal authority by enforcing this rule. The discharge of firearms in state parks provisions as found in Section 76-10-508 are sufficient to protect visitor health and safety. Therefore, this rule is repealed in its entirety.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 79-4-501

ANTICIPATED COST OR SAVINGS TO:

- ♦ **THE STATE BUDGET:** There is no cost to the state budget because repealing this rule does not affect the budget. Section 76-10-508 remains the enforcing statute.
- ♦ **LOCAL GOVERNMENTS:** There is no cost to local government because repealing this rule does not affect them in a budgetary sense. Section 76-10-508 remains the enforcing statute.
- ♦ **SMALL BUSINESSES:** There is no cost to small businesses because repealing this rule does not affect them in a budgetary sense. Section 76-10-508 remains the enforcing statute.
- ♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no cost to persons other than small businesses, businesses or local government entities because repealing this rule does not affect them in a budgetary sense. Section 76-10-508 remains the enforcing statute.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with the repeal of this rule. Section 76-10-508 remains the enforcing statute.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change should have no impact on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
PARKS AND RECREATION
1594 W NORTH TEMPLE ROOM 116
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2012

AUTHORIZED BY: Fred Hayes, Acting Director

R651. Natural Resources, Parks and Recreation.

~~**[R651-612. Firearms, Traps and Other Weapons.**~~

~~**R651-612-1. Unlawful Discharge of Weapons or Firearms.**~~

~~The discharge of weapons or firearms, including air and gas powered types, and all other devices capable of launching a projectile which could immobilize, injure, or kill any person or animal or damage property are prohibited in the park system unless:~~

~~(1) The weapon or device is being used for the legal pursuit of wildlife as per R651-614.~~

~~(2) The use of the weapon or device is authorized by a Special Use Permit or an authorized event as per R651-608.~~

~~(3) The weapon or device is used in accordance with UCA 53-5-701 Concealed Weapons Act, or UCA 76-2-402, 76-2-403, or 76-2-405.~~

~~(4) The weapon or device is being used by authorized law enforcement officers in the performance of their official duties in accordance with UCA 76-2-402.~~

~~**KEY:** parks, firearms~~

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

~~**Notice of Continuation:** July 7, 2008~~

~~**Authorizing, and Implemented or Interpreted Law:** 79-4-501]~~

**Public Safety, Driver License
R708-21
Third-Party Testing**

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 36231

FILED: 05/16/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this repeal and reenactment is to establish standards and procedures for third-party testers and third-party examiners who enter into an agreement with the state, to administer skills tests to commercial drivers.

SUMMARY OF THE RULE OR CHANGE: This repeal and reenactment puts the Utah Driver License Division into compliance with the Federal Motor Carrier Safety Administration (FMCSA) guidelines 383.75 for licensing and regulating of the CDL third party testers and examiners. Removed from the original rule is the entire subsection F "Certificate of Driver Competency" because electronically sending the scores to Driver License no longer applies. Subsection H has been rewritten to clarify sanction of the new rule. This document contains new definitions for the updated language of this rule. Other items include change to the third-

party testers that only companies that have been in business for at least two years or longer or that has an examiner that has been testing CDL drivers two years or longer are qualified to be in this program. The examiners must give at least ten tests a year to stay complaint. The company must designate a person that will maintain all files with new and used score sheets, inform Driver license of any personal changes and schedule the yearly reviews. This document updates the third party examiner s requirement to have at least three years of driving experience, pass a criminal background check, and have physical strength to enter and exit a commercial vehicle. The third-party examiner must take the required training and pass the final test with 80% or better. Upon completion of training have a driver license employee watch an acceptable test to verify understanding of proper testing. Processing the completed test has changed to help minimize fraud. The test must be scheduled at least 48 hours on the Driver license web application prior to administering the test. The scores are then sent into Driver license electronically within 48 hours of testing on Driver license web application. The used score sheets must be destroyed after three years by the third-party tester. Sections have been added to not allow a tester or examiner to withhold test sheets after a test has been administered. Notification of accident has been added to help assure that testing routes are suitable and safe for testing. Grounds for revocation, probation, or denial have been updated with language to more define consequences of violation of this rule. Adjudicative proceedings have been added. Changing this rule will adopt the changes recommended by the Utah legislative audit. One benefit of this change includes greater security and fraud reduction for the program by adding electronic scheduling and reporting of the test scores.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 49 CFR Part 383.75 and Section 53-3-104

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The state will see an increase associated with the requirement of a background check. The Department of Public Safety will be receiving \$20, or the current rate, for every background check.

◆ **LOCAL GOVERNMENTS:** Costs to local government will be the current price of a background check. The Division cannot provide an estimate of the total costs to local government because it is not known how many background checks will need to be performed.

◆ **SMALL BUSINESSES:** Costs to small businesses will be the current price of a background check. The Division cannot provide an estimate of the total costs to small businesses because it is not known how many background checks will need to be performed.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Costs to individuals will be the current price of a background check. The Division cannot provide an estimate of the total costs because the fee may be paid by small business or local government.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance costs are currently \$20 for each criminal background fee.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be a fiscal impact on business in order to be compliant with the required back ground check.

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:
♦ Marge Dalton by phone at 801-965-4456, by FAX at 801-957-8502, or by Internet E-mail at modalton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2012

AUTHORIZED BY: Lance Davenport, Commissioner

R708. Public Safety, Driver License.

[R708-21. Third-Party Testing.

R708-21-1. Definitions.

“Agreement” means a written agreement between the state and a third-party tester agreeing to conditions contained therein.

“Department” means the Department of Public Safety.

“Division” means the Driver License Division.

“Third-party tester” means a person, an agency of this or another state, an employer, a private driver training facility or other private institution, or a department, agency, or entity of local government with whom the state has an agreement to administer skills tests to commercial drivers.

R708-21-2. Authority and Purpose.

A. This rule is authorized by Sections 53-3-213 and 53-3-407, and 49 Part 383.75 of the Code of Federal Regulations.

B. The purpose of this rule is to establish standards and procedures for third-party testers who enter into an agreement with the state to administer skills tests to commercial drivers.

R708-21-3. Standards and Procedures.

A. Application for third-party tester certification.

1. Application for an original or renewal certification shall be made on a form furnished by the division, and shall include the following:

- a. Name of third-party tester.
- b. Address of third-party tester.
- c. Names of all third-party examiners.

d. Addresses of all testing sites.

e. Third-party agreement.

2. Upon receipt of the application, the division shall schedule an inspection of the third-party tester to determine eligibility, establish test routes, schedule instruction and provide forms.

3. When certified, the third-party tester and all authorized examiners shall be placed on a list which is provided to all state-commercial driver license examining stations. A formal letter of certification will be mailed to the third-party tester containing an assigned number to be used on official documents and the expiration date of the certification.

4. Certification shall be for a period of one year. No later than one month prior to expiration of certification, the third-party tester may submit a renewal application to the division which is the same process as applying for an original certification.

B. Agreement—The third-party tester is required to enter into a written agreement with the state to conduct skills tests as required by Federal regulation established in 49 C.F.R. part 383. The agreement must contain provisions that:

1. Allow the Federal Highway Administration or its representative, and/or the division to conduct random examinations, inspections, and audits without prior notice during normal business hours.

2. Allow the division to conduct on-site inspections annually or when deemed necessary by the division.

3. Require that all third-party examiners receive training approved by the division that will allow them to conduct skills tests that are in compliance with Federal minimum standards.

4. Require, at least on an annual basis, that cheek rides be made by division representatives.

5. The tests given by the third party are the same as those which would otherwise be given by the state.

C. Requirements for third-party testers.

1. To be certified, a third-party tester shall:

a. Make application to and enter into an agreement with the division as provided in Section B of these rules.

b. Maintain a place of business with at least one permanent regularly occupied structure within the state.

c. Ensure place of business is safe and meets all requirements of state law and local ordinances.

d. Have at least one qualified and approved third-party examiner in their employ.

e. Not engage the service of an employee of the division as an examiner, agent, or employee.

D. Inspection and audit process.

1. During inspections a person designated by the third-party tester shall cooperate with the division or Federal representative in performing on-site inspections. On-site inspections shall at a minimum consist of:

a. Verifying third-party examiner requirements as prescribed in section G of this rule.

b. Examination of commercial driver records.

(1) The third-party tester must maintain accurate driver testing records and must be able to furnish them upon request.

(2) These records must be kept for at least four years. All record forms used by the third-party tester shall be approved or furnished by the division.

~~c. Verifying test routes and procedures for skills testing compliance.~~

~~d. Reviewing any other items the division deems necessary to assure that requirements of certification are met.~~

~~2. Check rides may be made by any designated division representative to verify compliance with state and Federal minimum testing standards. Check rides by the division may consist of:~~

~~a. A division employee taking the skills test as administered by the third-party tester as if such employee was a test applicant.~~

~~b. The division administering the skills test to a sample of drivers who were previously examined by the third-party tester to determine if the check ride results are consistent with the third-party tester results.~~

~~c. The division administering the skills tests to a third-party testing examiner to verify examiner skills and compliance with state and Federal minimum testing standards.~~

~~3. A division representative shall prepare a written report of all inspections, check rides and audits. A copy shall be submitted to the third-party tester and a copy retained by the division.~~

~~E. Skill test administration.~~

~~1. Skills tests shall be conducted strictly in accordance with the provisions of these requirements and with current test instructions provided by the division. Such instructions may include information on skill test content, route selection/revision, test forms, examiner procedures, and administrative procedures and/or changes.~~

~~2. Tests shall be conducted:~~

~~a. On test routes approved by the division.~~

~~b. In a vehicle that is representative of the class and type of vehicle for which the CDL applicant seeks to be licensed and for which the third-party examiner is qualified to test.~~

~~c. Using division approved content, forms and scoring procedures.~~

~~F. Certificate of Driver Competency.~~

~~1. The division shall supply an official Certificate of Driver Competency form to authorized third-party testers for their use when verifying driving competency and successful skills test completion as required by state and Federal minimum standards.~~

~~2. The division upon receipt of the Certificate of Driver Competency form from an approved third-party tester shall waive the skills portion of the application.~~

~~3. The certificate shall include the following information:~~

~~a. Applicant's name.~~

~~b. Applicant's social security number.~~

~~c. Description of vehicle in which test was taken.~~

~~d. Class of license, restriction and/or endorsement tested for.~~

~~e. Authorized third-party examiner signature.~~

~~f. Authorized third-party tester name and assigned number.~~

~~4. All authorized third-party examiners shall be required to sign a signature card which shall be kept on file by the division for signature verification.~~

~~5. Drivers shall submit the Certificate of Driver Competency form to the division within 90 days of the date of the skills test.~~

~~G. Third-party examiner requirements.~~

~~1. Third-party examiners who are authorized by the division to administer skills test shall:~~

~~a. Receive training approved by the division. Third-party examiners need to be aware that any training they receive from private or other organizations may require a training fee. Upon completion of training, third-party examiners shall be issued a certificate of completion.~~

~~b. Test and certify only those commercial driver license classes, endorsements, and restrictions that have been approved by the division.~~

~~c. Hold a valid driver license with no suspensions, revocations, cancellations or disqualifications within one year prior to application.~~

~~d. Conduct skills tests on behalf of only one third-party tester at any given time.~~

~~H. Denial, suspension, or cancellation of certification.~~

~~1. The division shall deny any application for a third-party tester or examiner certification, if the applicant does not qualify for the certification under provisions of these rules. Misstatements or misrepresentation may be grounds for denying a certification.~~

~~2. The division shall cancel the certification of any third-party tester or examiner upon the following grounds:~~

~~a. Failure to comply with or satisfy any of the provisions of these rules, the division's instructions or the third-party tester agreement.~~

~~b. Falsification of any records or information relating to the third-party testing program.~~

~~c. Commission of any act which compromises the integrity of the third-party testing program.~~

~~d. Failure to notify the division within ten days of any changes in examining personnel or testing locations.~~

~~e. A third-party examiner whose driver license is suspended, revoked, canceled, or disqualified.~~

~~3. A cancellation of a third-party tester or examiner certification shall be for the following lengths of time:~~

~~a. First infraction shall result in a warning from the division and an indefinite suspension of certification until the division is satisfied that the third-party tester will meet the requirements of this rule.~~

~~b. Second infraction of this rule arising from separate incidents shall result in a one-year cancellation of certification.~~

~~c. Third infraction of this rule arising from separate incidents shall result in a five-year cancellation of certification.~~

~~4. When a certification is canceled, the third-party may request a hearing before a designated department representative. The hearing shall consist of a finding of whether the alleged infraction(s) occurred and based upon these findings, whether the cancellation of certification should be rescinded or affirmed.~~

~~5. Reinstatement following cancellation shall consist of the third-party tester providing proof of compliance and making application for new certification.~~

~~I. Advertising.~~

~~1. No advertisement shall indicate in any way that a program can issue or guarantee the issuance of a commercial driver's license, or imply that the program can in any way influence the division in the issuance of commercial driver's license or imply that preferential or advantageous treatment from the department can be obtained.~~

~~2. No examiner, employee, or agent of a third-party tester shall be permitted to advertise or solicit business or cause business to be solicited in its behalf or display or distribute any advertising material within 1500 feet of a location rented, leased, or owned by the department.~~

KEY: ~~training programs, driver education~~

~~Date of Enactment or Last Substantive Amendment: 1992~~

~~Notice of Continuation: January 20, 2012~~

~~Authorizing, and Implemented or Interpreted Law: 53-3-213; 53-3-407]~~

R708-21. Third-Party Testing.

R708-21-1. Authority.

This rule is authorized by Sections 53-3-104 and 49 Part 383.75 of the Code of Federal Regulations.

R708-21-2. Purpose.

The purpose of this rule is to establish standards and procedures for Third-party Testers and Third-party Examiners who enter into an agreement with the State, to administer skills tests to commercial drivers.

R708-21-3. Definitions.

- (1) used in this rule are found in Section 53-3-102.
- (2) In addition:
 - (a) "act involving moral turpitude" means conduct which:
 - (i) is done knowingly contrary to justice, honesty, or good morals;
 - (ii) has an element of falsification or fraud; or
 - (iii) contains an element of harm or injury directed to another person or another property;
 - (b) "designated representative" mean a person identified by an organization, who is an officer, owner, partner or employee of the organization and who is authorized by the organization to comply with Third-party Testing Program requirements.
 - (c) "established business" means any company that has been issued a license by a state, county or city licensing agency to conduct business.
 - (d) "probation" means action taken by the department, which includes a period of close supervision as determined by the division.
 - (e) "revocation" means the permanent removal of certification of a Third-party Tester or Third-party Examiner.
 - (f) "state" means the State of Utah.
 - (g) "third-party examiner" means a person who has completed, passed and maintains the required training to administer the skills tests to commercial drivers.
 - (h) "third-party tester" means a person, an agency of this state, an employer, a private driver training facility or other private institution, or a department, agency or entity of local government with whom the state has an agreement to administer skills tests to commercial drivers.

R708-21-4. Requirements for Application, Certification and Renewal of Certification for a Third-party Tester.

- (1) Application for an original or renewal Third-party Tester certification shall be made on a form furnished by the division, and shall include:
 - (a) name of Third-party Tester;

- (b) address of Third-party Tester;
- (c) number of years Third-party Tester has been in business;
- (d) names of all Third-party Examiners;
- (e) addresses of all testing sites;
- (f) name of the designated representative; and
- (g) copy of business license.
- (2) Upon receipt of the application, the division shall schedule an appointment with the Third-party Tester to determine eligibility, establish test routes, schedule instruction and provide forms.
- (3) A written agreement shall be made with the state to conduct skills test as required by Federal regulations established in 49 CFR Part 383. The agreement shall contain the following provisions:
 - (a) allow the Federal Motor Carrier Safety Administration (FMCSA) or its representative, and/or the division to conduct random examinations, inspections and audits without prior notice;
 - (b) allow the division to conduct on-site inspections annually or when deemed necessary by the division;
 - (c) require all Third-party Examiners receive training approved by the division which requires them to conduct skills tests in compliance with the FMCSA minimum standards;
 - (d) require at least one of the following on an annual basis:
 - (i) a division representative take the tests actually administered by the Third-party Examiner as if the division representative were a test applicant; or
 - (ii) the division test a sample of drivers who were examined by the Third-party Examiner to compare pass/fail results; or
 - (iii) the division co-score along with the Third-party Examiner during CDL skills test to compare pass/fail.
- (4) The Third-Party tester shall:
 - (a) have an established business for a minimum of two years; or
 - (b) employ a Third-party Examiner that has been certified the previous two years under R708-21-5 of this rule;
 - (c) maintain a current business license required by the municipality or county;
 - (d) have at least one qualified and approved Third-party Examiner;
 - (e) require that Third-party Examiners:
 - (i) administer at least ten CDL skills tests in the year preceding the renewal of the Third-party Tester application; or
 - (ii) be observed by the division representative administering at least one CDL skills test in the proper manner;
 - (f) name a designated representative(s) that will sign signature cards for new employees and withdraw the authority of employees that are no longer certified to test for the company;
 - (g) not be permitted to engage the service of an employee of the division as an examiner, agent, or employee.
- (5) Certification shall be valid for a period of twelve months. No later than one month prior to expiration of certification, the Third-party Tester shall submit a renewal application to the division.

R708-21-5. Requirements for Application, Certification and Renewal of Certification for a Third-party Examiner.

(1) An application for an original or renewal Third-party Examiner certification shall be made on a form furnished by the division, and shall include the following:

- (a) name of Third-party Tester;
- (b) address of Third-party Tester;
- (c) name of Third-party Examiner;
- (d) residential address of Third-party Examiner;
- (e) telephone number and email address of Third-party Examiner;
- (f) signature and date of Third-party Examiner.

(2) All Third-party Examiners shall be sponsored by a Third-party Tester, who shall be responsible for all tests administered by the Third-party Examiner.

(3) An applicant for Third-party Examiner shall comply with the following requirements:

(a) have and maintain a valid driver's license with no suspensions, revocations, cancellations or disqualifications within one year prior to application;

(b) have at least three years driving experience;

(c) submit to the division a fingerprint card and a check or money order made payable to the Utah Bureau of Criminal Identification, to cover the cost associated with a criminal history background check;

(d) have the physical strength and agility to physically enter and exit commercial vehicles unassisted;

(e) complete the approved training by the division and pass the final examination with a minimum score of 80%. Third-party Examiners need to be aware that any training they receive from private or other organizations may require a training fee;

(f) schedule a time, within one year of training with the division representative, to demonstrate his/her ability to perform the skills tests according to 49 C.F.R. 383 subpart (g) and (h), in an actual test setting. Upon approval from the division representative, the examiner may begin testing. Failure to comply with this portion of this certification process will result in the examiner having to complete the approved training as described in R708-21-5 (3)(e); and

(g) upon completion of training, Third-party Examiners shall be issued a certificate of completion. The division will file and maintain a copy of the certificate of completion in the Third-party Tester file.

(4) All authorized Third-party Examiners shall be required to sign an agreement verifying that they have read and understand the required rules and training materials.

(5) Upon application for recertification a Third-party Examiner shall meet the requirements outlined in subsections 1 through 4 in addition to the following:

(a) administer at least ten CDL skills tests to different applicants in the year preceding the renewal of the Third-party Tester application; or

(b) be observed by the division representative administering at least one CDL skills tests in accordance with 49 C.F.R. 383 subpart (g) and (h)

R708-21-6. Requirements for Designated Representative.

(1) A designated representative is responsible for overseeing the Third-party Tester and Examiners. The designated

representative shall be the liaison between division representatives and Third-party Examiners.

(2) A designated representative shall:

(a) maintain personnel files for all Third-party Examiners assigned to their company;

(b) notify the division in writing within 10 calendar days of any change to a Third-party Examiner driving status;

(c) maintain and update all Third-party Examiners signature cards;

(d) notify the division in writing within 30 calendar days of a change to a Third-party Tester or Examiners address;

(e) make application for renewal of a Third-party Tester certificate at least one month prior to expiration date;

(f) maintain security of all CDL score sheets and personal data noted on the CDL score sheets;

(g) ensure all CDL test score sheets have been destroyed after 3 years.

R708-21-7. Skills Test Administration.

(1) Skills tests shall be conducted strictly in accordance with the provisions of these requirements and with current test instructions provided by the division and part 49 C.F.R. 383 and AAMVA training manual.

(a) Such instructions include information regarding:

(i) skills test content;

(ii) route selection/revision;

(iii) test forms;

(iv) examiner procedures; and

(v) administrative procedures.

(2) Tests shall be conducted:

(a) on test routes approved by the division;

(b) in a vehicle that is representative of the class and type of vehicle for which the CDL applicant seeks to be licensed and for which the Third-party Examiner is qualified to test; and

(c) by using division approved content, forms and scoring procedures.

(3) Third-party Examiners shall test and certify only those CDL applicants who hold a valid Commercial Driver Instruction Permit and shall ensure adherence to the class, endorsements, restrictions and expiration dates listed on the permit.

(4) All Third-party Testers and Third-party Examiners shall schedule the skills tests on the division's web application at least 48 hours prior to administering the CDL Skills test.

R708-21-8. Processing CDL Skills Test.

(1) The division shall provide training and allow access to the divisions web service application used for scheduling skills tests and recording the results of the tests to:

(a) certified Third-party Examiner; or

(b) a representative of the Third-party Tester that has met the requirements of R708-21-5(3)(c) upon approval by the division.

(2) The division shall supply an approved CDL skills test score sheet to authorized Third-party Testers for use when administering skills tests. The score sheet shall be filled out correctly and signed by both the Third-party Examiner and driver:

(a) Third-party Testers shall maintain all skill test score sheets for a period of three years after which they must be immediately destroyed by means of incineration or shred.

(b) Third-party Testers are responsible to ensure the security of all CDL score sheets and personal data collected on the CDL score sheets and the applicant.

(3) The score sheet shall include the following information:

- (a) applicant's name and phone number;
- (b) applicant's Utah Driver License number;
- (c) description of the vehicle in which test was taken, including optional equipment;
- (d) Gross Vehicle Weight Rating (GVWR);
- (e) vehicle and trailer license plate numbers;
- (f) class of license, restriction and/or endorsement tested for;
- (g) start time, end time, and date test was administered;
- (h) authorized Third-party Examiner name and assigned number;

- (i) applicant's signature and date; and
 - (j) authorized Third-party Examiner's signature and date.
- (4) The Third-party Examiner shall document all skills test results on the score sheet.

(5) The Third-party Examiner shall provide the completed skills test score sheet to the driver in a sealed envelope.

(6) The Third-party Examiner or Third-party Tester shall not withhold a passed skills test score sheet to an applicant that has successfully met the testing requirements.

(7) The Third-party Examiner shall enter the skills test results on the driver's record through the division web application within 48 hours of the test.

(8) Test results are only acceptable if testing was completed within the previous 6 months.

(9) The division shall accept the score sheet as proof the driver has completed one or more skills tests.

(10) As a result of the driver not completing or passing the skills test within 6 months of the original failed or incomplete test, the Third-party Examiner shall send the score sheet directly to the division representative.

R708-21-9. Inspection and Audit Process.

(1) During inspections the representative(s) designated by the Third-party Tester shall cooperate with the Division or Federal representative with respect to on-site inspections.

(2) On-site inspections shall be conducted to verify compliance with FMCSA guidelines and this rule.

(3) The Third-party Tester shall maintain accurate driver testing records and must be able to furnish them upon request.

(4) Check rides may be made by any designated division representative to verify compliance with the State and Federal minimum testing standards and may consist of:

(a) the division employee taking the skills test as administered by the Third-party Tester as if such employee was a test applicant;

(b) the division administering the skills tests to a sample of drivers who were previously examined by the Third-party Testers to determine if the check ride results are consistent with the Third-party Tester results; and

(c) the division co-score along with the Third-party Examiner during CDL skills test to compare pass/fail.

(5) A division representative shall prepare a written report of all inspections, check rides and audits. A copy of these reports shall be maintained by the division for ten years.

(6) The division shall send a renewal letter to the Third-party Tester indicating any problems, concerns or violations found during the audit with an action plan detailing how to correct the items identified.

R708-21-10. Notification of Accident.

If any Third-party Examiner is involved in an accident during the course of administering a skills test, the Examiner shall notify the division in writing within five days of the accident. The Third-party Examiner shall submit to the division a copy of the investigating law enforcement officer's accident report as soon as it is available.

R708-21-11. Advertising.

(1) No advertisement shall indicate in any way that a program can issue or guarantee the issuance of a CDL, or imply that the program can in any way influence the division in the issuance of a CDL or imply that preferential or advantageous treatment from the division can be obtained.

(2) No Third-party Tester or Third-party Examiner shall solicit business directly or indirectly or display or distribute any advertising material within 1500 feet of a building in which driver licenses are issued to the public.

(3) No Third-party Tester or Third-party Examiner shall use any Department or Division logos, letterhead, or license recreations as part of their advertising.

R708-21-12. Grounds for Revocation, Probation or Denial to Issue or Renew Third-party Tester or Third-party Examiner Certification.

(1) A Third-party Tester or Third-party Examiner may be revoked, denied or placed on probation for any of the following reasons:

(a) Failure to comply with any of the provisions of 49 Part 383 of the Code of Federal Regulations;

(b) Failure to comply with any of the provisions of Title 53-3-407 UCA;

(c) Failure to comply with any of the provisions of this rule;

(d) Falsification of any records or other required information relating to the Third-party Tester program;

(e) Commission of any act that compromises the integrity of the Third-party Tester Program Commercial Motor Vehicle Safety Act, 1986;

(f) failure to permit and cooperate with the Division or Federal representative to inspect the testing routes, testing sites or score sheets issued to the Third-party Tester; and

(g) Conviction of any crime involving dishonesty, deception or theft or an act involving moral turpitude by a Third-party Tester or Third-party Examiner;

(2) In determining whether revocation, denial or probation of a certification is appropriate, the division shall consider the third-party tester or third-party examiners involvement and severity of the violation(s).

(3) If a Third-party Examiner certificate is revoked under the emergency provisions of UAPA, section 63G-4-502, and the

Third-party Tester certificate is valid, the Third-party Tester may continue conducting CDL driving skills tests provided:

(a) The Third-party Examiner is no longer employed by the Third-party Tester;

(b) A Third-party Examiner with a valid certificate is employed by the Third-party Tester;

(c) Testing shall not compromise public safety; and

(d) The Third-party Tester is found to not knowingly have allowed a Third-party Examiner to conduct tests that violate Utah and or Federal laws or this rule.

(4) Following cancellation of the Third-party Tester certification the Third-party Tester shall promptly return all CDL skills test documents. Documentation includes at a minimum:

(a) CDL Examiner manual;

(b) score sheets (both used and blank); and

(c) Third-party Examiner certificates.

R708-21-13. Adjudicative Proceedings.

(1) All adjudicative proceedings set forth in this section shall be conducted informally as provided in Section 63G-4-202.

(2) The division shall initiate agency action against a Third-party Tester or Third-party Examiner with a notice of agency action in accordance with Section 63G-4-201.

(3)(a) A Third-party Tester or Third-party Examiner who receives a notice of agency action indicating that the division intends to deny, suspend or revoke a permit or a certificate may request a hearing by filing a written request for hearing with the division within 10 calendar days from the date of the notice of agency action.

(b) If a timely request for hearing is filed, the agency action shall be stayed until the division's hearing officer issues a written decision.

(c) A hearing shall be held before the division's hearing officer within 30 calendar days of the day that the division receives the written request for hearing, unless agreed to by the parties."

(d) At the hearing, Third-party Tester or Third-party Examiner shall have an opportunity to demonstrate why the division should not take agency action.

(e) The hearing officer shall issue a written decision within 10 business days of the hearing in accordance with Section 63G-4-203.

(4) The written decision of the hearing officer shall constitute final agency action and is subject to judicial review in accordance with Section 63G-4-402.

KEY: motor vehicle safety, inspections

Date of Enactment or Last Substantive Amendment: 2012

Notice of Continuation: January 20, 2012

Authorizing, and Implemented or Interpreted Law: 53-3-104; 49 CFR 383.75

**Public Safety, Peace Officer Standards
and Training**

R728-401

**Requirements for Approval and
Certification of Peace Officer Basic
Training Programs and Applicants**

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 36291

FILED: 05/30/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule establishes the requirements and procedures for the approval of certified training academies and establishes the conditions under which basic peace officer training programs may be conducted.

SUMMARY OF THE RULE OR CHANGE: This rule change clarifies the requirements for establishing an approved basic peace officer training program in Utah. The previous rule stated that agencies could conduct a basic peace officer training program with approval of the POST council and by complying with POST approved procedures. This new rule states what those procedures are. The new rule requires an agency show a need for an additional basic peace officer training program before one will be approved. The new rule outlines what is required in order to demonstrate a need for a new peace officer training program, including: the lack of an established program in the geographical region, a written request from a law enforcement agency requesting establishment of a new training program, a statement from a currently established program indicating they are unable to fill the need, or the ability to fulfill a specialized training need. The new rule also establishes that POST will review the qualifications of any new satellite academy director. The new rule clarifies that all applicants to a basic peace officer training program must pass the established physical fitness requirement. Deleted from the old rule were references to specific classes that could not be missed during the basic training program. These references were replaced with the requirement that no student who had missed more than 16 hours of the basic course could become certifiable until appropriate makeup work has been completed. The new rule also clarifies that all academic requirements must be completed before an individual will be allowed to take the certification exam.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-6-202 and Section 53-6-203 and Section 53-6-204 and Section 53-6-205

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The changes affected by the repeal and reenactment of this rule neither add any additional work to any state agency nor eliminate any work from any state agency. The changes simply establish and clarify what will be considered in a process that is already part of agencies responsibility. Since no additional work or resources are required or eliminated we anticipate that there will be no cost or savings to state budget.

◆ **LOCAL GOVERNMENTS:** The changes affected by the repeal and reenactment of this rule neither add nor eliminate any requirements from any local government agency. The changes affect only institutions of higher learning wishing to become certified as a basic peace officer training program. Public safety agencies affiliated with a local government will not have any additional requirements. Since there are no additional requirements we anticipate that there will be no cost or savings to local government because of this rule change.

◆ **SMALL BUSINESSES:** This rule does not apply to or have affect on any small business. Since the rule has no applicability to small business, the Division anticipates that there will be no cost or savings to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule will require institutions of higher learning to comply with procedures established herein should the institution request authorization to conduct a basic peace officer training course. The rule will require the institution to provide some additional documentation that would likely be contained within just a few pages. The anticipated additional costs to institutions of higher learning will be very minimal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The changes affected by the repeal and reenactment of this rule neither adds nor eliminates any compliance requirements to any affected individuals. Since no additional requirements are established, the Division anticipates that there will be no additional compliance costs to affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule affects only interaction between public safety agencies, institutions of higher learning and the Department of Public Safety, Peace Officer Standards and Training. The rule does not apply to or have affect on businesses. Therefore, this amendment will have no foreseeable fiscal impact on any businesses.

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

PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
410 W 9800 S
SANDY, UT 84070
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Kelly Sparks by phone at 801-256-2321, by FAX at 801-256-0600, or by Internet E-mail at ksparks@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

THIS RULE MAY BECOME EFFECTIVE ON: 07/30/2012

AUTHORIZED BY: Lance Davenport, Commissioner

R728. Public Safety, Peace Officer Standards and Training.

~~[R728-401. Requirements For Approval and Certification of Peace Officer Basic Training Programs and Applicants.~~

R728-401-1. Authority.

~~———— This rule is authorized by Section 53-6-105 which gives the power to the Director of Peace Officers Standards and Training to promulgate standards for the certification of peace officer training academies.~~

R728-401-2. Academy Approval.

~~———— Any agency wishing to conduct a basic peace officer training program may do so with the approval of the POST Council and by complying with the POST approved procedures.~~

R728-401-3. Procedures for Course Validation.

~~———— A. The course must conform to the content and standards established by POST and approved by the POST Council.~~

~~———— B. All applicants will pass the POST entrance level test. The POST entrance level test is a valid test used to demonstrate ability in the areas of reading comprehension, basic mathematic skills, basic grammar and writing skills.~~

~~———— C. All applicants will complete the POST application packet. POST must receive application packets at least four weeks prior to the start of training unless special circumstances exist and arrangements have been made with POST. Without exception, medical requirements will be completed and submitted to POST before training begins.~~

~~———— 1. Sponsored applicants — The sponsoring agency will complete the background investigation and insure that the requirements in Section 53-6-203 (applicants for admission to training programs) and R728-403 (Qualifications for Admission to Certified Peace Officer Training Academies) have been met. If the sponsoring agency has any question about an applicant as he relates to Section 53-6-203, or R728-403, POST shall be consulted before any training begins.~~

~~———— 2. Self-Sponsored applicants — POST will conduct a criminal history check on all self-sponsored applicants. Programs providing training to self-sponsored students will adhere to the following guidelines when providing POST with application packets:~~

~~———— a. Check applications to insure completeness. POST will return any application not complete and deny training to that individual until a complete application is received and a criminal history check has been completed.~~

~~———— b. Provide POST with applications at least four weeks prior to the start of training unless special circumstances exist and~~

arrangements have been made with POST (without exception medical release forms will be completed and submitted to POST before physical training begins.)

c. Bring to POST's attention any information provided in the application that should be examined closely in light of the provisions outlined in Section 53-6-203 and R728-403.

d. Equipment required to perform training must be furnished by the sponsoring agency or program. Equipment must meet POST standards.

Note: Any applicant denied by POST may appeal the decision by following the approved POST appeal process.

e. All instructors must be POST-certified, and approved to instruct in their assigned topic(s).

f. Lesson plans for each topic must be prepared in accordance with the currently approved student performance objectives. Instructors must read and sign Contractual Agreement Form indicating they are aware of and are willing to teach the POST approved performance objectives.

g. Sponsoring agencies and program coordinators must administer POST approved examinations and maintain a file of examinations used. The final certification examination, which is a comprehensive examination, requires a minimum score of 80% to pass the test. Requirements necessary to pass the physical assessment test are set by POST and approved by the POST Council.

h. Attendance rosters are to be kept to satisfy statutory requirements and copies of these rosters will be submitted to POST. No attendee can miss more than two days of the police academy and still be certifiable. Under no circumstances will a student be certified if he misses (and fails to make-up) the following classes:

1. Ethics and Professionalism
2. Laws of Arrest
3. Laws of Search and Seizure
4. Use of Force
5. First Aid (CPR only)
6. Emergency Vehicle Operation
7. Vehicle Operation Liability
8. Vehicle Operation Practical
9. Arrest Control Techniques (practical exam)
10. Firearms Safety
11. Firearms Range/Day Shooting (qualification only)
12. Firearms Range/Night Shooting
13. Reasonable Force
14. Firearms Decision Making
15. Crimes In-Progress (practical only)

i. Sponsoring agencies and programs must ensure that students possess a valid driver license when involved in any training that requires the operating of a motor vehicle. POST recommends that driver license checks be made through the State Division of Driver License.

j. Successful completion of the course and completion of all POST required paperwork is necessary before certification or certifiability will be granted. The paperwork must be submitted to POST within two weeks of completion of the course.

k. Anyone failing the Certification Exam once may take it again within a one year time frame. The requirement of taking the certification test after a year, for waiver purposes, will be applied by calculating the year from the date of successfully passing the test. Anyone who fails a certification re-take will not be

permitted to take it again until they satisfactorily complete another approved basic training program. Anyone failing the Physical Assessment Exam will have four years to meet the requirements.

l. POST will conduct annual audits and site visits for each satellite or agency academy to verify that they are conforming to POST standards.

m. When all requirements have been met, the sponsoring agency administrator shall submit to POST a letter informing POST that all requirements have been met. Peace officer certification begins when POST receives an application for certification and confirms that the applicant has completed a basic peace officer training program and met all requirements.

n. No person may function with any authority until he has satisfactorily completed an approved training program and received POST certification.

R728-401-4. Process for Requesting Certification.

Administrators requesting certification of an employee shall submit to POST Form #61, Application for POST Certification. POST will verify the information provided and certify the applicant when completion requirements have been met.

KEY: law enforcement officers, peace officer basic course, approval

Date of Enactment or Last Substantive Amendment: January 20, 2007

Notice of Continuation: December 13, 2011

Authorizing, and Implemented or Interpreted Law: 53-6-202]

R728-401. Requirements For Approval and Certification of Peace Officer Basic Training Programs and Applicants.

R728-401-1. Authority.

This rule is authorized by Section 53-6-105 (1)(a) which gives the power to the Director of Peace Officers Standards and Training to promulgate standards for the certification of peace officer training academies.

R728-401-2. Satellite Academy Approval.

A. A law enforcement agency, correctional agency or institution of higher learning that meets the conditions and requirements set forth below may conduct a basic peace officer training program which is primarily established for the training of self-sponsored students, with the approval of the POST Council.

B. Requests for new on-going academy programs primarily established for the training of self-sponsored students will only be approved when there is a demonstrated need for additional basic peace officer training programs in the county or region in which the new academy will operate.

C. In order to demonstrate a need for an additional basic peace officer training program, the applying entity must provide evidence of at least one of the following:

1. There is no basic peace officer training program which is primarily established for the training of self-sponsored students within a 30 mile radius of the location where the new academy will operate.

2. One or more State, County or Local law enforcement agencies in the county or region has requested, in writing, that the applying entity establish and operate an on-going basic peace officer training program which is primarily established for the training of self-sponsored students.

3. An established satellite academy operating within the county or region or within 30 miles of the applying entity has confirmed that they are unable to meet the demand for basic peace officer training in the county or region.

4. The applying entity has the ability to provide a unique or specialized basic peace officer training program that an established satellite academy operating within the county or region or within 30 miles of the applicant is unable to provide.

D. A law enforcement or correctional agency that has a temporary or specialized need to provide basic peace officer training to their own employees, that cannot reasonably be met by POST, may conduct a basic peace officer training program with the approval of the POST Council.

E. POST will review the background and qualifications of the Satellite Academy Director or Training Coordinator before any entity will be approved to conduct a basic peace officer training program.

R728-401-3. Procedures for Course Validation.

A. The course must conform to the content and standards established by POST and approved by the POST Council.

B. All applicants will pass the National Peace Officers Selection Test (NPOST). The NPOST entrance level test is a valid test used to demonstrate ability in the areas of reading comprehension, basic mathematic skills, basic grammar and writing skills. All applicants will also pass the POST physical fitness requirements as outlined in POST Policy and Procedure 2390 Physical Training Requirements.

C. All applicants will complete the POST application packet. POST must receive application packets at least four weeks prior to the start of training unless special circumstances exist and arrangements have been made with the POST Director or Deputy Director. Without exception, a medical evaluation from a medical doctor will be completed and submitted to POST before training begins.

1. Sponsored applicants - The sponsoring agency will complete the background investigation and insure that the requirements in Section 53-6-203 (applicants for admission to training programs) and R728-403 (Qualifications for Admission to Certified Peace Officer Training Academies) have been met. If the sponsoring agency has any question about an applicant's qualifications related to Section 53-6-203, or R728-403, POST shall be consulted before any training begins.

2. Self-Sponsored applicants - POST will conduct a criminal history check on all self-sponsored applicants. Programs providing training to self-sponsored students will adhere to the following guidelines when providing POST with application packets.

a. Check applications to insure completeness. POST will return any application not complete and deny training to that individual until a complete application is received and a criminal history check has been completed.

b. Provide POST with applications at least four weeks prior to the start of training unless special circumstances exist and arrangements have been made with the POST Director or Deputy Director (without exception medical release forms will be completed and submitted to POST before physical training or testing begins).

c. Bring to the attention of POST any information provided in the application warranting a close examination in light of the provisions outlined in Section 53-6-203 and R728-403.

Note: Any applicant denied by POST or by a satellite academy director may appeal the decision by following the approved POST appeal process.

D. Equipment required to perform training must be furnished by the sponsoring agency or program. Equipment must meet POST standards.

E. All instructors must be POST certified instructors, and approved to instruct in their assigned topic(s). Subject matter experts may be used as guest instructors.

F. Lesson plans for each topic must be prepared in accordance with the currently approved student performance objectives.

G. The POST approved on-line assessment system will be utilized to administer all quizzes and exams. Program coordinators must proctor all quizzes and exams. The final certification examination will be a comprehensive examination and will require a minimum score of 80% to pass. Physical fitness assessment standards are set by POST and approved by the POST Council. Program coordinators must administer the physical fitness assessment in accordance with POST approved procedures.

H. Attendance rosters are to be kept to satisfy statutory requirements and copies of these rosters will be submitted to POST. In no case will a student who has missed more than 16 hours of the basic course become certifiable, until appropriate makeup work has been completed. If, as determined by the academy staff, a student has missed a significant part of any subject or block of instruction, that student will not be certifiable until appropriate make-up work is completed.

I. Certified academies must ensure that students possess a valid driver license when involved in any training that requires the operating of a motor vehicle. POST recommends that driver license checks be made through the State Driver License Division.

J. Successful completion of the course and completion of all POST required paperwork is necessary before the student will be certifiable. All paperwork must be completed and submitted to POST within two weeks of completion of the course.

K. Final certification exams will only be administered after a student has completed all academic requirements for the block of instruction. If a student fails a final certification exam, they will be offered remediation and allowed one retake. The retake examination must be taken within one year from the date of the original exam. Anyone who fails a certification exam retake will not be permitted to take the certification exam again until they satisfactorily complete another approved basic training program. Anyone failing the Physical Fitness Assessment will have one year to meet the requirements.

L. POST will conduct audits and site visits for each certified academy to verify their conformity to POST standards.

M. When an individual has met all certification requirements, the director of the certified academy shall submit to POST a letter informing POST that all requirements have been met. Peace officer certification is granted when POST receives an application for certification signed by the chief administrator of a Utah law enforcement agency and confirms that the applicant has completed a basic peace officer training program and met all requirements.

N. No person may exercise peace officer authority until that person has satisfactorily completed an approved training program and received POST certification.

R728-401-4. Process for Requesting Certification.

Law enforcement administrators requesting certification of an employee shall submit to POST an Application for POST Certification. POST will verify that all requirements have been met and then issue the appropriate certification.

KEY: law enforcement officers, peace officer basic course, training academy approval, peace officer certification

Date of Enactment or Last Substantive Amendment: 2012

Notice of Continuation: December 13, 2011

Authorizing, and Implemented or Interpreted Law: 53-6-202, 53-6-203, 53-6-204, 53-6-205

**Public Safety, Peace Officer Standards
and Training
R728-409
Suspension or Revocation of Peace
Officer Certification**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36290

FILED: 05/30/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The POST Disciplinary Guidelines referenced in Section R728-409-16 were amended by the POST Council on 03/22/2012. This amendment is necessary in order to reference the proper version of the Disciplinary Guidelines.

SUMMARY OF THE RULE OR CHANGE: The POST Disciplinary Guidelines referenced in Section R728-409-16 were amended by the POST Council on 03/22/2012. This amendment adds "and amended on March 22, 2012" in order to reference the proper version of the Disciplinary Guidelines.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-6-211

ANTICIPATED COST OR SAVINGS TO:

- ♦ THE STATE BUDGET: There is no foreseeable cost or savings to the state budget associated with this amendment as the amendment simply updates the reference to the disciplinary guidelines.
- ♦ LOCAL GOVERNMENTS: There is no foreseeable cost or savings to local government associated with this amendment as the amendment simply updates the reference to the disciplinary guidelines.
- ♦ SMALL BUSINESSES: There is no foreseeable cost or savings to small business associated with this amendment as

the amendment simply updates the reference to the disciplinary guidelines.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no foreseeable cost or savings to other persons or entities associated with this amendment as the amendment simply updates the reference to the disciplinary guidelines.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no foreseeable cost or savings to affected persons associated with this amendment as the amendment simply updates the reference to the disciplinary guidelines.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment will have no foreseeable fiscal impact on any business as the amendment simply updates the reference to the disciplinary guidelines.

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

PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
410 W 9800 S
SANDY, UT 84070
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Kelly Sparks by phone at 801-256-2321, by FAX at 801-256-0600, or by Internet E-mail at ksparks@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

THIS RULE MAY BECOME EFFECTIVE ON: 07/30/2012

AUTHORIZED BY: Lance Davenport, Commissioner

**R728. Public Safety, Peace Officer Standards and Training.
R728-409. Suspension or Revocation of Peace Officer
Certification.**

R728-409-12. Scheduling a Hearing [B]before the ALJ.

A. After the division receives the responsive pleading from the respondent, notice of the location, date and time for the hearing will be issued the division. The notice of hearing shall be filed with the division and a copy shall be sent to the respondent by certified mail.

B. The hearing will be held within a reasonable time after service of the responsive pleading unless a later scheduling is ordered by the ALJ, or mutually agreed upon by the respondent and the division.

R728-409-16. Action by the Council.

A. Once a consent agreement has been reached or there has been an order of default or decision issued by the ALJ, the division shall present the matter to the council at their next regularly scheduled meeting. The division shall provide the council with the

pleadings contained in the administrative file. The division shall also provide the council with any written information or comments provided by the chief, sheriff, or administrative officer of the respondent's employing agency.

B. At the council meeting the respondent or the respondent's attorney may address the council regarding whether the respondent's peace officer certification should be suspended or revoked.

C. The council shall review the matter and shall determine whether suspension or revocation of the respondent's peace officer certification is appropriate based upon the facts of the case and the POST Disciplinary Guidelines which were adopted on June 7, 2010 and amended on March 22, 2012.

KEY: law enforcement officers, certification, investigations, rules and procedures

Date of Enactment or Last Substantive Amendment: ~~September 9, 2010~~ **2012**

Notice of Continuation: December 21, 2011

Authorizing, and Implemented or Interpreted Law: 53-6-211

Regents (Board of), Administration
R765-607
Utah Higher Education Tuition Assistance Program

NOTICE OF PROPOSED RULE
 (Repeal)
 DAR FILE NO.: 36272
 FILED: 05/22/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: By action of the Board of Regents on 05/18/2012, the Regents' rule for this program was repealed to conform with the repeal of this program by the 2012 Utah State Legislature in the General Session. The legislature passed H.B. 285 repealing this grant program and the governor signed the law on 03/20/2012. Thus, the reason for repealing Rule R765-607.

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

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53B-7-502

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The current year appropriation of \$36,200 may be reflected as a savings in future budgets unless the legislature provides increased funding to any other need-based grant or scholarship program.

◆ **LOCAL GOVERNMENTS:** There are no associated costs to local governments in this program. Repealing this program will have no effect to local government budgets.

◆ **SMALL BUSINESSES:** This program and its repeal has no effect on small businesses since the program is restricted to higher education students.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Repealing this rule is required by H.B. 285 from the 2012 legislative general session. Students will no longer be able to receive funds from this grant but may still apply for other state grants that could possibly have increased funding as a result of the repeal of the Utah Tuition Assistance Program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with this action for any person as this rule is being repealed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no fiscal impact to businesses by the repeal of this rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 REGENTS (BOARD OF)
 ADMINISTRATION
 BOARD OF REGENTS BUILDING, THE GATEWAY
 60 SOUTH 400 WEST
 SALT LAKE CITY, UT 84101-1284
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Ronell Crossley by phone at 801-321-7291, by FAX at 801-321-7299, or by Internet E-mail at rcrossley@utahsbr.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2012

AUTHORIZED BY: William Sederburg, Commissioner

R765. Regents (Board of), Administration.
~~**[R765-607. Utah Higher Education Tuition Assistance Program.**~~
~~**R765-607-1. Purpose.**~~
 _____ To provide Utah Higher Education Assistance Authority ("UHEAA") policy and procedures for implementing the Utah Higher Education Tuition Assistance Program ("UTAP," or "program").

~~**R765-607-2. References.**~~
 _____ 2.1. Utah Code, Title 53B, Utah System of Higher Education, Chapter 7, Part 5 (Utah Higher Education Tuition Assistance Program).
 _____ 2.2. State Board of Regents Policy R601, Board of Directors of the Utah Higher Education Assistance Authority.
 _____ 2.3. Utah Code Title 53B, Chapter 8-102, Definition of Resident Student.

~~2.4. Utah Code Title 53B, Chapter 8-106, Resident Tuition Requirements Rules.~~

~~2.5. State Board of Regents Policy R512, Determination of Resident Status.~~

R765-607-3. Effective Date.

~~These policies and procedures are effective June 21, 2007.~~

R765-607-4. Policy.

~~4.1. Program Description -- UTAP is a need-based grant program to provide need-based grants at the community colleges and at centers of the Utah State University. The Program recognizes "that tuition and general fee costs to students at Utah community colleges and established branch campuses and centers represent significant challenges for many of the students they serve". Program funds may be used only for need-based grants to students attending higher education institutions as provided herein.~~

~~4.2. Program Administration -- The Board of Regents has delegated to the UHCAA Board of Directors the authority to govern UTAP on behalf of the Board of Regents. The program is administered by the Associate Commissioner for Student Financial Aid as Executive Director of UHCAA, reporting to the Commissioner of Higher Education.~~

~~4.3. Institutions Eligible to Participate -- Eligible institutions include Snow College, Dixie State College, the College of Eastern Utah, Utah Valley State College, Salt Lake Community College, and Utah State University on behalf of its off-campus centers.~~

~~4.4. Students Eligible to Receive UTAP Grants -- To be eligible to receive a need-based grant funded by UTAP, a student must:~~

~~4.4.1. Be a resident student of the State Of Utah under Utah Code Section 53B-8-102 and Board Policy R512 or exempt from paying the nonresident portion of total tuition under Utah Code Section 53B-8-106. For purposes of this section, in addition to the qualification methods set forth in Policy R512, an institution may recognize a student, other than a nonimmigrant alien, as a resident student of the State of Utah if the student graduated from a Utah high school within 12 months of enrolling in the institution.~~

~~4.4.2. Be unconditionally admitted and currently enrolled in a degree, diploma, or certificate program at the community college entity (specific campus or extension of the specific campus) for which the UTAP grant fund is established, or at a branch campus or center of Utah State University for receipt of a grant from the University's UTAP grant fund.~~

~~4.4.3. Be in the first term of the student's enrollment at the institution or be maintaining satisfactory progress, as defined by the institution, toward the degree, diploma, or certificate objective in which enrolled.~~

~~4.4.4. Meet all requirements of general eligibility for Federal Higher Education Act Part IV Student Financial Aid Programs, as defined in applicable U. S. Department of Education Regulations and the current edition of the Department of Education Student Aid Handbook.~~

~~4.4.5. Have a demonstrated need for financial assistance based on the defined Cost of Attendance for the applicable student category at the institution and the expected family contribution as determined by the Federal need analysis process for Higher Education Act Title IV student financial assistance programs.~~

~~4.5. Initial Allocation of Appropriated Funds -- Money appropriated to the program for a specific fiscal year, plus any remaining balance at the end of the preceding fiscal year, shall be allocated to eligible institutions as follows:~~

~~4.5.1. Fifty percent of the amount available for allocation each fiscal year shall be allocated in equal proportions to:~~

~~4.5.1.1. Snow College, for its main campus and extensions;~~

~~4.5.1.2. Dixie State College, for its main campus and extensions;~~

~~4.5.1.3. College of Eastern Utah, for its main campus and extensions of the main campus;~~

~~4.5.1.4. College of Eastern Utah, for its San Juan Campus and extensions of the San Juan Campus;~~

~~4.5.1.5. Utah Valley State College, for its main campus and extensions;~~

~~4.5.1.6. Salt Lake Community College, for its Taylorsville Campus and extensions of the Taylorsville Campus; and~~

~~4.5.1.7. Salt Lake Community College, for its South City Campus and extensions of the South City Campus.~~

~~4.5.2. Fifty percent of the amount available for allocation each fiscal year shall be allocated to the Utah State University for its instructional centers at Roosevelt, Blanding, Randolph, Preece, Moab, Brigham City, Tooele, Richfield, and Ephraim, and such other centers as UHCAA may determine.~~

~~4.5.3. Individual Award Limits -- The total amount of any UTAP grant award to an eligible student in an award year will not exceed \$2,500, and the minimum UTAP grant award to an eligible student will be \$250, except that:~~

~~4.5.3.1. The minimum amount may be the amount of funds remaining in the institution's allotment for the award year in the case of the last eligible student receiving a UTAP grant award for the year; and~~

~~4.5.3.2. An eligible student whose period of enrollment is less than the normally-expected period of enrollment within the award year (such as two semesters, three quarters, nine months, or 900 clock hours) will be awarded a minimum or maximum amount in proportion to the portion of the normally-expected period of enrollment represented by the quarter(s), semester(s), or other defined term for which the student is enrolled.~~

~~4.6. Institution Participation Agreement -- Participating institutions shall provide a statement that the institution agrees to maintain appropriate financial records, and records regarding the determination of grant awards to qualifying students, and to make such records available upon request for review by UHCAA or State Board of Regents officers or auditors for a period of three years after the applicable transaction dates.~~

~~4.6.1. Program Rosters -- Each eligible institution shall, at the conclusion of the awarding cycle, no later than 30 days after the end of the fiscal year, provide UHCAA with a roster of the eligible students who received funds.~~

~~4.7. Three Years to Use Allocations -- An eligible institution which receives funds in a fiscal year shall have that fiscal year and the two following fiscal years to award the funds to eligible students. If, by the end of the three-year period, the funds from the first fiscal year have not been awarded to eligible students, the funds shall be returned to the pool of program money available for allocation for the following fiscal year.~~

~~4.8. Investment of Program Funds—Funds appropriated for the program shall be invested by UHEAA with the State Treasurer's Public Treasurer Investment Fund, and interest earned prior to disbursement for qualifying proposals shall be retained in the program fund and added to the pool available for allocation in the following fiscal year.~~

~~4.9. Disbursement of Funds—UHEAA shall promptly disburse the allocated funds to the institution as soon after July 1 of each Fiscal Year as the funds become available for disbursement.~~

~~KEY: financial aid, higher education~~

~~Date of Enactment or Last Substantive Amendment: August 22, 2007~~

~~Notice of Continuation: February 8, 2008~~

~~Authorizing, and Implemented or Interpreted Law: 53B-7-501; 53B-7-502]~~

**School and Institutional Trust Lands,
Administration
R850-21-300
Lease Application Process**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36279

FILED: 05/24/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The agency currently leases most of its oil and gas properties through a competitive, sealed-bid auction process in an effort to obtain the highest bid from prospective bidders in our area. There is a new web-based technology now available that allows bidding through the Internet which was only in its infancy in 2005 when the oil and gas rules were amended. This new technology of Internet bidding opens up a much larger bidder base as the clientele can be nationwide, while still preserving some of the competitiveness of the sealed bid auction. The rule is being amended to add electronic bidding as a method to lease trust lands for oil and gas.

SUMMARY OF THE RULE OR CHANGE: A clause is being added to the lease application process to allow electronic bidding as a method the agency may use to lease trust lands for oil and gas.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53C-1-302(1)(a)(ii) and Title 53C, Chapter 2 et seq.

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There will be no additional costs or savings to the state as a result of this rule amendment as any potential costs for using this service would be charged to the

successful bidder. This amendment simply opens an additional method to the agency for offering oil and gas leases.

◆ **LOCAL GOVERNMENTS:** It is not anticipated that local government will be affected as a result of this rule amendment because local governments typically do not participate in oil and gas leasing.

◆ **SMALL BUSINESSES:** The purpose of this rule amendment is to establish the potential for future electronic bidding processes. Until such time as the agency decides to enter into a contract using this method, there are no costs or savings to small businesses. If at some time in the future, the agency offers oil and gas leases by electronic bidding, the costs incurred by the contractor hosting the web-based auction would be passed along to the successful bidder of the lease. At this time, those costs are unknown as the agency has not entered into any contracts and the costs could vary from one contract to another.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The purpose of this rule amendment is to establish the potential for future electronic bidding processes. Until such time as the agency decides to enter into a contract using this method, there are no costs or savings to persons other than small businesses, businesses, or local government entities. If at some time in the future, the agency offers oil and gas leases by electronic bidding, the costs incurred by the contractor hosting the web-based auction would be passed along to the successful bidder of the lease. At this time, those costs are unknown as the agency has not entered into any contracts and the costs could vary from one contract to another.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The purpose of this rule amendment is to establish the potential for future electronic bidding processes. Until such time as the agency decides to enter into a contract using this method, there are no costs for compliance. If at some time in the future, the agency offers oil and gas leases by electronic bidding, the costs incurred by the contractor hosting the web-based auction would be passed along to the successful bidder of the lease. At this time, those costs are unknown as the agency has not entered into any contracts and the costs could vary from one contract to another.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The intent of this rule is to provide another mechanism for offering trust lands minerals for lease by the private sector. As such, no adverse fiscal impact for business is anticipated.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS
ADMINISTRATION ROOM 500
675 E 500 S
SALT LAKE CITY, UT 84102-2818
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ LaVonne Garrison by phone at 801-538-5197, by FAX at 801-355-0922, or by Internet E-mail at lavonnegarrison@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2012

AUTHORIZED BY: Kevin Carter, Director

R850. School and Institutional Trust Lands, Administration.**R850-21. Oil, Gas and Hydrocarbon Resources.****R850-21-300. Lease Application Process.**

1. The agency may issue leases competitively, non-competitively or enter into OBAs with qualified interest owners for the development of oil, gas and hydrocarbon resources.

(a) Competitive Bid Offering: when the agency designates leasing units for competitive bidding it shall award leases on the basis of the highest bonus bid per acre made by qualified application.

(i) Minimum Bonus Bid Amount: the minimum acceptable bonus bid for competitive bid offering for leasing units shall be not less than \$1.00 per acre, or fractional acre thereof, which will constitute the (advance) rental for the first year of the lease.

(ii) Notice of Offering: notices of the offering of lands for competitive bid shall:

(A) run for a period of not less than fifteen (15) consecutive days after the notice is posted in the agency's office;

(B) describe the leasing unit;

(C) indicate the resource available for leasing; and

(D) state the last date on which bids may be received.

(iii) Opening of Bid Applications: bid applications shall be opened in the agency's office at 10 a.m. of the first business day following the last day on which bids may be received.

(iv) Content of Applications: each application shall be submitted in a sealed envelope which clearly identifies:

(A) the competitive bid;

(B) leasing unit number; and,

(C) the date of offering for which the bid is submitted.

(v) The application envelope must:

(A) describe only one leasing unit per application; and,

(B) contain one check for the application fee and a separate check for the amount of the bonus bid.

(vi) Withdrawal of Applications: applicants desiring to withdraw an application which has been filed under these competitive bid filing rules must submit a written request to the agency. If the request is received before sealed bids have been opened, all money tendered by the applicant, except the filing fee, shall be refunded. If a request is received after sealed bids have been opened, and if the applicant is awarded the bid, then unless the applicant accepts the offered lease, all money tendered shall be forfeited to the agency.

(vii) Non-Complying Applications: if the agency determines prior to lease issuance that an application did not

comply with these rules at the time of bid opening, the application fee shall be retained by the agency and the application returned to the applicant without further consideration by the agency.

(viii) Identical Bids: in the case of identical successful bids, the agency may award the lease by public drawing or oral auction between the identical bidders, held at the agency's offices.

(b) Non-Competitive Leasing By Over-The-Counter Filing.

(i) The director may designate lands for non-competitive leasing by over-the-counter application if the lands have been offered in a competitive offering and have received no bids. Designated lands may be offered for a period of three (3) months from the date of the opening of bids for which no bid was received for said lands under the competitive bid offering.

(ii) The minimum acceptable offer for over-the-counter applications to lease designated lands shall be not less than \$1 per acre, or fractional acre thereof, which will constitute the delay rental for the first year of the lease.

(iii) Applications for over-the-counter leases, when authorized, shall be filed on approved forms received from the office of the agency or as made available on its web site and delivered for filing in the main office of the agency during office hours. Except as provided, all over-the-counter applications received by personal delivery over the counter, are to be immediately stamped with the exact date and time of filing. All applications presented for filing at the opening of the office for business on any business day are stamped received as of 8 a.m., on that day. All applications received in the first delivery of the U.S. Mail of each business day are stamped received as of 8 a.m. on that day. The time indicated on the time stamp is deemed the time of filing unless the director determines that the application is materially deficient in any particular way. If an application is determined to be deficient, it will be returned to the applicant with a notice of the deficiency.

If an application is returned as deficient and is resubmitted in compliance with the rules within fifteen (15) days from the date of the determination of deficiency, it shall retain its original filing time. If the application is resubmitted at any later time, it is deemed filed at the time of resubmission.

(iv) Where two or more applications for the same lease contain identical bids and bear a time stamp showing the said applications were filed at the same time, the agency may award the lease by public drawing or oral auction between the identical bidders held at the agency's office.

(v) If an application or any part thereof is rejected, any money tendered for rental of the rejected portion shall be refunded or credited to the applicant minus the application fee.

(vi) An applicant who desires to withdraw its application must submit a written request to the agency. If the request is received prior to the time the agency approves the application, all money tendered by the applicant, except the application fee, shall be refunded. If the request is received after approval of the application, then, unless the applicant accepts the offered lease, all money tendered is forfeited to the agency.

(c) Competitive Leasing by Electronic Leasing.

(i) The director may designate leasing units for bidding by electronic means as a vehicle for competitive leasing. Leases will be awarded to the highest bonus bid per acre made by a qualified application. Electronic leasing may be in addition to or in

place of the bidding processes set out at R850-21-300(1)(a) or (b) at the discretion of the director. A list of available leasing units and a link to the bidding form will be provided at the agency website.

KEY: oil gas and hydrocarbons, administrative procedures, lease provisions, operations

Date of Enactment or Last Substantive Amendment: ~~March 20, 2006~~ July 23, 2012

Notice of Continuation: April 1, 2010

Authorizing, and Implemented or Interpreted Law: 53C-1-302(1)(a)(ii); 53C-2 et seq.

**Workforce Services, Employment
Development
R986-100-114a
Determining When a Document is
Considered Received by the
Department**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36304

FILED: 05/31/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to correct information about when an application is considered received.

SUMMARY OF THE RULE OR CHANGE: Currently, the received date is the date the application is received. If an application or other documents are received after 5 p.m. or on weekends, the rule states they are considered received on the next work date. The Department has moved to an online application procedure. The received date for online applications or other files will be the actual time received via the computer, not the next work date.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 and Section 35A-3-101 et seq. and Section 35A-3-301 et seq. and Section 35A-3-401 et seq. and Subsection 35A-1-104(4)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This applies to federally-funded programs so there are no costs or savings to the state budget.

◆ **LOCAL GOVERNMENTS:** This is a federally-funded program so there are no costs or savings to the local government.

◆ **SMALL BUSINESSES:** There will be no costs to small businesses to comply with these changes because this is a federally-funded program.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There will be no costs to persons other than small businesses, businesses or local government entities to comply with these changes because there are no costs or fees associated with these proposed changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with these changes for any affected persons because this is a federally-funded program and there are no fees or costs associated with these proposed changes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
WORKFORCE SERVICES
EMPLOYMENT DEVELOPMENT
140 E 300 S
SALT LAKE CITY, UT 84111-2333
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2012

AUTHORIZED BY: Kristen Cox, Executive Director

R986. Workforce Services, Employment Development.

R986-100. Employment Support Programs.

R986-100-114a. Determining When a Document or Information is Considered Received by the Department.

(1) The date of receipt of a document filed with the Department is the date the document is actually received by the Department and not the post mark date. Any document or information received after 5 p.m. ~~including documents received~~ by Fax ~~or~~, postal mail, email or hand delivery, will be considered received the next day Department offices are open. If an application for assistance or other information is filed through the "myCase" system, it will be considered received the day it was filed online even if it is filed after 5 p.m. or on a Saturday, Sunday, or legal holiday.

(2) If a document has a due date and that due date falls on a Saturday, Sunday, or legal holiday, the time permitted for filing the document will be extended to 5 p.m. on the next day Department offices are open.

(3) "Document" as used in this section means application for assistance, verification, report, form and written notification of any kind.

(4) A verbal report or notification will be considered received on the date the client talks to a Department representative. A voice message received after 5 p.m. will be considered received the next day Department offices are open.

KEY: employment support procedures

Date of Enactment or Last Substantive Amendment:
[September 7, 2011]2012

Notice of Continuation: September 8, 2010

Authorizing, and Implemented or Interpreted Law: 35A-3-101 et seq.; 35A-3-301 et seq.; 35A-3-401 et seq.

**Workforce Services, Employment
Development
R986-700-712
CC for Certain Homeless Families**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36303

FILED: 05/31/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to change interview procedure for homeless families.

SUMMARY OF THE RULE OR CHANGE: Currently, if a homeless family presents a referral from another agency, the department will schedule an interview within three days. The policy will now allow for different procedures making sure to approve these applications quickly if eligible.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 and Section 35A-3-310 and Subsection 35A-1-104(4)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This applies to federally-funded programs so there are no costs or savings to the state budget.

◆ **LOCAL GOVERNMENTS:** This is a federally-funded program so there are no costs or savings to the local government.

◆ **SMALL BUSINESSES:** There will be no costs to small businesses to comply with these changes because this is a federally-funded program.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There will be no costs to persons other than small businesses, businesses or local government entities to

comply with these changes because there are no costs or fees associated with these proposed changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with these changes for any affected persons because this is a federally-funded program and there are no fees or costs associated with these proposed changes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business.

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

WORKFORCE SERVICES
EMPLOYMENT DEVELOPMENT
140 E 300 S
SALT LAKE CITY, UT 84111-2333
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2012

AUTHORIZED BY: Kristen Cox, Executive Director

R986. Workforce Services, Employment Development.

R986-700. Child Care Assistance.

R986-700-712. CC for Certain Homeless Families.

(1) CC can be provided for homeless families with one or two parents when the family meets the following criteria:

(a) The family must present a referral for CC from an agency known by the local office to be an agency that works with homeless families, including shelters for abused women and children. This referral will serve as proof of their homeless state. Local offices will provide a list of recognized homeless agencies in local office area.

(b) The family must show a need for child care to resolve an emergency crisis.

(c) The family must meet all other relationship and income eligibility criteria.

(2) CC for homeless families is only available for up to three months in any 12-month period. When a payment is made for any part of a calendar month, that month counts as one of the three months. The months need not be consecutive.

(3) Qualifying families may use child care assistance for any activity including, but not limited to, employment, job search, training, shelter search or working through a crisis situation.

(4) If the family is eligible for a different type of CC, the family will be paid under the other type of CC.

~~[(5) When a homeless family presents a referral from a recognized agency, the Department will, if possible, schedule the application interview within three working days of the date of the application.]~~

KEY: child care

Date of Enactment or Last Substantive Amendment: ~~[April 1,]~~
2012

Notice of Continuation: September 8, 2010

Authorizing, and Implemented or Interpreted Law: 35A-3-310

**Workforce Services, Employment
Development
R986-900-902
Options and Waivers**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36300

FILED: 05/31/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to return to the employment and training requirement for certain able-bodied food stamp recipients.

SUMMARY OF THE RULE OR CHANGE: Certain able-bodied food stamp recipients who have no dependent children are required to participate in employment activities. The department opted to not require participation. The department has decided to require those activities.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 and Section 35A-3-103 and Subsection 35A-1-104(4)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This applies to federally-funded programs so there are no costs or savings to the state budget.

◆ **LOCAL GOVERNMENTS:** This is a federally-funded program so there are no costs or savings to the local government.

◆ **SMALL BUSINESSES:** There will be no costs to small businesses to comply with these changes because this is a federally-funded program.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There will be no costs to persons other than small businesses, businesses or local government entities to comply with these changes because there are no costs or fees associated with these proposed changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with these changes for any affected persons because this is a federally-funded program and there are no fees or costs associated with these proposed changes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business.

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

WORKFORCE SERVICES
EMPLOYMENT DEVELOPMENT
140 E 300 S
SALT LAKE CITY, UT 84111-2333
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/16/2012

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2012

AUTHORIZED BY: Kristen Cox, Executive Director

R986. Workforce Services, Employment Development.

R986-900. Food Stamps.

R986-900-902. Options and Waivers.

The Department administers the Food Stamp Program in compliance with federal law with the following exceptions or clarifications:

(1) The following options not otherwise found in R986-100 have been adopted by the Department where allowed by the applicable federal law or regulation:

(a) The Department has opted to hold hearings at the state level and not at the local level.

(b) The Department does not offer a workfare program for ABAWDs (Able Bodied Adults Without Dependents).

(c) An applicant is required to apply at the local office which serves the area in which they reside.

(d) The Department has opted to use the Simplified Standard Utility Allowance found in 7 USC 2014(e)(7)(C)(iii) as amended by 2002 H.R. 2646 known as Section 4104 of the Farm Bill. The Department has a mandatory standard utility allowance. This means the customer is eligible for an appropriate utility allowance at the time of application and eligibility for the appropriate allowance is re-determined at recertification or if the household moves to a different place of residence. The customer does not have the choice of using "actual" utility expenses. The Department has three utility standards that are updated annually and

are available upon request. This Farm Bill option allows households in subsidized housing and households in shared living arrangements to receive the full appropriate utility allowance.

(e) The Department does not use photo ID cards. ID cards are available upon request to homeless, disabled, and elderly clients so that the client is able to use food stamp benefits at a participating restaurant.

(f) The state has opted to provide food stamp benefits through the use of an electronic benefit transfer system known as the Horizon Card.

(g) The Department counts diversion payments in the food stamp allotment calculation.

~~[(h) The Department has opted to exempt individuals from mandatory participation in Food Stamp Employment and Training activities in counties that have been designated as Labor Surplus Areas by the Department of Labor. These counties change each year based on Department of Labor statistics and a list of counties is available from the Department. They are the same counties as referenced in subsection (2)(a) below.]~~

[(i)h] The Department has opted to use Utah's TANF vehicle allowance rules in conjunction with the Food Stamp Program vehicle allowance regulations at 7 CFR 273.8, as authorized by Pub. L. No. 106-387 of the Agriculture Appropriations Act 2001, Food Stamp Act of 1977, 7 USC 2014.

[(j)i] The Department has opted to count all of an ineligible alien's resources and all but a pro rata share of the ineligible alien's income and deductible expenses as provided in 7 CFR 273.11(c)(3)(ii)(A).

[(k)j] A client may waive his or her right to an administrative disqualification hearing.

[(l)k] A client may deduct actual, allowable expenses from self employment, or may opt to deduct 40% of the gross income from self employment to determine net income.

[(m)l] The Department has opted to align food stamps with FEP in determining how to count educational assistance income. That income is counted for food stamps as provided in R986-200-235(3)(q).

[(n)m] The Department has opted to do simplified reporting as provided in 7 CFR 273.12(a)(1)(vii).

[(o)n] The Department has opted to operate a Mini Simplified Food Stamp Program under 7 CFR 273.25. Under this option, a client receiving food stamps and FEP or FEPTP, must participate as required in R986-200-210. A client found ineligible due to non-compliance under R986-200-212 will also be subject to the food stamp sanctions found in 7CFR 273.7(f)(2) unless the client meets an exemption under food stamp regulations.

[(p)o] Effective July 1, 2010, the Department will count the full income of an ineligible alien household member for both the gross and net income tests and for determining the level of benefits. The deductible expenses of the ineligible alien household member will no longer be prorated and the full value of all assets will continue to be counted. This also applies to ineligible aliens who are unable or unwilling to provide documentation of their alien status. This does not apply to the following ineligible aliens:

- (i) An alien who is lawfully admitted as a permanent resident.
- (ii) An alien who is granted asylum under Section 208 of the INA.

(iii) An alien who is admitted as a refugee under Section 207 of the INA.

(iv) An alien who is paroled in accordance with Section 212(d)(5) of the INA.

(v) An alien whose deportation or removal has been withheld in accordance with Section 243 of the INA.

(vi) An alien who is aged, blind or disabled and is admitted for temporary or permanent residency under Section 245A(b)(1) of the INA.

(vi) An alien who is a special agricultural worker admitted for temporary residence under Section 210 (a) of the INA.

For an ineligible alien listed in this subparagraphs (i) through (vi), a prorated share of the ineligible alien's income and expenses will be counted for purposes of applying the gross and net income tests and to determine the level of benefits. The full amount of the ineligible alien's assets will count.

(q) The Department allows the following exemptions from the Employment and Training (E and T) program for individuals who:

- (i) are Refugee Cash Assistance (RCA) participants;
- (ii) are on a temporary layoff from their place of employment;
- (iii) are unemployed for less than 6 months;
- (iv) live more than 35 miles from an employment center;
- (v) lack child care, either because it is not available or the customer is not eligible for child care assistance;
- (vi) are not appropriate for E & T as determined by a manager or designee;
- (vii) are age 47 through the month of their 60th birthday;
- (viii) are low functioning/have developmental disabilities/are socially dysfunctional and who have obvious functional limitations that are a substantial handicap to employment;
- (ix) have current domestic violence issues;
- (x) have limited language skills or individuals whose primary language is other than English;
- (xi) lack public and/or private transportation;
- (xii) are in the application or appeals process for SSI;
- (xiii) work 80 hours a month regardless of the amount earned;

(A) if the individual is working less than 80 hours a month but is making at least minimum wage times 80 hours per month, the individual is considered to be meeting the 80 hours per month exemption

(B) if an individual is self-employed and working less than 80 hours a month, the gross income before expenses must be minimum wage times 80 hours a month. An individual working but being paid in-kind does not meet this exemption.

- (xiv) have no fixed address;
- (xv) do not have a GED or high school diploma;
- (xvi) are pregnant regardless of trimester;
- (xvii) are on probation or parole who are required to complete court ordered activities such as work release and drug court; or
- (xvii) are participating in a program with a Department partner such as case management by Vocational Rehabilitation, or are participating in a Title V or Choose to Work program.

(r) Beginning July 1, 2012, individuals who meet the requirements of an exemption will no longer be allowed to receive services on a voluntary basis or receive a work reimbursement.

(2) The Department has been granted the following applicable waivers from the Food and Nutrition Service:

(a) Certain Utah counties have been granted a waiver which exempts ABAWDs from the work requirements of Section 824 of PRWORA. The counties granted this waiver change each year based on Department of Labor statistics. A list of counties granted this waiver is available from the Department.

(b) The Department requires that a household need only report changes in earned income if there is a change in source, the hourly rate or salary, or if there is a change in full-time or part-time status. A client is required to report any change in unearned income over \$25 or a change in the source of unearned income.

(c) The Department uses a combined Notice of Expiration and Shortened Recertification Form. Notice of Expiration is required in 7 CFR 273.14(b)(1)(i). The Recertification Form is found under 7 CFR 273.14(b)(2)(i).

(d) The Department conducts the Family Nutrition Education Program for individuals even if they are otherwise ineligible for food stamps.

(e) The Department may deduct overpayments that resulted from an IPV from a household's monthly entitlement.

(f) If the application was received before the 15th of the month and the client has earned income, the certification period can be no longer than six months. The initial certification period may be as long as seven months if the application was received after the 15th of the month.

(g) A household which had its food stamps terminated can be reinstated during the calendar month following the month assistance was terminated without completing a new application if the reason for the termination is fully resolved. The reason for the termination does not matter. Assistance will be prorated to the date

on which the client reported that the disqualifying condition was resolved if verification is received within ten days of the report. Assistance is reinstated for the remaining months of the certification period and the certification period must not be changed.

(h) If the Department is unable to obtain proper documentary evidence from an employer, the Department may use Utah quarterly wage data as the primary verification of income when calculating overpayments.

(i) The Department will hold disqualification hearings by telephone.

(j) All initial interviews, and recertification interviews for households certified for 12 months or less, will have their initial or recertification interviews conducted by telephone, rather than in person, unless the household requests an in-person interview or the Department determines that an in-person interview is necessary to resolve issues that would be better facilitated face-to-face.

(k) The federal regulation that requires all interviews be scheduled for a specific date and time is waved for initial telephone interviews. This allows clients to call anytime Monday through Thursday from 8 a.m. to 5 p.m. to complete the required initial interview.

(l) To meet the student work exemption, a student enrolled in post-secondary education half-time or more must work an average of 20 hours per week. The work hours must be averaged over the 30 days immediately prior to the date of application or recertification.

KEY: food stamps, public assistance

Date of Enactment or Last Substantive Amendment: [~~July 1, 2010~~2012]

Notice of Continuation: September 8, 2010

Authorizing, and Implemented or Interpreted Law: 35A-3-103

End of the Notices of Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a **120-DAY (EMERGENCY) RULE** when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **PROPOSED RULE**, a **120-DAY RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **120-DAY RULE** including the name of a contact person, justification for filing a **120-DAY RULE**, anticipated cost impact of the rule, and legal cross-references. A row of dots in the text (.) indicates that unaffected text was removed to conserve space.

A **120-DAY RULE** is effective at the moment the Division of Administrative Rules receives the filing, or on a later date designated by the agency. A **120-DAY RULE** is effective for 120 days or until it is superseded by a permanent rule.

Because **120-DAY RULES** are effective immediately, the law does not require a public comment period. However, when an agency files a **120-DAY RULE**, it usually files a **PROPOSED RULE** at the same time, to make the requirements permanent. Comments may be made on the **PROPOSED RULE**. Emergency or **120-DAY RULES** are governed by Section 63G-3-304; and Section R15-4-8.

Public Safety, Driver License **R708-47** Emergency Contact Database

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 36283
FILED: 05/29/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to set standards to establish an emergency contact database authorized by Section 53-3-205.6 which was passed by the Utah Legislature in the 2012 General Session and becomes effective on 07/01/2012.

SUMMARY OF THE RULE OR CHANGE: This rule sets standards to establish the procedures for a Utah license certificate holder, a Utah instruction permit holder, or a Utah identification card holder to provide the division with emergency contact information on person(s) to be contacted in the event of a motor vehicle accident or other emergency situation when the Utah certificate holder is unable to make contact with their designated emergency contact person(s) and to establish procedures to change the emergency contact information.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-3-205.6

EMERGENCY RULE REASON AND JUSTIFICATION:

REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

JUSTIFICATION: H.B. 21 requires the Utah Driver License Division to establish an emergency contact database for Utah certificate holders to have the option of including emergency contact information for up to two individuals for law enforcement to contact in the event of an emergency and the certificate holder is unable to make contact. This law is effective on 07/01/2012.

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** H.B. 21 received an appropriation in the amount of \$32,000 from the Transportation Public Safety Restricted Account to implement the provisions of this bill. Utah Interactive will receive \$11,500 to design, build, and support the emergency contact web service. The Utah Department of Technology Services will receive \$20,000 to cover the programming cost to implement this bill.

♦ **LOCAL GOVERNMENTS:** Local government is not affected by this rule because they do not have a role in the emergency contact database.

♦ **SMALL BUSINESSES:** Small businesses are not affected by this rule because they do not have a role in the emergency contact database.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no costs to persons other than small businesses, businesses or local government entities because they do not have a role in the emergency contact database.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs for a Utah certificate holder to provide emergency contact information.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no fiscal impacts from this rule on businesses.

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

EFFECTIVE: 07/01/2012

AUTHORIZED BY: Lance Davenport, Commissioner

R708. Public Safety, Driver License.

R708-47. Emergency Contact Database.

R708-47-1. Authority.

This rule is authorized by Subsection 53-3-205.6(4).

R708-47-2. Purpose.

The purpose of this rule is to set standards establishing the procedures for a Utah license certificate holder, a Utah instruction permit holder, or a Utah identification card holder to provide the division with emergency contact information on person(s) to be contacted in the event of a motor vehicle accident or other emergency situation when the Utah certificate holder is unable to make contact with their designated emergency contact person(s) and to establish procedures to change the emergency contact information.

R708-47-3. Definitions.

(1) "Emergency Contact Database" means the information maintained in the Utah Driver License Division database that was provided by a Utah license certificate holder, a Utah instruction permit holder, or a Utah identification card holder

which designates and provides contact information on the Utah certificate holder's emergency contact(s).

(2) "Emergency Contact Information" means the information provided to the division by a Utah license certificate holder, Utah instruction permit holder, or a Utah identification card holder on a person(s) they has designated to be contacted in the event of a motor vehicle accident or other emergency situation when the individual is unable to make contact which includes the person's:

(a) Name;

(b) Address;

(c) Relationship to the Utah certificate holder;

(d) Up to three (3) telephone numbers.

(3) "Utah Interactive" means the company that is contracted with the state to provide and maintain web services for the division.

R708-47-4. Method to Provide Emergency Contact Information.

(1) The holder of a Utah license certificate, instruction permit, or identification card may provide emergency contact information to the division by:

(a) Accessing the web service provided by Utah Interactive; or

(b) Submitting the completed Emergency Contact Database form (EMER).

R708-47-5. Method to Change the Emergency Contact Information.

(1) The holder of a Utah license certificate, instruction permit, or identification card may modify, update or delete emergency contact information previously submitted to the division by:

(a) Accessing the web service provided by Utah Interactive; or

(b) Submitting the updated Emergency Contact Database form (EMER).

KEY: driver license, emergency contact database, identification card

Date of Enactment or Last Substantive Amendment: 2012

Authorizing, and Implemented or Interpreted Law: 53-3-205.6

End of the Notices of 120-Day (Emergency) 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.

Administrative Services, Risk Management

R37-1

Risk Management General Rules

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 36286
FILED: 05/30/2012

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 enacted pursuant to Subsection 63A-4-101(b), which directs the state risk manager to recommend that the executive director make rules: (i) prescribing reasonable and objective underwriting and risk control standards for state agencies; (ii) prescribing the risks to be covered by the Risk Management Fund and the extent to which these risks will be covered; (iii) prescribing the properties, risks, deductibles, and amount limits eligible for payment out of the fund; (iv) prescribing procedures for making claims and proof of loss; and (v) establishing procedures for the resolution of disputes relating to coverage or claims, which may include binding arbitration.

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 were received from any interested persons during and since the last five-year review of 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 accomplishes the statutory objectives enumerated in Subsection 63A-4-101(b) and assists covered entities in understanding and fulfilling their obligations pertaining to the State Risk Management Fund. Therefore, this rule should be continued.

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

ADMINISTRATIVE SERVICES
RISK MANAGEMENT
ROOM 5120 STATE OFFICE BLDG
450 N STATE ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Brian Nelson by phone at 801-538-9576, by FAX at 801-538-9597, or by Internet E-mail at benelson@utah.gov
♦ Stephen Hewlett by phone at 801-538-9572, by FAX at 801-538-9597, or by Internet E-mail at shewlett@utah.gov

AUTHORIZED BY: Tani Downing, Director

EFFECTIVE: 05/30/2012

Administrative Services, Risk Management

R37-2

Risk Management State Workers' Compensation Insurance Administration

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 36287
FILED: 05/30/2012

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 established pursuant to Section 63A-4-101, which authorizes the state's risk manager to recommend rules to the department director who is authorized to enact rules; and Subsection 63A-4-101(2)(a) which authorizes the state's risk manager to acquire and administer workers' compensation insurance for the state.

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 were received from interested persons during and since the last five-year review of 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 establishes and explains the responsibilities and guidelines concerning the acquisition and administration of workers' compensation insurance, the allocation of costs, and the required activities or actions of covered entities that use this coverage. This information also creates standards that are intended to reduce workers' compensation claims and costs.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ADMINISTRATIVE SERVICES
 RISK MANAGEMENT
 ROOM 5120 STATE OFFICE BLDG
 450 N STATE ST
 SALT LAKE CITY, UT 84114-1201
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Brian Nelson by phone at 801-538-9576, by FAX at 801-538-9597, or by Internet E-mail at benelson@utah.gov
 ♦ Stephen Hewlett by phone at 801-538-9572, by FAX at 801-538-9597, or by Internet E-mail at shewlett@utah.gov

AUTHORIZED BY: Tani Downing, Director

EFFECTIVE: 05/30/2012

Administrative Services, Risk Management
R37-3
Risk Management Adjudicative Proceedings

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 36288
 FILED: 05/30/2012

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 established pursuant to Section 63A-4-101 which authorizes the state risk manager to recommend rules to the department director who is authorized to enact rules. This rule is also enacted in compliance with the Utah Administrative Procedures Act, Section 63G-4-102 et seq.

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 were received from interested persons during and since the last five-year review of 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 continuation of this rule is essential to ensure that all agency actions, which are subject to the Utah Administrative Procedures Act, continue to be designated as informal proceedings, because actions concerning coverage, premiums, and the interpretation of policies are actions relating to contracts for the purchase or sale of goods or services by and for the state or by and for an agency of the state and are excluded from coverage by the Administrative Procedures Act.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ADMINISTRATIVE SERVICES
 RISK MANAGEMENT
 ROOM 5120 STATE OFFICE BLDG
 450 N STATE ST
 SALT LAKE CITY, UT 84114-1201
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Brian Nelson by phone at 801-538-9576, by FAX at 801-538-9597, or by Internet E-mail at benelson@utah.gov
 ♦ Stephen Hewlett by phone at 801-538-9572, by FAX at 801-538-9597, or by Internet E-mail at shewlett@utah.gov

AUTHORIZED BY: Tani Downing, Director

EFFECTIVE: 05/30/2012

**Administrative Services, Risk
Management
R37-4**

**Adjusted Utah Governmental Immunity
Act Limitations on Judgments**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 36289
FILED: 05/30/2012

**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 enacted pursuant to Section 63G-7-604, which requires the risk manager to establish a new limitation of judgment in even-numbered years. This rule is also enacted pursuant to Section 63A-4-101, which authorizes the state risk manager to recommend rules to the director of the Department of Administrative Services, who is authorized to enact rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received from interested persons during and since the last five-year review of 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 to comply with statute and to adjust the limitation of judgment, which protects governmental entities and provides increased monetary remedies to eligible individuals and entities.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ADMINISTRATIVE SERVICES
RISK MANAGEMENT
ROOM 5120 STATE OFFICE BLDG
450 N STATE ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Stephen Hewlett by phone at 801-538-9572, by FAX at 801-538-9597, or by Internet E-mail at shewlett@utah.gov

AUTHORIZED BY: Tani Downing, Director

EFFECTIVE: 05/30/2012

**Community and Culture, History
R212-1
Adjudicative Proceedings**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 36299
FILED: 05/31/2012

**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 enacted in compliance with the Utah Administrative Procedures Act, Section 63G-4-102 et seq. and applies only to actions governed by the Act. The Division of State History designates all agency actions subject to the scope and applicability of the Utah Administrative Procedures Act as formal proceedings.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received during the past five years either in support of or 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: It is important to have an effective administrative procedure for the Division of State History whereby any person aggrieved by a decision or determination may have a process by which to formally aggrieve that decision or determination. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
COMMUNITY AND CULTURE
HISTORY
300 RIO GRANDE
SALT LAKE CITY, UT 84101-1182
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Lynette Lloyd by phone at 801-533-3553, by FAX at 801-533-3567, or by Internet E-mail at lynettelloyd@utah.gov

AUTHORIZED BY: Wilson Martin, Associate Director

EFFECTIVE: 05/31/2012

Community and Culture, History
R212-12

Computerized Record of Cemeteries,
Burial Locations and Plots, and
Granting Matching Funds

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 36301
FILED: 05/31/2012

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: In accordance to Subsection 9-8-203(3)(c), authority is given to the Division of State History to provide grants to assist cemeteries, computerize their records, and to develop a centralized database of names, dates of death, burial locations, and other information.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received during the past five years either in support of or opposition to the rules. However, in reviewing the rule, State History has determined that a nonsubstantive change should be made following the five-year review.

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 is required to provide a process and guidelines for granting matching funds to groups and organization in the state to create and maintain a computerized record of cemeteries and burial locations and to maintain those records in a state-coordinated and publicly accessible information system. The rule helps promote, within the communities, an appreciation for Utah history. Therefore, this rule should be continued.

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

COMMUNITY AND CULTURE
HISTORY
300 RIO GRANDE
SALT LAKE CITY, UT 84101-1182
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Lynette Lloyd by phone at 801-533-3553, by FAX at 801-533-3567, or by Internet E-mail at lynettelloyd@utah.gov

AUTHORIZED BY: Wilson Martin, Associate Director

EFFECTIVE: 05/31/2012

Environmental Quality, Radiation
Control
R313-24

Uranium Mills and Source Material Mill
Tailings Disposal Facility Requirements

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 36277
FILED: 05/24/2012

**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 Radiation Control Act, Title 19, Chapter 3, Sections 104 and 108, provides the Department of Environmental Quality's Radiation Control Board and the Executive Secretary authority to make rules regarding the possession, use, transfer, or delivery of source and byproduct material (uranium mill tailings) and the disposal of byproduct material as necessary to protect the public and environment. The rule meets the requirements of federal law relating to radiation control programs to ensure the State of Utah is qualified to maintain primacy from the U.S Nuclear Regulatory Commission.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: During a public comment period (10/14/2011 through 12/14/2011) regarding the renewal of a radioactive material license, affected by Rule R313-24, two commentors provided comments regarding certain aspects of the rule and how the requirements were applied by the Division of Radiation Control. The comments were not specific to supporting or opposing the rule, but rather how the licensee was meeting the requirements.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary to continue this rule because it establishes the requirements for the regulation of uranium milling facilities and disposal of uranium mill tailings in the state of Utah. In addition, under an agreement with the U.S. Nuclear Regulatory Commission, the Division is the regulator and the rule is required for the State of Utah to maintain primacy from the U.S. Nuclear Regulatory Commission.

There are four facilities in Utah that are regulated under this rule.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ John Hultquist by phone at 801-536-4623, by FAX at 801-536-4250, or by Internet E-mail at jhultquist@utah.gov

AUTHORIZED BY: Rusty Lundberg, Director

EFFECTIVE: 05/24/2012

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 SOLID AND HAZARDOUS WASTEROOM SECOND FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3097
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Deborah Ng by phone at 801-536-0218, by FAX at 801-536-0222, or by Internet E-mail at dng@utah.gov
 ♦ Tina Mercer by phone at 801-536-0259, by FAX at 801-536-0222, or by Internet E-mail at tmm Mercer@utah.gov

AUTHORIZED BY: Scott Anderson, Director

EFFECTIVE: 05/17/2012

**Environmental Quality, Solid and
 Hazardous Waste
 R315-15
 Standards for the Management of Used
 Oil**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 36246
 FILED: 05/17/2012

**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: Per Title 19, Chapter 6, Part 7, Used Oil Management Act, the board shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer and comply with 40 CFR 279, Standard for the Management of Used Oil, to ensure the state's primacy to manage used oil under 40 CFR 279.

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 changes or public comment periods were performed.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The state is obligated to administer the Used Oil Management Act to maintain primacy in the State of Utah per Title 19 Chapter 6, Part 7 and Title 63G, Chapter 3. Therefore, this rule should be continued.

**Human Services, Juvenile Justice
 Services
 R547-6
 Youth Parole Authority Policies and
 Procedures**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 36226
 FILED: 05/16/2012

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 62A-7-501 through 62A-7-507 created within the division a Youth Parole Authority, composed of full and pro-tempore members. The Authority will determine parole release, rescission, revocation and termination of parole for youth offenders committed to secure care within the division.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The division continues to be responsible for the operation of the Youth Parole Authority. Therefore, this rule should be continued. Nonsubstantive changes will be made in the near future.

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

HUMAN SERVICES
JUVENILE JUSTICE SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Judy Hammer by phone at 801-538-4098, by FAX at 801-538-4334, or by Internet E-mail at judyhammer@utah.gov
♦ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjones@utah.gov

AUTHORIZED BY: Susan Burke, Director

EFFECTIVE: 05/16/2012

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

HUMAN SERVICES
JUVENILE JUSTICE SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Judy Hammer by phone at 801-538-4098, by FAX at 801-538-4334, or by Internet E-mail at judyhammer@utah.gov
♦ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjones@utah.gov

AUTHORIZED BY: Susan Burke, Director

EFFECTIVE: 05/16/2012

**Human Services, Juvenile Justice
Services
R547-10
Ex-Offender Policy**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 36227
FILED: 05/16/2012

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsections 62A-7-104(8) and 62A-7-104(2)(b) state that the Division has the responsibility to adopt minimum standards for facilities and programs that serve delinquent youth. Subsection 62A-7-104(5) authorizes the Division to employ staff necessary to operate the facilities and programs. Rule R547-10 is the minimum standard established to exclude the hiring of persons with a criminal history, so as to prevent this type of person from working with youth.

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 were no comments.

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 is a minimum standard designed to prevent adults with a criminal history from working directly with youth offenders. Therefore, this rule should be continued. Nonsubstantive changes may be forthcoming.

**Natural Resources, Parks and
Recreation
R651-301
State Recreation Fiscal Assistance
Programs**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 36225
FILED: 05/16/2012

**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 established as required by Sections 63-11a-501, and 63-11-17.8, and apply to the following state funded recreation fiscal assistance programs; Trails and Pathways, Off Highway Vehicles, Off-highway Access and Education and in addition these rules govern procedures for fiscal assistance applications, priorities, and project selection criteria commencing on or after 04/15/2000.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: During the last five years, the agency has not received any written comments in either favor or against this rule. This rule focuses upon state fiscal assistance grants that involve either/or Off-highway Vehicles, Off-highway vehicle education and access, and the Trails and Pathway grants.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY

DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: There were no written comments either in favor or against this rule. Rule R615-301 should be continued because it defines an application process, defines the fiscal assistance program requirements, outlines a project selection process, and sets priorities for a project selection criteria. Without this direction or process listed as a rule, there would be no consistency upon awarding fiscal assistance, in the form of grants, to communities, other government agencies and/or non-profit organizations, that participate in various forms of recreation across the state.

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

NATURAL RESOURCES
PARKS AND RECREATION ROOM 116
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

AUTHORIZED BY: Fred Hayes, Acting Director

EFFECTIVE: 05/16/2012

Natural Resources, Wildlife Resources **R657-4**

Possession of Live Game Birds

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 36280
FILED: 05/29/2012

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Sections 23-13-4, 23-14-18, and 23-14-19 the Wildlife Board is authorized to adopt rules for the possession, importation, purchase, propagation, sale, barter, trade or disposal of live game birds.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments supporting or opposing Rule R657-4 have been received since 06/13/2007, when the rule was last reviewed.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY

DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-4 provides the procedures and requirements for the possession, importation, purchase, propagation, sale, barter, trade or disposal of live game birds. The procedures adopted in this rule have provided an effective and efficient process. Continuation of this rule is necessary for continued success of this program.

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: James Karpowitz, Director

EFFECTIVE: 05/29/2012

Public Safety, Fire Marshal **R710-2**

Rules Pursuant to the Utah Fireworks Act

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 36251
FILED: 05/21/2012

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 statutory authority that enacts the Utah Fireworks Act is found in Sections 53-7-220 through 53-7-225. The statutory provision that authorizes the enactment of administrative rule by the Utah Fire Prevention Board to regulate fireworks in the State of Utah, is found in Section 53-7-204.

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 summary of written comments received since the last five-year review is as follows: 1) in November 2007, it was requested that there be an amendment to the rule that would set a limit on the amount of fireworks that could be housed inside of large retail facilities. After some further amendments were made, the amendment

was added to the rule; 2) in March 2009, it was recommended that there be an amendment to the rule that would allow that all fireworks that had been approved by the California State Fire Marshal be approved in the State of Utah. It passed with no opposition; and 3) throughout several months of 2011, there were several written comments on proposed amendments to allow Class C state approved explosives that were classified as cakes or aerial fireworks, to be sold under certain monitored conditions in retail occupancies. Several meetings were held and most agreed to the currently enacted allowances, but there were two major fireworks companies that did not agree to the currently enacted rule amendments.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Fireworks are an important part of our citizens' allowance to celebrate our freedoms as a nation and a state. Utah has had a Utah Fireworks Act since the early 1980s, that has regulated what is legal for usage as fireworks and also those fireworks that are considered as illegal in our state. Without a Utah Fireworks Act, you would have all types of dangerous fireworks being discharged in the State of Utah. Therefore, this rule should be continued. The agency disagrees with the comments that were made in 2011 by two specific fireworks distributors. Their opposition to the proposed rule were based on their vision of safety, and also for their desire to control a larger portion of the market share for the sales of fireworks in the state.

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

PUBLIC SAFETY
 FIRE MARSHALROOM 302
 5272 S COLLEGE DR
 MURRAY, UT 84123-2611
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Brent Halladay by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@utah.gov

AUTHORIZED BY: Brent Halladay, State Fire Marshal

EFFECTIVE: 05/21/2012

Public Safety, Fire Marshal
R710-3
Assisted Living Facilities

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 36273
 FILED: 05/23/2012

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 53-7-204 is the statutory provision that allows enactment on this rule. Section 53-7-204 specifically states that the Board shall enact rules establishing standards for the prevention of fire and for the protection of life and property against fire and panic in occupancies that are used as an assisted living facility.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: During the latter part of 2008 and into the first part of 2009, the Utah Fire Prevention Board spent considerable time with the proposed amendment to require that any client that was designated as non-ambulatory would require a one-to-one staff ratio if they were in a group home-assisted living arrangement. There were a number of letters received on this issue from various groups representing the disabled and a number of meetings on the subject. After extensive review involving three Board meetings, the Fire Prevention Board amended Rule R710-3 to require evaluation by the Department of Human Services for any client that was non-ambulatory and could not provide self-rescue in the event of a fire. The matter was resolved with all involved fully satisfied with the results.

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 for an important part of our society that is required to receive assisted living due to age, health, or disability. Assisted living and group home assisted living arrangements are established for people who can no longer provide full care for themselves and need to receive some assistance in their daily lives that they cannot provide for themselves. Due to the fact that they are now under some care by an outside caregiver, it is paramount that the living conditions be monitored for fire and life safety concerns to insure the client has the safest living conditions possible.

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

PUBLIC SAFETY
 FIRE MARSHALROOM 302
 5272 S COLLEGE DR
 MURRAY, UT 84123-2611
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Brent Halladay by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@utah.gov

AUTHORIZED BY: Brent Halladay, State Fire Marshal

EFFECTIVE: 05/23/2012

**Public Safety, Fire Marshal
R710-4**

**Buildings Under the Jurisdiction of the
State Fire Prevention Board**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 36278

FILED: 05/24/2012

**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 53-7-204 is the statutory provision that allows enactment on this rule. Section 53-7-204 specifically states that the Board shall enact rules establishing standards for the prevention of fire and for the protection of life and property against fire and panic in occupancies that are used as publicly-owned buildings, public and private schools, college and universities, and any and all institutional occupancies.

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 this administrative rule. The Utah Fire Prevention Board takes great effort to make sure all that are affected by a proposed rule amendment, are informed before the completion of the rule filing. The Board takes extra steps to work out all concerns before the administrative rule is sent to the Division of Administrative Rules for filing.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Utah State Legislature has mandated by statute that a number of high profile occupancies be overseen by the State Fire Marshal's Office. They are state-owned buildings, public and private schools, colleges and universities, and all institutional occupancies to include hospitals, nursing homes, assisted living facilities, prisons and jails. Some of the requirements are specific enough that they have been housed in Rule R710-4. This rule deals with specific fire alarm requirements, fire drills in schools, and other specific requirements with regard to fire and life safety in these occupancies. This rule needs to continue for the next five years.

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

PUBLIC SAFETY
FIRE MARSHALROOM 302
5272 S COLLEGE DR
MURRAY, UT 84123-2611
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Brent Halladay by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@utah.gov

AUTHORIZED BY: Brent Halladay, State Fire Marshal

EFFECTIVE: 05/24/2012

**Public Safety, Fire Marshal
R710-7**

**Concerns Servicing Automatic Fire
Suppression Systems**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 36250

FILED: 05/21/2012

**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 statutory oversight of those technicians that service automatic fire suppression systems has been in effect in the State of Utah since the early 1990s. Section 53-7-216 is the specific statutory section that authorizes the oversight of these hood systems. Section 53-7-204 is the statute that authorizes the Utah Fire Prevention Board to regulate the servicing of automatic fire suppression hood systems in the interest of safeguarding lives and property.

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 this administrative rule. The Utah Fire Prevention Board takes great effort to make sure all that are affected by a proposed rule amendment are informed before the completion of the rule filing. The Board takes great effort to work out all concerns before the administrative rule is sent to the Division of Administrative Rules for filing.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY

DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The servicing of automatic fire suppression hood systems has been regulated in the State of Utah for the last 20 years and should continue for the next 5 years. An automatic fire suppression hood system is the only line of defense to suppress a fire in the hood system over commercial cooking systems. If a fire occurs in the fan and exhaust system above a commercial cooking system, and there is no built in suppression system to stop the fire in that hood system, there is a real possibility to have major fire damage to the occupancy. Hood systems extend up through the attic and it is well known that if a fire vents into an open attic it is almost impossible to suppress. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 PUBLIC SAFETY
 FIRE MARSHALROOM 302
 5272 S COLLEGE DR
 MURRAY, UT 84123-2611
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Brent Halladay by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@utah.gov

AUTHORIZED BY: Brent Halladay, State Fire Marshal

EFFECTIVE: 05/21/2012

**Public Safety, Peace Officer Standards
 and Training
 R728-505
 Service Dog Program Rules**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 36245
 FILED: 05/17/2012

**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 Subsection 53-6-105(1)(k) which provides that the director shall, with the advice of the council, make rules necessary to administer Title 53, Chapter 6.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR

OPPOSING THE RULE: No public comments regarding this rule have been received since the last five-year review.

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 requirements and procedures for the police service dog training program. It also establishes performance and graduation requirements. It is necessary to continue this rule in order to ensure service dogs and service dog handlers are properly trained and meet the certification requirements.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 PUBLIC SAFETY
 PEACE OFFICER STANDARDS AND TRAINING
 410 W 9800 S
 SANDY, UT 84070
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Kelly Sparks by phone at 801-256-2321, by FAX at 801-256-0600, or by Internet E-mail at ksparks@utah.gov

AUTHORIZED BY: Lance Davenport, Commissioner

EFFECTIVE: 05/17/2012

**School and Institutional Trust Lands,
 Administration
 R850-1
 Definition of Terms**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 36274
 FILED: 05/23/2012

**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 53C-1-302(1)(a)(ii) authorizes the Director of the School and Institutional Trust Lands Administration to provide definitions which apply to all rules promulgated by the director and agency.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received by the agency concerning 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: There are many terms that are unique to various programs administered by the agency. This rule enables the School and Institutional Trust Lands Administration to define and clarify terminology used throughout the agency's rules in one location rather than creating a substantial amount of repetition by defining program-related terms within each individual program rule. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
SCHOOL AND INSTITUTIONAL TRUST LANDS
ADMINISTRATION ROOM 500
675 E 500 S
SALT LAKE CITY, UT 84102-2818
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ John Andrews by phone at 801-538-5180, by FAX at 801-538-5118, or by Internet E-mail at jandrews@utah.gov

AUTHORIZED BY: Kevin Carter, Director

EFFECTIVE: 05/23/2012

School and Institutional Trust Lands,
Administration
R850-2
Trust Land Management Objectives

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 36275
FILED: 05/23/2012

**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 53C-1-204(1) and Section 53C-1-302 authorize the Director of the School and Institutional Trust Lands Administration to prescribe the general land management objectives for school and other institutional trust lands.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received by the agency for 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 lands administered by the School and Institutional Trust Lands Administration are held in trust for the benefit of specifically-designated beneficiaries. This rule outlines the objectives of the agency in fulfilling its fiduciary duty to those beneficiaries with regard to the use and disposition of their respective lands. The rule also clarifies for the general public and other governmental entities the purposes for which these lands were granted. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
SCHOOL AND INSTITUTIONAL TRUST LANDS
ADMINISTRATION ROOM 500
675 E 500 S
SALT LAKE CITY, UT 84102-2818
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Kevin Carter by phone at 801-538-5101, by FAX at 801-538-5118, or by Internet E-mail at kevincarter@utah.gov

AUTHORIZED BY: Kevin Carter, Director

EFFECTIVE: 05/23/2012

School and Institutional Trust Lands,
Administration
R850-3
Applicant Qualifications, Application
Forms, and Application Processing

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 36276
FILED: 05/23/2012

**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 53C-1-302(1)(a)(ii) and Section 53C-2-404 authorize the Director of the School and Institutional Trust Lands Administration to prescribe the applicant requirements and the form of application for the use and disposition of trust lands.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR

OPPOSING THE RULE: No written comments have been received by the agency 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 is necessary as it sets forth the requirements an applicant must meet in order to be qualified as a user of trust lands. It also sets forth guidelines for the agency to follow for consistency in the acceptance or rejection of submitted applications. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
SCHOOL AND INSTITUTIONAL TRUST LANDS
ADMINISTRATION ROOM 500
675 E 500 S
SALT LAKE CITY, UT 84102-2818
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ John Andrews by phone at 801-538-5180, by FAX at 801-538-5118, or by Internet E-mail at jandrews@utah.gov

AUTHORIZED BY: Kevin Carter, Director

EFFECTIVE: 05/23/2012

**Workforce Services, Unemployment Insurance
R994-404
Payments Following Workers' Compensation**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 36256
FILED: 05/22/2012

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-4-404 provides that the Department can adjust the base period in cases where a claimant was on workers' compensation.

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 during the last 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: The rule is necessary to provide information to claimants on how their claim will be handled in the event of a workers' compensation claim. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
WORKFORCE SERVICES
UNEMPLOYMENT INSURANCE
140 E 300 S
SALT LAKE CITY, UT 84111-2333
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 05/22/2012

**Workforce Services, Unemployment Insurance
R994-406
Fraud, Fault and Nonfault Overpayments**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 36257
FILED: 05/22/2012

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsections 35A-4-406(2), 35A-4-406(3), 35A-4-406(4), and 35A-4-406(5) provide for the type of overpayment to be assessed depending on the facts of the case and how each type of overpayment will be collected.

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 the last 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: The rule provides information to claimants and Department personnel on how it is determined which type of overpayment applies and how that overpayment will be collected. Therefore, this rule should be continued.

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

THE FULL TEXT OF THIS RULE MAY BE INSPECTED,
DURING REGULAR BUSINESS HOURS, AT:
WORKFORCE SERVICES
UNEMPLOYMENT INSURANCE
140 E 300 S
SALT LAKE CITY, UT 84111-2333

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 05/22/2012

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).

**Community and Culture, Home Energy
Assistance Target (HEAT)
R195-2
Energy Assistance Programs
Standards**

FIVE-YEAR REVIEW EXTENSION
DAR FILE NO.: 36293
FILED: 05/31/2012

EXTENSION REASON AND NEW DEADLINE: A request was received from Michael Hansen, Deputy Director of the Department of Community and Culture (DCC) to extend the deadline for the five-year reviews of Rules R195-2 through R195-8. DCC is in the process of preparing repeals for these rules because the responsibility for the HEAT program has been moved to the Department of Workforce Services and DCC cannot complete them by the current deadline. The new deadline is 10/20/2012.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Michael Hansen by phone at 801-245-7204, by FAX at 801-521-4727, or by Internet E-mail at mhansen1@utah.gov

AUTHORIZED BY: Michael Hansen, Deputy Director

EFFECTIVE: 05/31/2012

**Community and Culture, Home Energy
Assistance Target (HEAT)
R195-3
Energy Assistance Income Standards,
Income Eligibility, and Payment
Determination**

FIVE-YEAR REVIEW EXTENSION
DAR FILE NO.: 36294
FILED: 05/31/2012

EXTENSION REASON AND NEW DEADLINE: A request was received from Michael Hansen, Deputy Director of the Department of Community and Culture (DCC) to extend the deadline for the five-year reviews of Rules R195-2 through R195-8. DCC is in the process of preparing repeals for these rules because the responsibility for the HEAT program has been moved to the Department of Workforce Services and DCC cannot complete them by the current deadline. The new deadline is 10/20/2012.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Michael Hansen by phone at 801-245-7204, by FAX at 801-521-4727, or by Internet E-mail at mhansen1@utah.gov

AUTHORIZED BY: Michael Hansen, Deputy Director

EFFECTIVE: 05/31/2012

**Community and Culture, Home Energy
Assistance Target (HEAT)
R195-4
Energy Assistance: Asset Standards**

FIVE-YEAR REVIEW EXTENSION
DAR FILE NO.: 36295
FILED: 05/31/2012

EXTENSION REASON AND NEW DEADLINE: A request was received from Michael Hansen, Deputy Director of the Department of Community and Culture (DCC) to extend the deadline for the five-year reviews of Rules R195-2 through R195-8. DCC is in the process of preparing repeals for these rules because the responsibility for the HEAT program has been moved to the Department of Workforce Services and

DCC cannot complete them by the current deadline. The new deadline is 10/20/2012.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Michael Hansen by phone at 801-245-7204, by FAX at 801-521-4727, or by Internet E-mail at mhansen1@utah.gov

AUTHORIZED BY: Michael Hansen, Deputy Director

EFFECTIVE: 05/31/2012

Community and Culture, Home Energy Assistance Target (HEAT)

R195-5

Energy Assistance: Program Benefits

FIVE-YEAR REVIEW EXTENSION

DAR FILE NO.: 36296

FILED: 05/31/2012

EXTENSION REASON AND NEW DEADLINE: A request was received from Michael Hansen, Deputy Director of the Department of Community and Culture (DCC) to extend the deadline for the five-year reviews of Rules R195-2 through R195-8. DCC is in the process of preparing repeals for these rules because the responsibility for the HEAT program has been moved to the Department of Workforce Services and DCC cannot complete them by the current deadline. The new deadline is 10/20/2012.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Michael Hansen by phone at 801-245-7204, by FAX at 801-521-4727, or by Internet E-mail at mhansen1@utah.gov

AUTHORIZED BY: Michael Hansen, Deputy Director

EFFECTIVE: 05/31/2012

Community and Culture, Home Energy Assistance Target (HEAT)

R195-6

Energy Assistance: Eligibility Determination

FIVE-YEAR REVIEW EXTENSION

DAR FILE NO.: 36297

FILED: 05/31/2012

EXTENSION REASON AND NEW DEADLINE: A request was received from Michael Hansen, Deputy Director of the Department of Community and Culture (DCC) to extend the

deadline for the five-year reviews of Rules R195-2 through R195-8. DCC is in the process of preparing repeals for these rules because the responsibility for the HEAT program has been moved to the Department of Workforce Services and DCC cannot complete them by the current deadline. The new deadline is 10/23/2012.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Michael Hansen by phone at 801-245-7204, by FAX at 801-521-4727, or by Internet E-mail at mhansen1@utah.gov

AUTHORIZED BY: Michael Hansen, Deputy Director

EFFECTIVE: 05/31/2012

Community and Culture, Home Energy Assistance Target (HEAT)

R195-7

Energy Assistance: Records and Benefit Management

FIVE-YEAR REVIEW EXTENSION

DAR FILE NO.: 36298

FILED: 05/31/2012

EXTENSION REASON AND NEW DEADLINE: A request was received from Michael Hansen, Deputy Director of the Department of Community and Culture (DCC) to extend the deadline for the five-year reviews of Rules R195-2 through R195-8. DCC is in the process of preparing repeals for these rules because the responsibility for the HEAT program has been moved to the Department of Workforce Services and DCC cannot complete them by the current deadline. The new deadline is 10/23/2012.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Michael Hansen by phone at 801-245-7204, by FAX at 801-521-4727, or by Internet E-mail at mhansen1@utah.gov

AUTHORIZED BY: Michael Hansen, Deputy Director

EFFECTIVE: 05/31/2012

Community and Culture, Home Energy Assistance Target (HEAT)

R195-8

Energy Assistance: Special State Programs

FIVE-YEAR REVIEW EXTENSION

DAR FILE NO.: 36302

FILED: 05/31/2012

EXTENSION REASON AND NEW DEADLINE: A request was received from Michael Hansen, Deputy Director of the Department of Community and Culture (DCC) to extend the deadline for the five-year reviews of Rules R195-2 through R195-8. DCC is in the process of preparing repeals for these rules because the responsibility for the HEAT program has been moved to the Department of Workforce Services and

DCC cannot complete them by the current deadline. The new deadline is 10/23/2012.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Michael Hansen by phone at 801-245-7204, by FAX at 801-521-4727, or by Internet E-mail at mhansen1@utah.gov

AUTHORIZED BY: Michael Hansen, Deputy Director

EFFECTIVE: 05/31/2012

End of the Notices of Five-Year Review Extensions 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 or 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

Finance

No. 35975 (NEW): R25-20. Indigent Defense Funds Board, Procedures for Electronic Meetings

Published: 04/15/2012

Effective: 05/22/2012

Alcoholic Beverage Control

Administration

No. 35943 (AMD): R81-4A-2. Application

Published: 04/01/2012

Effective: 05/22/2012

No. 35944 (AMD): R81-4B-2. Application

Published: 04/01/2012

Effective: 05/22/2012

No. 35945 (AMD): R81-4C-2. Application

Published: 04/01/2012

Effective: 05/22/2012

No. 35946 (AMD): R81-4D-2. Application

Published: 04/01/2012

Effective: 05/22/2012

No. 35947 (AMD): R81-4E-2. Application

Published: 04/01/2012

Effective: 05/22/2012

No. 35948 (AMD): R81-4F-2. Application

Published: 04/01/2012

Effective: 05/22/2012

No. 35949 (AMD): R81-5-2. Application

Published: 04/01/2012

Effective: 05/22/2012

No. 35950 (AMD): R81-6-1. Application

Published: 04/01/2012

Effective: 05/22/2012

No. 35951 (AMD): R81-8-1. Application

Published: 04/01/2012

Effective: 05/22/2012

No. 35952 (AMD): R81-9-1. Application

Published: 04/01/2012

Effective: 05/22/2012

No. 35953 (AMD): R81-10A-3. Application

Published: 04/01/2012

Effective: 05/22/2012

No. 35954 (AMD): R81-10C-2. Application

Published: 04/01/2012

Effective: 05/22/2012

No. 35955 (AMD): R81-10D-2. Application

Published: 04/01/2012

Effective: 05/22/2012

No. 35956 (AMD): R81-11-1. Application

Published: 04/01/2012

Effective: 05/22/2012

No. 35957 (AMD): R81-12-1. Application

Published: 04/01/2012

Effective: 05/22/2012

Commerce

Real Estate

No. 35915 (AMD): R162-2e-402. Administrative Proceedings

Published: 04/01/2012

Effective: 05/23/2012

Governor

Planning and Budget, Inspector General of Medicaid Services (Office of)

No. 35958 (AMD): R367-1-15. Administrative Hearings

Published: 04/15/2012

Effective: 05/23/2012

NOTICES OF RULE EFFECTIVE DATES

Health

Health Care Financing, Coverage and Reimbursement Policy
No. 35994 (AMD): R414-1-5. Incorporations by Reference
Published: 04/15/2012
Effective: 05/24/2012

Judicial Performance Evaluation Commission

Administration
No. 35934 (AMD): R597-3. Judicial Performance Evaluations
Published: 04/01/2012
Effective: 06/01/2012

Labor Commission

Boiler and Elevator Safety
No. 35963 (AMD): R616-2-3. Safety Codes and Rules for Boilers and Pressure Vessels
Published: 04/15/2012
Effective: 05/22/2012

No. 35961 (AMD): R616-2-15. Deputy Boiler/Pressure Vessel Inspectors
Published: 04/15/2012
Effective: 05/22/2012

No. 35962 (AMD): R616-3-3. Safety Codes for Elevators
Published: 04/15/2012
Effective: 05/22/2012

Natural Resources

Oil, Gas and Mining; Coal
No. 35995 (AMD): R645-100-200. Definitions
Published: 04/15/2012
Effective: 05/23/2012

No. 35996 (AMD): R645-300-100. Review, Public Participation, and Approval or Disapproval of Permit Applications and Permit Terms and Conditions
Published: 04/15/2012
Effective: 05/23/2012

No. 35997 (AMD): R645-301-100. General Contents
Published: 04/15/2012
Effective: 05/23/2012

No. 35998 (AMD): R645-302-200. Special Categories of Mining
Published: 04/15/2012
Effective: 05/23/2012

No. 35999 (AMD): R645-303-300. Transfer, Assignment, or Sale of Permit Rights
Published: 04/15/2012
Effective: 05/23/2012

No. 36000 (AMD): R645-400-300. Provisions of State Enforcement
Published: 04/15/2012
Effective: 05/23/2012

No. 36001 (NEW): R645-403. Alternative Enforcement
Published: 04/15/2012
Effective: 05/23/2012

Public Safety

Fire Marshal
No. 36022 (AMD): R710-4-3. Amendments and Additions
Published: 04/15/2012
Effective: 05/22/2012

No. 36023 (AMD): R710-10-5. Fire Service Standards and Training Council
Published: 04/15/2012
Effective: 05/22/2012

Workforce Services

Employment Development
No. 35919 (AMD): R986-200-214. Assistance for Specified Relatives
Published: 04/01/2012
Effective: 05/22/2012

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, 2012 through June 01, 2012. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules 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).

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 (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
<u>Archives</u>					
R17-9	Electronic Participation at Meetings	35304	NEW	01/30/2012	2011-20/6
<u>Child Welfare Parental Defense (Office of)</u>					
R19-1-6	Child Welfare Parental Defense Oversight Committee	35205	AMD	01/12/2012	2011-18/6
R19-1-7	Electronic Meetings	35206	AMD	01/12/2012	2011-18/7
<u>Facilities Construction and Management</u>					
R23-1	Procurement of Construction	36145	5YR	05/03/2012	2012-11/177
R23-19	Facility Use Rules	36146	5YR	05/03/2012	2012-11/177
R23-20	Free Speech Activities	36148	5YR	05/03/2012	2012-11/178
<u>Finance</u>					
R25-14	Payment of Attorneys Fees in Death Penalty Cases	35663	5YR	01/12/2012	2012-3/105
R25-20	Indigent Defense Funds Board, Procedures for Electronic Meetings	35975	NEW	05/22/2012	2012-8/5
<u>Fleet Operations</u>					
R27-4	Vehicle Replacement and Expansion of State Fleet	35622	5YR	01/05/2012	2012-3/105
R27-5	Fleet Tracking	35617	5YR	01/05/2012	2012-3/106
R27-5	Fleet Tracking	35623	NSC	01/31/2012	Not Printed
R27-6	Fuel Dispensing Program	35620	5YR	01/05/2012	2012-3/106
R27-8	State Vehicle Maintenance Program	35621	5YR	01/05/2012	2012-3/107
R27-9	Dispensing Compressed Natural Gas to the Public	35727	NEW	03/26/2012	2012-4/6
<u>Purchasing and General Services</u>					
R33-1	Utah State Procurement Rules Definitions	35664	AMD	03/30/2012	2012-3/4
R33-3	Source Selection and Contract Formation	35613	AMD	03/30/2012	2012-2/6
R33-3-7	Types of Contracts	35667	AMD	03/30/2012	2012-3/6
R33-4	Specifications	35665	AMD	03/30/2012	2012-3/10
R33-6-101	Revisions to Contract Clauses	35666	AMD	03/30/2012	2012-3/12
<u>Risk Management</u>					
R37-1	Risk Management General Rules	36286	5YR	05/30/2012	Not Printed
R37-2	Risk Management State Workers' Compensation Insurance Administration	36287	5YR	05/30/2012	Not Printed
R37-3	Risk Management Adjudicative Proceedings	36288	5YR	05/30/2012	Not Printed
R37-4	Adjusted Utah Governmental Immunity Act Limitations on Judgments	36289	5YR	05/30/2012	Not Printed
R37-4	Adjusted Utah Governmental Immunity Act Limitations on Judgments	35844	AMD	05/31/2012	2012-5/4

AGRICULTURE AND FOOD

Administration

R51-2	Administrative Procedures for Informal Proceedings Before the Utah Department of Agriculture and Food	35614	5YR	01/04/2012	2012-3/107
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Animal Industry

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R649-9	Waste Management and Disposal	35849	5YR	02/03/2012	2012-5/123

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R651-301	State Recreation Fiscal Assistance Programs	36225	5YR	05/16/2012	Not Printed

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R657-4	Possession of Live Game Birds	36280	5YR	05/29/2012	Not Printed
R657-5	Taking Big Game	35520	AMD	02/07/2012	2012-1/29
R657-13	Taking Fish and Crayfish	35440	AMD	01/10/2012	2011-23/75
R657-17	Lifetime Hunting and Fishing License	35209	AMD	01/10/2012	2011-18/63
R657-20	Falconry	35734	AMD	04/02/2012	2012-4/25
R657-22	Commercial Hunting Areas	36150	5YR	05/04/2012	2012-11/182
R657-27	License Agent Procedures	36003	5YR	04/02/2012	2012-8/89
R657-29	Government Records Access Management Act	36131	5YR	05/01/2012	2012-10/95
R657-30	Fishing License for the Terminally Ill	36152	5YR	05/04/2012	2012-11/182
R657-33	Taking Bear	35733	AMD	04/02/2012	2012-4/32
R657-38	Dedicated Hunter Program	35211	AMD	01/10/2012	2011-18/65
R657-42	Fees, Exchanges, Surrenders, Refunds and Reallocation of Wildlife Documents	35435	AMD	01/10/2012	2011-23/76
R657-43	Landowner Permits	35210	AMD	01/10/2012	2011-18/71
R657-43	Landowner Permits	35909	5YR	03/05/2012	2012-7/70
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R657-59	Private Fish Ponds	35438	AMD	01/10/2012	2011-23/80
R657-62	Drawing Application Procedures	35436	AMD	01/10/2012	2011-23/85

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R671-201	Original Parole Grant Hearing Schedule and Notice.	35732	5YR	01/26/2012	2012-4/109
R671-202	Notification of Hearings	35737	5YR	01/31/2012	2012-4/110
R671-203	Victim Input and Notification	35738	5YR	01/31/2012	2012-4/110
R671-205	Credit for Time Served	35739	5YR	01/31/2012	2012-4/111
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R671-303	Information Received, Maintained or Used by the Board	35743	5YR	01/31/2012	2012-4/113
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R671-305	Notification of Board Decision	35551	AMD	03/26/2012	2012-2/101
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R671-309	Impartial Hearings	35747	5YR	01/31/2012	2012-4/115
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R671-311	Special Attention Hearings and Reviews	35749	5YR	01/31/2012	2012-4/116
R671-315	Pardons	35750	5YR	01/31/2012	2012-4/116
R671-316	Redetermination	35751	5YR	01/31/2012	2012-4/117
R671-402	Special Conditions of Parole	35752	5YR	01/31/2012	2012-4/117
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R722-350-3	Application for a Certificate of Eligibility	35487	AMD	01/24/2012	2011-24/77

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R708-3	Driver License Point System Administration	35636	5YR	01/09/2012	2012-3/121
R708-7	Functional Ability in Driving: Guidelines for Physicians	35632	5YR	01/09/2012	2012-3/122
R708-8	Review Process: Driver License Medical Section	35633	5YR	01/09/2012	2012-3/123
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R708-14	Adjudicative Proceedings For Driver License Actions Involving Alcohol and Drugs	35637	5YR	01/09/2012	2012-3/123
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R708-34	Medical Waivers for Intrastate Commercial Driving Privileges	35634	5YR	01/09/2012	2012-3/124
R708-34	Medical Waivers for Intrastate Commercial Driving Privileges	35635	NSC	01/31/2012	Not Printed
R708-35	Adjudicative Proceedings For Driver License Offenses Not Involving Alcohol or Drug Actions	35638	5YR	01/09/2012	2012-3/124
R708-39	Physical and Mental Fitness Testing	35854	5YR	02/06/2012	2012-5/124

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R710-2	Rules Pursuant to the Utah Fireworks Act	36251	5YR	05/21/2012	Not Printed
R710-3	Assisted Living Facilities	36273	5YR	05/23/2012	Not Printed
R710-4	Buildings Under the Jurisdiction of the State Fire Prevention Board	36278	5YR	05/24/2012	Not Printed
R710-4-3	Amendments and Additions	36022	AMD	05/22/2012	2012-8/60
R710-7	Concerns Servicing Automatic Fire Suppression Systems	36250	5YR	05/21/2012	Not Printed
R710-8	Day Care Rules	35929	5YR	03/13/2012	2012-7/71
R710-10-5	Fire Service Standards and Training Council	36023	AMD	05/22/2012	2012-8/62

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R728-411	Guidelines Regarding Administrative Action Taken Against Individuals Functioning As Peace Officers Without Peace Officer Certification Or Powers	35627	5YR	01/06/2012	2012-3/125
R728-505	Service Dog Program Rules	36245	5YR	05/17/2012	Not Printed

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R746-100	Practice and Procedures Governing Formal Hearings	35900	AMD	05/07/2012	2012-6/24
R746-310-1	General Provisions	35505	AMD	02/07/2012	2012-1/38
R746-310-2	Customer Relations	35925	NSC	03/22/2012	Not Printed
R746-320	Uniform Rules Governing Natural Gas Service	35926	NSC	03/22/2012	Not Printed
R746-342	Rule on One-Way Paging	35509	REP	02/07/2012	2012-1/40
R746-348	Interconnection	35651	5YR	01/11/2012	2012-3/126
R746-349	Competitive Entry and Reporting Requirements	35916	5YR	03/06/2012	2012-7/71
R746-351	Pricing Flexibility	35917	5YR	03/06/2012	2012-7/72
R746-365	Intercarrier Service Quality	35927	NSC	03/22/2012	Not Printed
R746-405-2	Format and Construction of Tariffs	35507	AMD	02/07/2012	2012-1/41
R746-405-2	Format and Construction of Tariffs	35896	AMD	05/07/2012	2012-6/31
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R810-5	Permit Types, Eligibility and Designated Parking Areas	35889	5YR	02/17/2012	2012-6/39
R810-6	Permit Prices and Refunds	35882	5YR	02/16/2012	2012-6/39
R810-9	Contractors and Their Employees	35883	5YR	02/17/2012	2012-6/40
R810-10	Enforcement System	35884	5YR	02/17/2012	2012-6/40
R810-11	Appeals System	35890	5YR	02/17/2012	2012-6/41

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R850-2	Trust Land Management Objectives	36275	5YR	05/23/2012	Not Printed
R850-3	Applicant Qualifications, Application Forms, and Application Processing	36276	5YR	05/23/2012	Not Printed
R850-11	Procurement	36088	5YR	04/24/2012	2012-10/95
R850-41	Rights of Entry	35542	NEW	02/07/2012	2012-1/44
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R861-1A-9	Tax Commission as Board of Equalization Pursuant to Utah Code Ann. Sections 59-2-212, 59-2-1004, and 59-2-1006	35862	AMD	04/12/2012	2012-5/93

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R865-4D	Special Fuel Tax	35598	5YR	01/03/2012	2012-2/125
R865-6F	Franchise Tax	35599	5YR	01/03/2012	2012-2/126
R865-9I	Income Tax	35600	5YR	01/03/2012	2012-2/127
R865-11Q	Self-Insured Employer Assessment	35601	5YR	01/03/2012	2012-2/130
R865-12L	Local Sales and Use Tax	35602	5YR	01/03/2012	2012-2/130
R865-13G	Motor Fuel Tax	35603	5YR	01/03/2012	2012-2/131
R865-14W	Mineral Producers' Withholding Tax	35604	5YR	01/03/2012	2012-2/132
R865-15O	Oil and Gas Tax	35605	5YR	01/03/2012	2012-2/133
R865-19S	Sales and Use Tax	35606	5YR	01/03/2012	2012-2/133
R865-19S-32	Leases and Rentals Pursuant to Utah Code Ann. Section 59-12-103	35511	AMD	02/09/2012	2012-1/48
R865-20T	Tobacco Tax	35607	5YR	01/03/2012	2012-2/137

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R877-23V-21	Automated License Plate Recognition System Pursuant to Utah Code Ann. Section 41-3-105	35513	AMD	02/09/2012	2012-1/50

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R884-24P-62	Valuation of State Assessed Unitary Properties Pursuant to Utah Code Ann. Section 59-2-201	35514	AMD	02/09/2012	2012-1/51
R884-24P-66	Appeal to County Board of Equalization Pursuant to Utah Code Ann. Section 59-2-1004	35864	AMD	04/12/2012	2012-5/96

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R907-60	Handling of Publications Prepared by the Utah Department of Transportation Either for Sale or Free Copy	35670	REP	03/12/2012	2012-3/80
R907-69	Records Access	35672	NEW	03/12/2012	2012-3/81

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R909-1	Safety Regulations for Motor Carriers	35873	AMD	04/11/2012	2012-5/99
R909-16	Overall Motor Carrier Safety Standing	35427	REP	01/10/2012	2011-23/92
R909-17	Appeal Process for Utah Commercial Vehicle Safety Alliance Inspections	35428	REP	01/10/2012	2011-23/94
R909-19	Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation and Certification	35256	AMD	02/07/2012	2011-20/41
R909-19	Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation and Certification	35256	CPR	02/07/2012	2012-1/64
R909-75	Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Hazardous Wastes	35426	AMD	01/10/2012	2011-23/96

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R918-3	Snow Removal	35515	AMD	02/07/2012	2012-1/55
R918-4	Using Volunteer Groups for the Adopt-a-Highway Program	35669	AMD	03/12/2012	2012-3/82

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R920-50	Ropeway Operation Safety	36081	5YR	04/16/2012	2012-9/98
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R930-3	Highway Noise Abatement	35516	AMD	02/07/2012	2012-1/57
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R933-1	Right of Way Acquisition	35429	AMD	01/10/2012	2011-23/97
R933-2	Control of Outdoor Advertising Signs	36180	EMR	05/14/2012	2012-11/168

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R926-4	Establishing and Defining a Functional Classification of Highways in the State of Utah	35959	5YR	03/20/2012	2012-8/90
R926-4	Establishing and Defining a Functional Classification of Highways in the State of Utah	35960	NSC	04/11/2012	Not Printed
R926-6 (Changed to R940-7)	Transportation Corridor Preservation Revolving Loan Fund	36179	NSC	05/30/2012	Not Printed

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R986-200-247	Utah Back to Work Pilot Program (BWP)	35501	AMD	02/01/2012	2011-24/78
R986-700-713	Amount of CC Payment	35586	AMD	04/01/2012	2012-2/104

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R994-106	Combined Wage Claims	36092	5YR	04/25/2012	2012-10/96
R994-207-102	General Requirements for Eligibility	35992	NSC	04/11/2012	Not Printed
R994-303	Contribution Rates	36093	5YR	04/25/2012	2012-10/97
R994-401	Payment of Benefits	36094	5YR	04/25/2012	2012-10/97
R994-402	Extended Benefits (EB)	36095	5YR	04/25/2012	2012-10/98
R994-403-112c	Available	35448	AMD	01/17/2012	2011-23/98
R994-404	Payments Following Workers' Compensation	36256	5YR	05/22/2012	Not Printed
R994-406	Fraud, Fault and Nonfault Overpayments	36257	5YR	05/22/2012	Not Printed
R994-508	Appeal Procedures	35455	AMD	02/01/2012	2011-23/101

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ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>accessing records</u> Human Services, Recovery Services	35631	R527-5	5YR	01/06/2012	2012-3/116
<u>action plan</u> Public Service Commission, Administration	36167	R746-430	5YR	05/10/2012	2012-11/184
<u>adjudicative proceedings</u> Community and Culture, History	36299	R212-1	5YR	05/31/2012	Not Printed

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Public Safety, Driver License	35637	R708-14	5YR	01/09/2012	2012-3/123
	35638	R708-35	5YR	01/09/2012	2012-3/124
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Corrections, Administration	35762	R251-108	EXD	01/18/2012	2012-4/123
	35769	R251-108	EMR	02/01/2012	2012-4/49
	35807	R251-108	NEW	04/09/2012	2012-5/15
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	35534	R277-102	R&R	02/07/2012	2012-1/8
	35856	R277-102	NSC	02/29/2012	Not Printed
Environmental Quality, Radiation Control	35416	R313-17	AMD	03/19/2012	2011-23/50
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	36097	R380-5	5YR	04/26/2012	2012-10/89
	36098	R380-10	5YR	04/26/2012	2012-10/89
Human Resource Management, Administration	35823	R477-3	5YR	02/02/2012	2012-5/108
	35832	R477-12	5YR	02/03/2012	2012-5/114
	35835	R477-15	5YR	02/03/2012	2012-5/115
Natural Resources, Forestry, Fire and State Lands	36005	R652-1	5YR	04/02/2012	2012-8/82
	36006	R652-3	5YR	04/02/2012	2012-8/83
	36007	R652-4	5YR	04/02/2012	2012-8/83
	36008	R652-5	5YR	04/02/2012	2012-8/84
	36009	R652-20	5YR	04/02/2012	2012-8/85
	36010	R652-30	5YR	04/02/2012	2012-8/85
	36011	R652-40	5YR	04/02/2012	2012-8/86
	36012	R652-50	5YR	04/02/2012	2012-8/86
	36014	R652-70	5YR	04/02/2012	2012-8/87
	36016	R652-100	5YR	04/02/2012	2012-8/88
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	35633	R708-8	5YR	01/09/2012	2012-3/123
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	36276	R850-3	5YR	05/23/2012	Not Printed
	35542	R850-41	NEW	02/07/2012	2012-1/44
	35655	R850-90	5YR	01/12/2012	2012-3/126
	35656	R850-120	5YR	01/12/2012	2012-3/127
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	36045	R311-201	5YR	04/10/2012	2012-9/82
	36054	R311-210	5YR	04/10/2012	2012-9/89
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<u>administrative rules</u>					
Human Resource Management, Administration	35834	R477-13	5YR	02/03/2012	2012-5/115
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Transportation, Operations, Maintenance	35669	R918-4	AMD	03/12/2012	2012-3/82
<u>adoption</u>					
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	35913	R512-40	5YR	03/05/2012	2012-7/69
	35914	R512-42	5YR	03/05/2012	2012-7/70
	36044	R512-51	5YR	04/09/2012	2012-9/93
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Commerce, Occupational and Professional Licensing	35820	R156-78B	5YR	02/02/2012	2012-5/102

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Agriculture and Food, Plant Industry	35697	R68-19	5YR	01/18/2012	2012-4/62
Agriculture and Food, Regulatory Services	35660	R70-201	5YR	01/12/2012	2012-3/108

air pollution

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	35774	R307-110	5YR	02/01/2012	2012-4/65
	35775	R307-120	5YR	02/01/2012	2012-4/81
	35716	R307-121	5YR	01/23/2012	2012-4/81
	35718	R307-121-7	NSC	02/09/2012	Not Printed
	35776	R307-130	5YR	02/01/2012	2012-4/82
	35777	R307-135	5YR	02/01/2012	2012-4/82
	35496	R307-210-1	AMD	03/07/2012	2011-24/7
	35531	R307-220-3	AMD	03/07/2012	2012-1/21
	35530	R307-222	AMD	03/07/2012	2012-1/22
	36026	R307-222-1	NSC	04/25/2012	Not Printed
	35779	R307-320	5YR	02/01/2012	2012-4/84
	35780	R307-325	5YR	02/01/2012	2012-4/84
	35781	R307-326	5YR	02/01/2012	2012-4/85
	35782	R307-327	5YR	02/01/2012	2012-4/86
	35783	R307-328	5YR	02/01/2012	2012-4/86
	35784	R307-335	5YR	02/01/2012	2012-4/87
	35785	R307-340	5YR	02/01/2012	2012-4/87
	35786	R307-341	5YR	02/01/2012	2012-4/88
	35787	R307-343	5YR	02/01/2012	2012-4/89
	36154	R307-401-11	NSC	05/30/2012	Not Printed
	35413	R307-405	AMD	02/02/2012	2011-23/42
	35872	R307-405-3	NSC	02/29/2012	Not Printed
	35529	R307-415-2	AMD	03/07/2012	2012-1/25
	36033	R307-424	5YR	04/05/2012	2012-9/79

air pollution control

Environmental Quality, Air Quality	35778	R307-301	5YR	02/01/2012	2012-4/83
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aircraft

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building inspectors

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	35862	R861-1A-9	AMD	04/12/2012	2012-5/93	
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