

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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Nancy L. Lancaster, Managing Editor

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Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Office of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3003. 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)* of the same volume and issue number. The *Digest* is available by e-mail subscription or online. Visit <http://www.rules.utah.gov/publicat/digest.htm> for additional information.

Office of Administrative Rules, Salt Lake City 84114

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SPECIAL NOTICES

Health Health Care Financing, Coverage and Reimbursement Policy

Notice for October 2016 Medicaid Rate Changes

Effective October 1, 2016, Utah Medicaid will adjust its rates consistent with approved methodologies. Rate adjustments include new codes priced consistent with approved Medicaid methodologies as well as potential adjustments to existing codes. Nursing home rate changes to case mix components are consistent with adopted payment methodology. All rate changes are posted to the web and can be viewed at: <http://health.utah.gov/medicaid/stplan/lookup/CoverageLookup.php>.

Health Health Care Financing, Coverage and Reimbursement Policy

Recovery Audit Contractor Reimbursement Method

In accordance with state law and to clarify methods of reimbursement, the Division of Medicaid and Health Financing (DMHF) will amend Section 4.5 of the Medicaid State Plan concerning the Medicaid Recovery Audit Contractor (RAC) Program.

DMHF will now reimburse recovery audit contractors on a flat-fee basis rather than a contingency basis for the work of identifying overpayments and underpayments in the Medicaid program.

Compared to the most recent three-year weighted average, DMHF does not anticipate any impact to total annual expenditures.

This State Plan Amendment (SPA 16-0027-UT) is pending approval from the Centers for Medicare and Medicaid Services, and if approved, becomes effective 10/01/2016.

A copy of these 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 are also available at local county health department offices.

Health Disease Control and Prevention, Health Promotion

Information on Filing No. 40632 for Rule R384-415, Electronic-Cigarette Substance Standards

The Division of Disease Control and Prevention, Bureau of Health Promotion, Tobacco Prevention and Control Program is publishing this notice to make the public aware that the contact person for submitting public comment regarding the filing on Rule R384-415, Electronic-Cigarette Substance Standards, that was published in the September 1, 2016, issue of the Bulletin under DAR No. 40632 has been changed from Janae Duncan to Luke Chalmers at tpcprules@utah.gov.

End of the Special Notices Section

EXECUTIVE DOCUMENTS

Under authority granted by the Utah Constitution and various federal and state statutes, the Governor periodically issues **EXECUTIVE DOCUMENTS**, which can be categorized as either 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 Office of Administrative Rules for publication and distribution.

Wildland Fire Management, Utah Exec. Order No. 2016-7

EXECUTIVE ORDER

Wildland Fire Management

WHEREAS, consistent with Utah Code Section 65A-8-211, the period of June 1st to October 31st is a closed fire season throughout the State of Utah; and

WHEREAS, the danger from wildland fires is high throughout Utah; and

WHEREAS, above average fuel loads of wildland vegetation exist statewide; and

WHEREAS, current weather models predict above normal temperatures and below normal precipitation for the foreseeable future in Utah; and

WHEREAS, fire indices are conducive to large, rapid fire growth; and

WHEREAS, current fire activity is increasing with large fires recently in Northern Utah; and

WHEREAS, many areas of Utah are extremely remote and inaccessible and conditions have the potential to greatly worsen if left unattended; and

WHEREAS, immediate action is required to suppress fires and mitigate post burn flash floods to protect public safety, property, natural resources and the environment should these dangerous conditions escalate to active wildfires; and

WHEREAS, these conditions do create the potential for a disaster emergency within the scope 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, critical infrastructure, natural resources and the environment, effective for the month of September 2016, 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 1st day of September 2016.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Lieutenant Governor
Spencer J. Cox

2016/007/EO

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 substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between August 16, 2016, 12:00 a.m., and September 01, 2016, 11:59 p.m. are included in this, the September 15, 2016, 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 (example). Deletions made to existing rules are struck out with brackets surrounding them (~~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 usually printed. If a **PROPOSED RULE** is too long to print, the Office of Administrative Rules may 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 Office of Administrative Rules.

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least October 17, 2016. 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 January 13, 2017, the agency may notify the Office 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 Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE OF A CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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, R15-4-5a, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page

Crime Victim Reparations, Administration **R270-1** Award and Reparation Standards

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40687

FILED: 08/19/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule is to address the award and reparation standards. The reason for the changes are to update the definitions, rule filing format issues, and other grammatical corrections and/or errors through the rule. There are also some clarifications that were added in the award section and victim services section, and the secondary victim section was deleted and incorporated in to the definition section.

SUMMARY OF THE RULE OR CHANGE: The definitions were amended to comply with statute, rule filing format issues were corrected, and other grammatical corrections and/or errors were made through the rule. There are also some clarifications that were added in the award section and victim services section, and the secondary victim section was deleted and incorporated in to the definition section.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63M-7-506

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. The changes to the rule mostly address grammatical corrections and/or errors, and provide additional clarification to policies that are already in place.
- ◆ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. The changes to the rule mostly address grammatical corrections and/or errors, and provide additional clarification to policies that are already in place.
- ◆ SMALL BUSINESSES: There are no anticipated costs or savings to small businesses. This rule does not apply to small businesses. In addition, the changes to the rule mostly address grammatical corrections and/or errors, and provide additional clarification to policies that are already in place.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities. The changes to the rule mostly address grammatical corrections and/or errors, and provide additional clarification to policies that are already in place.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There

are no anticipated compliance costs for affected persons. The changes to the rule mostly address grammatical corrections and/or errors, and provide additional clarification to policies that are already in place.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts that this rule may have on businesses. This rule addresses the award and reparation standards and does not affect businesses.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Gary Scheller by phone at 801-238-2362, by FAX at 801-533-4127, or by Internet E-mail at garys@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/17/2016

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2016

AUTHORIZED BY: Gary Scheller, Director

R270. Crime Victim Reparations, Administration.

R270-1. Award and Reparation Standards.

R270-1-1. ~~[Authorization]~~ Authority and Purpose.

As provided in Section 63M-7-506 the purpose of this rule is to provide interpretation and standards for the administration of crime victim reparations.

R270-1-2. Definitions.

- (1) Terms used in this rule are found in Section 63M-7-502.
- (2) In addition:
 - (a) "APRN" means Advanced Practice Registered Nurse;
 - (b) "DOPL" means Utah Department of Commerce, Division of Professional and Occupational Licensing;
 - (c) "primary victim" means a victim who has been directly injured by criminal conduct;
 - (d) "program" means the Victim Services Grant Program, authorized under Section 63M-7-506(1)(i), which allocates money for other victim services once a sufficient reserve has been established for reparations claims; and
 - (e) "secondary victim" means a victim who is not a primary victim but who has a relationship with the victim and was traumatically affected by the criminally injurious conduct that occurred to the victim, including an immediate family member of a victim such

as a spouse, father, mother, stepparents, grandparents, child, brother, sister, stepchild, stepbrother, stepsister, or legal guardian or other

person who the reparations officer reasonably determines bears an equally significant relationship to the primary victim.

R270-1-[2]3. Funeral and Burial Award.

[A-](1) Pursuant to Subsection 63M-7-511(4)(f), total award for funeral and burial expenses is \$7,000 for any reasonable and necessary charges incurred directly relating to the funeral and burial of a victim. This amount includes transportation of the deceased. Allowable expenses in this category may include the emergency acquisition of a burial plot for victims who did not previously possess or have available to them a plot for burial.

[B-](2) Transportation of secondary victims to attend a funeral and burial service shall be considered as an allowable expense in addition to the \$7,000.

[C-](3) Loss of earnings for secondary victims to attend a funeral and burial service shall be allowed as follows:

[1-](a) Three days in-state

[2-](b) Five days out-of-state

[D-](4) When a victim dies leaving no identifying information, claims made by a provider cannot be considered.

R270-1-[3]4. Negligent Homicide and Hit and Run Claims.

[A-](1) Negligent homicide claims shall be considered criminally injurious conduct as defined in Subsection 63M-7-502(9).

[B-](2) Pursuant to Subsection 63M-7-502(9)(a), criminally injurious conduct shall not include victims of hit and run crimes.

R270-1-[4]5. Counseling Awards.

[A-](1) Pursuant to Subsections 63M-7-502(21) and 63M-7-511(4)(c), out-patient mental health counseling awards are subject to limitations as follows:

[1-](a) The ~~[reparation]~~reparations officer shall approve a standardized treatment plan.

[2-](b) The cost of initial evaluation and testing may not exceed \$300 and shall be part of the maximum allowed for counseling. For purposes herein, an evaluation shall be defined as diagnostic interview examination including history, mental status, or disposition, in order to determine a plan of mental health treatment.

[3-](c)(i) Primary victims of a crime shall be eligible for the lesser of 25 aggregate individual and/or group counseling sessions or \$2,500 maximum mental health counseling award.

[4-](ii) Parents, children, spouses and siblings of homicide victims shall be considered at the same rate as primary victims for inpatient and outpatient counseling.

[4-Secondary](d) All other secondary victims of a crime shall be eligible for the lesser of 15 aggregate individual and/or group counseling sessions or \$1,250 maximum mental health counseling award.

[5-](e) Extenuating circumstances warranting consideration of counseling beyond the maximum may be submitted by the mental health provider when it appears likely that the maximum award will be reached.

[6-](f) Counseling costs will not be paid in advance but will be paid on an ongoing basis as victim is being billed.

[7-](2) In-patient hospitalization shall only be considered for primary victims when the treatment has been recommended by a licensed therapist in life-threatening situations. ~~[A direct relationship to the crime needs to be established.]~~ Acute in-patient hospitalization shall not exceed \$600 per day, which includes all ancillary expenses,

and will be considered payment in full to the provider. Inpatient psychiatric visits will be limited to one visit per day with payment for the visit made to the institution at the highest rate of the individuals providing therapy as set by rule. Reimbursement for testing costs may also be allowed. Parents, children, spouses and siblings of homicide victims shall be considered at the same rate as primary victims for inpatient hospitalization. All other secondary victims of other crime types are excluded.

[8-](3) Residential and day treatment shall only be considered for primary victims when the treatment has been recommended by a licensed therapist to stabilize the victim's behavior and symptoms. Only facilities with 24 hour nursing care or 24 hour on call nursing care will be compensated for residential and day treatment. Residential and day treatment shall not be used for extended care of dysfunctional families and containment placements. ~~[A direct relationship to the crime needs to be established.]~~ Residential treatment shall not exceed \$300 per day and will be considered payment in full to the provider. Residential treatment shall be limited to 30 days, unless there are extenuating circumstances requiring extended care. All residential clients shall receive routine assessments from a psychiatrist and/or APRN at least once a week for medication management. Day treatment shall not exceed \$200 per day and will be capped at \$10,000. These charges will be considered payment in full to the provider. Parents, children, spouses and siblings of homicide victims shall be considered at the same rate as primary victims for residential and day treatment. All other secondary victims of other crime types are excluded.

[9-](4) Wilderness programs shall not be covered as an appropriate treatment modality when considering inpatient hospitalization, residential or day treatment.

[10-](5) Child sexual abuse victims under the age of 13 who become perpetrators shall only be considered for mental health treatment awards directly related to the victimization. Perpetrators age 13 and over who have been child sexual abuse victims shall not be eligible for compensation. The ~~[CVRA Board]~~board or contracting agency for managed mental health care shall help establish a reasonable percentage regarding victimization treatment for inpatient, residential and day treatment. Out-patient claims shall be determined by the ~~[Reparation Officer]~~reparations officer on a case by case basis upon review of the mental health treatment plan.

[11-](6) Payment for mental health counseling shall only be made to licensed therapists; or to individuals working towards a license that provide certified verification of satisfactory completion of an education and earned degree as required by the ~~[State of Utah Department of Commerce, Division of Professional and Occupational Licensing]~~DOPL, working under the supervision of a supervisor approved by the ~~[Division]~~DOPL. Student interns otherwise eligible under Subsection 58-1-307(1)(b) Exceptions from licensure, and/or the institution/facility/agency responsible for the supervision of the student, shall not be eligible for payment under this rule for counseling services provided by the student.

[12-](7) Payment of hypnotherapy shall only be considered when treatment is performed by a licensed mental health therapist based upon an approved Treatment Plan.

[13-](8) The following maximum amounts shall be payable for mental health counseling:

(a) up to \$130 per hour for individual and family therapy performed by licensed psychiatrists, and up to \$65 per hour for group therapy;

(b) up to \$90 per hour for individual and family therapy performed by licensed psychologists and up to \$45 per hour for group therapy;

(c) up to \$70 per hour for individual and family therapy performed by a licensed master's level therapist or an ~~Advanced-Practice Registered Nurse~~ APRN, and up to \$35 per hour for group therapy. These rates shall also apply to therapists working towards a license and supervised by a licensed therapist;

(d) The above-mentioned rates shall apply to individuals performing treatment, and not those supervising treatment.

~~[4.](9)~~ Chemical dependency specific treatment will not be compensated unless the ~~Reparation Officer~~ reparations officer determines that it is directly related to the crime. The ~~CVRA Board~~ board may review extenuating circumstance cases.

R270-1-[5]6. Attorney Fees.

Pursuant to Subsection 63M-7-524(2) attorney fees shall be made within the reparation award and not in addition to the award. If an award is paid in a lump sum, the attorney's fee shall not exceed 15% of the total award; if payments are awarded on an ongoing basis, attorney fees will be paid when warrants are generated but not to exceed 15%. When ~~appeal hearing~~ award denials are overturned, attorney fees shall be calculated only on the appealed reparation issue.

R270-1-[6]7. Reparation Awards.

Pursuant to Section 63M-7-503, reparation awards can be made to victims of violent crime where restitution has been ordered by the court but appears unlikely the restitution can be paid within a reasonable time period. However, notification of the award will be sent to the courts, prosecuting attorneys, Board of Pardons or probation and parole counselors indicating any restitution monies collected up to the amount of the award will be forwarded to the ~~Crime Victim Reparations Trust Fund~~ fund.

R270-1-[7]8. Abortion.

Expenses for an abortion that is permitted pursuant to Sections 76-7-301 through 76-7-331 shall be eligible for a reparation award as long as all the requirements of Section 63M-7-511 have been met.

R270-1-[8]9. Emergency Awards.

Pursuant to Section 63M-7-522, emergency awards up to \$1000 can be granted. No time limit is required for filing an emergency claim. Processing of emergency claims is three to five days.

R270-1-[9]10. Loss of Earnings.

~~[A.](1)~~ Pursuant to Subsection 63M-7-511(4)(d), the 66-2/3% of the person's weekly salary or wages is calculated on gross earnings.

~~[B.](2)~~ Loss of earnings for primary and secondary victims may be reimbursed for up to a maximum of twelve (12) weeks work loss, at an amount not to exceed the maximum allowed per week by Worker's Compensation guidelines in effect at the time of work loss. The ~~Crime Victim Reparations and Assistance Board~~ board may review extenuating circumstances on loss of earnings claims for the purpose of consideration and authorization of extensions beyond set limits.

R270-1-[10]11. Moving, Transportation Expenses.

~~[A.](1)~~ Pursuant to Subsection 63M-7-511(4)(a), victims of violent crime who suffer a traumatic experience or threat of bodily harm are allowed moving expenses up to \$1,000. Board approval is needed where extenuating circumstances exist.

~~[B.](2)~~ Transportation expenses up to \$1000 are allowed for crime-related travel including, but not limited to, participation in court hearings and parole hearings as well as medical or mental health visits for primary and secondary victims. The ~~Board~~ board may approve travel expenses in excess of \$1000 where extenuating circumstances exist.

R270-1-[11]12. Collateral Source.

~~[A.](1)~~ ~~Crime Victim Reparations Trust Fund monies~~ Money from the fund shall be used before State Social Services contract monies when considering out-of-pocket expenses in child sexual abuse cases, if the individuals qualify as victims. If the victim qualifies for Medicaid, the contract monies should be used first.

~~[B.](2)~~ ~~Crime Victim Reparations Trust Fund monies~~ Money from the fund shall be used before money from the Utah Medical Assistance Program, established in Section 26-18-10, [funds] when considering allowable benefits for victims of violent crime.

R270-1-[12]13. Record Retention.

~~[A.](1)~~ ~~Pursuant to Section 63M-7-501, retention~~ Retention of ~~Crime Victim Reparations~~ the UOVC annual report and crime victim case files shall be as follows:

~~[1.](2)~~ Annual reports and other statistical information shall be retained in office for a period of three years and then transferred to State Archives.

~~[2.](3)~~ Crime victim case files shall be retained in office as needed for administrative use. After closure or denial of a case file, case file shall be retained in office for one year and then transferred to ~~State Archives~~ the Utah Department of Administrative Services, Division of Archives and Records Service. Case files will be retained in the State Records Center for ~~eleven~~ 99 years and then destroyed.

R270-1-[13]14. Awards.

~~[A.](1)~~ Pursuant to Section 63M-7-521, when billing from the providers exceeds the maximum allowed, the ~~Reparation Officer~~ reparations officer shall pay the bills by the date of service. The ~~Reparation Officer~~ reparations officer shall solicit input from the victim when making this determination. When the services and the billings have occurred at the same time, the ~~Reparation Officer~~ reparations officer shall determine payment on a percentage basis.

(2) Awards will only be granted for costs the reparations officer determines are directly related to or resulting from criminally injurious conduct.

R270-1-[14]15. Essential Personal Property.

~~[A.](1)~~ Pursuant to Subsection 63M-7-511(4)(h), essential personal property covers all personal articles necessary and essential for the health and safety of the victim.

~~[B-](2)~~ The ~~[Reparation Officer]~~ reparations officer may allow up to \$5000 for medically necessary items such as eyeglasses, hearing aids, and wheelchairs. The board may approve expenses for medically necessary items in excess of \$5000 where extenuating circumstances exist.

~~[C-](3)~~ The ~~[Reparation Officer]~~ reparations officer may allow up to \$1500 for essential personal property not included in Subsection (B) such as burglar alarms, door locks, crime scene cleanup, repair of walls and broken windows, etc. The board may approve expenses for essential personal property in excess of \$1500 where extenuating circumstances exist.

R270-1-[15]16. Subrogation.

~~[A-](1)~~ Pursuant to Section 63M-7-519, subrogation monies collected from the perpetrator, insurance, etc., will be placed in the ~~[Crime Victim Reparations Trust Fund]~~ fund and will not be credited toward a particular victim or claimant award amount.

~~[B-](2)~~ Pursuant to ~~[Subsection]~~ Subsections 63M-7-519(2) ~~[(a) and (b)]~~, in such instances where a settlement against a third party appears imminent, the ~~[Director]~~ director may reduce by up to 33% the lesser of; (a) the amount paid by the state; or (b) the amount of the settlement. Reduction in excess of 33% shall be determined by the ~~[CVR Board]~~ board with the concurrence of the ~~[Director]~~ director.

R270-1-[16]17. Unjust Enrichment.

~~[A-]~~ Pursuant to Subsection 63M-7-510(1)(d), the following criteria shall be used when considering claims involving possible unjust enrichment of an offender:

~~[1-](1)~~ Unjust enrichment determination shall not be based solely on the presence of the offender in the household at the time of the award.

~~[2-](2)~~ Awards shall not be denied on the basis that the offender would be unjustly enriched, if the victim cooperates with investigation and prosecution of the crime and does what is possible to prevent access by the offender to substantial compensation.

~~[3-](3)~~ Payment to third party providers shall be made to prevent monies intended for victim expenses be used by or on behalf of the offender.

~~[4-](4)~~ Collateral resources such as court-ordered restitution and medical insurance that are available to the victim from the offender shall be examined. However, the victim shall not be penalized for failure of an offender to meet legal obligations to pay for the cost of the victim's recovery.

~~[5-](5)~~ Factors to be considered in determining whether enrichment is substantial or inconsequential include the amount of the award and whether a substantial portion of the compensation award will be used directly by or on behalf of the offender. If the offender has direct access to a cash award and/or if a substantial portion of it will be used to pay for his living expenses, that portion of the award that will substantially benefit the offender may be reduced or denied. When enrichment is inconsequential or minimal, the award shall not be reduced or denied.

R270-1-[17]18. Prescription or Over-the-Counter Medications.

~~[A-](1)~~ Reimbursement of prescription or over-the-counter medications and/or medication management services used in conjunction with mental health therapy shall be considered only for the duration of an approved Treatment Plan.

~~[B-](2)~~ Reimbursement of prescription or over-the-counter medications used in conjunction with medical treatment shall be considered only during the course of treatment by the physician.

~~[C-](3)~~ Medication management rates shall be limited to a maximum of \$62.50 per thirty minute session.

R270-1-[18]19. Peer Review Committee.

~~[A-]~~ A volunteer Peer Review Committee may be established to review issues and/or provide input to ~~[Crime Victim Reparations]~~ office staff on out-patient mental health counseling claims. The composition, duties, and responsibilities of this Committee shall be defined by the ~~[Crime Victim Reparations and Assistance Board]~~ board by written internal policy and procedure.

R270-1-[19]20. Medical Awards.

~~[A-]~~ Pursuant to Subsection 63M-7-511(4)(b), medical awards are subject to limitations as follows:

~~[1-](1)~~ All medical costs must be related directly to the victimization and all treatment must be considered usual and customary.

~~[2-](2)~~ The ~~[reparation]~~ reparations officer reserves the right to audit any and all billings associated with medical care.

~~[3-](3)~~ The ~~[reparation]~~ reparations officer will not pay any interest, finance, or collection fees as part of the award.

~~[4-a-](4)(i)~~ If the claimant has no medical insurance or other collateral source for payment of the victim's medical bill, ~~[Crime Victim Reparations]~~ the office shall pay 70% of billed charges for eligible medical bills.

~~[b-](ii)~~ If the claimant has medical insurance or another collateral source for payment of the victim's medical bills, ~~[Crime Victim Reparations]~~ the office shall pay the portion of the eligible medical bills that the claimant is obligated to pay pursuant to the insurance agreement.

~~[e-](iii)~~ This ~~[subsection (4)]~~ rule does not apply to expenses governed by R270-1-[4]5 or R270-1-[22]23.

~~[5-](5)~~ This rule supersedes any other agreements regarding payment of medical bills by ~~[Crime Victim Reparations]~~ the office.

~~[6-](6)~~ Child endangerment examinations for children that have been exposed to drugs shall be paid for when the health and safety of the child is at risk and no other collateral source is available. The cost of the exam needs to be an expense incurred by the victim. The writing of evidentiary reports and any form of lab testing shall not be covered as part of the examination.

R270-1-[20]21. Misconduct.

Pursuant to Subsections 63M-7-502(22) and 63M-7-512(1) (b) misconduct shall be considered conduct which contributed to the victim's injury or death or conduct which the victim could have reasonably foreseen could lead to injury or death. In determining whether the victim engaged in misconduct, the ~~[CVR staff]~~ reparations officers shall consider any behavior of the victim that may have directly or indirectly contributed to the victim's injury or death including consent, provocation, verbal utterance, gesture, incitement, prior conduct of the victim or the ability of the victim to have reasonably avoided the incident upon which the claim is based. ~~[CVR staff]~~ Reparations officers shall not consider any behavior or action of any victim that is committed by the victim while under the duress or experience of threat, exploitation, coercion or any circumstance absent

the victim's own willful desire to participate or any behavior or action committed or perceived to have been committed by the victim of any sex crime when determining whether the victim engaged in misconduct.

R270-1-~~21~~22. Three Year Limitation.

Pursuant to Subsections 63M-7-506(1)(c) and 63M-7-525(2) a claim for benefits expires and no further payments will be made with regard to the claim after three years have elapsed from the date of application with ~~[CVR]the office~~. Reparations ~~[Officers]officers~~ may extend claims that have been closed because of the Three Year Limitation rule if extenuating circumstances exist.

R270-1-~~22~~23. Sexual Assault Forensic Examinations.

~~[A-]~~Pursuant to Subsections 63M-7-502(~~21~~20) and 63M-7-511(4)(i), the cost of sexual assault forensic examinations for gathering evidence and providing treatment may be paid by ~~[CVR]the office~~ in the amount of up to \$750.00 for a full examination which must include photo documentation. Pursuant to Section 63M-7-521.5, ~~[CVR]the office~~ may also pay for the cost of medication and/or pharmacological management and consultation provided for the purpose of obtaining free medications and 70% of the eligible hospital services and supplies. Payment to the hospital or other eligible facility for the rent or use of an examination room or space for the purpose of conducting a sexual assault forensic exam shall not exceed \$350.00. The following agency guidelines need to be adhered to when making payments for sexual assault forensic examinations:

~~[1-]~~(1) A sexual assault forensic examination shall be reported by the health care provider who performs the examination to law enforcement.

~~[2-]~~(2) Victims shall not be charged for sexual assault forensic examinations.

~~[3-]~~(3) Victims shall not be required to participate in the criminal justice system or cooperate with law enforcement or prosecuting attorneys as a condition of being provided a sexual assault forensic examination or as a condition of payment being made pursuant to this rule.

~~[4-]~~(4) The agency may reimburse any licensed health care facility that provides services for sexual assault forensic examinations.

~~[5-]~~(5) The agency may reimburse licensed medical personnel trained to gather evidence of sexual assaults who perform sexual assault forensic examinations.

~~[6-]~~~~CVR~~(6) ~~The office~~ may pay for the collection of evidence and not attempt to prove or disprove the allegation of sexual assault.

~~[7-]~~(7) A request for reimbursement shall include the law enforcement case number or be signed by a law enforcement officer, victim/witness coordinator or medical provider.

~~[8-]~~(8) The application or billing for the sexual assault forensic examination must be submitted to ~~[CVR]the office~~ within one year of the examination.

~~[9-]~~(9) The billing for the sexual assault forensic examination shall:

~~[a-]~~(a) identify the victim by name, address, date of birth, Social Security number, telephone number, patient number;

~~[b-]~~(b) indicate the claim is for a sexual assault forensic examination; and

~~[e-]~~(c) itemize services and fees for services.

~~[40-]~~(10) All collateral sources that are available for payment of the sexual assault forensic examination shall be considered before ~~[Crime Victim Reparations Trust Fund monies are]~~money in the fund is used. Pursuant to Subsection 63M-7-513(5), the ~~[Director]director~~ may determine that reimbursement for a sexual assault forensic examination will not be reduced even though a claim could be recouped from a collateral source.

~~[11-]~~(11) Evidence will be collected only with the permission of the victim or the legal guardian of the victim.

~~[12-]~~(12) Restitution for the cost of the sexual assault forensic examination may be pursued by ~~[CVR]the office~~.

~~[13-]~~(13) Payment for sexual assault forensic examinations shall be considered for the following:

~~[a-]~~(a) Fees for the collection of evidence, for forensic documentation only, to include:

~~[i-]~~(i) history;

~~[ii-]~~(ii) physical; and

~~[iii-]~~(iii) collection of specimens and wet mount for sperm.

~~[b-]~~(b) Emergency department services to include:

~~[i-]~~(i) emergency room, clinic room or office room fee;

~~[ii-]~~(ii) cultures for gonorrhea, chlamydia, trichomonas, and tests for other sexually transmitted disease;

~~[iii-]~~(iii) serum blood test for pregnancy;

~~[iv-]~~(iv) morning after pill or high dose oral contraceptives for the prevention of pregnancy; and

~~[v-]~~(v) treatment for the prevention of sexually transmitted disease up to four weeks.

~~[44-]~~(14) The victim of a sexual assault that is requesting payment by ~~[CVR]the Office~~ for services needed or rendered beyond the sexual assault forensic examination needs to submit an application for compensation to the ~~[CVR-]office~~.

R270-1-~~23~~24. Loss of Support Awards.

~~[A-]~~(1) Pursuant to Subsection 63M-7-511(4)(g), loss of support awards shall be covered on death claims only.

~~[B-]~~(2) Except as provided in ~~[Subsection (C)]R270-1-24(3)~~, loss of support awards are available only to minor children of the deceased victim. Payment of the award may be made to the parent or guardian of the minor child on behalf of the minor child.

~~[C-]~~(3) The ~~[Crime Victim Reparations and Assistance Board]board~~ may approve loss of support awards to persons who are not minor children, but were physically and financially dependent on the deceased victim.

~~[R270-1-25. Secondary Victim.~~

~~Secondary victims who are not primary victims pursuant to Subsections 63M-7-502(33) and who are traumatically affected by criminally injurious conduct shall be eligible for compensation as prescribed by the CVRA Board. Secondary victims include only immediate family members (spouse, father, mother, stepparents, grandparents, child, brother, sister, stepchild, stepbrother, stepsister, or legal guardian) or other persons who the Reparation Officer reasonably determines bears an equally significant relationship to the primary victim.]~~

R270-1-~~26~~25. Victim Services.

~~[A-]~~(1) Pursuant to Subsection 63M-7-506(1)(i), ~~[there is established a Victim Services Grant Program]the board may authorize~~

the program when there is a surplus of money in the fund in addition to what is necessary to pay reparation awards and associated administrative costs for the upcoming year.

~~[B.]~~ For purposes of Subsection 63M-7-506(1)(i), "sufficient reserve" means enough funds to sustain the operation of the Crime Victim Reparations program, including administrative costs and reparations payments, for one year.

~~C.~~ The CVRA Board shall annually determine whether a sufficient reserve exists in the Crime Victim Reparation Fund. If a sufficient reserve does not exist, the CVRA Board shall not authorize the Victim Services Grant Program for that year. If a sufficient reserve does exist, the CVRA Board may authorize the Victim Services Grant Program for that year.

~~D.](2)~~ When the ~~[Victim Services Grant Program]program~~ is authorized, the ~~[CVRA Board]board~~:

~~[1.](a)~~ shall determine the amount available for the ~~[Victim Services Grant Program]program~~ for that year;

~~[2.](b)~~ shall announce the availability of ~~[grant]program~~ funds through a request for proposals or other similar competitive process approved by the ~~[Board]board~~; and

~~[3.](c)~~ may establish funding priorities and shall include any priorities in the announcement of ~~[grant]funds~~.

~~[E.](3)~~ Requests for funding shall be submitted on a form approved by the ~~[CVRA Board]board~~.

~~[F.](4)~~ The ~~[CVRA Board]board~~ shall establish a process to review requests for funding and shall make final decisions regarding the approval, modification, or denial of requests for funding. The ~~[CVRA Board]board~~ may award less than the amount determined in ~~[Subsection (D)(1)]R270-1-25(C)(2)(a)~~. The decisions of the ~~[CVRA Board]board~~ may not be appealed.

~~[G.](5)~~ ~~[All awards shall be for a period of not more than one year.]~~ An award by the ~~[CVRA Board]board~~ shall not constitute a commitment for funding in future years. The ~~[CVRA Board]board~~ may limit funding for ongoing projects.

~~[H.](6)~~ Award recipients shall submit quarterly reports to the ~~[Crime Victim Reparations and Assistance Board]board~~ on forms established by the ~~[Director]director~~. The ~~[CVR]office~~ staff shall monitor all victim services grants and provide regular reports to the ~~[CVRA Board]board~~.

R270-1-~~[27]~~26. Nontraditional Cultural Services.

Cultural services rendered in accordance with recognized spiritual or religious methods of healing, legally available in the state of Utah, may be considered for payment. Since a reasonable and customary schedule of charges has not been established, the reparation officer may require the following: a written itemized description of each procedure, function and/or activity performed and an explanation of its benefit to the victim; the location and time involved to perform such services; and a summary of qualifications and experience which allows the service provider to perform the services. Services shall be requested in lieu of traditional treatment methods. Awards shall be deducted from the claimant's outpatient mental health award and shall remain within the allowed limits set upon that benefit. The fund will not pay for intoxicating or psychotropic substances unless prescribed by a medical practitioner licensed to do so. Claim will be denied if no healing benefit can be identified.

KEY: victim compensation, victims of crimes

Date of Enactment or Last Substantive Amendment: ~~[May 13,] 2016~~

Notice of Continuation: June 15, 2016

Authorizing, and Implemented or Interpreted Law: ~~[63M-7-501 et seq.]Title 63M, Chapter 7, Part 5~~

Crime Victim Reparations, Administration **R270-2** Crime Victim Reparations Adjudicative Proceedings

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40688

FILED: 08/23/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is adopted pursuant to Subsection 63M-7-515(1) for the purpose of creating procedures for adjudicating contested determinations made by a reparations officer. The reason for the changes to the rule is to clarify titles throughout the rule.

SUMMARY OF THE RULE OR CHANGE: Title changes were made throughout the rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63M-7-515

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no anticipated costs or savings to the state budget that are expected. The changes to the rule only update certain titles throughout the rule.
- ◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local government that are expected. The changes to the rule only update certain titles throughout the rule.
- ◆ **SMALL BUSINESSES:** There are no anticipated costs or savings to small businesses that are expected. The changes to the rule only update certain titles throughout the rule, and the rule does not apply to small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities that are expected. The changes to the rule only update certain titles throughout the rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated compliance costs for affected persons. The changes to the rule only update certain titles throughout the rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts that this rule will have on businesses. The changes to the rule only update certain titles throughout the rule and do not have an impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
CRIME VICTIM REPARATIONS
ADMINISTRATION
ROOM 200
350 E 500 S
SALT LAKE CITY, UT 84111-3347
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Gary Scheller by phone at 801-238-2362, by FAX at 801-533-4127, or by Internet E-mail at garys@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/17/2016

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2016

AUTHORIZED BY: Gary Scheller, Director

R270. Crime Victim Reparations, Administration.

R270-2. Crime Victim Reparations Adjudicative Proceedings.

R270-2-1. Authority and Purpose.

This rule is adopted pursuant to Subsection 63M-7-515(1) for the purpose of creating procedures for adjudicating contested determinations made by a reparations officer.

R270-2-2. Definitions.

Terms used in this rule are found in Section 63M-7-502.

R270-2-[1]3. Contested Determinations.

Pursuant to Section 63M-7-515(1), the ~~[Director]~~director shall review contested determinations by a ~~[reparation]~~reparations officer or designate the ~~[CVRA Board]~~board to review the contested determination. The ~~[Director]~~director will keep the ~~[CVRA Board]~~board apprised of all contested determinations. The decision of the ~~[Director]~~director or the ~~[CVRA Board]~~board is final and may not be appealed.

R270-2-[2]4. Three Year Limitation.

Pursuant to 63M-7-506(1) and 63M-7-525(2) any right to contest a determination of eligibility or of a benefit by a reparation officer shall expire three years from the date of application with the ~~[UOVC office]~~office. The Director may extend the right to contest a determination after the three year expiration rule if extenuating

circumstances exist or if the claim has already been extended by a reparation officer pursuant to R270-1-2[+]~~2~~.

KEY: appellate procedures, administrative procedures

Date of Enactment or Last Substantive Amendment: ~~[January 7, 2013]~~2016

Notice of Continuation: June 15, 2016

Authorizing, and Implemented or Interpreted Law: ~~[63G-3]~~63M-7-515

**Crime Victim Reparations,
Administration
R270-3
ADA Complaint Procedure**

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 40689

FILED: 08/23/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is being repealed because it is not specifically required under federal regulations, and the Office intends for it to be implemented elsewhere.

SUMMARY OF THE RULE OR CHANGE: The rule was adopted to establish grievance procedures to provide for prompt and equitable resolution of complaints alleging any action prohibited by Title II of the Americans with Disabilities Act, pursuant to 28 CFR 35.107, 1992 edition. The Office intends for the procedure to be implemented elsewhere. This rule is repealed in its entirety.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 63M, Chapter 7

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There are no anticipated costs or savings to the state budget that are expected as a result of the repeal of this rule. The Office intends for the procedure to be implemented elsewhere.

♦ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local government that are expected as a result of the repeal of this rule. The Office intends for the procedure to be implemented elsewhere.

♦ **SMALL BUSINESSES:** There are no anticipated costs or savings to small businesses that are expected as a result of the repeal of this rule. The Office intends for the procedure to be implemented elsewhere.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities that are expected as a result of the repeal of this rule.

The Office intends for the procedure to be implemented elsewhere.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated compliance costs for affected persons that are expected as a result of the repeal of this rule. The Office intends for the procedure to be implemented elsewhere.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts that this rule may have on businesses. The rule is being repealed, and the Office intends for the procedure to be implemented elsewhere.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
CRIME VICTIM REPARATIONS
ADMINISTRATION
ROOM 200
350 E 500 S
SALT LAKE CITY, UT 84111-3347
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Gary Scheller by phone at 801-238-2362, by FAX at 801-533-4127, or by Internet E-mail at garys@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/17/2016

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2016

AUTHORIZED BY: Gary Scheller, Director

R270. Crime Victim Reparations, Administration.

[R270-3. ADA Complaint Procedure.

R270-3-1. Authority and Purpose.

(1) The Office of Crime Victim Reparations adopts this grievance procedures rule to provide for prompt and equitable resolution of complaints alleging any action prohibited by Title II of the Americans with Disabilities Act, pursuant to 28 CFR 35.107, 1992 edition.

(2) No qualified individual with a disability shall, by reason of such disability, be excluded from or be denied the benefits of the services, programs, or activities or be subjected to discrimination by the Office of Crime Victim Reparations.

R270-3-2. Definitions.

(1) "ADA Coordinator" means the Support Services Coordinator of the Office of Crime Victim Reparations.

(2) "Disability" means, with respect to a qualified individual with a disability, a physical or mental impairment that substantially limits one or more of the major life activities of such an individual; a record of such an impairment; or being regarded as having such an impairment.

(3) "Major life activities" mean functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(4) "Qualified individual with a disability" means an individual with a disability, who with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the Office of Crime Victim Reparations.

R270-3-3. Filing of Complaints.

(1) Any qualified individual with a disability may file a complaint within 180 days of the alleged noncompliance with the provision to Title II of the Americans with Disabilities Act of 1990 or the regulations promulgated thereunder. Complaints should be filed within 60 days to assure prompt, effective assessment and consideration of the facts and to allow time to pursue other available remedies, if necessary. However, any complaint alleging an act of discrimination occurring between January 26, 1992 and the effective date of this rule may be filed within 180 days of the effective date of this rule. The filing of a complaint or of a subsequent appeal is authorization by the complainant to allow necessary parties to review all relevant information, including records classified as private or controlled under the Government Records Access and Management Act and information otherwise protected by statute, rule, regulation, or other law.

(2) The complaint shall be filed with the ADA Coordinator in writing or in another accessible format suitable to the complainant.

(3) Each complaint shall:

(a) include the complainant's name and address;

(b) include the nature and extent of the individual's disability;

(c) describe the office's alleged discriminatory action in sufficient detail to inform the office of the nature and date of the alleged violation;

(d) describe the action and accommodation desired; and

(e) be signed by the complainant or by the complainant's legal representative.

(4) Complaints filed on behalf of classes or third parties shall describe or identify by name, if possible, the alleged victims of discrimination.

(5) If the complaint is not in writing, the ADA Coordinator shall transcribe or otherwise reduce the complaint to writing upon receipt of the complaint.

R270-3-4. Investigation of Complaints.

(1) The ADA Coordinator shall investigate complaints to the extent necessary to assure all relevant facts are collected and documented. This may include gathering all information listed in Subsection R270-3-3(3) of this rule if it is not made available by the complainant.

(2) The ADA Coordinator may seek assistance from the State of Utah Attorney General's Office, Department of Human Resource Management, and budget staff, in determining what action, if any, should be taken on the complaint. The ADA Coordinator may also consult with the Director of the Office of Crime Victim Reparations in reaching a recommendation. The ADA Coordinator

shall consult with representatives from other state agencies that could be affected by the decision, including the Office of Planning and Budget, the Department of Human Resource Management, the Division of Risk Management, the Division of Facilities Construction Management, and the Office of the Attorney General, before making any recommendation that would involve:

- _____ (a) an expenditure of funds beyond what is reasonably able to be accommodated within the applicable line item such that it would require a separate appropriation;
- _____ (b) facility modifications; or
- _____ (c) reclassification or reallocation in grade.

R270-3-5. Recommendation and Decision.

_____ (1) Within 15 business days after receiving the complaint, the ADA Coordinator shall recommend to the Director what action, if any, should be taken on the complaint. The recommendation shall be in writing or in another accessible format suitable to the complainant.

_____ (2) If the ADA Coordinator is unable to make a recommendation within the 15 business day period, he/she shall notify the complainant in writing or in another accessible format suitable to the complainant stating why the recommendation is delayed and what additional time is needed.

_____ (3) The Director may confer with the ADA Coordinator and the complainant and may accept or modify the recommendation to resolve the cause of the complaint. The Director shall make a decision within 15 business days. The Director shall take all reasonable steps to implement the decision. The decision shall be in writing or in another accessible format suitable to the complainant.

R270-3-6. Appeals.

_____ (1) The complainant may appeal the Director's decision to the Executive Director of the Commission on Criminal and Juvenile Justice within ten business days from the receipt of the decision.

_____ (2) The appeal shall be in writing or in another accessible format reasonably suited to the complainant's ability.

_____ (3) The Executive Director may name a designee to assist on the appeal. The ADA Coordinator may not be the Executive Director's designee for the appeal.

_____ (4) The appeal shall describe in sufficient detail why the decision does not meet the complainant's needs without causing undue hardship to the office.

_____ (5) The Executive Director or designee shall review the ADA Coordinator's recommendation, the Director's decision, the points raised on appeal, and may direct additional investigation as necessary, prior to reaching a decision. The Executive Director shall consult with representatives from other state agencies that could be affected by the decision, including the Office of Planning and Budget, the Department of Human Resource Management, the Division of Risk Management, the Division of Facilities Construction Management, and the Office of the Attorney General, before making any decision that would involve:

- _____ (a) an expenditure of funds beyond what is reasonably able to be accommodated within the applicable line item such that it would require a separate appropriation;
- _____ (b) facility modifications; or
- _____ (c) reclassification or reallocation in grade.

_____ (6) The Executive Director shall issue a decision within 15 business days after receiving the appeal. It shall be in writing or in another accessible format suitable to the complainant.

_____ (7) If the Executive Director or the Executive Director's designee is unable to reach a decision within the 15 business day period, that person shall notify the complainant in writing or by another accessible format suitable to the complainant stating why the decision is being delayed and the additional time needed to reach a decision.

R270-3-7. Relationship to Other Laws.

_____ This rule does not prohibit or limit the use of remedies available to individuals under the State of Utah Antidiscrimination Complaint Procedures, the Federal ADA Complaint Procedures, or any other State of Utah or federal law that provides equal or greater protection for the rights of individuals with disabilities.

KEY: ADA complaint procedures

Date of Enactment or Last Substantive Amendment: 1994

Notice of Continuation: May 12, 2014

Authorizing, and Implemented or Interpreted Law: 34-35]

Health, Disease Control and
Prevention, Health Promotion
R384-205
Opiate Overdose Outreach Pilot
Program

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 40709

FILED: 08/26/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to provide procedures for distribution of funds from the Opioid Overdose Outreach Pilot Program established by Title 26, Chapter 55. This rule is being filed to replace the 120-day emergency rule in order to make the rule permanent. (Editor's Note: The 120-day (emergency) rule is under Filing No. 40549 in the July 15, 2016, issue of the Bulletin and is effective as of 07/01/2016.)

SUMMARY OF THE RULE OR CHANGE: This rule establishes procedures and application processes pursuant to Title 26, Chapter 55, for the Utah Department of Health to provide funds to pay for the purchase of an opiate antagonist or to pay for the cost of providing training on the proper administration of an opiate antagonist in response to an opiate-related drug overdose event. This rule is being filed to replace the 120-day emergency rule in order to make the rule permanent.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-55-107

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This rule contains procedures for distribution of funds from the Opioid Overdose Outreach Pilot Program established by Utah Code Title 26, Chapter 55. There may be savings in preventing individuals from requiring treatment in an emergency department or in hospitalization but those costs are hard to measure. The pilot program will make approximately \$150,000 in one-time funding available through a grant application process to organizations implementing opioid overdose prevention strategies. The funds allocated for the pilot project grants is \$150,000. There will be an increase in workload at the Department to administer this program, but these costs will be covered by existing funding.

◆ **LOCAL GOVERNMENTS:** The only costs would be if some local governments choose to apply for the grants. The Department has no way of determining the salary of staff or time involved in applying and administering the program. Costs associated with completing the grant application will be incurred by the organizations applying. Costs incurred by the organizations for the administering the program cannot be covered by the grant per Subsection 26-55-107(5)(b). There may be savings in preventing individuals from requiring treatment in an emergency department or in hospitalization but those costs would be hard to measure.

◆ **SMALL BUSINESSES:** Some small pharmacies could lose sales of naloxone kits due to the pilot program, although our experience has been that small pharmacies do not carry naloxone kits because they are too expensive. Some small non-profit business involved with those at high risk for misusing and abusing opioids will qualify and may choose to apply for the grants. The Department has no way of determining the salary of staff or time involved in applying and administering the program. Costs associated with completing the grant application will be incurred by the organizations applying. Costs incurred by the organizations for the administering the program can not be covered by the grant per Subsection 26-55-107(5)(b).

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule will not result in direct, measurable costs for other persons. There may be savings in preventing individuals from requiring treatment in an emergency department or in hospitalization costs but those costs would be difficult to measure. Some pharmacies could lose sales of naloxone kits due to the pilot program, but that would be difficult to anticipate or measure.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule provides procedures for distribution of funds from the Opioid Overdose Outreach Pilot Program established by Title 26, Chapter 55, which will not result in any compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule is filed because the emergency rule that was previously filed was done in order to comply with H.B. 192 from the 2016 General Session which required that the

Department adopt a rule to establish procedures to distribute funds from the Opioid Overdose Outreach Pilot Program by July 1, 2016, and this filing will make the rule permanent. There may be a slight fiscal impact on the few small pharmacies that sell naloxone kits since program funds may be used for such kits.

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

HEALTH
DISEASE CONTROL AND PREVENTION,
HEALTH PROMOTION
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Trisha Keller by phone at 801-538-6865, by FAX at 801-538-9134, or by Internet E-mail at trishakeller@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/17/2016

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2016

AUTHORIZED BY: Joseph Miner, MD, Executive Director

R384. Health, Disease Control and Prevention, Health Promotion.

R384-205. Opiate Overdose Outreach Pilot Program.

R384-205-1. Authority and Purpose.

This rule establishes procedures and application processes pursuant to Title 26 Chapter 55 Opiate Overdose Response Act for the Utah Department of Health. Funding will provide for the purchase of an opiate antagonist; and/or for the cost of training on the proper administration of an opiate antagonist, in response to an opiate-related drug overdose event.

R384-205-2. Definitions.

(1) The following definitions apply to this rule:

(a) "Department" means the Utah Department of Health Violence and Injury Prevention Program.

(b) "Harm Reduction" means services that are aimed at reducing negative consequences associated with drug use.

(c) "High risk populations" means tribal communities, rural communities, geographic areas and/or populations with significantly high rates of opioid abuse, misuse, or overdose.

(d) "Opiate antagonist" is as defined in Subsection 26-55-102(8).

R384-205-3. Application Process.

(1) The Department will establish an Opiate Overdose Outreach grant application process and packet on an annual basis, as funding is available. The packet will include the review schedule, submission details, review criteria and eligibility details. The application packet with all details will be posted on the Utah

Department of Health Violence and Injury Prevention Program website.

R384-205-4. Criteria for Application for the Opiate Overdose Outreach Pilot Program.

(1) Eligible applicants may include organizations as defined in Subsection 26-55-107(1) which includes organizations that provide harm reduction services, and an overdose outreach provider as defined in Subsection 26-55-102(10)(e),(f)and(g).

(2) Additional weight for awarding a grant will be given based on applicant's ability to demonstrate:

- (a) how they will serve high risk populations and
- (b) size of population served.

R384-205-5. Criteria for Funding Allocation.

(1) The Department shall select a grant allocation committee. The committee will include five professionals from one or more of the following professions:

- (a) health care,
- (b) pharmacy,
- (c) public health, and
- (d) emergency medical services.

(2) The committee will review the applications and assign a score based on the following evaluation criteria of the application:

- (a) Demonstrated burden and identified target audience,
- (b) Capacity to reach target audience,
- (c) Ability to operate under deadline, and
- (d) Detailed budget breakdown.

(3) Allocation of funding for each application will be based upon the criteria outlined in the Scope of Services and Requirements section of the grant application.

(4) Applicant's funding request shall meet the criteria stated in Subsection 26-55-107(7)(b)(ii) as it relates to training costs.

(5) Funding will be allocated according to applicant scores.

R384-205-6. Report Requirements.

The grantee shall submit an annual report to the Department in accordance to Subsection 26-55-107(7)(d).

R384-205-7. Audit Provisions.

The grantee shall record, preserve, and make data available for audit by the Department. The retention schedule shall be according to that specified in the application packet when applying for funding.

KEY: opioids, naloxone, overdoses, prescription drugs
Date of Enactment or Last Substantive Amendment: 2016
Authorizing, Implemented, or Interpreted Law: 26-55-107

**Natural Resources; Oil, Gas And
Mining; Oil And Gas
R649-3-32
Reporting of Undesirable Events**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40716

FILED: 08/26/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to establish standards for oil and gas companies to report the release of fluids or natural gas to the environment. The main reason for the change is to improve the readability of the rule with significant restructuring of the prior provisions plus update the standards for fluid and natural gas releases.

SUMMARY OF THE RULE OR CHANGE: This rule section establishes standards for oil and gas companies to report the release of fluids or natural gas to the environment. The significant changes include restructuring this section for improved readability, clarifying that the division shall be notified of major and minor reportable events as described, increasing the quantity standard for natural gas from a transportation facility since it pertains to multiple wells and is reported on another form, and lowering the quantity standard for fluid release reporting to five barrels which matches an adjacent state.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 40-6-5(3)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** No material costs or savings are expected from this change to Section R649-3-32. The quantity standard changes will not have a material impact to the expenses of the division.

◆ **LOCAL GOVERNMENTS:** Local government is not impacted by this rule change because oil and gas companies are the parties regulated by this rule.

◆ **SMALL BUSINESSES:** Oil and gas production in 2015 resulted in 94% of the quantity from companies larger than a small business. For oil and gas wells drilled and completed in 2014 and 2015, 98% were operated by companies larger than a small business. Gas pipelines and processing facilities normally are not small businesses. Since the rule requires reporting unauthorized releases of fluids and natural gas via one phone call if a major event occurs and one subsequent written report if a major or minor release occurs, the impact of the rule change from a 10- to 5-barrel standard to small business is minimal, when considering they represent 2% to 6% of the total.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Parties other than small businesses, businesses, or local government are not impacted by this rule since the rule impacts oil and gas companies operating in Utah.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Costs will decrease for gas transportation and processing facilities since major events will begin at 1,500 vs. 500 Mcf, thus eliminating a call to the division within 24 hours. One larger

processing company will see a 17% reduction in major reportable events due to the 500 to 1,500 Mcf change. Alternatively, well operators will begin fluid release reportings between 5 and 10 barrels as a minor reportable event, only requiring a subsequent report of 7 questions. Based upon the number of fluid releases reported between 10 and 15 barrels, the increase in number of minor events is estimated at 9.5%. The trade associations support this change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Companies who gather, transport, and process natural gas will have a reduced fiscal impact while the individual oil and gas well operators will encounter a small increase in reporting for minor fluid releases at wellsites. The restructuring of the rule will also bring improved clarity to the reporting standards, which is more efficient for all companies. The division has worked collaboratively with stakeholders and analyzed nearby state rules on this topic, and consequently, the industry associations and SITLA support this repeal and reenactment.

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

NATURAL RESOURCES
OIL, GAS AND MINING; OIL AND GAS
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Steve Schneider by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/17/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 09/28/2016 10:00 AM, Department of Natural Resources, 1594 W North Temple, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 11/01/2016

AUTHORIZED BY: John Baza, Director

R649. Natural Resources; Oil, Gas and Mining; Oil and Gas.

R649-3. Drilling and Operating Practices.

[R649-3-32. Reporting of Undesirable Events.

1. The division shall be notified of all fires, leaks, breaks, spills, blowouts, and other undesirable events occurring at any oil or gas drilling, producing, or transportation facility, or at any injection or disposal facility.

~~2. Immediate notification shall be required for all major undesirable events as outlined in R649-3-32-5.~~

~~2.1. Immediate notification shall mean a verbal report submitted to the division as soon as practical but within a maximum of 24 hours after discovery of an undesirable event.~~

~~2.2. A complete written report of the incident shall also be submitted to the division within five days following the conclusion of an undesirable event.~~

~~2.3. The requirements for written reports are specified in R649-3-32-4.~~

~~3. Subsequent notification shall be required for all minor undesirable events as outlined in R649-3-32-6.~~

~~3.1. Subsequent notification shall mean a complete written report of the incident submitted to the division within five days following the conclusion of an undesirable event.~~

~~3.2. The requirements for written reports are specified in R649-3-32-4.~~

~~4. Complete written reports of undesirable events may be submitted on Form 9, Sundry Notice and Report on Wells. The report shall include:~~

~~4.1. The date and time of occurrence and, if immediate notification was required, the date and time the occurrence was reported to the Division.~~

~~4.2. The location where the incident occurred described by section, township, range, and county.~~

~~4.3. The specific nature and cause of the incident.~~

~~4.4. A description of the resultant damage.~~

~~4.5. The action taken, the length of time required for control or containment of the incident, and the length of time required for subsequent cleanup.~~

~~4.6. An estimate of the volumes discharged and the volumes not recovered.~~

~~4.7. The cause of death if any fatal injuries occurred.~~

~~5. Major undesirable events include the following:~~

~~5.1. Leaks, breaks or spills of oil, salt water or oil field wastes that result in the discharge of more than 100 barrels of liquid; that are not fully contained on location by a wall, berm, or dike.~~

~~5.2. Equipment failures or other accidents that result in the flaring, venting, or wasting of more than 500 Mcf of gas.~~

~~5.3. Any fire that consumes the volumes of liquid or gas specified in R649-3-32-5.1 and R649-3-32-5.2.~~

~~5.4. Any spill, venting, or fire, regardless of the volume involved, that occurs in a sensitive area stipulated on the approval notice of the initial APD for a well, e.g., parks, recreation sites, wildlife refuges, lakes, reservoirs, streams, urban or suburban areas.~~

~~5.5. Each accident that involves a fatal injury.~~

~~5.6. Each blowout, loss of control of a well.~~

~~6. Minor undesirable events include the following:~~

~~6.1. Leaks, breaks or spills of oil, salt water, or oil field wastes that result in the discharge of more than ten barrels of liquid and are not considered major events in R649-3-32-5.~~

~~6.2. Equipment failures or other accidents that result in the flaring, venting or wasting of more than 50 Mcf of gas and are not considered major events in R649-3-32-5.~~

~~6.3. Any fire that consumes the volumes of liquid or specified in R649-3-32-6.1 and R649-3-32-6.2.~~

~~6.4. Each accident involving a major or life-threatening injury.]~~

R649-3-32. Incident Reporting.

1. The division shall be notified of major and minor reportable events occurring at any oil or gas drilling, producing, transportation, gathering, or processing facility, or at any injection or disposal facility.

2. Major reportable events include the following:

2.1. Unauthorized release of more than 25 barrels of oil, salt water, oil field chemicals, or oil field wastes.

2.2. Unauthorized flaring, venting, or wasting of:

2.2.1. More than 500 Mcf of gas at any drilling or producing well site, or at any injection or disposal facility; or

2.2.2. More than 1500 Mcf of gas at any transportation, gathering, or processing facility.

2.3. Any fire that consumes the volumes of liquid or gas specified in R649-3-32-2.1 and R649-3-32-2.2.

2.4. Any spill, venting, or fire, regardless of the volume involved, that occurs in a sensitive area, e.g., parks, recreation sites, wildlife refuges, lakes, reservoirs, streams, urban or suburban areas.

2.5. Each accident that involves a fatal injury.

2.6. Each blowout, loss of control of a well.

2.7. Each release of gas containing 100 or more parts per million of hydrogen sulfide (H₂S) that is not controlled.

3. Notification for all major reportable events will include:

3.1. A verbal report submitted to the division as soon as practical but within a maximum of 24 hours after discovery of a reportable event; and

3.2. A complete written report of the incident submitted on the Incident Report Form on the division website within five days following the conclusion of a reportable event.

4. Minor reportable events include the following:

4.1. Unauthorized release of more than five barrels and up to 25 barrels of oil, salt water, oil field chemicals, or oil field wastes.

4.2. Unauthorized flaring, venting or wasting of more than 50 Mcf and up to 500 Mcf of gas at any drilling or producing well site, or at any injection or disposal facility; or

4.3. Unauthorized venting or wasting of more than 50 Mcf and up to 1500 Mcf of gas at any transportation, gathering, or processing facility.

4.4. Any fire that consumes the volumes of liquid or gas specified in R649-3-32-4.1 and R649-3-32-4.2.

4.5. Each accident involving a major or life-threatening injury.

5. Notification for all minor reportable events will include a complete written report of the incident submitted on the Incident Report Form on the division website within five days following the conclusion of a reportable event.

6. Complete written reports of major and minor reportable events shall include:

6.1. The date and time of occurrence and, if immediate notification was required, the date and time the occurrence was reported to the division.

6.2. The location where the incident occurred, described by section, township, range, and county.

6.3. The specific nature and cause of the incident.

6.4. A description of the resultant damage.

6.5. The action taken, the length of time required for control or containment of the incident, and the length of time required for subsequent cleanup.

~~6.6. An estimate of the volumes discharged and the volumes not recovered.~~

~~6.7. The cause of death if any fatal injuries occurred.~~

~~6.8. Other information as required by the division's Incident Report Form.~~

KEY: oil and gas law

Date of Enactment or Last Substantive Amendment: [~~February 26, 2015~~]2016

Notice of Continuation: February 3, 2012

Authorizing, and Implemented or Interpreted Law: 40-6-1 et seq.; 40-6-5; 40-6-20; 40-6-21

Pardons (Board of), Administration
R671-201
 Original Hearing Schedule and Notice

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40708

FILED: 08/25/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule change is to require the Board to set earlier original hearings for individuals who committed a homicide offense as a minor and individuals sentenced to three years to life.

SUMMARY OF THE RULE OR CHANGE: Original hearings for individuals who committed a homicide offense as a minor will be set at less than 15 years. Original hearings for individuals sentenced to 3 years to life will be scheduled after the service of 12 months as opposed to the previous requirement of 3 years. (Editor's Note: A corresponding 120-day (emergency) rule filing to Rule R671-201 that is effective as of 08/25/2016 is under Filing No. 40707 in this issue, September 15, 2016, Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art VII Sec 12 and Section 77-27-5 and Section 77-27-7 and Section 77-27-9

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** Hearings are already required. The change only affects the timing of the hearing and does not create any revenue or increase costs for the agency.

♦ **LOCAL GOVERNMENTS:** Local government does not participate in parole hearings and is not impacted by the proposed change.

♦ **SMALL BUSINESSES:** Small business does not participate in parole hearings and is not impacted by the proposed change.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The inmate benefits by having an earlier review of the inmates' parole status. Parole hearings are at no cost to the inmate. The proposed change does not create any cost to the inmate.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Parole hearings are at no cost to the inmate. The proposed change does not create any cost to the inmate.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses are not involved in parole hearings and will not be impacted. The change only moves up the date of the original hearing.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 PARDONS (BOARD OF)
 ADMINISTRATION
 ROOM 300
 448 E 6400 S
 SALT LAKE CITY, UT 84107-8530
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Greg Johnson by phone at 801-261-6454, by FAX at 801-261-6481, or by Internet E-mail at gregjohnson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/23/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
 ◆ 09/21/2016 08:30 AM, Board of Pardons, 448 E Winchester, Suite 300, Murray, UT

THIS RULE MAY BECOME EFFECTIVE ON: 10/31/2016

AUTHORIZED BY: Angela Micklos, Chair

R671. Pardons (Board of), Administration.
R671-201. Original Hearing Schedule and Notice.
R671-201-1. Schedule and Notice.

(1)(a) Within six months of an offender's commitment to prison the Board shall give notice of the month and year in which the inmate's original hearing will be conducted.

(b) A minimum of seven days prior notice should be given regarding the specific day and approximate time of such hearing.

(2)(a) Homicide offense commitment, for purposes of this rule, means a prison commitment to serve a sentence for a conviction of aggravated murder (if the sentence includes the possibility of parole), murder, felony murder, manslaughter, child abuse homicide, negligent homicide, automobile homicide, homicide by assault, any attempt, conspiracy or solicitation to commit any of these offenses, and any other offense, regardless of title, description or severity, when it is

known at the time of sentencing that the offense conduct resulted in the death of any person.

(b) Sexual offense commitment, for purposes of this rule, means a prison commitment to serve a sentence for a conviction of any crime for which an offender is defined as a kidnap offender pursuant to Utah Code Ann. Subsection 77-41-102(9); or for which an offender is defined as a sex offender pursuant to Utah Code Ann. Subsection 77-41-102(16); or any attempt, conspiracy or solicitation to commit any of the offenses listed in those sections.

(3)(a) All homicide offense commitments eligible for parole shall be routed to the Board as soon as practicable for the determination of the month and year for an original hearing.

(b) The Board shall determine, by majority vote, the month and year of an original hearing for an offender serving a homicide offense commitment.

(c) In setting an original hearing for a homicide offense commitment, the Board shall only consider information available to the court or offender at the time of sentencing.

(d) Homicide offense commitments not eligible for parole, [including sentences of life without parole or death], ~~shall~~ may not be scheduled for original hearings.

(e) If the offender is less than 18 years of age at the time of the homicide offense and the offense is eligible for parole, the original hearing shall be scheduled no later than 15 years after the date of sentencing.

(4) If the offender is less than 18 years of age at the time of commitment and the offense is eligible for parole, the case shall be routed to the Board as soon as practicable for the determination, by majority vote, of the month and year for an original hearing.

(5) When an offender's prison commitment does not include a homicide offense commitment, an offender is eligible to have an original hearing before the Board as follows:

(a) After the service of fifteen years for first degree felony commitments when the most severe sentence imposed and being served is a sentence greater than 15 years to life, excluding enhancements.

(b) After the service of seven years for first degree felony commitments when the most severe sentence imposed and being served is a sentence of 10 years to life, or 15 years to life, excluding enhancements.

(c) After the service of three years for all other first degree felony commitments.

(d) After the service of twelve months if the most serious offense of incarceration is: (i) a second degree felony sexual offense commitment; or (ii) a first degree felony which is three to life.

(e) After the service of six months for all other second degree felony commitments.

(f) After the service of six months if the most serious offense of incarceration is a third degree felony sexual offense commitment.

(g) After the service of three months for all other third degree felony and class A misdemeanor commitments.

(6)(a) An offender may request that their original appearance and hearing before the Board be scheduled other than as provided by this rule. An offender's request shall specify the extraordinary circumstances or reasons which give rise to the request. The Board may grant or deny the offender's request in its sole discretion.

(b) The Board may, in its discretion, depart from the schedule as provided by this rule if:

- (i) an offender requests a continuance due to extraordinary circumstances;
- (ii) an offender has unadjudicated criminal charges pending at the time a hearing would normally be scheduled;
- (iii) a Class A misdemeanor commitment has expired prior to an original hearing; or
- (iv) the Board determines that other unusual or extraordinary circumstances impact the setting of an original hearing.

KEY: parole, inmates, hearings

Date of Enactment or Last Substantive Amendment: [~~October 15, 2015~~]2016

Notice of Continuation: September 22, 2014

Authorizing, and Implemented or Interpreted Law: Art VII, Sec 12; 77-27-5; 77-27-7; 77-27-9

**Public Service Commission,
Administration
R746-310
Uniform Rules Governing Electricity
Service by Electric Utilities**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40704

FILED: 08/25/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this proposed amendment is to update the rule in three respects: 1) update the version of the referenced National Electrical Safety Code to the 2017 edition; 2) update the version of the referenced American National Standards for Electricity Metering to the 2014 edition; and 3) update the version of the reference American National Standard for Electric Power Systems and Equipment Voltage Ratings to the 2011 edition.

SUMMARY OF THE RULE OR CHANGE: Presently, Rule R746-310 incorporates by reference the 2007 edition of the National Electrical Safety Code (NESC) and 2001 and 2006 editions of the American National Standards Institute's (ANSI) electricity industry codes. More recent versions of these codes have been adopted by their publishers. The rule presently incorporates a portion of the 2007 edition of the NESC, specifically "C2-2017", which covers basic provisions for safeguarding persons from hazards arising from the installation, operation, or maintenance of certain electric facilities and work rules for the construction, maintenance, and operation of those facilities. The 2017 version updates certain definitions, simplifies minimum approach tables and voltage exposure for arc flash, and clarifies certain engineering parameters with respect to wire attention and

ungrounded portions of guys and swimming pools. With respect to the ANSI, the rule presently incorporates sections "C12.1-2001" and "C84.1-2006". The proposed change would update these to "C12.1-2014" and "C84.1-2011", respectively. The latter four digits in each section indicate the year the publisher adopted the referenced version. C12.1-2014 establishes acceptable performance criteria for new types of AC watt-hour meters, demand meters, demand registers, pulse devices, and auxiliary devices. The 2014 update contains several revisions to respond to changes in the industry, addressing performance requirements, accuracy tests, the effect of high voltage line surges, the effect of operating temperature, the effective of relative humidity, and establishing a testing schedule. C84.1-2011 establishes nominal voltage ratings and operating tolerances for 60-hertz electric power systems above 100 volts. It includes preferred voltage ratings up to and including 1,200 kV maximum system voltage, as defined in the standard. The 2011 edition updates a table to reflect changes in lighting characteristics.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 54-4-1 and Section 54-4-18

MATERIALS INCORPORATED BY REFERENCE:

- ◆ Updates 2017 National Electrical Safety Code (NESC) C2-2017, published by IEEE Standard Association, 04/26/2016
- ◆ Updates Approved American National Standard, published by National Electrical Manufacturers Association, 02/01/2016
- ◆ Updates Approved American National Standard, published by National Electrical Manufacturers Association, 01/17/2012

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The proposed rule changes should not result in any costs to the State because the changes merely adopt modest technical revisions to standards that are already incorporated and enforced. Public Service Commission purchased two copies of each publication, and the cost is as follows: IEEE-C2-2017 - \$302, ANSI C84.1-2011 - \$176, ANSI C12.1-2014 - \$492.
- ◆ **LOCAL GOVERNMENTS:** The rule applies to utilities furnishing electricity in Utah. Local governments operating utilities are already expected to operate pursuant to prudent and customary industry standards. No anticipated costs are expected.
- ◆ **SMALL BUSINESSES:** The rule applies to operators of electric utilities and no impact on small business is anticipated.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The rule applies to utilities furnishing electricity in Utah, and no effects on persons other than utilities are anticipated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for affected persons are not expected because this rule change simply adopts prevailing standards and practices for electric utilities.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed rule change adopts and formalizes current operating practices and requirements. Therefore, the proposed rule change will not result in any additional costs.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PUBLIC SERVICE COMMISSION
ADMINISTRATION
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Michael Hammer by phone at 801-530-6729, or by Internet E-mail at michaelhammer@utah.gov
- ◆ Sheri Bintz by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/17/2016

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2016

AUTHORIZED BY: Michael Hammer, Administrative Law Judge

R746. Public Service Commission, Administration.

R746-310. Uniform Rules Governing Electricity Service by Electric Utilities.

R746-310-1. General Provisions.

A. 1. Scope and Applicability -- The following rules apply to the methods and conditions for service employed by utilities furnishing electricity in Utah.

2. A utility may petition the Commission for an exemption from specified portions of these rules in accordance with R746-100-15, Deviation from Rules.

B. Definitions --

1. "Capacity" means load which equipment or electrical system can carry.

2. "CFR" means the Code of Federal Regulations, 1998 edition.

3. "Commission" means the Public Service Commission of Utah.

4. "Contract Demand" means the maximum amount of kilowatt demand that the customer expects to use and for which the customer has contracted with the utility.

5. "Customer" means a person, firm, partnership, company, corporation, organization, or governmental agency supplied with electrical power by an electric utility subject to Commission jurisdiction, at one location and at one point of delivery.

6. "Customer's Installation" means the electrical wiring and apparatus owned by the customer and installed by or for the customer to facilitate electric service and which is located on the customer's side of the point of delivery of electric service.

7. "Customer meter" or "meter" means the device used to measure the electricity transmitted from an electric utility to a customer.

8. "Demand" means the rate in kilowatts at which electric energy is delivered by the utility to the customer at a given instant or averaged over a designated period of time.

9. "Electric service" means the availability of electric power and energy at the customer's point of delivery at the approximate voltage and for the purposes specified in the application for electric service, electric service agreement or contract, irrespective of whether electric power and energy is actually used.

10. "Energy" means electric energy measured in kilowatt-hours--kWh. For billing purposes energy is the customer's total use of electricity measured in kilowatt-hours during any month.

11. "FERC" means the Federal Energy Regulatory Commission.

12. "Month" means the period of approximately 30 days intervening between regular successive meter reading dates.

13. "National Electrical Safety Code" means the 20[07]17 edition of the National Electrical Safety Code, C2-20[07]17, as [approved]promulgated by the Institute of Electrical and Electronics Engineers[~~American National Standards Institute, ISBN 07-7381-4893-8~~], which is incorporated by reference.

14. "Point of delivery" means the point, unless otherwise specified in the application for electric service, electric service agreement or contract, at which the utility's service wires are connected with the customer's wires or apparatus. If the utility's service wires are connected with the customer's wire or apparatus at more than one point, each connecting point shall be considered a separate point of delivery unless the additional connecting points are made by the utility for its sole convenience in supplying service. Additional service supplied by the utility at a different voltage or phase classification shall also be considered a separate point of delivery. Each point of delivery shall be separately metered and billed.

15. "Power" means electric power measured in kilowatts--kw. For billing purposes, power is the customer's maximum use of electricity shown or computed from the readings of the utility's kilowatt meter for a 15-minute period, unless otherwise specified in the applicable rate schedule; at the option of the utility it may be determined either by periodic tests or by permanent meters.

16. "Power factor" means the percentage determined by dividing customer's average power use in kilowatts, real power, by the average kilovolt-ampere power load, apparent power, imposed upon the utility by the customer.

17. "Premises" means a tract of land with the buildings thereon or a building or part of a building with its appurtenances.

18. "Rated capacity" means load for which equipment or electrical system is rated.

19. "Service line" means electrical conductor which ties customer point of delivery to distribution network.

20. "Transmission line" means high voltage line delivering electrical energy to substations.

21. "Utility" means an electrical corporation as defined in Section 54-2-1.

22. "Year" means the period between the date of commencement of service under the application for electric service, electric service agreement or contract and the same day of the following calendar year.

R746-310-3. Meters and Meter Testing.**A. Reference and Working Standards**

1. Reference standards -- Utilities having 500 or more meters in service shall have a high grade reference standard meter which shall be calibrated at least annually by the U.S. Bureau of Standards or a testing agency that regularly calibrates with them. Other utilities with meters in service shall at least have access to another utility's or testing agency's high grade reference standards that are periodically calibrated.

2. Working standards -- Utilities furnishing metered service shall provide for, or have access to, high grade testing instruments, working standards, to test the accuracy of meters or other instruments used to measure electricity consumed by its customers. The error of accuracy of the working standards at both light load and full load shall be less than one percent of 100 percent of rated capacity. This accuracy shall be maintained by periodic calibration against reference standards.

B. Meter Tests -- Unless otherwise directed by the Commission, the requirements contained in the 20[0]14 edition of the American National Standards for Electric Meters Code for Electricity Metering, ANSI C12.1-20[0]14, incorporated by reference, shall be the minimum requirements relative to meter testing.

1. Accuracy limits -- After being tested, meters shall be adjusted to as near zero error as practicable. Meters shall not remain in service with an error over two percent of tested capacity, or if found to register at no load.

2. Before installation -- New meters shall be tested before installation. Removed meters shall be tested before or within 60 days of installation.

3. Periodic -- In-service meters shall be periodically or sample tested.

4. Request -- Upon written request, utilities shall promptly test the accuracy of a customer's meter. If the meter has been tested within 12 months preceding the date of the request, the utility may require the customer to make a deposit. The deposit shall not exceed the estimated cost of performing the test. If the meter is found to have an error of more than two percent of tested capacity, the deposit shall be refunded; otherwise, the deposit may be retained by the utility as a service charge. Customers shall be entitled to observe tests, and utilities shall provide test reports to customers.

5. Referee -- In the event of a dispute, the customer may request a referee test in writing. The Commission may require the deposit of a testing fee. Upon filing of the request and receipt of the deposit, if required, the Commission shall notify the utility to arrange for the test. The utility shall not remove the meter prior to the test without Commission approval. The meter shall be tested in the presence of a Commission representative, and if the meter is found to be inaccurate by more than two percent of rated capacity, the customer's deposit shall be refunded; otherwise, it may be retained.

C. Bill Adjustments for Meter Error --

1. Fast meter -- If a meter tested pursuant to this section is more than two percent fast, the utility shall refund to the customer the overcharge based on the corrected meter readings for the period the meter was in use, not exceeding six months, unless it can be shown that the error was due to some cause, the date of which can be fixed. In this instance, the overcharge shall be computed back to, but not beyond that time.

2. Slow meter -- If a meter tested pursuant to this section is more than two percent slow, the utility may bill the customer for the

estimated energy consumed but not covered by the bill for a period not exceeding six months unless it can be shown that the error was due to some cause, the date of which can be fixed. In this instance, the bill shall be computed back to, but not beyond that time.

3. Non-registering meter -- If a meter does not register, the utility may bill the customer for the estimated energy used but not registered for a period not exceeding three months.

D. Meter Records -- Utilities shall maintain records for each meter until retirement. This record shall contain the identification number; manufacturer's name, type and rating; each test, adjustment and repair; date of purchase; and location, date of installation, and removal from service. Utilities shall keep records of the last meter test for every meter. At a minimum, the records shall identify the meter, the date, the location of and reason for the test, the name of the person or organization making the test, and the test results.

R746-310-4. Station Instruments, Voltage and Frequency Restrictions and Station Equipment.

A. Station Instruments -- Utilities shall install the instruments necessary to obtain a record of the load on their systems, showing at least the monthly peak and a monthly record of the output of their plants. Utilities purchasing electrical energy shall install the instruments necessary to furnish information regarding monthly purchases of electrical energy, unless those supplying the energy have already installed instruments from which that information can be obtained.

Utilities shall maintain records indicating the data obtained by station instruments.

B. Voltage and Frequency Restrictions --

1. Unless otherwise directed by the Commission, the requirements contained in the 20[06]11 edition of the American National Standard for Electrical Power Systems and Equipment-Voltage Ratings (60 Hz), ANSI C84.1-20[06]11, incorporated by this reference, shall be the minimum requirements relative to utility voltages.

2. Utilities shall own or have access to portable indicating voltmeters or other devices necessary to accurately measure, upon complaint or request, the quality of electric service delivered to its customer to verify compliance with the standard established in Subsection R746-310-4(B)(1). Utilities shall make periodic voltage surveys sufficient to indicate the character of the service furnished from each distribution center and to ensure compliance with the voltage requirements of these rules. Utilities having indicating voltmeters shall keep at least one instrument in continuous service.

3. Utilities supplying alternating current shall maintain their frequencies to within one percent above and below 60 cycles per second during normal operations. Variations in frequency in excess of these limits due to emergencies are not violations of these rules.

C. Station Equipment --

1. Utilities shall inspect their poles, towers and other similar structures with reasonable frequency in order to determine the need for replacement, reinforcement or repair.

D. General Requirements -- Unless otherwise ordered by the Commission, the requirements contained in the National Electrical Safety Code, as defined at R746-310-1(B)(13), constitute the minimum requirements relative to the following:

1. the installation and maintenance of electrical supply stations;

2. the installation and maintenance of overhead and underground electrical supply and communication lines;
3. the installation and maintenance of electric utilization equipment;
4. rules to be observed in the operation of electrical equipment and lines;
5. the grounding of electrical circuits.

KEY: public utilities, utility regulations, electric utility industries, electric safety codes

Date of Enactment or Last Substantive Amendment: [~~February 7, 2012~~2016]

Notice of Continuation: November 28, 2012

Authorizing, and Implemented or Interpreted Law: 54-3-1; 54-3-7; 54-4-1; 54-4-8; 54-4-14; 54-4-23

Public Service Commission,
Administration
R746-343-16
New Technology Equipment
Distribution Program (NTEDP)

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40685

FILED: 08/18/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Public Service Commission of Utah (Commission) is charged by statute to administer a program through which low-income Utahns with hearing and speech challenges are provided with equipment to assist them in accessing telecommunications services. Some of the equipment currently in use, particularly the equipment used by those with severe speech and hearing challenges, is quickly becoming obsolete, and the Commission has identified the need to explore using current technology and devices. This rule creates a pilot program to determine how such technology and devices might be adopted.

SUMMARY OF THE RULE OR CHANGE: The pilot program will begin with the effective date of this rule and conclude no later than 12/31/2018. All individuals interested in participating must submit an application to provide information about the nature of the applicant's hearing/speech challenge, to document the applicant's income level, and to confirm that the applicant is willing and able to provide feedback to the Commission during the pilot program. Initially, up to 25 participants will be selected to test tablet devices or cellular telephones. Additional participants may be included in the pilot program over time. Participants will be required to complete surveys, follow instructions from the Commission, and protect against loss of and damage to the devices provided under the pilot program. The Commission

notes that the rule uses the terms "speech-impaired" and "hearing-impaired" to identify potential participants. The term "impaired" carries negative connotations, and the Commission regrets having to use it. However, where the term is included in the definition section of the statute under which this rule is promulgated, the Commission is hesitant to introduce a different term in rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 54-8b-10

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** It is anticipated that each device provided under the pilot program will cost approximately \$1,200. The Commission has the necessary budget in place.

♦ **LOCAL GOVERNMENTS:** Local governments are not required to participate in or administer the pilot program. No fiscal impact to local government is anticipated.

♦ **SMALL BUSINESSES:** This rule filing establishes a pilot program under which the Commission will distribute tablets or cellular telephones to low-income Utahns who have hearing or speech challenges and, therefore, need assistive devices in order to access telecommunications services. While it is possible that the needed devices will be purchased from one or more small businesses, there will be no fiscal impact to small businesses in general (i.e., no fees or compliance costs).

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** A person who is selected to participate in the pilot program will have no financial obligations unless the person loses or damages the device through misconduct or negligence. Should such circumstances arise, the costs to repair or replace a device will vary and, therefore, cannot be estimated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: To comply, a person who is selected to participate in the pilot program must complete surveys and follow instructions from the Commission. No costs are associated with these obligations. Should a device be lost or damaged due to a participant's misconduct or negligence, the participant will be required to cover the cost of repair or replacement. Such costs will vary and cannot be estimated.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As stated in the rule analysis, the vendor(s) chosen to provide tablets and cellular telephones will receive revenue from those sales. Otherwise, no fiscal impact to businesses is anticipated.

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

PUBLIC SERVICE COMMISSION
ADMINISTRATION
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316

or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Jennie Jonsson by phone at 801-530-6763, or by Internet E-mail at jjonsson@utah.gov
- ◆ Sheri Bintz by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/17/2016

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2016

AUTHORIZED BY: Jennie Jonsson, Administrative Law Judge

**R746. Public Service Commission, Administration.
R746-343. Rule for Deaf, Severely Hearing or Speech Impaired Person.
R746-343-16. New Technology Equipment Distribution Program (NTEDP).**

- (1) Authority and Purpose.
 - (a) This rule section is promulgated pursuant to Utah Code Subsection 54-8b-10(3)(b).
 - (b) The purposes of the NTEDP are:
 - (i) to explore the feasibility of using tablet devices and/or unlocked cellular telephones to address the telecommunication needs of the deaf, severely hearing-impaired, and severely speech-impaired communities;
 - (ii) to determine how best to manage a program in which tablet devices and/or unlocked cellular telephones are provided; and
 - (iii) to determine the level of support services that would be required if tablet devices and/or unlocked cellular telephone devices are provided.
 - (2) Duration. The NTEDP shall terminate no later than December 31, 2018.
 - (3) Participation.
 - (a) An individual who wishes to participate in the NTEDP shall:
 - (i) submit a completed application form to the Relay Utah office;
 - (ii) provide medical documentation of:
 - (A) deafness;
 - (B) severe hearing impairment; or
 - (C) severe speech impairment;
 - (iii) demonstrate that the individual is receiving assistance from a low-income public assistance program administered by a state agency;
 - (iv)(A) if applying for a tablet, certify that the individual has consistent access to a WiFi network; or
 - (B) if applying for an unlocked cellular telephone, certify that the individual has a service plan in place with a wireless telecommunications provider; and
 - (v) certify that the individual is able and willing to comply with Subsection (4).
 - (b) Priority may be given to applicants who have previously participated in the Commission's Relay Utah program.

- (c) An applicant who is not selected to participate may request to be placed on a waiting list.
- (d) Participation shall be limited as follows:
 - (i) From the inception of the program through June 30, 2017, no more than 25 participants, as follows:
 - (A) no more than 8 deaf individuals who are at least 13 years old;
 - (B) no more than 8 severely hearing-impaired individuals who are at least 13 years old;
 - (C) no more than 8 severely speech-impaired individuals who are at least 13 years old; and
 - (D) at least one deaf, severely hearing-impaired, or severely speech-impaired individual who is under 13 years of age.
 - (ii) From July 1, 2017 through the conclusion of the program, up to 10 additional participants in each six-month period.
 - (4) Participant obligations.
 - (a) An individual who is chosen to participate in the NTEDP shall:
 - (i) participate in an entrance interview with the Relay Utah office;
 - (ii) complete online surveys as instructed by the Relay Utah office;
 - (iii) promptly comply with all instructions from the Relay Utah office to download apps;
 - (iv) promptly respond to requests from the Relay Utah office for information and feedback;
 - (v) maintain the device in the storage case provided;
 - (vi) retain all original device packaging, instructions, and information;
 - (vii) contact the manufacturer's customer service department for assistance with technical support;
 - (viii) promptly report to the Relay Utah office:
 - (A) software and hardware failures; and
 - (B) damage to the device;
 - (ix) take financial responsibility for loss of, or damage to, the device if caused by the individual's misuse or negligence; and
 - (x) immediately return the device to the Relay Utah office if the individual:
 - (A) moves from the State of Utah;
 - (B) is disqualified by the Relay Utah office from further participation in the NTEDP; or
 - (C) chooses to terminate the individual's participation in the NTEDP.
 - (b) An individual who is chosen to participate in the NTEDP may not:
 - (i) reformat or attempt to reformat the device;
 - (ii) allow any other person to use the device, except as necessary to assist the participant with telecommunications; or
 - (iii) install software, apps, or other programs not authorized by the Relay Utah office.
 - (c) A participant who fails to comply with this Subsection (4) may be disqualified from further participation in the NTEDP.
 - (5) All devices distributed as part of the NTEDP shall remain the property of the State of Utah Public Service Commission.

KEY: [~~public assistance, physically impaired, rates,~~] telecommunications, speech/hearing impairments, assistive devices and technology, surcharges

Date of Enactment or Last Substantive Amendment: ~~[May 1, 2014]~~ 2016

Notice of Continuation: December 10, 2012

Authorizing, and Implemented or Interpreted Law: 54-8b-10

**Public Service Commission,
Administration
R746-360-6
Eligibility for Fund Distributions**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40723

FILED: 08/31/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: On 08/30/2016, the Public Service Commission of Utah (Commission) held a technical conference to determine whether business customers of rural telecommunications providers should be required to pay more for a landline than residential customers. Seeing no data to support a price difference, the Commission determined to repeal the base rate that affected providers have been required to charge their business customers.

SUMMARY OF THE RULE OR CHANGE: The business affordable base rate of \$26 is repealed. The affordable base rate for all landline connections is \$18.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 54-3-1 and Section 54-4-1 and Subsection 54-8b-14(8)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** This rule change will allow rural telecommunications providers that receive support from the Utah Universal Service Fund (UUSF) to charge business customers up to \$8 less per line monthly than they have historically been required to charge. These providers will, therefore, see a decline in revenues, which might qualify them for additional UUSF support. The Commission roughly estimates that the upward pressure on the UUSF could be as high as \$1,920,000 annually. However, the dollar amount cannot be determined with specificity until the circumstances of each provider are reviewed. The Commission will rely on the Division of Public Utilities to conduct that review and recommend the changes, if any, that should be made to each provider's UUSF disbursement. Any such recommendation will be subject to adjudication before the Commission. Alternatively, a provider may petition the Commission for an adjustment to its UUSF disbursement. In either case, the reasonable costs incurred by the provider in obtaining an adjustment may be reimbursed from the UUSF. Although the

reimbursable costs will vary and, therefore, cannot be estimated, they represent additional pressure on the UUSF.

♦ **LOCAL GOVERNMENTS:** Local governments are not required to comply with or enforce the rules governing administration of the UUSF. No fiscal impact to local government is anticipated.

♦ **SMALL BUSINESSES:** A small business that is served by a UUSF-supported telecommunications provider might see its monthly bill for landline telephone service reduced by as much as \$8 per month. UUSF-supported telecommunications providers will see decreased monthly revenues as a result. The total dollar amount of decreased revenues will vary, depending on the rate the provider has been charging and the number of business customers served. Therefore, the dollar amount of decreased revenues cannot be estimated. In order to recover the lost revenues, an affected provider will need to participate in an administrative proceeding to adjust its UUSF disbursement. The costs of participation will vary, depending on whether there are contested issues. Therefore, such costs cannot be estimated. However, to the extent the costs are found to be reasonable, they are eligible for reimbursement from the UUSF.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule change is anticipated to increase pressure on the UUSF, which is funded through a surcharge that telecommunications customers pay. As of 10/01/2016, the surcharge is 1.65% of billed intrastate retail rates. If additional funding is needed to replace lost revenue resulting from the repeal of the business rate, it is possible that the surcharge will have to be increased. Such increase will affect telecommunications customers in Utah. As an example, a customer who currently is billed \$100 each month for intrastate service also pays \$1.65 into the UUSF. If the surcharge were increased to 2% of intrastate retail rates, that customer would pay an additional 35 cents per month into the UUSF.

COMPLIANCE COSTS FOR AFFECTED PERSONS: UUSF-supported telecommunications providers are permitted, but not required, to reduce the rates they charge business customers. If they choose to reduce their rates, they might also be entitled to receive additional UUSF support. The costs of establishing the appropriate support level are likely to be reimbursed. Therefore, it is not anticipated that affected telecommunications providers will see a fiscal impact due to compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As explained in the rule analysis, a business that purchases landline service from a UUSF-supported telecommunications provider might see its monthly bill go down by as much as \$8. UUSF-supported telecommunications providers that choose to reduce their business rates will have reduced revenues, which may be recovered from the UUSF.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT: PUBLIC SERVICE COMMISSION ADMINISTRATION HEBER M WELLS BLDG 160 E 300 S SALT LAKE CITY, UT 84111-2316 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO: ♦ Jennie Jonsson by phone at 801-530-6763, or by Internet E-mail at jjonsson@utah.gov ♦ Sheri Bintz by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/17/2016

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2016

AUTHORIZED BY: Jennie Jonsson, Administrative Law Judge

R746. Public Service Commission, Administration. R746-360. Universal Public Telecommunications Service Support Fund.

R746-360-6. Eligibility for Fund Distributions.

A. Qualification --

1. To qualify to receive USF support funds, a telecommunications corporation shall be designated an "eligible telecommunications carrier," pursuant to 47 U.S.C. Section 214(e), and shall be in compliance with Commission orders and rules. Each telecommunications corporation receiving support shall use that support only to provide basic telecommunications service and any other services or purposes approved by the Commission.

2. Additional qualification criteria for Incumbent telephone corporations - In addition to the qualification criteria of R746-360-6A.1.,

a. Non-rate-of-return Incumbent telephone corporations, except Incumbent telephone corporations subject to pricing flexibility pursuant to 54-8b-2.3 shall make Commission approved, aggregate rate reductions for public telecommunications services, provided in the State of Utah, equal to each incremental increase in USF distribution amounts received after December 1, 1999.

b. Rate-of-return Incumbent telephone corporations shall complete a Commission review of their revenue requirement and public telecommunications services' rate structure prior to any change in their USF distribution which differs from a prior USF distribution, beginning with the USF distribution for December, 1999.

B. Rate Floor.

1. Unless a petition brought pursuant to Subsection (B)(2) is granted after adjudication, to be eligible for USF subsidization, a telecommunications corporation shall charge, at a minimum, the following Affordable Base Rate for basic telecommunications service:

a. As of July 1, 2016[:

- ~~i.], \$18 per [residential]line; and~~
- ~~ii. \$26.00 per business line.]~~
- b. As of July 1, 2017[:
- ~~i.], \$20 per [residential]line[:~~
- ~~ii. \$26.00 per business line].~~

2.a. A telecommunications corporation may petition the Commission to deviate from the Affordable Base Rate set forth in this Subsection (B)(1).

b. A telecommunications corporation that files a petition under this Subsection (B)(2)(a) shall:

- i. demonstrate that the Affordable Base Rate is not reasonable in the particular geographic area served; or
- ii. impute income up to the Affordable Base Rate in calculating the telecommunications corporation's state USF subsidization.

C. Lifeline Requirement -- A telecommunications corporation may qualify to receive distributions from the fund only if it offers Lifeline service on terms and conditions prescribed by the Commission.

D. Exclusion of Resale Providers -- Only facilities-based providers, will be eligible to receive support from the fund. Where service is provided through one telecommunications corporation's resale of another telecommunications corporation's service, support may be received by the latter only.

KEY: public utilities, telecommunications, universal service fund, affordable base rate

Date of Enactment or Last Substantive Amendment: 2016

Notice of Continuation: November 13, 2013

Authorizing, and Implemented or Interpreted Law: 54-3-1; 54-4-1; 54-8b-15(8)

Transportation, Operations,
Construction
R916-7
Appeals to UDOT Decisions on, and
Requesting Compliance with Nighttime
Noise Permits

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 40683

FILED: 08/16/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In the 2016 General Session, the Legislature passed S.B. 177, which amended Section 72-6-112.5 to require this new rule. The Department is promulgating the rule to conform to that statutory requirement.

SUMMARY OF THE RULE OR CHANGE: This rule establishes a procedure for a local jurisdictional authority or local government to appeal the decision of the Department to

conduct nighttime highway construction on roads in certain circumstances, and submitting requests to the Department to enforce the terms of a noise permit.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-6-112.5

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: The Department does not anticipate that this rule will lead to any costs or savings to the state budget because it does not require any additional expenditure by any state entity or relieve any state entity of any previously mandated expenditure.

◆ LOCAL GOVERNMENTS: The Department does not anticipate that this rule will lead to any costs or savings to any local government because it does not require any additional expenditure by any local government or relieve any local government of any previously mandated expenditure.

◆ SMALL BUSINESSES: The Department does not anticipate that this rule will lead to any costs or savings to small business because it does not require any additional expenditure by small business or relieve small business of any previously mandated expenditure.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The Department does not anticipate that this rule will lead to any costs or savings to persons other than small businesses, businesses, or local government entities because it does not require any additional expenditure by persons other than small businesses, businesses, or local government entities or relieve persons other than small businesses, businesses, or local government entities of any previously mandated expenditure.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Department does not anticipate that this rule will lead to any costs for affected persons because it does not require any additional expenditure by affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I do not believe this rule will have any fiscal impact on businesses. The rule is procedural and directed at public entities only.

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

TRANSPORTATION
OPERATIONS, CONSTRUCTION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY, UT 84119-5998
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at cwnewman@utah.gov
◆ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at jimpalmer@utah.gov

◆ Linda Hull by phone at 801-965-4253, or by Internet E-mail at lhull@utah.gov
◆ Michelle Jeronimo by phone at 801-965-3883, or by Internet E-mail at mjeronimo@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/17/2016

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2016

AUTHORIZED BY: Carlos Braceras, Executive Director

R916. Transportation, Operations, Construction.

R916-7. Appeals to UDOT Decisions on, and Requesting Compliance with Nighttime Noise Permits.

R916-7-1. Purpose.

The purpose of this rule is to establish a procedure for a local jurisdictional authority or local government to appeal the decision of the Department of Transportation to conduct highway construction at night on roads where the normal posted speed limit is less than 55 miles per hour.

R916-7-2. Authority.

This rule is required by Utah Code Subsection 72-6-112.5(6) and is enacted under the authority of Utah Code Subsection 72-1-201 (h).

R916-7-3. Appealing Decisions of the Department.

1. A local jurisdictional authority may appeal the Department's decision to conduct highway work at night by filing a written appeal with the Department within 10 days of receiving a written notice of the Department's decision to perform work at night.

2. The Department's Director for the Region in which the night work is to be performed will respond to the local jurisdictional authority's appeal in writing within 5 days of receiving the appeal, and may conduct an informal hearing prior to responding to the appeal.

3. If the Department's Region Director denies the appeal, the local jurisdictional authority may appeal the Region Director's decision of the to the Department's Executive Director, in writing, within 10 days of the date of receiving the Region Director's denial.

4. The Executive Director will respond in writing to an appeal within 5 days of receiving the appeal.

5. The decision of the Executive Director shall be administratively final.

R916-7-4. Requests to Enforce Terms of a Noise Permit.

1. A local jurisdictional authority may request that the Department enforce the terms of a noise permit by submitting a written request to the Region Director.

2. After review and upon receiving a written request from a local jurisdictional authority that the conditions for the noise exemption permit are not being met, the department shall initiate corrective action within 24 hours to ensure nighttime highway construction activities meet requirements of the local permit.

KEY: appeals, noise permits, procedures, compliance
Date of Enactment or Last Substantive Amendment: 2016
Authorizing, and Implemented or Interpreted Law: 72-6-112.5

**Transportation, Operations,
 Maintenance
 R918-5
 Construction or Improvement of
 Highway**

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

DAR FILE NO.: 40729
 FILED: 09/01/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is required by Section 72-6-107 of the Transportation Code and is promulgated pursuant to Section 63G-3-301 of the Utah Administrative Rulemaking Act and Section 72-1-201.

SUMMARY OF THE RULE OR CHANGE: Section 72-6-107 requires construction or improvement projects with an estimated cost for labor and materials that exceeds the bid limit defined in Section 72-6-109 to be performed under contract awarded to the lowest responsible and responsive bidder. Construction or improvement projects with estimated costs for labor and materials lower than that bid limit may be performed by force account. Section 72-6-107 also directs the Department to establish a procedure whereby evidence that a region violated that law may be heard, and also directs the Department to establish sanctions for a region found to have violated Section 72-6-107. This rule establishes those procedures and sanctions.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-6-107 and Section 72-6-109

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: The Department does not anticipate that this rule will lead to additional costs or savings to the state's budget. Any fiscal impact that results due to enforcement of this rule will be internal to the Department.
- ◆ LOCAL GOVERNMENTS: The Department does not anticipate that this rule will lead to additional costs or savings to the budgets of local governments. Any fiscal impact that results due to enforcement of this rule will be internal to the Department.
- ◆ SMALL BUSINESSES: The Department does not anticipate that this rule will lead to additional costs or savings to the budgets of small businesses. Any fiscal impact that results due to enforcement of this rule will be internal to the Department.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The Department does not anticipate that this rule will lead to additional costs or savings to the budgets of persons other than small businesses, businesses, or local government entities. Any fiscal impact that results due to enforcement of this rule will be internal to the Department.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Any compliance costs that result due to enforcement of this rule will be internal to the Department. Persons outside of the Department will not be affected by enforcement of this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will not have any fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 TRANSPORTATION
 OPERATIONS, MAINTENANCE
 CALVIN L RAMPTON COMPLEX
 4501 S 2700 W
 SALT LAKE CITY, UT 84119-5998
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at cwnewman@utah.gov
- ◆ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at jimpalmer@utah.gov
- ◆ Linda Hull by phone at 801-965-4253, or by Internet E-mail at lhull@utah.gov
- ◆ Michelle Jeronimo by phone at 801-965-3883, or by Internet E-mail at mjeronimo@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/17/2016

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2016

AUTHORIZED BY: Carlos Braceras, Executive Director

**R918. Transportation, Operations, Maintenance.
 R918-5. Construction or Improvement of Highway.
 R918-5-1. Authority.**

This rule is required by Section 72-6-107 of the Transportation Code and is promulgated pursuant to Section 63G-3-301 of the Utah Administrative Rulemaking Act and Section 72-1-201.

R918-5-2. Purpose and Background.

Section 72-6-107 requires that any construction or improvement project whose estimated cost for labor and materials exceeds the Bid Limit defined in Section 72-6-109 shall be performed under contract awarded to the lowest responsible bidder.

Construction or improvement projects with estimated costs for labor and materials lower than that Bid Limit may be performed by force account. That same section also directs the Department to establish a procedure whereby evidence that a region violated that law may be heard, and also directs the Department to establish sanctions for a region found to be in violation. This rule establishes those procedures and sanctions.

R918-5-3. Definitions.

(1) "Bid Limit" is the dollar amount set forth in Section 72-6-109.

(2) "Department" or "UDOT" means the Utah Department of Transportation.

(3) "Region" means one of the four regions of the Utah Department of Transportation.

(4) "Project" means the performance of a clearly identifiable group of associated road construction activities or the same type of maintenance process, where the construction or maintenance is performed on any one road, within a half-mile proximity and occurs within the same calendar year.

R918-5-4. Process to Hear Evidence of Violations.

(1) There is established within the Department a "Bid Limit Hearing Board" (the Board), consisting of persons in the following positions:

- (a) Director of Operations (Chair);
- (b) Engineer for Construction;
- (c) Engineer for Maintenance;
- (d) Director of Project Development;
- (e) UDOT Internal Auditor;
- (f) One UDOT Region Director (appointed by the Deputy Director on a case-by-case basis); and
- (g) Deputy Engineer for Maintenance (Secretary/Recorder, non-voting).

(2) Any person, corporation, government agency, or UDOT group, having reasonable evidence that a region violated any provision of Section 72-6-107, may request that the Board be convened to hear that evidence, by submitting a written request or complaint to the Department's Deputy Director.

(3) Upon receiving a complaint of an alleged violation, the Deputy Director shall direct the Board to convene by notifying the Chair that a complaint has been received.

(4) The Board shall convene no later than 30 days after the Deputy Director receives the complaint.

(5) During the hearing, the complainant shall present objective evidence that the estimated cost of the project for labor and materials exceeded the Bid Limit. The evidence shall include credible cost data to support the allegation. The accused region shall be afforded the opportunity to defend itself against any and all allegations by presenting credible evidence of its own.

(6) Having heard evidence from both parties, the Board shall privately deliberate on the evidence heard and return a decision either supporting the complainant's claim of a violation, or finding the claim unsubstantiated. The board's decision shall be based on a simple majority vote of the board. The Board shall then notify the Deputy Director of its decision and recommendation for sanction if appropriate.

(7) Upon receiving the Board's decision, the Deputy Director shall either dismiss an unsubstantiated claim or administer

an appropriate sanction against the region in violation. The Deputy Director has discretion to administer either the standard sanction outlined in Section R918-5-5, or other appropriate corrective action.

R918-5-5. Standard Sanction for Violation.

The standard sanction for a region found in violation of the provisions of Section 72-6-107 by exceeding the Bid Limit for labor and materials, is a penalty to be taken from that region's operations budget (commonly known as the "Code 1" budget), and distributed equally among the other three regions. The standard amount of the penalty is the larger of: (1) the total cost of the project for labor and materials, less the Bid Limit in effect at the time the project began, or (2) \$100,000.

KEY: maintenance, construction, improvement projects, bid limits

Date of Enactment or Last Substantive Amendment: 2016

Authorizing, Implemented, or Interpreted Law: 72-6-109; 72-6-107

Transportation, Preconstruction R930-7 Utility Accommodation

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40724

FILED: 08/31/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purposes of the amendment are: 1) to define how the Department handles requests for longitudinal and site access to highway right-of-way from utility companies that do not directly provide service to the public; 2) provide clarity; and 3) make technical corrections.

SUMMARY OF THE RULE OR CHANGE: The amendment defines utility facilities as those directly serving the public. Utility facilities not directly serving the public are defined as private and indirect facilities. Utility facilities may access highway right-of-way under current license and permit requirements. Private and indirect facilities may be allowed longitudinal and site access (e.g. towers, poles, pads) to highway right-of-way by lease.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 72-6-116(2)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The Department does not anticipate this amendment will lead to any additional costs or savings to the state's budget. The amendment accommodates how different kinds of private utility facilities may access state-owned rights-of-way and should not have any impact on the state's budget.

◆ **LOCAL GOVERNMENTS:** The Department does not anticipate this amendment will lead to any additional costs or savings to the budgets of local governments. The amendment accommodates how different kinds of private utility facilities may access state-owned rights-of-way and should not have any impact on the budgets of local governments.

◆ **SMALL BUSINESSES:** This amendment may have a fiscal impact on private small businesses that operate utility facilities. The amount of the fiscal impact this amendment will have on these small businesses will be negotiated and depend on conditions related to the access request and the type of utility facility involved and cannot be predetermined.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amendment may have a fiscal impact on persons other than small businesses, businesses, or local government entities if they operate utility facilities. The amount of the fiscal impact this amendment will have on these persons other than small businesses, businesses, or local government entities will be negotiated and depend on conditions related to the access request and the type of utility facility involved and cannot be predetermined.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendment affects private and indirect utility facilities that may request longitudinal and site access to highway rights-of-way in the future. Companies installing private and indirect utility facilities have an option to negotiate a lease arrangement with the Department within highway right-of-way. Compliance costs for companies seeking to install private and indirect utility facilities are to be negotiated and will depend on conditions related to the access request and the type of utility facility, which cannot be predetermined.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment will not have a direct fiscal impact on businesses generally. There will be a fiscal impact for those businesses seeking to install private and indirect utility facilities on Department rights-of-way. Those impacts will be negotiated, and the impact will depend upon conditions related to the access request and the type of utility facility.

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

TRANSPORTATION
PRECONSTRUCTION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY, UT 84119-5998
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at cnewman@utah.gov
◆ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at jimpalmer@utah.gov

◆ Linda Hull by phone at 801-965-4253, or by Internet E-mail at lhull@utah.gov

◆ Michelle Jeronimo by phone at 801-965-3883, or by Internet E-mail at mjeronimo@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/17/2016

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2016

AUTHORIZED BY: Carlos Braceras, Executive Director

R930. Transportation, Preconstruction.

R930-7. Utility Accommodation.

R930-7-1. Purpose.

(1) The purpose of this rule is to:

- (a) maximize public safety;
- (b) provide for efficient highway operations and maintenance of roadways;
- (c) maximize aesthetic quality;
- (d) minimize future conflicts between the highway system and utility companies serving the general public; and
- (e) ensure that use and occupancy by utility companies do not impair or increase the cost of future highway construction, expansion, or maintenance or interfere with any right of way reserved for these purposes.

(2) This rule prescribes conditions under which utility facilities may be accommodated on right of way and sets forth the state's regulations covering the placement and relocation of utility facilities in conflict with the construction and maintenance of highways. General installation requirements, general and definitive design requirements, and utility construction and inspection requirements apply to indirect and private facilities within the right of way. Within UDOT's sole discretion, indirect and private facilities may be allowed on UDOT's right-of-way by lease.

(3) This rule should be interpreted to achieve maximum lawful public use of right of way for transportation purposes and to ensure that utility installations and operations affecting state right of way are accomplished in accordance with state and federal laws and regulations. It is in the public interest for utility facilities to be accommodated within rights of way when the accommodation does not adversely affect the integrity of highway features or occupy space within the right-of-way that conflicts with transportation purposes or future use of the highway. The permitted use and occupancy of right of way for non-highway purposes is subordinate to the primary and highest interest[s] for transportation and safety of the traveling public. Utility facilities may be required to relocate outside of the right of way to accommodate UDOT's projects.

(4) This rule is provided to facilitate the establishment of consistent expectations and effective working relationships between UDOT and utility companies through continuous communication, coordination and, cooperation.

(5) Through the Code of Federal Regulations (23 CFR, Part 645.215(a)), the U.S. Department of Transportation requires each state to submit a statement to the Federal Highway Administration (FHWA) on the authority of utility companies to use and occupy the right of

way of state highways, the state highway agency's power to regulate the use, and the policies the state employs or proposes to employ for accommodating utilities within the right of way of Federal-aid highways under its jurisdiction. This rule demonstrates compliance to FHWA.

R930-7-3. Definitions.

(1) "Abandoned facility" is a utility facility that is not in use, no longer actively providing a service and is physically disconnected from the operating facility that is still in use and still actively providing a service. Abandoned facilities remain the property of the utility company.

(2) "Access control" is the regulation of public access to and from properties abutting the highway facilities. The two basic types of access control are:

(a) "No access (NA)" means access to through-traffic lanes is not allowed except at interchanges. Crossings at grade and direct driveway connections are prohibited.

(b) "Limited access (LA)" means access to selected public roads may be provided. There may be some crossings at grade and some private driveway connections.

(3) "Administrative citation" is a letter from UDOT to a utility company citing one or more non-compliance items and proper redress requirements such as action on the appropriate bond, revocation of permit, and revocation of a license agreement.

(4) "AASHTO" is the American Association of State Highway and Transportation Officials.

(5) "Backfill" means the replacement of soil removed during construction. It may also denote material placed over or around structures and utilities.

(6) "Bedding" means the composition and shaping of soil or other suitable material to support a pipe, conduit, casing, or utility tunnel.

(7) "Boring" means the operation by which carriers or casings are pushed or jacked under highways without disturbing the highway structure or prism. Bores are carved progressively ahead of the leading edge of the advancing pipe as soil is mucked back through the pipe.

(8) "Carrier" means a pipe directly enclosing a transmitted fluid (liquid, gas, or slurry).

(9) "Casing" is a larger pipe, conduit, or duct enclosing a carrier.

(10) "Clear Zone" means the total roadside border area, starting at the edge of the traveled way, available for safe use by errant vehicles. This area may consist of a shoulder, a recoverable slope, a non-recoverable slope, and a clear run-out area. The desired width is dependent upon traffic volumes, speeds, and roadside geometry.

(11) "Coating" is material applied to or wrapped around a pipe.

(12) "Conduit" is an enclosed tubular casing for the protection of wires and cables.

(13) "Depth of bury (cover)" means the depth from ground or roadway surface to top of pipe, conduit, casing, cable, utility tunnel, or similar facility.

(14) "Deviation" means a granted permission to depart from the standards and requirements of this rule.

(15) "Emergency work" is utility company work required to prevent loss of life or significant damage to property.

(16) "Encasement" is a structural element surrounding a carrier or casing.

(17) "Encroachment" means the unauthorized use of highway right of way.

(18) "Encroachment permit" is a document that specifies the requirements and conditions for performing work on the highway right of way.

(19) "Environmentally protected areas" are areas that include, but are not limited to, wetlands, flood plains, stream channels, rivers, threatened or endangered species, archaeological sites, and historic sites.

(20) "Expressway" is a divided arterial highway for through traffic with partial control of access and generally with grade separations at major intersections.

(21) "Federal-aid highways" are highways eligible to receive Federal-aid.

(22) "FHWA" is the Federal Highway Administration.

(23) "Flexible carrier pipe" is a plastic, fiberglass, or metallic pipe having a large diameter to wall thickness ratio and which can be deformed without undue stress.

(24) "Flowable fill" is low strength flowable concrete as defined in UDOT Standard Specification 03575.

(25) "Freeway" is an expressway with full control of access.

(26) "Frontage road" is a local street or road auxiliary to and located on the side of an arterial highway for service to abutting property and adjacent areas and for control of access.

(27) "Grade" is the rate or percent of change in slope, either ascending or descending, measured along the centerline of a roadway or access.

(28) "Grounded" means electrically connected to earth or to some extended conducting body that serves instead of the earth, whether the connection is intentional or accidental.

(29) "Grout" is a cement mortar or slurry of fine sand or clay.

(30) "Highway, street, or road" are general terms denoting a public way for the transportation of people, materials, and goods, but primarily for vehicular travel, including the entire area within the right of way.

(31) "Horizontal directional drilling" (HDD), also known as directional boring and directional drilling, is a method of installing underground pipes and conduits from the surface along a prescribed bore path. The process is used for installing telecommunications and power cable conduits, water lines, sewer lines, gas lines, oil lines, product pipelines, and casings used for environmental remediation. It is used for crossing waterways, roadways, congested areas, environmentally protected areas, and any area where other methods are not feasible.

(32) "Indirect facilities" are facilities owned by a utility company or entity that does not directly serve the public and the facilities provide services to or are rented to other utility companies.

(3[2]3) "Interstate highway system" (Interstate) is the Dwight D. Eisenhower National System of Interstate and Defense Highways as defined in the Federal-aid Highway Act of 1956 and any supplemental acts or amendments.

(3[3]4) "License Agreement or Statewide Utility License Agreement" is a document by which UDOT licenses the use and occupancy, with conditions, of highway rights of way for utility facilities.

(3[4]5) "Manhole" or "utility access hole" is an opening in an underground system that workers or others may enter for the purpose of making installations, removals, inspections, repairs, connections, and tests.

(3[5]6) "Median" is the portion of a divided highway separating the traveled ways for traffic in opposite directions.

(3[6]7) "MUTCD (Utah MUTCD)" means the current version of Utah Manual on Uniform Traffic Control Devices referenced in R920-1.

(3[7]8) "Pavement structure" is the combination of sub-base, base course, and surface course placed on a sub-grade to support the traffic load.

(3[8]9) "Permit" means encroachment permit.

([39]40) "Pipe" is a tubular product made as a production item for the transmission of liquid or gaseous substances. Cylinders formed from plate material in the fabrication of auxiliary equipment are not pipe as defined here.

(4[0]1) "Pipeline" is a continuous carrier used primarily for the transportation of liquids, gases, or solids from one point to another using either gravity or pressure flow.

(4[1]2) "Plowing" means the direct burial of utility lines by means of a mechanism that breaks the ground, places the utility line, and closes the break in the ground in a single operation.

(4[2]3) "Practicable" means reasonably capable of being accomplished or feasible as determined by UDOT.

(4[3]4) "Relocate" means the adjustment of utility facilities when found by UDOT to be necessary for construction or maintenance of a highway. It includes removing and reinstalling the facility, including necessary temporary facilities, acquiring the necessary right-of-way on the new location, moving, rearranging or changing the type of existing facilities and taking any necessary safety and protective measures. It also means constructing a replacement facility that is both functionally equivalent to the existing facility and necessary for continuous operation of the utility service, the project economy, or sequence of highway construction.

(4[4]5) "Right of way" is a general term denoting land, property, or interest therein, usually in a strip acquired for or devoted to transportation purposes.

(4[5]6) "Roadside" is a general term denoting the area between the outer edge of the roadway shoulder and the right of way limits.

(4[6]7) "Roadway" is the portion of a highway, including shoulders, for vehicular use. A divided highway has two or more roadways.

(4[7]8) "Slope" is the relative steepness of the terrain expressed as a ratio or percentage. Slopes may be categorized as positive or negative and as parallel or cross slopes in relation to the direction of traffic.

(4[8]9) "State highways" are those highways designated as State Highways in Title 72, Chapter 4, Designation of State Highways.

([49]50) "Structure" means any device used to convey vehicles, pedestrians, animals, waterways or other materials over highways, streams, canyons, or other obstacles. It also includes buildings, signs, and UDOT facilities with foundations.

(5[0]1) "Subsurface Utility Engineering (SUE)" is the management of certain risks associated with utility mapping at appropriate quality levels, utility coordination, utility relocation, communication of utility data, utility relocation cost estimates, implementation of utility accommodation policies, and utility design.

SUE tools include traditional records, site surveys, and new technologies such as surface geophysical methods and non-destructive vacuum excavation, to provide quality levels of information. The SUE process for collecting and depicting information on existing subsurface Utility Facilities is described in ASCE Standard 38-02, Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data.

(5[1]2) "Trenched" means installed in a narrow open excavation.

(5[2]3) "Trenchless (Untrenched)" means installed without breaking the ground or pavement surface by a construction method such as directional drilling, boring, tunneling, jacking, or auguring.

(5[3]4) "UDOT" is the Utah Department of Transportation and where referenced to be contacted, submitted to, approved by, accepted by or otherwise engaged, means an authorized representative.

(5[4]5) "Utility" or "utility facility" means privately, publicly, cooperatively, or municipally owned pipelines, facilities, or systems for producing, transmitting, or distributing communications, power, electricity, light, heat, gas, oil, petroleum products, cable television, water, sewer, steam, waste, storm water not connected with highway drainage, and other similar commodities, which directly [~~or indirectly~~]service the public[~~, or any part thereof~~].

(5[5]6) "Utility appurtenances" include but are not limited to pedestals, manholes, vents, drains, rigid markers, meter pits, sprinkler pits, valve pits, and regulator pits.

(5[6]7) "Utility company" is a privately, cooperatively, or publicly owned utility, including utilities owned by political subdivisions, and where referenced includes authorized representatives, contractors, and agents.

(5[7]8) "Vent" is an appurtenance designed to discharge gaseous contaminants from a casing.

R930-7-6. General Installation Requirements.

(1) General.

(a) Utility companies with facilities directly serving the public desiring to use right of way under the jurisdiction of UDOT for the installation or maintenance of any utility facility must be licensed to do so by entering into a Statewide Utility License Agreement with UDOT. This Statewide License Agreement sets forth the procedures and conditions for the issuance of encroachment permits for all installations statewide. Encroachment permits are not issued without a License Agreement first being executed. UDOT may impose additional restrictions or requirements for License Agreements or encroachment permits.

(b) A permitted facility shall, if necessary, be modified by the utility company to improve safety or facilitate alteration or maintenance of the right of way as determined by UDOT.

(c) Companies or entities that do not provide direct utility service to the public are prohibited from installing or constructing longitudinal facilities or site towers or poles within the right-of-way by permit. UDOT will not issue any permits for this type of facilities.

(2) License Agreements or Statewide Utility License Agreements.

(a) Agreements are executed by UDOT and utility companies to set forth the terms and conditions for the accommodation and maintenance of utility facilities within the right of way. A License Agreement is required for, but does not guarantee the approval of encroachment permits.

(b) As part of executing a L[H]icense A[a]greement with UDOT, owners of facilities located in the right of way are required to post a continuous bond in the amount of \$100,000, naming UDOT as the insured, to guarantee satisfactory performance. The Statewide Utilities Engineer may approve a lesser amount. ~~Failure by a utility company to maintain a valid bond in the amount required is cause for denying issuance of future permits to that utility company, and for the removal of that utility company's facilities from the right of way.~~

(c) A public utility is exempt from the bond requirements described in this section if the public utility:

- (i) is a member of the municipal insurance pool;
- (ii) is a political subdivision; or

(iii) at UDOT's option carries liability insurance with minimum coverage of \$1,000,000 per occurrence and as more specifically described in its License Agreement.

(d) Upon discovery of utility caused damage to the highway or to the right of way, UDOT may opt to exercise its bonding rights in recovering costs incurred to restore the highway or right of way. The utility company is liable for all restoration costs incurred as a result of damages caused by its utility, and its liability is not limited to the amount of the bond.

(e) License agreements may be terminated at any time by either party upon 30 days advance written notice to the other. Permits previously issued and approved under a terminated agreement are not affected and remain in effect on the same terms and conditions set forth in the agreement and permits. The obligation to maintain the \$100,000 bond continues until the utility company's facilities are removed from UDOT's right of way.

(3) Emergency Work.

(a) In all emergency work situations, the utility company or its representative shall contact UDOT immediately and on the first business day shall contact UDOT to complete a formal permit. Failure to contact UDOT for an emergency work situation and obtain an encroachment permit within the stated time period is considered to be a violation of the terms and conditions of the utility company's license agreement. At the discretion of the utility company, emergency work may be performed by a bonded contractor, public agency, or a utility company. None of the provisions of this rule are waived for emergency work except for the requirement of a prior permit.

(4) One Call Requirements.

(a) Underground facilities are not permitted within the right of way unless the utility company subscribes to Blue Stakes of Utah and other appropriate "call-before-you-dig" systems, or otherwise provides utility plans as detailed in Section R930-7-11(6)(a) of this rule.

(5) Preservation of New Pavement.

(a) Cuts or open excavations on newly constructed, paved, or overlaid highways are not allowed for two years. If an emergency cut or excavation occurs, the responsible utility company shall comply with any special conditions imposed by UDOT regarding restoration of the roadway.

(6) Encroachment Permits.

(a) Encroachment Permits on State Highways.

Utility companies shall obtain an encroachment permit from UDOT for the installation and maintenance of utility facilities on the right of way. Encroachment permits are approved or disapproved by UDOT. Applications for encroachment permits are submitted to the Region Permits Officers by the utility company or its contractor. No utility company or utility company contractor shall begin any utility

work on the right of way until an approved encroachment permit is issued by UDOT and the utility company is authorized to proceed in writing. Prior to the issuance of encroachment permits, fees are assessed to cover related costs incurred by UDOT including costs for planning, coordination, and utility plan review.

If the utility company expects work to significantly impact travel lane capacity, UDOT recommends the utility company contact the appropriate Region Permit Office to discuss concepts in advance of submitting an encroachment permit application.

Utility companies shall submit two sets of plans depicting the proposed installation. The plans shall be sized as required by UDOT and include utility company identification, work location, utility type and size, type of construction, vertical and horizontal location of facilities relative to the centerline of road, location of all appurtenances, trench details, right of way limits, and traffic control plans. Traffic control plans shall conform to the Utah MUTCD as outlined in Section R930-7-7(1)(d), are mandatory for each instance of utility construction or maintenance, and shall be attached to each permit application.

Utility companies may authorize their contractors to obtain permits on their behalf. All terms and conditions set forth in the L[H]icense A[a]greement apply. The utility company's construction forces or the utility contractor shall carry a copy of the approved permit at all times while working on the right of way.

(b) Bonding and Liability Insurance Requirements.

(i) Individual (one-time use) Encroachment Permit Bonding Requirements. As authorized by Sub-section 72-7-102(3)(b)(i) this rule requires encroachment permit applicants to post a Performance and Warranty Bond, using UDOT's approved bond form, for a period of three years from the date of beginning of work or two years from the end of work, whichever provides the longer period of coverage. A separate Performance and Warranty Bond is required for each individual encroachment permit. Political subdivisions of the state are not required to post a bond unless the political subdivision fails to meet the terms and conditions of previous permits issued as determined by UDOT. The amount of the bond is determined by the UDOT Region Permits Officer based on the scope of work being performed but will not be less than \$10,000.

(ii) Statewide (multiple use) Encroachment Permit Bonding Option. In lieu of posting multiple individual one-time use bonds, encroachment permit applicants who routinely acquire encroachment permits may elect to post a statewide performance and warranty bond, using UDOT's approved bond form. A statewide bond satisfies bonding requirements for work in all UDOT Regions. The bond amount is determined by UDOT but will not be less than \$100,000. ~~A valid statewide bond period shall be not less than three years from the date of completion of permitted work.]~~ This bond is in addition to the bond for the License Agreement.

(iii) Inspection Bond. UDOT may require an additional inspection bond to ensure payment for UDOT field review and inspection costs before an encroachment permit is granted.

(iv) Proceeds Against the Bond. UDOT may proceed against the bond to recover all expenses incurred if payment is not received from the permit applicant within 45 calendar days of receiving an invoice. Upon discovery of utility caused damage to the highway or to the right of way, UDOT may opt to exercise its bonding rights in recovering costs incurred to restore the highway or right of way due to utility caused damages. Failure by the utility company to maintain a valid bond in the amounts required shall be cause for

denying issuance of future permits and for the removal of the utility from the right of way.

(v) Liability Insurance Requirements. Permit applicants are also required to provide a certificate of liability insurance in the minimum amounts of \$1,000,000 per occurrence and \$2,000,000 in aggregate. Failure to meet this requirement will result in application denial. Liability insurance coverage is required throughout the life of the permit and cancellation will result in permit revocation.

(vi) Information about bond forms and liability insurance requirements are available on UDOT's website at: <http://www.udot.utah.gov/go/encroachmentpermit>

~~[(e) Cancellation of Permits. Any failure on the part of a utility company to comply with the terms and conditions set forth in the license agreement or the encroachment permit may result in cancellation of the permit. Failure to pay any sum of money for costs incurred by UDOT in association with installation or construction review, inspection, reconstruction, repair, or maintenance of the utility facilities may also result in cancellation of the permit. UDOT also may remove the facilities and restore the highway and right of way at the sole expense of the utility company. Prior to any cancellation, UDOT shall notify the utility company in writing, setting forth the violations, and will provide the utility company a reasonable time to correct the violations to the satisfaction of UDOT.]~~

~~[(d)c] Assignment of Permits. Permits shall not be assigned without the prior written consent of UDOT. All assignees shall be required to [file a new permit application]execute a License Agreement.~~

~~[(e)d] Indemnification. Permit holders performing utility work on the right of way shall, at all times, indemnify and hold harmless UDOT, its employees, and the State of Utah from responsibility for any damage or liability arising from their construction, maintenance, repair, or any other related operation during the work or as a result of the work. Permit holders shall also be responsible for the completion, restoration, and maintenance of any excavation for a period of three years unless UDOT requires a longer period of indemnification due to specific or unique circumstances.~~

~~(e) Cancellation of Permits and Termination of License Agreement. The following situations will cause the cancellation of permits and/or termination of the License Agreement:~~

~~(i) A utility company's failure to maintain a valid bond in the amount required;~~

~~(ii) A utility company's failure to comply with the terms and conditions of the License Agreement;~~

~~(iii) A utility company's failure to comply with the requirements of the encroachment permit; and~~

~~(iv) A utility company's failure to pay any sum of money for costs incurred by UDOT in association with installation or construction review, inspection, reconstruction, repair, or maintenance of the utility facilities.~~

~~When the permit is canceled, UDOT also may remove the facilities and restore the highway and right of way at the sole expense of the utility company. Prior to any cancellation, UDOT shall notify the utility company in writing, setting forth the violations, and will provide the utility company a reasonable time to correct the violations to the satisfaction of UDOT. UDOT may also not issue any further permits to utility companies that do not comply with this rule, permit requirements, or the License Agreement.~~

R930-7-10. Utilities within Interstate, Freeway and Access Controlled Right-of-Way.

(1) General Provisions. There are two basic types of access control.

No Access - does not allow access to the through-traffic lanes except at interchanges. Crossings at grade and direct driveway connections are prohibited. Access is controlled by fencing. This is typical of interstates and freeways.

Limited Access - provides access to selected roads. There may be some crossings at grade and some private driveway connections. This is typical of expressways and certain other highways.

(2) Factors UDOT may consider for allowing accommodation include distance between distribution points, terrain, cost, and prior existence.

(3) Longitudinal telecommunication installations may be allowed under Rule R907-64.

(4) Pursuant to FHWA regulations, UDOT may allow longitudinal accommodation of utility facilities but with greater restrictions within no access and limited access highway right of way as follows:

(a) No access: longitudinal installations on highways with no access are not permitted except in cases where no other feasible location exists and under strictly controlled circumstances. FHWA approval is required for installations on interstate facilities. Longitudinal telecommunication facilities are allowed pursuant to Utah Code Section 72-7-108; and

(b) Limited Access: longitudinal installations on highways with limited access are generally not permitted.~~[When such installations are allowed, individual service connections are not permitted unless no other reasonable alternatives exist.]~~

(5) Utility facilities are allowed to cross no access and limited access highway right-of-way but with additional requirements as noted below in Section R930-7-10(7).

(6) Longitudinal Utility Facilities.

(a) In addition to the requirements in Section R930-7-8(1) (a), the following requirements apply.

(i) Service connections are not permitted within no access highway right of way. Service connections are not permitted within limited access highway right of way unless no reasonable alternative exists as demonstrated by the utility company and as reviewed and approved by UDOT.

(ii) Service, maintenance, and operation of utilities installed along and within no access highway right of way may not be conducted from the through-traffic roadways or ramps. All maintenance activities must be accessed from a point approved by UDOT and FHWA.

(iii) An existing utility facility within the right of way acquired for an interstate, freeway, or access controlled highway project may remain if it can be serviced, maintained, and operated without access from the through-traffic roadways or ramps, and it does not adversely affect the safety, design, construction, operation, maintenance, or stability of the interstate, freeway, or access controlled highway. Otherwise, it shall be relocated.

(iv) Where approval for installation is permitted, utility installations and related components shall be buried parallel to the interstate, freeway, or access controlled highway and shall be located

within five feet of the outer most right of way limits. Utility appurtenances shall be located as close as possible to the right of way line.

(v) An existing utility carried on an interstate, freeway, or access controlled highway structure crossing a major valley or river may be permitted by UDOT to continue to be carried at the time the route is improved if the utility facility is serviced without interference to the traveling public.

(7) Utility Crossings.

(a) In addition to the requirements in Section R930-7-8(1)(d), the following requirements apply.

(i) A utility following a crossroad or street which is carried over or under an interstate, freeway, or access controlled highway must cross the interstate, freeway, or access controlled highway at the location of the crossroad or street in such a manner that the utility can be serviced without access from the through-traffic roadways or ramps.

(ii) Overhead utility lines crossing an interstate, freeway, or access controlled highway shall be adjusted so that supporting structures are located outside access control lines. In no case shall the supporting poles be placed within the clear zone. Where required for support, intermediate supporting poles may be placed in medians of sufficient width that provide the clear zone from the edges of both travelled ways. If additional lanes are planned, the clear zone shall be determined from the ultimate edges of the travelled way. When right of way lines and access control lines are not the same, such as when frontage roads are provided, supporting poles may be located in the area between them.

(iii) At interchange areas, supports for overhead utility facilities will be permitted only if located beyond the clear zone of traffic lanes or ramps, sight distance is not impaired, and can be safely accessed.

(iv) Manholes and other points of access to underground utilities may be permitted within the right of way of an interstate, freeway, or access controlled highway if they can be serviced or maintained without access from the through-traffic roadways or ramps. When right of way lines and access control lines are not the same, such as when frontage roads are provided, manholes and other points of access may be located in the area between them.

(v) Where a casing is not otherwise required, it shall be considered as expedient in the insertion, removal, replacement, or maintenance of carrier pipes crossing interstate, freeways, or access controlled highways. Casings shall extend to the access control lines. See Section R930-7-8(4).

(8) Longitudinal Telecommunications Installation.

(a) Installation must comply with R907-64.

(9) Wireless Telecommunications Facilities.

(a) Facilities must comply with R907-64.

R930-7-13. Deviations.

(1) Deviations from provisions of this rule may be allowed if they do not violate state and federal statutes, law, or regulations and UDOT has determined the use of the right of way will be for the public good without compromising the transportation purposes of the right of way.

(2) Requests for deviations with limited impact may be considered by UDOT on an individual basis, upon justification submitted by the utility company. UDOT will not consider cost to the utility company as the primary deciding factor in granting a deviation.

(3) Requests for significant deviations must demonstrate extreme hardship and unusual conditions and provide justification for the deviation. Requests must demonstrate that alternative measures can be specified and implemented and still fulfill the intent of state and federal statute and regulations. Requests for these deviations must include the following:

(a) formal request by the utility company; and

(b) an evaluation of the direct and indirect design, safety, environmental, and economic impacts associated with granting a deviation.

(4) In order for UDOT to grant a significant deviation the following approvals are necessary:

(a) formal recommendation for approval by the UDOT Region Permits Officer or the officer's supervisor;

(b) formal recommendation for approval from the UDOT Region Director;

(c) concurrence of the UDOT Statewide Utilities Engineer; and

(d) FHWA concurrence if the deviation applies to a utility facility located within a Federal-aid highway right of way.

(5) For UDOT projects that are solely state funded, UDOT may deviate from the utility relocation regulations contained in the Code of Federal Regulations by reimbursing a utility company for replacement of existing buildings with functionally equivalent buildings, if the following requirements are met:

(a) the utility company owns the property in fee that UDOT needs to acquire for its project;

(b) the utility company owns operational facilities located upon, below or above the property;

(c) the utility company owns a building on the property that provides maintenance services for the utility facility;

(d) a property purchase in accordance with 49 CFR 24 will not adequately compensate the utility company's costs to relocate and functionally re-establish the maintenance facility; and

(e) the deviation promotes the public interest.

R930-7-14. Enforcement.

(1) This rule is subject to enforcement pursuant to and as provided for in Utah Code, and may include, but not be limited to the following:

(a) administrative citations, in letter form, citing non-compliance items and proper redress requirements, including notice that UDOT may take whatever action is necessary to rectify the situation and subsequently submit a claim against the appropriate bond to recover from the utility company actual costs incurred by UDOT;

(b) increased bonding levels to recoup potential restoration costs on current or future utility projects;

(c) denial of future permits until past non-compliance is resolved;

(d) termination of the License Agreement; and

([d]e) legal action to secure reimbursement from the utility company for costs incurred by UDOT due to damages to the right of way or noncompliance with the permit, rule or License Agreement.

KEY: right-of-way, utilities, utility accommodation

Date of Enactment or Last Substantive Amendment: ~~February 23, 2016~~

Authorizing, and Implemented or Interpreted Law: 72-6-116(2)

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a **120-DAY (EMERGENCY) RULE** when it finds that 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.

Following the **RULE ANALYSIS**, the text of the **120-DAY RULE** is printed. New text is underlined (example) and text to be deleted is struck out with brackets surrounding the deleted text ([example]). An emergency rule that is new is entirely underlined. Likewise, an emergency rule that repeals an existing rule shows the text completely struck out. A row of dots in the text (.) indicates that unaffected text was removed to conserve space.

A **120-DAY RULE** is effective when filed with the Office of Administrative Rules, 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 of its temporary nature, a **120-DAY RULE** is not codified as part of the *Utah Administrative Code*.

The law does not require a public comment period for **120-DAY RULES**. However, when an agency files a **120-DAY RULE**, it may file a **PROPOSED RULE** at the same time, to make the requirements permanent.

Emergency or **120-DAY RULES** are governed by Section 63G-3-304, and Section R15-4-8.

Pardons (Board of), Administration **R671-201**

Original Hearing Schedule and Notice

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 40707
FILED: 08/25/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule change is to require the Board to set earlier original hearings for individuals who committed a homicide offense as a minor and individuals sentenced to three years to life.

SUMMARY OF THE RULE OR CHANGE: Original hearings for individuals who committed a homicide offense as a minor will be set at less than 15 years. Original hearings for individuals sentenced to three years to life will be scheduled after the service of twelve months as opposed to the previous requirement of three years. (Editor's Note: A corresponding proposed amendment to Rule R671-201 is under Filing No. 40708 in this issue, September 15, 2016, Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art VII Sec 12 and Section 77-27-5 and Section 77-27-7 and Section 77-27-9

EMERGENCY RULE REASON AND JUSTIFICATION:

REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

JUSTIFICATION: Case law requires a certain standard of review when an individual who is sentenced to life in prison for an offense that was committed when the individual was a minor. If the sentence is three years to life, the Board must conduct the original hearing before the minimum sentence, which is less than three years.

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** Hearings are already required. The change only affects the timing of the hearing and does not create any revenue or increase costs for the agency.

◆ **LOCAL GOVERNMENTS:** Local government does not participate in parole hearings and is not impacted by the proposed change.

◆ **SMALL BUSINESSES:** Small business does not participate in parole hearings and is not impacted by the proposed change.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The inmate benefits by having an earlier review of the inmates' parole status. Parole hearings are at no cost to the inmate. The proposed change does not create any cost to the inmate.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Parole hearings are at no cost to the inmate. The proposed change does not create any cost to the inmate.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses are not involved in parole hearings and will not be impacted. The change only moves up the date of the original hearing.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 PARDONS (BOARD OF)
 ADMINISTRATION
 ROOM 300
 448 E 6400 S
 SALT LAKE CITY, UT 84107-8530
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Greg Johnson by phone at 801-261-6454, by FAX at 801-261-6481, or by Internet E-mail at gregjohnson@utah.gov

EFFECTIVE: 08/25/2016

AUTHORIZED BY: Angela Micklos, Chair

R671. Pardons (Board of), Administration.
R671-201. Original Hearing Schedule and Notice.
R671-201-1. Schedule and Notice.

(1)(a) Within six months of an offender's commitment to prison the Board shall give notice of the month and year in which the inmate's original hearing will be conducted.

(b) A minimum of seven days prior notice should be given regarding the specific day and approximate time of such hearing.

(2)(a) Homicide offense commitment, for purposes of this rule, means a prison commitment to serve a sentence for a conviction of aggravated murder (if the sentence includes the possibility of parole), murder, felony murder, manslaughter, child abuse homicide, negligent homicide, automobile homicide, homicide by assault, any attempt, conspiracy or solicitation to commit any of these offenses, and any other offense, regardless of title, description or severity, when it is known at the time of sentencing that the offense conduct resulted in the death of any person.

(b) Sexual offense commitment, for purposes of this rule, means a prison commitment to serve a sentence for a conviction of any crime for which an offender is defined as a kidnap offender pursuant to Utah Code Ann. Subsection 77-41-102(9); or for which an offender is defined as a sex offender pursuant to Utah Code Ann. Subsection 77-41-102(16); or any attempt, conspiracy or solicitation to commit any of the offenses listed in those sections.

(3)(a) All homicide offense commitments eligible for parole shall be routed to the Board as soon as practicable for the determination of the month and year for an original hearing.

(b) The Board shall determine, by majority vote, the month and year of an original hearing for an offender serving a homicide offense commitment.

(c) In setting an original hearing for a homicide offense commitment, the Board shall only consider information available to the court or offender at the time of sentencing.

(d) Homicide offense commitments not eligible for parole, [including sentences of life without parole or death], ~~shall~~ may not be scheduled for original hearings.

(e) If the offender is less than 18 years of age at the time of the homicide offense and the offense is eligible for parole, the original hearing shall be scheduled no later than 15 years after the date of sentencing.

(4) If the offender is less than 18 years of age at the time of commitment and the offense is eligible for parole, the case shall be routed to the Board as soon as practicable for the determination, by majority vote, of the month and year for an original hearing.

(5) When an offender's prison commitment does not include a homicide offense commitment, an offender is eligible to have an original hearing before the Board as follows:

(a) After the service of fifteen years for first degree felony commitments when the most severe sentence imposed and being served is a sentence greater than 15 years to life, excluding enhancements.

(b) After the service of seven years for first degree felony commitments when the most severe sentence imposed and being served is a sentence of 10 years to life, or 15 years to life, excluding enhancements.

(c) After the service of three years for all other first degree felony commitments.

(d) After the service of twelve months if the most serious offense of incarceration is: (i) a second degree felony sexual offense commitment; or (ii) a first degree felony which is three to life.

(e) After the service of six months for all other second degree felony commitments.

(f) After the service of six months if the most serious offense of incarceration is a third degree felony sexual offense commitment.

(g) After the service of three months for all other third degree felony and class A misdemeanor commitments.

(6)(a) An offender may request that their original appearance and hearing before the Board be scheduled other than as provided by this rule. An offender's request shall specify the extraordinary circumstances or reasons which give rise to the request. The Board may grant or deny the offender's request in its sole discretion.

(b) The Board may, in its discretion, depart from the schedule as provided by this rule if:

(i) an offender requests a continuance due to extraordinary circumstances;

(ii) an offender has unadjudicated criminal charges pending at the time a hearing would normally be scheduled;

(iii) a Class A misdemeanor commitment has expired prior to an original hearing; or

(iv) the Board determines that other unusual or extraordinary circumstances impact the setting of an original hearing.

KEY: parole, inmates, hearings

Date of Enactment or Last Substantive Amendment: August 25, 2016

Notice of Continuation: September 22, 2014

Authorizing, and Implemented or Interpreted Law: Art VII Sec 12; 77-27-5; 77-27-7; 77-27-9

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 help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at <http://www.rules.utah.gov/publicat/code.htm>. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

REVIEWS are governed by Section 63G-3-305.

Agriculture and Food, Horse Racing Commission (Utah)

R52-7

Horse Racing

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 40703
FILED: 08/25/2016

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 4-38-4 requires rules to be promulgated that will govern officially recognized race meets.

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 by the department since the last five-year review of the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule is necessary to enable the horse industry to record race results and receive official recognition from the national horse breed organizations.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
AGRICULTURE AND FOOD
HORSE RACING COMMISSION (UTAH)

350 N REDWOOD RD
SALT LAKE CITY, UT 84114
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
- ◆ Scott Ericson by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at sericson@utah.gov

AUTHORIZED BY: LuAnn Adams, Commissioner

EFFECTIVE: 08/25/2016

Commerce, Occupational and Professional Licensing

R156-15

Health Facility Administrators Act Rule

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 40705
FILED: 08/25/2016

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: Title 58, Chapter 15, provides for the licensure of health facility administrators. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-15-3(3) provides that the Health Facility Administrators Licensing Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the

duties of each board is to recommend appropriate rules to the Division Director. This rule was enacted to clarify the provisions of Title 58, Chapter 15, with respect to health facility administrators.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in October 2011, it has been amended one time in May 2014. The Division has received no written comments with respect to 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 as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 15, with respect to health facility administrators. The rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Allyson Pettley by phone at 801-530-6179, by FAX at 801-530-6511, or by Internet E-mail at apettley@utah.gov

AUTHORIZED BY: Mark Steinagel, Director

EFFECTIVE: 08/25/2016

**Commerce, Occupational and
 Professional Licensing**

R156-71

**Naturopathic Physician Practice Act
 Rule**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**

DAR FILE NO.: 40706
 FILED: 08/25/2016

**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: Title 58, Chapter 71, provides for the licensure and regulation of naturopathic physicians. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-71-201(3)(a) provides that the Naturopathic Physicians Licensing Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1) (a) provides that one of the duties of each board is to recommend appropriate rules to the Division Director. This rule was enacted to clarify the provisions of Title 58, Chapter 71, with respect to naturopathic physicians.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was last reviewed in October 2011, the rule has been amended one time in April 2015. The Division has received no written comments with respect to 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 as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 71, with respect to naturopathic physicians. The rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Allyson Pettley by phone at 801-530-6179, by FAX at 801-530-6511, or by Internet E-mail at apettley@utah.gov

AUTHORIZED BY: Mark Steinagel, Director

EFFECTIVE: 08/25/2016

Commerce, Real Estate
R162-2g
Real Estate Appraiser Licensing and
Certification Administrative Rules

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 40684
FILED: 08/18/2016

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The rule was adopted under the statutory provisions of Title 61, Chapter 2g, the Real Estate Appraiser Licensing and Certification Act (Act). Section 61-2g-201 provides that the Utah Real Estate Division (Division), shall adopt, with the concurrence of the Utah Real Estate Appraiser Licensing and Appraiser Board (Board), rules for the administration of Title 61, Chapter 2g that are not inconsistent with the chapter or the constitution and laws of the state of Utah or of the United States. Other sections of Title 61, Chapter 2g, which authorize the rulemaking process are Sections 61-2g-102, 61-2g-205, 61-2g-302, 61-2g-304.5, 61-2g-306, 61-2g-311, 61-2g-313, 61-2g-403, and 61-2g-502. Changes and updates to the rule have been made since its adoption. The rule provides direction to the staff of the Division regarding the administration and enforcement of the Act and helps guide registered, licensed, and certified appraisers such that they may comply with the statutory requirements of the Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The rule has been amended numerous times since it became effective. Prior to adopting the amendments to the rule, proposed amendments were discussed during public meetings of the Board. The public, industry members, and government or quasi government entities made comments at the meetings which were considered by the Division and the Board prior to the adoption of the amendments. No written comments were submitted during this process or since the adoption 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 statutory requirement for this rule remains in effect. There have been no written comments in opposition to this rule. Therefore, the rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
COMMERCE
REAL ESTATE
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Justin Barney by phone at 801-530-6603, or by Internet E-mail at justinbarney@utah.gov

AUTHORIZED BY: Jonathan Stewart, Director

EFFECTIVE: 08/18/2016

Insurance, Administration
R590-207
Health Producer Commissions for
Small Employer Groups

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 40725
FILED: 08/31/2016

**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 31A-2-201(3) gives the commissioner the authority to write rules to implement the provisions of Title 31A. This rule implements the provisions of Subsection 31A-30-104(6) by establishing guidelines relating to commission structure for small group health insurance agents in the small employer group market. Commission structure can affect access to health insurance coverage for small employer groups. Section R590-207-5 of the rule requires that commission schedules not be set up by insurers to restrict or hinder agents from selling to small business owners.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has not received any comments regarding this rule during the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE

RULE, IF ANY: This rule is important because it eliminates the pressure from insurers on agents from selling guarantee issue or renewal policies to small business owners. This way small employers are guaranteed health insurance coverage. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

AUTHORIZED BY: Steve Gooch, Information Specialist

EFFECTIVE: 08/31/2016

Insurance, Administration **R590-210**

Privacy of Consumer Information Exemption for Manufacturer Warranties and Service Contracts

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 40726

FILED: 08/31/2016

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 31A-2-201(2), 31A-2-202(2), and 31A-2-202(3)(a) empower the commissioner to administer and enforce Title 31A, which in this case specifically refers to the following Title 31A sections. Subsection 31A-23-317(3) authorizes the commissioner to adopt rules implementing the requirements of Title V, Sections 501 to 505 of the federal act (15 U.S.C. 6801 through 6807). Title V, Section 505 (15 U.S.C. 6805) empowers the commissioner to enforce Subtitle A of Title V of the Gramm-Leach-Bliley Act of 1999 (15 U.S.C. 6801 - 6820). As allowed by the federal law, the rule provides an exemption to warranty and service contract providers from the department's privacy rule, Rule R590-206, which sets

restrictions on the disclosure of nonpublic personal health and financial information, as well as requires licensees to disclose their privacy policies to customers.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has received no written comments regarding this rule during the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R590-210 is applicable to licensees of the department. Persons or entities that provide warranty or service contracts on consumer goods are required to register with the department and provide certain information about their ability to perform under the warranty or service contract. Technically a registration could be considered a license issued by the department. Unless those contracts are exempted from the rule, the provider must comply with Rule R590-210. Without the exemption, the persons or entities providing the warranties or service contracts will experience immediate and substantial costs to be in compliance with Rule R590-210. Without the exemption, they will either be out of compliance or will have to stop providing the product or provide the product subject to being in violation of the rule. The impact to the public is immediate and perilous. It will impact the delivery of these products in interstate commerce and will result in increased costs to purchasers. It will impact the supply of these products in the market. Warranty and service contract providers are not subject to Gramm-Leach-Bliley. However, because they are required to register with the department, they can be technically considered to be "licensees" of the department and without exemption would be subject to Rule R590-210, which applies only to financial services entities under Gramm-Leach-Bliley. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

AUTHORIZED BY: Steve Gooch, Information Specialist

EFFECTIVE: 08/31/2016

**Insurance, Administration
R590-237
Access to Health Care Providers in
Rural Counties**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 40727
FILED: 08/31/2016

**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: Title 31A, Chapter 2, authorizes the commissioner to adopt rules to implement the code. Subsection 31A-8-501(8)(c) authorizes the commissioner to identify by rule the counties with a population density of less than 100 people per square mile, independent hospitals, and federally-qualified health centers and describe how health maintenance organizations shall use the information and provide enrollees in rural areas with a notice that includes a list of non-HMO contracted medical providers they can use per certain requirements.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has received no written comments regarding this rule within the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is needed to assure that people living in rural areas have access to adequate health care services. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

AUTHORIZED BY: Steve Gooch, Information Specialist

EFFECTIVE: 08/31/2016

**Labor Commission, Antidiscrimination
and Labor, Fair Housing
R608-1
Utah Fair Housing Rules**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 40717
FILED: 08/29/2016

**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 57-21-8(2)(a) grants the Labor Commission authority to establish rules to administer the Utah Fair Housing Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received during or 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 remains necessary in light of the Labor Commission's continuing responsibility to administer Title 57, Chapter 21, Utah Fair Housing Act and the statutory authority contained in Subsection 57-21-8(2)(a) to adopt rules necessary to implement the Act. The Commission has received no comments opposing this rule or its continuation. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
LABOR COMMISSION
ANTIDISCRIMINATION AND LABOR, FAIR
HOUSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Alison Adams-Perlac by phone at 801-530-6921, by FAX at 801-530-7601, or by Internet E-mail at aadamsperlac@utah.gov

AUTHORIZED BY: Jaceson Maughan, Acting Commissioner/General Counsel

EFFECTIVE: 08/29/2016

Labor Commission, Antidiscrimination and Labor, Labor
R610-1
Minimum Wage, Clarify Tip Credit, and Enforcement

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 40720
FILED: 08/29/2016

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 34-40-105 gives the Utah Labor Commission authority to establish rules to administer the Utah Minimum Wage Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received during or 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 remains necessary in light of the Labor Commission's continuing responsibility to administer Title 34, Chapter 40, Utah Minimum Wage Act, and the statutory authority contained in Section 34-40-105 to adopt rules to implement the Act. The Commission has received no comments opposing this rule or its continuation. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
LABOR COMMISSION
ANTIDISCRIMINATION AND LABOR, LABOR
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Alison Adams-Perlac by phone at 801-530-6921, by FAX at 801-530-7601, or by Internet E-mail at aadamsp@utah.gov

AUTHORIZED BY: Jaceson Maughan, Acting Commissioner/ General Counsel

EFFECTIVE: 08/29/2016

Labor Commission, Antidiscrimination and Labor, Labor
R610-2
Employment of Minors

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 40719
FILED: 08/29/2016

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 34-23-104 gives the Labor Commission authority to establish rules to administer the Employment of Minors Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received during or 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 remains necessary in light of the Labor Commission's continuing responsibility to administer Title 34, Chapter 23, Employment of Minors, and the statutory authority contained in Subsection 34-23-104(2) to adopt rules to implement the Act. The Commission has received no comments opposing this rule or its continuation. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
LABOR COMMISSION
ANTIDISCRIMINATION AND LABOR, LABOR
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Alison Adams-Perlac by phone at 801-530-6921, by FAX at 801-530-7601, or by Internet E-mail at aadamsp@utah.gov

AUTHORIZED BY: Jaceson Maughan, Acting Commissioner/ General Counsel

EFFECTIVE: 08/29/2016

Labor Commission, Antidiscrimination
and Labor, Labor
R610-3
Filing, Investigation, and Resolution of
Wage Claims

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 40718
FILED: 08/29/2016

**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 34-28-9(1)(b) and 34-28-19(5) give the Labor Commission authority to establish rules regarding filing of wage claims and retaliation for filing such claims.

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 during or 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 remains necessary in light of the Labor Commission's continuing responsibility to administer Title 34, Chapter 28, Payment of Wages, and the statutory authority contained in Subsections 34-28-9(1)(b) and 34-28-19(5) to adopt rules to implement the Payment of Wages Act. The Commission has received no comments opposing this rule or its continuation. Therefore, this rule should be continued.

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

LABOR COMMISSION
ANTIDISCRIMINATION AND LABOR, LABOR
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Alison Adams-Perlac by phone at 801-530-6921, by FAX at 801-530-7601, or by Internet E-mail at aadamsperlac@utah.gov

AUTHORIZED BY: Jaceson Maughan, Acting Commissioner/
General Counsel

EFFECTIVE: 08/29/2016

Labor Commission, Boiler and Elevator
Safety
R616-2
Boiler and Pressure Vessel Rules

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 40691
FILED: 08/23/2016

**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 34A-7-103(6) and 34A-7-103(7) give the Labor Commission authority to establish inspection and safety standards for boilers and pressure vessels to prevent a "menace to the public safety."

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 during or 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 remains necessary in light of the Labor Commission's continuing responsibility to administer Title 34A, Chapter 7, Part 1, Boilers and Pressure Vessels and the statutory directive contained in Subsections 34-7-103(6) and 34-7-103(7) to adopt standards for inspection and safe operation of boilers and pressure vessels. The Commission has received no comments opposing this rule or its continuation. Therefore, this rule should be continued.

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

LABOR COMMISSION
BOILER AND ELEVATOR SAFETY
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Ami Windham by phone at 801-530-6850, by FAX at 801-530-6871, or by Internet E-mail at awindham@utah.gov
◆ Pete Hackford by phone at 801-530-7605, by FAX at 801-530-6871, or by Internet E-mail at phackford@utah.gov

AUTHORIZED BY: Jaceson Maughan, Acting Commissioner/
General Counsel

◆ Pete Hackford by phone at 801-530-7605, by FAX at 801-530-6871, or by Internet E-mail at phackford@utah.gov

EFFECTIVE: 08/23/2016

AUTHORIZED BY: Jaceson Maughan, Acting Commissioner/
General Counsel

EFFECTIVE: 08/23/2016

**Labor Commission, Boiler and Elevator
Safety
R616-3
Elevator Rules**

**Natural Resources; Oil, Gas and
Mining; Administration
R642-100
Records of the Division and Board of
Oil, Gas and Mining**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 40690
FILED: 08/23/2016

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 40693
FILED: 08/24/2016

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

**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 34A-7-203(6) directs the Commission to enact rules adopting "nationally recognized standards or other safety codes to be used in inspecting elevators or escalators."

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule concerning handling of records is authorized under the rulemaking authority granted in Sections 40-6-5, 40-8-6, and 40-10-6, and is specifically authorized by the Government Records and Management Act (GRAMA), Section 63G-2-101 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 have been received during or since the last five-year review.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule remains necessary in light of the Labor Commission's continuing responsibility to administer Title 34A, Chapter 7, Part 2, the Elevator and Escalator Safety Act and the statutory directive contained in Subsection 34-7-203(6) to adopt national safety standards or other safety codes to be used in inspecting elevators and escalators. The Commission has received no comments opposing this rule or its continuation. Therefore, this rule should be continued.

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 so that a process remains in place for managing the records of the Division and Board of Oil, Gas and Mining.

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

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

LABOR COMMISSION
BOILER AND ELEVATOR SAFETY
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Office of Administrative Rules.

NATURAL RESOURCES
OIL, GAS AND MINING; ADMINISTRATION
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
◆ Ami Windham by phone at 801-530-6850, by FAX at 801-530-6871, or by Internet E-mail at awindham@utah.gov

DIRECT QUESTIONS REGARDING THIS RULE TO:
◆ Steve Schneider by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 08/24/2016

Natural Resources; Oil, Gas and
Mining; Abandoned Mine Reclamation
R643-870
Abandoned Mine Reclamation
Regulation Definitions

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 40694
FILED: 08/24/2016

**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 40-10-6 provides for rulemaking authority to the Board of Oil, Gas and Mining as necessary for the regulation of coal mining operations and reclamation operations. Definitions in this rule are necessary for consistent usage in regulation.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Definitions for Abandoned Mine Reclamation in this rule are necessary to avoid inconsistent use of terminology by the board, division, and affected parties. This rule should be continued so the Abandoned Mine Reclamation Program continues to retain primacy under the federal Surface Mining Control and Reclamation Act.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
OIL, GAS AND MINING; ABANDONED MINE
RECLAMATION
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Steve Schneider by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 08/24/2016

Natural Resources; Oil, Gas and
Mining; Abandoned Mine Reclamation
R643-872
Abandoned Mine Reclamation Fund

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 40695
FILED: 08/24/2016

**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 40-10-6 provides for rulemaking authority to the Board of Oil, Gas and Mining as necessary for the regulation of coal mining operations and reclamation operations. Section 40-10-25.1 specifically creates the Abandoned Mine Reclamation Fund.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes how the Abandoned Mine Reclamation Fund will be managed. This rule should be continued so the Abandoned Mine Reclamation Program continues to retain primacy under the federal Surface Mining Control and Reclamation Act.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
OIL, GAS AND MINING; ABANDONED MINE
RECLAMATION
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Steve Schneider by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 08/24/2016

EFFECTIVE: 08/24/2016

Natural Resources; Oil, Gas and
Mining; Abandoned Mine Reclamation
R643-874
General Reclamation Requirements

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 40696
FILED: 08/24/2016

**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 40-10-6 provides for rulemaking authority to the Board of Oil, Gas and Mining as necessary for the regulation of coal mining operations and reclamation operations. Section 40-10-25 specifically establishes eligible land and water resource restoration priorities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes reclamation eligibility requirements and priorities in the Abandoned Mine Reclamation Program. This rule should be continued so the Abandoned Mine Reclamation Program continues to retain primacy under the federal Surface Mining Control and Reclamation Act.

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

NATURAL RESOURCES
OIL, GAS AND MINING; ABANDONED MINE
RECLAMATION
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Steve Schneider by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

Natural Resources; Oil, Gas and
Mining; Abandoned Mine Reclamation
R643-875
Noncoal Reclamation

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 40697
FILED: 08/24/2016

**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 40-10-6 provides for rulemaking authority to the Board of Oil, Gas and Mining as necessary for the regulation of coal mining operations and reclamation operations. Section 40-10-25 specifically establishes eligible land and water resource restoration priorities and requirements for use of funds.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes land and water eligibility requirements for noncoal reclamation in the Abandoned Mine Reclamation Program. This rule should be continued so the Abandoned Mine Reclamation Program continues to retain primacy under the federal Surface Mining Control and Reclamation Act.

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

NATURAL RESOURCES
OIL, GAS AND MINING; ABANDONED MINE
RECLAMATION
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Steve Schneider by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 08/24/2016

EFFECTIVE: 08/24/2016

Natural Resources; Oil, Gas and
Mining; Abandoned Mine Reclamation

R643-877

Rights of Entry

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 40698
FILED: 08/24/2016

**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 40-10-6 provides for rulemaking authority to the Board of Oil, Gas and Mining as necessary for the regulation of coal mining operations and reclamation operations. Section 40-10-27 specifically establishes provisions for entry upon land adversely affected by past mining.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes procedures that are necessary for entry upon land for reclamation purposes by the Abandoned Mine Reclamation Program. This rule should be continued so the Abandoned Mine Reclamation Program continues to retain primacy under the federal Surface Mining Control and Reclamation Act.

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

NATURAL RESOURCES
OIL, GAS AND MINING; ABANDONED MINE
RECLAMATION
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Steve Schneider by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

Natural Resources; Oil, Gas and
Mining; Abandoned Mine Reclamation

R643-879

Acquisition, Management, and
Disposition of Lands and Water

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 40699
FILED: 08/24/2016

**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 40-10-6 provides for rulemaking authority to the Board of Oil, Gas and Mining as necessary for the regulation of coal mining operations and reclamation operations. Section 40-10-27 specifically establishes provisions when the state may acquire land adversely affected by past mining and later disposition.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes procedures that are necessary for acquisition of eligible land and water resources for emergency and reclamation purposes and also the disposition of lands so acquired. This rule should be continued so the Abandoned Mine Reclamation Program continues to retain primacy under the federal Surface Mining Control and Reclamation Act.

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

NATURAL RESOURCES
OIL, GAS AND MINING; ABANDONED MINE
RECLAMATION
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Steve Schneider by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 08/24/2016

Natural Resources; Oil, Gas and Mining; Abandoned Mine Reclamation

R643-882

Reclamation on Private Land

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 40700

FILED: 08/24/2016

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 40-10-6 provides for rulemaking authority to the Board of Oil, Gas and Mining as necessary for the regulation of coal mining operations and reclamation operations. Section 40-10-28 specifically establishes provisions for potential recovery of reclamation costs.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes procedures that are necessary for recovery of the cost of reclamation activities conducted on private land by the Abandoned Mine Reclamation Program. This rule should be continued so the Abandoned Mine Reclamation Program continues to retain primacy under the federal Surface Mining Control and Reclamation Act.

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

NATURAL RESOURCES
OIL, GAS AND MINING; ABANDONED MINE RECLAMATION
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Steve Schneider by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 08/24/2016

Natural Resources; Oil, Gas and Mining; Abandoned Mine Reclamation

R643-884

State Reclamation Plan

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 40701

FILED: 08/24/2016

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 40-10-6 provides for rulemaking authority to the Board of Oil, Gas and Mining as necessary for the regulation of coal mining operations and reclamation operations. Section 40-10-26 specifically establishes provisions for submittal of the state reclamation plan and application for support of the state program to the federal Secretary of the Interior.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes procedures that are necessary for the preparation, submission, and approval of the state reclamation plan to the Office of Surface Mining which is critical to funding of the Abandoned Mine Reclamation Program. This rule should be continued so the Abandoned Mine Reclamation Program continues to retain primacy under the federal Surface Mining Control and Reclamation Act.

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

NATURAL RESOURCES
OIL, GAS AND MINING; ABANDONED MINE RECLAMATION

ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Steve Schneider by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 08/24/2016

**Natural Resources; Oil, Gas and
Mining; Abandoned Mine Reclamation
R643-886
State Reclamation Grants**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 40702
FILED: 08/24/2016

**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 40-10-6 provides for rulemaking authority to the Board of Oil, Gas and Mining as necessary for the regulation of coal mining operations and reclamation operations. Section 40-10-26 specifically establishes provisions for submittal of the state reclamation plan and application for support of the state program to the federal Secretary of the Interior.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes procedures that are necessary for receipt of grants by the Abandoned Mine Reclamation Program for the reclamation of eligible lands and water in the reclamation plan. This rule should be continued so the Abandoned Mine Reclamation Program continues to retain primacy under the federal Surface Mining Control and Reclamation Act.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
OIL, GAS AND MINING; ABANDONED MINE RECLAMATION
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Steve Schneider by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 08/24/2016

**Natural Resources; Oil, Gas and
Mining; Oil and Gas
R649-1
Oil and Gas Definitions**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 40710
FILED: 08/26/2016

**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 40-6-5 provides for rulemaking authority to the Board of Oil, Gas and Mining and provides the Board with the authority to regulate all operations related to the production of oil and gas and the disposal of salt water and oil field wastes. The definitions in this rule are utilized for consistent regulation.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Western Energy Alliance on 08/04/2016 expressed support for the renewal 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 definitions in this rule are necessary to avoid inconsistent use of terminology by the board, division, industry, and other affected parties. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 NATURAL RESOURCES
 OIL, GAS AND MINING; OIL AND GAS
 ROOM 1210
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Office of Administrative Rules.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 NATURAL RESOURCES
 OIL, GAS AND MINING; OIL AND GAS
 ROOM 1210
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Steve Schneider by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Steve Schneider by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 08/26/2016

EFFECTIVE: 08/26/2016

**Natural Resources; Oil, Gas and Mining; Oil and Gas
 R649-2
 General Rules**

**Natural Resources; Oil, Gas and Mining; Oil and Gas
 R649-3
 Drilling and Operating Practices**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE NO.: 40711
 FILED: 08/26/2016

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE NO.: 40712
 FILED: 08/26/2016

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

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 40-6-5 provides for rulemaking authority to the Board of Oil, Gas and Mining and provides the Board with the authority to regulate all operations related to the production of oil and gas and the disposal of salt water and oil field wastes. This rule covers the authorities granted to the division by the Board of Oil, Gas and Mining and the scope of Title R649 and its rules.

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 40-6-5 provides for rulemaking authority to the Board of Oil, Gas and Mining and provides the Board with the authority to regulate all operations related to the production of oil and gas and the disposal of salt water and oil field wastes.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Western Energy Alliance on 08/04/2016 expressed support for the renewal of this rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Western Energy Alliance on 08/04/2016 expressed support for the renewal of this rule. Kinder Morgan in April 2016 requested consideration of a modification to Section R649-3-32, and a rule amendment is currently in process with stakeholders and the Board of Oil, Gas and Mining.

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 to specify the authority and scope of the division's responsibilities provided for in Title 40, Chapter 6, et seq. It also provides a framework for day-to-day operations including inspections, record access, and production measurement. Therefore, this rule should be continued.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Without this rule, the division would not have the ability to issue permits, review proposed and ongoing operations, and function in the arena of regulating oil and gas drilling and operations in the state to protect the public.

Therefore, this rule should be continued. Also, a rule amendment to Section R649-3-32 is in process.

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

NATURAL RESOURCES
OIL, GAS AND MINING; OIL AND GAS
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Steve Schneider by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 08/26/2016

**Natural Resources; Oil, Gas and
Mining; Oil and Gas
R649-5**

**Underground Injection Control of
Recovery Operations and Class II
Injection Wells**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 40713
FILED: 08/26/2016

**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 40-6-5 provides for rulemaking authority to the Board of Oil, Gas and Mining and provides the Board with the authority to regulate all operations related to the production of oil and gas and the disposal of salt water and oil field wastes. Subsection 40-6-5(5) specifically provides the board with exclusive jurisdiction over class II injection wells as defined by the federal Environmental Protection 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: Western Energy Alliance on 08/04/2016 expressed support for the renewal 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: Without this rule, the numerous injection wells used for waste disposal and reservoir pressure maintenance would fall under federal authority. This rule allows the division to assume state primacy for injection operations. Therefore, this rule should be continued.

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

NATURAL RESOURCES
OIL, GAS AND MINING; OIL AND GAS
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Steve Schneider by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 08/26/2016

**Natural Resources; Oil, Gas and
Mining; Oil and Gas
R649-8**

Reporting and Report Forms

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 40714
FILED: 08/26/2016

**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 40-6-5 provides for rulemaking authority to the Board of Oil, Gas and Mining and provides the Board with the authority to regulate all operations related to the production of oil and gas and the disposal of salt water and oil field wastes. This statute authorizes the board to adopt rules for reporting and the division is the repository for these records.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Western Energy Alliance on 08/04/2016 expressed support for the renewal 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 is necessary for the division to carry out the requirement to collect appropriate information from parties in the oil and gas industry and then make available to the public. This rule is necessary for consistency in data collection and data publication. Therefore, this rule should be continued.

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

NATURAL RESOURCES
OIL, GAS AND MINING; OIL AND GAS
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Steve Schneider by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 08/26/2016

Natural Resources; Oil, Gas and Mining; Oil and Gas

R649-9

Waste Management and Disposal

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 40715
FILED: 08/26/2016

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 40-6-5 provides for rulemaking authority to the Board of Oil, Gas and Mining and provides the Board with the authority to regulate all operations related to the production of oil and gas and the disposal of salt water and oil field wastes.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Rule R649-9 was fully reviewed with stakeholders in early 2013 for rewrite, which resulted in a repeal and reenactment of this rule effective 07/01/2013. Western Energy Alliance on 08/04/2016 expressed support for the renewal of this rule as currently written.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Without this rule, the state would not have a mechanism to manage the wastes generated in the process of exploration and production of petroleum hydrocarbons in the state. This rule and the board authority extended to the division are the means for proper disposal and handling of these wastes to protect the public. Therefore, this rule should be continued.

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

NATURAL RESOURCES
OIL, GAS AND MINING; OIL AND GAS
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Steve Schneider by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 08/26/2016

Transportation, Administration

R907-63

Structure Repair and Loss Recovery Procedure

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 40728
FILED: 09/01/2016

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 establishes a procedure for loss recovery by the Department for damages to structures, appurtenances, and the roadway as provided in Section 72-7-301.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any written comments during and since the last five-year review of the rule from interested persons supporting or opposing 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: This rule was just amended effective 08/23/2016. The rule is essential to the Department to recover the costs of repairing damage to highway facilities, structures, and appurtenances from those who cause the damage. Therefore, this rule should be continued.

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

TRANSPORTATION
ADMINISTRATION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY, UT 84119-5998
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at cwnewman@utah.gov
- ◆ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at jimpalmer@utah.gov
- ◆ Linda Hull by phone at 801-965-4253, or by Internet E-mail at lhull@utah.gov
- ◆ Michelle Jeronimo by phone at 801-965-3883, or by Internet E-mail at mjeronimo@utah.gov

AUTHORIZED BY: Carlos Braceras, Executive Director

EFFECTIVE: 09/01/2016

Transportation, Motor Carrier **R909-1** Safety Regulations for Motor Carriers

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 40721
FILED: 08/30/2016

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 under the authority of Section 72-9-103 to enable the Department to enforce the Federal Motor Carrier Safety Regulations as contained in Title 49, Code of Federal Regulations (CFR), related to the operation of a motor carrier within the state, as required by Section 72-9-301.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR

OPPOSING THE RULE: The Department has not received any written comments during and since the last five-year review of the rule from interested persons supporting or opposing 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: Section 72-9-301 still requires the Department to enforce the Federal Motor Carrier Safety Regulations as contained 49 CFR related to the operation of a motor carrier within the state. This rule incorporates those federal regulations by reference. Therefore, this rule should be continued.

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

TRANSPORTATION
MOTOR CARRIER
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY, UT 84119-5998
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at cwnewman@utah.gov
- ◆ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at jimpalmer@utah.gov
- ◆ Linda Hull by phone at 801-965-4253, or by Internet E-mail at lhull@utah.gov
- ◆ Michelle Jeronimo by phone at 801-965-3883, or by Internet E-mail at mjeronimo@utah.gov

AUTHORIZED BY: Carlos Braceras, Executive Director

EFFECTIVE: 08/30/2016

Transportation, Motor Carrier **R909-75** Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Hazardous Wastes

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 40722
FILED: 08/30/2016

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

Sections 72-9-103 and 72-9-104, and required by Section 72-9-301. The rule adopts federal regulations that are applicable to the offering, acceptance, and transportation of hazardous materials related to the operation of a motor carrier within the state of Utah. These regulations are included in the federal safety requirements the Department must enforce pursuant to Section 72-9-301.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any written comments during and since the last five-year review of the rule from interested persons supporting or opposing 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: Section 72-9-301 is still in effect. This section still requires the Department to enforce the federal regulations included in 49 CFR Sub-Chapter C, Parts 107, 171, 172, 173, 177, 178, 179, and 180. This rule adopts these federal regulations by reference, thus enabling the Department to comply with Section 72-9-301. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TRANSPORTATION
MOTOR CARRIER
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY, UT 84119-5998
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at cnewman@utah.gov
- ◆ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at jimpalmer@utah.gov
- ◆ Linda Hull by phone at 801-965-4253, or by Internet E-mail at lhull@utah.gov
- ◆ Michelle Jeronimo by phone at 801-965-3883, or by Internet E-mail at mjeronimo@utah.gov

AUTHORIZED BY: Carlos Braceras, Executive Director

EFFECTIVE: 08/30/2016

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative 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 make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the 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.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal & Reenact

REP = Repeal

Administrative Services

Finance

No. 40547 (AMD): R25-7. Travel-Related Reimbursements for State Employees

Published: 07/15/2016

Effective: 08/22/2016

Purchasing and General Services

No. 40559 (AMD): R33-1. Utah Procurement Rules, "General Procurement Provisions," Definitions

Published: 07/15/2016

Effective: 08/22/2016

No. 40560 (AMD): R33-4. General Procurement Provisions, Prequalifications, Specifications, and Small Purchases

Published: 07/15/2016

Effective: 08/22/2016

No. 40571 (AMD): R33-5. Request for Information

Published: 07/15/2016

Effective: 08/22/2016

No. 40561 (AMD): R33-6. Bidding

Published: 07/15/2016

Effective: 08/22/2016

No. 40567 (AMD): R33-7. Request for Proposals

Published: 07/15/2016

Effective: 08/22/2016

No. 40570 (AMD): R33-8. Exceptions to Procurement Requirements

Published: 07/15/2016

Effective: 08/22/2016

No. 40565 (AMD): R33-9. Cancellations, Rejections, and Debarment

Published: 07/15/2016

Effective: 08/22/2016

No. 40568 (AMD): R33-21. Interaction Between Procurement Units

Published: 07/15/2016

Effective: 08/22/2016

No. 40569 (AMD): R33-24. Unlawful Conduct

Published: 07/15/2016

Effective: 08/22/2016

Commerce

Securities

No. 40498 (REP): R164-31. Administrative Fines

Published: 07/01/2016

Effective: 08/23/2016

Crime Victim Reparations

Administration

No. 40524 (NEW): R270-6. Recusal of a Board Member for a Conflict of Interest

Published: 07/15/2016

Effective: 08/22/2016

Environmental Quality

Waste Management and Radiation Control, Waste Management

No. 40266 (NEW): R315-319. Coal Combustion Residuals Requirements

Published: 04/15/2016

Effective: 09/01/2016

No. 40266 (CPR): R315-319. Coal Combustion Residuals Requirements

Published: 08/01/2016

Effective: 09/01/2016

Health

Family Health and Preparedness, Licensing

No. 40550 (AMD): R432-14. Birthing Center Construction Rule

Published: 07/15/2016

Effective: 08/26/2016

No. 40551 (AMD): R432-550. Emergency and Disaster

Published: 07/15/2016

Effective: 08/26/2016

Public Safety

Fire Marshal

No. 40522 (AMD): R710-5. Automatic Fire Sprinkler System Inspecting and Testing

Published: 07/15/2016

Effective: 08/23/2016

No. 40523 (AMD): R710-8. Day Care Rules

Published: 07/15/2016

Effective: 08/23/2016

No. 40546 (AMD): R710-9. Rules Pursuant to the Utah Fire Prevention and Safety Act

Published: 07/15/2016

Effective: 08/23/2016

No. 40544 (AMD): R710-10. Rules Pursuant to Fire Service Training, Education, and Certification

Published: 07/15/2016

Effective: 08/23/2016

No. 40521 (AMD): R710-11. Fire Alarm System Inspecting and Testing

Published: 07/15/2016

Effective: 08/23/2016

No. 40520 (AMD): R710-12. Hazardous Materials Training and Certification

Published: 07/15/2016

Effective: 08/23/2016

No. 40519 (AMD): R710-13. Reduced Cigarette Ignition Propensity and Firefighter Protection Act

Published: 07/15/2016

Effective: 08/23/2016

Peace Officer Standards and Training

No. 40527 (REP): R728-101. Public Petitions for Declaratory Rulings

Published: 07/15/2016

Effective: 08/23/2016

No. 40534 (R&R): R728-401. Requirements For Approval and Certification of Peace Officer Basic Training Programs and Applicants

Published: 07/15/2016

Effective: 08/23/2016

No. 40528 (REP): R728-402. Application Procedures to Attend a Basic Peace Officer Training Program

Published: 07/15/2016

Effective: 08/23/2016

No. 40535 (R&R): R728-403. Qualifications For Admission To Certified Peace Officer Training Academies

Published: 07/15/2016

Effective: 08/23/2016

No. 40531 (REP): R728-404. Basic Training Basic Academy Rules

Published: 07/15/2016

Effective: 08/23/2016

No. 40532 (REP): R728-405. Drug Testing Requirement

Published: 07/15/2016

Effective: 08/23/2016

No. 40529 (REP): R728-406. Requirements for Approval and Certification of Basic Correctional, Reserve and Special Function Training Programs and Applicants

Published: 07/15/2016

Effective: 08/23/2016

No. 40533 (REP): R728-407. Waiver/Reactivation Process

Published: 07/15/2016

Effective: 08/23/2016

No. 40536 (R&R): R728-410. Guidelines Regarding Failure To Obtain Annual Statutory Training

Published: 07/15/2016

Effective: 08/23/2016

No. 40537 (R&R): R728-411. Guidelines Regarding Administrative Action Taken Against Individuals Functioning As Peace Officers Without Peace Officer Certification Or Powers

Published: 07/15/2016

Effective: 08/23/2016

No. 40530 (REP): R728-500. Utah Peace Officer Standards and Training In-Service Training Certification Procedures

Published: 07/15/2016

Effective: 08/23/2016

No. 40539 (REP): R728-501. Career Development Courses

Published: 07/15/2016

Effective: 08/23/2016

No. 40538 (R&R): R728-502. Procedure for POST Instructor Certification

Published: 07/15/2016

Effective: 08/23/2016

No. 40540 (REP): R728-505. Service Dog Program Rules

Published: 07/15/2016

Effective: 08/23/2016

Public Service Commission

Administration

No. 40553 (AMD): R746-360-4. Application of Fund

Surcharges to Customer Billings

Published: 07/15/2016

Effective: 08/22/2016

Transportation

Administration

No. 40558 (AMD): R907-63. Structure Repair and Loss

Recovery Procedure

Published: 07/15/2016

Effective: 08/23/2016

Program Development

No. 40525 (AMD): R926-14. Utah Scenic Byway Program Administration; Scenic Byways Designation, De-designation, and Segmentation Processes

Published: 07/15/2016

Effective: 08/23/2016

Workforce Services

Employment Development

No. 40554 (AMD): R986-700. Child Care Assistance

Published: 07/15/2016

Effective: 08/25/2016

Unemployment Insurance

No. 40449 (AMD): R994-403-117e. Claimant's

Responsibility

Published: 06/15/2016

Effective: 08/25/2016

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, 2016 through September 01, 2016. 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 the Office of Administrative Rules (801-538-3003).

A copy of the **RULES INDEX** is available for public inspection at the Office of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Office's web site (<http://www.rules.utah.gov/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
<u>Facilities Construction and Management</u>					
R23-19	Facility Use Rules	40226	NSC	03/11/2016	Not Printed
R23-23	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	40044	NSC	01/15/2016	Not Printed
R23-23	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	40440	EMR	05/23/2016	2016-12/51
R23-23	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	40441	AMD	07/22/2016	2016-12/6
R23-25	Administrative Rules Adjudicative Proceedings	40480	5YR	06/09/2016	2016-13/159
R23-31	Executive Residence Commission	40481	5YR	06/09/2016	2016-13/159
<u>Finance</u>					
R25-7	Travel-Related Reimbursements for State Employees	40548	EMR	07/01/2016	2016-14/161
R25-7	Travel-Related Reimbursements for State Employees	40547	AMD	08/22/2016	2016-14/6
R25-7-10	Reimbursement for Transportation	40042	AMD	02/23/2016	2016-2/4
R25-15	Change Date and Set Aside Provisions for Annual Leave II	39943	NEW	01/13/2016	2015-23/6
<u>Purchasing and General Services</u>					
R33-1	Utah Procurement Rules, "General Procurement Provisions," Definitions	40559	AMD	08/22/2016	2016-14/11
R33-4	General Procurement Provisions, Prequalifications, Specifications, and Small Purchases	40560	AMD	08/22/2016	2016-14/15
R33-5	Request for Information	40571	AMD	08/22/2016	2016-14/19
R33-6	Bidding	40561	AMD	08/22/2016	2016-14/24
R33-6-114	Technology Acquisitions for Executive Branch Procurement Units	40048	AMD	02/23/2016	2016-2/6
R33-7	Request for Proposals	40438	NSC	06/13/2016	Not Printed
R33-7	Request for Proposals	40567	AMD	08/22/2016	2016-14/27
R33-8	Exceptions to Procurement Requirements	40570	AMD	08/22/2016	2016-14/34
R33-9	Cancellations, Rejections, and Debarment	40565	AMD	08/22/2016	2016-14/39
R33-12	Terms and Conditions, Contracts, Change Orders and Costs	40562	NSC	07/15/2016	Not Printed
R33-12-502	Technology Modifications	40047	AMD	02/23/2016	2016-2/7
R33-15	Architect-Engineer Services	40563	NSC	07/15/2016	Not Printed
R33-16	Controversies and Protests	40564	NSC	07/15/2016	Not Printed
R33-18	Appeal to the Utah Court of Appeals	40566	NSC	07/15/2016	Not Printed
R33-21	Interaction Between Procurement Units	40568	AMD	08/22/2016	2016-14/42
R33-24	Unlawful Conduct	40569	AMD	08/22/2016	2016-14/44

Risk Management

R37-4	Adjusted Utah Governmental Immunity Act Limitations on Judgments	40282	AMD	06/01/2016	2016-8/6
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AGRICULTURE AND FOOD

Administration

R51-3	Government Records Access and Management Act	40234	5YR	02/29/2016	2016-6/27
R51-4	ADA Complaint Procedure	40235	5YR	02/29/2016	2016-6/27

Animal Industry

R58-2	Diseases, Inspections and Quarantines	40476	5YR	06/09/2016	2016-13/160
R58-4	Use of Animal Drugs and Biologicals in the State of Utah	40478	5YR	06/09/2016	2016-13/160
R58-14	Holding Live Raccoons or Coyotes in Captivity	40477	5YR	06/09/2016	2016-13/161
R58-24	Community Spay and Neuter Grants	40637	5YR	08/02/2016	2016-17/87

Horse Racing Commission (Utah)

R52-7	Horse Racing	39951	AMD	02/02/2016	2015-24/4
R52-7	Horse Racing	40703	5YR	08/25/2016	Not Printed
R52-7-5	Occupation Licensing and Registration	40366	AMD	06/23/2016	2016-10/8

Marketing and Development

R65-2	Utah Cherry Marketing Order	40367	REP	06/23/2016	2016-10/11
R65-8	Management of the Junior Livestock Show Appropriation	40233	5YR	02/29/2016	2016-6/28
R65-8-2	Establishment of a Forum	40369	AMD	06/23/2016	2016-10/13

Plant Industry

R68-4	Standardization, Marketing, and Phytosanitary Inspection of Fresh Fruits, Vegetables, and Other Plant and Plant Products	40201	5YR	02/08/2016	2016-5/23
R68-7	Utah Pesticide Control Rule	40232	5YR	02/29/2016	2016-6/28
R68-9	Utah Noxious Weed Act	39965	AMD	02/02/2016	2015-24/8
R68-12	Quarantine Pertaining to Mint Wilt	40365	REP	06/23/2016	2016-10/14
R68-18	Quarantine Pertaining to Karnal Bunt	40200	5YR	02/08/2016	2016-5/23

Regulatory Services

R70-330	Raw Milk for Retail	40268	5YR	03/16/2016	2016-8/91
R70-370	Butter	40270	5YR	03/16/2016	2016-8/91
R70-370	Butter	40361	AMD	06/23/2016	2016-10/15
R70-380	Grade A Condensed and Dry Milk Products and Condensed and Dry Whey	40269	5YR	03/16/2016	2016-8/92
R70-380	Grade A Condensed and Dry Milk Products and Condensed and Dry Whey	40368	AMD	06/23/2016	2016-10/16
R70-410	Grading and Inspection of Shell Eggs with Standard Grade and Weight Classes	40149	5YR	01/20/2016	2016-4/77
R70-530	Food Protection	39950	AMD	02/02/2016	2015-24/12
R70-550	Utah Inland Shellfish Safety Program	40360	AMD	06/23/2016	2016-10/18
R70-920	Packaging and Labeling of Commodities	40634	5YR	08/02/2016	2016-17/87
R70-930	Method of Sale of Commodities	40635	5YR	08/02/2016	2016-17/88
R70-940	Standards and Testing Motor Fuel	40636	5YR	08/02/2016	2016-17/88

ALCOHOLIC BEVERAGE CONTROL

Administration

R81-1	Scope, Definitions, and General Provisions	40376	5YR	05/02/2016	2016-10/73
R81-2	State Stores	40378	5YR	05/02/2016	2016-10/74
R81-3	Package Agencies	40379	5YR	05/02/2016	2016-10/74
R81-4A	Restaurant Liquor Licenses	40381	5YR	05/02/2016	2016-10/75
R81-5	Club Licenses	40382	5YR	05/02/2016	2016-10/76
R81-6	Special Use Permits	40383	5YR	05/02/2016	2016-10/76
R81-7	Event Permits	40384	5YR	05/02/2016	2016-10/77
R81-8	Manufacturer Licenses (Distillery, Winery, Brewery)	40385	5YR	05/02/2016	2016-10/77
R81-9	Liquor Warehousing Licenses	40386	5YR	05/02/2016	2016-10/78

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R81-11	Beer Wholesaler Licenses	40387	5YR	05/02/2016	2016-10/79
R81-12	Local Industry Representative Licenses (Distillery, Winery, Brewery)	40388	5YR	05/02/2016	2016-10/79

CAPITOL PRESERVATION BOARD (STATE)

Administration

R131-2	Capitol Hill Complex Facility Use	40437	EMR	05/19/2016	2016-12/54
R131-2	Capitol Hill Complex Facility Use	40458	AMD	07/22/2016	2016-12/8
R131-4	Capitol Preservation Board General Procurement Rule	40092	5YR	01/11/2016	2016-3/507

CAREER SERVICE REVIEW OFFICE

Administration

R137-1	Grievance Procedure Rules	40595	5YR	07/11/2016	2016-15/81
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COMMERCE

Administration

R151-2	Government Records Access and Management Act Rule	40616	5YR	07/18/2016	2016-16/45
R151-4	Department of Commerce Administrative Procedures Act Rule	40265	5YR	03/15/2016	2016-7/63
R151-14	New Automobile Franchise Act Rule	40293	5YR	03/31/2016	2016-8/92

Consumer Protection

R152-1a	Internet Content Provider Ratings Methods	40604	5YR	07/15/2016	2016-15/81
R152-11	Utah Consumer Sales Practices Act	40342	5YR	04/19/2016	2016-10/80
R152-15-3	Compensated Employees and Independent Contractors	40414	AMD	07/08/2016	2016-11/2
R152-26	Telephone Fraud Prevention Act	40341	5YR	04/19/2016	2016-10/80

Corporations and Commercial Code

R154-2	Utah Uniform Commercial Code, Revised Article 9 Rules	40371	5YR	05/02/2016	2016-10/81
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Occupational and Professional Licensing

R156-1	General Rule of the Division of Occupational and Professional Licensing	40412	AMD	07/11/2016	2016-11/3
R156-3a	Architect Licensing Act Rule	40058	5YR	01/07/2016	2016-3/507
R156-9	Funeral Service Licensing Act Rule	40354	5YR	04/26/2016	2016-10/81
R156-9a	Uniform Athlete Agents Act Rule	40071	5YR	01/07/2016	2016-3/508
R156-15	Health Facility Administrators Act Rule	40705	5YR	08/25/2016	Not Printed
R156-15A	State Construction Code Administration and Adoption of Approved State Construction Code Rule	40298	AMD	06/07/2016	2016-9/4
R156-15A	State Construction Code Administration and Adoption of Approved State Construction Code Rule	40526	5YR	06/20/2016	2016-14/171
R156-17b	Pharmacy Practice Act Rule	40217	AMD	04/21/2016	2016-6/4
R156-17b-614a	Operating Standards - General Operating Standards, Class A and B Pharmacy	40218	AMD	04/21/2016	2016-6/11
R156-17b-614a	Operating Standards - General Operating Standards, Class A and B Pharmacy	40407	AMD	07/11/2016	2016-11/7
R156-22-302b	Qualifications for Licensure - Education Requirements	40594	NSC	08/01/2016	Not Printed
R156-26a	Certified Public Accountant Licensing Act Rule	39982	AMD	02/11/2016	2016-1/4
R156-37	Utah Controlled Substances Act Rule	40216	AMD	04/21/2016	2016-6/14
R156-37f	Controlled Substance Database Act Rule	39923	AMD	01/07/2016	2015-23/7
R156-40	Recreational Therapy Practice Act Rule	40352	5YR	04/26/2016	2016-10/82
R156-46b	Division Utah Administrative Procedures Act Rule	40052	5YR	01/05/2016	2016-3/509
R156-47b	Massage Therapy Practice Act Rule	40000	AMD	03/08/2016	2016-2/8
R156-54	Radiologic Technologist, Radiologist Assistant, and Radiology Practical Technician Licensing Act Rule	40486	5YR	06/09/2016	2016-13/162

R156-55a	Utah Construction Trades Licensing Act Rule	40219	AMD	04/21/2016	2016-6/16
R156-55a	Utah Construction Trades Licensing Act Rule	40649	5YR	08/04/2016	2016-17/89
R156-55a-301	Licence Classifications - Scope of Practice	40351	AMD	06/21/2016	2016-10/19
R156-55a-303b	Continuing Education - Standards	40344	NSC	05/11/2016	Not Printed
R156-55b	Electricians Licensing Act Rule	40651	5YR	08/08/2016	2016-17/90
R156-55c	Plumber Licensing Act Rule	40131	NSC	02/02/2016	Not Printed
R156-55c	Plumber Licensing Act Rule	40652	5YR	08/08/2016	2016-17/91
R156-55d	Burglar Alarm Licensing Rule	40164	AMD	03/24/2016	2016-4/10
R156-57	Respiratory Care Practices Act Rule	40355	5YR	04/26/2016	2016-10/83
R156-60b-102	Definitions	39924	AMD	01/07/2016	2015-23/12
R156-60c	Clinical Mental Health Counselor Licensing Act Rule	39911	AMD	01/07/2016	2015-23/14
R156-60d	Substance Use Disorder Counselor Act Rule	40055	5YR	01/05/2016	2016-3/509
R156-67	Utah Medical Practice Act Rule	40196	5YR	02/08/2016	2016-5/24
R156-69	Dentist and Dental Hygienist Practice Act Rule	40150	5YR	01/21/2016	2016-4/77
R156-71	Naturopathic Physician Practice Act Rule	40706	5YR	08/25/2016	Not Printed
R156-73	Chiropractic Physician Practice Act Rule	40208	5YR	02/11/2016	2016-5/25
R156-77	Direct-Entry Midwife Act Rule	40353	5YR	04/26/2016	2016-10/83
R156-78-102	Definitions	39912	AMD	01/07/2016	2015-23/16
R156-82-201	Security	39980	AMD	02/08/2016	2016-1/12
R156-86	State Certification of Commercial Interior Designers Act Rule	40411	NEW	07/11/2016	2016-11/10
<u>Real Estate</u>					
R162-2f	Real Estate Licensing and Practices Rules	40041	AMD	02/23/2016	2016-2/11
R162-2f	Real Estate Licensing and Practices Rules	40276	AMD	05/31/2016	2016-8/7
R162-2f-202b	Principal Broker Licensing Fees and Procedures	40364	NSC	05/11/2016	Not Printed
R162-2g	Real Estate Appraiser Licensing and Certification Administrative Rules	40684	5YR	08/18/2016	Not Printed
<u>Securities</u>					
R164-15-3	Notice Filings for Offerings Made Under Tier 2 of Federal Regulation A	40206	AMD	06/29/2016	2016-5/2
R164-31	Administrative Fines	40498	REP	08/23/2016	2016-13/8
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<u>Administration</u>					
R174-1	Utah 911 Advisory Committee	40397	5YR	05/02/2016	2016-10/84
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R251-109	Sex Offender Treatment Providers	40039	AMD	05/04/2016	2016-2/16
CRIME VICTIM REPARATIONS					
<u>Administration</u>					
R270-1	Award and Reparation Standards	40495	5YR	06/15/2016	2016-13/162
R270-1-17	Prescription or Over-the-Counter Medications	40177	AMD	05/13/2016	2016-4/13
R270-2	Crime Victim Reparations Adjudicative Proceedings	40496	5YR	06/15/2016	2016-13/163
R270-5	Electronic Meetings	40148	NEW	04/06/2016	2016-4/14
R270-6	Recusal of a Board Member for a Conflict of Interest	40524	NEW	08/22/2016	2016-14/53
EDUCATION					
<u>Administration</u>					
R277-99 (Changed to R277-100)	Definitions for Utah State Board of Education (Board) Rules	40501	AMD	08/11/2016	2016-13/9
R277-99-2	Definitions	40247	NSC	03/29/2016	Not Printed
R277-100	Rulemaking Policy	40332	REP	06/10/2016	2016-9/5
R277-107-6	Public Education Employees	40248	NSC	03/29/2016	Not Printed
R277-200	Utah Professional Practices Advisory Commission (UPPAC), Definitions	40325	REP	08/12/2016	2016-9/7

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R277-201	Utah Professional Practices Advisory Commission (UPPAC), Rules of Procedure: Notification to Educators, Complaints and Final Disciplinary Actions	40326	REP	08/12/2016	2016-9/11
R277-202	UPPAC Hearing Procedures and Reports	40327	REP	08/12/2016	2016-9/16
R277-203	Request for Licensure Reinstatement and Reinstatement Procedures	40328	REP	08/12/2016	2016-9/22
R277-204	Utah Professional Practices Advisory Commission Criminal Background Review	40329	REP	08/12/2016	2016-9/26
R277-205	Alcohol Related Offenses	40330	REP	08/12/2016	2016-9/28
R277-206	Drug Related Offenses	40331	REP	08/12/2016	2016-9/29
R277-207	Utah Professional Practices Advisory Commission (UPPAC), Disciplinary Rebuttable Presumptions	39837	NEW	01/11/2016	2015-21/17
R277-207	Utah Professional Practices Advisory Commission (UPPAC), Disciplinary Rebuttable Presumptions	40333	REP	08/12/2016	2016-9/31
R277-210	Utah Professional Practices Advisory Commission (UPPAC), Definitions	40502	NEW	08/12/2016	2016-13/10
R277-211	Utah Professional Practices Advisory Commission (UPPAC), Rules of Procedure: Notification to Educators, Complaints and Final Disciplinary Actions	40503	NEW	08/12/2016	2016-13/14
R277-212	UPPAC Hearing Procedures and Reports	40504	NEW	08/12/2016	2016-13/18
R277-213	Request for Licensure Reinstatement and Reinstatement Procedures	40505	NEW	08/12/2016	2016-13/26
R277-214	Utah Professional Practices Advisory Commission Criminal Background Review	40338	NEW	08/12/2016	2016-9/51
R277-215	Utah Professional Practices Advisory Commission (UPPAC), Disciplinary Rebuttable Presumptions	40506	NEW	08/12/2016	2016-13/29
R277-216	Surrender of License with UPPAC Investigation Pending	40430	NEW	08/12/2016	2016-11/12
R277-402-4	LEA Responsibilities	40249	NSC	03/29/2016	Not Printed
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ABBREVIATIONS

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

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	40440	R23-23	EMR	05/23/2016	2016-12/51	
	40441	R23-23	AMD	07/22/2016	2016-12/6	
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	40047	R33-12-502	AMD	02/23/2016	2016-2/7	
Capitol Preservation Board (State), Administration	40092	R131-4	5YR	01/11/2016	2016-3/507	
Transportation, Operations, Construction	40627	R916-1	5YR	07/28/2016	2016-16/49	
	40641	R916-2	5YR	08/03/2016	2016-17/96	
	40642	R916-3	5YR	08/03/2016	2016-17/96	
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Commerce, Occupational and Professional Licensing	40216	R156-37	AMD	04/21/2016	2016-6/14	
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	40439	R436-13-1	AMD	07/26/2016	2016-12/38
<u>corrections</u> Corrections, Administration	40039	R251-109	AMD	05/04/2016	2016-2/16
<u>cost sharing agreement</u> Public Safety, Administration	40001	R698-8	NEW	02/24/2016	2016-2/117
<u>costs</u> Administrative Services, Purchasing and General Services	40562	R33-12	NSC	07/15/2016	Not Printed
	40047	R33-12-502	AMD	02/23/2016	2016-2/7
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<u>counselors</u> Commerce, Occupational and Professional Licensing	39911	R156-60c	AMD	01/07/2016	2015-23/14
<u>court</u> Health, Center for Health Data, Vital Records and Statistics	40600	R436-5	5YR	07/13/2016	2016-15/82
<u>coverage groups</u> Health, Health Care Financing, Coverage and Reimbursement Policy	40377	R414-303	AMD	07/01/2016	2016-10/30
	40040	R414-303-8	AMD	03/08/2016	2016-2/89
<u>credit insurance filings</u> Insurance, Administration	40158	R590-228-9	AMD	03/23/2016	2016-4/64
<u>Crime Victim Reparations and Assistance Board</u> Crime Victim Reparations, Administration	40524	R270-6	NEW	08/22/2016	2016-14/53
<u>criminal background checks</u> Education, Rehabilitation	40101	R280-204	5YR	01/14/2016	2016-3/510
	40102	R280-204	AMD	03/09/2016	2016-3/11
<u>criminal offenses</u> Public Safety, Criminal Investigations and Technical Services, Criminal Identification	40646	R722-910	NSC	08/22/2016	Not Printed
<u>cultural sites</u> Heritage and Arts, History	40186	R455-9	5YR	02/02/2016	2016-5/27
<u>curricula</u> Education, Administration	40514	R277-713	R&R	08/11/2016	2016-13/55
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<u>dam safety</u> Natural Resources, Water Rights	40166	R655-10	5YR	01/29/2016	2016-4/80
	40169	R655-10-5A	AMD	03/24/2016	2016-4/67
	40168	R655-12	5YR	01/29/2016	2016-4/81
	40176	R655-12	AMD	03/24/2016	2016-4/71

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	40728	R907-63	5YR	09/01/2016	Not Printed
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	40169	R655-10-5A	AMD	03/24/2016	2016-4/67
	40167	R655-11	5YR	01/29/2016	2016-4/81
	40175	R655-11	AMD	03/24/2016	2016-4/68
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	40176	R655-12	AMD	03/24/2016	2016-4/71
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	39991	R313-22	CPR	05/09/2016	2016-7/44
	40323	R313-22	AMD	06/10/2016	2016-9/63
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	40502	R277-210	NEW	08/12/2016	2016-13/10
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	40423	R307-101-3	AMD	08/04/2016	2016-11/23
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	40032	R309-110-4	AMD	05/01/2016	2016-2/20
	40033	R309-200-5	AMD	05/01/2016	2016-2/23
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	40035	R309-211	NEW	05/01/2016	2016-2/33
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educators

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	40581	R313-32	5YR	07/01/2016	2016-14/178
	40010	R313-32-2	NSC	01/15/2016	Not Printed
	40582	R313-36	5YR	07/01/2016	2016-14/178
	40011	R313-70	NSC	01/15/2016	Not Printed
	40583	R313-70	5YR	07/01/2016	2016-14/179

radioactive waste disposal

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<u>substance use disorder counselors</u>						
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Environmental Quality, Drinking Water	40036	R309-215	AMD	05/01/2016	2016-2/40	
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Environmental Quality, Waste Management and Radiation Control, Radiation	40582	R313-36	5YR	07/01/2016	2016-14/178	
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	40027	R357-13	NEW	03/14/2016	2016-2/76	
	40461	R357-15	NEW	07/22/2016	2016-12/24	
<u>tax exemptions</u>						
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<u>tax returns</u>						
Tax Commission, Auditing	40418	R865-9I-37	AMD	07/14/2016	2016-11/47	
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	40290	R277-505	AMD	05/23/2016	2016-8/25
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	40503	R277-211	NEW	08/12/2016	2016-13/14
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Technology Services, Administration	40030	R895-5	AMD	02/23/2016	2016-2/118
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	40299	R746-360-6	CPR	08/08/2016	2016-13/150
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Labor Commission, Antidiscrimination and Labor, Labor	40720	R610-1	5YR	08/29/2016	Not Printed
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	40718	R610-3	5YR	08/29/2016	Not Printed
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