

UTAH STATE BULLETIN

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

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

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

Division of Administrative Rules, Salt Lake City 84114

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SPECIAL NOTICES

Governor's Executive Order 2007-0001: Establishing an Ethics Policy for Executive Branch Agencies and Executive Branch Employees

EXECUTIVE ORDER

Establishing an Ethics Policy for Executive Branch Agencies and Executive Branch Employees

WHEREAS, State employees hold themselves to high ethical standards and act with integrity in their positions of public trust;

WHEREAS, confidence in government increases when State employees make decisions based upon the best interests of the public at large, without influence by those who may seek special favors and without regard to personal gain;

WHEREAS, compliance with a strong ethics policy protects public employees from any perception of wrongdoing; and,

WHEREAS, the Utah state law governing ethical standards of public employees can and should be improved;

NOW, THEREFORE, I, Jon M. Huntsman Jr., Governor of the State of Utah, by the authority vested in me by the Constitution and laws of this State do hereby order that the Executive Branch and all Executive Branch employees are subject to the following restrictions:

1. Application

a. This order applies to all Executive Branch department or agency employees. This order may be adopted by independently elected officers and their employees. This order does not apply to any Legislative Branch employee or Judicial Branch employee.

b. Each Executive Branch department or agency shall amend their existing policy to be consistent with the restrictions set forth below.

2. Prohibition Against the Receipt of Gifts

a. Subject to the exceptions set forth below, an employee covered by this order is prohibited from accepting a gift or other compensation that might be intended to influence or reward the individual in the performance of official business. This prohibition shall apply notwithstanding Utah Code Ann. Section 67-16-5, which provides that gifts up to \$50 may be allowed in certain circumstances. Additionally, this order does not abrogate any restriction imposed by the Utah Procurement Code contained in Title 63, Chapter 56, Utah Code Annotated.

b. For purposes of this order, the term "gift" does not include:

- i. campaign contributions received in accordance with Title 20A, Chapter 11, Utah Code Annotated;
- ii. food, refreshments, or meals of limited value;
- iii. an item given on behalf of a foreign government that becomes the property of the State;
- iv. rewards and prizes open to the general public or all state employees;
- v. plaques or mementos recognizing service;
- vi. trinkets or mementos of nominal value;
- vii. gifts from extended family members or personal friends;
- viii. small efforts of common courtesy or other services of nominal monetary value;
- ix. funeral flowers or memorials; and

x. attendance or participation at events sponsored by another governmental entity.

c. If an employee receives a gift that cannot be accepted, the employee may return the gift, pay its market value, or donate the gift to the State of Utah. If the gift is perishable or not practical to return, the gift may, with approval of the Department or Agency head, be shared with co-workers or given to charity.

3. Prohibition Against Nepotism in Hiring and Contracting

a. An employee covered by this order may not take part in any hiring or employment decision relating to a family member. If a hiring or employment matter arises relating to a family member, then the employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter. This prohibition shall apply notwithstanding the exceptions contained in Utah Code Ann. Section 52-3-1.

b. An employee covered by this order may not take part in any contracting decision: (i) relating to a family member; or (ii) relating to any entity in which a family member is an officer, director or partner, or in which a family member owns or controls 10% or more of the stock of such entity. If a contracting matter arises relating to a family member, then the employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter.

c. For the purposes of this order, the term "family member" shall mean an employee's spouse, siblings, step-siblings, siblings-in-law, parents, step-parents, parents-in-law, children, step-children, children-in-law, and any person living in the same household as the employee.

4. Prohibition Against Lobbying Executive Branch Department or Agency Employees

a. An employee covered by this order may not knowingly permit a former employee, previously subject to this order during the course of his/her employment in the Executive Branch, to lobby the current employee unless a two year period has passed since the former employee's employment was terminated.

b. For purposes of this order, the terms "to lobby" and "lobbying" shall mean to receive compensation or other remuneration for attempting to influence executive action as defined in Utah Code Ann. Section 36-11-102(2).

5. Penalties

An employee covered by this order who violates this order is subject to appropriate discipline as provided in Utah Administrative Rule R477-11 and as determined by the Executive Branch department or agency head or the Governor's Chief of Staff.

IN WITNESS WHEREOF, I have here unto set my hand and cause to be affixed the Great Seal of the State of Utah. Done at the State Capitol Complex in Salt Lake City, Utah, this 14th day of February 2007.

(State Seal)

Jon M. Huntsman, Jr.
Governor

ATTEST:

Gary R. Herbert
Lieutenant Governor

2007/0001

NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between February 2, 2007, 12:00 a.m., and February 15, 2007, 11:59 p.m. are included in this, the March 1, 2007, issue of the *Utah State Bulletin*.

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

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

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least April 2, 2007. The agency may accept comment beyond this date and will list the last day the agency will accept comment in the RULE ANALYSIS. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency to hold a hearing on a specific PROPOSED RULE. Section 63-46a-5 requires that a hearing request be received "in writing not more than 15 days after the publication date of the PROPOSED RULE."

From the end of the public comment period through June 29, 2007, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

The public, interest groups, and governmental agencies are invited to review and comment on PROPOSED RULES. *Comment may be directed to the contact person identified on the RULE ANALYSIS for each rule.*

PROPOSED RULES are governed by Section 63-46a-4; and Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page.

Commerce, Real Estate
R162-202-1
 Licensing Examination

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE No.: 29517
 FILED: 02/14/2007, 17:04

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to consolidate provisions in Rule R162-206 related to the licensing examination with the examination provisions in Section R162-202-1. (DAR NOTE: The proposed repeal of Rule R162-206 is under DAR No. 29518 in this issue, March 1, 2007, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: The provisions currently in Rule R162-206 are relocated to Section R162-202-1.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2c-103(3)(a)(i)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--It neither costs nor saves the state budget if provisions are moved from one rule to another.
- ❖ LOCAL GOVERNMENTS: None--It neither costs nor saves local governments any money if provisions are moved from one rule to another.
- ❖ OTHER PERSONS: None--It neither costs nor saves other persons any money if provisions are moved from from one rule to another.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only persons affected by this rule are applicants for mortgage officer licenses. They do not incur any additional costs if provisions that are already in effect are moved from one rule to another.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This filing consolidates two separate provisions regarding licensing examinations. No fiscal impact to businesses is anticipated. Francine A. Giani, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Shelley Wismer at the above address, by phone at 801-366-0145, by FAX at 801-366-0315, or by Internet E-mail at swismer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 04/10/2007

AUTHORIZED BY: Derek Miller, Director

R162. Commerce, Real Estate.

R162-202. Initial Application.

R162-202-1. Licensing Examination.

202.1 Except as provided in Subsection 202-8, an individual applying for an initial license is required to have passed the licensing examination approved by the commission before making application to the division for a license.

202.1.1 The licensing examination will be a multiple choice examination and will consist of a national portion and a Utah-specific portion. An applicant will be required to pass both portions of the examination within a six-month period of time.

202.1.2 In order to register for the licensing examination, the applicant shall deliver an application to take the examination, together with the applicable examination fee to the testing service designated by the division. If the applicant registers for the examination, the examination fee will be forfeited unless the applicant has complied with the Change/Cancel Policy in the candidate handbook furnished to the applicant by the examination provider.

202.1.[+]³ All examination results are valid for 90 days after the date of the examination. If the applicant does not submit an application for licensure within 90 days after successful completion of the examination, the examination results shall lapse and the applicant shall be required to retake and successfully pass the examination again in order to apply for a license.

KEY: residential mortgage loan origination

Date of Enactment or Last Substantive Amendment: ~~January 24, 2007~~

Notice of Continuation: December 13, 2007

Authorizing, and Implemented or Interpreted Law: 61-2c-103(3)



Commerce, Real Estate
R162-203
 Change to Residential Mortgage
 Licensure Statement

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE No.: 29516
 FILED: 02/14/2007, 17:01

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: It is necessary to update the rule to conform with statutory changes made by S.B. 178 (2004 General Session) and S.B. 172 (2005 General Session), which replaced the concept of an unlicensed "Control Person" for a licensed mortgage entity

with a licensed "Principal Lending Manager" effective 05/01/2006. It is also necessary to close a loophole that would allow a mortgage officer whose license was inactivated because of failing to comply with the examination required by H.B. 277 (2003 General Session) to reactivate the license without passing the examination. (DAR NOTES: S.B. 178 (2004) is found at Chapter 297, Laws of Utah 2004, and was effective 05/03/2004. S.B. 172 (2005) is found at Chapter 199, Laws of Utah 2005, and was effective 05/02/2005. H.B. 277 (2003) is found at Chapter 243, Laws of Utah 2003, and was effective 01/01/2004.)

SUMMARY OF THE RULE OR CHANGE: The rule is changed to delete references to "Control Person" and to substitute "Principal Lending Manager" where applicable. A new Subsection R162-203-5(203.5.1) is also added to close a loophole that might allow a person whose license was inactivated for failure to take and pass the mortgage licensing examination to activate the license without taking the examination.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2c-103(3)(a)(i)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** Any cost or savings to the State budget are attributable to H.B. 277 (2003), S.B. 178 (2004), and S.B. 172 (2005) and not to these changes updating the rule to conform to those statutory changes.
- ❖ **LOCAL GOVERNMENTS:** Any cost or savings to local governments are attributable to H.B. 277 (2003), S.B. 178 (2004), and S.B. 172 (2005) and not to these changes updating the rule to conform to those statutory changes.
- ❖ **OTHER PERSONS:** Any cost or savings to other persons are attributable to H.B. 277 (2003), S.B. 178 (2004), and S.B. 172 (2005) and not to these changes updating the rule to conform to those statutory changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only persons who are affected by these rule changes are licensed mortgage entities, those persons who were formerly "control persons," those persons who are "principal lending managers," and mortgage loan officers who have failed to take and pass the mortgage licensing examination and had their licenses inactivated as a result. However, any costs incurred by these parties in complying with the rule changes are attributable to H.B. 277 (2003), S.B. 178 (2004), and S.B. 172 (2005) and not to these changes updating the rule to conform to those statutory changes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing updates the rule with references to principal lending managers; it clarifies the examination requirement for those activating an inactive license; and makes other technical and clarifying amendments. No fiscal impact to businesses is anticipated. Francine A. Giani, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Shelley Wismer at the above address, by phone at 801-366-0145, by FAX at 801-366-0315, or by Internet E-mail at swismer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 04/10/2007

AUTHORIZED BY: Derek Miller, Director

R162. Commerce, Real Estate.

R162-203. Changes to Residential Mortgage Licensure Statement. R162-203-1. Status Changes.

203.1. A licensee shall notify the Division within ten working days of any status change. Status changes are effective on the date the properly executed forms and non-refundable fees are received by the Division. Notice must be on the forms required by the Division.

203.1.1 Change in Entity. If a change in a licensed entity results in the creation of a new legal entity, the new entity may not operate under the license issued to the previous entity. If the change of partners in a partnership, either by the addition or withdrawal of partners, creates a new legal entity, the new entity may not operate under the license issued by the Division to the previous partnership. The dissolution of a corporation, partnership, limited liability company, association, or other entity that holds a license issued by the Division terminates that license.

203.1.1.1 Notification of Change in Entity. The ~~control person~~ principal lending manager of a licensed entity shall provide written notification to the Division of any change in the entity that will create a new legal entity or that will cause the dissolution of the entity prior to the effective date of the change.

203.1.2. Change of name requires submission of official documentations such as a marriage certificate, divorce decree, or driver's license.

203.1.3. Change of business, home address or mailing address requires written notification. A post office box without a street address is unacceptable as a business or home address. The licensee may designate any address to be used as a mailing address.

203.1.4. Change of name of a licensed entity shall be accompanied by evidence that the new name has been approved by the Division of Corporations and Commercial Code, Department of Commerce.

203.1.5. Change of ~~[control person]~~principal lending manager of a licensed entity requires notice from the entity in the form required by the Division, signed by both the terminating ~~[control person]~~principal lending manager and the new ~~[control person]~~principal lending manager, and the applicable change fee.

R162-203-2. [Entity] Affiliation with Principal Lending Manager.

203.2.1 A ~~[non-individual]~~ mortgage officer licensed under the Utah Residential Mortgage Practices Act shall notify the Division, on the form required by the Division, of the ~~[entity for which]~~principal lending manager on whose behalf that individual mortgage officer shall conduct residential mortgage lending before acting on behalf of that ~~[entity]~~principal lending manager.

203.2.~~[1]~~2. Transfers. Prior to transferring from one ~~[entity]~~principal lending manager to another, or from one branch office to another, the licensee must mail, deliver, or electronically transmit to the Division written notice of the transfer on the form required by the Division.

R162-203-3. Unavailability of Licensee.

203.3.1 Change in license affiliation of Mortgage Officers. If a mortgage officer is not available to properly execute the form required to terminate the license affiliation of the mortgage officer with a ~~[licensed entity]~~principal lending manager, the ~~[control person]~~principal lending manager ~~[of the entity]~~may still terminate the mortgage officer's license affiliation with the ~~[entity]~~principal lending manager, provided a letter advising the mortgage officer of the termination is mailed by the ~~[control person]~~principal lending manager ~~[of the entity]~~by certified mail to the last known address of the mortgage officer. A verified copy of the letter and proof of mailing by certified mail shall be attached to the form required to terminate the mortgage officer's license affiliation with the ~~[entity]~~principal lending manager when the form is submitted to the Division.

203.3.1.1 If a mortgage officer's principal lending manager is not available to properly execute the form required to terminate the license affiliation of the mortgage officer with a principal lending manager, the mortgage officer may still terminate the mortgage officer's license affiliation with the principal lending manager, provided the mortgage officer sends to the principal lending manager by certified mail to the last known address of the principal lending manager a letter advising the principal lending manager of the mortgage officer's resignation. A verified copy of the letter and proof of mailing by certified mail shall be attached to the form required to terminate the mortgage officer's license affiliation with the principal lending manager when the form is submitted to the Division.

203.3.2 ~~[Control Person]~~Change in Entity Affiliation of Principal Lending Manager. If ~~[control person]~~a principal lending manager who will no longer be the ~~[control person designated by the]~~principal lending manager of an entity is not available to properly execute the form that is required by the Division to substitute one ~~[control person]~~principal lending manager for the other, the change in ~~[control person]~~principal lending manager may still be made by the entity, provided a letter advising of the change is signed by a person who is legally authorized to make staffing decisions on behalf of the entity and mailed by certified mail to the last known address of the unavailable person. A verified copy of the letter and proof of mailing by certified mail shall be attached to the form required by the Division to substitute one ~~[control person]~~principal lending manager for another when the form is submitted to the Division.

R162-203-4. Inactivation.

203.4 To voluntarily inactivate a license, the licensee shall deliver, mail, or electronically transmit to the Division a written request for license inactivation on the form required by the Division, which form shall have been signed by both the licensee and the licensee's ~~[control person]~~principal lending manager.

203.4.1 The ~~[control person]~~principal lending manager of the entity with which a mortgage officer is licensed may terminate the mortgage officer's license affiliation with the entity without the mortgage officer's consent, known as an "involuntarily inactivation" of the mortgage officer's license by complying with R162-203.3.1.

R162-203-5. Activation.

203.5 All licensees changing to active status must submit to the Division:

- (a) the applicable non-refundable activation fee;
- (b) a written request for activation on the form required by the Division; and
- (c) if the licensee was on inactive status at the time of the most recent renewal, proof of successful completion of the number of hours of continuing education that would have been required to renew had the licensee been on active status at the time of the licensee's most recent renewal. To qualify as continuing education for activation, all continuing education hours submitted must have been completed within twenty-four months prior to applying to activate.

203.5.1 In addition to the requirements of Section 203.5, any licensee who was licensed prior to January 1, 2005, but whose license was inactivated by the Division for failure to submit proof by January 1, 2005 of having passed the examination required by Section 61-2c-202(4)(a)(i)(D), shall submit to the Division proof of having passed that examination before the Division will activate the individual's license.

KEY: residential mortgage loan origination

Date of Enactment or Last Substantive Amendment: ~~[March 9, 2006]~~2007

Notice of Continuation: December 13, 2006

Authorizing, and Implemented or Interpreted Law: 61-2c-205(3)

◆ ————— ◆

Commerce, Real Estate
R162-206
Licensing Examination

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE No.: 29518

FILED: 02/14/2007, 17:07

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The provisions of this rule are being moved to Section R162-202-1. (DAR NOTE: The proposed amendment to Section R162-202-2 is under DAR No. 29517 in this issue, March 1, 2007, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: The rule is repealed in its entirety, and its provisions are simultaneously being added to Section R162-202-1.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2c-103(3)(a)(i)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--Moving provisions from one rule to another neither costs nor saves the state budget any money.
- ❖ LOCAL GOVERNMENTS: None--Moving provisions from one rule to another neither costs nor saves local governments any money.
- ❖ OTHER PERSONS: None--Moving provisions from one rule to another neither costs nor saves other persons any money.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only persons affected by this rule are applicants for mortgage officer licenses. They do not incur any additional costs if provisions that are already in effect are moved from one rule to another.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This filing repeals a provision that is now consolidated with another provision regarding licensing examinations. No fiscal impact to businesses is anticipated. Francine A. Gianì, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Shelley Wismer at the above address, by phone at 801-366-0145, by FAX at 801-366-0315, or by Internet E-mail at swismer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 04/10/2007

AUTHORIZED BY: Derek Miller, Director

R162. Commerce, Real Estate.

~~R162-206. Licensing Examination.~~

~~R162-206-1. Licensing Examination.~~

~~206.1 In order to register for the licensing examination, the applicant shall deliver an application to take the examination, together with the applicable examination fee to the testing service designated by the division. If the applicant registers for the examination but fails to take a scheduled examination, the examination fee will be forfeited unless the applicant has complied with the Change/Cancel Policy in the~~

~~candidate handbook furnished to the applicant by the examination provider.~~

~~206.2 The licensing examination will be a multiple choice examination and will consist of a national portion and a Utah specific portion. Both portions of the examination must be passed within a six-month period of time.~~

KEY: residential mortgage loan origination

Date of Enactment or Last Substantive Amendment: February 3, 2004

Authorizing, and Implemented or Interpreted Law: 61-2c-103(3); 61-2c-202(4)(a)(i)(C)]

Commerce, Real Estate **R162-207** License Renewal

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 29519

FILED: 02/15/2007, 08:31

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: It is necessary to update the rule to conform with statutory changes made by S.B. 178 (2004 General Session) and S.B. 172 (2005 General Session), which replaced the concept of an unlicensed "control person" of a licensed mortgage entity with a licensed "principal lending manager" effective 05/01/2006. (DAR NOTES: S.B. 178 (2004) is found at Chapter 297, Laws of Utah 2004, and was effective 05/03/2004. S.B. 172 (2005) is found at Chapter 199, Laws of Utah 2005, and was effective 05/02/2005.)

SUMMARY OF THE RULE OR CHANGE: The rule is changed to delete references to "control person" and to substitute "principal lending manager" where applicable. Changes are also made to Subsection R162-207-2(207.2.2) to make them correspond more closely with Section 61-2c-203. Subsections R162-207-1(207.1.1) and R162-207-2(207.2) are also deleted because the passage of time has made those subsections unnecessary.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2c-103(3)(a)(i)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Any cost or savings to the state budget are attributable to the requirements of Section 61-2c-203, and to the statutory changes made by S.B. 178 (2004) and S.B. 172 (2005), and not to these rule changes implementing those requirements.
- ❖ LOCAL GOVERNMENTS: Any cost or savings to local governments are attributable to the requirements of Section 61-2c-203, and to the statutory changes made by S.B. 178 (2004) and S.B. 172 (2005), and not to these rule changes implementing those requirements.

❖ OTHER PERSONS: Any cost or savings to other persons are attributable to the requirements of Section 61-2c-203, and to the statutory changes made by S.B. 178 (2004) and S.B. 172 (2005), and not to these rule changes implementing those requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only persons who are affected by these rule changes are mortgage entities and their officers, directors, etc., those persons who were formerly "control persons," and those persons who are "principal lending managers." However, any costs incurred by these parties in complying with these rule changes are attributable to the requirements of Section 61-2c-203, and to the statutory changes made by S.B. 178 (2004) and S.B. 172 (2005), and not to these rule changes implementing those requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing updates the rules to comply with recent statutory changes (i.e., references to principal lending managers), removes unnecessary provisions and makes some technical clarifying amendments. No fiscal impact to businesses is anticipated as a result of this rule filing. Francine A. Giani, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Shelley Wismer at the above address, by phone at 801-366-0145, by FAX at 801-366-0315, or by Internet E-mail at swismer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 04/10/2007

AUTHORIZED BY: Derek Miller, Director

R162. Commerce, Real Estate.

R162-207. License Renewal.

R162-207-1. License Renewal.

207.1 Renewal period. [~~Registrations and~~] Licenses issued under the Utah Residential Mortgage Practices Act are valid for a period of two years. [

~~207.1.1 Notwithstanding Section 207.1, an individual license shall be inactivated by the division on January 1, 2005 if the holder of that license has not by that date submitted proof to the division of having passed the examination required by Section 61-2c-202(4)(a)(i)(C). The holder of a license that has been inactivated under this section may not engage in the business of residential mortgage~~

~~loans for which licensure under this chapter is required until the individual has provided to the division any forms required by the division to activate the license, along with proof of having passed the examination required by Section 61-2c-202(4)(a)(i)(C).]~~

~~R162-207-2. Renewal of Converted Licenses.~~

~~207.2 If an individual whose existing registration was converted by the division to a license pursuant to R162-202-6 applies to renew after January 1, 2004, but before January 1, 2005, the division shall renew the license without requiring proof that the individual has passed the examination required by Section 61-2c-202(4)(a)(i)(C). The renewed license issued under the authority of this section shall be issued subject to Section 61-2c-202(4)(a)(ii).~~

~~R162-207-3. Renewal Process.~~

~~207.3.1 Renewal Notice. A license renewal notice shall be sent by the Division to the licensee at the mailing address shown on Division records. The renewal notice shall specify the requirements for renewal and shall require that the licensee document or certify that the requirements have been met. The licensee must apply to renew and pay all applicable fees on or before the expiration date shown on the notice.~~

~~207.3.2 Application for Renewal. All applications for renewal must be made in the form required by the division and shall include the following:~~

- ~~(a) A licensure statement in the form required by the division;~~
- ~~(b) The renewal fee and the Residential Mortgage Loan Education, Research, and Recovery Fund fee;~~
- ~~(c) If the applicant is an individual, proof [using forms] through means approved by the division of having completed during the two years prior to application the continuing education required by the commission under Section 61-2c-104;~~

~~(d) The current home street address and home telephone number of any individual applicant [or control person of an entity applicant] and the current physical street address of any entity applicant;~~

- ~~(e) A current mailing address for the applicant;~~
- ~~(f) Answers to a "Licensing Questionnaire" supplying information about events that occurred in the preceding two years related to mortgage licensure in other jurisdictions, license sanctions or surrenders, pending disciplinary actions, pending investigations, criminal convictions or pleas, and/or civil judgments or findings based on fraud, misrepresentation, or deceit;~~

~~(g) If, at the time of application for renewal, an individual applicant, or [a control person] the principal lending manager, director, executive officer, manager, or a managing partner of an entity applicant, or anyone who occupies a position or performs functions similar to a director, executive officer, manager or managing partner of an entity that has applied for a license, is charged with, or since the last renewal has been convicted of or entered a plea to, any felony or misdemeanor, the following information must be provided on each conviction, plea, or charge: the charging document, the case docket, and the judgment and sentencing document, if applicable; and~~

~~(h) If, in the two years preceding application for renewal, an individual or entity applicant or [a control person] principal lending manager of an entity applicant has had a license or registration suspended, revoked, surrendered, canceled or denied based on misconduct in a professional capacity that relates to good moral character or the competency to transact the business of residential mortgage loans, the applicant must provide the documents stating the sanction taken against the license or registration and the reasons therefore.~~

207.[3]2.3 Continuing Education Requirement. All active licensees are required to have completed their continuing education requirement prior to applying to renew.

207.[3]2.3.1 Documentation of Continuing Education. Any licensee who renews online and certifies that the required continuing education has been completed shall maintain the original course completion certificates supporting that certification for two years following renewal. The licensee shall produce those certificates for audit upon request by the Division.

207.[3]2.3.2 Out of State Courses. Continuing education credit will be given for a course taken in another state provided the course has been certified for continuing education purposes by the licensing agency in the other state and the subject matter of the course relates to protection of the public, but not to state-specific licensing laws. Evidence must be retained by the licensee, and provided to the Division upon request, that the course was certified by the other state at the time the course was taken.

207.[3]2.3.3 Continuing Education Requirement upon activation of license. As a condition for the activation of an inactive license that was on inactive status at the time of the licensee's most recent renewal, the licensee shall supply the Division with proof of successful completion of the number of hours of continuing education that would have been required to renew had the license been on active status at the time of the licensee's most recent renewal. To qualify as continuing education for activation, all continuing education hours submitted must have been completed within twenty-four months prior to applying to activate.

207.[3]2.4 Late Renewal. If all required renewal forms, fees, and documentation have not been received or postmarked by the expiration date of the license, the license shall expire. When an active license expires, an individual licensee's affiliation with a licensed entity automatically terminates.

207.[3]2.4.1 A licensee may apply to renew an expired license within thirty days after the expiration date of the license by completing all of the renewal requirements, including the continuing education requirement, and paying a non-refundable late fee.

207.[3]2.4.2 After the thirty day period, and until six months after the expiration date of the license, a licensee may apply to reinstate a license by completing all of the renewal requirements, including the continuing education requirement, paying a non-refundable late fee, and providing proof of successful completion of 12 hours of continuing education in addition to that required for a timely renewal on active status.

R162-207-[4]3. Current Entity Name Registration.

207.[4]3 An entity submitting an application for renewal must at the time of application have a name registration with the Utah Division of Corporations that is current and in good standing. The division will not process an application for renewal unless it can verify that the applicant's name registration is current and in good standing.

R162-207-[5]4. Incomplete Application.

207.[5]4 If an applicant makes a good faith attempt to submit a completed application for renewal prior to the expiration date of the applicant's current registration or license, but the application is incomplete, the Division may grant an extension for a period not to exceed 30 days to enable the applicant to provide the missing documents or information necessary to complete the application.

R162-207-[6]5. Nonrefundable Fees.

207.[6]5 All fees required in conjunction with an application for renewal are nonrefundable and will not be refunded if the applicant fails to complete an application or if a completed application is denied for failure to meet the renewal criteria.

R162-207-[7]6. Determining Fitness for Renewal.

207.[7]6 The commission and the division shall determine fitness for renewal in accordance with Section 202.5 above.

R162-207-[8]7. Applications Filed by Mail.

207.[8]7 The Division will consider a properly completed application for renewal that has been postmarked on or before the expiration date shown on the renewal notice to have been timely filed.

R162-207-[9]8. Misrepresentation on an Application.

207.[9]8 Any misrepresentation in an application for renewal, regardless of whether the application is filed with the Division by mail or made online, will be considered a separate violation of these rules and grounds for disciplinary action against the licensee.

R162-207-[10]9. Exemption from Continuing Education Requirement.

207.[10]9 A licensee may obtain an exemption from the continuing education requirement of R162-208.1 for a period not to exceed four years upon a finding by the Division that there is reasonable cause to grant the exemption.

207.[10]9.1 Exemptions from the continuing education requirement may be granted for reasons including military service, prolonged absence from Utah for religious or secular service, and extended or serious illness.

207.[10]9.2 A licensee seeking an exemption from the continuing education requirement shall apply to the Division for an exemption. An application for an exemption from the continuing education requirement shall set forth with specificity the reasons why the licensee is unable to complete the continuing education and the reasons why the licensee believes that an exemption would be reasonable.

207.[10]9.3 A licensee may not seek a retroactive exemption by applying for the exemption after the time period for renewal and reinstatement of a license has already passed.

207.[10]9.4 All applications for an exemption shall be considered in an informal proceeding before the Division Director or his designee and shall be based on the information submitted with the application. No hearing will be permitted.

207.[10]9.5 Upon a finding of reasonable cause, the Division shall grant the exemption from the continuing education requirement for a specified period of time, not to exceed four years.

KEY: residential mortgage loan origination

Date of Enactment or Last Substantive Amendment: [~~March 9, 2006~~2007

Authorizing, and Implemented or Interpreted Law: 61-2c-103(3); 61-2c-202(4)(a)(ii)

◆ ————— ◆

Commerce, Real Estate
R162-208
Continuing Education

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE No.: 29520
 FILED: 02/15/2007, 13:33

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The providers of continuing education courses maintain that it is very difficult to submit an application for approval of a course 60 days in advance of the date that a course will be offered because sometimes the course outline has not yet been finalized that far in advance of the course offering. The Division of Real Estate has determined that it does not need 60 days to process applications for certification of continuing education courses and instructors, and that 30 days would be sufficient, and is willing to change the deadline to accommodate the interests of the course providers. Outdated language that is no longer needed is deleted, as is language specifying fee amounts since fee amounts are set in the Division's fee schedule and tend to change over time. Lists of information on application forms are also deleted since the information required also tends to change over time. Provisions that are duplications are also deleted, as are unnecessary provisions regarding a list of approved course topics.

SUMMARY OF THE RULE OR CHANGE: "At least 60 days" is replaced by "at least 30 days" in Subsections R162-208-9(208.9) and R162-208-10(208.10). Outdated language is deleted from Subsection R162-208-1(208.1). Fee amounts are deleted from Subsection R162-208-10(208.10.4). Subsection R162-208-4(208.4.3) is changed so that the language is permissive instead of mandatory. Instructors are given six months instead of three months to reinstate their expired instructor certifications. Finally, Section R162-208-14 is deleted because it is largely a duplication of Subsection R162-208-10(208.10.5).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 61-2c-103(3) and 61-2c-104(7)(d)(ii)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None--The Division of Real Estate has determined that it will be able to evaluate and act on applications for continuing education certification within 30 days without hiring additional staff. Therefore, no cost to the state budget is anticipated. Because only the turn-around time is being changed, not the process that the Division goes through to evaluate applications, no savings are anticipated either. There are no costs or savings anticipated from the other housekeeping changes to this rule.

❖ **LOCAL GOVERNMENTS:** None--Local governments do not act as providers of continuing education for mortgage loan officers and do not apply to the Division of Real Estate for certification of mortgage continuing education courses or instructors. Therefore, the rules related to certification of mortgage continuing education neither costs nor saves local governments any money. There are no costs or savings anticipated from the other proposed changes to this rule that are basically housekeeping changes.

❖ **OTHER PERSONS:** The only other persons who are impacted by the turn-around time for certification of mortgage continuing education courses and instructors are the providers of the education courses. Changing the deadline for applying for certification by allowing the providers to submit applications closer to the time the course will be given should not cost the providers any money. It is possible that the liberalization of the deadline may save the course providers money somehow, but the Division cannot anticipate whether there would be any savings or estimate how much that savings might be. No costs or savings to other persons are anticipated as a result of the housekeeping changes to this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Changing the deadline for applying for certification of continuing education courses and instructors by allowing course providers to submit applications closer to the time the course will be given should not cost the providers any money. No compliance costs are anticipated due to the additional housekeeping changes to this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated by this rule filing, which removes unnecessary provisions, provides continuing education course providers more flexibility in submitting their course certification applications to the Division for approval, and makes other technical amendments. Francine A. Giani, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Shelley Wismer at the above address, by phone at 801-366-0145, by FAX at 801-366-0315, or by Internet E-mail at swismer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 04/10/2007

AUTHORIZED BY: Derek Miller, Director

R162. Commerce, Real Estate.

R162-208. Continuing Education.

R162-208-1. Required Hours of Continuing Education.

208.1 As authorized by Section 61-2c-104(7)(d)(ii)(A), the Utah Residential Mortgage Regulatory Commission has set the number of hours of continuing education required for renewal ~~as follows:~~

~~208.1.1 Individuals with renewal dates on or before December 31, 2005—zero credit hours.~~

~~208.1.2 Individuals with renewal dates after December 31, 2005—[at] fourteen credit hours.~~

R162-208-4. Subject Matter.

208.4 The following subject matter is acceptable for continuing education credit:

208.4.1 Each time the licensee renews, the required 14 credit hours must include a minimum of 2 credit hours of ethics and a minimum of 3 credit hours related to compliance with Federal and State laws governing mortgage lending.

208.4.2 The balance of the credit hours required for renewal may consist of any courses related to residential mortgage principles and practices that ~~[, in the opinion of the Commission,]~~ would enhance the competency and professionalism of licensees.

208.4.3 The Division ~~[will]may~~ maintain and ~~[will]may~~ make available to any person upon request a list of course topics that have been approved by the Division and the Commission as acceptable for continuing education purposes. The Division ~~[shall]may~~ also post the list of course topics on its website.

R162-208-6. Education Committee.

208.6 The Commission ~~[will]may~~ appoint an Education Committee, the purpose of which will be to assist the Division and the Commission in approving continuing education course topics. The Education Committee will make recommendations to the Division and the Commission about whether any particular course topic is sufficiently related to residential mortgage principles and practices, and whether the topic would tend to enhance the competency and professionalism of licensees, to justify placing the topic on the list of course topics that are acceptable for continuing education purposes. The Division and the Commission may accept or reject the Committee's recommendation on any course topic.

208.6.1 If an Education Committee has been appointed by the Commission, a ~~[A]~~ny licensee or any course provider may request that the Education Committee recommend to the Division and the Commission that a specific topic be approved as an acceptable topic for continuing education purposes. The request must be made in writing, addressed to the Education Committee in care of the Division, and must state specific reasons why the requester believes the topic qualifies for continuing education purposes.

208.6.2 If the Education Committee turns down a request to approve a certain topic for continuing education purposes, the party who requested that the topic be approved may petition the Division and the Commission on an individual basis for evaluation and approval of the topic as being acceptable for continuing education purposes. The Petition must be made in writing, addressed to the Division and the Commission in care of the Division, and must state specific reasons why the requester believes that the topic qualifies for continuing education purposes. If the Division and the Commission find that the

topic is acceptable for continuing education purposes, the Division shall add the topic to the list maintained by the Division of approved continuing education topics.

R162-208-9. Continuing Education Instructor Certification.

208.9 All instructors of courses to be taught for continuing education purposes must apply for certification from the Division not less than ~~[60]30~~ days prior to the anticipated date of the first class that they intend to teach.

208.9.1 Continuing education course instructor applicants shall meet the requirements set forth in Section 210.5 and Section 210.7 of these rules, and shall demonstrate knowledge of the subject matter of the course they intend to teach by submitting proof of the following:

(a) at least three years of experience in a profession, trade, or technical occupation in a field directly related to the course which the applicant intends to instruct; or

(b) a bachelors or postgraduate degree in the field of real estate, business, law, finance, or other academic area directly related to the course which applicant intends to instruct; or

(c) any combination of at least three years of full-time experience and college-level education in a field directly related to the course which the applicant intends to instruct.

208.9.2 Instructor applicants shall demonstrate evidence of the ability to communicate the subject matter by the submission of proof of the following:

(a) a state teaching certificate or showing successful completion of appropriate college courses in the field of education; or

(b) a professional teaching designation from the National Association of Mortgage Brokers, the Real Estate Educators Association, the Mortgage Bankers Association of America, or a similar association; or

(c) evidence, such as instructor evaluation forms or letters of reference, of the ability to teach in schools, seminars, or in an equivalent setting.

208.9.3 Upon approval by the Division, an instructor shall be issued a certification to act as a continuing education instructor. A continuing education instructor certification shall expire twenty-four months after its issuance. An instructor shall apply for renewal of a continuing education instructor certification prior to the expiration of the instructor's current certification, using the form required by the Division.

208.9.3.1 To qualify for renewal of instructor certification, an instructor must provide proof of having taught a minimum of one class in each course for which renewal is sought in the year preceding application for renewal. The term of a renewed instructor certification shall be twenty-four months.

208.9.3.1.1 If the instructor has not taught during the year preceding renewal and wishes to renew certification, written explanation shall be submitted outlining the reason for not instructing the course, including documentation satisfactory to the Division as to the instructor's present level of expertise in the subject matter of the course.

208.9.4 Reinstatement of Expired Instructor Certification. If the instructor does not submit a properly completed renewal form, the renewal fee, and any required documentation prior to the expiration date of the instructor's current certification, the certification shall expire. When an instructor certification expires, the certification may be reinstated for a period of thirty days after the expiration date upon payment of a non-refundable late fee in addition to completing all of the requirements for a timely renewal. After the thirty day period, and until ~~[three]six~~ months after the expiration date, an instructor

certification may be reinstated upon payment of a non-refundable late fee and completion of 6 classroom hours of education related to residential mortgages or teaching techniques in addition to completing all of the requirements for a timely renewal. After the ~~three~~six month period, an instructor will be required to apply by following the procedure for obtaining original certification.

R162-208-10. Continuing Education Course Certification.

208.10 Continuing education course providers who provide education courses specifically tailored for, or marketed to, Utah real estate, appraiser, or mortgage licensees are required to apply to the Division for certification of any course for which continuing education credit is promised at least ~~60~~30 days prior to the anticipated date of the first class. Except as may be provided in Subsection 208.10.5, the Division will not grant continuing education credit to students who have taken courses that have not been certified by the Division in advance of the courses being taught to students.

208.10.1 Approved continuing education providers may include accredited colleges and universities, public or private vocational schools, national and state mortgage related professional societies and organizations, and proprietary schools and instructors.

208.10.2 Application Procedure. Except as provided in Subsection 208.10.3, education providers shall make application to the Division following the procedures set forth in Subsection 208.10.4.

208.10.3. A continuing education provider who provides proof to the Division that a course offering has been certified for continuing education credit in a minimum of three other states and that the provider has specific standards in place for development of courses and approval of instructors may be granted certification of a course by filling out the form required by the Division and including the following with the application:

- (a) a copy of the provider's standards used for developing curricula and for approving instructors;
- (b) evidence that the course is certified in at least three states;
- (c) a sample of the course completion certificate bearing all information required by Subsection 208.10.4(l) and
- (d) all required fees, which shall be non-refundable.

208.10.4 Submission of Course for Certification. The application shall include the non-refundable instructor certification fee ~~[of \$50.00]~~ and the non-refundable ~~[\$70.00]~~course certification fee per course per instructor. The application shall be made on the form ~~[approved]~~required by the Division, and shall include all information required by the Division concerning the course and the course sponsor. ~~[which shall include the following information:~~

- ~~—(a) Name, phone number and address of the sponsor of the course, including the owners and the coordinator or director responsible for the offering;~~
- ~~—(b) The title of the course offering including a description of the type of training; for example, seminar, conference, correspondence course, or similar offering;~~
- ~~—(c) A copy of the course curriculum including a course outline of the comprehensive subject matter. Except for courses approved for specific distance education delivery, the course outline shall include the length of time to be spent on each subject area broken into segments of no more than 30 minutes each, the instructor for each segment, and the teaching technique used in each segment;~~
- ~~—(d) A complete description of all materials to be distributed to the participants;~~
- ~~—(e) The date, time and locations of each course;~~
- ~~—(f) The procedure for pre-registration, the tuition or registration fee and a copy of the cancellation and refund policy;~~

~~—(g) Except for courses approved for specific distance education delivery, the procedure for taking and maintaining control of attendance during class time, which procedure shall be more extensive than having the student sign a class roll;~~

~~—(h) An instructor application on a form approved by the Division including the information as defined in R162-9-4;~~

~~—(i) A signed statement agreeing to allow the course to be randomly audited on an unannounced basis by the Division or its representative;~~

~~—(j) A statement defining how the course will meet the objectives of continuing education by providing education of a current nature and how it will improve a licensee's ability to provide greater protection of, and service to, the public;~~

~~—(k) A signed statement agreeing not to perform marketing for a specific company or professional service, or to market personal sales products;~~

~~—(l) A sample of the completion certificate, or the completion certificate required by the Division, if any, that will be issued which shall bear the following information:~~

- ~~—(i) Space for the licensee's name, type of license and license number, date of course;~~
- ~~—(ii) The name of the course provider, course title, hours of credit, certification number, and certification expiration date;~~
- ~~—(iii) Space for the signature of the course sponsor and a space for the licensee's signature; and~~
- ~~—(m) Signature of the course coordinator or director.]~~

208.10.5 Individual licensees may apply to the Division for continuing education credit for a non-certified mortgage course that was not required by these rules to be certified in advance by ~~[filling out]~~submitting the form required by the Division and providing all information concerning the course required by the Division. If the licensee is able to demonstrate to the satisfaction of the Division that the course will likely improve the licensee's ability to better protect or serve the public and improve the licensee's professional licensing status, the Division may grant the individual licensee continuing education for the course.

208.10.5.1 Provided the subject matter of the course is applicable to residential mortgage loan business in Utah, a course approved for continuing education purposes in another state or jurisdiction may be granted Utah continuing education credit on a case by case basis.

208.10.6 Distance Education. Continuing education courses in which the instruction does not take place in a traditional classroom setting, but rather through other media where teacher and student are separated by distance and sometimes by time, may be certified by the Division if the particular distance education method has been approved by the Commission and the Division. Application must be made to the Division on the form required by the Division for certification of courses that do not take place in a traditional classroom setting.

R162-208-11. Conditions of Certification.

~~[208.11.1 Course Completion Certificates. Upon completion of the educational program the course provider shall furnish to each student a certificate of completion in the form required by the Division.~~

~~—[208.11.1[+]] Minimum class time for live courses. Course completion certificates may be given only to those students who have attended a minimum of 90% of the required class time of a live lecture course. [Within 10 days of the end of the course, the course provider shall furnish to the Division a roster of students and their license numbers for whom certificates were issued.]~~

208.11.2 Registration Records. A course provider shall maintain for three years a record of registration of each individual completing a

course and any other information required by the Division regarding the individual's attendance at the course, including exam results, if any.

208.11.3 Course providers shall require that a student registered for a distance education course completes the course within one year of the date the student originally registered for the course.

208.11.4 Material Changes in Courses Certified for Continuing Education Purposes. Whenever there is a material change in a certified continuing education course, including a change in curriculum, course length, instructor, or refund policy, the provider shall promptly notify the Division in writing.

208.11.5 Course Evaluation Forms. At the end of each course, course providers shall require that each student complete a standard evaluation form provided by the Division. The forms shall be collected at the end of the class, sealed in an envelope, and mailed by the course provider to the Division within 10 days of the last class.

R162-208-12. Continuing Education Course Certification and Renewal.

208.12 All course certifications shall expire two years after their issuance.

208.12.1 Application for renewal of a continuing education course certification shall be made on the form required by the Division and shall include the non-refundable renewal fee.

208.12.1.1 If the certification of a continuing education course is not renewed within ~~three~~six months after its expiration date, the course provider will be required to apply for a new certification for the course.

208.12.2 After a course has been renewed three times, the course provider will be required to apply for a new certification.

~~R162-208-14. Individual Application for Continuing Education Credit.~~

~~208.14 A licensee may apply for continuing education credit for any non-certified continuing education course if the licensee believes the course will improve his ability to better protect or serve the public, provided the course was taken from a nationwide education provider. The subject matter of the course may not relate exclusively to the practice of the residential mortgage business in a state other than the State of Utah.~~

~~R162-208-14~~14. Limitation on Multiple Use of Credit Hours.

208.~~14~~14 A mortgage licensee who is also licensed by the Division as a real estate broker, real estate sales agent, or real estate appraiser may not receive credit toward renewal of a mortgage license for continuing education hours that have already been used toward renewal of a real estate broker, real estate sales agent, or real estate appraiser license.

KEY: residential mortgage loan origination

Date of Enactment or Last Substantive Amendment: ~~October 24, 2006~~2007

Authorizing, and Implemented or Interpreted Law: 61-2c-103(3); 61-2c-104(7)(d)(ii)



Environmental Quality, Air Quality **R307-110-20** Section XII, Involvement

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29514

FILED: 02/14/2007, 08:04

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to update Section XII of the Utah State Implementation Plan (SIP) to meet the federal transportation conformity consultation requirements found under 42 U.S.C. 7506 and 40 CFR Part 51.390. This amendment documents Utah's current transportation conformity consultation process so it meets the federal requirements. This amendment replaces the current Section R307-110-20 that incorporates by reference a new Section XII, Transportation Conformity Consultation, of the SIP.

SUMMARY OF THE RULE OR CHANGE: The purpose of this amendment is to update Section XII of the Utah SIP to meet the current federal transportation conformity consultation requirements found under 42 U.S.C. 7506 and 40 CFR Part 51.390. These federal provisions require states to develop, as part of the SIP, documentation of the transportation conformity consultation process. This amendment documents Utah's current transportation conformity consultation process so it meets the federal requirements. This amendment replaces the current Section R307-110-20 that incorporates by reference a new Section XII, Transportation Conformity Consultation, of the SIP. The new Section XII outlines the procedures to be followed to address transportation-related issues during SIP development. It also outlines the procedures to be followed in development of conformity determinations on transportation plans, programs, and projects. There are two key elements to the transportation conformity consultation process. The first is involvement of the transportation planning agencies in the development of a SIP for the various criteria pollutants, and the development of the mobile source emissions budget established in that SIP. The second is the conformity demonstration that describes how the projected mobile source emissions from a transportation plan or program will conform to the mobile source budgets established in the SIP. Additionally, a conformity demonstration ensures that transportation control measures specified in a SIP are implemented in a timely fashion. If an agency cannot demonstrate conformity with the SIP, then the affected agencies need to work together to change the Regional Transportation Plan, Transportation Improvement Program, or the SIP.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(3)(e)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: State Implementation Plan Section XII, Transportation Conformity Consultation, May 2, 2007

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There is no change in costs for state government, because the new Section XII is documenting the current transportation conformity consultation process.

- ❖ LOCAL GOVERNMENTS: There is no change in costs for local governments, because the new Section XII is documenting the current transportation conformity consultation process.
- ❖ OTHER PERSONS: There is no change in costs for other persons, because the new Section XII is documenting the current transportation conformity consultation process.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no change in costs for affected persons, because the new Section XII is documenting the current transportation conformity consultation process.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No change in costs is expected for businesses, because the new Section XII is documenting the current transportation conformity consultation process. Dianne R. Nielson, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/02/2007

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 3/15/2007 at 2:30 PM, DEQ Building, 168 N 1950 W, Room 201, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 04/10/2007

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.
R307-110. General Requirements: State Implementation Plan.
R307-110-20. Section XII, ~~Involvement~~ Transportation Conformity Consultation.

The Utah State Implementation Plan, Section XII, ~~Involvement~~ Transportation Conformity, as most recently amended by the Utah Air Quality Board on ~~December 18, 1992~~ May 2, 2007, pursuant to 19-2-104, is hereby incorporated by reference and made a part of these rules.

KEY: air pollution, PM10, PM2.5, ozone
Date of Enactment or Last Substantive Amendment: ~~June 16, 2006~~ 2007

Notice of Continuation: June 16, 2006
Authorizing, and Implemented or Interpreted Law: 19-2-104(3)(e)



Health, Health Systems Improvement,
Licensing
R432-100-33
General Hospital Standards

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE No.: 29525
FILED: 02/15/2007, 15:03

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes made in January 2007 to federal regulations for hospitals enacted a new and much more restrictive time frame in which to authenticate verbal orders from practitioners. The federal regulation changed the time frame from what was set by hospital policy to 48 hours. However, the federal law allows states to set a different time requirement that is longer than 48 hours. Utah hospital rules currently permit authentication as per the hospital's policy, but require that all records be finalized within 30 days after the patient's discharge. In practice, hospitals in Utah have therefore authenticated all orders, including verbal orders, within the 30-day post-discharge time frame. The current rule does not meet the federal opt out provision because it does not specifically state that authentication of verbal orders must be made within 30 days post-discharge. Utah hospitals are now suddenly faced with a much more restrictive time frame, for which they are not staffed nor equipped to meet immediately. Changing this state rule would allow them to continue to meet the standards they have used for years.

SUMMARY OF THE RULE OR CHANGE: This rule amendment will add a requirement that requires hospitals to authenticate verbal orders within 30 days of patient discharge. The current rule allows for authentication of verbal orders to be done by hospital policy.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 21

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There are no anticipated costs to the state budget. This rule only affects hospitals and will not create any enforcement duties.
- ❖ LOCAL GOVERNMENTS: There are no anticipated costs to any local government. This rule only affects hospitals. Hospitals operated by local government will be saved the expense of complying with the more restrictive federal rule.

❖ OTHER PERSONS: There will be no anticipated costs to any other persons. Hospitals will have to authenticate verbal orders within 30 days of patient discharge, which is only assessing a time frame and not creating any new standards. Hospitals will be saved the expense of complying with the more restrictive federal rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule allows for more time to authenticate verbal orders, which will make it easier for hospitals to ensure compliance. There are no added requirements for compliance, therefore there are no increased compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have a positive impact on regulated businesses and maintain the current practice as allowed by federal law rather than going to a more restrictive federal standard. David N. Sundwall, MD Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Allan Elkins at the above address, by phone at 801-538-6595, by FAX at 801-538-6163, or by Internet E-mail at aelkins@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 04/09/2007

AUTHORIZED BY: David N. Sundwall, Executive Director

R432. Health, Health Systems Improvement, Licensing.

R432-100. General Hospital Standards.

R432-100-33. Medical Records.

(1) The hospital shall establish a medical records department or service that is responsible for the administration, custody and maintenance of medical records.

(a) The administrative direction of the department shall be established by the hospital administrator and correspond to the organizational structure and policies of the hospital.

(b) The medical records department shall retain the technical services of either a Registered Health Information Administrator or a Registered Health Information Technician through employment or consultation. If retained by consultation, visits shall be at least quarterly and documented through written reports to the hospital administrator.

(2) The medical records department shall provide secure storage, controlled access, prompt retrieval, and equipment and facilities to review medical records.

(a) Medical records shall be available for use or review by members of the medical and professional staff; authorized hospital personnel and agents; persons authorized by the patient through a consent form; and Department representatives to determine compliance with licensing rules.

(b) Medical records may be stored in multiple locations providing the record is able to be retrieved or accessed in a reasonable time period.

(c) If computer terminals are utilized for patient charting, the hospital shall have policies governing access and identification codes, security, and information retention.

(d) The hospital medical record shall be indexed according to diagnosis, procedure, demographic information and physician or licensed health practitioner. The indexes shall be current within six months following discharge of the patient.

(e) Original medical records are the property of the hospital and shall not be removed from the control of the hospital or the hospital's agent as defined by policy except by court order or subpoena.

(f) Medical records for persons who have received or requested admission to alcohol or drug programs shall comply with 42 CFR Part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records."

(3) All medical record entries shall be legible, complete, authenticated, and dated by the person responsible for ordering the service, providing or evaluating the service, or making the entry. Prepared transcriptions of dictated reports, evaluations and consultations must be reviewed by the author before authentication.

(a) The authentication may include written signatures, computer key, or other methods approved by the governing body and medical staff to identify the name and discipline of the person making the entry.

(b) Use of computer key or other methods to identify the author of a medical record entry is not assignable or to be delegated to another person.

(c) There shall be a current list of persons approved to use these methods of authentication. Hospital policies shall include appropriate sanctions for the unauthorized or improper use of computer codes.

(d) Verbal orders for the care and treatment of the patient shall be accepted and transcribed by qualified personnel and authenticated [as stated in hospital policy] within 30 days of the patient's discharge.

(4) Patient records shall be organized according to hospital policy.

(a) Medical records shall be reviewed at least quarterly for completeness, accuracy, and adherence to hospital policy.

(b) Records of discharged patients shall be collected, assembled, reviewed for completeness, and authenticated within 30 days of the patient's discharge.

(c) Medical records shall be retained for at least seven years. Medical records of minors shall be kept until the age of eighteen plus four years, but in no case less than seven years.

(d) The Hospital may destroy medical records after retaining them for the minimum time period. Prior to destroying medical records, the hospital must notify the public by publishing a notice in a newspaper of statewide distribution a minimum of once a week for three consecutive weeks to allow a former patient to access the patient's records.

(e) The hospital shall permanently retain a master patient/person index that shall include:

- (i) the patient name;
- (ii) the medical record number;
- (iii) the date of birth;
- (iv) the admission and discharge dates; and
- (v) the name of each attending physician.

(f) If a hospital ceases operation, the hospital shall make provision for secure, safe storage and prompt retrieval of all medical records, patient indexes and discharges for the period specified in R432-100-33(4)(c). The hospital may arrange for storage of medical records with another hospital, or an approved medical record storage facility, or may return patient medical records to the attending physician if the physician is still in the community.

(5) A complete medical record shall be established and maintained for each patient admitted to, or who receives hospital services. Emergency and outpatient records shall document the service rendered, and shall contain other pertinent information in accordance with hospital policy.

(a) Each medical record shall contain patient identification and demographic information to include at least the patient's name, address, date of birth, sex, and emergency contact information.

(b) Each medical record shall contain initial or admitting medical history, physical and other examinations or evaluations. Recent histories and examinations may be substituted if updated to include changes that reflect the patient's current status.

(c) Each medical record shall contain admitting, secondary and principal diagnoses.

(d) Each medical record shall contain results of consultive evaluations and findings by persons involved in the care of the patient.

(e) Each medical record shall contain documentation of complications, hospital acquired infections, and unfavorable reactions to medications, treatments, and anesthesia.

(f) Each medical record shall contain properly executed informed consent documents for all procedures and treatments ordered for, and received by, the patient.

(g) Each medical record shall document that the facility requested of each admitted person whether the person has initiated an advanced directive as defined in the Personal Choice and Living Will Act, UCA 75-2-1102.

(h) Each medical record shall contain all practitioner orders, nursing notes, reports of treatment, medication records, laboratory and radiological reports, vital signs and other information that documents the patient condition and status.

(i) Each medical record shall contain a discharge summary including outcome of hospitalization, disposition of case with an autopsy report when indicated, or provisions for follow-up.

(j) Medical records of deceased patients shall contain a completed Inquiry of Anatomical Gift form or a modified hospital death form which has been approved by the Utah Department of Health as required by Section 26-28-6, UCA.

(k) Medical records of surgical patients shall contain a pre-operative history and physical examination; surgeon's diagnosis; an operative report describing a description of findings; an anesthesia report including dosage and duration of all anesthetic agents and all pertinent events during the induction, maintenance, and emergence from anesthesia; the technical procedures used; the specimen removed; the post-operative diagnosis; and the name of the primary surgeon and any assistants written or dictated by the surgeon within 24 hours after the operation.

(l) Medical records of obstetrical patients shall contain a relevant family history, a pre-natal examination, the length of labor and type of delivery with related notes, the anesthesia or analgesia record, the Rh status and immune globulin administration when indicated, a serological test for syphilis, and a discharge summary for complicated deliveries or final progress note for uncomplicated deliveries.

(m) Medical records of newborn infants shall contain the following documentation in addition to the requirements for obstetrical medical records:

(i) Documentation must include a copy of the mother's delivery room record. In adoption cases where the identity of the mother is confidential, inclusion and access to the mother's delivery room record shall be according to hospital policy.

(ii) Documentation must include the date and hour of birth, period of gestation, sex, reactions after birth, delivery room care, temperature, weight, time of first urination, and number, character, and consistency of stools.

(iii) Documentation must include a record of the physical examination completed at birth and discharge, record of ophthalmic prophylaxis, and the identification number of the newborn screening kit, referred to in R398-1.

(iv) If the infant is discharged to any person other than the infant's parents, the hospital shall record the authorization by the parents, state agency, or court authority. and

(v) Documentation of the record and results of the newborn hearing screening according to Section 26-10-6, UCA and R398-2-6.

(n) Emergency department patient medical records shall be integrated into the hospital medical record and include time and means of arrival, emergency care given to the patient prior to arrival, history and physical findings, lab and x-ray reports, diagnosis, record of treatment, and disposition and discharge instructions.

(o) Patient medical social services records shall include a medical-social or psycho-social study of referred inpatients and outpatients; the financial status of the patient, social therapy and rehabilitation of patients, environmental investigations for attending physicians, and cooperative activities with community agencies.

(p) Medical records of patients receiving rehabilitation therapy shall include a written plan of care appropriate to the diagnosis and condition, a problem list, and short and long term goals.

(6) The medical records department shall maintain records, reports and documentation of admissions, discharges, and the number of autopsies performed.

(7) The medical records department shall maintain vital statistic registries for births, deaths, and the number of operations performed. The medical records department shall report vital statistics data in accordance with the Vital Statistics Act, Utah Health Code, (26-2, UCA).

KEY: health facilities

Date of Enactment or Last Substantive Amendment: ~~January 5, 2006~~ **2007**

Notice of Continuation: **October 16, 2002**

Authorizing, and Implemented or Interpreted Law: **26-21-5; 26-21-2.1; 26-21-20**



Natural Resources, Wildlife Resources
R657-5-43
 General Archery Elk Hunt

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 29502

FILED: 02/07/2007, 15:03

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council meetings and the Wildlife Board meeting conducted for taking public input and reviewing the big game rule.

SUMMARY OF THE RULE OR CHANGE: The proposed revisions to this rule remove references to and exceptions related to the Plateau, Fishlake-Thousand Lake area from Section R657-5-43. This change allows hunters who obtain a general any bull elk permit to take one elk of hunter's choice on a general any bull elk unit, except on elk Cooperative Wildlife Management Units (CWMUs); an antlerless elk or spike bull elk on a general spike bull elk unit, except CWMUs; or one elk of hunter's choice in the Wasatch Front and Uintah Basin extended archery areas during the specified season.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18 and 23-14-19

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This amendment clarifies the procedures and requirements for hunting archery elk. Therefore, the Division of Wildlife Resources (DWR) determines that these amendments do not create a cost or savings impact to the state budget or DWR's budget. The amendments will not create any cost or savings impact to the state budget or DWR's budget, since the changes will not increase workload and they can be carried out with existing budget

❖ LOCAL GOVERNMENTS: Since this amendment clarifies the procedures and requirements for hunting archery elk, this filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ OTHER PERSONS: The amendments provide clarification of procedures and requirements for hunting archery elk, therefore, the amendments do not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These amendments are for clarification and providing requirements for hunting archery elk. Because of this, DWR determined that there are no additional compliance costs associated with this amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses. Michael R. Styler, Executive Director

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

NATURAL RESOURCES
 WILDLIFE RESOURCES
 1594 W NORTH TEMPLE
 SALT LAKE CITY UT 84116-3154, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Staci Coons at the above address, by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 04/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 04/09/2007

AUTHORIZED BY: James F Karpowitz, Director

**R657. Natural Resources, Wildlife Resources.
 R657-5. Taking Big Game.
 R657-5-43. General Archery Elk Hunt.**

(1) The dates of the general archery elk hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2)(a) A person who has obtained a general archery elk permit may use archery equipment to take:

(i) one elk of hunter's choice on a general any bull elk unit, except on elk cooperative wildlife management units;

(ii) an antlerless elk or spike bull elk on a general spike bull elk unit, except on elk cooperative wildlife management units~~and the Plateau, Fish Lake-Thousand Lakes~~;

~~[(iii) only a spike bull elk on the Plateau, Fish Lake-Thousand Lakes; or~~

~~—(iv)(iii)~~ one elk of hunter's choice on the Wasatch Front or Uintah Basin extended archery areas as provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(3)(a) A person who obtains a general archery elk permit may hunt within the Wasatch Front, Uintah Basin, Nebo-West Desert, and Sanpete Valley extended archery areas during the extended archery area seasons as provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game and as provided in Subsection (b).

(b) A person must complete the Archery Ethics Course annually to hunt the extended archery areas during the extended archery season.

(c) A person must possess an Archery Ethics Course Certificate of Completion while hunting.

(4) A person who has obtained an archery elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-48(3).

(5) Hunter orange material must be worn if a centerfire rifle hunt is also in progress in the same area as provided in Section 23-20-31. Archers are cautioned to study the rifle hunt tables to identify these areas described in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

KEY: wildlife, game laws, big game seasons

Date of Enactment or Last Substantive Amendment: ~~February 7, 2007~~

Notice of Continuation: November 21, 2005

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19; 23-16-5; 23-16-6



End of the Notices of Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1998).

Administrative Services, Fleet Operations **R27-6** Fuel Dispensing Program

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 29515
FILED: 02/14/2007, 14:38

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is established pursuant to Subsections 63A-9-401(1)(c)(vi), 63A-9-401(1)(e), and 63A-2-201.1(a) which require the Department of Administrative Services, Division of Fleet Operations (DFO), to make rules establishing requirements for fuel management programs, and to create and administer a fuel dispensing services program.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule defines procedures to add, edit, and delete state fuel cards; delegation of authority to issue fuel cards and/or manage and maintain fuel storage tanks; describes the authorized use of the state fuel card; reimbursement procedures, and documentation requirements for fuel utilization; and fuel site maintenance. Therefore, this rule should be continued.

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

ADMINISTRATIVE SERVICES
FLEET OPERATIONS
Room 4120 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Margaret Chambers at the above address, by phone at 801-538-9675, by FAX at 801-538-1773, or by Internet E-mail at margareтчambers@utah.gov

AUTHORIZED BY: Margaret Chambers, Director

EFFECTIVE: 02/14/2007



Agriculture and Food, Animal Industry **R58-1** Admission and Inspection of Livestock, Poultry, and Other Animals

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 29506
FILED: 02/08/2007, 15:07

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 4, Chapter 31, and Subsections 4-2-2(1)(c)(i) and 4-2-2(1)(j) give the Department of Agriculture and Food, Division of Animal Industry, the authority to eliminate or reduce the spread of diseases among livestock by providing standards to be met in the movement of livestock within the state of Utah, INTRASTATE, and import movements, INTERSTATE, of livestock, poultry and other animals.

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 the last five years concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The purpose of this rule is to eliminate, reduce, or prevent the introduction of diseases to Utah livestock and animal producers by providing standards to be met in the movement of livestock within the State of Utah. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 AGRICULTURE AND FOOD
 ANIMAL INDUSTRY
 350 N REDWOOD RD
 SALT LAKE CITY UT 84116-3034, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Kathleen Mathews, Earl Rogers, or Terry Menlove at the above address, by phone at 801-538-7103, 801-538-7162, or 801-538-7166, by FAX at 801-538-7126, 801-538-7169, or 801-538-7169, or by Internet E-mail at kmathews@utah.gov, erogers@utah.gov, or tmenlove@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 02/08/2007

◆ ————— ◆
Agriculture and Food, Animal Industry
R58-6
Poultry

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR File No.: 29504
 FILED: 02/08/2007, 12:56

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 under the provisions of Section 4-29-1, which gives the Utah Department of Agriculture and Food the authority to regulate importation of poultry.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The purpose of this rule is to regulate importation of poultry. This rule also details the department's response to an outbreak such as Avian Influenza. This rule implements biosecurity measures to be implemented by industry in the event of a disease outbreak. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 AGRICULTURE AND FOOD
 ANIMAL INDUSTRY
 350 N REDWOOD RD
 SALT LAKE CITY UT 84116-3034, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Kathleen Mathews, Earl Rogers, or Terry Menlove at the above address, by phone at 801-538-7103, 801-538-7162, or 801-538-7166, by FAX at 801-538-7126, 801-538-7169, or 801-538-7169, or by Internet E-mail at kmathews@utah.gov, erogers@utah.gov, or tmenlove@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 02/08/2007

◆ ————— ◆
Agriculture and Food, Animal Industry
R58-18
Elk Farming

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR File No.: 29505
 FILED: 02/08/2007, 14:29

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 4-39-106 gives the Department of Agriculture and Food the authority to regulate the elk farming industry

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is needed to protect our other native livestock and wildlife from the spread of disease, prevent the possible theft of our wildlife population, and prevent the introduction of genetically different types of elk in the state. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kathleen Mathews, Terry Menlove, or Earl Rogers at the above address, by phone at 801-538-7103, 801-538-7166, or 801-538-7162, by FAX at 801-538-7126, 801-538-7169, or 801-538-7169, or by Internet E-mail at kmathews@utah.gov, tmenlove@utah.gov, or erogers@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 02/08/2007



Agriculture and Food, Animal Industry
R58-22
Equine Infectious Anemia (EIA)

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

DAR FILE NO.: 29503
FILED: 02/08/2007, 11:42

**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 under the provisions of Title 4, Chapter 31, and Subsections 4-2-2(1)(c) and 4-2-2(1)(j). The intent of this rule is to eliminate or reduce the spread of Equine Infectious Anemia (EIA) among equines by providing for a protocol for testing and handling of equines infected and exposed to EIA.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received concerning this rule. No changes are recommended.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The original reasons for establishment of this rule continue to exist. The intent of this rule is to eliminate or reduce the spread of EIA among equines by providing for a protocol for testing and handling of equines infected and exposed to EIA. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Earl Rogers, Terry Menlove, Kathleen Mathews, or Kyle Stephens at the above address, by phone at 801-538-7162, 801-538-7166, 801-538-7103, or 801-538-7102, by FAX at 801-538-7169, 801-538-7169, 801-538-7126, or 801-538-7126, or by Internet E-mail at erogers@utah.gov, tmenlove@utah.gov, kmathews@utah.gov, or kylestephens@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 02/08/2007



**Agriculture and Food, Regulatory
Services**
R70-201
Compliance Procedures

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

DAR FILE NO.: 29492
FILED: 02/02/2007, 15:50

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is promulgated by the Division of Regulatory Service within the Department of Agriculture and Food under authority of Subsection 4-2-2(j).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is required and documents the Compliance Procedures used in the enforcement of Agriculture laws. Therefore, this rule should be continued. There is no known opposition to this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kathleen Mathews, David Clark, or Doug Pearson at the above address, by phone at 801-538-7103, 801-538-7128, or 801-538-7144, by FAX at 801-538-7126, 801-538-7126, or 801-538-7169, or by Internet E-mail at kmathews@utah.gov, dhclark@utah.gov, or dpearson@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 02/02/2007

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Richard W Clark, Doug Pearson, Don McClellan, or Kathleen Mathews at the above address, by phone at 801-538-7150, 801-538-7144, 801-538-7145, or 801-538-7103, by FAX at 801-538-7126, 801-538-7169, 801-538-7126, or 801-538-7126, or by Internet E-mail at RICHARDWCLARK@utah.gov, dpearson@utah.gov, dmcclellan@utah.gov, or kmathews@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 02/08/2007



**Agriculture and Food, Regulatory
Services
R70-320
Minimum Standards for Milk for
Manufacturing Purposes, its Production
and Processing**

**Agriculture and Food, Regulatory
Services
R70-350
Ice Cream and Frozen Dairy Foods
Standards**

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

DAR FILE No.: 29507
FILED: 02/08/2007, 15:19

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

DAR FILE No.: 29499
FILED: 02/05/2007, 14:58

**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 4-2-2(l)(j) and Section 4-3-2 give the Department of Agriculture and Food, Division of Regulatory Services, the authority to encourage the sanitary production of milk, and to promote the sanitary processing of milk for manufacturing purposes.

**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 4-3-2 gives the Utah Department of Agriculture and Food, Division of Regulatory Services, the authority to inspect all frozen dairy foods and frozen dairy food mixes sold, bought, processed, manufactured, or distributed within the State of Utah.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments received.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is the direction of the Department that this rule is necessary to carry out the purpose of Title 4, Chapter 3, for Grade B or Manufacturing Milk, like Rule R70-310 which applies to all Grade A milk sold, bought, processed, manufactured, or distributed within the state of Utah. Therefore, this rule should be continued.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is the judgment and discretion of the department that this rule is necessary to carry out the purpose of Title 4, Chapter 3, the Utah Dairy Act. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kathleen Mathews, Richard W Clark, or Don McClellan at the above address, by phone at 801-538-7103, 801-538-7150, or 801-538-7145, by FAX at 801-538-7126, 801-538-7126, or 801-538-7126, or by Internet E-mail at kmathews@utah.gov, RICHARDWCLARK@utah.gov, or dmcclellan@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 02/05/2007

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kathleen Mathews, Richard W Clark, or Don McClellan at the above address, by phone at 801-538-7103, 801-538-7150, or 801-538-7145, by FAX at 801-538-7126, 801-538-7126, or 801-538-7126, or by Internet E-mail at kmathews@utah.gov, RICHARDWCLARK@utah.gov, or dmcclellan@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 02/05/2007

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**Agriculture and Food, Regulatory
Services**

R70-360

**Procedure for Obtaining a License to
Test Milk for Payment**

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

DAR FILE NO.: 29500
FILED: 02/05/2007, 15:01

**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 4-3-2 gives the Utah Department of Agriculture and Food, Division of Regulatory Services, the authority to outline the requirements that are necessary in order to obtain a license to test milk for payment.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is the judgment and discretion of the department that this rule is necessary to carry out the purpose of Title 4, Chapter 3, the Utah Dairy Act, specifically Section 4-3-10, where it specifies that testing milk for payment without a license is an unlawful act. Therefore, this rule should be continued.

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Commerce, Administration

R151-2

**Government Records Access and
Management Act Rules**

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

DAR FILE NO.: 29524
FILED: 02/15/2007, 14:56

**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 Government Records Access and Management Act, Section 63-2-101 et seq., requires all governmental entities to establish economical and efficient records management practices. Rule R151-2 is made pursuant to Subsection 63-2-204(2)(d) of the Act which allows agencies to specify where and to whom requests for access to records shall be directed; Subsection 63-2-904(2) which allows an agency to specify at which levels certain requirements shall be undertaken; and Section 63-2-603 which concerns requests to amend a record.

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.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule should be continued because it ensures the efficient management of Department records, which is required under Section 63-2-101 et seq.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Masuda Medcalf at the above address, by phone at 801-530-7663, by FAX at 801-530-6446, or by Internet E-mail at mmedcalf@utah.gov

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Shelley Wismer at the above address, by phone at 801-366-0145, by FAX at 801-366-0315, or by Internet E-mail at swismer@utah.gov

AUTHORIZED BY: Francine Giani, Executive Director

AUTHORIZED BY: Derek Miller, Director

EFFECTIVE: 02/15/2007

EFFECTIVE: 02/15/2007

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Commerce, Real Estate
R162-102
Application Procedures

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Commerce, Real Estate
R162-104
Experience Requirement

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE No.: 29523
 FILED: 02/15/2007, 13:39

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE No.: 29522
 FILED: 02/15/2007, 13:37

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: The rule is enacted under the authority of Subsection 61-2b-6(1)(l), which authorizes rules for the administration of the chapter. The authority to administer the chapter requires the Division to have rules that specify the procedures for license applications, status changes, license renewals, six-month temporary permits (authorized by Section 61-2b-22), and reciprocal licenses (authorized by Section 61-2b-23).

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsections 61-2b-8(1) and (2) require the Utah Appraiser Licensing and Certification Board to determine the experience requirements for appraisers licensed and certified under the chapter, and to establish those requirements in conformity with the minimum criteria established by the Appraiser Qualification Board (AQB) of the Appraisal Foundation, unless the Board finds the AQB requirements are not appropriate for Utah appraisers and makes rules contrary to the AQB minimums.

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.

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 Division of Real Estate has received comment from the AQB that the portion of the rule concerning how county assessors' office employees' experience is measured is contrary to a new policy being adopted by the AQB. The Utah Appraiser Licensing and Certification Board is in the process of changing this rule in response to that comment.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary to have rules that specify the procedures for license applications, license status changes, license renewals, six-month temporary permits, and reciprocal licenses in order for the Division of Real Estate to carry out its duty to administer the licensing chapter. Therefore, this rule should be continued.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Since the Utah Appraiser Licensing and Certification Board is charged with determining the experience necessary for a person to become a licensed or certified appraiser in Utah and since measuring and

evaluating an appraiser's experience is a complex process, it is necessary for the Utah Appraiser Licensing and Certification Board to enact rules that specify in detail how an appraiser accrues the experience necessary for licensing or certification. Therefore, this 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 Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Shelley Wismer at the above address, by phone at 801-366-0145, by FAX at 801-366-0315, or by Internet E-mail at swismer@utah.gov

AUTHORIZED BY: Derek Miller, Director

EFFECTIVE: 02/15/2007

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Commerce, Real Estate
R162-106
Professional Conduct

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

DAR FILE No.: 29521
FILED: 02/15/2007, 13:36

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 61-2b-6(1)(l) authorizes rules for the administration of the chapter. Subsection 61-2b-29(2)(l) authorizes the Utah Appraiser Licensing and Certification Board to order disciplinary action against licensees for unprofessional conduct, as defined by 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: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: In order to give notice to licensees of the acts that are considered unprofessional conduct that could subject the licensees to disciplinary action, it is necessary to enact rules that specify what is professional conduct and to define certain acts as unacceptable. Therefore, this 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 Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Shelley Wismer at the above address, by phone at 801-366-0145, by FAX at 801-366-0315, or by Internet E-mail at swismer@utah.gov

AUTHORIZED BY: Derek Miller, Director

EFFECTIVE: 02/15/2007

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Education, Administration
R277-617
Authorization of Student Clubs and
Organizations

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

DAR FILE No.: 29494
FILED: 02/02/2007, 17:24

**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 53A-3-419(3) allows the State Board of Education to adopt rules regarding access to student clubs and organizations.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule provides necessary direction to schools regarding access to student club and organizations. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

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

EFFECTIVE: 02/02/2007

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

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

EFFECTIVE: 02/02/2007

Education, Administration

R277-705

Secondary School Completion and Diplomas

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 29495
FILED: 02/02/2007, 17:24

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 53A-1-402(1)(b) and (c) direct the State Board of Education to make rules regarding competency levels, graduation requirements, curriculum, and instruction requirements. Section 53A-1-603 directs the State Board of Education to adopt rules for the conduct and administration of U-PASS.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: One local superintendent wrote asking for clarification during a period the rule was under discussion. He raised questions about students with disabilities; adult education students; a possibility for a sixth testing opportunity; a possible appeals process; and the wording on the diploma.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule provides clear direction that is necessary for schools/school districts on methods for students to earn and schools/school districts for awarding credit. The rule also provides clear direction to schools/school districts on awarding diplomas. Therefore, this rule should be continued.

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

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

Education, Administration

R277-915

Work-based Learning Programs for Interns

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 29496
FILED: 02/02/2007, 17:24

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 53A-29-102 requires the State Board of Education to provide rules for schools offering internships in connection with work experience and career exploration programs.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule provides necessary direction to schools/school districts for training for student interns, standards and procedures for off-campus work sites, transportation options, adequate insurance coverage, appropriate supervision and evaluation of students, and appropriate involvement and approval by the student's parents. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

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

EFFECTIVE: 02/02/2007

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**Health, Health Care Financing,
Coverage and Reimbursement Policy**
R414-10A
Transplant Services Standards

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

DAR FILE NO.: 29493
FILED: 02/02/2007, 16:29

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-1-5 grants the Department of Health the power to adopt, amend, or rescind rules that shall have the force and effect of law. Section 26-18-3 requires the Department to administer the Medicaid program. 42 CFR 440, Subpart A, authorizes inpatient hospital services.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Some transplant service providers have requested less restrictive criteria to increase transplant services for Medicaid clients. Still, others in the health care community emphasize that the criteria's survival rates support the transplant restrictions.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary because it implements tissue and organ transplantation criteria for Medicaid clients. Therefore, this rule should be continued. Medicaid disagrees with comments to ease transplant restrictions because survival rates indicate that less restriction increases the risk of patient death, provides only limited clinical benefit, and significantly increases transplant costs.

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

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

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

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 02/02/2007

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Human Services, Administration
R495-810
**Government Records Access and
Management Act**

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

DAR FILE NO.: 29497
FILED: 02/05/2007, 09:11

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: As required by Section 63-2-204, this rule specifies where and to whom a request for access of Department of Human Services (DHS) records shall be directed.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule gives clarity to the state law and helps the public understand department policies, procedures and what they need to do in order to comply with the Governmental Records Access and Management Act (GRAMA). Without this rule, the public would not know how to file a GRAMA request, what costs are involved, or how to appeal a denial of their request. Therefore, this rule should be continued. This rule is currently under review by counsel and an amendment will be filed later to update the rule and the citations within the rule, in particular.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

L Ray Winger at the above address, by phone at 801-870-1672, by FAX at 801-538-4424, or by Internet E-mail at raywinger@utah.gov

AUTHORIZED BY: Lisa-Michele Church, Executive Director

EFFECTIVE: 02/05/2007



Human Services, Administration
R495-878
 Department of Human Services Civil
 Rights Complaint Procedure

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

DAR FILE NO.: 29498
 FILED: 02/05/2007, 09:13

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is promulgated pursuant to Section 63-46a-3 and the Federal Civil Rights statutes and regulations, including the Civil Rights Act of 1964, the Rehabilitation Act of 1973, and the Americans with Disabilities Act which requires this agency to create rules when agency actions applies to a class of persons.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to inform the public of department policy and procedures that have been adopted. It is also necessary so that they will know how to file a complaint, and how the complaint will be investigated. It is also necessary to inform the public of how they will be informed of the decision related to their complaint and how to appeal a decision, if necessary. Therefore, this rule should be continued. This rule is currently under review and will be amended to update the contact information and the authorizing statute in the key.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

L Ray Winger at the above address, by phone at 801-870-1672, by FAX at 801-538-4424, or by Internet E-mail at raywinger@utah.gov

AUTHORIZED BY: Lisa-Michele Church, Executive Director

EFFECTIVE: 02/05/2007



End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (*Utah Code* Section 63-46a-9). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file an extension with the Division of Administrative Rules. The extension permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed extensions for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date. The five-year review extension is governed by *Utah Code* Subsection 63-46a-9(4) and (5).

Agriculture and Food

Animal Industry

No. 29512: R58-8. Testing and Vaccination of Bovine Livestock for Brucellosis Control.
ENACTED OR LAST REVIEWED: 02/13/2002 (No. 24479, 5YR, filed 02/13/2002 at 10:08 a.m., published 03/01/2002).
EXTENDED DUE DATE: 06/13/2007

Environmental Quality

Air Quality

No. 29501: R307-105. General Requirements: Emergency Controls.
ENACTED OR LAST REVIEWED: 03/26/2002 (No. 24639, 5YR, filed 03/26/2002 at 3:20 p.m., published 04/15/2002).
EXTENDED DUE DATE: 07/24/2007

End of the Notices of Five-Year Review Extensions Section

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. Statute permits an agency to make a rule effective "on any date specified by the agency that is no fewer than seven calendar days after the close of the public comment period . . . , nor more than 120 days after the publication date." Subsection 63-46a-4(9).

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Environmental Quality

Air Quality

No. 29227 (AMD): R307-110-36. Section XXII, Interstate Transport.
Published: December 1, 2006
Effective: February 9, 2007

No. 29194 (AMD): R307-214-2. Part 63 Sources.
Published: December 1, 2006
Effective: February 9, 2007

Labor Commission

Safety

No. 29313 (AMD): R616-2-3. Safety Codes and Rules for Boilers and Pressure Vessels.
Published: January 1, 2007
Effective: February 8, 2007

Natural Resources

Wildlife Resources

No. 29351 (AMD): R657-5. Taking Big Game.
Published: January 1, 2007
Effective: February 7, 2007

No. 29328 (AMD): R657-17-3. Lifetime License Entitlement.
Published: January 1, 2007
Effective: February 7, 2007

No. 29329 (AMD): R657-38. Dedicated Hunter Program.
Published: January 1, 2007
Effective: February 7, 2007

No. 29330 (AMD): R657-42. Fees, Exchanges, Surrenders, Refunds and Reallocation of Wildlife Documents.
Published: January 1, 2007
Effective: February 7, 2007

No. 29349 (REP): R657-49. Big Game Conservation Easements on Former School Trust Lands.
Published: January 1, 2007
Effective: February 7, 2007

Tax Commission

Administration

No. 29324 (AMD): R861-1A-19. Definition of Bond Pursuant to Utah Code Ann. Section 59-1-505.
Published: January 1, 2007
Effective: February 12, 2007

Auditing

No. 29323 (AMD): R865-6F-30. Higher Education Savings Incentive Program Tax Deduction Pursuant to Utah Code Ann. Sections 53B-8a-112, 59-7-105, and 59-7-106.
Published: January 1, 2007
Effective: February 12, 2007

No. 29320 (AMD): R865-9I-32. Confidentiality of Return Information, Penalties, and Exchange of Information With the Internal Revenue Service or Governmental Units Pursuant to Utah Code Ann. Section 59-10-545.
Published: January 1, 2007
Effective: February 12, 2007

No. 29315 (AMD): R865-9I-49. Higher Education Savings Incentive Program Tax Deduction Pursuant to Utah Code Ann. Sections 53B-8a-112 and 59-10-114.
Published: January 1, 2007
Effective: February 12, 2007

No. 29314 (AMD): R865-9I-52. Subtractions For Health Care Insurance and For Premiums for Long-term Care Insurance Pursuant to Utah Code Ann. Section 59-10-114.
Published: January 1, 2007
Effective: February 12, 2007

No. 29325 (AMD): R865-20T-12. Definition of Counterfeit Tax Stamp Pursuant to Utah Code Ann. Section 59-14-102.
Published: January 1, 2007
Effective: February 12, 2007

Transportation

Motor Carrier

No. 29338 (AMD): R909-1-1. Adoption of Federal Regulations.

Published: January 1, 2007

Effective: February 8, 2007

No. 29341 (AMD): R909-19. Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation, and Certification.

Published: January 1, 2007

Effective: February 8, 2007

No. 29339 (AMD): R909-75. Adoption of Federal Regulations.

Published: January 1, 2007

Effective: February 8, 2007

Operations, Traffic and Safety

No. 29340 (AMD): R920-50-1. Utah Ropeway Rules for Passenger Ropeways.

Published: January 1, 2007

Effective: February 13, 2007

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, 2007, including notices of effective date received through February 15, 2007, the effective dates of which are no later than March 1, 2007. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: The index may contain inaccurate page number references. Also the index is incomplete in the sense that index entries for Changes in Proposed Rules (CPRs) are not preceded by entries for their parent Proposed Rules. Bulletin issue information and effective date information presented in the index are, to the best of our knowledge, complete and accurate. If you have any questions regarding the index and the information it contains, please contact Nancy Lancaster (801 538-3218), Mike Broschinsky (801 538-3003), or Kenneth A. Hansen (801 538-3777).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Administrative Services					
<u>Finance</u>					
R25-14	Payment of Attorneys Fees in Death Penalty Cases	29424	5YR	01/17/2007	2007-4/54
<u>Fleet Operations</u>					
R27-5	Fleet Tracking	29457	5YR	01/29/2007	2007-4/54
R27-6	Fuel Dispensing Program	29515	5YR	02/14/2007	2007-5/20
R27-8	State Vehicle Maintenance Program	29534	5YR	02/21/2007	Not Printed
<u>Records Committee</u>					
R35-2-2	Declining Requests for Hearings	29081	AMD	01/05/2007	2006-20/2

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Agriculture and Food					
<u>Administration</u>					
R51-2	Administration Procedures for Informal Proceedings Before the Utah Department of Agriculture and Food	29405	5YR	01/11/2007	2007-3/56
<u>Animal Industry</u>					
R58-1	Admission and Inspection of Livestock, Poultry, and Other Animals	29506	5YR	02/08/2007	2007-5/20
R58-6	Poultry	29504	5YR	02/08/2007	2007-5/21
R58-18	Elk Farming	29505	5YR	02/08/2007	2007-5/21
R58-22	Equine Infectious Anemia (EIA)	29503	5YR	02/08/2007	2007-5/22
<u>Plant Industry</u>					
R68-19	Compliance Procedures	29453	5YR	01/29/2007	2007-4/55
<u>Regulatory Services</u>					
R70-201	Compliance Procedures	29492	5YR	02/02/2007	2007-5/22
R70-320	Minimum Standards for Milk for Manufacturing Purposes, its Production and Processing	29507	5YR	02/08/2007	2007-5/23
R70-350	Ice Cream and Frozen Dairy Foods Standards	29499	5YR	02/05/2007	2007-5/23
R70-360	Procedure for Obtaining a License to Test Milk for Payment	29500	5YR	02/05/2007	2007-5/24
Commerce					
<u>Administration</u>					
R151-2	Government Records Access and Management Act Rules	29524	5YR	02/15/2007	2007-5/24
<u>Consumer Protection</u>					
R152-11	Utah Consumer Sales Practices Act	29470	5YR	02/01/2007	2007-4/55
R152-23	Utah Health Spa Services	29238	AMD	01/23/2007	2006-24/3
R152-26	Telephone Fraud Prevention Act	29379	AMD	02/23/2007	2007-2/3
<u>Occupational and Professional Licensing</u>					
R156-11a	Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rules	29013	CPR	01/11/2007	2006-23/87
R156-11a	Cosmetologist/Barber, Esthetician, Electrologist and Nail Technician Licensing Act Rules	29013	AMD	01/11/2007	2006-19/5
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rules	29355	AMD	02/22/2007	2007-2/3
R156-24a	Physical Therapist Practice Act Rules	29459	5YR	01/30/2007	2007-4/56
R156-26a	Certified Public Accountant Licensing Act Rules	29473	5YR	02/01/2007	2007-4/56
R156-28	Veterinary Practice Act Rules	29472	5YR	02/01/2007	2007-4/57
R156-40a	Athletic Trainer Licensing Act Rule	29353	NEW	02/22/2007	2007-2/9
R156-41	Speech-Language Pathology and Audiology Licensing Act Rules	29471	5YR	02/01/2007	2007-4/57
R156-42a	Occupational Therapy Practice Act Rules	29356	AMD	02/22/2007	2007-2/11
R156-54	Radiology Technologist and Radiology Practical Technician Licensing Act Rules	29396	5YR	01/09/2007	2007-3/56
R156-56	Utah Uniform Building Standard Act Rules	29120	AMD	01/01/2007	2006-21/5
R156-56	Utah Uniform Building Standard Act Rules	29122	AMD	01/01/2007	2006-21/33
R156-56	Utah Uniform Building Standard Act Rules	29357	NSC	01/01/2007	Not Printed
R156-56-711	Statewide Amendments to the IRC	29075	AMD	01/01/2007	2006-20/13
R156-57	Respiratory Care Practices Act Rules	29354	AMD	02/22/2007	2007-2/12

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R156-72	Acupuncture Licensing Act Rules	29395	5YR	01/09/2007	2007-3/57
R156-75	Genetic Counselor Licensing Act Rules	29397	5YR	01/09/2007	2007-3/58
Real Estate					
R162-9	Continuing Education	29224	AMD	01/17/2007	2006-23/3
R162-102	Application Procedures	29523	5YR	02/15/2007	2007-5/25
R162-104	Experience Requirement	29522	5YR	02/15/2007	2007-5/25
R162-106	Professional Conduct	29521	5YR	02/15/2007	2007-5/26
R162-202	Initial Application	29237	AMD	01/24/2007	2006-24/4
R162-210-6	Instructor Certification and Renewal	29429	NSC	02/12/2007	Not Printed
Corrections					
<u>Administration</u>					
R251-305	Visiting at Community Correctional Centers	29462	5YR	01/31/2007	2007-4/58
R251-306	Sponsors in Community Correctional Centers	29463	5YR	01/31/2007	2007-4/58
R251-707	Legal Access	29464	5YR	01/31/2007	2007-4/59
R251-710	Search	29465	5YR	01/31/2007	2007-4/59
Crime Victim Reparations					
<u>Administration</u>					
R270-1-26	Victim Services	29220	AMD	01/10/2007	2006-23/6
Education					
<u>Administration</u>					
R277-511	Highly Qualified Teacher Grants	29305	NEW	01/23/2007	2006-24/7
R277-512	Online Licensure	29306	NEW	01/23/2007	2006-24/9
R277-617	Authorization of Student Clubs and Organizations	29494	5YR	02/02/2007	2007-5/26
R277-705	Secondary School Completion and Diplomas	29495	5YR	02/02/2007	2007-5/27
R277-915	Work-based Learning Programs for Interns	29496	5YR	02/02/2007	2007-5/27
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<u>Air Quality</u>					
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R307-110-36	Section XXII, Interstate Transport	29293	NSC	02/09/2007	Not Printed
R307-214-2	Part 63 Sources	29194	AMD	02/09/2007	2006-23/10
R307-328	Davis, Salt Lake, Utah, and Weber Counties and Ozone Nonattainment Areas: Gasoline Transfer and Storage	29005	AMD	01/16/2007	2006-19/43
R307-328-1	Purpose	29150	NSC	01/16/2007	Not Printed
R307-332	Davis and Salt Lake Counties and Ozone Nonattainment Areas: Stage II Vapor Recovery Systems	29007	REP	01/16/2007	2006-19/46
R307-335	Davis and Salt Lake Counties and Ozone Nonattainment Areas: Degreasing and Solvent Cleaning Operations	29008	AMD	01/16/2007	2006-19/49
R307-341	Davis and Salt Lake Counties and Ozone Nonattainment Areas: Cutback Asphalt	29010	AMD	01/16/2007	2006-19/59
R307-342	Davis, Salt Lake, Utah, and Weber Counties and Ozone Nonattainment Areas: Qualification of Contractors and Test Procedures for Vapor Recovery Systems for Gasoline Delivery Tanks	29011	AMD	01/16/2007	2006-19/60

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<u>Solid and Hazardous Waste</u>					
R315-301	Solid Waste Authority, Definitions, and General Requirements	29202	AMD	02/01/2007	2006-23/17
R315-302	Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements	29203	AMD	02/01/2007	2006-23/22
R315-303	Landfilling Standards	29204	AMD	02/01/2007	2006-23/28
R315-304	Industrial Solid Waste Landfill Requirements	29205	AMD	02/01/2007	2006-23/33
R315-305-4	General Requirements	29206	AMD	02/01/2007	2006-23/35
R315-306-2	Requirements for Large Incinerators	29207	AMD	02/01/2007	2006-23/37
R315-308	Ground Water Monitoring Requirements	29208	AMD	02/01/2007	2006-23/38
R315-309	Financial Assurance	29209	AMD	02/01/2007	2006-23/43
R315-310	Permit Requirements for Solid Waste Facilities	29210	AMD	02/01/2007	2006-23/46
R315-311	Permit Approval For Solid Waste Disposal, Waste Tire Storage, Energy Recovery, And Incinerator Facilities	29211	AMD	02/01/2007	2006-23/50
R315-312	Recycling and Composting Facility Standards	29212	AMD	02/01/2007	2006-23/52
R315-313-2	Transfer Station Standards	29213	AMD	02/01/2007	2006-23/54
R315-314-3	Facility Standards for Piles Used for Storage and Treatment	29214	AMD	02/01/2007	2006-23/56
R315-315-2	Asbestos Waste	29425	NSC	02/13/2007	Not Printed
R315-316	Infectious Waste Requirements	29215	AMD	02/01/2007	2006-23/58
R315-317	Other Processes, Variances, and Violations	29216	AMD	02/01/2007	2006-23/60
R315-318-1	General Requirements	29217	AMD	02/01/2007	2006-23/61
R315-320	Waste Tire Transporter and Recycler Requirements	29218	AMD	02/01/2007	2006-23/62
<u>Water Quality</u>					
R317-1-2	General Requirements	29186	AMD	01/19/2007	2006-22/21
R317-1-7	TMDLs	29098	AMD	01/19/2007	2006-20/54
R317-6	Ground Water Quality Protection	29294	AMD	01/23/2007	2006-24/23
R317-6-6	Implementation	29185	AMD	01/19/2007	2006-22/23
R317-11	Certification Required to Design, Inspect and Maintain Underground Wastewater Disposal Systems, or Conduct Percolation and Soil Tests for Underground Wastewater Disposal Systems	29296	AMD	01/26/2007	2006-24/26
Financial Institutions					
<u>Credit Unions</u>					
R337-10	Rule Designating Applicable Federal Law for Credit Unions Subject to the Jurisdiction of the Department of Financial Institutions	29173	NEW	01/22/2007	2006-22/25
R337-10	Rule Designating Applicable Federal Law for Credit Unions Subject to the Jurisdiction of the Department of Financial Institutions	29352	NSC	01/22/2007	Not Printed
<u>Nondepository Lenders</u>					
R343-1	Rule Governing Form of Disclosures For Title Lenders, Who Are Under the Jurisdiction of the Department of Financial Institutions	29225	NEW	01/09/2007	2006-23/65

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R414-7C	Alternative Remedies for Nursing Facilities	29442	5YR	01/26/2007	2007-4/60
R414-10	Physician Services	29435	5YR	01/26/2007	2007-4/61
R414-10A	Transplant Services Standards	29493	5YR	02/02/2007	2007-5/28
R414-45	Personal Supervision by a Physician	29466	5YR	01/31/2007	2007-4/61
R414-510	Intermediate Care Facility for Individuals with Mental Retardation Transition Program	29197	NEW	01/17/2007	2006-23/66
Human Services					
<u>Administration</u>					
R495-810	Government Records Access and Management Act	29497	5YR	02/05/2007	2007-5/28
R495-878	Department of Human Services Civil Rights Complaint Procedure	29498	5YR	02/05/2007	2007-5/29
<u>Child and Family Services</u>					
R512-10	Youth Advocate Program	29387	5YR	01/03/2007	2007-3/58
R512-43	Adoption Assistance	29388	5YR	01/03/2007	2007-3/59
R512-60	Children's Trust Account	29390	5YR	01/03/2007	2007-3/59
<u>Substance Abuse and Mental Health</u>					
R523-1-5	Fee for Service	29245	AMD	01/30/2007	2006-24/29
R523-20-2	Providers' Application for Funding - Fee Collection Policy	29246	AMD	01/30/2007	2006-24/31
R523-23	Alcohol Training and Education Seminar Rules of Administration	28928	AMD	01/30/2007	2006-17/43
R523-23	On-Premise Alcohol Training and Education Seminar Rules of Administration	28928	CPR	01/30/2007	2006-24/43
<u>Recovery Services</u>					
R527-5	Release of Information	29415	5YR	01/16/2007	2007-3/60
R527-34	Non-IV-A Services	29416	5YR	01/16/2007	2007-3/61
R527-35	Non-IV-A Fee Schedule	29417	5YR	01/16/2007	2007-3/61
R527-201	Medical Support Services	29418	5YR	01/16/2007	2007-3/62
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<u>Administration</u>					
R590-70	Insurance Holding Companies	29451	5YR	01/29/2007	2007-4/62
R590-95	Rule to Permit the Same Minimum Nonforfeiture Standards for Men and Women Insureds Under the 1980 CSO and 1980 CET Mortality Tables	29447	5YR	01/27/2007	2007-4/62
R590-99	Delay or Failure to Record Documents and the Insuring of Properties with the False Appearance of Unmarketability as Unfair Title Insurance Practices	29446	5YR	01/27/2007	2007-4/63
R590-102	Insurance Department Fee Payment Rule	29443	5YR	01/26/2007	2007-4/63
R590-103	Security Deposits	29406	5YR	01/11/2007	2007-3/62
R590-114	Letters of Credit	29452	5YR	01/29/2007	2007-4/64
R590-121	Rate Modification Plan Rule	29403	5YR	01/11/2007	2007-3/63
R590-123	Additions and Deletions of Designees by Organizations	29445	5YR	01/27/2007	2007-4/64
R590-123-1	Authority	29448	NSC	02/13/2007	Not Printed

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R590-126	Accident and Health Insurance Standards	29404	5YR	01/11/2007	2007-3/63
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R590-142	Continuing Education Rule	29444	5YR	01/26/2007	2007-4/65
R590-143	Life and Health Reinsurance Agreements	29450	5YR	01/29/2007	2007-4/65
R590-147	Annual and Quarterly Statement Filing Instructions	29449	5YR	01/29/2007	2007-4/66
R590-150	Commissioner's Acceptance of Examination Reports	29454	5YR	01/29/2007	2007-4/66
R590-176	Health Benefit Plan Enrollment	29400	5YR	01/11/2007	2007-3/65
R590-181	Yankee Bond Rule	29407	5YR	01/11/2007	2007-3/65
R590-182	Risk Based Capital Instructions	29410	5YR	01/12/2007	2007-3/66
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R590-220	Submission of Accident and Health Insurance Filings	28767	AMD	01/22/2007	2006-12/27
R590-220	Submission of Accident and Health Insurance Filings	28767	CPR	01/22/2007	2006-24/44
R590-225-6	Filing Submission Requirements	29290	AMD	01/22/2007	2006-24/32
Labor Commission					
<u>Industrial Accidents</u>					
R612-4-2	Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund	29124	AMD	01/01/2007	2006-21/49
<u>Occupational Safety and Health</u>					
R614-1-4	Incorporation of Federal Standards	29282	AMD	01/23/2007	2006-24/33
<u>Safety</u>					
R616-2-3	Safety Codes and Rules for Boilers and Pressure Vessels	29313	AMD	02/08/2007	2007-1/24
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<u>Administration</u>					
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<u>Parks and Recreation</u>					
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<u>Forestry, Fire and State Lands</u>					
R652-122-300	Minimum Standards for Wildland Fire Training	29170	AMD	01/03/2007	2006-22/40
R652-122-300	Minimum Standards for Wildland Fire Training	29467	NSC	02/13/2007	Not Printed
R652-140	Utah Forest Practices Act (EXPIRED RULE)	29433	NSC	01/23/2007	Not Printed
<u>Wildlife Resources</u>					
R657-5	Taking Big Game	29351	AMD	02/07/2007	2007-1/25
R657-17-3	Lifetime License Entitlement	29328	AMD	02/07/2007	2007-1/34
R657-20	Falconry	29398	5YR	01/10/2007	2007-3/66
R657-38	Dedicated Hunter Program	29329	AMD	02/07/2007	2007-1/35
R657-41-2	Definitions	29201	AMD	01/09/2007	2006-23/69
R657-42	Fees, Exchanges, Surrenders, Refunds and Reallocation of Wildlife Documents	29330	AMD	02/07/2007	2007-1/37
R657-49	Big Game Conservation Easements on Former School Trust Lands (5YR EXTENSION)	29165	NSC	02/07/2007	Not Printed
R657-49	Big Game Conservation Easements on Former School Trust Lands	29349	REP	02/07/2007	2007-1/39

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CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

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