

# UTAH STATE BULLETIN

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

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Division of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3764, FAX 801-537-9240. Additional rulemaking information, and electronic versions of all administrative rule publications are available at: <http://www.rules.utah.gov/>

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

Division of Administrative Rules, Salt Lake City 84114

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## EDITOR'S NOTES

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### **Codification Error of the Amendment to Rule R386-702, DAR No. 36247, Effective 08/08/2012**

On 05/18/2012, the Bureau of Epidemiology filed an amendment to Rule R386-702, Communicable Disease Rule, under DAR No. 36247. This filing was published in the June 15, 2012, Bulletin; a Notice of Effective Date was subsequently filed, making the amendment effective on 08/08/2012. This effective date would have made the amendment to Rule R386-702 part of the September 2012 update to the Utah Administrative Code. However, the amendment was not processed with the rest of the update.

The amendment has now been processed and corrected versions of all affected files pertaining to the September update have been posted to the Division of Administrative Rules' web site. The Division regrets the error.

*Questions concerning this error may be addressed to: Michael Broschinsky, Administrative Code Editor, Division of Administrative Rules by phone: 801-538-3003; by FAX: 801-359-0759; or by email: mbroschi@utah.gov*

**End of the Editor's Notes Section**



# SPECIAL NOTICES

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## Environmental Quality Air Quality

### **Air Quality Impact Analysis of Amendments Made to Rule R307-309, Nonattainment and Maintenance Areas for PM10: Fugitive Emissions and Fugitive Dust**

Rule R307-309, Nonattainment and Maintenance Areas for PM10: Fugitive Emissions and Fugitive Dust rule, formerly known as Section R307-1-4.05, was originally effective March 1992 and approved by EPA in April 1994. The purpose of this rule is to establish minimum work practices and emission standards for sources of fugitive emissions and dust. Amendments to the rule have been made since the 1992 effective date that have not been reviewed or approved by EPA. EPA has requested that the Division of Air Quality (DAQ) conduct an analysis to determine how past amendments and newly proposed amendments have/will impact air quality.

DAQ is accepting public comment on this demonstration from 11/01/2012 to 11/30/2012. The demonstration is available at the following: <http://www.airquality.utah.gov/Public-Interest/Public-Commen-Hearings/Pubrule.htm>.

*Comments can be submitted by e-mail to: [Jkarmazyn@utah.gov](mailto:Jkarmazyn@utah.gov) or by mail: Joel Karmazyn, DAQ, PO Box 144820, 195 North 1950 West, Salt Lake City, Utah 84114-4820.*

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## Environmental Quality Air Quality

### **Air Quality Impact of Rule R307-202, Emissions Standards: General Burning Amendments**

The Clean Air Act requires that revisions made to a rule that has been approved by EPA as part of a state implementation plan must include an impact assessment to determine if the change(s) will result in adverse air quality. This demonstration is submitted for public comment because the Air Quality Board amended the rule in June 2012 with an effective date of 08/01/2012. The demonstration is available at the following link: <http://www.airquality.utah.gov/Public-Interest/Public-Commen-Hearings/Pubrule.htm>.

The Division of Air Quality (DAQ) is accepting public comment on this demonstration from 11/01/2012 to 11/30/2012. Comments can be directly made through the following link: <http://www.airquality.utah.gov/Public-Interest/Public-Commen-Hearings/Pubrule.htm>

*Comments can be submitted by e-mail to: [Jkarmazyn@utah.gov](mailto:Jkarmazyn@utah.gov) or by mail: Joel Karmazyn, DAQ, PO Box 144820, 195 North 1950 West, Salt Lake City, Utah 84114-4820.*

**End of the Special Notices Section**



# EXECUTIVE DOCUMENTS

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

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

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## **Governor's Proclamation 2012/08/E: Calling Fifty-Ninth Legislature Into the Eighth Extraordinary Session**

### PROCLAMATION

**WHEREAS**, since the close of the 2012 General Session of the 59th Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

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

**NOW, THEREFORE, I, GARY R. HERBERT**, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and Laws of the State of Utah, do by this Proclamation call the Senate only of the 59th Legislature into the Eighth Extraordinary Session at the State Capitol in Salt Lake City, Utah, on the 17th day of October 2012, at 1:30 p.m., for the following purpose:

For the Senate to consent to appointments made by the Governor to positions within state government of the State of Utah since the close of the 2012 General Session of the Legislature of the State of Utah.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the Utah State Capitol in Salt Lake City, Utah, this 15th day of October 2012.

(State Seal)

**Gary R. Herbert**  
Governor

**Greg Bell**  
Lieutenant Governor

2012/08/E



## NOTICES OF PROPOSED RULES

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A state agency may file a **PROPOSED RULE** when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between October 02, 2012, 12:00 a.m., and October 15, 2012, 11:59 p.m. are included in this, the November 01, 2012 issue of the *Utah State Bulletin*.

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

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

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least December 3, 2012. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through March 1, 2013, the agency may notify the Division of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Division of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE OF A CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses and the agency must start the process over.

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

**PROPOSED RULES** are governed by Section 63G-3-301; Rule R15-2; and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

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**The Proposed Rules Begin on the Following Page**

## Agriculture and Food, Regulatory Services

### R70-320-18

## Transport Tanks, Operators

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36915

FILED: 10/04/2012

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this amendment is to make the permit fee consistent with the Legislature's approved fee schedule and to change a milk transportation requirement.

**SUMMARY OF THE RULE OR CHANGE:** The main amendment is to make the milk hauler permit fee consistent with the Legislature's approved fee schedule. Another proposal is to exempt milk sample transporters from the milk hauler licensing requirements.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 4-3-2

#### ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The Division anticipates that the proposed exemption for milk sample haulers will reduce the Department's revenue about \$100 annually.
- ◆ **LOCAL GOVERNMENTS:** Local governments have no responsibilities in manufacturing, production, and processing. There will be no budgetary impact to local government.
- ◆ **SMALL BUSINESSES:** Based on information gained from small raw milk producers on 09/13/2012, the changes will reduce their costs for getting milk samples from farms and stores to laboratories. They did not quantify the impact.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Division has included all stakeholders in the preparation of these proposed amendments. No financial impacts have been identified beyond those described above.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Costs of compliance will be reduced because producers will not have to use licensed employees to transport milk to laboratories. They will realize savings in permitting costs and in having increased options for who is eligible to transport the samples.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The proposed amendments which bring the rule's permit fee to be consistent with the Legislature's approved fee schedule is essential. The other change is based on detailed

discussion with the industry, academia and other stakeholders. It should reduce the compliance costs for small producers without compromising the public health protection.

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 by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
- ◆ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov
- ◆ Richard Clark by phone at 801-538-7150, by FAX at 801-538-7126, or by Internet E-mail at richardwclark@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/03/2012

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2012

AUTHORIZED BY: Leonard Blackham, Commissioner

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**R70. Agriculture and Food, Regulatory Services.  
R70-320. Minimum Standards for Milk for Manufacturing Purposes, its Production and Processing.  
R70-320-18. Transport Tanks, Operators.**

A. All milk haulers must possess a permit issued by the Department. A candidate or substitute milk hauler is required to obtain a permit within ten days from the date they commence hauling operations. The ten day period is for training and observation to provide the Department and company officials with an opportunity to check the hauler's pickup technique and observe the degree to which he is following required pickup practices. Training may take the form of instruction in pickup technique or may include a required period of observation apprenticeship in which the candidate accompanies a permittee in the performance of his duties. Persons whose milk hauling responsibility is limited to transporting properly collected and packaged milk samples to a laboratory are not required to obtain or possess a milk hauler permit.

1. An examination may be administered at the conclusion of the ten day period and candidates failing the test will be denied permits until indicated deficiencies are corrected.

2. Drivers shall be qualified to efficiently carry out the procedures necessary for the sanitary transfer of milk from the farm tank to the dairy plant. All milk haulers shall be subject to such examination as the Department may prescribe by rule in order to receive and retain such permit. The fee for the permit shall be [\$25.00]established in accordance with title 4-2-2 UCU and renewed annually.

B. The milk line shall be passed through a special port opening through the milkhouse wall with care to prevent contact with the ground. The port opening shall be closed when not in use.

C. It shall be the responsibility of the milk hauler to assure himself that, in the event the processor washes and sanitizes the truck, the operation has been adequately performed, and that prior to use, the truck tank has been properly sanitized with an approved sanitizer. In the event it is his responsibility to sanitize the truck tank, he shall do so with a solution of proper strength.

D. The milk hauler shall wash his hands immediately before taking a measurement and/or sample of the milk.

E. The milk shall be observed and checked for abnormalities or adulterations, and all abnormal or adulterated milk shall be rejected.

F. Drivers shall maintain a clean, neat, personal appearance and take measurements and collect milk samples for analysis in a sanitary manner using properly identified clean containers. All sampling procedures shall follow standard methods.

G. The following are the procedures for picking up bulk milk.

1. Take and record the tank reading. (If the tank is agitating when the hauler arrives, let it continue for five minutes before taking the butterfat sample. Then turn off the agitator and wait until the milk is quiescent before taking measurement.) Note: Cleanliness and dryness are essential to accurate readings. The rod must be warm enough so that moisture from the atmosphere will not condense on the rod after it has been dried or dusted, prior to inserting it into a tank to make a reading of the liquid level.

2. Turn on the agitator and agitate at least five minutes before taking a sample.

3. While tank is agitating, record temperature and time and hook up the hose and electricity to the truck.

4. While agitator is running, take sample from three positions in tank center and both ends. Collect quality samples in same manner.

5. Shut off agitator and pump out tank.

6. Rinse tank and accessories free of milk with clean water immediately after emptying and disconnecting tubing.

H. After the milk is pumped to the transportation tank the milk conductor tubing shall be capped and returned to the vehicle storage cabinet. Care shall be taken to prevent contamination of the milk tubing.

**KEY: dairy inspections, raw milk[~~food inspection~~]  
 Date of Enactment or Last Substantive Amendment:  
~~[1994]~~2012  
 Notice of Continuation: January 12, 2012  
 Authorizing, and Implemented or Interpreted Law: 4-2-2(1)(j);  
 4-3-2**

**Agriculture And Food, Regulatory  
 Services  
 R70-330  
 Raw Milk for Retail**

**NOTICE OF PROPOSED RULE  
 (Amendment)**

DAR FILE NO.: 36914  
 FILED: 10/04/2012

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this amendment is to adjust requirements to conform to statutory provisions.

**SUMMARY OF THE RULE OR CHANGE:** The main amendment is to make raw milk standards and enforcement in the rule to be identical with those in statute. Changes are also proposed to spell out Pasteurized Milk Ordinance rather than refer to it as PMO; to change the somatic cell standard to 400,000 from 350,000 cells per ml.; to eliminate the requirement for an inspection from the Department prior to lifting the suspension of a permit; and allow the sale of stored raw milk batches which meet testing standards.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 4-3-2

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** The amendments will remove the requirement for a Department inspection prior to lifting the suspension of a permit. No impact on the state budget has been identified.

◆ **LOCAL GOVERNMENTS:** There will be no effect on budget for local governments since they have no responsibility for raw milk.

◆ **SMALL BUSINESSES:** Based on information gained from small raw milk producers on 09/13/2012, the changes will reduce their overhead. They did not quantify the impact.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Division has included all stakeholders in the preparation of these proposed amendments. No financial impacts have been identified beyond those described above.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Costs of compliance will be reduced because producers will not have to discard approved milk produced in batches prior to the one that causes a suspension.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The proposed amendments which bring the rule's raw milk standards and enforcement provisions are essential. The other changes are based on detailed discussion with the industry, academia and other stakeholders. They should reduce the overhead and compliance costs for small producers without compromising the public health protection.

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 by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov  
◆ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov  
◆ Richard Clark by phone at 801-538-7150, by FAX at 801-538-7126, or by Internet E-mail at richardwclark@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/03/2012

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2012

AUTHORIZED BY: Leonard Blackham, Commissioner

**R70. Agriculture and Food, Regulatory Services.**

**R70-330. Raw Milk for Retail.**

**R70-330-1. Authority.**

A. Promulgated under the authority of Section 4-3-2.

B. Scope: This rule establishes the requirements for the production, distribution, and sale of raw milk for retail.

C. History: The Utah Department of Agriculture and Food, with the concurrence of the U.S. Food and Drug Administration (FDA) strongly advises against the consumption of raw milk. There are numerous documented outbreaks of milkborne disease involving Salmonella and Campylobacter infections directly linked to the consumption of un-pasteurized milk. Cases of raw milk associated campylobacteriosis have been reported in the states of Arizona, California, Colorado, Georgia, Kansas, Maine, Montana, New Mexico, Oregon, Pennsylvania, and Utah. An outbreak of salmonellosis, involving 50 cases was confirmed in Ohio in 2002. Recent cases of Escherichia coli (E. coli) O157:H7, Listeria monocytogenes, and Yersinia enterocolitica infections have also been attributed to raw milk consumption.

**R70-330-2. Definitions.**

A. "Raw milk" means milk as defined by law that has not been pasteurized, or heat treated. The word milk shall be interpreted to include the normal lacteal secretion, practically free of colostrum, obtained by the complete milking of one or more healthy hoofed mammals.

B. "Properly staffed" means a person or persons on premise available to sell milk, exchange money, and lock and secure the retail store.

C. "Quarterly pathogen testing verification" means a sample from the Raw for Retail batch is aseptically split by the Regulatory agency and tested for the prescribed pathogens at both the independent laboratory and the department laboratory and the results are evaluated and compared.

D. "Department" means the Utah Department of Agriculture and Food.

**R70-330-3. Permits.**

A permit shall be required to sell raw milk for retail. Such permit shall be suspended when these rules or applicable sections of the Utah Dairy Act, Utah Code Annotated (UCA), Vol. 1, Title 4, Chapter 3, are violated. Cow-share programs, as defined in the Utah Dairy Act, shall not be allowed, either in conjunction with a permitted raw for pasteurization dairy, a permitted raw milk for retail dairy, or in lieu of a permit to sell raw milk for retail.

**R70-330-4. Building and Premises Requirements.**

The building and premises requirements at the time of the issuance of a new permit shall be the same as the current Grade A building guidelines. In addition to these guidelines, there shall be separate rooms provided for (1) packaging and sealing of raw milk, (2) the washing of returned multi-use containers when applicable, and (3) a sales room for the sale of raw milk in a properly protected area that is not located in any of the milk handling rooms. These rooms shall meet or exceed the construction standards of a Grade A milkhouse. If the Raw for Retail dairy also raises chickens, or other poultry, for meat and/or eggs, their housing and movement shall be restricted to areas that do not include the milkhouse, milk barn and their immediate surroundings, the corrals and alleys where there is normally cows or goats, and other locations where there is normal cow or goat traffic. They shall also be restricted from areas normally considered traffic areas of the raw milk customers.

**R70-330-5. Sanitation and Operating Requirements.**

A. Sanitation and operating requirements of all raw milk facilities shall be the same as that required on a Grade A dairy farm producing milk for pasteurization. Milk packaging areas and container washing areas at the raw milk facilities shall meet the requirements for Grade A pasteurized milk processing plants.

B. All milk shall be cooled to 50 degrees F. or less within one hour of the commencement of milking and to 41 degrees F. or less within two hours after the completion of milking.

C. The blend temperature after the first milking and subsequent milkings shall not exceed 50 degrees. Milk not handled in the manner required in this subsection and subsection "B" above shall be deemed adulterated and shall not be sold.

1. All raw for retail farm bulk milk tanks put into use on or after August 7, 2007 shall be equipped with an approved temperature-recording device, in addition to the indicating thermometer. Daily temperature logs shall be maintained for bulk milk tanks in use prior to August 7, 2007.

2. The recording device shall be operated continuously and be maintained in a properly functioning manner. Circular recording charts shall not overlap.

3. The recording device shall be verified as accurate every six (6) months and documented in a manner acceptable to the department.

4. Recording thermometer charts shall be maintained on the premises for a minimum of six (6) months and available to the department.

5. The recording thermometer shall be installed near the milk storage tank and accessible to the department.

6. The recording thermometer shall comply with the current technical specifications in the Pasteurized Milk Ordinance [(PMO)] for tank recording thermometers.

7. The recording thermometer charts shall properly identify the producer, date, and signature of the person removing the chart.

D. The temperature of the milk at the time of bottling shall not exceed 41 degrees F.

E. The sale and delivery of raw milk shall be made on the premise where the milk is produced and packaged, or at a self-[-] owned, properly staffed, retail store. Sanitation and construction requirements of the facilities used as self-[-] owned, retail stores shall be the same as those contained in the Wholesome Food Act, Title 4, Chapter 5. Transportation shall be done by the producer with no intervening storage, change of ownership, or loss of physical control. The temperature of the milk shall be maintained at 41 degrees F or below. Each display case shall have a properly calibrated thermometer, and a daily temperature log shall be maintained and made accessible to the Department.

F. Raw milk brick cheese, when held at no less than 35 degrees F. for 60 days or longer, may be sold at retail stores or for wholesale distribution, at locations other than the premise where the milk was produced.

G. Except as provided in part (F) above, all products made from raw milk including, but not limited to, cottage cheese, buttermilk, sour cream, yogurt, heavy whipping cream, half and half, butter, and ice cream shall not be allowed for sale in Utah.

H. Milk that has been heat treated, shall not be labeled as "Raw Milk" for retail sale.

I. Inspections of the self-[-] owned retail store shall be performed no less than four times per year to insure compliance with the sanitation, construction, and cooling requirements as set forth in the Wholesome Food Act, Title 4, Chapter 5.

**R70-330-6. Testing.**

A. The bacterial standards for unpackaged raw milk, packaged raw milk sold on premise and packaged raw milk sold at a self-owned retail store shall be a bacterial count of no more than 20,000 per ml. and a coliform count of no more than 10 per ml.

B. Raw Milk for Retail Testing.

1. Unpackaged Raw Milk

a. The Department shall collect a representative sample of milk from each Raw for Retail farm bulk tank once each month. All samples shall be delivered to the State Dairy Testing Laboratory. Tests shall include those prescribed for Raw Milk for Pasteurization as found in the Pasteurized Milk Ordinance[PMO], and in addition shall include added water, and/or other adulterants. Whenever a sample result fails to meet a standard in any of the prescribed categories, ~~[- a warning and probation letter shall be issued. The letter shall be prominently displayed at the dairy, so that customers will read it, until the next official sample results are received by the Department. Upon receipt of the official sample results, the dairy shall be taken off of probation or suspended. -]~~ the Raw for Retail permit shall be suspended until satisfactory sample results are received by the Department or a ~~[- contracted -]~~ approved independent laboratory, meeting Pasteurized Milk Ordinance[PMO]/Department standards and reported to the department by the laboratory, ~~[- and until an inspection can be performed at the facility by the Department. All expenses for the re-sampling, re-testing, and re-inspecting shall be born by the producer as per the Department's fee schedule].~~ At such time as the above criteria are met, the Raw for Retail permit shall be fully reinstated.

b. The ~~[- standards for testing -]~~ Somatic Cell Count (SCC) in unpackaged raw milk for retail ~~[- shall be, the Somatic Cell Count -]~~ shall not exceed 400,000[350,000] cells per milliliter (ml) for cows, and not to exceed ~~[- 1,000,000 -]~~ 1,500,000 cells per ml for goats. ~~[- The requirements for sampling, and the enforcement procedures for SCC shall be the same as those set forth in 1.a. above. -]~~ Whenever three out of five samples fail to meet this standard in a 5-month period, the Department shall suspend the raw for retail permit. The suspension shall remain effective until a sample result meets the standard. A temporary permit shall be issued at that time. The permit shall be fully reinstated when three of five samples meet the standard in a five-month period.

~~[- e. The bacterial standards shall be a Standard Plate Count (SPC) of no more than 20,000 per ml. and a coliform count of no more than 10 per ml. -]~~

2. Packaged Raw Milk sold on Premise

a. It shall be the responsibility of the Department to collect a representative sample of packaged raw milk once each month. All samples shall be delivered to the State Dairy Testing Laboratory. Tests shall include those prescribed for Grade "A" Pasteurized milk as found in the Pasteurized Milk Ordinance[PMO]. Whenever a sample result fails to meet a standard in any of the prescribed categories, ~~[- a warning and probation letter shall be issued. The letter shall be prominently displayed at the dairy, so that customers will read it, until the next official sample results are received by the Department. Upon receipt of the official sample results, the dairy shall be taken off of probation or suspended. -]~~ the Raw for Retail permit shall be suspended until satisfactory sample results are received by the Department, meeting Pasteurized Milk Ordinance[PMO]/Department standards, ~~[- and until an inspection can be performed at the facility by the Department. All expenses for the re-sampling, re-testing, and re-inspecting shall be born by the producer as per the Department's fee schedule].~~ At such time as the above criteria are met, the Raw for Retail permit shall be fully reinstated. ~~[- When a sample produces a violative Coliform count of more than 10 per mL, the count shall be enumerated and the sample transferred to appropriate laboratory facilities for pathogen testing. -]~~

3. Packaged Raw Milk sold at Self-Owned Retail Stores

a. It shall be the responsibility of the producer to have a ~~[- third party -]~~ sampler certified by the Department to collect a sample from each batch of milk delivered to the retail store by obtaining one container of milk at the store and submitting it to the State Dairy Laboratory a certified independent[third party] laboratory to be tested for Antibiotic Drug Residue, Standard Plate Count (SPC) and Coliform Count. All containers of milk from the sampled batch shall be withheld from sale until the results of the tests are known. Whenever a sample result exceeds the standard in any of the prescribed categories,

(i) the producer shall not allow the milk to enter into commerce and shall dispose of the milk in a manner agreeable to the Department, and

(ii) the Department shall suspend the producer's raw for retail permit until satisfactory sample results are received by a contracted approved independent laboratory, meeting Department standards, and reported to the Department by the laboratory. The producer may sell raw milk from batches that were produced earlier and whose testing results met the standards.

b. It shall be the responsibility of the Department to collect at the operator's expense or oversee collection of a representative sample of packaged raw milk once each month for screening for the presence of *Listeria monocytogenes*, *Salmonella*, *Campylobacter jejuni*, and *E. Coli* 0157:H7. All samples shall be delivered to the State Dairy Testing Laboratory or other laboratories approved by the department. Test results showing any growth or activity shall be considered positive. If any of the screening test results are positive, then a confirmation test shall be performed.

Whenever any of the test results for any the prescribed pathogens are positive, the Raw for Retail permit shall be suspended until such time as a compliant sample can be obtained by the Department or contracted approved independent laboratory, meeting Pasteurized Milk Ordinance[PMO]/Department standards[~~and until an inspection can be performed at the facility by the Department~~]. All expenses for the re-sampling, re-testing, and re-inspecting ~~may~~<sup>shall</sup> be borne by the producer as per the Department's fee schedule. At such time as the above criteria are met, the Raw for Retail permit shall be fully reinstated.

c. A hazard analysis and critical control point (HACCP) System including a milk testing procedure for specified pathogens shall be required, and approved by the department, for all raw for retail dairies.

d. The HACCP System shall include plans and policies for initiating and conducting a recall in the event of a positive pathogen test result.

e. The HACCP System shall include the seven following principles:

- (i) Conduct hazard analysis
- (ii) Determine the critical control points
- (iii) Establish critical limits
- (iv) Establish monitoring procedures
- (v) Establish corrective actions
- (vi) Establish verification procedures
- (vii) Establish record-keeping and documentation procedures.

f. Prior to the implementation of a HACCP plan, develop, document and implement written Prerequisite Programs (PPs). The HACCP Plan, along with the PPs becomes the HACCP System. Steps to producing the HACCP Plan and System are found in the U.S. National Advisory Committee on Microbiological Criteria for Food (NACMCF) document.

g. The HACCP plan shall identify and address points in the production, distribution, transportation and retail display system where the milk may become contaminated or held in conditions that support the growth of pathogens.

(i) When tests are performed by an independent laboratory, quarterly pathogen testing verification shall be conducted by the Department.

(ii) Independent laboratories shall participate in an annual split sampling program testing the capacity of the pathogen methodology directed by this rule, and results sent to the Department.

h. The producer shall recall all milk from the failed batch that is already in commerce.

i. A database shall be kept and made available for review by both the Utah Department of Agriculture and Food and the Utah Department of Health of all customers, which shall include names,

addresses, and telephone numbers of customers, dates of purchases and amounts of milk purchased.

j. If another agency's epidemiological investigation finds probable cause to implicate a raw for retail dairy in a milkborne illness outbreak, the Raw for Retail Permit may be suspended by the Department until such time as milk samples are pathogen free when analyzed by the Department or other Department approved testing laboratories, and until an inspection can be performed at the facility by a Compliance Officer from the Department.

#### B. Animal Health Tests.

1. General herd health examination. Prior to inclusion in a raw milk supply, and each six months thereafter, all animals shall be examined by a veterinarian. Each animal in the herd must be positively identified as an individual. This examination shall include an examination of the milk by a method recommended by the Pasteurized Milk Ordinance[PMO], shall include a statement of the udder health of each animal, and a general systemic health evaluation.

2. Tuberculosis testing. Prior to inclusion in a raw milk supply, each animal shall have been tested for tuberculosis within 60 days prior to the beginning of milk production and shall be retested for tuberculosis once each year thereafter. All positively reacting animals shall be sent to slaughter in accordance with R58-10 and R58-11.

3. Brucellosis testing. Each animal from which raw milk for retail is produced shall be positively identified as a properly vaccinated animal or shall be negative to the official blood test for brucellosis within 30 days prior to the beginning of each lactation. All positively reacting animals shall be sent to slaughter in accordance with R58-10 and R58-11. Goats and sheep shall be tested once each year for brucellosis with the official blood test and all positively reacting animals shall be sent to slaughter in accordance with R58-10 and R58-11.

4. Bulk tank milk testing. All raw milk for retail shall be bulk tank tested at least four times yearly with the brucella milk ring test. If such brucella ring test is positive for brucellosis, then each animal in the herd shall be tested with the official blood test and any reactors found shall be immediately sent to slaughter in accordance with R58-10 and R58-11.

#### C. Personnel Health.

Each employee of the dairy working in the milk handling operation shall obtain a valid medical examination health card signed by a physician and approved by the department once each year and shall hold a valid food handler's permit. No person shall work in a milk handling operation if infected from any contagious illness or if they have on their hands or arms any exposed infected cut or lesion. If there is any question in this regard, the department may ask for an additional certification from a physician that this person is free from disease which may be transmitted by milk.

### **R70-330-7. Packaging and Labeling.**

#### A. Label Requirements.

The consumer containers for raw milk for retail shall be furnished by the permittee and shall be labeled with the following information:

1. The common or usual name of the product without grade designation. The common name for raw milk is "Raw Milk". If it is other than cow's milk, the word "milk" shall be preceded with the name of the animal, i.e., "Raw Goat Milk".

2. The name, address, and zip code of the place of production and packaging.
  3. Proper indication of the volume of the product either on the container itself or on the label.
  4. Nutritional labeling information when applicable.
  5. The phrase: "Raw milk, no matter how carefully produced, may be unsafe.", shall appear on the label in a conspicuous place. The height of the smallest letter shall be no less than one eighth inch.
  6. The phrase: "Keep Refrigerated", shall also appear on the label with the height of the smallest letter no less than one eighth inch.
  7. The shelf life labeling of bottled raw milk shall include a pull date, expiration date, or best-if-used-by date, and shall be displayed and clearly visible on raw milk. Raw milk shall not be sold after the pull date, expiration date, or best-if-used-by date has expired, and the date shall not be more than nine days after packaging.
  8. Other provisions of labeling laws in effect in Utah relative to dairy/food products also apply. On the primary panel the words "raw" and "milk" shall be the same size lettering.
  - ~~9. Glass bottles embossed, printed, or otherwise permanently labeled in accordance with this rule prior to August 7, 2007 and in use on or before August 7, 2007 shall be exempt from R-70-330-7-A(5).~~
- B. Products not labeled as required shall be deemed misbranded.

**KEY: dairy inspections, raw milk**  
**Date of Enactment or Last Substantive Amendment:**  
~~[December 14, 2007]~~2012  
**Notice of Continuation: March 16, 2011**  
**Authorizing, and Implemented or Interpreted Law: 4-3-2**

**Commerce, Occupational and  
 Professional Licensing  
 R156-38b  
 State Construction Registry Rule**

**NOTICE OF PROPOSED RULE  
 (Amendment)  
 DAR FILE NO.: 36930  
 FILED: 10/09/2012**

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The Division is proposing this rule filing to implement changes to the State Construction Registry (SCR) in H.B. 131 which was passed during the 2012 General Legislative Session.

**SUMMARY OF THE RULE OR CHANGE:** The proposed amendments clarify alternate methods for submitting an SCR filing out of the SCR website. Otherwise, the substance of

the existing rule remains unchanged. The proposed amendments also make technical and clarifying changes.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 38-1a-101 and Section 38-1b-101

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** These proposed amendments are only a clarification of the statutory requirement and therefore, the Division has determined the proposed amendments should not have a fiscal impact to the state budget beyond those already identified in the fiscal analysis of H.B. 131. The clarification of alternate submission methods to the SCR does not impact other state government agencies.
- ◆ **LOCAL GOVERNMENTS:** These proposed amendments are only a clarification of the statutory requirement and therefore, the Division has determined the proposed amendments should not have a fiscal impact to local governments beyond those already identified in the fiscal analysis of H.B. 131.
- ◆ **SMALL BUSINESSES:** These proposed amendments are only a clarification of the statutory requirement and therefore the Division has determined the proposed amendments should not have a fiscal impact to small businesses beyond those already identified in the fiscal analysis of H.B. 131.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These proposed amendments are only a clarification of the statutory requirement and therefore the Division has determined the proposed amendments should not have a fiscal impact to other persons beyond those already identified in the fiscal analysis of H.B. 131.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** These proposed amendments are only a clarification of the statutory requirement and therefore the Division has determined the proposed amendments should not have a fiscal impact to affected persons beyond those already identified in the fiscal analysis of H.B. 131.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** As stated in the rule analysis, the proposed amendments give businesses an alternate method for submitting an SCR filing. The amendments do not impose new fees or require compliance in a manner that would create new costs. No fiscal impact to businesses is anticipated from this filing.

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

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

## DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Tom Harper by phone at 801-530-6288, by FAX at 801-530-6511, or by Internet E-mail at tharper@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/03/2012

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 11/08/2012 03:00 PM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2012

AUTHORIZED BY: Mark Steinagel, Director

**R156. Commerce, Occupational and Professional Licensing.****R156-38b. State Construction Registry Rule.****R156-38b-102. Definitions.**

In addition to the definitions in [~~Section 38-1-27, State Construction Registry Form and contents of notice of commencement, preliminary notice, and notice of completion~~] Title 38, Chapter 1a, Preconstruction and Construction Liens; Title 38, Chapter 1b, Government Construction Projects; Title 58, Chapter 1, Division of Occupational and Professional Licensing Act; and Rule R156-1, General Rule of the Division of Occupational and Professional Licensing; which shall apply to these rules, as used in the referenced statutes or this rule:

(1) "Alternate [~~method or process~~]means" means transmission by telefax, by U.S. mail, or by private commercial courier.

(2) "Electronic" or "Electronically" means transmission by Internet or by electronic mail and does not mean a transmission by alternate [~~methods~~]means or process.

(3) "J2EE" means SUN Microsystem's Java 2 Platform, Enterprise Edition, for multi-tier server-oriented enterprise applications.

(4) "Merge" means to link two or more filings together under a unique project number as required by Subsection [~~38-1-31.5(3)(a)~~]38-1b-201(3)(c).

(5) "Private project" means a construction project, commenced after July 31, 2011, that is not a government project.

(6) "SCR" means the State Construction Registry established in Sections [~~38-1-27 and 38-1-30~~]38-1a-201 through [~~38-1-36~~]38-1a-211.

**R156-38b-103. Authority - Purpose.**

This rule is adopted by the Division under the authority of [~~Sections 38-1-27 and 38-1-30 through 38-1-36~~]Subsection 38-1a-202(3)(a) to administer the SCR.

**R156-38b-201. Duties, Functions, and Responsibilities of the Division.**

In accordance with [~~Section 38-1-30(3)(a)~~]Subsection 38-1a-202(3)(a), the duties, functions, and responsibilities of the Division are oversight and enforcement of the Act, and include:

(1) establishing rules to implement the SCR;

(2) providing oversight of the design, operation, and maintenance of the SCR; and

(3) auditing the functionality and integrity of the SCR.

**R156-38b-301. Duties, Functions, and Responsibilities of the Designated Agent.**

In accordance with Subsections [~~38-1-30(3)(b)~~]38-1a-202(2) and (4) through (7), the duties, functions, and responsibilities of the designated agent include:

(1) designing, developing, hosting, operating, and maintaining the SCR;

(2) providing training, marketing, and technical support for the SCR;

(3) performing other duties, functions, and responsibilities provided by statute, rule, or contract; and

(4) obtaining and maintaining insurance coverage as follows:

(a) general liability insurance [~~as required by Subsection 38-1-35(2)(b)~~], which at a minimum shall be the amount established for the designated agent's master contract with the State of Utah; and

(b) errors and omissions insurance as required by Subsection 38-1-30(5), may be satisfied by the designated agent's current policy that insures its parent company and all subsidiaries in the amount of \$5 Million.

**R156-38b-401. Reliability, Availability and Security Standards.**

The designated agent shall provide a reliable hosting environment which shall contain the following elements:

(1) Operating Standard. The [~~SCR~~]designated agent shall initially adhere to the J2EE standard and such standard in the future as the Division shall designate in cooperation with the designated agent.

(2) System Upgrades. The designated agent shall notify the Division when the SCR requires an update that may cause significant service interruption. Functional or structural changes that impact the system requirements shall require prior approval from the Division.

(3) Security. The designated agent shall take commercially reasonable steps to provide that the information contained in the SCR is secure and protected from unauthorized entry.

(4) System Backup. The designated agent shall provide adequate backup of the system and its data, including the following:

(a) Redundant Servers. There shall be multiple servers running the SCR and Internet environments, but no more than two sets of servers.

(b) Data Backup Environment. There shall be facilities to continuously back up data contained in the SCR. This backed-up data must be easily retrieved and either viewed or placed back into the SCR if required.

(c) Redundant Power Supply. [~~Provide~~]There shall be a single reliable redundant power supply for the entire environment.

(5) System Recovery. In the event of a system failure, the designated agent shall provide system recovery and re-deployment to meet a standard that will result in restoration into full production within a maximum of three business days which are defined as Mondays through Fridays with legal holidays excluded. In the event of destruction of the designated agent's primary hosting

facility, the designated agent shall meet a standard whereby complete service restoration could be implemented within two weeks provided the telecommunications and data center vendor can meet this schedule.

(6) Software Licensing. The designated agent shall maintain ~~[legitimate]~~valid software licenses for all purchased software used for the SCR.

(7) System Monitoring. ~~[Provide]~~The designated agent shall provide continuous monitoring of SCR environment.

(8) System Support. ~~[Provide]~~The designated agent shall provide appropriate personnel to continuously maintain the SCR environment.

(9) Continuity of Operations. In the event that, for whatever reason, operation and maintenance of the SCR is transferred to the state or another designated agent, continuity of the SCR shall be maintained in accordance with the governing contractual provisions with the designated agent.

(10) In the event that the Division elects to provide some of the services listed in (1) through (8) above, the designated agent will be relieved of the responsibilities for the services so assumed. Such election by the Division shall be in writing.

#### **R156-38b-402. User Identification and Password.**

(1) All users are required to register with the ~~[SCR]~~designated agent.

(2) The ~~[Division]~~designated agent shall issue a unique user ID and password to each user who successfully registers to use the SCR.

(3) The information gathered in the registration process shall be maintained in the SCR as the user profile.

(4) The registration process shall include the following information and any other information established by the Division in collaboration with the designated agent:

- (a) first and last name of the individual registering; and
- (b) email address, if any.

(5) The ~~[SCR]~~designated agent shall provide the ability for a user to view and modify the user's profile.

(6) The ~~[SCR]~~designated agent shall provide an industry accepted secure method for a user to recover a forgotten user ID or password.

(7) The ~~[SCR]~~designated agent shall pre-populate filings with any information available in the user's profile.

#### **R156-38b-403. Transaction Log.**

The designated agent shall maintain a transaction log of the SCR that includes a transaction ~~[trail]~~record of completed transactions by registered user.

#### **R156-38b-501. Required Information for SCR Filing Notices.**

(1) Electronic notice filings shall be input into the SCR entry screen by the person making the filing but shall not be accepted by the ~~[SCR]~~designated agent unless the person complies with the content requirements for the SCR filing~~[a preliminary notice]~~.

(2) The ~~[SCR]~~designated agent shall verify that data is submitted for each of the content requirements, but it is not responsible for the accuracy, suitability, or coherence of the data.

#### **R156-38b-502. Merging Notices of Commencement.**

(1) Checking for Existing Notices. In order to prevent duplicate filings of notices of commencement~~[on government projects]~~, the ~~[SCR]~~designated agent shall search ~~[its database]~~the SCR for any existing notices of commencement before allowing a user to create a new notice of commencement.

(a) If an existing notice of commencement is identified the following procedures apply:

(i) For an electronic filing:

(A) the ~~[SCR]~~designated agent shall indicate that a notice of commencement may have already been filed for the project and display the possible notice or notices of commencement that may match the existing project filing.

(B) The ~~[SCR]~~designated agent shall allow the user to review the content of any existing notices to determine whether a notice has already been filed for the project before allowing a new notice to be filed.

(ii) For an alternate ~~[method]~~means filing, the designated agent shall notify the filer by electronic or alternate ~~[method]~~means as specified by the filer, that a notice of commencement has already been filed for the particular project and include a copy of the existing notice of commencement.

(b) As part of the process described in Subsection R156-38b-502(1), the SCR search for an existing notice of commencement shall display, for review by the person who submitted the search parameters, all notice of commencement filings that fit the search parameters indicated by the submission that prompted the search.

(c) If no existing notice of commencement is identified for the particular project, the ~~[SCR]~~designated agent shall allow the person who submitted the filing to file a new notice of commencement.

(2) Merging of Duplicate Filings. Duplicate filings shall be avoided to the extent possible in accordance with the procedure outlined in this Subsection. The SCR shall include functionality to allow a person who has successfully filed a notice of commencement which duplicates another notice of commencement already in the SCR to merge the notice of commencement with the existing notice of commencement filing.

(a) The affected SCR filings shall reflect the effective date of the merger.

(b) The ~~[SCR]~~designated agent shall provide notification of the merger to all persons who are associated with either notice of commencement filing, including those who have filed preliminary notices.

(c) The effective date of a merger reflects the date the unique merger number was cross-referenced to duplicate notice of commencement filings. A merger does not dissolve or affect the filing dates, or the consequences of the filing dates, of the notices being combined.

(3) The person making a notice filing shall be responsible for correctly identifying a project, and for the consequences of failing to correctly identify a project. Neither the Division nor the designated agent shall be responsible for the consequences of a person making a notice of commencement filing that identifies a project in such a way that the ~~[SCR]~~designated agent is unable to identify an existing notice of commencement for the project,

according to the search criteria established by the Division in collaboration with the designated agent, nor for the [SCR]designated agent allowing the person to make a successful duplicate notice of commencement filing with a different description of the project.

**R156-38b-505. Alternate Filings.**

(1) Alternate [Methods]Means of Filing. The alternate [methods]means of filing are those established by Subsection[s-38-1-27(2)(e)(ii)] 38-1a-201(1)(e)(ii), including U.S. Mail and telefax. Private commercial courier is established as an additional alternate [method]means of receipt by the designated agent, but not dispatch from the designated agent.

(2) Content Requirements. The content requirements for alternate [method]means filings shall be the same as for electronic filings as set forth for Notices in [Sections 38-1-30.5, 30-1-30.7, 38-1-31, 38-1-31.5, 38-1-32, 38-1-32.7, 38-1-33, and 38-1-40]Title 38, Chapters 1a and 1b or this rule.

(3) Format Requirements. Alternate [method]means filings shall be submitted in a standard format adopted by the Division in collaboration with the designated agent. Filings not submitted in the standard format, in the sole judgment of the designated agent, shall be rejected and dispatched to the submitter. The filing fee shall be retained by the designated agent as a processing fee for rejecting and dispatching the filing. An additional filing fee shall be due upon resubmission.

(4) Methodology.

(a) U.S. Mail. An alternate [method]means filing by U.S. Mail shall be submitted to the designated agent's mailing address by any method of U.S. Mail.

(b) Express Mail. An alternate [method]means filing by commercial private courier shall be submitted to the designated agent's mailing address by any commercially available method of express mail.

(c) Telefax. An alternate [method]means filing by telefax shall be submitted to the designated agent's toll-free unique SCR fax number.

(5) Processing Requirements.

(a) Transaction Receipt. The designated agent shall confirm a successful alternate method filing and fee payment receipt by sending a transaction receipt as specified in Section R156-38b-602.

(b) Creation of Electronic Image. The designated agent shall create and maintain an electronic image of alternate method filings that are accepted into the SCR. Once an electronic image has been created and the accepted alternate method filing has been entered into the SCR, the original version of the accepted alternate method filing may be destroyed. The electronic image shall remain accessible for audit purposes.

(6) Data Entry Standards.

(a) [The]In accordance with Subsection 38-1a-202(6), the designated agent shall meet or exceed the following data entry standards for alternate means filings:

(i) a primary operator shall manually input information filed by alternate means[required by Subsection 38-1-31(1)(a)(i)];

(ii) a secondary operator shall independently input the construction project permit number and original contractor name;

(iii) the designated agent shall automatically compare all entries from the primary and secondary operators for consistency;

(iv) following the above procedures, the designated agent shall visually inspect at least 5% of all notices created by alternate means filing; and

(v) these standards are to be met prior to Internet publication.

**R156-38b-506. Dates of Filings.**

The official filing date of a particular filing shall be determined as follows:

(1) In the case of an electronic filing, it shall be the date the [SCR]designated agent accepts a filing input by the person making the filing and makes available a payment receipt to the person making the filing.

(2) In the case of an alternate [method]means filing, it shall be the date upon which the designated agent received a filing that was ultimately accepted into the SCR including content requirements and payment.

**R156-38b-507. Status of and Process for Filings Not Accepted by the [SCR]Designated Agent.**

(1) A filing that is not accepted by the [SCR]designated agent shall not be considered to be filed.

(2) The [SCR]designated agent shall electronically indicate to a person whose electronic filing is not accepted that the filing is not accepted and the reason or reasons why it is not accepted. The [SCR]designated agent shall allow the person making the electronic filing to attempt to correct any defects, if possible.

(3) The designated agent shall notify a person whose alternate [method]means filing is not accepted that the filing is not accepted and the reason or reasons why it is not accepted. The designated agent shall allow the person making the alternate means filing to correct the defect or defects.

(4) A fee payment received with a filing submitted by alternate [process]means that is not accepted shall be retained by the designated agent as the processing fee for handling the incomplete filing.

(5) For auditing purposes, the [SCR]designated agent shall maintain a record of all processing fees received with filings submitted by alternate [process]means that are not accepted.

**R156-38b-509. Withdrawal of Filings.**

(1) In accordance with Subsections [38-1-32(6) and 38-1-33(2)]38-1a-307(3) and 38-1a-501(5), the [SCR]designated agent shall, upon request of a person who filed an accepted notice filing allow the person to designate the filing as withdrawn.

(2) Notification of a filing withdrawal shall be provided to the same persons as required for the original successful filing.

(3) A withdrawn filing shall indicate that the filing is no longer given effect.

(4) A withdrawn filing may not be restored, but must be filed as a new filing in accordance with Sections [38-1-32 or 38-1-33]38-1a-401, 38-1a-501, or 38-1a-506.

**R156-38b-601. Fee Payment Methods.**

(1) Pay-as-you-go Account. Payments may be made online by a credit card transaction in the amount established by the Division in collaboration with the designated agent. For alternate

[method]means filings, users will have the option of sending in a check or credit card information with their filing.

(2) Monthly Accounts. Payments may be made by a monthly account as specified by the Division in collaboration with the designated agent, as follows:

(a) an account in which the designated agent charges monthly fees to a credit card or bank account designated and authorized by the registered user; or

(b) an account, guaranteed by a credit card, in which the designated agent sends a monthly invoice to be paid by the registered user within 30 days.

#### **R156-38b-602. Transaction Receipts.**

(1) In accordance with Subsection ~~[38-1-27(2)(g)]~~38-1a-201(1)(g), the [SCR]designated agent shall make available a transaction receipt upon acceptance of a filing into the SCR. The receipt shall indicate:

(a) the amount of any fee payment being processed;

(b) that the filing is accepted by the [SCR]designated agent;

(c) the date and time of the filing's acceptance; and

(d) the content of the accepted filing.

(2) The designated agent shall send a transaction receipt to a person who submits a filing by alternate [method]means that is accepted.

#### **R156-38b-702. Archiving Requirements.**

(1) In accordance with Subsection ~~[38-1-30]~~38-1a-202(4) (a), the designated agent shall archive the SCR computer data files semi-annually for auditing purposes.

(2) In accordance with Subsection ~~[38-1-30]~~38-1a-202(4) (c), filings shall be archived as follows:

(a) one year after the day on which a notice of completion is accepted into the SCR;

(b) if no notice of completion is filed, two years after the last filing activity for a project; or

(c) one year after the day on which a filing is withdrawn under Subsection ~~[38-1-32(6)(e) or 38-1-33(2)(e)]~~38-1a-307(3) or 38-1a-501(5).

(3) For purposes of this section, "archive" means to preserve an original or a copy of computer data files and filings separate from the active SCR.

(4) The designated agent shall maintain a transaction log of archived filings and make it available to the Division upon request for auditing purposes.

#### **R156-38b-704. Registered User Access to SCR Data.**

In accordance with Subsection~~s 38-1-27(2) and (3), and 38-1-30(3)]~~38-1a-207(5), construction projects in the SCR shall be accessible to an interested person who has registered with the [SCR]designated agent and has been assigned a unique user ID and password to gain access to the SCR.

**KEY: electronic preliminary lien filing, notice of commencement, preliminary notice, notice of completion**  
**Date of Enactment or Last Substantive Amendment:**  
**[September 26, 2011]2012**

**Notice of Continuation: February 8, 2010**

**Authorizing, and Implemented or Interpreted Law: ~~[38-1-30(3)]~~38-1a-101; 38-1b-101**

## Education, Administration **R277-108-5** Assurances

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36946

FILED: 10/15/2012

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Section R277-108-5 is amended to remove an outdated requirement and provide a new requirement in which written assurance of compliance is provided consistent with state law.

**SUMMARY OF THE RULE OR CHANGE:** In Subsection R277-108-5A(4), a previous requirement in which assurance of compliance is provided is removed and a new requirement is inserted.

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

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. The requirement is for local education agencies to provide written assurance of compliance for all requirements is this rule. A new requirement will now be included.

♦ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. Local education agencies already provide written assurance of compliance for all requirements in this rule. A new requirement will now be included.

♦ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. This rule and the amendment apply to a requirement for local education agencies and do not affect businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. The additional requirement applies to local education agencies.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There could be compliance costs for local education agencies not complying with this requirements of this rule. Compliance costs may include interruption of monthly transfers of funds

specified for administrative costs under Section 53A-17a-108, interruptions of disbursement of state aid under Subsection 53A-1-401(3), or withholding of specific program funds. Costs are very speculative.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/03/2012

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2012

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

#### **R277. Education, Administration.**

##### **R277-108. Annual Assurance of Compliance by Local School Boards.**

##### **R277-108-5. Assurances.**

A. Each local school board and charter school governing board shall provide, consistent with state law, written assurance of the following:

(1) the National motto is displayed in schools consistent with Section 53A-13-101.4(6);

(2) the Pledge of Allegiance is recited in public schools consistent with Section 53A-13-101.6;

(3) a policy has been developed, in consultation with school personnel, parents, and school community, to provide for effective implementation of student education plans/student education occupation plans (SEPs/SEOPs) consistent with Section 53A-1a-106(2)(b);

(4) ~~[a plan is in place for the expenditure of Interventions for Student Success Block Grant Program funds consistent with Section 53A-17a-123.5]~~ compliance with Section 53A-3-426 in that it does not endorse or provide preferential treatment for any education employee association;

(5) a policy has been developed for Quality Teaching Block Grant Program consistent with Section 53A-17a-124;

(6) a policy has been developed on education association leave consistent with Section 53A-3-425;

(7) each public school within the district has established a community council consistent with Section 53A-1a-108, and the

community council members have been advised of their responsibilities consistent with Sections 53A-1a-108 and 53A-1a-108.5;

(8) the local school board has provided the USOE with required Utah Performance Assessment System for Students (U-PASS) test results in order for the USOE to fulfill the requirements of 53A-1-605;

(9) the district does not make payroll deductions from the wages of its employees for political purposes consistent with Section 34-32-1.1(2);

(10) the local school board has implemented a training program for school administrators consistent with Section 53A-3-402(1)(f);

(11) the local school board has an educator evaluation program developed by a joint committee including classroom teachers, parents and administrators consistent with Section 53A-10-103;

(12) the local school board or charter school governing board has presented and implemented an electronic device policy consistent with the timelines and provisions of R277-495;

(13) the school district or charter school has posted collective bargaining agreement(s) on the school district or charter school website within ten days of the ratification or modification of any collective bargaining agreement consistent with Section 53A-3-428; and

(14) by May 15, 2010, the school district or charter school has posted certain public financial information on the school district or charter school website consistent with Sections 63A-3-401 through 63A-3-404.

B. Letters from local school boards assuring compliance with the laws above are due to the State Superintendent of Public Instruction no later than October 1 of each year.

#### **KEY: local school boards, compliance**

**Date of Enactment or Last Substantive Amendment:** ~~August 7, 2009~~ **2012**

**Notice of Continuation: October 5, 2012**

**Authorizing, and Implemented or Interpreted Law:** Art X Sec 3; 53A-6-702; 53A-1-401(3)

## Education, Administration

### **R277-422**

## State Supported Voted Local Levy, Board Local Levy and Reading Improvement Program

#### **NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 36947

FILED: 10/15/2012

#### **RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is amended to remove outdated

language and language currently in statute and update terminology.

**SUMMARY OF THE RULE OR CHANGE:** A definition is removed from the rule and parts of the rule that are either outdated or currently in statute are removed from the rule.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 53A-1-401(3) and Subsection 53A-1-402(1)(e)

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. The amendments remove outdated language and language currently in statute which does not result in a cost or savings.
- ◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. The amendments remove outdated language and language currently in statute which does not result in a cost or savings.
- ◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. The amendments to this rule apply to public education and do not affect businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. The amendments remove outdated language and language currently in statute which does not result in a cost or savings.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is no compliance costs for affected persons. The amendments remove outdated language and language currently in statute which does not result in a cost or savings.

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

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

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

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

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

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/03/2012**

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

## **R277. Education, Administration.**

### **R277-422. State Supported Voted Local Levy, Board Local Levy and Reading Improvement Program.**

#### **R277-422-1. Definitions.**

A. "Ad valorem property tax" means a tax based on the assessed value of real estate or personal property.

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

C. "Board local levy" means a state-supported program under Section 53A-17a-164 to cover a portion of the costs within the school district's general fund of the state-supported minimum school program.

~~[D. "Common Data Committee" means a committee established by the USOE responsible to determine consensus estimates for student enrollments and assessed valuations. The Committee includes representatives from the Governor's Office of Planning and Budget, the Legislative Fiscal Analyst's Office, and the Utah State Tax Commission.~~

[E]D. "Free or reduced meal applications" means the applications received by a school district or charter school under the Board-supervised federal Child Nutrition Program.

[F]E. "Local board" means the school board members elected to govern a school district.

[G]E. "State-supported" means a formula-based state contribution of funds to the voted local levy program and the Board local levy program as defined in Section 53A-17a-133(3) and Section 53A-17a-164(3).

[H]G. "USOE" means the Utah State Office of Education.

[I]H. "Voted local levy" means a state-supported program in which a voter-approved property tax levy under Section 53A-17a-133 is authorized to cover a portion of the costs within the general fund of the state-supported minimum school program in a district.

[J]I. "Weighted pupil unit (WPU)" means the basic per pupil unit used to calculate the amount of state funds for which a school district is eligible.

#### **R277-422-2. Authority and Purpose.**

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-402(1)(e) which directs the Board to establish rules for school productivity and cost effectiveness measures, federal programs, school budget formats, and financial, statistical, and student accounting requirements, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to specify requirements, timelines, and clarifications for the state-supported voted local levy, board local levy, and reading improvement program.

#### **R277-422-3. Requirements and Timelines for State-Supported Voted Local Levy.**

A. A local board may establish a state-supported voted local levy program following an election process that approves a special tax. The election process is provided for under Section 53A-17a-133(2).

B. Local boards which have approved voted local levy or voted leeway programs since 1965 may set an annual fiscal year fixed tax rate levy for the voted local levy equal to or less than the levy authorized by the election.

C. ~~[Effective January 1, 2009, a]~~ A school district may budget an increased amount of ad valorem property tax revenue from a voted local levy in addition to revenue from new growth without required compliance with the advertisement requirements if the voted local levy is or was approved:

(1) on or after January 1, 2003;

(2) within the four-year period immediately preceding the year in which the school district seeks to budget an increased amount of ad valorem property tax; and

(3) for a voted local levy approved or modified on or after January 1, 2009, the proposition submitted to the ~~[electors]~~ voters contains the following statement: A vote in favor of this tax means that (name of school district) may increase revenue from this property tax without advertising the increase for the next five years.

~~[D. Effective January 1, 2009, a school district may levy a tax rate without meeting the advertisement requirements of Section 59-2-919 if:~~

~~(1) the levy exceeds the certified tax rate as the result of a school district budgeting an increased amount of ad valorem property tax derived from a voted local levy;~~

~~(2) the voted local levy was approved on or after January 1, 2003;~~

~~(3) the voted local levy was approved within the four-year period immediately preceding the year in which the school district seeks to budget an increased amount of ad valorem property tax revenue derived from the voted local levy; and~~

~~(4) for a voted local levy approved or modified on or after January 1, 2009, the proposition submitted to the electors contains the following statement: A vote in favor of this tax means that (name of school district) may increase revenue from this property tax without advertising the increase for the next five years.~~

~~E. An election to consider adoption or modification of a voted local levy program is required.~~

~~F. A local board may continue an existing voted local levy program despite a majority vote opposing a modification of the voted local levy program.~~

~~G. If adoption of a voted local levy program is contingent upon an offset reduction of other local board tax levies, the local board shall allow the electors, in an election, to reconsider modifying or discontinuing the voted local levy program prior to a subsequent increase in the certified tax rate as set by the local board.~~

~~[H]D. The state provides state guarantee funds to support the district voted local levy according to the amount specified in Section 53A-17a-133(3) and the Board local levy according to the amount specified in Section 53A-17a-164(3).~~

~~[I]E. State and local funds received by a local board under the voted local levy program are unrestricted revenue and may be budgeted and expended within the school district's general fund.~~

~~[J]E. In order to receive state support for an initial voted local levy tax rate, a local board shall receive voter approval no later than December 1 prior to the commencement of the fiscal year of implementation of that initial voted local levy tax rate.~~

~~[K]G. If a school district qualifies for state support the year prior to an increase in its existing voted local levy; and:~~

~~(1) does not receive voter approval for an increase after June 30 of the previous fiscal year and before December 2 of the previous fiscal year; and~~

(2) intends to levy the additional rate for the fiscal year starting the following July 1; then

(3) the district shall only receive state support for the existing voted local levy tax rate and not the additional voter-approved tax rate for the fiscal year commencing the following July 1, and

(4) shall receive state support for the existing and additional voter-approved tax rate for each year thereafter, as long as the district qualifies to receive state support.

#### **R277-422-4. K-3 Reading Achievement Program.**

A. The K-3 Reading Improvement Program consists of program funds and is created to achieve the state's goal of having third graders reading at or above grade level.

##### **B. Funding**

(1) The calculation for the K-3 Reading Achievement funding shall be consistent with Section 53A-17a-150 which requires matching funds and Section 53A-17a-151.

(2) The following data shall be used for the reading fund calculations:

(a) The most recent numbers of adjusted assessed valuations received by the USOE~~[from the Common Data Committee];~~

(b) The previous year's tax collection rate;

(c) The previous year's number of Free and Reduced Price Meal applications; and

(d) The current fiscal year total number of WPU's received by LEAs for the basic school program.

#### **KEY: education, finance**

**Date of Enactment or Last Substantive Amendment:** ~~[December 8, 2011]~~ 2012

**Notice of Continuation:** October 5, 2012

**Authorizing, and Implemented or Interpreted Law:** Art X Sec 3; 53A-1-402(1)(f); 53A-1-401(3); 53A-17a-133; 53A-17a-164; 53A-17a-150; 53A-17a-151; 59-2-919

## Health, Disease Control and Prevention, Health Promotion **R384-202**

### Traumatic Spinal Cord and Brain Injury Rehabilitation Fund

#### NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 36937

FILED: 10/11/2012

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule provides procedures for distribution of money from the Traumatic Spinal Cord and Brain Injury Rehabilitation Fund established in Title 26, Chapter 54.

**SUMMARY OF THE RULE OR CHANGE:** This rule establishes procedure for the Traumatic Spinal Cord and Brain Injury Rehabilitation Fund Advisory Committee to annually review and establish criteria for recommending distribution of funding to charitable clinics to provide the services designated in Title 26, Chapter 54. The rule establishes the request for funding applications process, development of the guidance, as well as the review, evaluation, recommendation and funding award process.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 26, Chapter 54

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** Total cost is \$221,200: estimated \$200,000 per year from a \$20 per impound fee in Section 41-6a-1406 is designated for the Traumatic Spinal Cord and Brain Injury Fund for provision of Traumatic Spinal Cord and Brain Injury services through charitable clinics; and \$21,200 general fund for administration of Traumatic Spinal Cord and Brain Injury Rehabilitation Fund.

♦ **LOCAL GOVERNMENTS:** None--Political Subdivisions do not provide services to these Traumatic Spinal Cord and Brain Injury clients.

♦ **SMALL BUSINESSES:** None--These charitable clinics will be serving the spinal cord and brain injury clients that have exhausted their insurance coverage, therefore it would not be taking business away from other clinics, physical, speech, or occupational therapists.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Cost is \$200,000: charitable clinics will be recipients of the funds to treat spinal cord and brain injury clients.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Charitable clinics that apply for the funding will be required to prepare a short (five - six page) application detailing their outreach efforts, assessments, staffing, proposed services and equipment, fee structure and evaluation. It is anticipated that it would take approximately five - six hours staff time to prepare their application. These cost would be variable depending upon the salary of the staff that will be preparing the application.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The committee structure set up pursuant to Legislative directive will have objective criteria to guide the distribution of the funds. Business should benefit.

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

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

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

♦ Heather Borski by phone at 801-538-9998, by FAX at 801-538-9495, or by Internet E-mail at hborski@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/03/2012**

**THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2012**

**AUTHORIZED BY:** David Patton, PhD, Executive Director

**R384. Health, Disease Control and Prevention, Immunization.**  
**R384-202. Traumatic Spinal Cord and Brain Injury Rehabilitation Fund.**

**R384-202-1. Authority and Purpose.**

(1) This rule provides the procedures for the distribution of money from the Traumatic Spinal Cord and Brain Injury Rehabilitation Fund established by Title 26, Chapter 54.

(2) This rule is authorized by Title 26, Chapter 54, Section 103.

**R384-202-2. Definitions.**

(1) "Committee" means the Traumatic Spinal Cord and Brain Injury Rehabilitation Fund Advisory Committee.

(2) "Fund" means the Traumatic Spinal Cord and Brain Injury Rehabilitation Fund.

**R384-202-3. Priorities and Criteria.**

As necessary and not less than on an annual basis, the Committee shall review and establish the criteria and priorities for the distribution of money from the Fund. These criteria and priorities shall be followed when recommending to the Executive Director the distribution of money to charitable clinics for the provision of the services and equipment designated in Section 26-54. These criteria shall be recorded in the minutes of the meetings and incorporated into the guidance for the request for funding applications.

**R384-202-4. Request for Funding Applications.**

(1) A request for funding applications will be issued by the Department.

(2) Applications to the Fund shall comply with the current guidance established by the committee, approved by the Executive Director and issued by the Department.

(3) Applications will be evaluated based upon the Committee's approved criteria using an objective review subcommittee. Evaluation results will be presented to the Committee for review and approval. The Committee will submit the approved applicants with funding recommendations to the Executive Director.

**R384-202-5. Fund Awards.**

(1) The Executive Director will determine Fund awards based on the committees recommendations for approved applicants.

(2) The Department shall issue the Fund awards in the form of contracts or grants.

(3) Awards are contingent upon available funds, successful completion of previous contract services and the quality of spinal cord injury and traumatic brain injury services previously provided.

(4) Funded applicants will submit required reports as specified in the contract or grant.

**R384-202-6. Audit Provisions.**

A charitable clinic that receives state funds under 26-54 must submit, upon request, to a Department audit of the recipients' compliance with the terms of the contract or grant.

**KEY: traumatic spinal cord injury, traumatic brain injury, Traumatic Spinal Cord and Brain Injury Rehabilitation Fund**  
**Date of Enactment or Last Substantive Amendment: 2012**  
**Authorizing, and Implemented or Interpreted Law: 26-54**

Human Services, Administration  
**R495-890**  
 Department of Human Services  
 Related Parties Conflict Investigation  
 Procedure for Non Contracted Private  
 Sector Independent Child Protective  
 Services

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 36911

FILED: 10/02/2012

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule is to reflect changes to Utah statute made by H.B. 237 from the 2012 Legislative General Session. These changes are noted in Section 62A-4a-202.6.

**SUMMARY OF THE RULE OR CHANGE:** The rule establishes criteria used to determine when conflict investigations are necessary in the Department of Human Services and who will conduct the investigations. It is clarified what will happen if there is a lapse in the contract with a private provider.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 62A-1-110 and Section 62A-1-111 and Section 62A-1-115 and Section 62A-4a-101 and Section 62A-4a-202.6

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** There will be no increase in costs or saving to the state budget because these proposed changes

clarify practice, but do not increase the work already being accomplished by workers.

◆ **LOCAL GOVERNMENTS:** Local government is not a part of the state agency which is affected by this rule; therefore there will be no increase in costs or saving to local government. These proposed changes clarify practice for the state agency on work already being done and local government is not responsible for conflict investigations.

◆ **SMALL BUSINESSES:** Small businesses are not a part of the state agency which is affected by this rule; therefore there will be no increase in costs or saving to local government. These proposed changes clarify practice for the state agency on work already being done and small businesses are not responsible for conflict investigations.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no costs or savings to any other persons or government entities because this rule does not apply to them. They are not a part of the state agency which is affected by this rule.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** These proposed changes clarify practice for the state agency on work already being done. Affected persons have no compliance costs associated with implementing this rule because they are not part of the agency.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There will be no costs or savings on businesses associated with implementing this rule.

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

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

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at [jhjones@utah.gov](mailto:jhjones@utah.gov)

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/03/2012**

**THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2012**

**AUTHORIZED BY: Palmer DePaulis, Executive Director**

**R495. Human Services, Administration.****R495-890. Department of Human Services Conflict Investigation Procedure.** ~~[Related Parties Conflict Investigation Procedure for Non-Contracted Private Sector Independent Child Protective Services.]~~**R495-890-1. Authority.**

(1) This rule is authorized by Sections 62A-1-110, 62A-1-111, ~~[62A-4a-409]~~62A-4a-202.6(4).

**R495-890-2. Definitions.**

(1) The definitions contained in ~~[Title 62A apply]~~Sections 62A-4a-101, 62A-4a-402 and 62A-4a-1002 ~~apply[-:] to this rule and to the child abuse, neglect, or dependency DHS conflict investigations. The definitions contained in Section 62A-3-301 apply to this rule and to the vulnerable adult abuse, neglect, or exploitation DHS conflict investigations.~~ In addition, the following terms are defined for the purposes of this Rule:

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

(b) "APS" means Adult Protective Services.

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

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

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

(f) "Conflict" means~~[:] that there is an accepted referral alleging child abuse neglect and dependency OR abuse, neglect or exploitation of a vulnerable adult, and DHS has a relationship with either the victim, alleged perpetrator, or another person named in the investigation such that there might be a perceived or actual conflict of interest or a perceived or actual appearance of impropriety if the referral is investigated by DCFS or APS. Potential conflicts of interest include:~~

(i) There is ~~[a]an accepted~~ referral alleging child abuse, neglect or dependency and an employee, volunteer, board member, provider, or contractor of DHS ~~either is the alleged perpetrator or has a relationship with the alleged victim, alleged perpetrator, or another person named in the investigation[- such that there is or might be a conflict of interest, the appearance of a conflict of interest, impropriety, or the appearance of impropriety if CPS or DCFS performed the investigation where a child is not in the custody of the Division of Child and Family Services; or].~~

(ii) There is ~~[a]an accepted~~ referral alleging abuse, neglect or exploitation of a vulnerable adult, and an employee, volunteer, board member, provider, or contractor of DHS ~~either is the alleged perpetrator or has a relationship with the alleged victim, alleged perpetrator, or another person named in the investigation[- such that there is or might be a conflict of interest, the appearance of a conflict of interest, impropriety, or the appearance of impropriety if APS or DAAS performed the investigation;].~~

(iii) There is ~~[a]an accepted~~ referral ~~[alleging]and a person's relationship with DHS may influence an investigation of abuse, neglect or dependency of a [minor]child, or abuse, neglect or exploitation of a vulnerable adult,[- that is in the custody and/or guardianship of DJJS or DSPD and the alleged perpetrator is an employee, volunteer, board member, provider, or contractor of DHS.]~~

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

~~(v) An accepted referral alleges that a child in the custody of DCFS has been abused or neglected, and there is a lapse in the contract for an independent CPS investigation from the private sector.~~

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

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

~~(viii) Any other conflict exists that may prevent the assigned agency from making an objective determination based on the facts of the case.~~

~~(ix) The Executive Director of DHS designates a case a "DHS Conflict Investigation" and directs that the case be assigned to a DHS Conflict Investigator.~~

~~(g) "DHS Conflict Case" means that a conflict has been identified, and the case has been referred to a DHS Conflict Investigator for a DHS Conflict Investigation.~~

~~(h) "DHS Conflict Investigation" means the investigation of a CPS case by a DHS Conflict Investigator or the screening of an APS case to determine whether a conflict exists.~~

~~(i) "DHS Conflict Investigator" means an employee of DHS assigned to OSR to conduct DHS Conflict Investigations.~~

~~(j) "CPS" means Child Protective Services.~~

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

~~[(h)](l) "DCFS" means the Division of Child and Family Services, including its regional offices.~~

~~[(j)](m) "DAAS" means the Utah Division of Aging and Adult Services.~~

~~[(k)](n) "DJJS" means the Division of Juvenile Justice Services.~~

~~[(h)](o) "DJJS Investigator" means an employee of DJJS who conducts internal affairs investigations for DJJS.~~

~~[(h)](p) "DSPD" means the Division of Services for People with Disabilities.~~

~~[(h)](q) "Executive Director" is as defined in 62A-1-104 and includes the designee of the Executive Director.~~

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

~~[(p)](r) "OPG" means the Office of the Public Guardian.~~

~~[(q)](s) "OSR" means the Office of Services Review within the Utah Department of Human Services.~~

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

(i) In determining whether "reasonable restraint" was used in a ~~[department]~~DHS facility, the ~~[Related Party]~~DHS Conflict Investigator shall take into account the nature and purpose of the facility.

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

~~(t)~~ "Related Party Conflict Case" means that a conflict has been identified, and the case has been referred to a Related Party Conflict Investigator for a related party conflict investigation where the child is not in the custody of the DCFS.

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

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

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

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

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

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

#### **R495-890-3. Purpose.**

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

(a) when a ~~[related party]~~conflict investigation is necessary; and

(b) how ~~[related party]~~conflict investigations will be conducted; ~~and~~

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

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

#### **R495-890-4. [Criteria Used to Determine When a Related Party Investigation Is Necessary.] Procedure Used When a DHS Conflict Investigation Is Necessary for Children.**

(1) In general, ~~[ ]~~ OSR shall be notified ~~[that a potential conflict exists whenever: ]~~whenever a conflict, as defined above, exists.

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

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

~~(b) a] If OSR determines that no conflict exists [that may prevent the assigned agency from making an objective], the case shall be referred back to CPS intake for investigation by DCFS no later than the next business day after OSR's determination [based on the facts of the case].~~

~~(c) an accepted referral alleges child abuse, neglect, or dependency by a DHS employee where the child is not in the custody of the DCFS.~~

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

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

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

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

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

~~(3)~~(b) If ~~[the]~~a conflict is identified after ~~[DCFS or APS has initiated an investigation]~~the initial referral, OSR shall be notified on the next business day after the conflict is identified. If the DCFS or APS worker is responding to an emergency or priority one call, the worker shall complete whatever protective actions are necessary and then staff the conflict with a supervisor. The assigned CPS worker and/or the CPS worker's supervisor shall notify OSR no later than the next business day after the conflict is identified.

#### **R495-890-5. Procedure Used When a Related Party Investigation Is Necessary for Children.**

(1) When a CPS intake worker identifies a potential conflict where the child is not in the custody of the DCFS, the intake worker shall staff the referral with the OSR Services Review

~~Manager to determine if a conflict exists. The OSR Services Review Manager shall determine whether there is a conflict, and will notify the CPS Intake Worker of its decision.~~

~~(2) If a conflict is identified after the initial referral where the child is not in the custody of the DCFS, the assigned CPS worker and/or the CPS worker's supervisor shall notify the OSR Services Review Manager no later than the next business day after the conflict is identified. ]~~

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

~~(4)(3) If the conflict case involves a child in the custody of DCFS it shall be assigned to an independent CPS investigator from the private sector. If there is a lapse in the contract for an independent CPS investigator from the private sector, the case will be assigned to a DHS Conflict Investigator.~~

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

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

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

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

~~(8)(7) A DCFS investigator may act as a secondary worker and assist the [Related Parties]DHS Conflict Investigator.~~

~~(9)(8) The [Related Party]DHS Conflict Investigator shall determine whether the allegations are supported, unsupported, or without merit, [or false. The Related Parties Conflict Investigator shall report its findings to the appropriate DCFS employee to ensure that the findings are entered into the Licensing or Management Information System and that the appropriate Notices of Agency Action are issued].~~

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

~~(11)(9) If the Executive Director has designated a case as a [related party]-conflict case, [the]-OSR [Services Review Manager]-shall assign the case to a [Related Parties](DHS) Conflict Investigator.~~

~~**[R495-890-6. Procedure Used When a Related Party Investigation Is Necessary for Adults.]R495-890-5. Procedure Used When a DHS Conflict Investigation Is Necessary for Adults.**~~

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

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

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

~~(4)(c) In cases where a conflict exists, [the OSR Services Review Manager]OSR shall accept the case, [and assign the case to a Related Parties Conflict Investigator.]and consult with the APS Director or designee in determining the appropriate APS investigator that APS intake will assign to the case.~~

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

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

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

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

~~(9)(d) If [the OSR Services Review Manager]OSR determines that no conflict exists, the case shall be referred back to APS intake for investigation by APS no later than the next business day after OSR's determination.~~

~~(2) If any concerns arise during the investigation around conflict issues, APS may consult with OSR as how to handle the conflict.~~

~~(3) If a conflict is identified after APS has initiated an investigation, OSR shall be notified on the next business day after the conflict is identified. If the APS worker is responding to an emergency, the worker shall complete whatever protective actions are necessary and then staff the conflict with a supervisor. The supervisor shall notify OSR of the conflict and OSR shall consult with the APS Director or designee in determining the appropriate APS investigator that APS intake will assign to the case.~~

~~(10)(4) If the Executive Director has designated a case as a [related party]-conflict case, [the OSR Services Review Manager] shall assign the case to a Related Parties Conflict Investigator.]OSR shall consult with the APS Director or designee in determining the appropriate APS investigator that APS intake will assign to the case.~~

~~**[R495-890-7. Special Procedures for Related Parties Conflict Investigations.]R495-890-6. Special Procedures for DHS Conflict Investigations.**~~

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

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

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

(4) The ~~[Related Parties]~~DHS Conflict Investigator or APS investigator may notify the agency of the initiation of an investigation and/or the conclusion of an investigation.

**KEY:** ~~[related parties,]~~investigations, conflict

**Date of Enactment or Last Substantive Amendment:** ~~[August 23, 2010]~~2012

**Authorizing, and Implemented or Interpreted Law:** 62A-1-110; 62A-1-111; 62A-1-115; 62A-4A-101; 62A-4a-202.6; ~~[62A-4a-409]~~62A-4a-202.6(4)

## Human Services, Aging and Adult Services **R510-302** Adult Protective Services

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36920

FILED: 10/05/2012

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Recent changes have been made in the way investigations are coordinated between Adult Protective Services and the Long-term Care Ombudsman program. The changes adjust and clarify which program will investigate certain cases when a resident of a long-term care facility is involved. The proposed amendment explains these changes.

**SUMMARY OF THE RULE OR CHANGE:** Previously, with the exception of issues of sexual abuse, the Long-term Care Ombudsman program investigated cases of abuse, neglect, and exploitation involving residents of care facilities, while Adult Protective Services investigated the same cases outside of facilities. Due to authority and other issues, it was determined that Adult Protective Services should investigate all cases of abuse, neglect, and exploitation regardless of the setting.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 62A-3-302

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** The change moves responsibility from one program to another within the Division of Aging and will not result in additional costs or savings.

♦ **LOCAL GOVERNMENTS:** Local Long-term Care Ombudsman programs will continue to work on other issues

within the facilities and will not see a savings or new costs as a result.

♦ **SMALL BUSINESSES:** These programs are not overseen by small business which will see neither a new cost nor a savings as a result.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The individuals involved have not had costs associated with these reports and will not have them with the change.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The individuals involved have not had costs associated with these reports and will not have them with the change.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The update to this rule do not create a savings or new cost and should be budget neutral for the agency.

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

HUMAN SERVICES

AGING AND ADULT SERVICES

195 N 1950 W

SALT LAKE CITY, UT 84116

or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at [nholmgren@utah.gov](mailto:nholmgren@utah.gov)

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/03/2012**

**THIS RULE MAY BECOME EFFECTIVE ON:** 12/10/2012

**AUTHORIZED BY:** Nels Holmgren, Director

**R510. Human Services, Aging and Adult Services.**

**R510-302. Adult Protective Services.**

**R510-302-1. Purpose.**

This rule clarifies the responsibilities of Adult Protective Services.

**R510-302-2. Authority.**

This rule is authorized by ~~[Sections 62A-3-106.5 and]~~Section 62A-3-302.

**R510-302-3. Principles.**

(1) Adult Protective Services shall respect the lifestyle that is knowingly and voluntarily chosen by the vulnerable adult.

(2) A vulnerable adult with capacity to consent has the right to self-determination.

~~(2)~~(3) All services provided are voluntary unless court ordered.

~~(3)~~(4) All services provided should be the least restrictive possible.

~~(4)~~(5) All services provided shall be community-based unless community-based services are unavailable.

~~(5)~~(6) Adult Protective Services shall encourage a vulnerable adult's family and community to take responsibility for providing necessary services.

~~(6)~~(7) Adult Protective Services shall coordinate and cooperate with other agencies to protect vulnerable adults.

~~(7)~~(8) Adult Protective Services shall treat vulnerable adults and others in a courteous, dignified and professional manner.

#### **R510-302-4. Definitions.**

(1) All definitions found in Title 62A Chapter 3 are incorporated by reference.

(2) Activities of Daily Living means the ability to: take a full body bath or shower, including transfer in and out of the bath or shower; tend to personal hygiene needs, including care of teeth, dentures, shaving, and hair care; put on, fasten and take off all clothing, and select appropriate attire; walk without supervision or cues, including using a walker or cane; use steps or ramps; use toilet or commode, including transferring on and off toilet, cleansing self, changing pads, and caring for colostomy or catheter in appropriate manner; transfer without supervision or devices in and out of a bed or chair; and the ability to feed oneself, prepare food~~[on a plate]~~, drink~~[from a cup and/]~~or use necessary adaptive devices.

~~(3)~~(2a) Instrumental Activities of Daily Living (ADL's) means the core life activities of independent living, including using the telephone, managing money, preparing meals, doing housework, remembering to take medications, providing for ~~[ones]~~one's necessities, and obtaining services.

~~(4)~~(3) Conservator means an individual or agency appointed by a court in accordance with Section 75-5-401, et seq.

~~(5)~~(4) Guardian means an individual or agency appointed by a court in accordance with Section 75-5-303, et seq.

~~(6)~~(5) Incapacitated Person is as defined in Section 75-1-201(18).

~~(7)~~(6) Intentionally is as defined in Section 76-2-103(1).

~~(8)~~(7) Knowingly is as defined in Section 76-2-103(2).

~~(9)~~(8) Lifestyle Choice means a knowing and voluntary choice to live a certain way, including a non-conventional way, by a person who has capacity to make that choice.~~[the way of life knowingly and voluntarily preferred or selected by a person who has capacity to consent.]~~

~~(10)~~(9) Limited Capacity means that [a]n adult person's ability to understand, [and] communicate, make decisions regarding the nature and consequences [of decisions concerning] the [adult's] person's life or property is limited in one or more, but not all, functional areas, or during identified times of day, due to [an] a mental illness, developmental disability, organic brain disorder, physical illness or disability, chronic use of drugs, chronic intoxication, short-term memory loss, or other cause.

~~(11)~~(10) Long-term care facility is as defined in Section 62A-3-202.

(11) Protective intervention funding means payments made to the vulnerable adult, family or caregiver or other provider that will alleviate or resolve a protective need.

~~(12)~~ Protective Needs means [a need resulting from or related to the abuse, neglect, or financial exploitation of a vulnerable adult]~~factors identified by the APS Protective Needs Assessment that pose significant risk for, or are the result of Abuse, Neglect or Exploitation of a vulnerable adult.~~

(13) Protective Needs Assessment means an assessment of a vulnerable adult's impairments and alleged risk factors for Abuse, Neglect or Exploitation that are found to be present in that APS case investigation.

~~(13)~~(14) Protective Supervision means an APS service offered to reduce or resolve a vulnerable adult's protective need.

~~(14)~~(15) Recklessly is as defined in Section 76-2-103(3).

~~(15)~~(16) Respite Care means a time-limited period of relief from care giving responsibilities paid to a respite care provider or individual from Protective Intervention Funds.

~~(16)~~(17) Service Plan means a document created by the APS caseworker for an approved ~~[Short-Term]~~Short-term Service Case that includes a goal, objectives, methods, and progress reviews to resolve the protective needs identified in an Adult Protective Services investigation, and which implements recommendations of the case review committee.

~~(17)~~(18) Short-term protective services include but are not limited to crisis intervention, emergency shelter, protective supervision, respite care, supported living services, or short-term intervention funding~~[, or monitoring the vulnerable adult's money management].~~

~~(18)~~(19) Short-Term intervention funding means short-term payments made to the vulnerable adult, family, or caregiver or other provider, during a short-term service case for goods or services other than for Respite ~~[e]~~Care or Supported Living, that will alleviate or resolve a protective need.

~~(19)~~(20) Supported Living means short-term payments made to individuals or providers that enable the vulnerable adult to remain in his or her own home or in the home of a relative.

#### **~~[R510-302-5. Records.~~**

~~(1) Adult Protection case files shall be securely maintained.~~

~~(2) An Adult Protection case file shall include all records relating to an investigation performed by Adult Protective Services, and may include an adult protection report, capacity assessment, allegation assessment, risk assessment, service plan recommendations and service plans, case activity record, correspondence, agreements, authorizations, medical and psychological records, financial records, police reports, photographs, video recordings, audio recordings, court documents, and legal documents.~~

~~(a) Short-term service case files may include in addition to the above items: client eligibility documents, information releases, correspondence, Assessments, disbursement requests, records of Protective Intervention payments, and service plan documents.~~

~~(3) An Adult Protection case file shall document services needed by and provided for each vulnerable adult client.~~

~~(4) Case Review Committee recommendations will be documented in the case record.~~

~~\_\_\_\_\_ (5) If a vulnerable adult dies after a referral is received, the investigator shall complete a report in compliance with DHS Policy and Procedures 05-02.~~

#### **JR510-302-6. Adult Protective Services Intake.**

(1) Referrals may be submitted to the APS Intake Office ~~[via written or telephonic means]~~in any format from any person who has reason to believe that a vulnerable adult has been abused, neglected, or exploited in the State of Utah.

(2) All referrals shall be evaluated by APS Intake to determine whether APS shall investigate the allegation.

(3) APS shall ~~[investigate]~~accept all referrals with allegations of abuse, neglect, or exploitation of a vulnerable adult in the State of Utah except as follows:

~~(a) [Allegations involving non-serious incidents of abuse, neglect or exploitation in a long-term care facility shall be referred to the long-term care ombudsman program in accordance with Section 62A-3-201, et seq.~~

~~(i) Non-serious incidents are incidents between residents over the age of 60 in which there are no injuries that require medical attention, and in which the facility has taken all reasonable steps to protect residents from future harm]when the referral does not involve an allegation that a vulnerable adult may have been or is being abused, neglected or exploited.~~

~~(b) when the referral does not identify a current abuse, neglect or exploitation but anticipates that abuse, neglect or exploitation may occur.~~

~~(c) when the referral involves a vulnerable adult on an Indian reservation, a written agreement between APS and tribal authorities granting APS authority to investigate must be in effect or the referral shall be forwarded by Intake to federal or tribal authorities.~~

(4) APS shall notify the Department of Health and the Local Long-term Care Ombudsman when a referral involves a long-term care facility.

(5) APS may submit a referral that involves a Division employee or other potential conflict of interest to the DHS Office of Services Review for ~~[investigation]~~review.

~~\_\_\_\_\_ (6) APS shall not accept a referral that does not involve an allegation that a vulnerable adult may have been or is being abused, neglected, or exploited.~~

~~\_\_\_\_\_ (7) APS shall not accept or investigate a referral that involves the abuse, neglect, or exploitation of a vulnerable adult on an Indian Reservation unless a written agreement between APS and tribal authorities is in effect and grants APS authority to investigate.~~

~~\_\_\_\_\_ (a) APS may refer a case that involves the abuse, neglect, or exploitation of a vulnerable adult on an Indian Reservation to federal or tribal authorities.~~

~~\_\_\_\_\_ (8) APS shall not accept or investigate a referral that identifies no current abuse, neglect, or exploitation but anticipates that abuse, neglect, or exploitation may occur in the future.~~

#### **R510-302-7. Investigation.**

(1) The assigned investigator shall ~~[review the referral received from APS Intake]~~initiate the investigation and determine whether:

- (a) there is an allegation of abuse, neglect or exploitation;
- (b) the alleged victim is a vulnerable adult;
- (c) the alleged victim has the capacity to consent;

(d) the alleged victim has a legal guardian or conservator; ~~[-and]~~

(e) an emergency exists~~[-]; and~~

~~\_\_\_\_\_ (f) the extent of the alleged victim's mental or physical impairment.~~

(2) The investigator shall ~~[initiate the investigation and-]~~ make a face-to-face visit with the alleged victim.

(a) The investigator shall seek the consent of the vulnerable adult to provide services if the vulnerable adult has the capacity to consent.

(b) The investigator shall seek the consent of the vulnerable adult's legal guardian to provide services if the vulnerable adult does not have the capacity to consent.

~~\_\_\_\_\_ (c) The investigator may seek a court order to provide services in the absence of consent from the vulnerable adult or the vulnerable adult's legal guardian.~~

(3) The investigator may not enter the home of a vulnerable adult unless the vulnerable adult, legal guardian, or caretaker consents, except ~~[as described in subsection (a) below.~~

~~\_\_\_\_\_ (a) The investigator may enter the home of a vulnerable adult if]when the investigator has reason to believe~~ exigent circumstances exist to protect the vulnerable adult from imminent harm.

~~\_\_\_\_\_ (b) The Investigator may contact persons who may have information regarding the vulnerable adult's circumstances and to obtain information necessary to investigate allegations of abuse, neglect, or exploitation.~~

~~\_\_\_\_\_ (4) The investigator shall evaluate the extent of the alleged victim's mental and/or physical impairment, whether the alleged victim is a vulnerable adult, and whether any impairment substantially impacts activities of daily living.~~

~~\_\_\_\_\_ (5)](4) The investigator shall interview the alleged perpetrator unless:~~

(a) specifically requested not to do so by law enforcement officers in order to avoid impeding an ongoing criminal investigation or proceeding;

(b) interviewing the alleged perpetrator would likely endanger any person;

(c) prior to interviewing the alleged perpetrator, the allegation is found to be without merit;

~~\_\_\_\_\_ (d) an alleged victim with capacity terminates the APS investigation;~~

~~\_\_\_\_\_ (e)](d) APS is unable to locate the victim;~~

~~\_\_\_\_\_ (f)](e) the alleged victim died before the investigation started;~~

~~\_\_\_\_\_ (g)](f) the alleged perpetrator is unknown; or~~

~~\_\_\_\_\_ (h)](g) the alleged perpetrator has [declined]refused~~ the interview.

~~\_\_\_\_\_ (6) The Investigator shall, based on all information obtained during the investigation, determine:~~

~~\_\_\_\_\_ (a) whether each allegation of abuse, neglect, and exploitation identified by the referent is supported, inconclusive, or without merit; and~~

~~\_\_\_\_\_ (b) whether each allegation of abuse, neglect, and exploitation identified during the investigation is supported, inconclusive, or without merit.~~

~~\_\_\_\_\_ (7)](5) When the investigator has reason to believe~~ [any hazardous waste or illegal drugs [drug lab-]may be located at an investigative site, the investigator will contact law enforcement

agencies and not enter the site until the local health department determines it is safe to do so.

- ~~(a)~~ The ~~[E]~~ law enforcement agencies may be asked:
  - ~~(a)~~ to assess and secure a vulnerable adult's immediate safety,
  - ~~(b)~~ facilitate the vulnerable adult's exit from the lab site,
  - ~~(c)~~ and arrange for emergency transportation to the hospital for decontamination.

~~(8)~~(6) The investigator may obtain an administrative subpoena when the following circumstances apply:

- ~~(a)~~ the vulnerable adult lacks the capacity to consent; or
- ~~(b)~~ the vulnerable adult's legal guardian refuses to consent; or
- ~~(c)~~ the custodian of the records or items pertinent to an investigation refuses to allow access to those records or items without a subpoena; and or
- ~~(d)~~ the information sought is necessary to investigate allegations of abuse, neglect or exploitation or to protect the alleged victim.

~~(9)~~(7) An administrative subpoena form:
 

- ~~(a)~~ shall include a list that specifically identifies the documents or objects being subpoenaed[-];

~~(a)~~ An administrative subpoena ~~(b)~~ is not valid until signed by the Director or Regional Director.

~~(b)~~(8) The investigator shall document all items received as a result of the subpoena.

(9) the investigator shall evaluate all information obtained during the investigation and determine:

(a) whether each allegation of abuse, neglect and exploitation identified during the investigation is supported, inconclusive, or without merit; and

(c) law enforcement shall be contacted to coordinate or assist on an investigation, if the investigation indicates that criminal abuse, neglect or exploitation may have occurred or the safety of the any person is endangered.

~~(10)~~(d) [The Investigator shall determine whether the vulnerable adult has an unmet protective need.]if an unmet (protective) need exists:

~~(a)~~ ~~If an unmet protective need exists;](i)~~ the investigator ~~[shall]~~may refer the vulnerable adult and the vulnerable adult's legal guardian to available community resources and services to resolve the protective need[-];

~~(b)~~ ~~If an unmet protective need exists;](ii)~~ the investigator or Supervisor may request a review by the Case Review Committee to determine if Short-Term Services may help to resolve the protective need[-];

(iii) the investigator may make a referral to the Office of Public Guardian;

(iv) the investigator may provide crisis intervention to assist the vulnerable adult in obtaining services or benefits as it relates to the abuse, neglect or exploitation;

~~(c) APS shall not facilitate the placement of a vulnerable adult who lacks capacity to consent with an unlicensed caregiver.~~

~~(d)~~(v) [APS]the investigator may contact the family of a vulnerable adult who lacks capacity and inform the family that the vulnerable adult requires alternate living arrangements in an environment that is safe and meets the vulnerable adult's protective needs[-];

~~(e) APS may, but is not required to, seek or facilitate the placement of a vulnerable adult with a licensed caregiver.~~

~~(f)~~(vi) the investigator may provide Protective Intervention Funds ~~[may, in]~~at the sole discretion of APS[-]. These funds may be made available to the vulnerable adult, family caregiver or other provider to alleviate or resolve a protective need, and must directly benefit the vulnerable adult[-];

~~(g)~~(vii) the investigator may provide ~~[O]~~one-time payments ~~[may be made]~~for medications, medical treatment, or medical equipment or supplies not covered by insurance or other medical coverage; transportation; minor repairs or modifications; rent; food; or clothing, or other needs that directly benefit the vulnerable adult to alleviate or resolve a protective need[-]; or

~~(h)~~(viii) the investigator may provide ~~[P]~~payments for~~[may be made to]~~ a service provider or individual for approved Short-term services for Respite care, Supported living, or for short-term intervention funds.

**R510-302-8 Settlement Agreements**

(1) The Division may enter into a settlement agreement with the person who has received a notification of agency action letter pursuant to 62A-3-311.5.

(2) No settlement agreement shall be enter into once the Supported finding has been upheld by a court of competent jurisdiction.

**[R510-302-8]R510-302-9. [Income]Eligibility.**

(1) There are no income eligibility requirements for an APS investigation of allegations of abuse, neglect, or exploitation.

(2) There are no [income]-eligibility requirements in order to receive short-term protective supervision services.

(3) There are no [income]-eligibility requirements in order to receive Protective Intervention Funds to resolve a situational crisis or an immediate protective need.

~~(4) Short-term protective services may only be provided to a vulnerable adult who is the victim of abuse, neglect, or exploitation.~~

~~(5) Short-term protective services may only be provided in accordance with the terms of a service plan consented to and signed by the vulnerable adult or the vulnerable adult's legal guardian, or pursuant to court order. An updated service plan will be signed at each case review.~~

~~(6)~~(4) A vulnerable adult shall meet income eligibility requirements in order to receive short-term protective services other than protective supervision services, including respite care, supported living, short-term intervention funding, ~~[protective payee services,]~~and other services approved by the APS Director or regional director.

(a) For purposes of eligibility for short-term protective services, "family" includes an adult, the adult's spouse, and their natural children under age 18, who are residing in the same household.

(b) A person living under the care of someone other than their spouse is considered a one-person family.

~~(b)~~(c) In determining whether a vulnerable adult meets income eligibility requirements for short-term protective services, family assets shall be disclosed and evaluated.

(i) Family assets include the fair market value of stocks, bonds, certificates of deposit, notes, savings and checking accounts, inheritance, capital gains, or gifts, which can be readily converted to cash.

(ii) A client's income and deductions will be used to determine the client's adjusted gross income to determine the client's eligibility status.

(iii) Monthly gross income includes the total monthly income received by an individual from earnings, military pay, commissions, tips, piece-rate payments, and cash bonuses; net income from self-employment; Social Security Pensions, SSI, Survivor's Benefits, and Permanent Disability Insurance payments; dividends, interest, income from estates or trusts, net rental income or royalties, net income from rental of property, receipts from boarders or lodgers; pensions, annuities; unemployment compensation; strike benefits; worker's compensation; alimony, child support, money received as specified in a divorce or support decree; Veterans' pensions or subsistence allowances; and other regular (three out of six months) financial assistance.

(iv) Monthly gross income does not include per capita payments to or funds held in trust for any individual in satisfaction of a judgment of the Indian Claims Commission or the Court of Claims; net proceeds received from the sale of a primary residence or an automobile; money borrowed; insurance payments in excess of incurred costs that must be paid from the settlement; the value of the coupon allotment under the Food Stamp Act; the value of USDA donated foods; the value of supplemental food assistance under the Child Nutrition Act of 1966 and the special food service program for children under the National School Lunch Act; any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; earnings of a child (under 18 years of age) residing in the home; payments for energy assistance and weatherization HEAT program; housing subsidies paid by the Federal government; payments or grants received due to natural disaster; educational loans, grants, or scholarships to any undergraduate student for educational purposes that is made or insured by the U.S. Commissioner of Education (BEOG; SEOG; NDSL; Guaranteed Student Loans; SSIG; and PELL Grants); payments to participate in a service learning program, such as College Work-Study or University Year for Action; and that portion of any other loan, grant, or scholarship which is conditioned upon school attendance, actually used for tuition, books, fees, equipment, special clothing needs, transportation to and from the school, and the child care services necessary for school attendance.

(v) The expenses that shall be deducted in determining adjusted gross income are limited to medical expenses (including Medicaid spend-down and insurance); storage expenses; child support paid, including money paid for house payments, rent, etc. as specified in a divorce or support decree; the dollar amount of first mortgage/rental payment over 25% of monthly countable income (not counted for Foster Care); and fees paid for other programs and protective services.

(vi) The sum of all family assets shall be divided by the number of family members, and if that amount exceeds \$4,000 per family member, then the value over \$4,000 shall be prorated over twelve months, and the resulting amount shall be added to the monthly countable income.

(vii) Eligibility status must be verified annually and within 30 days of any family member's increase in assets.

(viii) A client's adjusted gross income for income tax purposes is not the same as the adjusted gross income for service eligibility purposes.

(ix) All family assets and expenses shall be supported with current bank records, check stubs, and other verifiable records. Documentation must clearly indicate the name of the applicable family member.

**~~[R510-302-9]~~R510-302-10. Protective Need Intervention.**

(1) ~~[If protective services are needed and the vulnerable adult has the capacity to consent, the Investigator will work with the vulnerable adult to identify options to alleviate the protective need. If a vulnerable adult lacks the capacity to consent to protective services and has no legal guardian, the Investigator may:~~

- ~~\_\_\_\_\_ (a) request a multi-disciplinary case staffing;~~
- ~~\_\_\_\_\_ (b) contact the vulnerable adult's family;~~
- ~~\_\_\_\_\_ (c) contact mental health professionals or physicians;~~
- ~~\_\_\_\_\_ (d) contact agencies, organizations or services available to meet the vulnerable adult's protective need; or~~
- ~~\_\_\_\_\_ (e) contact the Office of the Public Guardian.~~

~~\_\_\_\_\_ (2) The Investigator may provide short-term counseling or crisis intervention to assist the vulnerable adult in obtaining services or benefits relating to the abuse, neglect, or exploitation.~~

~~\_\_\_\_\_ (3) The~~An Investigator may request Protective Intervention Funding for an emergency shelter placement to alleviate the vulnerable adult's protective need.].

~~\_\_\_\_\_ (a)~~ Emergency shelter placements may be made for up to 30 days within a twelve-month period for a vulnerable adult who has been abused, neglected, or exploited only if:

~~[(+)](a)~~ the vulnerable adult's circumstances require immediate alternate living arrangements in a safe environment;

~~[(+)](b)~~ the vulnerable adult or legal guardian consents to the emergency shelter placement or a court order authorizes the placement;

~~[(+)](c)~~ the vulnerable adult does not meet the eligibility requirements for shelter under the Family Violence program; and

~~[(+)](d)~~ the emergency shelter has all required current licenses and certifications.

**~~[R510-302-10]~~R510-302-11. ~~[Short Term]~~Short-Term Intervention.**

(1) Short-term protective services may only be provided to a vulnerable adult who is the victim of abuse, neglect or exploitation, and in accordance with the terms of a service plan consented to and signed by the vulnerable adult or the vulnerable adult's legal guardian, or pursuant to a court order. An updated service plan shall be signed at each case review.

~~\_\_\_\_\_ (2) A short-term services Case Review Committee shall monitor and review short-term services.].~~

~~\_\_\_\_\_ (a) The Case Review Committee;[-with]~~

~~\_\_\_\_\_ (a) shall~~ consist of the primary worker, supervisor or designee, and two other region workers. The Committee may include other APS and community or agency individuals when determined necessary by the Case Review Committee.

~~\_\_\_\_\_ (b) [The Case Review Committee]-~~shall oversee the progress made towards resolution of the protective need.

~~\_\_\_\_\_ (c) [The Case Review Committee]-~~may recommend that short-term services are initiated, extended, or terminated.

(d) ~~[The Case Review Committee]~~ may recommend community referrals or alternative actions.

~~[(e)](3)~~ The Case Supervisor may approve or deny Short-Term Services recommended by the Case Review Committee.

~~[(2)](4)~~ Short-Term Services may only be provided under the following conditions:

(a) Short-term services are voluntary and shall not be implemented without the written consent of the vulnerable adult or the vulnerable adult's legal representative.

(b) Every short-term service case shall include a protective supervision service.

(c) Protective Intervention funds for Short-term services shall not be disbursed without the approval of the APS supervisor or regional director.

(d) Respite Care funds may not be used for caring for other members of the family, performing extensive household tasks, or transportation.

(e) Respite Care may be provided in the vulnerable adult's home, a caregiver's home, or in a licensed facility.

(f) Supported Living Payments may be made to providers to enable the vulnerable adult to remain in his own home or in the home of a relative, and may include short-term supervision, transportation, assistance with shopping, training or assistance with activities of daily living.

(g) Payments for Short-Term Services may not be made until a case has been approved by the Case Review Committee and Services voluntarily agreed to in writing by the vulnerable adult, his or her guardian, or approved by court order.

**~~[R510-302-11]~~R510-302-12. Protective Payee Services.**

~~(1) [Protective Payee Services are available only to a vulnerable adult who has been approved for this service prior to May 5, 2008.~~

~~(2) Protective Payee Services include money management skills for individuals without a legal guardian.~~

~~(a) The protective payee will review the vulnerable adult's financial account and allocate, with the vulnerable adult (if able to participate) funds for the vulnerable adult's basic needs, such as food, clothing, shelter, medical care, and other costs of care or special needs.~~

~~(b) If the vulnerable adult has income remaining after all basic costs are paid, it shall be placed in the vulnerable adult's trust account.~~

~~(c) The protective payee will provide the vulnerable adult with a monthly copy of the account ledger.~~

~~(3) Protective Payee Services shall be documented in accordance with standard accounting practices.~~

~~(4) Protective Payee Services shall cease if the vulnerable adult withdraws consent unless otherwise required by court order.~~

~~(5) Protective Payee Services shall cease if another person provides protective payee services.~~

~~(6) Protective Payee Services shall cease if the vulnerable adult has minor children residing in the home for whom he has legal responsibility and for whom any type of financial assistance is received.~~

~~(7) When Protective Payee Services are terminated due to the death of the vulnerable adult, the vulnerable adult's remaining expenses, including burial expenses, shall be paid from the account~~

~~and the funding agencies shall be notified of the vulnerable adult's death. Any remaining funds shall be distributed in accordance with State law.] Adult Protective Services shall not provide payee services.~~

**~~[R510-302-12]~~R510-302-13. Termination of Short-Term Protective Services.**

(1) A vulnerable adult has no entitlement or right to short-term protective services ~~from APS.~~

(2) Protective Services may be terminated by the vulnerable adult or APS at any time.

(3) Protective Services shall be terminated when:

(a) the vulnerable adult is no longer in immediate danger of abuse, neglect or exploitation;

(b) a vulnerable adult who voluntarily accepted services requests that those services be terminated;

(c) recommended by the Case Review Committee;

(d) the court terminates an order requiring APS to provide services;

(e) the vulnerable adult is receiving protective services from other persons or agencies;

(f) the vulnerable adult's behavior is abusive or violent and constitutes a threat;

(g) the vulnerable adult no longer meets the eligibility requirements for services;

(h) the vulnerable adult refuses to comply with the service plan;

(i) there is insufficient funding to pay for the service;

(j) the vulnerable adult moves out of State; or

(k) the vulnerable adult dies. APS shall complete a Deceased Client Report form in accordance with DHS policy 05-02.

(4) When APS terminates Short-Term protective services, a letter ~~[will]~~shall be sent to the vulnerable adult stating the case is going to be terminated and the reason for termination.

(a) The letter shall state that termination becomes effective 10 days from the date the letter was sent unless the vulnerable adult requests an administrative review of the reason for the termination and to decide if the services should be reinstated or alternative services may be available.

~~[(b) In Protective Payee Short-Term Service cases, the letter to the vulnerable adult shall be copied to the agency providing funding (income) for the vulnerable adult.~~

~~(5) Upon the death of a vulnerable adult, the following procedures should be followed:~~

~~(a) The family of the vulnerable adult will be contacted to arrange for the burial.~~

~~(b) If the family is unable to pay for the burial, APS may suggest a list of other resources to pay burial expenses, such as relatives, religious organizations, insurance, and the County Commission.~~

~~(c) If no one accepts responsibility, APS will make contacts to arrange burial, however APS shall not pay for the burial.~~

~~(d) APS shall notify SSA, VA, or other sources, of entitlement benefits if APS is acting as the vulnerable adult's protective payee.~~

~~(e) APS shall complete a Deceased Client Report form in accordance with DHS policy 05-02.~~

]

**KEY:** vulnerable adults, [domestic violence]adult protective services investigations, shelter care facilities, short-term services  
**Date of Enactment or Last Substantive Amendment:** [May 27, 2009]2012

**Notice of Continuation:** July 1, 2012

**Authorizing, and Implemented or Interpreted Law:** 62A-3-301 et seq.

Human Services, Child and Family  
 Services  
**R512-52**

Drug Testing Copayment for Parents of  
 Children in Child and Family Services  
 Custody

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 36916

FILED: 10/04/2012

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** As mandated by the Utah State Legislature during the 2011 General Session, Child and Family Services is required to collect some or all of the costs associated with drug testing from parents of children in state custody.

**SUMMARY OF THE RULE OR CHANGE:** The purpose of this new rule is to implement the copayment requirements for drug testing mandated by the Utah State Legislature (S.B. 2, Item 87, 2011 General Session).

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 62A-4a-102 and Section 62A-4a-105 and Section 62A-4a-109

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** Child and Family Services estimates a yearly savings to the state budget of \$132,600 (based on 2,210 copay drug tests per month at \$5 per test).
- ◆ **LOCAL GOVERNMENTS:** Child and Family Services determined that local governments are not affected by the rule and it will have no fiscal impact on them.
- ◆ **SMALL BUSINESSES:** Child and Family Services determined that small businesses are not affected by the rule and it will have no fiscal impact on them.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Child and Family Services estimates a \$132,600 cost to persons other than small businesses, businesses, or local government entities (based on 2,210 copay drug tests per month at \$5 per test).

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** A \$5 copay will be assessed per each adult drug test.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule will have no fiscal impact on businesses.

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

HUMAN SERVICES  
 CHILD AND FAMILY SERVICES  
 195 N 1950 W  
 SALT LAKE CITY, UT 84116  
 or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

- ◆ Carol Miller by phone at 801-557-1772, by FAX at 801-538-3993, or by Internet E-mail at carolmiller@utah.gov
- ◆ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhones@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/03/2012**

**THIS RULE MAY BECOME EFFECTIVE ON:** 12/10/2012

**AUTHORIZED BY:** Brent Platt, Director

**R512. Human Services, Child and Family Services.**

**R512-52. Drug Testing Copayment for Parents of Children in Child and Family Services Custody.**

**R512-52-1. Purpose.**

(1) As intended by the Utah State Legislature during the 2012 Legislative Session, Child and Family Services is required to collect some or all of the costs associated with drug testing from parents of children in state custody.

**R512-52-2. Authority.**

(1) This rule is authorized by Sections 62A-4a-102 and 62A-4a-109.

**R512-52-3. Applicability of Copayment.**

(1) The copayment applies:

(a) If a parent has a child in Child and Family Services custody in out-of-home placement.

(b) When a parent's drug testing is completed by a Child and Family Services' contracted drug testing provider.

(2) The copayment does not apply:

(a) When the parent is testing through a non-Child and Family Services contracted drug testing provider.

(b) To a parent with a child in Child and Family Services custody on a trial home placement with that parent.

(c) To a parent who does not have children in Child and Family Services custody, including:

- (i) Parents involved with Child Protective Services investigations.
- (ii) Parents involved with In-Home Services who have custody of their children.
- (iii) Parents involved with In-Home Services whose children are in the custody of kin or another caregiver.
- (d) Youth clients.
- (e) To a parent who has been ordered to pay the full cost of drug testing pursuant to Section 62A-4a-105(2)(b).

**R512-52-4. Amount and Collection of Copayment.**

- (1) The amount of the copayment is determined by Child and Family Services.
- (2) The collection of the copayment is performed by the Child and Family Services contracted drug testing provider at the time of specimen collection.
- (3) The copayment must be collected before the drug test can be performed. Failure by the parent to provide the copayment will result in a missed drug test.

**KEY: child welfare**

**Date of Enactment or Last Substantive Amendment: 2012**  
**Authorizing, and Implemented or Interpreted Law: 62A-4a-102; 62A-4a-105; 62A-4a-109**

**Labor Commission, Industrial Accidents**  
**R612-2-5**  
**Regulation of Medical Practitioner Fees**

**NOTICE OF PROPOSED RULE**

(Amendment)  
 DAR FILE NO.: 36942  
 FILED: 10/12/2012

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Pursuant to authority granted by Subsection 34A-2-407(9) of the Utah Workers' Compensation Act, this amendment constitutes the Utah Labor Commission's annual update of its regulation of medical fees for treatment of injured workers. The amendment incorporates by reference the most current relative value scale, coding guidelines, and medical fee guidelines. The amendment also adjusts conversion rates used in computing fees for various medical disciplines.

**SUMMARY OF THE RULE OR CHANGE:** This amendment incorporates by reference: 1) Optum Essential RBRVS, 2012 1st Quarter Emergency Update, 1761/RBRCU/U1766R/RBRC12/RBRC/U1766R ("RBRVS"); and 2) 2012 American Medical Association Current Procedural Terminology ("CPT") as the method for calculating reimbursement. Although the titles of these incorporated materials have changed from previous versions of this rule, their scope remains the same. The amendment incorporates by reference the Labor Commission 2013 Medical Fee Guidelines. The amendment

restores conversion rates for various medical disciplines that had been reduced last year in order to partially offset increase in the RBRVS. This amendment also removes the reference to a specific web site page for the Medical Fee Guidelines, and instead just directs readers to the Labor Commission's web site where the Guidelines can be downloaded.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 34A-1-104 and Section 34A-2-101 et seq. and Section 34A-3-101 et seq.

**MATERIALS INCORPORATED BY REFERENCES:**

- ◆ Updates 2013 Medical Fee Guideline, published by Labor Commission, 12/01/2012
- ◆ Updates Optum Essential RBRVS, published by Optum, 2012 1st Quarter
- ◆ Updates Current Procedural Terminology, published by American Medical Association, 2012

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** The amendment will have no effect on the Labor Commission's cost in administering the Utah Workers' Compensation Act. With respect to the amendment's fiscal effect on the state in its capacity as an employer, changes to the rules conversion rates will increase workers' compensation medical expense by approximately 0.9% and overall workers' compensation expense by 0.7%.
- ◆ **LOCAL GOVERNMENTS:** As a result of this amendment, local governments, in their capacities as employers, can anticipate a net increase in workers' compensation medical expenses of approximately 0.9%, which will in turn result in an increase in overall workers' compensation expenses of approximately 0.7%.
- ◆ **SMALL BUSINESSES:** As a result of this amendment, small businesses can anticipate a net increase in workers' compensation medical expenses of approximately 0.9%, which will in turn result in an increase in overall workers' compensation expenses of approximately 0.7%.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Overall, physicians, therapists and others who provide medical services to injured workers can anticipate a 2.9% increase in payments for those services.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The proposed rule does not impose any additional procedural requirements. It includes only a small increase in workers' compensation medical expenses, which should in turn result in only minimal compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** With the assistance and approval of the Utah Workers' Compensation Advisory Council, this amendment carefully balances the cost to employers from slightly higher workers' compensation medical payments with the need to maintain a medical fee structure that will encourage medical providers to provide services to injured workers. While it is anticipated that the amendment will increase workers' compensation

costs by approximately 0.9%, this modest increase is unlikely to have any significant fiscal impact on businesses, but is necessary to maintain the participation of medical providers within Utah's workers' compensation system.

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

LABOR COMMISSION  
INDUSTRIAL ACCIDENTS  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY, UT 84111-2316  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Ron Dressler by phone at 801-530-6841, by FAX at 801-530-6804, or by Internet E-mail at [rdressler@utah.gov](mailto:rdressler@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/03/2012

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2012

AUTHORIZED BY: Sherrie Hayashi, Commissioner

#### **R612. Labor Commission, Industrial Accidents.**

##### **R612-2. Workers' Compensation Rules-Health Care Providers.**

##### **R612-2-5. Regulation of Medical Practitioner Fees.**

Pursuant to Section 34A-2-407(9):

A. The Labor Commission of Utah:

1. Establishes and regulates fees and other charges for medical provider services as required for the treatment of a work-related injury or illness.

2. Adopts and by this reference incorporates the ~~[Ingenix]Optum~~ Essential RBRVS, 201[+]2 1st Quarter Emergency Update, ~~1761/RBRCU/1766R/RBRC12/RBRC/U1766R~~ ("RBRVS"), as the method for calculating reimbursement and the ~~[Ingenix 2011 Current Procedural Coding Expert]2012 American Medical Association Current Procedural Terminology~~ ("CPT").

a. The non-facility total unit value will apply in calculating the reimbursement, except that procedures provided in a facility setting shall be reimbursed at the facility total unit value and the facility may bill a separate facility charge.

b. The CPT ~~[coding guidelines]~~ and ~~[2011 First Quarter]~~ RBRVS, ~~[+761 Edition,]~~ are subject to the Utah Labor Commission's Medical Fee Guidelines and the following Labor Commission conversion factors for medical care rendered for a work-related injury or illness, effective December 1, 201[+]2: (Conversion Rates below EFFECTIVE December 1, 201[+]2, to be used with the RBRVS procedural Unit value as per specialty.)

Anesthesiology \$[40]41.00 (1 unit per 15 minutes of anesthesia);

Medicine, E and M \$[44]46.00;

Evaluation and Management codes 99201 - 99204 and 99211 - 99214 \$[44]46.00;

Pathology and Laboratory \$[50]52.00;

Radiology \$[54]53.00;

Restorative Services \$[44]46.00;

Surgery \$[36]37.00;

All 20000 codes, codes 49505 thru 49525 and all 60000 codes of the CPT-4 coding guidelines \$[56]58.00.

3. Adopts and incorporates by this reference the Utah Labor Commission's 201[2]3 Medical Fee Guidelines, effective December 1, 201[+]2. The Utah Medical Fee Guidelines can be obtained from the division for a fee sufficient to recover costs of development, printing, and mailing or can be downloaded at the Labor Commission's website, ~~[at http://laborecommission.utah.gov/Provider%20Page.html#WorkersCompensation.]~~

4. Decides appropriate billing procedure codes when disputes arise between the medical practitioner and the employer or its insurance carrier. In no instance will the medical practitioner bill both the employer and the insurance carrier.

B. Employees cannot be billed for treatment of their work-related injuries or illnesses.

C. Discounting from the fees established by the Labor Commission is allowed only through specific contracts between a medical provider and a payor for treatment of work-related injury or illness.

D. Restocking fee 15%. Rule R612-2-16 covers the restocking fee.

E. Dental fees are not published. Rule R612-2-18 covers dental injuries.

F. Ambulance fees are not published. Rule R612-2-19 covers ambulance charges.

G. For procedures not covered by other provisions of this rule, medical providers have three options.

1. Medical providers may request preauthorization for a procedure from the insurance carrier.

2. Medical providers may present evidence to Medical Fee Committee for incorporating a procedure into the Commission's fee schedule. However, such incorporation will have prospective effect only.

3. Medical providers may apply for hearing before the Commission's Adjudication Division pursuant to Subsection 34A-2-801(1)(c) to establish a reasonable fee for the procedure.

**KEY: workers' compensation, fees, medical practitioner**

**Date of Enactment or Last Substantive Amendment:**  
~~[November 21, 2011]2012~~

**Notice of Continuation: April 28, 2008**

**Authorizing, and Implemented or Interpreted Law: 34A-2-101 et seq.; 34A-3-101 et seq.; 34A-1-104**

Public Safety, Criminal Investigations  
and Technical Services, Criminal  
Identification  
**R722-300**  
Concealed Firearm Permit and  
Instructor Rule

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 36912

FILED: 10/03/2012

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this amendment is to clarify fees charged for initial application (both Utah residents and non-Utah residents), renewal applications for Concealed Firearm Permit holders and instructors, and late fees when renewing. As the fees are in statute, the rule will be general in nature with no specific fees listed.

**SUMMARY OF THE RULE OR CHANGE:** Change the specific fee amount as established in statute to general non-specific processing fee.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 53, Chapter 5

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** No aggregate anticipated cost or savings to the state budget. This rule amendment addresses the change in a specific fee for a service to a general one as it is already outlined in statute. The rule change will not affect the state budget nor are there any anticipated costs or savings.

◆ **LOCAL GOVERNMENTS:** No aggregate anticipated cost or savings to the local government. This rule amendment addresses the change in a specific fee for a service to a general one as it is already outlined in statute. The rule change will not affect local government nor are there any anticipated costs or savings.

◆ **SMALL BUSINESSES:** No aggregate anticipated cost or savings to small businesses. This rule amendment addresses the change in a specific fee for a service to a general one as it is already outlined in statute. The rule change will not affect small businesses nor are there any anticipated costs or savings.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities. This rule amendment addresses the change in a specific fee for a service to a general one as it is already outlined in statute. The rule change will not affect persons other than small businesses, businesses, or local government entities nor are there any anticipated costs or savings.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** No compliance costs. As this amended rule addresses the change from specific fees, already addressed in statute, to general fees there are no anticipated compliance costs for affected persons addressed in the answers above.

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

because it changes specific fees (already in statute) to general, non-specific fees.

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

PUBLIC SAFETY  
CRIMINAL INVESTIGATIONS AND TECHNICAL  
SERVICES, CRIMINAL IDENTIFICATION  
3888 W 5400 S  
TAYLORSVILLE, UT 84118  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Alice Moffat by phone at 801-965-4939, by FAX at 801-965-4944, or by Internet E-mail at aerickso@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/03/2012

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2012

AUTHORIZED BY: Alice Moffat, Bureau Chief

**R722. Public Safety, Criminal Investigations and Technical Services, Criminal Identification.****R722-300. Concealed Firearm Permit and Instructor Rule.****R722-300-4. Application for a Permit to Carry a Concealed Firearm.**

(1)(a) An applicant seeking to obtain a permit must submit a completed permit application packet to the bureau.

(b) The permit application packet shall include:

(i) a written application form provided by the bureau which shall include the address of the applicant's permanent residence;

(ii) a photocopy of a state-issued driver license or identification card;

(iii) one recent color photograph of passport quality which contains the applicant's name written on the back of the photograph;

(iv) one completed FBI applicant fingerprint card (Form FD-258) with the applicant's legible fingerprints;

(v) a non-refundable processing fee [~~of \$60.00 for Utah residents and \$65.00 for nonresidents,~~] in the form of cash, check, money order, or credit card, which consists of the fee established by Section 53-5-704 and 53-5-707, along with the FBI fingerprint processing fee;

(vi) evidence indicating that the applicant has general familiarity with the types of firearms to be concealed as required by Subsection 53-5-704(6)(d);

(vii) any mitigating information that the applicant wishes the bureau to consider when determining whether the applicant meets the qualifications set forth in Subsection 53-5-704(2)(a); and

(viii) if the applicant is a nonresident who resides in a state that recognizes the validity of the Utah permit or has reciprocity with Utah's concealed firearm permit law, a copy of the applicant's current concealed firearm permit or concealed weapon permit issued by the applicant's state of residency.

(2) An applicant may establish evidence of general familiarity with the types of firearms to be concealed as required in Subsection 53-5-704(6)(d) by submitting a signed certificate, issued within one year of the date of the application, bearing a certified firearms instructor's official seal, certifying that the applicant has completed the required firearms course of instruction established by the bureau.

(3) If the applicant is employed as a law enforcement officer, the applicant:

(i) shall not be required to pay the application fee; and

(ii) may establish evidence of general familiarity with the types of firearms to be concealed as required in Subsection 53-5-704(6)(d) by submitting documentation from a law enforcement agency located within the state of Utah indicating that the applicant has successfully completed the firearm qualification requirements of that agency within the last five years.

(4)(a) Upon receipt of a complete permit application packet, the bureau shall conduct a thorough background investigation to determine if the applicant meets the requirements found in Subsections 53-5-704(2) and (3).

(b) The background investigation shall consist of the following:

(i) sending the fingerprint card to the FBI for a review of the applicant's criminal history record pursuant to Section 53-5-706; and

(ii) verifying the accuracy of the information provided in the application packet through a search of local, state and national records which may include, but is not limited to, the following:

(A) the Utah Computerized Criminal History database;

(B) the National Crime Information Center database;

(C) the Utah Law Enforcement Information Network;

(D) state driver license records;

(E) the Utah Statewide Warrants System;

(F) juvenile court criminal history files;

(G) expungement records maintained by the bureau;

(H) the National Instant Background Check System;

(I) the Utah Gun Check Inquiry Database;

(J) Immigration and Customs Enforcement records; and

(K) Utah Department of Corrections Offender Tracking

System; and

(L) the Mental Gun Restrict Database.

(5)(a) If the background check indicates that an applicant does not meet the qualifications set forth in Subsection 53-5-704(2) (a), the bureau shall consider any mitigating circumstances submitted by the applicant.

(b) If the applicant does not meet the qualifications set forth in Subsection 53-5-704(2)(a) because the applicant has been convicted of a crime, the bureau may find that mitigating circumstances exist if the applicant was not convicted of a registerable sex offense, as defined in Subsection 77-27-21.5(1)(n), and the following time periods have elapsed from the date the applicant was convicted or released from incarceration, parole, or probation, whichever occurred last:

(i) five years in the case of a class A misdemeanor;

(ii) four years in the case of a class B misdemeanor; or

(iii) three years in the case of any other misdemeanor or infraction.

(c) Notwithstanding any other provision, the bureau may not grant a permit if the applicant does not meet the qualifications in Subsection 53-5-704(2)(a)(viii).

(6)(a) If the bureau determines that the applicant meets the requirements found in Subsection 53-5-704(2) and (3), the bureau shall issue a permit to the applicant within 60 days.

(b) The permit shall be mailed to the applicant at the address listed on the application.

(7)(a) If the bureau determines that the applicant does not meet the requirements found in Subsection 53-5-704(2) and (3), the bureau shall mail a letter of denial to the applicant, return receipt requested.

(b) The denial letter shall state the reasons for denial and indicate that the applicant has a right to request a review hearing before the board by filing a petition for review within 60 days as provided in Section 53-5-704(16).

#### **R722-300-5. Application for a Concealed Firearms Instructor Certification.**

(1)(a) An applicant seeking to be certified as a Utah concealed firearms instructor must submit a completed instructor certification application packet to the bureau.

(b) The instructor certification application packet shall include:

(i) a written instructor certification application form provided by the bureau;

(ii) a photocopy of a state-issued driver license or identification card;

(iii) one recent color photograph of passport quality which contains the applicant's name written on the back of the photograph;

(iv) a non-refundable processing fee [~~of \$50.00,~~] in the form of cash, check, money order, or credit card;

(v) evidence that the applicant has completed a firearm instructor training course from the NRA or POST, or received training equivalent to one of these courses, as required by Subsection 53-5-704(9)(a)(iii); and

(vi) evidence that the applicant has completed the course of instruction provided under the direction of the bureau and passed the certification test provided in Subsection 53-5-704(9)(c), within one year of the date of the application.

(2)(a) An applicant who has not completed a firearm instructor training course from the NRA or POST, may meet the requirement in R722-300-5(1)(b)(v) by providing evidence that the applicant has completed a firearm instructor training course that is at least eight (8) hours long and includes the following training components:

(i) instruction and demonstration on:

(A) the safe, effective, and proficient use and handling of firearms;

(B) firearm draw strokes;

(C) the safe loading, unloading and storage of firearms;

(D) the parts and operation of a handgun;

(E) firearm ammunition and ammunition malfunctions, including misfires, hang fires, squib loads, and defensive/protection ammunition vs. practice ammunition;

(F) firearm malfunctions, including failure to fire, failure to eject, feed way stoppage and failure to go into battery;

(G) shooting fundamentals, including shooter's stance, etc.; and

(H) firearm range safety rules; and

(ii) a practical exercise with a proficiency qualification course consisting of not less than 30 rounds and a required score of 80% or greater to pass.

(b) The evidence required in R722-300-5(2)(a) shall include a copy of the:

(i) course completion certificate showing the date the course was completed and the number of training hours completed; and

(ii) training curriculum for the course completed.

(3)(a) If the bureau determines that an applicant meets the requirements found in Subsection 53-5-704(9), the bureau shall issue an instructor certification to the applicant.

(b) An instructor certification identification card shall be mailed to the applicant at the address listed on the application.

(4)(a) If the bureau determines that the applicant does not meet the requirements found in Subsection 53-5-704(9), the bureau shall mail a denial letter to the applicant, return receipt requested.

(b) The denial letter shall state the reasons for denial and indicate that the applicant has a right to request a review hearing before the board by filing a petition for review within 60 days as provided in Section 53-5-704(16).

**R722-300-6. Renewal of a Concealed Firearms Permit or Concealed Firearms Instructor Certification.**

(1)(a) An applicant seeking to renew a permit or an instructor certification must submit a completed renewal packet to the bureau.

(b) The renewal packet shall include:

(i) a written renewal form provided by the bureau which shall include the current address of the applicant's permanent residence;

(ii) one recent color photograph of passport quality which contains the applicant's name written on the back of the photograph; and

(iv) a non-refundable processing fee in the form of cash, check, money order, or credit card [~~which is \$15.00 fee to renew a permit or \$25.00 fee to renew an instructor certification~~].

(2) In addition to the items listed in Subsection (1)(b), an instructor seeking to renew an instructor certification must submit evidence that the instructor has completed the course of instruction provided under the direction of the bureau and passed the certification test provided in Subsection 53-5-704(9)(c), within one year of the date of the application.

(3) A renewal packet may be submitted no earlier than 60 days prior to the expiration of a current permit or certification.

(4) A fee [~~consisting of \$7.50~~] will be collected for renewal packets submitted on a permit or an instructor certification that has been expired for more than thirty days but less than one year.

(b) Renewal packets for a permit or an instructor certification which has been expired for more than one year will not be accepted and the applicant will have to re-apply for a permit or an instructor certification.

(5) When renewing a permit or an instructor certification the bureau shall conduct a background investigation.

(6)(a) If the bureau determines that the applicant meets the requirements to renew a permit or an instructor certification, the bureau shall mail the renewed permit or instructor certification identification card to the applicant.

(b) The renewed permit or instructor certification identification card shall be mailed to the applicant at the address listed on the renewal application.

(7)(a) If the bureau determines that the applicant does not meet the requirements to renew a permit or an instructor certification, the bureau shall mail a denial letter to the applicant, return receipt requested.

(b) The denial letter shall state the reasons for denial and indicate that the applicant has a right to request a review hearing before the board by filing a petition for review within 60 days as provided in Section 53-5-704(16).

**KEY: concealed firearm permits, concealed firearm permit instructors**

**Date of Enactment or Last Substantive Amendment: [~~March 9,~~ 2012**

**Authorizing, and Implemented or Interpreted Law: 53-5-701 through 53-5-711**

**Tax Commission, Property Tax  
R884-24P-53  
2012 Valuation Guides for Valuation of  
Land Subject to the Farmland  
Assessment Act Pursuant to Utah Code  
Ann. Section 59-2-515**

**NOTICE OF PROPOSED RULE  
(Amendment)**

DAR FILE NO.: 36939  
FILED: 10/11/2012

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This amendment annually updates the agricultural productive values to be applied by county assessors to land qualifying for valuation and assessment under the Farmland Assessment Act. The values are recommended to the Commission by the State Farmland Evaluation Advisory Committee, which meets under the authority of Section 59-2-514.

**SUMMARY OF THE RULE OR CHANGE:** Section 59-2-515 authorizes the State Tax Commission to promulgate rules regarding the Property Tax Act, Part 5, Farmland Assessment Act. Section 59-2-514 authorizes the State Tax Commission to receive valuation recommendations from the State Farmland Advisory Committee for implementation as outlined in Section R884-24P-53.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 59-2-515

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** The amount of savings or cost to state government is undetermined. The state receives tax revenue for assessing and collecting and for the Education Fund based on increased or decreased real and personal property valuation, including property assessed under the Farmland Assessment Act (FAA). Property valuation (taxable value) changes have been recommended by class and by county. This year, 119 class/county valuations will increase, 125 will decrease, and 220 will remain unchanged. No total cost or savings could be calculated without an exhaustive study of farmland acreage in each county by class, a listing of property newly qualified for FAA assessment during 2013, and a listing of property no longer qualifying that is removed from FAA during 2012. However, it is estimated that the overall change is minimal due to this amendment.

◆ **LOCAL GOVERNMENTS:** The amount of saving or cost to local government is undetermined. Local governmental entities receive tax revenue based on increased or decreased property valuation, including property assessed under FAA. Property valuation changes have been recommended by class and by county. This year, 119 class/county valuations will increase, 125 will decrease, and 220 will remain unchanged. No total cost or savings could be calculated without an exhaustive study of farmland acreage in each county by class, a listing of property newly-qualified for FAA during 2013, and a listing of property no longer qualifying that is removed from FAA during 2012. However, it is estimated that the overall change is minimal due to this amendment. County assessor offices statewide will be required to input the new value indicators into their computer systems to be applied against the acreage for individual properties. This input process is easily accomplished on an annual basis and represents no significant cost in time or money to the assessors' offices.

◆ **SMALL BUSINESSES:** Each property owner with property eligible for assessment under FAA may see a change in value, depending on property class and situs county as 119 such value indicators will increase, 125 will decrease, and 220 will not change. The effect on the property owner will be valuation increase, decrease, or no change depending on the mix of property types and situs. No aggregate compliance cost can be determined without an exhaustive study of farmland acreage in each county by class, a listing of property newly-qualified for FAA during 2013, and a listing of property no longer qualifying which is removed from FAA during 2012. In addition, the compliance cost will further be altered by changes to local property tax rates. However, it is estimated that the overall change due to this amendment is minimal.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Each property owner with property eligible for assessment under FAA may see a change in value, depending on property class and situs county as 119 such value indicators

will increase, 125 will decrease, and 220 will not change. The effect on the property owner will be valuation increase, decrease, or no change depending on the mix of property types and situs. No aggregate compliance cost can be determined without an exhaustive study of farmland acreage in each county by class, a listing of property newly-qualified for FAA during 2013, and a listing of property no longer qualifying which is removed from FAA during 2012. In addition, the compliance cost will further be altered by changes to local property tax rates. However, it is estimated that the overall change due to this amendment is minimal.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Each property owner with property eligible for assessment under FAA may see a change in value, depending on property class and situs county as 119 such value indicators will increase, 125 will decrease, and 220 will not change. The effect on the property owner will be valuation increase, decrease, or no change depending on the mix of property types and situs. No aggregate compliance cost can be determined without an exhaustive study of farmland acreage in each county by class, a listing of property newly-qualified for FAA during 2013, and a listing of property no longer qualifying which is removed from FAA during 2012. In addition, the compliance cost will further be altered by changes to local property tax rates. However, it is estimated that the overall change due to this amendment is minimal.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** These changes may affect the property values which may result in a change of property tax amounts due.

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

TAX COMMISSION  
PROPERTY TAX  
210 N 1950 W  
SALT LAKE CITY, UT 84134  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Christa Johnson by phone at 801-297-3901, by FAX at 801-297-3907, or by Internet E-mail at [cj@utah.gov](mailto:cj@utah.gov)

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/03/2012**

**INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:**

◆ 12/13/2012 09:00 AM, Utah State Tax Commission, 210 N 1950 W, Salt Lake City, UT

**THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2012**

**AUTHORIZED BY:** Michael Cragun, Tax Commissioner

**R884. Tax Commission, Property Tax.**

**R884-24P. Property Tax.**

**R884-24P-53. [2012]2013 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515.**

(1) Each year the Property Tax Division shall update and publish schedules to determine the taxable value for land subject to the Farmland Assessment Act on a per acre basis.

(a) The schedules shall be based on the productivity of the various types of agricultural land as determined through crop budgets and net rents.

(b) Proposed schedules shall be transmitted by the Property Tax Division to county assessors for comment before adoption.

(c) County assessors may not deviate from the schedules.

(d) Not all types of agricultural land exist in every county. If no taxable value is shown for a particular county in one of the tables, that classification of agricultural land does not exist in that county.

(2) All property qualifying for agricultural use assessment pursuant to Section 59-2-503 shall be assessed on a per acre basis as follows:

(a) Irrigated farmland shall be assessed under the following classifications.

(i) Irrigated I. The following counties shall assess Irrigated I property based upon the per acre values listed below:

TABLE 1  
Irrigated I

1) Box Elder	[852] 872
2) Cache	[740] 752
3) Carbon	[552] 560
4) Davis	[893] 914
5) Emery	[530] 537
6) Iron	[848] 851
7) Kane	[444] 449
8) Millard	[840] 853
9) Salt Lake	[742] 763
10) Utah	[782] 801
11) Washington	[695] 703
12) Weber	[843] 856

(ii) Irrigated II. The following counties shall assess Irrigated II property based upon the per acre values listed below:

TABLE 2  
Irrigated II

1) Box Elder	[748] 766
2) Cache	[632] 642
3) Carbon	[440] 446
4) Davis	[784] 803
5) Duchesne	[514] 523
6) Emery	[427] 432
7) Grand	[410] 414
8) Iron	[744] 746
9) Juab	[468] 477
10) Kane	[341] 345
11) Millard	[737] 748
12) Salt Lake	[638] 656
13) Sanpete	[569] 576
14) Sevier	[593] 602
15) Summit	[491] 497
16) Tooele	[480] 487
17) Utah	[677] 693
18) Wasatch	[518] 524

19) Washington	[592] 599
20) Weber	[739] 751

(iii) Irrigated III. The following counties shall assess Irrigated III property based upon the per acre values listed below:

TABLE 3  
Irrigated III

1) Beaver	[602] 610
2) Box Elder	[609] 603
3) Cache	[479] 487
4) Carbon	[291] 295
5) Davis	[631] 646
6) Duchesne	[361] 367
7) Emery	[269] 272
8) Garfield	[224] 227
9) Grand	[258] 261
10) Iron	[591] 593
11) Juab	[315] 321
12) Kane	[189] 191
13) Millard	[583] 592
14) Morgan	[411] 416
15) Piute	[354] 358
16) Rich	[188] 191
17) Salt Lake	[485] 499
18) San Juan	[189] 195
19) Sanpete	[416] 422
20) Sevier	[442] 448
21) Summit	[334] 338
22) Tooele	[322] 326
23) Uintah	[391] 397
24) Utah	[519] 531
25) Wasatch	[359] 364
26) Washington	[435] 440
27) Wayne	[350] 354
28) Weber	[588] 597

(iv) Irrigated IV. The following counties shall assess Irrigated IV property based upon the per acre values listed below:

TABLE 4  
Irrigated IV

1) Beaver	[495] 502
2) Box Elder	[486] 498
3) Cache	[372] 378
4) Carbon	[187] 190
5) Daggett	[206] 208
6) Davis	[527] 540
7) Duchesne	[253] 257
8) Emery	[166] 169
9) Garfield	[121] 122
10) Grand	[156] 158
11) Iron	[483] 484
12) Juab	[209] 213
13) Kane	[86] 87
14) Millard	[475] 482
15) Morgan	[304] 308
16) Piute	[247] 250
17) Rich	[88] 89
18) Salt Lake	[376] 387
19) San Juan	[86] 89
20) Sanpete	[313] 317
21) Sevier	[339] 343
22) Summit	[232] 234
23) Tooele	[219] 222
24) Uintah	[289] 293
25) Utah	[417] 427
26) Wasatch	[257] 260
27) Washington	[327] 331
28) Wayne	[247] 250
29) Weber	[479] 487

(b) Fruit orchards shall be assessed per acre based upon the following schedule:

TABLE 5  
Fruit Orchards

1)	Beaver	[ <del>600</del> ] <u>588</u>
2)	Box Elder	[ <del>650</del> ] <u>637</u>
3)	Cache	[ <del>600</del> ] <u>588</u>
4)	Carbon	[ <del>600</del> ] <u>588</u>
5)	Davis	[ <del>655</del> ] <u>642</u>
6)	Duchesne	[ <del>600</del> ] <u>588</u>
7)	Emery	[ <del>600</del> ] <u>588</u>
8)	Garfield	[ <del>600</del> ] <u>588</u>
9)	Grand	[ <del>600</del> ] <u>588</u>
10)	Iron	[ <del>600</del> ] <u>588</u>
11)	Juab	[ <del>600</del> ] <u>588</u>
12)	Kane	[ <del>600</del> ] <u>588</u>
13)	Millard	[ <del>600</del> ] <u>588</u>
14)	Morgan	[ <del>600</del> ] <u>588</u>
15)	Piute	[ <del>600</del> ] <u>588</u>
16)	Salt Lake	[ <del>600</del> ] <u>588</u>
17)	San Juan	[ <del>600</del> ] <u>588</u>
18)	Sanpete	[ <del>600</del> ] <u>588</u>
19)	Sevier	[ <del>600</del> ] <u>588</u>
20)	Summit	[ <del>600</del> ] <u>588</u>
21)	Tooele	[ <del>600</del> ] <u>588</u>
22)	Uintah	[ <del>600</del> ] <u>588</u>
23)	Utah	[ <del>660</del> ] <u>647</u>
24)	Wasatch	[ <del>600</del> ] <u>588</u>
25)	Washington	[ <del>710</del> ] <u>696</u>
26)	Wayne	[ <del>600</del> ] <u>588</u>
27)	Weber	[ <del>655</del> ] <u>642</u>

(d) Dry land shall be classified as one of the following two categories and shall be assessed on a per acre basis as follows:

(i) Dry III. The following counties shall assess Dry III property based upon the per acre values listed below:

TABLE 7  
Dry III

1)	Beaver	56
2)	Box Elder	102
3)	Cache	129
4)	Carbon	53
5)	Davis	55
6)	Duchesne	58
7)	Garfield	52
8)	Grand	53
9)	Iron	53
10)	Juab	54
11)	Kane	52
12)	Millard	51
13)	Morgan	69
14)	Rich	52
15)	Salt Lake	58
16)	San Juan	59
17)	Sanpete	58
18)	Summit	52
19)	Tooele	56
20)	Uintah	58
21)	Utah	54
22)	Wasatch	52
23)	Washington	52
24)	Weber	83

(c) Meadow IV property shall be assessed per acre based upon the following schedule:

TABLE 6  
Meadow IV

1)	Beaver	247
2)	Box Elder	266
3)	Cache	275
4)	Carbon	[ <del>132</del> ] <u>133</u>
5)	Daggett	[ <del>161</del> ] <u>163</u>
6)	Davis	[ <del>275</del> ] <u>278</u>
7)	Duchesne	[ <del>168</del> ] <u>170</u>
8)	Emery	[ <del>141</del> ] <u>142</u>
9)	Garfield	[ <del>106</del> ] <u>107</u>
10)	Grand	[ <del>136</del> ] <u>137</u>
11)	Iron	[ <del>265</del> ] <u>268</u>
12)	Juab	[ <del>154</del> ] <u>156</u>
13)	Kane	[ <del>111</del> ] <u>112</u>
14)	Millard	[ <del>198</del> ] <u>200</u>
15)	Morgan	[ <del>200</del> ] <u>202</u>
16)	Piute	[ <del>194</del> ] <u>196</u>
17)	Rich	108
18)	Salt Lake	231
19)	Sanpete	[ <del>197</del> ] <u>199</u>
20)	Sevier	[ <del>202</del> ] <u>204</u>
21)	Summit	[ <del>206</del> ] <u>207</u>
22)	Tooele	[ <del>190</del> ] <u>192</u>
23)	Uintah	[ <del>210</del> ] <u>212</u>
24)	Utah	[ <del>255</del> ] <u>257</u>
25)	Wasatch	[ <del>212</del> ] <u>214</u>
26)	Washington	[ <del>232</del> ] <u>234</u>
27)	Wayne	[ <del>176</del> ] <u>177</u>
28)	Weber	[ <del>308</del> ] <u>311</u>

(ii) Dry IV. The following counties shall assess Dry IV property based upon the per acre values listed below:

TABLE 8  
Dry IV

1)	Beaver	17
2)	Box Elder	64
3)	Cache	90
4)	Carbon	16
5)	Davis	17
6)	Duchesne	21
7)	Garfield	16
8)	Grand	16
9)	Iron	16
10)	Juab	17
11)	Kane	16
12)	Millard	15
13)	Morgan	31
14)	Rich	16
15)	Salt Lake	17
16)	San Juan	19
17)	Sanpete	21
18)	Summit	16
19)	Tooele	16
20)	Uintah	21
21)	Utah	17
22)	Wasatch	16
23)	Washington	15
24)	Weber	48

(e) Grazing land shall be classified as one of the following four categories and shall be assessed on a per acre basis as follows:

(i) Graze I. The following counties shall assess Graze I property based upon the per acre values listed below:

TABLE 9  
GR I

1) Beaver	[74] 75
2) Box Elder	[78] 76
3) Cache	[74] 73
4) Carbon	53
5) Daggett	[65] 54
6) Davis	[63] 62
7) Duchesne	[71] 70
8) Emery	[74] 73
9) Garfield	[79] 80
10) Grand	[80] 81
11) Iron	[76] 77
12) Juab	[67] 66
13) Kane	[77] 75
14) Millard	79
15) Morgan	69
16) Piute	[93] 92
17) Rich	67
18) Salt Lake	[71] 70
19) San Juan	[79] 80
20) Sanpete	[65] 64
21) Sevier	[66] 65
22) Summit	74
23) Tooele	73
24) Uintah	[83] 84
25) Utah	[68] 67
26) Wasatch	[54] 53
27) Washington	[67] 66
28) Wayne	91
29) Weber	[71] 72

(iii) Graze III. The following counties shall assess Graze III property based upon the per acre values listed below:

TABLE 11  
GR III

1) Beaver	17
2) Box Elder	18
3) Cache	16
4) Carbon	13
5) Daggett	12
6) Davis	13
7) Duchesne	14
8) Emery	15
9) Garfield	17
10) Grand	16
11) Iron	16
12) Juab	14
13) Kane	16
14) Millard	17
15) Morgan	14
16) Piute	19
17) Rich	14
18) Salt Lake	15
19) San Juan	17
20) Sanpete	14
21) Sevier	14
22) Summit	15
23) Tooele	14
24) Uintah	20
25) Utah	14
26) Wasatch	13
27) Washington	14
28) Wayne	19
29) Weber	15

(ii) Graze II. The following counties shall assess Graze II property based upon the per acre values listed below:

TABLE 10  
GR II

1) Beaver	23
2) Box Elder	[24] 23
3) Cache	24
4) Carbon	16
5) Daggett	15
6) Davis	20
7) Duchesne	23
8) Emery	22
9) Garfield	24
10) Grand	23
11) Iron	23
12) Juab	20
13) Kane	[25] 24
14) Millard	25
15) Morgan	22
16) Piute	27
17) Rich	21
18) Salt Lake	22
19) San Juan	26
20) Sanpete	19
21) Sevier	19
22) Summit	21
23) Tooele	21
24) Uintah	29
25) Utah	24
26) Wasatch	18
27) Washington	22
28) Wayne	29
29) Weber	21

(iv) Graze IV. The following counties shall assess Graze IV property based upon the per acre values listed below:

TABLE 12  
GR IV

1) Beaver	6
2) Box Elder	5
3) Cache	5
4) Carbon	5
5) Daggett	5
6) Davis	5
7) Duchesne	5
8) Emery	6
9) Garfield	5
10) Grand	6
11) Iron	6
12) Juab	5
13) Kane	5
14) Millard	5
15) Morgan	6
16) Piute	6
17) Rich	5
18) Salt Lake	5
19) San Juan	5
20) Sanpete	5
21) Sevier	5
22) Summit	5
23) Tooele	5
24) Uintah	6
25) Utah	5
26) Wasatch	5
27) Washington	5
28) Wayne	5
29) Weber	6

(f) Land classified as nonproductive shall be assessed as follows on a per acre basis:

TABLE 13 Nonproductive Land	
Nonproductive Land	
1) All Counties	5

**KEY: taxation, personal property, property tax, appraisals**  
**Date of Enactment or Last Substantive Amendment: [July 26,] 2012**  
**Notice of Continuation: January 3, 2012**  
**Authorizing, and Implemented or Interpreted Law: Art. XIII, Sec 2; 9-2-201; 11-13-302; 41-1a-202; 41-1a-301; 59-1-210; 59-2-102; 59-2-103; 59-2-103.5; 59-2-104; 59-2-201; 59-2-210; 59-2-211; 59-2-301; 59-2-301.3; 59-2-302; 59-2-303; 59-2-303.1; 59-2-305; 59-2-306; 59-2-401; 59-2-402; 59-2-404; 59-2-405; 59-2-405.1; 59-2-406; 59-2-508; 59-2-514; 59-2-515; 59-2-701; 59-2-702; 59-2-703; 59-2-704; 59-2-704.5; 59-2-705; 59-2-801; 59-2-918 through 59-2-924; 59-2-1002; 59-2-1004; 59-2-1005; 59-2-1006; 59-2-1101; 59-2-1102; 59-2-1104; 59-2-1106; 59-2-1107 through 59-2-1109; 59-2-1113; 59-2-1115; 59-2-1202; 59-2-1202(5); 59-2-1302; 59-2-1303; 59-2-1308.5; 59-2-1317; 59-2-1328; 59-2-1330; 59-2-1347; 59-2-1351; 59-2-1365**

**Tax Commission, Property Tax**  
**R884-24P-66**  
**County Board of Equalization**  
**Procedures and Appeals Pursuant to**  
**Utah Code Ann. Section 59-2-1004**

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE NO.: 36940  
 FILED: 10/11/2012

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The proposed amendment corrects an oversight that occurred in the previous amendment to this section.

**SUMMARY OF THE RULE OR CHANGE:** The proposed amendment specifies that the county shall notify a taxpayer of a defect in the evidence or documentation required to achieve standing with the county board of equalization in writing. Due to an oversight in drafting, the previous amendment to this section did not require the notice to be in writing. This amendment matches current practice.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 59-2-1004

**ANTICIPATED COST OR SAVINGS TO:**  
 ♦ **THE STATE BUDGET:** None--Property tax revenues are local revenues.

- ♦ **LOCAL GOVERNMENTS:** None--The amendment is consistent with current practice.
- ♦ **SMALL BUSINESSES:** None--The amendment is consistent with current practice.
- ♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--The amendment is consistent with current practice.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** None--The amendment is consistent with current practice.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This amendment creates no fiscal impact as it reflects current practice.

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

TAX COMMISSION  
 PROPERTY TAX  
 210 N 1950 W  
 SALT LAKE CITY, UT 84134  
 or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
 ♦ Christa Johnson by phone at 801-297-3901, by FAX at 801-297-3907, or by Internet E-mail at [cj@utah.gov](mailto:cj@utah.gov)

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/03/2012**

**INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:**  
 ♦ 12/13/2012 09:00 AM, Utah State Tax Commission, 210 N 1950 W, Salt Lake City, UT

**THIS RULE MAY BECOME EFFECTIVE ON:** 12/10/2012

**AUTHORIZED BY:** Michael Cragun, Tax Commissioner

**R884. Tax Commission, Property Tax.**  
**R884-24P. Property Tax.**  
**R884-24P-66. County Board of Equalization Procedures and Appeals Pursuant to Utah Code Ann. Section 59-2-1004.**

- (1)(a) "Factual error" means an error that is:
  - (i) objectively verifiable without the exercise of discretion, opinion, or judgment;
  - (ii) demonstrated by clear and convincing evidence; and
  - (iii) agreed upon by the taxpayer and the assessor.
- (b) Factual error includes:
  - (i) a mistake in the description of the size, use, or ownership of a property;
  - (ii) a clerical or typographical error in reporting or entering the data used to establish valuation or equalization;
  - (iii) an error in the classification of a property that is eligible for a property tax exemption under:
    - (A) Section 59-2-103; or

(B) Title 59, Chapter 2, Part 11;

(iv) an error in the classification of a property that is eligible for assessment under Title 59, Chapter 2, Part 5;

(v) valuation of a property that is not in existence on the lien date; and

(vi) a valuation of a property assessed more than once, or by the wrong assessing authority.

(c) Factual error does not include:

(i) an alternative approach to value;

(ii) a change in a factor or variable used in an approach to value; or

(iii) any other adjustment to a valuation methodology.

(2) If the county has not formally adopted board of equalization rules and procedures under Section 59-2-1001 that have been approved by the commission, the procedures contained in this rule must be followed.

(3) To achieve standing with the county board of equalization and have a decision rendered on the merits of the case, the taxpayer shall provide the following minimum information to the county board of equalization:

(a) the name and address of the property owner;

(b) the identification number, location, and description of the property;

(c) the value placed on the property by the assessor;

(d) the taxpayer's estimate of the fair market value of the property;

(e) evidence or documentation that supports the taxpayer's claim for relief; and

(f) the taxpayer's signature.

(4) If the evidence or documentation required under Subsection (3)(e) is not attached, the county will notify the taxpayer in writing of the defect in the claim and permit at least ten calendar days to cure the defect before dismissing the matter for lack of sufficient evidence to support the claim for relief.

(5) If the taxpayer appears before the county board of equalization and fails to produce the evidence or documentation described under Subsection (3)(e) and the county has notified the taxpayer under Subsection (4), the county may dismiss the matter for lack of evidence to support a claim for relief.

(6) If the information required under Subsection (3) is supplied, the county board of equalization shall render a decision on the merits of the case.

(7) The county board of equalization may dismiss an appeal for lack of jurisdiction when the claimant limits arguments to issues not under the jurisdiction of the county board of equalization.

(8) The county board of equalization shall prepare and maintain a record of the appeal.

(a) For appeals concerning property value, the record shall include:

(i) the name and address of the property owner;

(ii) the identification number, location, and description of the property;

(iii) the value placed on the property by the assessor;

(iv) the basis for appeal stated in the taxpayer's appeal;

(v) facts and issues raised in the hearing before the county board that are not clearly evident from the assessor's records; and

(vi) the decision of the county board of equalization and the reasons for the decision.

(b) The record may be included in the minutes of the hearing before the county board of equalization.

(9)(a) The county board of equalization shall notify the taxpayer in writing of its decision.

(b) The notice required under Subsection (9)(a) shall include:

(i) the name and address of the property owner;

(ii) the identification number of the property;

(iii) the date the notice was sent;

(iv) a notice of appeal rights to the commission; and

(v) a statement of the decision of the county board of equalization; or

(vi) a copy of the decision of the county board of equalization.

(10) A county shall maintain a copy of a notice sent to a taxpayer under Subsection (9).

(11) If a decision affects the exempt status of a property, the county board of equalization shall prepare its decision in writing, stating the reasons and statutory basis for the decision.

(12) Decisions by the county board of equalization are final orders on the merits.

(13) Except as provided in Subsection (15), a county board of equalization shall accept an application to appeal the valuation or equalization of a property owner's real property that is filed after the time period prescribed by Section 59-2-1004(2)(a) if any of the following conditions apply:

(a) During the period prescribed by Section 59-2-1004(2), the property owner was incapable of filing an appeal as a result of a medical emergency to the property owner or an immediate family member of the property owner, and no co-owner of the property was capable of filing an appeal.

(b) During the period prescribed by Section 59-2-1004(2), the property owner or an immediate family member of the property owner died, and no co-owner of the property was capable of filing an appeal.

(c) The county did not comply with the notification requirements of Section 59-2-919.1.

(d) A factual error is discovered in the county records pertaining to the subject property.

(e) The property owner was unable to file an appeal within the time period prescribed by Section 59-2-1004(2)(a) because of extraordinary and unanticipated circumstances that occurred during the period prescribed by Section 59-2-1004(2)(a), and no co-owner of the property was capable of filing an appeal.

(14) Appeals accepted under Subsection (13)(d) shall be limited to correction of the factual error and any resulting changes to the property's valuation.

(15) The provisions of Subsection (13) apply only to appeals filed for a tax year for which the treasurer has not made a final annual settlement under Section 59-2-1365.

(16) The provisions of this rule apply only to appeals to the county board of equalization. For information regarding appeals of county board of equalization decisions to the Commission, please see Section 59-2-1006 and R861-1A-9.

**KEY: taxation, personal property, property tax, appraisals**  
**Date of Enactment or Last Substantive Amendment: July 26, 2012**

**Notice of Continuation: January 3, 2012**

**Authorizing, and Implemented or Interpreted Law: Art. XIII, Sec 2; 9-2-201; 11-13-302; 41-1a-202; 41-1a-301; 59-1-210; 59-2-102; 59-2-103; 59-2-103.5; 59-2-104; 59-2-201; 59-2-210; 59-2-211; 59-2-301; 59-2-301.3; 59-2-302; 59-2-303; 59-2-303.1; 59-2-305; 59-2-306; 59-2-401; 59-2-402; 59-2-404; 59-2-405; 59-2-405.1; 59-2-406; 59-2-508; 59-2-514; 59-2-515; 59-2-701; 59-2-702; 59-2-703; 59-2-704; 59-2-704.5; 59-2-705; 59-2-801; 59-2-918 through 59-2-924; 59-2-1002; 59-2-1004; 59-2-1005; 59-2-1006; 59-2-1101; 59-2-1102; 59-2-1104; 59-2-1106; 59-2-1107 through 59-2-1109; 59-2-1113; 59-2-1115; 59-2-1202; 59-2-1202(5); 59-2-1302; 59-2-1303; 59-2-1308.5; 59-2-1317; 59-2-1328; 59-2-1330; 59-2-1347; 59-2-1351; 59-2-1365**

**Transportation, Operations, Traffic and  
Safety  
R920-4  
Special Road Use**

**NOTICE OF PROPOSED RULE**

(Repeal and Reenact)  
DAR FILE NO.: 36948  
FILED: 10/15/2012

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule change is to ensure public safety is adequately maintained in relation to any special events taking place within any highway under the jurisdiction of the Utah Department of Transportation ("Department"). This rule explicitly prescribes the process the Department uses to ensure vehicular, bicycle, and pedestrian traffic conflict points are minimized. It also ensures that special events create the least amount of disruption to the traveling public while setting forth minimum liability protections for all involved parties. In effect, this rule is designed to enable special events through a responsible and controlled permitting process. The last substantive rule update was more than 25 years ago, rendering much of the existing language obsolete. The thrust of the changes being proposed here are geared towards improving public education, permitting awareness, and program transparency.

**SUMMARY OF THE RULE OR CHANGE:** Changes to the rule include: adding a purpose and authority section, updating form names to reflect current form naming conventions, adding a reference to "film-related events", removing "DOT" reference and replaces with "the Department," adding additional process transparency by adding completion requirements for Waiver and Release of damages and Indemnification forms, providing a conflict resolution process where double booking problems might surface, expanding on record retention responsibilities for Department forms, explicitly noting the minimum required liability coverage requirements, adding references to related

Rules R920-1 and R930-6, updating obsolete statutory references, expanding on traffic control requirements, outlining public notification requirements, advising on contingency plan development and participant notification requirements, explaining event route identification and private property use requirements, and including provisions to ensure applicable municipal, county, or other governmental agency permits are acquired.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 41-22-15 and Section 41-6a-1111 and Section 72-1-201

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget because the rule only prescribes the requirements for special road uses or events on routes under the jurisdiction of the Department and requires applicants to pay a fee and provide liability insurance.
- ◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government because the rule only prescribes the requirements for special road uses or events on routes under the jurisdiction of the Department.
- ◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses because the rule only prescribes the requirements for special road uses or events on routes under the jurisdiction of the Department, except for small businesses applying for a Special Use or Event Permit whose costs are described as compliance costs for affected persons.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities, except for compliance costs for affected persons, because the rule only prescribes the requirements for special road uses or events on routes under the jurisdiction of the Department.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:**

Compliance costs for affected persons include the Special Event Permits fee, as listed within H.B. 2 New Fiscal Year Supplemental Appropriations Act (2012 General Session) (see line 2343 on p.64) which is \$30. Due to the significant life-safety hazards inherent with allowing pedestrians, or bicycles, in close proximity to moving vehicular traffic, the rest of the costs associated with obtaining a special event permit are directly related to preventative traffic control measures and liability insurance coverage. This amendment seeks to explicitly disclose the Department's existing practice of requiring minimum liability insurance coverage of \$1,000,000 per occurrence and \$2,000,000 in aggregate (per permitted event). Insurance rates may vary widely based on a number of factors including, but not limited to market conditions, size, scale, scope, location, dates, duration, number of anticipated participants, credit rating, etc. These are considered external cost factors, which the Department does not have direct control over, and, therefore must be deliberated by the applicant prior to applying for a special event permit. These external costs must be borne by the applicant; otherwise the

Department would be effectively subsidizing special events, which is not within the program mandate, or a part of the Department's strategic performance measures. Although difficult to universally quantify, the specified minimum liability insurance coverage requirements tend to average around \$300 to \$500 for an averaged sized special event. For larger events, typical liability coverage insurance average less than \$1 per participant.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impacts to businesses applying for a Special Use or Event Permit are the same as those described as compliance costs for affected persons and include the Special Event Permits fee, as listed within H.B. 2 (2012 General Session) the New Fiscal Year Supplemental Appropriations Act (see line 2343 on p.64) which is \$30. Due to the significant life-safety hazards inherent with allowing pedestrians, or bicycles, in close proximity to moving vehicular traffic, the rest of the costs associated with obtaining a special event permit are directly related to preventative traffic control measures and liability insurance coverage. This amendment seeks to explicitly disclose the Department's existing practice of requiring minimum liability insurance coverage of \$1,000,000 per occurrence and \$2,000,000 in aggregate (per permitted event). Insurance rates may vary widely based on a number of factors including, but not limited to market conditions, size, scale, scope, location, dates, duration, number of anticipated participants, credit rating, etc. These are considered external cost factors, which the Department does not have direct control over, and, therefore must be deliberated by the applicant prior to applying for a special event permit. These external costs must be borne by the applicant; otherwise the Department would be effectively subsidizing special events, which is not within the program mandate, or a part of the Department's strategic performance measures. Although difficult to universally quantify, the specified minimum liability insurance coverage requirements tend to average around \$300 to \$500 for an averaged sized special event. For larger events, typical liability coverage insurance average less than \$1 per participant.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at [cnewman@utah.gov](mailto:cnewman@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/03/2012

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2012

AUTHORIZED BY: John Njord, Executive Director

**R920. Transportation, Operations, Traffic and Safety.**

**[R920-4. Permit Required for Special Road Use or Event.**

**R920-4-1. Special Road Use.**

~~UDOT shall promote safe utilization of highways for parades, marathons, and bicycle races. Special Road Use permits shall be required for any use of state routes other than normal traffic movement. Permits may be obtained by fulfilling requirements of DOT form "Special Road Use Permit". Policy applies to all routes under jurisdiction of DOT. Permittee shall hold DOT harmless in event of litigation. A traffic control plan, in accordance with latest edition of the Manual on Uniform Traffic Control Devices and Barricading and Construction Standard Drawings, shall be provided to, and approved by Dept. District Traffic Engineer or Permittee shall restore the particular road segment to its' original condition, free from litter, etc. All applications for permits shall be made a minimum of 15 days prior to the specified activity.]~~

**R920-4. Special Road Use or Event.**

**R920-4-1. Purpose and Authority.**

The purposes of this rule are to ensure public safety and minimize disruption to the traveling public when state controlled rights of way are used for parades, marathons, film related activities, and bicycle races, and to enable special events through a responsible and controlled permitting process. This rule is authorized by Sections 72-1-201 and 41-6a-1111. This rule applies to all highways under the jurisdiction of the Utah Department of Transportation ("Department").

**R920-4-2. Permit Required for Special Road Use or Event.**

Special Road Use permits shall be required for any use of state highways other than normal traffic movement. A special road use or event shall not occupy the roadway until a permit is issued. Permits may be obtained by completing Department application requirements as specified on Department forms.

**R920-4-3. Application Completion Requirements for Special Road Use or Event.**

"Application for a Special Event Permit," or "Application for a Permit to Film on State Roads" shall be completed by the applicant seeking a Special Road Use or Event Permit. All applications for permits shall be made a minimum of 15 days prior to the specified activity.

**R920-4-4. Special Event Double Booking Conflict Resolution.**

Special event permits may not be accepted more than a year in advance of the actual event date. All special event permits are time and date stamped. In cases where a double booking type conflict might surface, the Department will encourage any secondary, or subsequent, applicant to review the feasibility of collocating with the original applicant. If collocating proves impracticable, the Department will encourage any secondary, or subsequent, applicant to offer a viable alternative strategy that meets the needs of all applicants, while also ensuring adequate public safety measures remain intact. The Department may also rely on local agency assistance with establishing special event

permitting priorities. In all cases, the Department has the authority to exercise the discretion in giving priority consideration to an applicant based on an evaluation of historic use, potential economic benefit, and other relevant factors. In cases where none of the aforementioned conflict resolution strategies prove effective in remedying a continuing dispute between multiple applicants, the Department reserves the right to determine which special event permit will be issued based on the earliest recorded application time and date where the Department has determined the applicant has fully completed all application requirements.

**R920-4-5. Minimum Liability Coverage, Waiver and Release of Damages Form, and Indemnification Form Completion Requirements.**

The applicant shall obtain and provide proof of liability insurance at time of application naming the "State of Utah, the Department and its employees" as additional insured under the certificate, with a minimum \$1,000,000 coverage per occurrence and \$2,000,000 in aggregate. The applicant shall complete the appropriate "Waiver and Release of Damages" and "Indemnification" forms prior to permit issuance. All event participants shall also complete the "Waiver and Release of Damages" form prior to participating in the permitted event.

**R920-4-6. Waiver and Release of Damages Exception.**

Participants in a free speech event on state rights of way are not required to sign or submit the "Waiver and Release of Damages" form described in R920-4-5, however the applicant of a free speech event is still required to complete the "Indemnification" form prior to permit issuance.

**R920-4-7. Applicant Record Retention Requirements.**

Where multiple participants are involved in the special road use or event, the applicant is responsible for ensuring each event participant completes the appropriate "Waiver and Release of Damages" and "Indemnification" form prior to participating in the event. The originating applicant is the custodian of all signed participant waivers, as specified in R920-4-4, and shall produce these upon demand for inspection and review by the Department at any time within 12 months after the completion of the event. The Department may also require the originating applicant to sign the original forms, as specified in R920-4, prior to permit issuance.

**R920-4-8. Traffic Control Requirements and Considerations.**

All traffic control is the responsibility of the applicant. A traffic control plan, in accordance with R920-1, R930-6 and Barricading and Construction Standard Drawings, shall be provided to, and approved by the District Traffic Engineer, or other authorized Department designee. The applicant shall restore the particular road segment to its original condition, free from litter, etc. An alternate route may be required when traffic volumes are high, active road construction is present, an alternate event is already occupying the road, a safer route can accommodate the event, or the

event poses a significant inconvenience to the traveling public. Road closures will require traffic control by Uniformed Peace Officers. The Department may require local police, the sheriff's department, the highway patrol, or the Department's Incident Management Team to inspect and monitor traffic control. All railroad crossings and bridges shall be given special attention. The applicant shall coordinate with the appropriate railroad representatives to ensure the event schedule does not conflict with the operation of the railroad.

**R920-4-9. Public Notification Requirements.**

As determined by the Region Permit Officer, the applicant shall distribute a news release to all local radio stations, television stations, and newspapers that announce the event and advise residents of alternate routes and potential delays. The news release shall include the date, times, affected roads, and shall also include an estimate of the anticipated length of delay.

**R920-4-10. Contingency Plan and Participant Notification Requirements.**

The applicant is required to develop plans for, and notify, each event participant on the following contingencies: emergency plans in the event of an accident or injury, closest hospitals, how to obtain emergency assistance, etc., locations of rest areas, locations of water facilities, trash cleanup plans, and that all participants are required to obey all traffic laws, lights, and signs.

**R920-4-11. Event Route Identification and Private Property Use Requirements.**

The applicant shall provide a detailed map showing the proposed course and direction of the event. Locations of parking areas, water stations, toilet facilities, and other appropriate information shall also be included on the map. These areas cannot be located within the state right-of-way. The applicant is responsible for obtaining appropriate permission to locate these facilities on private property.

**R920-4-12. Adherence to Municipal, County, or other Governmental Agency Permitting Requirements.**

The applicant is responsible for obtaining any applicable city, county, or other governmental agency permit. Demonstration of compliance with R920-4-12 may be required prior to the Department issuing any special road use or event permit.

**KEY: parades, bicycle, races, films**

**Date of Enactment or Last Substantive Amendment: [1987]2012**

**Notice of Continuation: August 1, 2012**

**Authorizing, and Implemented or Interpreted Law: 41-6a-11[4]11; 41-22-15; [41-6-87-9]72-1-201**

**End of the Notices of Proposed Rules Section**

# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to remove obsolete rules from the Utah Administrative Code. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **NOTICE**. By filing a Notice, the agency indicates that the rule is still necessary.

**NOTICES** are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. **NOTICES** are effective upon filing.

**NOTICES** are governed by Section 63G-3-305.

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Education, Administration

## **R277-108**

Annual Assurance of Compliance by  
Local School Boards

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

DAR FILE NO.: 36923  
FILED: 10/05/2012

### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3) permits the Utah State Board of Education to adopt rules in accordance with its responsibilities.

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 comment has been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is continued because it provides a list of laws and rules for local school board action necessary for compliance with laws and rules.

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

EDUCATION  
ADMINISTRATION  
250 E 500 S

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at [carol.lear@schools.utah.gov](mailto:carol.lear@schools.utah.gov)

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

EFFECTIVE: 10/05/2012

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Education, Administration

## **R277-422**

State Supported Voted Local Levy,  
Board Local Levy and Reading  
Improvement Program

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

DAR FILE NO.: 36924  
FILED: 10/05/2012

### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-402(1)(e) directs the Utah State Board of Education (Board) to establish rules for school productivity and cost effectiveness measures, federal programs, school budget formats, and financial, statistical, and student accounting requirements and Subsection 53A-1-401(3) allows the Board to adopt rules in accordance with its responsibilities.

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 comment has been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is continued because it specifies necessary requirements, timelines, and clarifications for the state-supported voted local levy, board local levy, and reading improvement program.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
EDUCATION  
ADMINISTRATION  
250 E 500 S  
SALT LAKE CITY, UT 84111-3272  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

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

EFFECTIVE: 10/05/2012

**Education, Administration  
R277-509**

**Licensure of Student Teachers and Interns**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 36925  
FILED: 10/05/2012

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3) allows the Utah State Board of Education to adopt rules in accordance with its responsibilities and Subsection 53A-6-104(1) permits the Utah State Board of Education to issue licenses for educators.

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 comment has been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is continued because it specifies necessary procedures under which the Board issues licenses to student teachers and interns.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
EDUCATION  
ADMINISTRATION  
250 E 500 S  
SALT LAKE CITY, UT 84111-3272  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

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

EFFECTIVE: 10/05/2012

**Education, Administration  
R277-522  
Entry Years Enhancements (EYE) for  
Quality Teaching - Level 1 Utah  
Teachers**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 36926  
FILED: 10/05/2012

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-6-106 directs the Utah State Board of Education (Board) to establish a rule for the training and experience required of license applicants for teaching and Subsection 53A-1-401(3) allows the Board to adopt rules in accordance with its responsibilities.

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 comment has been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is continued because it provides a necessary outline for entry years enhancements for licensed educators in their first three years of employment.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

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

EFFECTIVE: 10/05/2012

## Education, Administration

### **R277-733**

## Adult Education Programs

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

DAR FILE NO.: 36927

FILED: 10/05/2012

### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53A-15-401 places general control and supervision of adult education under the Utah State Board of Education (Board) and Subsection 53A-1-401(3) allows the Board to adopt rules in accordance with its responsibilities.

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 comment has been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is continued because it provides necessary standards and operating procedures for the adult education program.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

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

EFFECTIVE: 10/05/2012

## Environmental Quality, Water Quality **R317-1**

## Definitions and General Requirements

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

DAR FILE NO.: 36908

FILED: 10/02/2012

### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(3)(a) authorizes the Utah Water Quality Board to develop programs for the prevention, control, and abatement of new or existing pollution of the waters of the state. Subsection 19-5-104(1) authorizes the Board to make rules which implement or effectuate the powers and duties of the Board.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: This rule has been amended ten times since the last five-year review. The limited comments which were received during those rulemaking actions addressed technical issues and were generally of a noncontroversial nature. Comments received during hearings and the public comment period for the rule change have been addressed through preparation of responsiveness summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule provides definitions and general

requirements for implementation of the Utah Water Quality Act. It is central to the implementation of the Act, in that it provides the general framework for control of water pollution, including the requirements for construction permits, compliance with state Water Quality Standards, and requirements for waste discharges, and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 ENVIRONMENTAL QUALITY  
 WATER QUALITY  
 DEQ, THIRD FLOOR  
 195 N 1950 W  
 SALT LAKE CITY, UT 84116  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Dave Wham by phone at 801-536-4337, by FAX at 801-536-4301, or by Internet E-mail at [dwham@utah.gov](mailto:dwham@utah.gov)

AUTHORIZED BY: Walter Baker, Director

EFFECTIVE: 10/02/2012

**Environmental Quality, Water Quality  
 R317-2  
 Standards of Quality for Waters of the  
 State**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 36907  
 FILED: 10/02/2012

**NOTICE OF REVIEW AND STATEMENT OF  
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(3)(b) authorizes the Utah Water Quality Board to adopt, modify, or repeal standards of quality of the waters of the state and classify those waters according to their reasonable uses. Subsection 19-5-104(1) authorizes the Board to make rules which implement or effectuate the powers and duties of the Board.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: This rule was amended two times since the last five-year review. The limited comments which were received during those rulemaking actions addressed technical issues and were generally of a noncontroversial nature. Comments received during hearings and the public

comment period for the rule change have been addressed through preparation of responsiveness summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule classifies waters of the state according to their beneficial uses and sets numerical standards of quality for those waters. The existence of the rule is central to implementation of water quality protection programs under the Utah Water Quality Act, and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 ENVIRONMENTAL QUALITY  
 WATER QUALITY  
 DEQ, THIRD FLOOR  
 195 N 1950 W  
 SALT LAKE CITY, UT 84116  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Dave Wham by phone at 801-536-4337, by FAX at 801-536-4301, or by Internet E-mail at [dwham@utah.gov](mailto:dwham@utah.gov)

AUTHORIZED BY: Walter Baker, Director

EFFECTIVE: 10/02/2012

**Environmental Quality, Water Quality  
 R317-8  
 Utah Pollutant Discharge Elimination  
 System (UPDES)**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 36909  
 FILED: 10/02/2012

**NOTICE OF REVIEW AND STATEMENT OF  
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-107 authorizes the Utah Water Quality Board to require discharge permits to control the management of sewage sludge or to prevent or control the discharge of pollutants, including effluent limitations for the discharge of wastes into the waters of the state. Subsection 19-5-108(1) authorizes the Board to make rules and require the submission of plans, specifications, and

other information to the director in connection with the issuance of discharge permits.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was enacted, it has been amended several times. The limited comments which have been received on the rule have generally been of a technical and noncontroversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is required for the Water Quality Board to implement Utah's Pollutant Discharge Elimination System (UPDES). It provides the structure for the surface water discharge permit. The rule is required to maintain state primacy for administering the UPDES program. If Utah does not obtain and maintain primacy to enforce UPDES rules at least equivalent to the federal rules, then the Environmental Protection Agency will enforce the federal rules using direct implementation procedures. In promulgating the rule, the Water Quality Board made the determination that the UPDES Program is best administered at the state level and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 ENVIRONMENTAL QUALITY  
 WATER QUALITY  
 DEQ, THIRD FLOOR  
 195 N 1950 W  
 SALT LAKE CITY, UT 84116  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Dave Wham by phone at 801-536-4337, by FAX at 801-536-4301, or by Internet E-mail at [dwham@utah.gov](mailto:dwham@utah.gov)

AUTHORIZED BY: Walter Baker, Director

EFFECTIVE: 10/02/2012

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**Health, Health Care Financing,  
 Coverage and Reimbursement Policy  
 R414-2A  
 Inpatient Hospital Services**

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

DAR FILE NO.: 36935  
 FILED: 10/10/2012

**NOTICE OF REVIEW AND STATEMENT OF  
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-18-3 requires the Department to implement Medicaid policy through administrative rule, which allow the Department to provide inpatient hospital services to Medicaid recipients. Subsection 1905(a)(1) of the Social Security Act also requires the Department to provide these services to eligible Medicaid recipients.

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 did not receive any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department should continue this rule because it establishes requirements for inpatient hospital services that include client eligibility, hospital admissions, and the Prepaid Mental Health Plan. The Department should also continue this rule because it specifies service coverage and limitations for Medicaid recipients, directs Medicaid recipients to the copayment policy, and specifies reimbursement methodology for Medicaid providers of inpatient hospital services.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 HEALTH  
 HEALTH CARE FINANCING,  
 COVERAGE AND REIMBURSEMENT POLICY  
 CANNON HEALTH BLDG  
 288 N 1460 W  
 SALT LAKE CITY, UT 84116-3231  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at [cdevashrayee@utah.gov](mailto:cdevashrayee@utah.gov)

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 10/10/2012

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**Health, Health Care Financing,  
Coverage and Reimbursement Policy  
R414-2B**

**Inpatient Hospital Intensive Physical  
Rehabilitation Services**

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

DAR FILE NO.: 36910  
FILED: 10/02/2012

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-18-3 requires the Department to implement Medicaid policy through administrative rules, which allow the Department to provide intensive physical rehabilitation services for Medicaid recipients in an inpatient hospital setting. Subsection 1905(a) of the Social Security Act further requires the Department to provide inpatient hospital services to eligible Medicaid recipients.

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 did not receive any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because it sets forth program access requirements and prior authorization procedures for Medicaid clients who receive intensive physical rehabilitation services in an inpatient hospital. This rule should also be continued because it establishes protocols that allow Medicaid recipients to receive individualized treatment outside of a hospital setting.

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 by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 10/02/2012

**Health, Health Care Financing,  
Coverage and Reimbursement Policy  
R414-3A**

**Outpatient Hospital Services**

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

DAR FILE NO.: 36936  
FILED: 10/10/2012

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-18-3 requires the Department to implement Medicaid policy through administrative rule, which allow the Department to provide outpatient hospital services to Medicaid recipients. Language at 42 CFR 440.20 also requires the Department to provide these services to eligible Medicaid recipients.

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 did not receive any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department should continue this rule because it establishes requirements for outpatient hospital services that include client eligibility, program access, and the Prepaid Mental Health Plan. The Department should also continue this rule because it specifies service coverage and prior authorization requirements for Medicaid recipients, directs Medicaid recipients to the copayment policy, and directs Medicaid providers of outpatient hospital services to the methodology used for reimbursement.

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 by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 10/10/2012

## Health, Health Care Financing, Coverage and Reimbursement Policy

### **R414-29**

#### Client Review/Education and Restriction Policy

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

DAR FILE NO.: 36929  
FILED: 10/05/2012

#### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-18-3 requires the Department to implement Medicaid policy through administrative rules, which prevent the overutilization of services by Medicaid recipients. In addition, 42 CFR 431.54(e) authorizes restrictions on Medicaid recipients who over utilize Medicaid services, and 42 CFR 456.3 requires the Department to implement safeguards that prevent unnecessary or inappropriate use of Medicaid services.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department did not receive any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department should continue this rule because it implements a restriction program for Medicaid recipients who over utilize Medicaid services. The continuation of this rule, therefore, will allow the Department to provide cost effective and medically necessary services to all Medicaid recipients.

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 by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 10/05/2012

## Insurance, Administration

### **R590-131**

#### Accident and Health Coordination of Benefits Rule

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

DAR FILE NO.: 36913  
FILED: 10/03/2012

#### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(3) authorizes the commissioner to write rules to implement the provisions of Title 31A. Section 31A-22-619 allows the commissioner to adopt rules concerning the coordination of benefits between accident and health insurance policies. The rule establishes a uniform order of benefit determination under which plans pay coordination of benefit claims; reduce duplication of benefits; and provide greater efficiency in the processing of claims when a person is covered under more than one plan.

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 received written comments during a comment period held 11/15/2007. The department made changes to the rule as requested and did not receive any written comments during the second comment period. Comments were in regards to: 1) adding "prescription drug" reference to allowable expense definition; 2) adding a definition of "Group-type contract;" 3) correcting code references; 4) adding a definition for "Policyholder;" 5) adding a definition of "Retiree employee benefit plan based on" to allow for coordination based on the EEOC; 6) clarifying benefits paid by another plan; 7) clarifying wording in Subsection R590-131-6(D.2); 8) removing redundancy in

Subsection R590-131-9(D.1); and 9) making corrections in grammar.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule brings consistency and order when considering which health policy covers a claim when there is more than one health carrier covering the same individual or group. It eliminates law suits and expedites the payment of health claims. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 INSURANCE  
 ADMINISTRATION  
 ROOM 3110 STATE OFFICE BLDG  
 450 N MAIN ST  
 SALT LAKE CITY, UT 84114-1201  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Jilene Whitby by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [jwhitby@utah.gov](mailto:jwhitby@utah.gov)

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 10/03/2012

Natural Resources, Water Resources  
**R653-2**  
 Financial Assistance from the Board of  
 Water Resources

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 36917  
 FILED: 10/04/2012

**NOTICE OF REVIEW AND STATEMENT OF  
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 73-10-4 authorizes the Board of Water Resources to provide funding for authorized projects that develop the waters of 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: No comments received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY

DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continued water development is critical to the standard of living and socio-economic well being of Utah. This rule specifies the criteria by which water project applications are accepted and funded by the Board of Water Resources. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 NATURAL RESOURCES  
 WATER RESOURCES  
 ROOM 310  
 1594 W NORTH TEMPLE  
 SALT LAKE CITY, UT 84116-3154  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Barbara Allen by phone at 801-538-72352, by FAX at 801-538-7279, or by Internet E-mail at [barbaraallen@utah.gov](mailto:barbaraallen@utah.gov)

AUTHORIZED BY: Dennis Strong, Director

EFFECTIVE: 10/04/2012

Professional Practices Advisory  
 Commission, Administration  
**R686-104**  
 Utah Professional Practices Advisory  
 Commission Review of License Due to  
 Background Check Offenses

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 36928  
 FILED: 10/05/2012

**NOTICE OF REVIEW AND STATEMENT OF  
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-6-306(1) directs the Utah Professional Practices Advisory Commission to adopt rules to carry out its responsibilities under the law.

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 comment has been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE

RULE, IF ANY: This rule is continued because it provides necessary procedures for applicants to proceed toward educator licensing when an application or recommendation for licensing identifies offenses in the applicant's criminal background check.

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

PROFESSIONAL PRACTICES ADVISORY  
COMMISSION  
ADMINISTRATION  
250 E 500 S  
SALT LAKE CITY, UT 84111  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

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

EFFECTIVE: 10/05/2012

## Regents (Board of), Administration **R765-134**

### Informal Adjudicative Procedures Under the Utah Administrative Procedures Act

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

DAR FILE NO.: 36918  
FILED: 10/04/2012

#### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: As a state agency, the Board of Regents is required to adhere to the provisions of Utah Code Title 63G, Chapter 4, which assures the protection of an individual's rights, privileges, and interests in relation to the functions of a state agency.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received since the last review of this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE

RULE, IF ANY: Continuation of this rule is needed to comply with the Administrative Procedures Act as it applies to public institutions of higher education in Utah.

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

REGENTS (BOARD OF)  
ADMINISTRATION  
BOARD OF REGENTS BUILDING, THE GATEWAY  
60 SOUTH 400 WEST  
SALT LAKE CITY, UT 84101-1284  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Ronell Crossley by phone at 801-321-7291, by FAX at 801-321-7299, or by Internet E-mail at rcrossley@utahsbr.edu

AUTHORIZED BY: Dave Buhler, Commissioner of Higher Education

EFFECTIVE: 10/04/2012

## Regents (Board of), Administration **R765-993** Records Access and Management

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

DAR FILE NO.: 36919  
FILED: 10/04/2012

#### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is necessary to meet the requirements of the Government Records Access and Management Act and Title 63G, Chapter 2, of the Utah Code. Public access to records of public institutions of higher education is necessary so long as individual student records are kept private unless otherwise required to administer and comply with state and federal programs and policies at the public institutions.

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 were received since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of the rule is necessary to

comply with the Government Records Access and Management Act and Utah Code Title 63G, Chapter 2.

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

REGENTS (BOARD OF) ADMINISTRATION BOARD OF REGENTS BUILDING, THE GATEWAY 60 SOUTH 400 WEST SALT LAKE CITY, UT 84101-1284 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO: ♦ Ronell Crossley by phone at 801-321-7291, by FAX at 801-321-7299, or by Internet E-mail at rcrossley@utahsbr.edu

AUTHORIZED BY: Dave Buhler, Commissioner of Higher Education

EFFECTIVE: 10/04/2012

Regents (Board of), University of Utah, Commuter Services

R810-1

University of Utah Parking Regulations

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 36944 FILED: 10/15/2012

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53B-3-103 permits institutions of higher education to enact rules governing traffic, parking, and related issues.

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 documented in the previous five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should continue because the underlying statute continues to permit it.

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

REGENTS (BOARD OF) UNIVERSITY OF UTAH, COMMUTER SERVICES ROOM 101 1910 E SOUTH CAMPUS DR SALT LAKE CITY, UT 84112-9350 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO: ♦ Solomon Brumbaugh by phone at 801-587-9394, by FAX at 801-587-9667, or by Internet E-mail at solomon.brumbaugh@utah.edu

AUTHORIZED BY: Alma Allred, Director

EFFECTIVE: 10/15/2012

Regents (Board of), University of Utah, Commuter Services

R810-8

Vendor Regulations

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 36945 FILED: 10/15/2012

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53B-3-103 permits institutions of higher education to enact rules governing traffic, parking, and related issues.

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 recorded in the previous five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should continue because the underlying statute continues to permit it.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED,  
DURING REGULAR BUSINESS HOURS, AT:  
REGENTS (BOARD OF)  
UNIVERSITY OF UTAH,  
COMMUTER SERVICES  
ROOM 101  
1910 E SOUTH CAMPUS DR  
SALT LAKE CITY, UT 84112-9350  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Solomon Brumbaugh by phone at 801-587-9394, by FAX at  
801-587-9667, or by Internet E-mail at  
solomon.brumbaugh@utah.edu

AUTHORIZED BY: Alma Allred, Director

EFFECTIVE: 10/15/2012

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



## NOTICES OF RULE EFFECTIVE DATES

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State law provides for agencies to make their rules effective and enforceable after publication in the Utah State Bulletin. In the case of Proposed Rules or Changes in Proposed Rules with a designated comment period, the law permits an agency to file a notice of effective date any time after the close of comment plus seven days. In the case of Changes in Proposed Rules with no designated comment period, the law permits an agency to file a notice of effective date on any date including or after the thirtieth day after the rule's publication date. If an agency fails to file a Notice of Effective Date within 120 days from the publication of a Proposed Rule or a related Change in Proposed Rule the rule lapses and the agency must start the rulemaking process over.

Notices of Effective Date are governed by Subsection 63G-3-301(12), 63G-3-303, and Sections R15-4-5a and 5b.

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### Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal & Reenact

REP = Repeal

### Administrative Services

#### Purchasing and General Services

No. 36657 (NEW): R33-12. Rules of Procedure for Procurement Policy Board and Procurement Appeals Panel

Published: 09/01/2012

Effective: 10/08/2012

### Commerce

#### Occupational and Professional Licensing

No. 36629 (AMD): R156-1. General Rule of the Division of Occupational and Professional Licensing

Published: 09/01/2012

Effective: 10/09/2012

No. 36630 (AMD): R156-46b. Division Utah Administrative Procedures Act Rule

Published: 09/01/2012

Effective: 10/09/2012

### Education

#### Administration

No. 36658 (AMD): R277-401. Child Abuse-Neglect Reporting by Education Personnel

Published: 09/01/2012

Effective: 10/09/2012

No. 36659 (AMD): R277-407-1. Definitions

Published: 09/01/2012

Effective: 10/09/2012

No. 36660 (AMD): R277-419. Pupil Accounting

Published: 09/01/2012

Effective: 10/09/2012

No. 36661 (AMD): R277-433. Disposal of Textbooks in the Public Schools

Published: 09/01/2012

Effective: 10/09/2012

No. 36662 (AMD): R277-445. Classifying Small Schools as Necessarily Existent

Published: 09/01/2012

Effective: 10/09/2012

No. 36663 (AMD): R277-475. Patriotic, Civic and Character Education

Published: 09/01/2012

Effective: 10/09/2012

No. 36664 (AMD): R277-477. Distribution of Funds from the Interest and Dividend Account (School LAND Trust Funds) and Administration of the School LAND Trust Program

Published: 09/01/2012

Effective: 10/09/2012

No. 36665 (AMD): R277-514. Board Procedures: Sanctions for Educator Misconduct

Published: 09/01/2012

Effective: 10/09/2012

No. 36666 (AMD): R277-703. Centennial Scholarship for Early Graduation

Published: 09/01/2012

Effective: 10/09/2012

No. 36667 (AMD): R277-709. Education Programs Serving Youth in Custody

Published: 09/01/2012

Effective: 10/09/2012

No. 36668 (AMD): R277-713. Concurrent Enrollment of High School Students in College Courses

Published: 09/01/2012

Effective: 10/09/2012

No. 36669 (AMD): R277-726. Statewide Public Education Online Program

Published: 09/01/2012

Effective: 10/09/2012

Governor

Economic Development, Consumer Health Services  
No. 36634 (NEW): R358-1. Electronic Standards for  
Transmitting Information through the Health Insurance  
Exchange

Published: 09/01/2012

Effective: 10/10/2012

Health

Disease Control and Prevention, Environmental Services  
No. 36620 (AMD): R392-510. Utah Indoor Clean Air Act

Published: 08/15/2012

Effective: 10/15/2012

No. 36580 (AMD): R392-700. Indoor Tanning Bed Sanitation

Published: 08/15/2012

Effective: 10/15/2012

Health Care Financing, Coverage and Reimbursement Policy

No. 36567 (R&R): R414-502. Nursing Facility Levels of Care

Published: 08/15/2012

Effective: 10/11/2012

Insurance

Administration

No. 36577 (AMD): R590-122. Permissible Arbitration  
Provisions

Published: 08/15/2012

Effective: 10/03/2012

No. 36633 (AMD): R590-133. Variable Contracts

Published: 09/01/2012

Effective: 10/15/2012

No. 36578 (AMD): R590-151. Records Access Rule

Published: 08/15/2012

Effective: 10/03/2012

No. 36596 (AMD): R590-154. Unfair Marketing Practices  
Rule

Published: 08/15/2012

Effective: 10/03/2012

No. 36579 (AMD): R590-176. Health Benefit Plan

Enrollment

Published: 08/15/2012

Effective: 10/03/2012

No. 36615 (AMD): R590-199. Plan of Orderly Withdrawal  
Rule Relating to Health Benefit Plans

Published: 08/15/2012

Effective: 10/03/2012

No. 36418 (AMD): R590-262. Health Data Authority Health  
Insurance Claims Reporting

Published: 07/15/2012

Effective: 10/03/2012

Pardons (Board of)

Administration

No. 36558 (AMD): R671-202. Notification of Hearings

Published: 08/15/2012

Effective: 10/04/2012

No. 36560 (AMD): R671-203. Victim Input and Notification

Published: 08/15/2012

Effective: 10/04/2012

No. 36568 (AMD): R671-301. Personal Appearance

Published: 08/15/2012

Effective: 10/04/2012

No. 36569 (AMD): R671-302. News Media and Public  
Access to Hearings

Published: 08/15/2012

Effective: 10/04/2012

No. 36570 (AMD): R671-304. Hearing Record

Published: 08/15/2012

Effective: 10/04/2012

No. 36571 (AMD): R671-305. Notification of Board Decision

Published: 08/15/2012

Effective: 10/04/2012

No. 36572 (AMD): R671-309. Impartial Hearings

Published: 08/15/2012

Effective: 10/04/2012

No. 36573 (AMD): R671-311. Special Attention Hearings  
and Reviews

Published: 08/15/2012

Effective: 10/04/2012

No. 36555 (NEW): R671-313. Commutation Hearings (Non-  
Death Penalty Cases)

Published: 08/15/2012

Effective: 10/04/2012

No. 36574 (AMD): R671-315. Pardons

Published: 08/15/2012

Effective: 10/04/2012

No. 36575 (AMD): R671-316. Redetermination

Published: 08/15/2012

Effective: 10/04/2012

No. 36556 (AMD): R671-402. Special Conditions of Parole

Published: 08/15/2012

Effective: 10/04/2012

Public Safety

Fire Marshal

No. 36631 (AMD): R710-6. Liquefied Petroleum Gas Rules

Published: 09/01/2012

Effective: 10/08/2012

Transportation

Preconstruction

No. 36653 (AMD): R930-6. Manual of Accommodation of  
Utility Facilities and the Control and Protection of State

Highway Rights-of-Way

Published: 09/01/2012

Effective: 10/10/2012

No. 36654 (NEW): R930-7. Utility Accommodation

Published: 09/01/2012

Effective: 10/10/2012

**End of the Notices of Rule Effective Dates Section**



**RULES INDEX  
BY AGENCY (CODE NUMBER)  
AND  
BY KEYWORD (SUBJECT)**

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The Rules Index is a cumulative index that reflects all effective changes to Utah's administrative rules. The current Index lists changes made effective from January 2, 2012 through October 15, 2012. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules Index of Changes. Nonsubstantive changes, while not published in the Bulletin, do become part of the Utah Administrative Code (Code) and are included in this Index, as well as 120-Day (Emergency) rules that do not become part of the Code. The rules are indexed by Agency (Code Number) and Keyword (Subject).

Questions regarding the index and the information it contains should be addressed to Nancy Lancaster (801-538-3218), Mike Broschinsky (801-538-3003), or Kenneth A. Hansen (801-538-3777).

A copy of the Rules Index is available for public inspection at the Division of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

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## 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
<b>ADMINISTRATIVE SERVICES</b>					
<u>Administration</u>					
R13-2-4	Requests for Access	36285	AMD	08/07/2012	2012-12/8
<u>Archives</u>					
R17-9	Electronic Participation at Meetings	35304	NEW	01/30/2012	2011-20/6
<u>Child Welfare Parental Defense (Office of)</u>					
R19-1-6	Child Welfare Parental Defense Oversight Committee	35205	AMD	01/12/2012	2011-18/6
R19-1-7	Electronic Meetings	35206	AMD	01/12/2012	2011-18/7
<u>Debt Collection</u>					
R21-1	Transfer of Collection Responsibility of State Agencies	36420	5YR	06/28/2012	2012-14/59
R21-1	Transfer of Collection Responsibility of State Agencies	36495	AMD	09/07/2012	2012-15/6
R21-2	Office of State Debt Collection Administrative Procedures	36421	5YR	06/28/2012	2012-14/60
R21-3	Debt Collection Through Administrative Offset	36422	5YR	06/28/2012	2012-14/60
<u>Facilities Construction and Management</u>					
R23-1	Procurement of Construction	36145	5YR	05/03/2012	2012-11/177
R23-1-40	Procurement of Construction	36020	AMD	08/07/2012	2012-8/4
R23-1-40	Acceptable Bid Security; Performance and Payment Bonds	36020	CPR	08/07/2012	2012-13/88
R23-1-40	Acceptable Bid Security; Performance and Payment Bonds	36632	NSC	08/23/2012	Not Printed
R23-12	Building Code Appeals Process	36806	5YR	09/19/2012	2012-20/119
R23-19	Facility Use Rules	36146	5YR	05/03/2012	2012-11/177
R23-20	Free Speech Activities	36148	5YR	05/03/2012	2012-11/178
<u>Finance</u>					
R25-7	Travel-Related Reimbursements for State Employees	36112	AMD	07/01/2012	2012-10/4
R25-7-6	Reimbursements for Meals	36636	NSC	08/30/2012	Not Printed
R25-14	Payment of Attorneys Fees in Death Penalty Cases	35663	5YR	01/12/2012	2012-3/105
R25-20	Indigent Defense Funds Board, Procedures for Electronic Meetings	35975	NEW	05/22/2012	2012-8/5
<u>Fleet Operations</u>					
R27-4	Vehicle Replacement and Expansion of State Fleet	35622	5YR	01/05/2012	2012-3/105
R27-5	Fleet Tracking	35617	5YR	01/05/2012	2012-3/106
R27-5	Fleet Tracking	35623	NSC	01/31/2012	Not Printed
R27-6	Fuel Dispensing Program	35620	5YR	01/05/2012	2012-3/106
R27-7	Safety and Loss Prevention of State Vehicles	36024	AMD	06/28/2012	2012-9/4

R27-8	State Vehicle Maintenance Program	35621	5YR	01/05/2012	2012-3/107
R27-9	Dispensing Compressed Natural Gas to the Public	35727	NEW	03/26/2012	2012-4/6

Purchasing and General Services

R33-1	Utah State Procurement Rules Definitions	35664	AMD	03/30/2012	2012-3/4
R33-1	Utah State Procurement Rules Definitions	36423	5YR	07/02/2012	2012-14/61
R33-2	Procurement Organization	36424	5YR	07/02/2012	2012-14/61
R33-3	Source Selection and Contract Formation	35613	AMD	03/30/2012	2012-2/6
R33-3	Source Selection and Contract Formation	36425	5YR	07/02/2012	2012-14/62
R33-3-7	Types of Contracts	35667	AMD	03/30/2012	2012-3/6
R33-4	Specifications	35665	AMD	03/30/2012	2012-3/10
R33-4	Specifications	36426	5YR	07/02/2012	2012-14/62
R33-5	Construction and Architect-Engineer Selection	36428	5YR	07/02/2012	2012-14/63
R33-6-101	Revisions to Contract Clauses	35666	AMD	03/30/2012	2012-3/12
R33-8	Property Management	36430	5YR	07/02/2012	2012-14/63
R33-12	Rules of Procedure for Procurement Policy Board and Procurement Appeals Panel	36657	NEW	10/08/2012	2012-17/4

Risk Management

R37-1	Risk Management General Rules	36286	5YR	05/30/2012	2012-12/81
R37-2	Risk Management State Workers' Compensation Insurance Administration	36287	5YR	05/30/2012	2012-12/81
R37-3	Risk Management Adjudicative Proceedings	36288	5YR	05/30/2012	2012-12/82
R37-4	Adjusted Utah Governmental Immunity Act Limitations on Judgments	36289	5YR	05/30/2012	2012-12/83
R37-4	Adjusted Utah Governmental Immunity Act Limitations on Judgments	35844	AMD	05/31/2012	2012-5/4

AGRICULTURE AND FOOD

Administration

R51-2	Administrative Procedures for Informal Proceedings Before the Utah Department of Agriculture and Food	35614	5YR	01/04/2012	2012-3/107
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Animal Industry

R58-1	Admission and Inspection of Livestock, Poultry, and Other Animals	35691	5YR	01/18/2012	2012-4/59
R58-3	Brucellosis Vaccination Requirements	36143	EMR	05/08/2012	2012-11/167
R58-6	Poultry	35692	5YR	01/18/2012	2012-4/59
R58-10	Meat and Poultry Inspection	36249	REP	07/26/2012	2012-12/9
R58-11	Slaughter of Livestock	35866	AMD	05/15/2012	2012-5/5
R58-11	Slaughter of Livestock and Poultry	36144	NSC	05/30/2012	Not Printed
R58-16	Swine Garbage Feeding	36248	REP	07/26/2012	2012-12/10
R58-18	Elk Farming	35695	5YR	01/18/2012	2012-4/60
R58-19	Compliance Procedures	35696	5YR	01/18/2012	2012-4/60
R58-21	Trichomoniasis	36164	AMD	07/10/2012	2012-11/4
R58-22	Equine Infectious Anemia (EIA)	35694	5YR	01/18/2012	2012-4/61
R58-23	Equine Viral Arteritis (EVA)	35693	5YR	01/18/2012	2012-4/61

Marketing and Development

R65-2	Utah Cherry Marketing Order	36489	5YR	07/12/2012	2012-15/73
R65-5	Utah Red Tart and Sour Cherry Marketing Order	36488	5YR	07/12/2012	2012-15/73
R65-11	Utah Sheep Marketing Order	36490	5YR	07/12/2012	2012-15/74

Plant Industry

R68-15	Quarantine Pertaining to Japanese Beetle	36697	5YR	08/28/2012	2012-18/77
R68-19	Compliance Procedures	35697	5YR	01/18/2012	2012-4/62
R68-21	Standard of Identity for Honey	35566	REP	03/07/2012	2012-2/16

Regulatory Services

R70-201	Compliance Procedures	35660	5YR	01/12/2012	2012-3/108
R70-320	Minimum Standards for Milk for Manufacturing Purposes, its Production and Processing	35661	5YR	01/12/2012	2012-3/109
R70-330	Raw Milk for Retail	36465	EMR	07/11/2012	2012-15/65

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R70-350	Ice Cream and Frozen Dairy Food Standards	35658	5YR	01/12/2012	2012-3/109
R70-360	Procedure for Obtaining a License to Test Milk for Payment	35657	5YR	01/12/2012	2012-3/110
R70-520	Standard of Identity and Labeling Requirements for Honey	36147	NEW	07/10/2012	2012-11/6
R70-530	Food Protection	35920	5YR	03/07/2012	2012-7/63
R70-550	Utah Inland Shellfish Safety Program	35659	5YR	01/12/2012	2012-3/110
R70-560	Inspection and Regulation of Cottage Food Production Operations	35662	5YR	01/12/2012	2012-3/111

ALCOHOLIC BEVERAGE CONTROL

Administration

R81-1-3	General Policies	36271	AMD	07/31/2012	2012-12/11
R81-1-6	Violation Schedule	35588	AMD	03/01/2012	2012-2/20
R81-3-11	Application	35942	AMD	07/17/2012	2012-7/4
R81-4A-2	Application	35943	AMD	05/22/2012	2012-7/5
R81-4B-2	Application	35944	AMD	05/22/2012	2012-7/6
R81-4C-2	Application	35945	AMD	05/22/2012	2012-7/8
R81-4D-2	Application	35946	AMD	05/22/2012	2012-7/9
R81-4E-2	Application	35947	AMD	05/22/2012	2012-7/11
R81-4F-2	Application	35948	AMD	05/22/2012	2012-7/12
R81-4F-7	Sale and Purchase of Alcoholic Beverages	36113	AMD	07/01/2012	2012-10/9
R81-4F-13	Agreement for Alcoholic Beverage Service	36115	AMD	07/01/2012	2012-10/10
R81-5-2	Application	35949	AMD	05/22/2012	2012-7/13
R81-6-1	Application	35950	AMD	05/22/2012	2012-7/15
R81-7	Single Event Permits	36114	AMD	07/01/2012	2012-10/11
R81-8-1	Application	35951	AMD	05/22/2012	2012-7/16
R81-9-1	Application	35952	AMD	05/22/2012	2012-7/17
R81-10A-3	Application	35953	AMD	05/22/2012	2012-7/19
R81-10B	Temporary Special Event Beer Permits	36116	AMD	07/01/2012	2012-10/14
R81-10C-2	Application	35954	AMD	05/22/2012	2012-7/20
R81-10D-2	Application	35955	AMD	05/22/2012	2012-7/21
R81-11-1	Application	35956	AMD	05/22/2012	2012-7/23
R81-12-1	Application	35957	AMD	05/22/2012	2012-7/24

ATTORNEY GENERAL

Administration

R105-1	Attorney General's Selection of Outside Counsel, Expert Witnesses and Other Litigation Support Services	35904	NEW	04/24/2012	2012-6/6
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AUDITOR

Administration

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R432-13	Freestanding Ambulatory Surgical Center Construction Rule	35468	AMD	02/21/2012	2011-24/57
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R986-700-713	Amount of CC Payment	35586	AMD	04/01/2012	2012-2/104
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**ABBREVIATIONS**

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

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	35568	R728-408	REP	05/14/2012	2012-2/102	
	36290	R728-409	AMD	08/06/2012	2012-12/68	
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	35858	R307-841	AMD	05/03/2012	2012-5/39	
	36162	R307-841	NSC	05/30/2012	Not Printed	
	35859	R307-842	AMD	05/03/2012	2012-5/47	
	36163	R307-842	NSC	05/30/2012	Not Printed	
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	36163	R307-842	NSC	05/30/2012	Not Printed	
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	36162	R307-841	NSC	05/30/2012	Not Printed	
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	36550	R156-60d	NSC	08/08/2012	Not Printed
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records management

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	36078	R162-57a	CPR	08/21/2012	2012-14/48	
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