

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Office of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3003. Additional rulemaking information and electronic versions of all administrative rule publications are available at <http://www.rules.utah.gov/>.

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)* of the same volume and issue number. The *Digest* is available by e-mail subscription or online. Visit <http://www.rules.utah.gov/publicat/digest.htm> for additional information.

Office of Administrative Rules, Salt Lake City 84114

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SPECIAL NOTICES

Health Health Care Financing, Coverage and Reimbursement Policy

Notice for June 2016 Medicaid Rate Changes

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

Health Health Care Financing, Coverage and Reimbursement Policy

Public Hearing to Discuss the 1115 Waiver and H.B. 437 "Health Care Revisions" From the 2016 General Session

The Division of Medicaid and Health Financing (DMHF) will hold public hearings to discuss the renewal of and proposed amendments to the Primary Care Network 1115 Demonstration waiver. The proposed changes to the waiver are required to implement the provisions of H.B. 437 "Health Care Revisions" passed during the 2016 General Session. These amendments include requesting authority to add Medicaid eligibility for additional adults between the ages of 19 and 64 who meet certain criteria. In addition, the State will request a waiver of the Medicaid IMD (institution for mental disease) exclusion. Finally, amendments will be proposed to remove the high risk pregnant woman group, as it is no longer needed due to the Affordable Care Act; making changes to Non-Traditional Medicaid benefits to comply with mental health parity; and removing the EPSDT waiver for 19 and 20 year olds.

These topics will be discussed at public hearings to be held on Thursday, May 19, 2016, from 1:30 p.m. to 3:30 p.m. as part of the monthly Medical Care Advisory Committee (MCAC) meeting, and Wednesday, May 25, 2016, from 1:00 p.m. to 3:00 p.m. Both meetings will be in Room 125 of the Cannon Health Building, 288 North 1460 West, Salt Lake City, Utah.

A conference line is available for those who would like to attend by phone: 1-877-820-7831, passcode 196690#. Individuals requiring an accommodation to fully participate in this meeting should contact Jennifer Meyer-Smart at 801-538-6338 by 5:00 p.m. on May 17, 2016.

End of the Special Notices Section

EXECUTIVE DOCUMENTS

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

The Governor's Office staff files **EXECUTIVE DOCUMENTS** that have legal effect with the Office of Administrative Rules for publication and distribution.

Creating a Board of Advisors for the Refugee Services Office, Utah Exec. Order No. 2016-3

EXECUTIVE ORDER

Creating a Board of Advisors for the Refugee Services Office

WHEREAS, Governor Jon M. Huntsman created a Refugee Services Office in the Department of Workforce Services to assist with the integration of all of the State of Utah's foreign-born refugee newcomers;

WHEREAS, there is a need to address the structural gaps and barriers to the successful resettlement of refugees;

WHEREAS, for the effective operation of the Refugee Services Office, there is a need to provide service coordination, accountability, advocacy, and resource development for essential services to refugees in the State,

WHEREAS, there is a need to amend the previous executive order to more effectively represent the interests of refugees in state and local governments and in the private sector;

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, hereby order and establish the following:

1) There is established a Board of Advisors in the Executive Office of the Department of Workforce Services to provide support and advice to the Refugee Services Office:

- a) The Office of the Governor shall designate the board chair and make appointments to the board;
- b) The chair shall establish the board's agenda and meeting schedule;
- c) The board shall be staffed by the Department of Workforce Services;
- d) The membership of the board shall represent key stakeholders in the refugee community, providers, state and local governments, and the community at large;
- e) The Director of the Refugee Services Office shall be an ex officio non-voting member of the board;
- f) The board shall, as needed, create committees and make recommendations to the Department, to further the work of the board and, in particular, to raise and direct private, foundation, and corporate funds to increase services available to refugees;

- g) The board shall not exceed 20 members and shall consist of the following stakeholders, including, but not limited to:
 - 1. a representative of the Utah Department of Human Services representing the divisions of Child and Family Services and Juvenile Justice Services;
 - 2. a representative of the Utah Department of Health representing refugee health issues;
 - 3. a representative of Salt Lake County government;
 - 4. a representative of the Utah State Board of Education or a local school district representing schools with a high population of refugee children;
 - 5. a representative of the International Rescue Committee;
 - 6. a representative of Catholic Community Services;
 - 7. a representative of the Asian Association of Utah;
 - 8. a representative of the Department of Public Safety; and
 - 9. members of the following organizations, appointed to serve staggered four-year terms:
 - a. a representative of a low-income housing community;
 - b. a representative of the social services community;
 - c. two representatives of refugee community organizations representing refugee groups within Utah; and
 - d. other stakeholders identified by the Governor.
- 2) As appropriate, the Board of Advisors shall:
 - a) Promote public awareness on refugee issues, needs and accomplishments, as well as educate key stakeholders and policy makers on critical issues related to refugees;
 - b) Analyze the efforts by mainstream service providers that serve refugee populations and make appropriate recommendations to improve and increase access to these services;
 - c) Recommend to the Refugee Services Office and local governments improvements in the service delivery system for refugees;
 - d) Provide a forum in which statewide refugee issues can be identified, addressed and solutions recommended;
 - e) Use data, reports, and other information collected to identify and prioritize service gaps. Make recommendations for funding strategies, including legislatively appropriated funding for refugee services;
 - f) Discuss and make recommendations regarding issues pertaining to public safety and to the safety and well-being of refugees;
 - g) Discuss and make recommendations regarding the successful integration of refugees into the communities of the State.
- 3) The Board of Advisors shall make an annual report to the Governor on the status of refugee services, delivered by December 1st of each year.
- 4) This order replaces and supersedes executive order 2008-0002, Creating a Board of Advisors for the Refugee Services Office.

IN WITNESS WHEREOF, I have here unto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the State Capitol in Salt Lake City, Utah, this 20th day of April 2016.

(State Seal)

Gary R. Herbert
Governor

Attest:

Spencer Cox
Lieutenant Governor

2016/003/EO

Calling the Sixty-First Legislature Into a Second Special Session, Utah Proclamation No. 2016-2S

P R O C L A M A T I O N

WHEREAS, since the adjournment of the 2016 General Session of the Sixty-first Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

WHEREAS, Article VII, Section 6 of the Constitution of the State of Utah provides that the Governor may, by proclamation, convene the Legislature into Special 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 the laws of the State of Utah, do by this Proclamation call the Sixty-first Legislature of the State of Utah into a Second Special Session at the Utah State Capitol, in Salt Lake City, Utah, on the 18th day of May 2016, at 4:00 p.m., for the following purposes:

1. To consider the appropriation of the following:

To State Board of Education - Utah State Office of Education –

Initiative Programs	
From Education Fund	998,900
From Education Fund, One-time	3,775,000
Schedule of Programs:	
Electronic High School	(1,001,100)
Upstart Early Childhood Education	1,500,000
ProStart Culinary Arts Program	275,000
Electronic Elementary Reading Tool	500,000
Early Intervention	3,000,00
IT Academy	500,000

2. To adopt the following intent language:

The Legislature intends that the Department of Workforce Services (DWS) authorize Temporary Assistance for Needy Families (TANF) funds for one year for the UPSTART program (\$500,000). This TANF funding is dependent upon availability of TANF funding and expenditures meeting the necessary requirements to qualify for the federal TANF program. The Legislature further intends that DWS report to the Office of the Legislative Fiscal Analyst no later than September 1, 2016, regarding the status of these efforts.

3. To consider a concurrent resolution expressing opposition to the unilateral use of the Antiquities Act by the President to create a national monument in Utah and encouraging the President to include the State of Utah in any decision making or designation process.

4. For the Senate to consent to appointments made by the Governor.

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 20th day of April 2016.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2016/2/S

End of the Executive Documents Section

NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between April 16, 2016, 12:00 a.m., and May 02, 2016, 11:59 p.m. are included in this, the May 15, 2016, issue of the *Utah State Bulletin*.

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

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

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least June 14, 2016. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through September 12, 2016, the agency may notify the Office of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE OF A CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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

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

The Proposed Rules Begin on the Following Page

**Agriculture and Food, Horse Racing
Commission (Utah)**
R52-7-5
Occupation Licensing and Registration

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40366

FILED: 04/29/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule establishes the rules and guidelines for horse racing in the state of Utah. The changes to the rule clarify the requirements for entry and add some safety provisions.

SUMMARY OF THE RULE OR CHANGE: The rule changes allow for the licenses to be issued for up to a three-year period.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-38-4

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The change does not have an impact on how the state manages horse racing. There will be no impact on the state budget.
- ◆ **LOCAL GOVERNMENTS:** Local governments have no role in the enforcement of this rule. As such, there will be no costs or saving to their budget.
- ◆ **SMALL BUSINESSES:** This rule does not change the registration fee required for each individual year. While there will be an initial increase in cost to purchase a three-year license, this cost will be balanced by not having to purchase a license for the following two years. However, this is a burden chosen by the individual or the racing group because they continue to have the option to purchase a single-year license.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The rule again will have a limited impact on the individuals. They will have the opportunity to choose between a one- or three-year license in their chosen area. While there will be an increased burden on that year's cost of a license, that cost will be evened out by not having to purchase a license again for three years.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no new compliance costs. The price of the license remains the same. The proposed change does not affect the cost of the license for each year.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed rule changes are a result of a request from

those involved in the horse racing industry. The cost of the license per year remains the same.

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

AGRICULTURE AND FOOD
HORSE RACING COMMISSION (UTAH)
350 N REDWOOD RD
SALT LAKE CITY, UT 84114
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/14/2016

THIS RULE MAY BECOME EFFECTIVE ON: 06/21/2016

AUTHORIZED BY: LuAnn Adams, Commissioner

R52. Agriculture and Food, Horse Racing Commission (Utah).

R52-7. Horse Racing.

R52-7-5. Occupation Licensing and Registration.

1. Occupation Licenses. No person required to be licensed shall participate in a race meeting without their holding a valid license authorizing that participation. Licenses shall be obtained prior to the time such persons engage in their vocations upon such racetrack grounds at any time during the calendar year for which the organization license has been issued. Applicant will be required to provide one form of photo identification.

A. A person whose occupation requires acting in any capacity within any area of an enclosure shall pay the required fee and procure the appropriate license or licenses.

B. A person acting in any of the following capacities shall pay the required fee and procure the appropriate license or licenses: (A list of all required fees shall be available at the Utah Department of Agriculture and Food.)

1. Owner/Trainer Combination
2. Owner
3. Trainer
4. Assistant Trainer
5. Jockey
6. Veterinarian
7. Jockey Room Attendant
8. Paddock Attendant
9. Pony Rider
10. Concessionaire
11. Valet
12. Groom

C. A person whose license-identification badge is lost or destroyed shall procure a replacement license-identification badge and shall pay the required fee.

D. The date of payment of all required fees as recorded by the Commission shall be the effective date of issuance of a continuous occupation license, ~~[or registration shall expire on December 31 of the year in which it is issued. A license renewal shall be on an annual basis beginning January 1.] A person may have the option of a one or three year license. The license fee shall be the annual fee for each category in which the person is licensed, the fee for a three (3) year license shall be three (3) times the annual fee for each category in which the person is licensed. The license shall expire on December 31.~~

E. All license applicants may be required to provide two complete sets of fingerprints on forms provided by or acceptable to the Commission and pay the required fee for processing the fingerprint cards through State and Federal Law Enforcement Agencies. If the fingerprints are of a quality not acceptable for processing, the licensee may be required to be reprinted.

F. All applicants for occupation licenses must be a minimum of 16 years of age. However, this shall not preclude dependent children under the age of 16 from working for their parents or guardian if said parents or guardian are licensed as a trainer or assistant trainer and permission has been obtained from the organization licensee. A trainer or his authorized representative signing a Test Barn Sample Tag must be licensed and a minimum of 18 years of age.

2. Employment Of Unlicensed Person. No organization, owner, trainer or other licensee acting as an employer within the enclosure at an authorized race meeting shall employ or harbor within the enclosure any person required to be licensed by the Commission until such organization, owner, trainer, or other employer determines that such person required to be licensed has been issued a valid license by the Commission. No organization shall permit any owner, trainer, or jockey to own, train, or ride on its premises during a recognized race meeting unless such owner, trainer, or jockey has received a license to do so from the Commission. The organization or prospective employer may demand for inspection the license of any person participating or attempting to participate at its meeting, and the organization may demand for inspection the documents relating to any horse on its grounds.

3. Notice Of Termination. Any organization, owner, trainer, or other licensee acting as an employer within the enclosure at an authorized race meeting shall be responsible for the immediate notification to the Commission and the organization conducting the race meeting of a termination of employment of a licensee. The employer shall make every effort to obtain the license badge from the employee and deliver the license badge to the Commission.

4. Application For License. An applicant for license shall apply in writing on the application forms furnished by the Commission.

5. License Identification Badge Requirements. The license identification badge may consist of the following information concerning the licensee:

- A. Full Name
- B. Permanent Address
- C. License Capacity
- D. Date of Issue
- E. Passport-Type Color Photograph
- F. Date of Birth

All license identification badges may be color coded as to capacity of occupation and eligibility for access to restricted areas. All license holders, except jockeys riding in a race, must wear a current

identification badge while present in restricted areas of the enclosure or as otherwise specified in Subsection R52-7-5(1).

6. Honoring Official Credentials. Credentials issued by the Commission may be honored for admission at all gates and entrances and to all places within the enclosure. Automobiles with vehicle decals issued by the Commission to its members and employees shall be permitted ingress and egress at any point. Credentials issued by the National Association of State Racing Commissioners to its members, past members, and staff shall be honored by the organization for admission into the public enclosure when presented therefore by such persons.

7. License Subject To Conditions And Agreements.

A. Every license is subject to the conditions and agreements contained in the application therefore and to the Statutes and Rules.

B. Every license issued to a licensee by the Commission remains the property of the Commission.

C. Possession of a license does not, as such, confer any right upon the holder thereof to employment at or participation in a race.

D. The Commission may restrict, limit, place conditions on, or endorse for additional occupational classes, any license, R52-7-5(9).

8. Changes In Application Information. Each licensee or applicant for license shall file with the Commission his permanent and his current mailing address and shall report in writing to the Commission any and all changes in application information.

9. Grounds For Denial, Refusal, Suspension Or Revocation Of License. The Commission, in addition to any other valid ground or reason, may deny, refuse to issue, suspend or revoke an occupation license for any person:

A. Who has been convicted of a felony of this State, any other state, or the United States of America; or

B. Who has been convicted of violating any law regarding gambling or controlled dangerous substance of this State, any other state, or of the United States of America; or

C. Who is unqualified to perform the duties required of the applicant; or

D. Who fails to disclose or states falsely any information required in the application; or

E. Who has been found guilty of a violation of any provision of the Utah Horse Act or of the Rules and Regulations of the Commission; or

F. Whose license for any racing occupation or activity requiring a license has been or is currently suspended, revoked, refused or denied for just cause in any other competent racing jurisdiction; or

G. Who has been or is currently excluded from any racing enclosure by a competent racing jurisdiction.

10. Examinations. The Commission may require the applicant for any license to demonstrate his knowledge, qualifications, and proficiency for the license applied for by such examination as the Commission may direct.

11. Refusal Without Prejudice. A refusal to issue a license (as distinguished from a denial of a license) to an applicant by the Commission at any race meeting is without prejudice; and the applicant so refused may reapply for a license at any subsequent or other race meeting, or he may appeal such refusal to the Commission for hearing upon his qualifications and fitness for the license.

12. Hearing After Denial Of License. Any person who has had his license denied may petition the Commission to reopen the case and reconsider its decision upon a sufficient showing that there is now

available evidence which could not, with the exercise of reasonable diligence, have been previously presented to the Commission. Any such petition must be filed with the Commission no later than 30 days after the effective date of the Commission's decision in the matter. Any person who has been denied a license by the Commission may not refile a similar application for license until one year from the effective date of the decision to deny the license.

13. **Financial Responsibility Of Applicants.** Applicants for license as horse owner or trainer must submit satisfactory evidence of their financial ability to care for and maintain the horses owned and/or trained by them when such evidence is requested by the Commission.

14. **Physical Examination.** The Commission or the Stewards may require that any jockey be examined at any time, and the Commission or the Stewards may refuse to allow any jockey to ride until he has successfully passed such examination.

15. **Qualifications For Jockey.** No person under 16 years of age shall be granted a jockey's license. A person who has never ridden in a race at a recognized meeting shall not be granted a license as jockey unless he has satisfactorily worked a horse from the starting gate in company, before the Stewards or their representatives. Upon the recommendation of the Stewards, the Commission may issue a jockey's license granting permission to such person for the purpose of riding in not more than four races to establish the qualifications and ability of such person for the license. Subsequently, the Stewards may recommend the granting of a jockey's license.

16. **Jockey Agent.** A jockey agent is the authorized representative of a jockey if he is registered with the Stewards and licensed by the Commission as the Jockey's representative. No jockey agent shall represent more than two jockeys at the same time.

17. **Workers' Compensation Act Compliance.** No person may be licensed as a trainer, owner, or in any other capacity in which such person acts as the employer of any other licensee at any authorized race meeting, unless his liability for Workers' Compensation has been secured in accordance with the Workers' Compensation Act of the State of Utah and until evidence of such security for liability is provided the Commission. Should any such required security for liability for Workers' Compensation be canceled or terminated, any license held by such person shall be automatically suspended and shall be grounds for revocation of the license. If a license applicant certifies that he has no employees that would subject him to liability for Workers' Compensation, he may be licensed, but only for the period he has no employees.

18. **Program Trainer Prohibited.** No licensed trainer, for the purpose of avoiding his responsibilities or insurance requirements as set forth in these Rules, shall place any horse in the care or attendance of any other trainer.

19. **Qualifications For License As Horse Owner.** No person may be licensed as a horse owner who is not the owner of record of a properly registered race horse which he intends to race in Utah and which is in the care of a licensed trainer, or who does not have an interest in such race horse as a part owner or lessee, or who is not the responsible managing owner of a corporation, syndicate or partnership which is the legal owner of such horse.

20. **Horse Ownership By Lease.** Horses may be raced under lease provided a completed Utah Horse Commission, breed registry, approved pari-mutuel or other lease form acceptable to the Commission, is attached to the Registration Certificate and on file with the Commission. The lessor(s) and lessee must be licensed as horse

owners. No lessor shall execute a lease for the purpose of avoiding insurance requirements.

21. **Statements Of Corporation, Partnership, Syndicate Or Other Association Or Entity.** All organizational documents of a corporation, partnership, syndicate or other association or entity, and the relative proportion of ownership interest, the terms of sales with contingencies, arrangements, or leases, shall be filed with the Horsemen's Bookkeeper of the organization and with the Commission. The above-said documents shall declare to whom winnings are payable, in whose names the horses shall be run, and the name of the licensed person who assumes all responsibilities as the owner. The part owner of any horse shall not assign his share or any part of it without the written consent of the other partners, and such consent shall be filed with the Horsemen's Bookkeeper and the Commission. A person or persons conducting racing operations as a corporation, partnership, syndicate or other association or entity shall register the information required by Rules in this Article and pay the required fee(s) for the appropriate entity.

22. **Stable Name Registration.** A person or persons electing to conduct racing operations by use of a stable name shall register the stable name and shall pay the required fee.

A. The applicant must disclose the identity or identities of all persons comprising the stable name.

B. Changes in identities must be reported immediately to and approval obtained from the Commission.

C. No person shall register more than one stable name at the same time nor use his real name for racing purposes so long as he has a registered stable name.

D. Any person who has registered under a stable name may cancel the stable name after he has given written notice to the Commission.

E. A stable name may be changed by registering a new stable name and by paying the required Fee.

F. No person shall register a stable name which has been registered by any other person with any organization conducting a recognized race meeting.

G. A stable name shall be clearly distinguishable from that of another registered stable name.

H. The stable name, and the name of the owner or managing owner, shall be published in the official program. If the stable name consists of more than one person, the official program will list the name of the managing owner along with the phrase "et al."

I. If a partnership, corporation, syndicate, or other association or entity is involved in the identity comprising a stable name, the rules covering a partnership, corporation, syndicate or other association or entity must be complied with and the usual fees paid therefore in addition to the fees for the registration of a stable name.

23. **Ownership Licensing Required.** The ownership licensing procedures required by the Commission must be completed prior to the horse starting in a race and shall include all registrations, statements and payment of fees.

24. **Knowledge Of Rules.** Every licensee, in order to maintain their qualifications for any license held by them, shall be familiar with and knowledgeable of the rules, including all amendments. Every licensee is presumed to know the rules.

25. **Certain Prohibited Licenses.** Commission-licensed jockeys, veterinarians, organizations' security personnel, vendors, and such other licensees designated by the stewards with approval of the

Commission, shall not hold any other license. The Commission may refuse to issue a license to a person whose spouse holds a license and which, in the opinion of the Commission, would create a conflict of interest.

KEY: horses, horse racing

Date of Enactment or Last Substantive Amendment: [~~February 2,~~ 2016

Notice of Continuation: August 30, 2011

Authorizing, and Implemented or Interpreted Law: 4-38-4

**Agriculture and Food, Marketing and
Development
R65-2
Utah Cherry Marketing Order**

**NOTICE OF PROPOSED RULE
(Repeal)**

DAR FILE NO.: 40367
FILED: 04/29/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule establishes a marketing order for sweet cherries. The industry has shrunk in Utah to no longer sustain a marketing order or board. As such, the remaining producers are now working with a national association to support their efforts and the local marketing order has become defunct.

SUMMARY OF THE RULE OR CHANGE: The proposed change is a complete repeal of the rule. There will no longer be a Marketing Order for Sweet Cherries when the rule takes effect.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 4-2-2(1)(e)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The repeal of this rule will disband the Sweet Cherry Marketing Board. As a result, the state will save on travel and per diem costs for the five-member board.
- ◆ **LOCAL GOVERNMENTS:** Local governments have no role in the administration or enforcement of this rule. Local governments will not be affected by the repeal of this rule.
- ◆ **SMALL BUSINESSES:** Cherry producers will no longer be obligated to pay \$25 per ton for fresh cherries and \$2 per ton for brine and frozen cherries.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Cherry producers will no longer be obligated to pay \$25 per ton for fresh cherries and \$2 per ton for brine and frozen cherries.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This is a repeal of the rule. There will be no cost to the producers as they will no longer be bound by the marketing order. The repeal of this rule will actually lead to a savings for the small businesses, businesses, and the state.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The repeal of this rule does away with the Utah Cherry Marketing Order.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
◆ Scott Ericson by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at sericson@utah.gov
◆ Wayne Bradshaw by phone at 801-538-7108, or by Internet E-mail at waynebradshaw@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/14/2016

THIS RULE MAY BECOME EFFECTIVE ON: 06/21/2016

AUTHORIZED BY: LuAnn Adams, Commissioner

**R65. Agriculture and Food, Marketing and Development.
~~[R65-2. Utah Cherry Marketing Order.~~**

~~R65-2-1. Authority:~~

~~— Promulgated under authority of Section 4-2-2(1)(e).~~

~~R65-2-2. Definitions of Terms:~~

- ~~— A. "Commissioner" means the Commissioner of Agriculture and Food of the State of Utah.~~
- ~~— B. "Person" means an individual, partnership, corporation, association, legal representative, or any organized group of individuals.~~
- ~~— C. "Cherries" mean sweet cherries produced for the fresh, brine, and frozen markets.~~
- ~~— D. "Producer" means any person in this State in the business of producing or causing to be produced cherries for the fresh, brine, or frozen markets, with at least one acre of trees in production, provided such producers shall not include producers who sell all the commodity direct to the consumer.~~
- ~~— E. "Registered" producer means a producer who has indicated that he/she wants to be included in the marketing order voting process by registering to vote in the referendum. Registration forms may be mailed out with the ballots.~~

~~F. "Known" producer means a producer of a specific commodity who has been identified by the commodity group, her/himself, or a third party as being eligible to register to vote in a referendum affecting that specific commodity.~~

R65-2-3. Board.

~~A. A Board of Control is hereby established consisting of seven members, two of whom shall be handlers to carry out the provisions of the order.~~

~~B. The original members of the Board of Control shall be selected by the Commissioner from a list of names submitted by the industry.~~

~~C. Successors to original members may be appointed by the Commissioner from names submitted by the industry. Three grower members and one handler member shall be appointed for a term of four year in February of 1980. Two grower members and one handler member shall be appointed for four years in February of 1982.~~

~~D. No member of such Board shall receive a salary but each shall be entitled to his actual expenses incurred while engaged in performing his duties herein authorized in accordance with Sections 63A-3-106 and 63A-3-107.~~

~~E. The duties of the Board shall be administrative only and may include only the acts mentioned in this Marketing Order.~~

~~F. All decisions of the Board of Control shall be by majority vote.~~

~~G. No member of the Board, nor any employee of the Board, shall be deemed responsible individually in any way whatsoever to any producer, distributor, handler, processor, or any other person, for errors of judgment, mistakes, or other acts, either of commission or omission of principal, agent, person, or employee, except for his own individual acts of dishonesty or crime. No such person or employee shall be held responsible individually for any act or omission of any other member of the Board. The liability of the members of such Board shall be several and not joint, and no member shall be liable for the default of any other member.~~

R65-2-4. Provisions of the Order.

~~A. This order provides for:~~

~~1. Uniform grading of cherries for fresh, frozen, or brine markets, sold or offered for sale by producers or handlers. Such grading standards shall not be established below any minimum standards now prescribed by law for this state.~~

~~2. Advertising and sales promotion to create new or larger markets for cherries grown in Utah, provided that any such plan shall be directed towards increasing the sale of such commodity without any reference to a particular brand or trade name. Provided further, that no advertising or sales promotion program shall be authorized which shall make use of false or unwarranted claims in behalf of the product covered by this Order, or disparage the quality, value, sale or use of any other agricultural commodity to supply the market demands of consumers of such commodity.~~

~~3. Labeling, marking, or branding of cherries which does not conflict with any rules of the Commissioner or laws of the State of Utah.~~

~~4. The Board of Control to cooperate with any other state or federal agency whose activities may be deemed beneficial to the purposes of this Order.~~

~~B. Expenses - Assessments - Collections and Disbursement.~~

~~1. Each producer subject to this Order shall pay to the Board his or her pro rata share of such expenses as the Commissioner may find necessary to be incurred by the Board for the functioning of said Marketing Order. This assessment levied in the specified amount shall constitute a personal debt of every person so assessed and shall be due and payable when payment is called for thereby. The pro rata share of the expenses payable by a cooperative association of producers shall be computed on the basis of the quantity of the product covered by the Order which is distributed, sold, or shipped in commerce by such cooperative association of producers. The Board may maintain in its own name, or in the name of its members, a suit against any producer, subject to this Order, for the collection of such producer's pro rata share of expenses.~~

~~2. This assessment shall be set at \$2 per ton for brine and frozen cherries and up to \$25 per ton for fresh cherries. The discretionary assessment shall be set by the majority vote of the board, and approved by the Commissioner. The assessment is effective June 1, 1984.~~

~~3. The assessment of each producer shall be deducted from the producer's gross receipt of sweet cherries by the dealer or producer handler. All proceeds from the deducted portion shall be paid annually to the Commission upon request of the Board.~~

~~4. The Board shall retain records of the receipt of the assessment which will be available for public inspection upon request.~~

~~5. The Board of Control is required to reimburse the Commissioner for any funds as are expended by the Commissioner in performing his duties, as provided in this Order. Such reimbursement to include only funds actually expended in connection with this Order.~~

~~6. The Board is authorized to incur such expenses as are necessary to carry out its functions subject to the approval of the Commissioner. The Board shall receive and disburse all funds received by it pursuant to Section R65-2-5. Any funds remaining at the end of any year over and above the necessary expenses of said Board of Control may be divided among all persons from whom such funds were collected, or, at the discretion of the Board, such amounts may be applied to the necessary expenses of the Board for the continuation of its program during the next succeeding year, and in such case the Board shall credit all persons from whom such funds were collected with their proper proportions thereof.~~

~~7. The Board shall retain records of the receipt of the assessment. These records shall be audited annually by an auditor approved by the Commissioner. Copies of the audit shall be available to any contributor upon request.~~

R65-2-5. Division of Funds.

~~Assessment made and monies collected under provisions of this order shall be divided into assessments and funds for~~

~~A. administrative purposes;~~

~~B. advertising purposes; and~~

~~C. research purposes. Such assessments and funds shall be used solely for the purposes for which they are collected; provided, that no funds be used for political or lobbying activities.~~

R65-2-6. Refund.

~~Any producer who wishes a refund of their assessments may receive such by notifying the Board in writing of their request by December 31 for cherries harvested in that harvest year.~~

R65-2-7. Complaints for Violation – Procedure.

~~Complaints for violation shall be handled by the responsible legal agencies and shall be enforced in the civil courts of the State.~~

R65-2-8. Termination of Order.

~~The Commissioner may terminate the Marketing Order at such time as he may determine there is no longer an industry need for such order. This order shall be reviewed or amended at least every five years by the industry, Subsection 4-2-2(3)(a). Once a year, a referendum vote may be called at the request of the producers through a petition of ten percent of the producers.~~

KEY: promotions

~~Date of Enactment or Last Substantive Amendment: May 1, 1996~~

~~Notice of Continuation: July 12, 2012~~

~~Authorizing, and Implemented or Interpreted Law: 4-2-2(1)(c)]~~

**Agriculture and Food, Marketing and
Development
R65-8-2**

Establishment of a Forum

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40369

FILED: 04/29/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule established the Utah Junior Livestock Show association. In this rule, the Association is given the authority to collect membership dues up to \$25 an association.

SUMMARY OF THE RULE OR CHANGE: The rule change allows the Utah Jr. Livestock Show association to charge an annual membership fee of up to \$50 a year. The association currently can charge up to \$25 a year to cover the costs of the annual meeting, food for the meeting, mail costs, and any other minor expenses.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 4-2-2(i)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The changes made to this rule will have no affect on the state budget. The increase in fees applies only to the members of the association.
- ◆ **LOCAL GOVERNMENTS:** Local governments are not affected by this rule because they have no jurisdiction over the Junior Livestock Show. The proposed changes to this rule will have no affect on local governments.
- ◆ **SMALL BUSINESSES:** Small businesses are not affected because the fee increase is only to members of the Junior Livestock Show in which there are no small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The membership dues are paid by each member association and cannot be derived from funds provided through state appropriations. The membership dues generally come from fees, dues, or fundraising associated with each specific livestock show. Depending on how the association plans on paying, the higher fee will result in an impact to the participants of the show.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The new compliance costs will be up to \$50. This will require an increase of the fees, dues, or fundraising efforts the associations currently have in place to cover the additional costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The increasing of the fees is a request by the Utah Junior Livestock Show Association. The request came through a unanimous resolution in the 2015 annual meeting. The rule change is coming at their request.

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

AGRICULTURE AND FOOD
MARKETING AND DEVELOPMENT
350 N REDWOOD RD
SALT LAKE CITY, UT 84116-3034
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
- ◆ Scott Ericson by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at sericson@utah.gov
- ◆ Wayne Bradshaw by phone at 801-538-7108, or by Internet E-mail at waynebradshaw@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/14/2016

THIS RULE MAY BECOME EFFECTIVE ON: 06/21/2016

AUTHORIZED BY: LuAnn Adams, Commissioner

**R65. Agriculture and Food, Marketing and Development.
R65-8. Management of the Junior Livestock Show Appropriation.
R65-8-2. Establishment of a Forum.**

A. There is established a Utah Junior Livestock Show Association to be composed of the President, or the President's representative, of each of the Junior Livestock Shows that are currently participating in the appropriation. The President of each show, or the President's representative, may vote on issues at the annual meeting.

B. The Association will hold an annual meeting to conduct the business associated with carrying out the intent of these rules. The meeting will be held at a time decided upon by the officers.

C. The Association will conduct an election during even numbered years to elect a Vice-President and Secretary. The Vice-President will succeed the President on even numbered years. The Treasurer function will be carried out by the Commissioner's designated liaison to the Association as contained in R65-8-6.

D. The President of each participating show, or the President's representative, will attend the annual meeting or submit a written explanation for non-attendance to the President of the Association.

E. Representatives from at least one-third of the member shows will constitute a quorum for conducting business at the annual meeting.

F. Membership dues will be set by the officers of the Association, but may not exceed [~~\$25.00~~]\$50.00 per year, payable at the annual meeting. Allocations from the show fund may not be used to pay dues.

KEY: exhibitions, livestock

Date of Enactment or Last Substantive Amendment: [~~1992~~]2016

Notice of Continuation: February 29, 2016

Authorizing, Implemented, or Interpreted Law: 4-2-2(1)(i)

Agriculture and Food, Plant Industry R68-12 Quarantine Pertaining to Mint Wilt

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 40365

FILED: 04/29/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule establishes quarantine for mint wilt. The rule requires inspection to be done in order to protect the mint growers in the state from disease. However, the industry no longer feels it is necessary to continue with the quarantine and proposes a revocation of the rule.

SUMMARY OF THE RULE OR CHANGE: The proposed change is a complete repeal of the rule. There will no longer be a quarantine for mint coming or leaving the state.

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

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There will not be a cost or savings to the state. The state only has three mint growers, and the Department appoints the field supervisors who conduct the inspection. The producer pays for the inspection, so the state doesn't allocate money to subsidize the program.

◆ **LOCAL GOVERNMENTS:** There is no affect on local government because local governments have no role in the enforcement of this rule.

◆ **SMALL BUSINESSES:** The three mint growers in the state will receive a savings due to the revocation of the rule. The businesses will no longer have to expend the \$2 per acre plus \$10 application fee for root stock inspections. Further, due to the repeal of the rule, the businesses will no longer have to quarantine an entire field of crops, thus suffering tremendous financial losses, depending on the size of the field. Instead, the businesses will only have to remove the affected portions.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** As was stated previously, there will be a cost savings for the individuals involved in the growing of mint in the state due to the decrease in inspections costs and the savings due to not having to quarantine the whole crop but rather portions of the crop.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no additional cost to affected persons. This is a repeal of the quarantine. As a result, there will be fewer restrictions on the people affected. This will lead to a cost savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Inspections are not found to be effective. The cost of inspections does not bring in additional revenue with only three mint growers in the state. The removal of this rule eliminates the potential for catastrophic financial loss to industry that may result from non-aggressive strains of Verticillium Dahlia. Removal of the mint wilt quarantine will no longer require entire field crop loss that has no recoupment of financial loss when minimal damage occurs. This will allow industry to remove only what is affected by disease rather than the entire crop.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Clark Burgess by phone at 801-538-7188, by FAX at 801-538-7189, or by Internet E-mail at cburgess@utah.gov
◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
◆ Robert Hougaard by phone at 801-538-7187, by FAX at 801-538-7189, or by Internet E-mail at rhougaard@utah.gov
◆ Scott Ericson by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at sericson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/14/2016

THIS RULE MAY BECOME EFFECTIVE ON: 06/21/2016

AUTHORIZED BY: LuAnn Adams, Commissioner

R68. Agriculture and Food, Plant Industry.

[R68-12. Quarantine Pertaining to Mint Wilt.

R68-12-1. Authority.

- ~~_____ A. Promulgated under authority of 4-2-2.~~
- ~~_____ B. It has been determined that the disease known as Mint Wilt caused by the organism Verticillium albo-atrum R and B or Verticillium dahliae is injurious to peppermint and spearmint, resulting in drastically lowered oil production in areas of severe infection; and~~
- ~~_____ C. restricting the movement of rootstocks in other states has been effective in retarding the spread of the disease to new areas of production, and in making growers aware of the necessity of better sanitary and cultural practices; and~~
- ~~_____ D. the strain of Verticillium wilt known to infect mint is not known to be present in the State of Utah;~~
- ~~_____ E. The Commissioner of Agriculture and Food of the State of Utah, by virtue of the authority vested in him by the provisions of 4-2-2 establishes a quarantine in order to prevent the introduction and subsequent spread of the Verticillium wilt disease of mint into and within the State of Utah, setting forth:~~
 - ~~_____ 1. quarantined areas;~~
 - ~~_____ 2. restricted areas;~~
 - ~~_____ 3. regulated articles;~~
 - ~~_____ 4. conditions governing movement, and~~
 - ~~_____ 5. required in-state certification of mint.~~

R68-12-2. Definitions.

~~_____ For the purpose of this quarantine, the following terms are defined:~~

- ~~_____ A. "Department" means the Utah Department of Agriculture and Food.~~
- ~~_____ B. "Disease organism" means Verticillium albo-atrum R and B or Verticillium dahliae varieties capable of causing wilt of mint.~~
- ~~_____ C. "Mint" means any plant or part thereof of the genus Mentha.~~
- ~~_____ D. "Mint planting stock" includes any portion of the mint used for reproduction and/or propagation.~~
- ~~_____ E. "Certified mint planting stock" means mint planting stock carrying a sealed certification tag or a certificate provided by the official certification agency of the state of origin.~~

R68-12-3. Quarantined Areas.

~~_____ All areas outside the State of Utah.~~

R68-12-4. Restricted Areas.

~~_____ All areas within the State of Utah.~~

R68-12-5. Regulated Articles.

~~_____ All mint planting stock.~~

R68-12-6. Prohibited Articles.

~~_____ All mint planting stocks which are not certified by the official certification agency of the state of origin.~~

R68-12-7. Conditions Governing Movement.

~~_____ A. Entry into State. No person shall import or move in any manner into the State of Utah any mint unless it carries a sealed~~

~~certification tag or a certificate issued by the official agency of the state of origin. Any imported mint not meeting this requirement shall be returned to the point of origin or destroyed at the option and expense of the importer.~~

~~_____ B. Movement within State. No mint planting stock shall be moved within the State of Utah unless it carries a sealed certification tag or a certificate issued by the official certification agency of the state of Utah.~~

R68-12-8. Certification Required Within State.

~~_____ All mint planting stock imported into the State of Utah shall be placed under the certification program of the Utah Crop Improvement Association and shall comply with the certification requirements and standards as established by that agency. All mint plantings in Utah must be maintained under certification or destroyed. If the Department finds any mint within the State of Utah infested with the wilt disease organism, it shall require the destruction of the same.~~

R68-12-9. Waiver of Liability.

~~_____ Any shipment of mint planting stock found within the State of Utah in violation of this quarantine must, under the immediate supervision of the State Department of Agriculture and Food, be destroyed or returned to the shipper at once. In either case, the shipper shall stand the expense of disposition of such shipment and the State of Utah assumes no liability for costs associated therewith. Any violation of these orders will be dealt with according to law.~~

KEY: plant diseases

Date of Enactment or Last Substantive Amendment: 1987

Notice of Continuation: May 21, 2015

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

**Agriculture and Food, Regulatory
Services
R70-370
Butter**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 40361
FILED: 04/28/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule establishes the butter grading standards for butter bought, sold, processed, and manufactured in the state.

SUMMARY OF THE RULE OR CHANGE: The proposed changes to the rule are made to update the current version of the Code of Federal Regulations (CFR) that is incorporated by reference. The changes are made to make it easier for individuals to find the criteria for grading butter.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-3-2 and Subsection 4-2-2(i) and Title 4, Chapter 5

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Removes 7 CFR 1, subchapters 58.305-58.349, published by Government Printing Office, 01/01/2013

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no costs or savings associated with the rule change. The rule changes have no additional requirements attached. The changes are made for clarification and to make it easier for those who are graded to find the grading criteria.
- ◆ **LOCAL GOVERNMENTS:** There are no requirements made on local government in the changes to the rule.
- ◆ **SMALL BUSINESSES:** The changes add no new requirements on those businesses affected by the rule. There will be neither a cost nor a savings to those affected by the rule.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The changes to the rule are to align the rule with the federal code that is adopted. There are no additional requirements made on individuals in this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs to any person affected by the changes to the rule. The rule changes are to make it easier for individuals to find the grading criteria.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this rule do not require additional measures from those affected. It does make it easier for individuals to find the standards that are set for the grading of butter. It will have no fiscal impact on businesses or individuals.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
- ◆ Scott Ericson by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at sericson@utah.gov
- ◆ Travis Waller by phone at 801-538-7150, by FAX at 801-538-7124, or by Internet E-mail at twaller@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/14/2016

THIS RULE MAY BECOME EFFECTIVE ON: 06/21/2016

AUTHORIZED BY: LuAnn Adams, Commissioner

R70. Agriculture and Food, Regulatory Services.

R70-370. Butter.

R70-370-1. Authority.

- A. Promulgated Under the Authority of Section 4-3-2.
- B. Scope - This rule shall apply to all butter sold, bought, processed, manufactured or distributed within the State of Utah.

R70-370-2. Adoption of United States Standards.

The United States Standards for Grades of Butter as specified in CFR 7 Chapter 1, subchapters [~~58.2621~~]58.305 through [~~58.2635~~]58.349, as revised January 1, [~~1993~~]2013, are hereby adopted and incorporated by reference within this rule.

R70-370-3. Sanitation and Processing Requirements.

Butter shall be produced, handled, packed, cut and printed under conditions meeting all sanitary requirements of Title 4, Chapter 3 and R70-320.

KEY: food inspections, butter, grading standards

Date of Enactment or Last Substantive Amendment: [~~1987~~]2016

Notice of Continuation: March 16, 2016

Authorizing, and Implemented or Interpreted Law: 4-3-2

Agriculture and Food, Regulatory
Services
R70-380
Grade A Condensed and Dry Milk
Products and Condensed and Dry
Whey

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40368

FILED: 04/29/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule incorporates by reference a federal document that has since been incorporated into a Grade "A" Pasteurized Milk Ordinance. The proposed changes would adopt the Grade "A" Pasteurized Milk Ordinance to make it easier to find the regulations and standards that the producers, manufacturers, and distributors have to follow.

SUMMARY OF THE RULE OR CHANGE: The proposed changes to the rule are made to update to the current version of the Grade "A" Pasteurized Milk Ordinance, January 1, 2013.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-3-2 and Subsection 4-2-2(i) and Title 4, Chapter 5

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Adds Grade "A" Pasteurized Milk Ordinance, January 2013 Revisions, published by U.S. Department of Health and Human Services, Public Health Service and Food and Drug Administration, 01/01/2013

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no costs or savings associated with the rule changes. The rule changes have no additional requirements attached. The changes are made for clarification and to make it easier for those who engage in the covered practices to find the regulations.
- ◆ **LOCAL GOVERNMENTS:** There are no requirements made on local government in the changes to the rule.
- ◆ **SMALL BUSINESSES:** The changes add no new requirements on those businesses affected by the rule. There will be neither a cost nor a savings to those affected by the rule. The changes to the rule are meant to make it easier to locate the regulations governing the industry.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The changes add no new requirements on those businesses affected by the rule. There will be neither a cost nor a savings to those affected by the rule. The changes to the rule are meant to make it easier to locate the regulations governing the industry.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs to any person affected by the changes to the rule. The rule changes are to make it easier for individuals to find the regulations.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this rule do not require additional measures from those affected. It does make it easier for individuals to find regulations by correctly citing Grade "A" Pasteurized Milk Ordinance. It will have no fiscal impacts on businesses or individuals.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
- ◆ Scott Ericson by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at sericson@utah.gov
- ◆ Travis Waller by phone at 801-538-7150, by FAX at 801-538-7124, or by Internet E-mail at twaller@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/14/2016

THIS RULE MAY BECOME EFFECTIVE ON: 06/21/2016

AUTHORIZED BY: LuAnn Adams, Commissioner

R70. Agriculture and Food, Regulatory Services.

R70-380. Grade A Condensed and Dry Milk Products and Condensed and Dry Whey.

R70-380-1. Authority.

A. Promulgated Under the Authority of Section 4-3-2.

B. Scope: This rule shall apply to all Grade A condensed milk products and condensed and dry whey sold, bought, processed, manufactured or distributed within the State of Utah.

R70-380-2. Adoption of Ordinance.

[~~The publication entitled: "The Grade A Condensed and Dry Milk Products and Condensed and Dry Whey Supplement #1 to the Grade A Pasteurized Milk Ordinance", including administrative procedures and appendixes, as published in 1995 by the United States Public Health Service, including "Recommendations", is hereby incorporated by reference within this rule.~~] The Grade "A" Pasteurized Milk Ordinance, 2013 Revision, is hereby adopted and incorporated by reference with in this rule.

R70-380-3. Changes in Ordinance.

Changes in the Condensed and Dry Milk Regulations as approved by the U.S. Food and Drug Administration shall be reviewed by this department for possible application, and these rules shall be amended to reflect those new standards as necessary.

R70-380-4. Regulatory Agency Defined.

The definition of "regulatory agency" as given in [~~Section 1(P) of the Dry Milk Ordinance 1995 revision~~] Section 1RR of the Pasteurized Milk Ordinance shall mean the Commissioner of Agriculture and Food of the State of Utah or his authorized representative(s).

R70-380-5. Penalty.

Violation of [~~any portion of the Grade A Dry Milk Ordinance 1995 recommendations~~] this rule may result in civil or criminal action, pursuant to 4-2-15.

KEY: food inspection

Date of Enactment or Last Substantive Amendment: [March 4, 1997]2016

Notice of Continuation: March 16, 2016

Authorizing, and Implemented or Interpreted Law: 4-3-2

**Agriculture and Food, Regulatory
Services
R70-550
Utah Inland Shellfish Safety Program**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40360

FILED: 04/28/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to establish health rules governing the growing, harvesting, shucking, and packaging of molluscan shellfish. The proposed changes are to correctly list the name of the model ordinance and to incorporate by reference the most current version of the ordinance.

SUMMARY OF THE RULE OR CHANGE: The proposed changes would correct the erroneous listing of the name of the ordinances. Further, it incorporates by reference the latest published version of the model ordinance, January 1, 2013, published by the Food and Drug Administration.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-5-17

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Adds National Shellfish Sanitation Program, Guide for the Control of Molluscan Shellfish, 2013, Revision, published by United States Public Health Service and the Food and Drug Administration, 01/01/2013

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There will be no affect on the state budget related to these changes. The department has been doing these inspections since 2007. The changes to rule will not have an affect on the inspection.
- ◆ **LOCAL GOVERNMENTS:** There will be no cost or savings to local governments. There are no requirements made on local governments in the changes to the rule.
- ◆ **SMALL BUSINESSES:** The rule governs small businesses in the state that package shellfish; however, the proposed changes to the rules will not have a cost or a savings to the businesses. The changes made to the rule are updating the rules to the current version being used on a nationwide level. These businesses are already using the most current version in order to ship out of the state.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed changes do not affect persons other than those engaged in the business of packaging and shipping

molluscan shellfish. As with small businesses, these changes do not affect the practices which are already standard in the industry.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with these proposed rule changes. The rules are a national standard that industry is already following.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed rules will not have a fiscal impact on businesses because the standards adopted by the proposed changes are already industry standards. The proposed changes will make it easier for interested parties to find the correct standards with which they must be in compliance.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
- ◆ Scott Ericson by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at sericson@utah.gov
- ◆ Travis Waller by phone at 801-538-7150, by FAX at 801-538-7124, or by Internet E-mail at twaller@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/14/2016

THIS RULE MAY BECOME EFFECTIVE ON: 06/21/2016

AUTHORIZED BY: LuAnn Adams, Commissioner

R70. Agriculture and Food, Regulatory Services.

R70-550. Utah Inland Shellfish Safety Program.

R70-550-1. Authority.

This rule is promulgated by the Division of Regulatory Services, within the Department of Agriculture and Food under authority of Section 4-5-17.

R70-550-2. Adopt by Reference.

[Adoption of USPHS Ordinance; National Shellfish Safety Program, Model Ordinance. The Interstate shellfish shipper model ordinance: 2005 edition Recommendations of] The National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish: 2013 Revision published by the United States Public Health Service/Food and Drug Administration, is hereby adopted and incorporated by reference within this rule.

KEY: interstate shell fish safety

Date of Enactment or Last Substantive Amendment: [~~December 14, 2007~~]**2016**

Notice of Continuation: January 12, 2012

Authorizing, and Implemented or Interpreted Law: 4-5-17

**Commerce, Occupational and
Professional Licensing
R156-55a-301
License Classifications - Scope of
Practice**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40351

FILED: 04/26/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Construction Services Commission are proposing amendments to clarify the supervision and code requirements for passive radon controls and radon mitigation work.

SUMMARY OF THE RULE OR CHANGE: In Section R156-55a-301, in B100 and R100 - this change allows B100 and R100 contractors to install passive radon controls in new construction without immediate supervision by a person who holds a Radon mitigation certificate. However, the installation must still comply with the building codes requirements for passive radon controls. In Section R156-55a-301, in S354 - the change requires radon mitigation work to be performed under immediate supervision of a person who holds a radon mitigation certificate. This is the same supervision that is already required for active radon mitigation work when performed by the B100 and R100 contractors classifications.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-55-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a) and Subsection 58-55-102(39)(a) and Subsection 58-55-308(1)(a)

ANTICIPATED COST OR SAVINGS TO:

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

◆ **LOCAL GOVERNMENTS:** The proposed amendments apply only to licensed contractors in classifications B100, R100, and S354 and applicants for licensure in those classifications. As a result, the proposed amendments do not apply to local governments.

◆ **SMALL BUSINESSES:** The proposed amendments may result in some added new construction to building owners and B100 and R100 contractors who choose to voluntarily install

passive radon controls on new construction. Since installation of passive radon controls is voluntary and not required on new construction by code, it is impossible to determine the cost that may be voluntarily incurred. These persons may choose to incur this voluntary expense because of savings that may result in the future. This change may increase cost for some S354 contractors who are not already having radon mitigation work performed under the immediate supervision of a certified radon person. It is impossible to determine how often this is occurring. Therefore, it is therefore impossible to determine the additional costs that may result.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** It is impossible, prior to new construction being completed, to determine if a building will ultimately have excessive levels of radon that may need mitigation work completed. As a result, the building codes do not require radon controls to be installed on new construction. However, passive radon control can be installed on new construction as a preventive measure with minor additional costs to the new construction. If these passive radon controls are not installed and it ultimately turns out that the building needs radon mitigation, the cost to the building owner for radon mitigation retrofitting could be substantially higher than if preventive measures were taken during initial construction. As the result of this rule change, more homeowners and their contractors may voluntarily choose to incur some additional up front costs of construction in order to save potentially more costly radon mitigation work later on. It is therefore impossible to determine the costs or savings that may result from this rule change but leaves the risk/reward analysis up to the homeowner and their contractors to decide.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It is impossible, prior to new construction being completed, to determine if a building will ultimately have excessive levels of radon that may need mitigation work completed. As a result, the building codes do not require radon controls to be installed on new construction. However, passive radon control can be installed on new construction as a preventive measure with minor additional costs to the new construction. If these passive radon controls are not installed and it ultimately turns out that the building needs radon mitigation, the cost to the building owner for radon mitigation retrofitting could be substantially higher than if preventive measures were taken during initial construction. As the result of this rule change, more homeowners and their contractors may voluntarily choose to incur some additional up front costs of construction in order to save potentially more costly radon mitigation work later on. It is therefore impossible to determine the costs or savings that may result from this rule change but leaves the risk/reward analysis up to the homeowner and their contractors to decide.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change allows B100 and R100 contractors to install passive radon controls in new construction without the

supervision of a person who holds a radon mitigation certificate. The rule change also requires radon mitigation work to be performed under the supervision of a person who holds a radon mitigation certificate. This rule change may impact contractors and building owners if building owners choose to install radon controls in new construction. However, such installation is not mandatory. Additionally, the change may impact contractors who are not already performing radon mitigation work under a certified person's supervision, and must now be so supervised.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Dan Jones by phone at 801-530-6720, by FAX at 801-530-6511, or by Internet E-mail at dansjones@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/14/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 05/25/2016 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 06/21/2016

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.

R156-55a. Utah Construction Trades Licensing Act Rule.

R156-55a-301. License Classifications - Scope of Practice.

(1) In accordance with Subsection 58-55-301(2), the classifications of licensure are listed and described in this section. The construction trades or specialty contractor classifications listed are those determined to significantly impact the public health, safety, and welfare. A person who is engaged in work which is included in the items listed in Subsections R156-55a-301(4) and (5) is exempt from licensure in accordance with Subsection 58-55-305(1)(i).

(2) Licenses shall be issued in the following primary classifications and subclassifications:

E100 - General Engineering Contractor. A General Engineering contractor is a contractor licensed to perform work as defined in Subsection 58-55-102(22).

B100 - General Building Contractor. A General Building contractor is a contractor licensed to perform work as defined in Subsection 58-55-102(21) and pursuant to Subsection 58-55-102(21)(b) is clarified as follows:

(a) The General Building Contractor scope of practice does not include activities described in this Subsection under specialty classification S202 - Solar Photovoltaic Contractor unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the North American Board of Certified Energy Practitioners.

(b) The General Building Contractor scope of practice does not include activities described in this Subsection under specialty classification S354-Radon Mitigation Contractor unless

(i) the work is performed under the immediate supervision of an employee who holds a current certificate issued by the National Radon Safety Board (NRSB) or the National Radon Proficiency Program (NEHA-NRPP); or

(ii) the work is limited to installation of passive radon gas controls on new construction in accordance with Appendix F of the International Residential Code.

B200 - Modular Unit Installation Contractor. Set up or installation of modular units as defined in Subsection 15A-1-302(8) and constructed in accordance with Section 15A-1-304. The scope of the work permitted under this classification includes construction of the permanent or temporary foundations, placement of the modular unit on a permanent or temporary foundation, securing the units together if required and securing the modular units to the foundations. Work excluded from this classification includes installation of factory built housing and connection of required utilities.

R100 - Residential and Small Commercial Contractor. A Residential and Small Commercial contractor is a contractor licensed to perform work as defined in Subsection 58-55-102(32) and pursuant to Subsection 58-55-102(32) is clarified as follows:

(a) The Residential and Small Commercial Contractor scope of practice does not include activities described in this Subsection under specialty classification S202 - Solar Photovoltaic Contractor unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the North American Board of Certified Energy Practitioners.

(b) The Residential and Small Commercial Contractor scope of practice does not include activities described in this Subsection under specialty classification S354-Radon Mitigation Contractor unless:

(i) the work is performed under the immediate supervision of an employee who holds a current certificate issued by the National Radon Safety Board (NRSB) or the National Radon Proficiency Program (NEHA-NRPP); or

(ii) the work is limited to installation of passive radon gas controls on new construction in accordance with Appendix F of the International Residential Code.

R101 - Residential and Small Commercial Non Structural Remodeling and Repair. Remodeling and repair to any existing structure built for support, shelter and enclosure of persons, animals, chattels or movable property of any kind with the restriction that no change is made to the bearing portions of the existing structure, including footings, foundation and weight bearing walls; and the entire project is less than \$50,000 in total cost.

R200 - Factory Built Housing Contractor. Disconnection, setup, installation or removal of manufactured housing on a temporary or permanent basis. The scope of the work permitted under this classification includes placement of the manufactured

housing on a permanent or temporary foundation, securing the units together if required, securing the manufactured housing to the foundation, and connection of the utilities from the near proximity, such as a meter, to the manufactured housing unit and construction of foundations of less than four feet six inches in height. Work excluded from this classification includes site preparation or finishing, excavation of the ground in the area where a foundation is to be constructed, back filling and grading around the foundation, construction of foundations of more than four feet six inches in height and construction of utility services from the utility source to and including the meter or meters if required or if not required to the near proximity of the manufactured housing unit from which they are connected to the unit.

I101 - General Engineering Trades Instruction Facility. A General Engineering Trades Instruction Facility is a construction trades instruction facility authorized to teach the construction trades and is subject to the scope of practice defined in Subsection 58-55-102(22).

I102 - General Building Trades Instruction Facility. A General Building Trades Instruction Facility is a construction trades instruction facility authorized to teach the construction trades and is subject to the scope of practice defined in Subsections 58-55-102(21) or 58-55-102(32).

I103 - Electrical Trades Instruction Facility. An Electrical Trades Instruction Facility is a construction trades instruction facility authorized to teach the electrical trades and subject to the scope of practice defined in Subsection R156-55a-301(S200).

I104 - Plumbing Trades Instruction Facility. A Plumbing Trades Instruction Facility is a construction trades instruction facility authorized to teach the plumbing trades and subject to the scope of practice defined in Subsection R156-55a-301(S210).

I105 - Mechanical Trades Instruction Facility. A Mechanical Trades Instruction Facility is a construction trades instruction facility authorized to teach the mechanical trades and subject to the scope of practice defined in Subsection R156-55a-301(S350).

S200 - General Electrical Contractor. Fabrication, construction, and/or installation of generators, transformers, conduits, raceways, panels, switch gear, electrical wires, fixtures, appliances, or apparatus which utilizes electrical energy. The General Electrical Contractor scope of practice does not include activities described in this Subsection under specialty classification S354-Radon Mitigation Contractor unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the National Radon Safety Board (NRSB) or the National Radon Proficiency Program (NEHA-NRPP).

S201 - Residential Electrical Contractor. Fabrication, construction, and/or installation of services, disconnecting means, grounding devices, panels, conductors, load centers, lighting and plug circuits, appliances and fixtures in any residential unit, normally requiring non-metallic sheathed cable, including multiple units up to and including a four-plex, but excluding any work generally recognized in the industry as commercial or industrial.

S202 - Solar Photovoltaic Contractor. Fabrication, construction, installation, and replacement of photovoltaic cell panels and related components. Wiring, connections and wire methods as governed in the National Electrical Code and

Subsection R156-55b-102(1) shall only be performed by an S200 General Electrical Contractor or S201 Residential Electrical Contractor. This classification is not required to install stand alone solar systems that do not tie into premises wiring or into the electrical utility, such as signage or street or parking lighting.

A contractor who obtained this classification of licensure between January 1, 2009 and April 25, 2011 and who holds an active license may, in addition to the above, perform the following activities as part of the scope of practice under this subsection: fabrication, construction, installation, and repair of photovoltaic cell panels and related components including battery storage systems, distribution panels, switch gear, electrical wires, inverters, and other electrical apparatus for solar photovoltaic systems. Work excluded from this classification includes work on any alternating current system or system component.

S210 - General Plumbing Contractor. Fabrication and/or installation of material and fixtures to create and maintain sanitary conditions in buildings, by providing a permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, and provision of a safe and adequate supply of gases for lighting, heating, and industrial purposes. Work permitted under this classification shall include the furnishing of materials, fixtures and labor to extend service from a building out to the main water, sewer or gas pipeline. The General Plumbing Contractor scope of practice does not include activities described in this Subsection under specialty classification S354-Radon Mitigation Contractor unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the National Radon Safety Board (NRSB) or the National Radon Proficiency Program (NEHA-NRPP).

S211 - Boiler Installation Contractor. Fabrication and/or installation of fire-tube and water-tube power boilers and hot water heating boilers, including all fittings and piping, valves, gauges, pumps, radiators, converters, fuel oil tanks, fuel lines, chimney flues, heat insulation and all other devices, apparatus, and equipment related thereto in a closed system not connected to the culinary water system. Notwithstanding the foregoing, where water delivery for the closed system is connected to the culinary water system and separated from the culinary water system by a backflow prevention device, a contractor licensed under this subsection may connect the closed system to the backflow prevention device, which must be installed by an actively licensed plumber.

S212 - Irrigation Sprinkling Contractor. Layout, fabrication, and/or installation of water distribution system for artificial watering or irrigation.

S213 - Industrial Piping Contractor. Fabrication and/or installation of pipes and piping for the conveyance or transmission of steam, gases, chemicals, and other substances including excavating, trenching, and back-filling related to such work. This classification includes the above work for geo thermal systems.

S214 - Water Conditioning Equipment Contractor. Fabrication and/or installation of water conditioning equipment and only such pipe and fittings as are necessary for connecting the water conditioning equipment to the water supply system within the premises.

S215 - Solar Thermal Systems Contractor. Construction, repair and/or installation of solar thermal systems up to the system

shut off valve or where the system interfaces with any other plumbing system.

S216 - Residential Sewer Connection and Septic Tank Contractor. Construction of residential sewer lines including connection to the public sewer line, and excavation and grading related thereto. Excavation, installation and grading of residential septic tanks and their drainage.

S217 - Residential Plumbing Contractor. Fabrication and/or installation of material and fixtures to create and maintain sanitary conditions in residential building, including multiple units up to and including a four-plex by providing a permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, and provision of a safe and adequate supply of gases for lighting and heating purposes. Work permitted under this classification shall include the furnishing of materials, fixtures and labor to extend service from a residential building out to the main water, sewer or gas pipeline. Excluded is any new construction and service work generally recognized in the industry as commercial or industrial.

S220 - Carpentry Contractor. Fabrication for structural and finish purposes in a structure or building using wood, wood products, metal studs, vinyl materials, or other wood/plastic/metal composites as is by custom and usage accepted in the building industry as carpentry. Incidental work includes the installation of tub liners and wall systems.

S221 - Cabinet, Millwork and Countertop Installation Contractor. On-site construction and/or installation of milled wood products or countertops.

S222 - Overhead and Garage Door Contractor. The installation of overhead and garage doors and door openers.

S230 - Siding Contractor. Fabrication, construction, and/or installation of siding.

S231 - Raingutter Installation Contractor. On-site fabrication and/or installation of raingutters and drains, roof flashings, gravel stops and metal ridges.

S240 - Glass and Glazing Contractor. Fabrication, construction, installation, and/or removal of all types and sizes of glass, mirrors, substitutes for glass, glass-holding members, frames, hardware, and other incidental related work.

S250 - Insulation Contractor. Installation of any insulating media in buildings and structures for the sole purpose of temperature control, sound control or fireproofing, but shall not include mechanical insulation of pipes, ducts or conduits.

S260 - General Concrete Contractor. Fabrication, construction, mixing, batching, and/or installation of concrete and related concrete products along with the placing and setting of screeds for pavement for flatwork, the construction of forms, placing and erection of steel bars for reinforcing and application of plaster and other cement-related products.

S261 - Concrete Form Setting and Shoring Contractor. Fabrication, construction, and/or installation of forms and shoring material; but, does not include the placement of concrete, finishing of concrete or embedded items such as metal reinforcement bars or mesh.

S262 - Gunitite and Pressure Grouting Contractor. Installation of a concrete product either injected or sprayed under pressure.

S263 - Cementitious Coating Systems Resurfacing and Sealing Contractor. Fabrication, construction, mixing, batching and installation of cementitious coating systems or sealants limited to the resurfacing or sealing of existing surfaces, including the preparation or patching of the surface to be covered or sealed.

S270 - General Drywall and Plastering Contractor. Fabrication, construction, and installation of drywall, gypsum, wallboard panels and assemblies. Preparation of drywall or plaster surfaces for suitable painting or finishing. Application to surfaces of coatings made of plaster, including the preparation of the surface and the provision of a base. This does not include applying stucco to lathe, plaster and other surfaces. Exempted is the plastering of foundations.

S272 - Ceiling Grid Systems, Ceiling Tile and Panel Systems Contractor. Fabrication and/or installation of wood, mineral, fiber, and other types of ceiling tile and panels and the grid systems required for placement.

S273 - Light-weight Metal and Non-bearing Wall Partitions Contractor. Fabrication and/or installation of light-weight metal and other non-bearing wall partitions.

S280 - General Roofing Contractor. Application and/or installation of asphalt, pitch, tar, felt, flax, shakes, shingles, roof tile, slate, and any other material or materials, or any combination of any thereof which use and custom has established as usable for, or which are now used as, water-proof, weatherproof, or watertight seal or membranes for roofs and surfaces; and roof conversion. Incidental work includes the installation of roof clamp ring to the roof drain.

S290 - General Masonry Contractor. Construction by cutting, and/or laying of all of the following brick, block, or forms: architectural, industrial, and refractory brick, all brick substitutes, clay and concrete blocks, terra-cotta, thin set or structural quarry tile, glazed structural tile, gypsum tile, glass block, clay tile, copings, natural stone, plastic refractories, and castables and any incidental works, including the installation of shower pans, as required in construction of the masonry work.

S291 - Stone Masonry Contractor. Construction using natural or artificial stone, either rough or cut and dressed, laid at random, with or without mortar. Incidental work includes the installation of shower pans.

S292 - Terrazzo Contractor. Construction by fabrication, grinding, and polishing of terrazzo by the setting of chips of marble, stone, or other material in an irregular pattern with the use of cement, polyester, epoxy or other common binders. Incidental work includes the installation of shower pans.

S293 - Marble, Tile and Ceramic Contractor. Preparation, fabrication, construction, and installation of artificial marble, burned clay tile, ceramic, encaustic, falence, quarry, semi-vitreous, and other tile, excluding hollow or structural partition tile. Incidental work includes the installation of shower pans.

S294 - Cultured Marble Contractor. Preparation, fabrication and installation of slab and sheet manmade synthetic products including cultured marble, onyx, granite, onice, corian, and corian type products. Incidental work includes the installation of shower pans.

S300 - General Painting Contractor. Preparation of surface and/or the application of all paints, varnishes, shellacs, stains, waxes and other coatings or pigments.

S310 - Excavation and Grading Contractor. Moving of the earth's surface or placing earthen materials on the earth's surface, by use of hand or power machinery and tools, including explosives, in any operation of cut, fill, excavation, grading, trenching, backfilling, or combination thereof as they are generally practiced in the construction trade.

S320 - Steel Erection Contractor. Construction by fabrication, placing, and tying or welding of steel reinforcing bars or erecting structural steel shapes, plates of any profile, perimeter or cross-section that are used to reinforce concrete or as structural members, including riveting, welding, and rigging.

S321 - Steel Reinforcing Contractor. Fabricating, placing, tying, or mechanically welding of reinforcing bars of any profile that are used to reinforce concrete buildings or structures.

S322 - Metal Building Erection Contractor. Erection of pre-fabricated metal structures including concrete foundation and footings, grading, and surface preparation.

S323 - Structural Stud Erection Contractor. Fabrication and installation of metal structural studs and bearing walls.

S330 - Landscaping Contractor.

(a) grading and preparing land for architectural, horticultural, or decorative treatment;

(b) arrangement, and planting of gardens, lawns, shrubs, vines, bushes, trees, or other decorative vegetation;

(c) construction of small decorative pools, tanks, fountains, hothouses, greenhouses, fences, walks, garden lighting of 50 volts or less, or sprinkler systems;

(d) construction of retaining walls except retaining walls which are intended to hold vehicles, structures, equipment or other non natural fill materials within the area located within a 45 degree angle from the base of the retaining wall to the level of where the additional weight bearing vehicles, structures, equipment or other non natural fill materials are located; or

(e) patio areas except that:

(i) no decking designed to support humans or structures shall be included; and

(ii) no concrete work designed to support structures to be placed upon the patio shall be included.

(f) This classification does not include running electrical or gas lines to any appliance.

S340 - Sheet Metal Contractor. Layout, fabrication, and installation of air handling and ventilating systems. All architectural sheet metal such as cornices, marquees, metal soffits, gutters, flashings, and skylights and skydomes including both plastic and fiberglass.

S350 - HVAC Contractor. Fabrication and installation of complete warm air heating and air conditioning systems, and complete ventilating systems. The HVAC Contractor scope of practice does not include activities described in this Subsection under specialty classification S354-Radon Mitigation Contractor unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the National Radon Safety Board (NRSB) or the National Radon Proficiency Program (NEHA-NRPP).

S351 - Refrigerated Air Conditioning Contractor. Fabrication and installation of air conditioning ventilating systems to control air temperatures below 50 degrees.

S352 - Evaporative Cooling Contractor. Fabrication and installation of devices, machinery, and units to cool the air temperature employing evaporation of liquid.

S353 - Warm Air Heating Contractor. Layout, fabrication, and installation of such sheet metal, gas piping, and furnace equipment as necessary for a complete warm air heating and ventilating system.

S354 - Radon Mitigation Contractor. Layout, fabrication, and installation of a radon mitigation system. This classification does not include work on heat recovery ventilation or makeup air components which must be performed by an HVAC Contractor and does not include electrical wiring which must be performed by an Electrical Contractor. Work performed under this classification shall be performed under the immediate supervision of an employee who holds a current certificate issued by the National Radon Safety Board (NRSB) or the National Radon Proficiency Program (NEHA-NRPP).

S360 - Refrigeration Contractor. Construction and/or installation of refrigeration equipment including, but not limited to, built-in refrigerators, refrigerated rooms, insulated refrigerated spaces and equipment related thereto; but, the scope of permitted work does not include the installation of gas fuel or electric power services other than connection of electrical devices to a junction box provided for that device and electrical control circuitry not exceeding 50 volts.

S370 - Fire Suppression Systems Contractor. Layout, fabrication, and installation of fire protection systems using water, steam, gas, or chemicals. When a potable sanitary water supply system is used as the source of supply, connection to the water system must be accomplished by a licensed plumbing contractor. Excluded from this classification are persons engaged in the installation of fire suppression systems in hoods above cooking appliances.

S380 - Swimming Pool and Spa Contractor. On-site fabrication, construction and installation of swimming pools, prefabricated pools, spas, and tubs.

S390 - Sewer and Waste Water Pipeline Contractor. Construction of sewer lines, sewage disposal and sewage drain facilities including excavation and grading with respect thereto, and the construction of sewage disposal plants and appurtenances thereto.

S400 - Asphalt Paving Contractor. Construction of asphalt highways, roadways, driveways, parking lots or other asphalt surfaces, which will include but will not be limited to, asphalt overlay, chip seal, fog seal and rejuvenation, micro surfacing, plant mix sealcoat, slurry seal, and the removal of asphalt surfaces by milling. Also included is the excavation, grading, compacting and laying of fill or base-related thereto. Also included in painting on asphalt surfaces including striping, directional and other types of symbols or words.

S410 - Pipeline and Conduit Contractor. Fabrication, construction, and installation of pipes, conduit or cables for the conveyance and transmission from one station to another of such products as water, steam, gases, chemicals, slurries, data or communications. Included are the excavation, cabling, horizontal boring, grading, and backfilling necessary for construction of the system.

S420 - General Fencing, Ornamental Iron and Guardrail Contractor. Fabrication, construction, and installation of fences, guardrails, handrails, and barriers.

S421 - Residential Fencing Contractor. Fabrication and installation of residential fencing up to and including a height of six feet.

S430 - Metal Firebox and Fuel Burning Stove Installer. Fabrication, construction, and installation of metal fireboxes, fireplaces, and wood or coal-burning stoves, including the installation of venting and exhaust systems, provided the individual performing the installation is RMGA certified.

S440 - Sign Installation Contractor. Installation of signs and graphic displays which require installation permits or permission as issued by state or local governmental jurisdictions. Signs and graphic displays shall include signs of all types, both lighted and unlighted, permanent highway marker signs, illuminated awnings, electronic message centers, sculptures or graphic representations including logos and trademarks intended to identify or advertise the user or his product, building trim or lighting with neon or decorative fixtures, or any other animated, moving or stationary device used for advertising or identification purposes. Signs and graphic displays must be fabricated, installed and erected in accordance with professionally engineered specifications and wiring in accordance with the National Electrical Code.

S441 - Non Electrical Outdoor Advertising Sign Contractor. Installation of signs and graphic displays which require installation permits or permission as issued by state and local governmental jurisdictions. Signs and graphics shall include outdoor advertising signs which do not have electrical lighting or other electrical requirements, and in accordance with professionally engineered specifications.

S450 - Mechanical Insulation Contractor. Fabrication, application and installation of insulation materials to pipes, ducts and conduits.

S460 - Wrecking and Demolition Contractor. The raising, cribbing, underpinning, moving, and removal of building and structures.

S470 - Petroleum Systems Contractor. Installation of above and below ground petroleum and petro-chemical storage tanks, piping, dispensing equipment, monitoring equipment and associated petroleum and petro-chemical equipment including excavation, backfilling, concrete and asphalt.

S480 - Piers and Foundations Contractor. The excavation, drilling, compacting, pumping, sealing and other work necessary to construct, alter or repair piers, piles, footings and foundations placed in the earth's subsurface to prevent structural settling and to provide an adequate capacity to sustain or transmit the structural load to the soil or rock below.

S490 - Wood Flooring Contractor. Installation of wood flooring including prefinished and unfinished material, sanding, staining and finishing of new and existing wood flooring. Underlayments, non-structural subfloors and other incidental related work.

S491 - Laminate Floor Installation Contractor. Installation of laminate floors including underlayments, non-structural subfloors and other incidental related work, but does not include the installation of solid wood flooring.

S500 - Sports and Athletic Courts, Running Tracks, and Playground Installation Contractor. Installation of sports and

athletic courts including but not limited to tennis courts, racquetball courts, handball courts, basketball courts, running tracks, playgrounds, or any combination. Includes nonstructural floor subsurfaces, nonstructural wall surfaces, perimeter walls and perimeter fencing. Includes the installation and attachment of equipment such as poles, basketball standards or other equipment.

S510 - Elevator Contractor. Erecting, constructing, installing, altering, servicing, repairing or maintaining an elevator.

S600 - General Stucco Contractor. Applying stucco to lathe, plaster and other surfaces.

S700 - Specialty License Contractor.

(a) A specialty license is a license that confines the scope of the allowable contracting work to a specialized area of construction which the Division grants on a case-by-case basis.

(b) When applying for a specialty license, an applicant, if requested, shall submit to the Division the following:

(i) a detailed statement of the type and scope of contracting work that the applicant proposes to perform; and

(ii) any brochures, catalogs, photographs, diagrams, or other material to further clarify the scope of the work that the applicant proposes to perform.

(c) A contractor issued a specialty license shall confine the contractor's activities to the field and scope of operations as outlined by the Division.

(3) The scope of practice for the following primary classifications includes the scope of practice stated in the descriptions for the following subclassifications:

TABLE I

Primary Classification	Included subclassifications
S200	S201, S202
S210	S211, S212, S213, S214, S215, S216, S217
S220	S221, S222
S230	S231
S260	S261, S262, S263
S270	S272, S273
S290	S291, S292, S293, S294
S320	S321, S322, S323
S350	S351, S352, S353, S354
S420	S421
S440	S441
S490	S491

(4) The following activities are determined to not significantly impact the public health, safety and welfare and therefore do not require a contractors license:

(a) sandblasting;

(b) pumping services;

(c) tree stump or tree removal;

(d) installation within a building of communication cables including phone and cable television;

(e) installation of low voltage electrical as described in R156-55b-102(1);

(f) construction of utility sheds, gazebos or other similar items which are personal property and not attached;

(g) building and window washing, including power washing;

(h) central vacuum systems installation;

(i) concrete cutting;

(j) interior decorating;

- (k) wall paper hanging;
 - (l) drapery and blind installation;
 - (m) welding on personal property which is not attached;
 - (n) chimney sweepers other than repairing masonry;
 - (o) carpet and vinyl floor installation;
 - (p) artificial turf installation;
 - (q) general cleanup of a construction site which does not include demolition or excavation; and
 - (r) work that would otherwise be limited to individuals holding the S260, S261, S262, S263, S290, S310, S330, S380, S420, S421 and S500 specialty classifications if the work is within the \$1,000 or \$3,000 labor and material limit as specified in the handyman exemption in Subsection 58-55-305(1)(h).
- (5) The following activities are those determined to not significantly impact the public health, safety and welfare beyond the regulations by other agencies and therefore do not require a contractor's license:
- (a) lead removal regulated by the Department of Environmental Quality;
 - (b) asbestos removal regulated by the Department of Environmental Quality; and
 - (c) fire alarm installation regulated by the Fire Marshal.

KEY: contractors, occupational licensing, licensing
Date of Enactment or Last Substantive Amendment: 2016
Notice of Continuation: October 4, 2011
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-55-101; 58-55-308(1)(a); 58-55-102(39)(a)

Education, Administration
R277-700
The Elementary and Secondary School
General Core

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 40363
 FILED: 04/28/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R277-700 is amended to update the Science General Core and Core Standards for students in grades 9-12, add required credit, and make terminology changes.

SUMMARY OF THE RULE OR CHANGE: Amendments to the rule provide three computer science courses as an option for core science credit for high school graduation; change wording in the body of the science requirements for clarification purposes; add a 0.5 required computer technology unit of credit to the middle school education requirements beginning no later than the 2018-2019 school year; and provide a change in terminology from Education Technology to Digital Studies.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art X, Sec 3 and Section 53A-1-401 and Section 53A-1-402.6 and Section 53A-13-109.5 and Subsection 53A-1-402(1) and Title 53A, Chapter 1, Part 12

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The amendments to Rule R277-700 provide more choices for core science credit, add required credit, and make terminology changes, which likely will not result in a cost or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** The amendments to Rule R277-700 provide more choices for core science credit, add required credit, and make terminology changes, which likely will not result in a cost or savings to local government.
- ◆ **SMALL BUSINESSES:** The amendments to Rule R277-700 provide more choices for core science credit, add required credit, and make terminology changes, which likely will not result in a cost or savings to small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The amendments to Rule R277-700 provide more choices for core science credit, add required credit, and make terminology changes, which likely will not result in a cost or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendments to Rule R277-700 provide more choices for core science credit, add required credit, and make terminology changes, which likely will not result in any compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: To the best of my knowledge, there should be no fiscal impact on businesses resulting from the amendments to this rule.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Angela Stallings by phone at 801-538-7656, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/14/2016

THIS RULE MAY BECOME EFFECTIVE ON: 06/21/2016

AUTHORIZED BY: Angela Stallings, Associate Superintendent, Policy and Communication

R277. Education, Administration.**R277-700. The Elementary and Secondary School General Core.****R277-700-1. Authority and Purpose.**

(1) This rule is authorized by:

(a) Article X, Section 3, of the Utah Constitution, which places general control and supervision of the public schools under the Board;

(b) Subsection 53A-1-402(1), which directs the Board to make rules regarding competency levels, graduation requirements, curriculum, and instruction requirements;

(c) Section 53A-1-402.6, which directs the Board to establish Core Standards in consultation with LEA boards and superintendents and directs LEA boards to adopt local curriculum and to design programs to help students master the General Core;

(d) Title 53A, Chapter 1, Part 12, Career and College Readiness Mathematics Competency, which directs the Board to establish college and career mathematics competency standards;

(e) Section 53A-13-109.5, which requires the Board to provide rules related to a basic civics test; and

(f) ~~Subsection 53A-1-401(3)~~, which allows the Board to ~~adopt rules in accordance with its responsibilities~~ make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to specify the minimum Core Standards and General Core requirements for the public schools, and to establish responsibility for mastery of Core Standard requirements.

R277-700-5. Middle School Education Requirements.

(1) The Core Standards and a General Core for middle school students are described in this section.

(2) A student in grades 7-8 is required to earn a minimum of 12 units of credit to be properly prepared for instruction in grades 9-12.

(3) In addition to the Board requirements described in this section, an LEA board may require a student to complete additional units of credit.

(4) The following are the Grades 7-8 General Core Requirements and units of credit:

(a) Language Arts (2.0 units of credit);

(b) Mathematics (2.0 units of credit);

(c) Science (2.0 units of credit);

(d) Social Studies (1.5 units of credit);

(e) The Arts (1.0 units of credit from the following):

(i) Visual Arts;

(ii) Music;

(iii) Dance; or

(iv) Theatre.

(f) Physical Education (1.0 units of credit);

(g) Health Education (0.5 units of credit); ~~and~~

(h) ~~[Career and Technical Education, Life, and Careers]~~ College and Career Awareness (1.0 units of credit); ~~and~~

beginning no later than the 2018-2019 school year.
Digital Literacy (0.5 units of credit).

(5) An LEA shall use evidence-based best practices, technology, and other instructional media in middle school curricula to increase the relevance and quality of instruction.

(6) An LEA shall use Board-approved summative adaptive assessments to assess student mastery of the following:

(a) reading;

(b) language arts;

(c) mathematics; and

(d) science in grades 7 and 8.

R277-700-6. High School Requirements.

(1) The General Core and Core Standards for students in grades 9-12 are described in this section.

(2) A student in grades 9-12 is required to earn a minimum of 24 units of credit through course completion or through competency assessment consistent with R277-705 to graduate.

(3) The General Core credit requirements from courses approved by the Board are described in Subsections (4) through (18).

(4) Language Arts (4.0 units of credit from the following):

(a) Grade 9 level (1.0 unit of credit);

(b) Grade 10 level (1.0 unit of credit);

(c) Grade 11 level (1.0 unit of credit); and

(d) Grade 12 level (1.0 Unit of credit) consisting of applied or advanced language arts credit from the list of Board-approved courses using the following criteria and consistent with the student's SEOP/Plan for College and Career Readiness:

(i) courses are within the field/discipline of language arts with a significant portion of instruction aligned to language arts content, principles, knowledge, and skills;

(ii) courses provide instruction that leads to student understanding of the nature and disposition of language arts;

(iii) courses apply the fundamental concepts and skills of language arts;

(iv) courses provide developmentally appropriate content; and

(v) courses develop skills in reading, writing, listening, speaking, and presentation.

(5) Mathematics (3.0 units of credit) shall be met minimally through successful completion of a combination of the foundation or foundation honors courses, Secondary Mathematics I, Secondary Mathematics II, and Secondary Mathematics III.

(6)(a) A student may opt out of Secondary Mathematics III if the student's parent submits a written request to the school.

(b) If a student's parent requests an opt out described in Subsection (6)(a), the student is required to complete a third math credit from the Board-approved mathematics list.

(7) A 7th or 8th grade student may earn credit for a mathematics foundation course before 9th grade, consistent with the student's SEOP/Plan for College and Career Readiness if:

(a) the student is identified as gifted in mathematics on at least two different USOE-approved assessments;

(b) the student is dual enrolled at the middle school/junior high school and the high school;

(c) the student qualifies for promotion one or two grade levels above the student's age group and is placed in 9th grade; or

(d) the student takes the USOE competency test in the summer prior to 9th grade and earns high school graduation credit for the course.

(8) A student who successfully completes a mathematics foundation course before 9th grade is required to earn 3.0 units of additional mathematics credit by:

(a) taking the other mathematics foundation courses described in Subsection (5); and

(b) an additional course from the Board-approved mathematics list consistent with:

(i) the student's SEOP/Plan for College and Career Readiness; and

(ii) the following criteria:

(A) courses are within the field/discipline of mathematics with a significant portion of instruction aligned to mathematics content, principles, knowledge, and skills;

(B) courses provide instruction that lead to student understanding of the nature and disposition of mathematics;

(C) courses apply the fundamental concepts and skills of mathematics;

(D) courses provide developmentally appropriate content; and

(E) courses include the five process skills of mathematics: problem solving, reasoning, communication, connections, and representation.

(9) A student who successfully completes a Calculus course with a "C" grade or higher has completed mathematics graduation requirements, regardless of the number of mathematics credits earned.

(10) Science (3.0 units of credit):

(a) shall be met minimally through successful completion of ~~[two courses]~~ 2.0 units of credit from ~~[the following]~~ two of the following five science foundation areas:

(i) Earth Science (1.0 units of credit);

~~(A) Earth Science;~~

~~(B) Advanced Placement Environmental Science; or~~

~~(C) International Baccalaureate Environmental Systems;~~

(ii) Biological Science (1.0 units of credit);

~~(A) Biology;~~

~~(B) Human Biology;~~

~~(C) Biology: Agricultural Science and Technology;~~

~~(D) Advanced Placement Biology;~~

~~(E) International Baccalaureate Biology; or~~

~~(F) Biology with Lab Concurrent Enrollment;~~

(iii) Chemistry (1.0 units of credit);

~~(A) Chemistry;~~

~~(B) Advanced Placement Chemistry;~~

~~(C) International Baccalaureate Chemistry; or~~

~~(D) Chemistry with Lab Concurrent Enrollment;~~

(iv) Physics (1.0 units of credit); ~~[or]~~

~~(A) Physics;~~

~~(B) Physics with Technology;~~

~~(C) Advanced Placement Physics (1, 2, C: Electricity and Magnetism, or C: Mechanics);~~

~~(D) International Baccalaureate Physics; or~~

~~(E) Physics with Lab Concurrent Enrollment; or~~

(v) ~~[one of the following]~~ Computer Science ~~[courses]~~ ~~[or]~~ 1.0 units of credit):

(A) Advanced Placement Computer Science;

(B) Computer Science Principles; or

(C) Computer Programming II; and

(b) one additional unit of credit from:

(i) the foundation courses described in Subsection(10)(a); or

(ii) the applied or advanced science list;

~~(A)~~ (A) determined by the LEA board; and

~~(B)~~ (B) approved by the Board using the following criteria and consistent with the student's SEOP/Plan for College and Career Readiness:

~~(A)]~~ (A)] courses are within the field/discipline of science with a significant portion of instruction aligned to science content, principles, knowledge, and skills;

~~(B)]~~ (B)] courses provide instruction that leads to student understanding of the nature and disposition of science;

~~(C)]~~ (C)] courses apply the fundamental concepts and skills of science;

~~(D)]~~ (D)] courses provide developmentally appropriate content;

~~(E)]~~ (E)] courses include the areas of physical, natural, or applied sciences; and

~~(F)]~~ (F)] courses develop students' skills in scientific inquiry.

(11) Social Studies (3.0 units of credit) shall be met minimally through successful completion of:

(a) 2.5 units of credit from the following courses:

(i) Geography for Life (0.5 units of credit);

(ii) World Civilizations (0.5 units of credit);

(iii) U.S. History (1.0 units of credit); and

(iv) U.S. Government and Citizenship (0.5 units of credit);

(b) Social Studies (0.5 units of credit per LEA discretion); and

(c) a basic civics test or alternate assessment described in R277-700-8.

(12) The Arts (1.5 units of credit from any of the following performance areas):

(a) Visual Arts;

(b) Music;

(c) Dance; or

(d) Theatre.

(13) Physical and Health Education (2.0 units of credit from any of the following):

(a) Health (0.5 units of credit);

(b) Participation Skills (0.5 units of credit);

(c) Fitness for Life (0.5 units of credit);

(d) Individualized Lifetime Activities (0.5 units of credit); or

(e) team sport/athletic participation (maximum of 0.5 units of credit with school approval).

(14) Career and Technical Education (1.0 units of credit from any of the following):

(a) Agriculture;

(b) Business;

(c) Family and Consumer Sciences;

(d) Health Science and Technology;

(e) Information Technology;

(f) Marketing;

(g) Technology and Engineering Education; or

(h) Trade and Technical Education.

(15) ~~[Educational Technology]~~ Digital Studies (0.5 units of credit) ~~[from one of the following]:~~

~~(a) Digital Literacy (0.5 units of credit from a Board-approved list of courses); or~~
~~(b) successful completion of a Board-approved competency examination (credit may be awarded at the discretion of the LEA).]~~

(16) Library Media Skills (integrated into the subject areas).

(17) General Financial Literacy (0.5 units of credit).

(18) Electives (5.5 units of credit).

(19) An LEA shall use Board-approved summative adaptive assessments to assess student mastery of the following subjects:

(a) reading;

(b) language arts through grade 11;

(c) mathematics as defined in Subsection (5); and

(d) science as defined in Subsection (10).

(20) An LEA board may require a student to earn credits for graduation that exceed the minimum Board requirements described in this rule.

(21) An LEA board may establish and offer additional elective course offerings at the discretion of the LEA board.

(22)(a) An LEA may modify a student's graduation requirements to meet the unique educational needs of a student if:

(i) the student has a disability; and

(ii) the modifications to the student's graduation requirements are made through the student's individual IEP.

(b) An LEA shall document the nature and extent of a modification, substitution, or exemption made to a student's graduation requirements described in Subsection (22)(a) in the student's IEP.

(23) The Board and Superintendent may review an LEA board's list of approved courses for compliance with this rule.

(24) An LEA may modify graduation requirements for an individual student to achieve an appropriate route to student success if the modification:

(a) is consistent with:

(i) the student's IEP; or

(ii) SEOP/Plan for College and Career Readiness;

(b) is maintained in the student's file;

(c) includes the parent's signature; and

(d) maintains the integrity and rigor expected for high school graduation, as determined by the Board.

KEY: graduation requirements, standards

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

Notice of Continuation: July 1, 2015

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-402(1)(b); 53A-1-402.6; 53A-1-401(~~3~~)

Health, Children's Health Insurance
 Program
R382-10-6
 Citizenship and Alienage

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40374

FILED: 05/02/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to provide coverage under the Children's Health Insurance Program (CHIP) to lawfully present alien children.

SUMMARY OF THE RULE OR CHANGE: This amendment allows alien children who are lawfully present and under 19 years of age to receive CHIP coverage.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Pub. L. No. 111-148 and Section 26-1-5 and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There is no impact to the state budget because funding for this coverage is 100% federal match.

♦ **LOCAL GOVERNMENTS:** There is no impact to local governments because they neither fund nor make CHIP eligibility determinations.

♦ **SMALL BUSINESSES:** Small businesses may see a nominal increase in annual revenue, but there is no data to estimate a total amount.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** CHIP providers may see a nominal increase in annual revenue, but there is no data to estimate a total amount. CHIP recipients who qualify under this provision may also see minimal out-of-pocket savings, but there is no data to estimate how much those savings would be.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A single CHIP provider may see a nominal increase in annual revenue, but there is no data to estimate a total amount. A CHIP recipient who qualifies under this provision may also see minimal out-of-pocket savings, but there is no data to estimate how much those savings would be.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be a slight fiscal impact on business in that CHIP providers may see a small increase in revenue for provision of additional services.

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

HEALTH

CHILDREN'S HEALTH INSURANCE PROGRAM

CANNON HEALTH BLDG

288 N 1460 W

SALT LAKE CITY, UT 84116-3231

or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/14/2016

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2016

AUTHORIZED BY: Joseph Miner, MD, Executive Director

R382. Health, Children's Health Insurance Program.

R382-10. Eligibility.

R382-10-6. Citizenship and Alienage.

(1) To be eligible to enroll in CHIP, a child must be a citizen or national of the United States (U.S.) or a qualified alien.

(2) The provisions of Section R414-302-3 regarding citizenship and alien status requirements apply to applicants and enrollees of CHIP.

(3) The Department elects to cover applicants and recipients who are under 19 years of age and lawfully present as defined in 42 U.S.C. 1396b(v) and 42 U.S.C. 1397gg(e)(1), and referenced in Section CS18 of the Utah CHIP State Plan.

KEY: children's health benefits

Date of Enactment or Last Substantive Amendment: [~~November 16, 2015~~]2016

Notice of Continuation: May 9, 2013

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-40

**Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-302-3
Citizenship and Alienage**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40375

FILED: 05/02/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to provide Medicaid coverage to lawfully present alien children.

SUMMARY OF THE RULE OR CHANGE: This amendment allows alien children who are lawfully present and under 19 years of age to receive Medicaid coverage.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Pub. L. No. 111-148 and Section 26-1-5 and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There is no impact to the state budget because funding for this coverage is 100% federal match.

♦ **LOCAL GOVERNMENTS:** There is no impact to local governments because they neither fund nor make Medicaid eligibility determinations.

♦ **SMALL BUSINESSES:** Small businesses may see a nominal increase in annual revenue, but there is no data to estimate a total amount.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Medicaid providers may see a nominal increase in annual revenue, but there is no data to estimate a total amount. Medicaid recipients who qualify under this provision may also see minimal out-of-pocket savings, but there is no data to estimate how much those savings would be.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A single Medicaid provider may see a nominal increase in annual revenue, but there is no data to estimate a total amount. A Medicaid recipient who qualifies under this provision may also see minimal out-of-pocket savings, but there is no data to estimate how much those savings would be.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be a slight fiscal impact on business in that Medicaid providers may see a small increase in revenue for provision of additional 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 Office 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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/14/2016

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2016

AUTHORIZED BY: Joseph Miner, MD, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**R414-302. Eligibility Requirements.****R414-302-3. Citizenship and Alienage.**

(1) The Department incorporates by reference 42 CFR 435.406 October 1, 2012 ed., which requires applicants and recipients to be United States (U.S.) citizens or qualified aliens and to provide verification of their U.S. citizenship or lawful alien status.

(2) The Department elects to cover applicants and recipients who are under 19 years of age and lawfully present as defined in 42 U.S.C. 1396b(v) and 42 U.S.C. 1397gg(e)(1), and referenced in Section S89 of the Utah Medicaid State Plan. [The definitions in R414-1 and R414-301 apply to this rule.]

(3) The Department shall decide if a public or private organization no longer exists or is unable to meet an alien's needs. The Department shall base the decision on the evidence submitted to support the claim. The documentation submitted by the alien must be sufficient to prove the claim.

(4) One adult household member must declare the citizenship status of all household members who will receive Medicaid.

(5) A qualified alien, as defined in 8 U.S.C. 1641 who was residing in the U.S. before August 22, 1996, may receive full Medicaid, Qualified Medicare Beneficiaries (QMB), Specified Low-Income Medicare Beneficiaries (SLMB), or Qualifying Individuals (QI) services.

(6) A qualified alien, as defined in 8 U.S.C. 1641 newly admitted into the U.S. on or after August 22, 1996, may receive full Medicaid, QMB, SLMB, or QI services after five years have passed from the person's date of entry into the U.S.

(7) The Department accepts as verification of citizenship documents from federally recognized Indian tribes evidencing membership or enrollment in such tribe including those with international borders as required under Section 211(b)(1) of the Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. No. 111 3, or as prescribed by the Secretary.

(8) The Department provides reasonable opportunity for applicants or clients to present satisfactory documentation of citizenship as required under Section 211(b)(2) of the Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. No. 111 3.

(9) The Department considers that an infant born to a mother who is eligible for Medicaid at the time of the infant's birth has provided satisfactory evidence of citizenship. The Department does not require further verification of citizenship for the infant as required under Section 211(b)(3) of the Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. No. 111 3.

(10) The Department adopts and incorporates by reference 42 CFR 435.949 and 42 CFR 435.952, October 1, 2012 ed.

(a) The Department shall verify citizenship and immigration status requirements through the Federal Data Services Hub or through other electronic match systems approved by the Secretary.

(b) If the Department cannot verify citizenship or immigration status through an electronic match system or the electronic data is not reasonably compatible with the client statement, the client must provide verification of citizenship and identity as described in 42 CFR 435.407.

KEY: state residency, citizenship, third party liability, Medicaid
Date of Enactment or Last Substantive Amendment: [September 1, 2015]2016

Notice of Continuation: January 23, 2013

Authorizing, and Implemented or Interpreted Law: 26-18-3

Health, Health Care Financing, Coverage and Reimbursement Policy

R414-303

Coverage Groups

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40377

FILED: 05/02/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to provide Medicaid coverage to lawfully present alien children.

SUMMARY OF THE RULE OR CHANGE: This amendment allows alien children who are lawfully present and under 19 years of age to receive Medicaid coverage. It also clarifies that coverage for these individuals, who may be pregnant, continues only through the month in which they turn 19 years old.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Pub. L. No. 111-148 and Section 26-1-5 and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no impact to the state budget because funding for this coverage is 100% federal match.

◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because they neither fund nor make Medicaid eligibility determinations.

◆ **SMALL BUSINESSES:** Small businesses may see a nominal increase in annual revenue, but there is no data to estimate a total amount.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Medicaid providers may see a nominal increase in annual revenue, but there is no data to estimate a total amount. Medicaid recipients who qualify under this provision may also see minimal out-of-pocket savings, but there is no data to estimate how much those savings would be.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A single Medicaid provider may see a nominal increase in annual revenue, but there is no data to estimate a total

amount. A Medicaid recipient who qualifies under this provision may also see minimal out-of-pocket savings, but there is no data to estimate how much those savings would be.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be a slight fiscal impact on business in that Medicaid providers may see a small increase in revenue for provision of additional 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 Office 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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/14/2016

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2016

AUTHORIZED BY: Joseph Miner, MD, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-303. Coverage Groups.

R414-303-4. Medicaid for Parents and Caretaker Relatives, Pregnant Women, Children, and Individuals Infected with Tuberculosis Using MAGI Methodology.

(1) The Department provides Medicaid coverage to individuals who are eligible as described in 42 CFR 435.110, 435.116, 435.118, and 435.139, October 1, 2012 ed., and Section 1902(a)(10) (A)(ii)(XII) of the Social Security Act, effective January 1, 2014, which are adopted and incorporated by reference. The Department uses the MAGI methodology defined in Section R414-304-5 to determine household composition and countable income for these individuals.

(2) To qualify for coverage, a parent or other caretaker relative must have a dependent child living with the parent or other caretaker relative.

(3) The Department provides Medicaid coverage to parents and other caretaker relatives, whose countable income determined using the MAGI methodology does not exceed the applicable income standard for the individual's family size. The income standards are as follows:

TABLE

Family Size	Income Standard
1	\$438
2	\$544
3	\$678
4	\$797
5	\$912
6	\$1,012
7	\$1,072
8	\$1,132
9	\$1,196
10	\$1,257
11	\$1,320
12	\$1,382
13	\$1,443
14	\$1,505
15	\$1,569
16	\$1,630

(4) For a family that exceeds 16 persons, add \$62 to the income standard for each additional family member.

(5) The Department provides Medicaid coverage to children who are zero through five years of age as required in 42 CFR 435.118, whose countable income is equal to or below 139% of the federal poverty level (FPL).

(6) The Department provides Medicaid coverage to children who are six through 18 years of age as required in 42 CFR 435.118, whose countable income is equal to or below 133% of the FPL.

(7) The Department provides Medicaid coverage to pregnant women as required in 42 CFR 435.116.

(a) The Department elects the income limit of 139% of the FPL to determine a pregnant woman's eligibility for Medicaid.

(b) An individual, as defined in Subsection R414-302-3(2), may only receive coverage through the end of the month in which the individual turns 19 years old.

(8) The Department provides Medicaid coverage to an infant until the infant turns one-year old when born to a woman eligible for Utah Medicaid on the date of the delivery of the infant, in compliance with Sec. 113(b)(1), Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. No. 111 3. The infant does not have to remain in the birth mother's home and the birth mother does not have to continue to be eligible for Medicaid. The infant must continue to be a Utah resident to receive coverage.

(9) The Department provides Medicaid coverage to an individual who is infected with tuberculosis and who does not qualify for a mandatory Medicaid coverage group. The individual's income cannot exceed the amount of earned income an individual, or if married, a couple, can have to qualify for Supplemental Security Income.

R414-303-5. Medicaid for Parents and Caretaker Relatives, Pregnant Women, and Children Under Non-MAGI-Based Community and Institutional Coverage Groups.

(1) The Department provides Medicaid coverage to individuals who are eligible as described in 42 CFR 435.117, 435.139, 435.170 and 435.301 through 435.310, October 1, 2012 ed. and Title XIX of the Social Security Act Sections 1902(e)(1), (4), (5), (6), (7) in effect January 1, 2013, which are adopted and incorporated by reference.

(2) To qualify for coverage as a medically needy parent or other caretaker relative, the parent or caretaker relative must have a dependent child living with the parent or other caretaker relative.

(a) The parent or other caretaker relative must be determined ineligible for the MAGI-based Parent and Caretaker Relative coverage group.

(b) The parent or other caretaker relative must not have resources in excess of the medically needy resource limit defined in Section R414-305-5.

(3) The income and resources of the non-parent caretaker relative are not counted to determine medically needy eligibility for the dependent child.

(4) To qualify for Child Medically Needy coverage, the dependent child does not have to be deprived of support and does not have to live with a parent or other caretaker relative.

(5) If a child receiving SSI elects to receive Medically-Needy Child Medicaid, the child's SSI income shall be counted with other household income.

(6) The eligibility agency shall determine the countable income of the non-parent caretaker relative and spouse in accordance with Section R414-304-6 and Section R414-304-8.

(a) Countable earned and unearned income of the non-parent caretaker relative and spouse is divided by the number of family members living in the household.

(b) The eligibility agency counts the income attributed to the caretaker relative, and the spouse if the spouse is included in the coverage, to determine eligibility.

(c) The eligibility agency does not count other family members in the non-parent caretaker relative's household to determine the applicable income limit.

(d) The household size includes the caretaker relative and the spouse if the spouse also wants medical coverage.

(7) An American Indian child in a boarding school and a child in a school for the deaf and blind are considered temporarily absent from the household.

(8) An individual who is pregnant, and under 19 years of age as described in Subsection R414-302-3(2), may only receive coverage through the end of the month in which the individual turns 19 years old.

KEY: MAGI-based, coverage groups, former foster care youth, presumptive eligibility

Date of Enactment or Last Substantive Amendment: [~~March 8,~~ 2016

Notice of Continuation: January 23, 2013

Authorizing, and Implemented or Interpreted Law: 26-18-3; 26-1-5

**Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-304
Income and Budgeting**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40380

FILED: 05/02/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to provide Medicaid coverage to lawfully present alien children.

SUMMARY OF THE RULE OR CHANGE: This amendment, through its reference to Subsection R414-302-3(2), allows alien children who are lawfully present and under 19 years of age to receive Medicaid coverage. It also clarifies income-determination procedures for the Department of Workforce Services.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Pub. L. No. 111-148 and Section 26-1-5 and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no impact to the state budget because funding for this coverage is 100% federal match.

◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because they neither fund nor make Medicaid eligibility determinations.

◆ **SMALL BUSINESSES:** Small businesses may see a nominal increase in annual revenue, but there is no data to estimate a total amount.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Medicaid providers may see a nominal increase in annual revenue, but there is no data to estimate a total amount. Medicaid recipients who qualify under this provision may also see minimal out-of-pocket savings, but there is no data to estimate how much those savings would be.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A single Medicaid provider may see a nominal increase in annual revenue, but there is no data to estimate a total amount. A Medicaid recipient who qualifies under this provision may also see minimal out-of-pocket savings, but there is no data to estimate how much those savings would be.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be a slight fiscal impact on business in that Medicaid providers may see a small increase in revenue for provision of additional 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 Office 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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/14/2016

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2016

AUTHORIZED BY: Joseph Miner, MD, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-304. Income and Budgeting.

R414-304-3. Aged, Blind and Disabled Non-Institutional and Institutional Medicaid Unearned Income Provisions.

(1) The Department adopts and incorporates by reference 42 CFR 435.811 and 435.831, October 1, 2012 ed., and 20 CFR 416.1102, 416.1103, 416.1120 through 416.1124, 416.1140 through 416.1148, 416.1150, 416.1151, 416.1157, 416.1163 through 416.1166, and Appendix to Subpart K of 416, April 1, 2012 ed. The Department also adopts and incorporates by reference Subsections 404(h)(4) and 1612(b)(24) and (25) of the Compilation of the Social Security Laws in effect January 1, 2013, to determine income and income deductions for Medicaid eligibility. The Department may not count as income any payments from sources that federal laws specifically prohibit from being counted as income to determine eligibility for federally-funded medical assistance programs.

(2) The eligibility agency may not count Veterans Administration (VA) payments for aid and attendance or the portion of a VA payment that an individual receives because of unusual medical expenses. Other VA income based on need is countable income, but is not subject to the \$20 general income disregard.

(3) The eligibility agency may only count as income the portion of a VA check to which the individual is legally entitled.

(4) The eligibility agency may not count as income Social Security Administration (SSA) reimbursements of Medicare premiums.

(5) The eligibility agency may not count as income the value of special circumstance items if the items are paid for by donors.

(6) For aged, blind and disabled Medicaid, the eligibility agency shall count as income two-thirds of current child support that an individual receives in a month for the disabled child. It does not

matter if the payments are voluntary or court-ordered. It does not matter if the child support is received in cash or in-kind. If there is more than one child for whom the payment is made, the amount is divided equally among the children unless a court order indicates a different division.

(7) The eligibility agency shall count as income of the child, child support payments received from a parent or guardian for past months or years.

(8) The agency shall use countable income of the parent to determine the amount of income that will be deemed from the parent to the child to determine the child's eligibility.

(9) For aged, blind and disabled Institutional Medicaid, court-ordered child support payments collected by the Office of Recovery Services (ORS) for a child who resides out-of-home in a Medicaid 24-hour care facility are not counted as income to the child. If ORS allows the parent to retain up to the amount of the personal needs allowance for the child's personal needs, that amount is counted as income for the child. All other current child support payments received by the child or guardian that are not subject to collection by ORS count as unearned income to the child.

(10) The eligibility agency shall count as unearned income the interest earned from a sales contract on either or both the lump sum and installment payments when the interest is received or made available to the client.

(11) If the client, or the client and spouse do not live with an in-kind support donor, in-kind support and maintenance is the lesser of the value or the presumed maximum value of food or shelter received. If the client, or the client and spouse live with an in-kind support donor and do not pay a prorated share of household operating expenses, in-kind support and maintenance is the difference between the prorated share of household operating expenses and the amount the client, or the client and spouse actually pay, or the presumed maximum value, whichever is less.

(12) Payments under a contract that provide for payments at set intervals or after completion of the contract period are not lump sum payments. The payments are subject to regular income counting rules. Retroactive payments from SSI and SSA reimbursements of Medicare premiums are not lump sum payments.

(13) The eligibility agency may not count as income educational loans, grants, and scholarships received from Title IV programs of the Higher Education Act or from Bureau of Indian Affairs educational programs, and may not count any other grants, scholarships, fellowships, or gifts that a client uses to pay for education. The eligibility agency shall count as income, in the month that the client receives them, any amount of grants, scholarships, fellowships, or gifts that the client uses to pay for non-educational expenses. Allowable educational expenses include:

- (a) tuition;
- (b) fees;
- (c) books;
- (d) equipment;
- (e) special clothing needed for classes;
- (f) travel to and from school at a rate of 21 cents a mile, unless the grant identifies a larger amount; and
- (g) child care necessary for school attendance.

(14) The eligibility agency may not count as income, payments from a qualified long-term care insurance partnership plan as defined in 42 U.S.C. 1396p(b)(1)(C)(iii), paid directly to a long-term care provider or collected by the Office of Recovery Services as a third-party liability source.

(15) Except for an individual eligible for the Medicaid Work Incentive (MWI) program, the following provisions apply to non-institutional medical assistance:

(a) For aged, blind and disabled Medicaid, the eligibility agency may not count income of a spouse or a parent to determine Medicaid eligibility of a person who receives SSI or meets 1619(b) criteria. SSI recipients and 1619(b) status individuals who meet all other Medicaid eligibility factors are eligible for Medicaid without spending down.

(b) If an ineligible spouse of an aged, blind or disabled person has more income after deductions than the allocation for a spouse, the eligibility agency shall deem the spouse's income to the aged, blind or disabled spouse to determine eligibility.

(c) The eligibility agency shall determine household size and whose income counts for aged, blind and disabled Medicaid as described below.

(i) If only one spouse is aged, blind or disabled:

(A) The eligibility agency shall deem income of the ineligible spouse to the eligible spouse when that income exceeds the allocation for a spouse. The eligibility agency shall compare the combined income to 100% of the federal poverty guideline for a two-person household. If the combined income exceeds that amount, the eligibility agency shall compare the combined income, after allowable deductions, to the BMS for two to calculate the spenddown.

(B) If the ineligible spouse's income does not exceed the allocation for a spouse, the eligibility agency may not count the ineligible spouse's income and may not include the ineligible spouse in the household size. Only the eligible spouse's income is compared to 100% of the federal poverty guideline for one. If the income exceeds that amount, it is compared, after allowable deductions, to the BMS for one to calculate the spenddown.

(ii) If both spouses are either aged, blind or disabled, the eligibility agency shall combine the income of both spouses and compare to 100% of the federal poverty guideline for a two-person household. SSI income is not counted.

(A) If the combined income exceeds that amount and one spouse receives SSI, the eligibility agency may only compare the income of the non-SSI spouse, after allowable deductions, to the BMS for a one-person household to calculate the spenddown.

(B) If neither spouse receives SSI and their combined income exceeds 100% of the federal poverty guideline, the eligibility agency shall compare the income of both spouses, after allowable deductions, to the BMS for a two-person household to calculate the spenddown.

(C) If neither spouse receives SSI and only one spouse will be covered under the applicable program, the eligibility agency shall deem income of the non-covered spouse to the covered spouse when that income exceeds the spousal allocation. If the non-covered spouse's income does not exceed the spousal allocation, the eligibility agency may only count the covered spouse's income. In both cases, the countable income is compared to 100% of the two-person poverty guideline. If the countable income exceeds the limit, the eligibility agency shall compare the income, after allowable deductions, to the BMS.

(I) If the non-covered spouse has income to deem to the covered spouse, the eligibility agency shall compare the countable income, after allowable deductions, to a two-person BMS to calculate a spenddown.

(II) If the non-covered spouse does not have income to deem to the covered spouse, the eligibility agency may only compare the covered spouse's income, after allowable deductions, to a one-person BMS to calculate the spenddown.

(iii) In determining eligibility under (c) for an aged or disabled person whose spouse is blind, both spouses' income is combined.

(A) If the combined income after allowable deductions is under 100% of the federal poverty guideline, the aged or disabled spouse will be eligible under the 100% poverty group defined in 1902(a)(10)(A)(ii) of the Social Security Act, and the blind spouse is eligible without a spenddown under the medically needy group defined in 42 CFR 435.301.

(B) If the combined income after allowable deductions is over 100% of poverty, both spouses are eligible with a spenddown under the medically needy group defined in 42 CFR 435.301.

(iv) If one spouse is disabled and working, the other is aged, blind or disabled and not working, and neither spouse is an SSI recipient nor a 1619(b) eligible individual, the working disabled spouse may choose to receive coverage under the MWI program. If both spouses want coverage, however, the eligibility agency shall first determine eligibility for them as a couple. If a spenddown is owed for them as a couple, they must meet the spenddown to receive coverage for both of them.

(d) Except when determining countable income for the 100% poverty-related Aged and Disabled Medicaid programs, the eligibility agency shall not deem income from a spouse who meets 1619(b) protected group criteria.

(e) The eligibility agency shall determine household size and whose income counts for QMB, SLMB, and QI assistance as described below:

(i) If both spouses receive Part A Medicare and both want coverage, the eligibility agency shall combine income of both spouses and compare it to the applicable percentage of the poverty guideline for a two-person household.

(ii) If one spouse receives Part A Medicare and the other spouse is aged, blind or disabled and does not receive Part A Medicare or does not want coverage, then the eligibility agency shall deem income of the ineligible spouse to the eligible spouse when that income exceeds the allocation for a spouse. If the income of the ineligible spouse does not exceed the allocation for a spouse, then only the income of the eligible spouse is counted. In both cases, the eligibility agency shall compare the countable income to the applicable percentage of the federal poverty guideline for a two-person household.

(iii) If one spouse receives Part A Medicare and the other spouse is not aged, blind or disabled, the eligibility agency shall deem income of the ineligible spouse to the eligible spouse when that income exceeds the allocation for a spouse. The agency shall combine countable income to the applicable percentage of the federal poverty guideline for a two-person household. If the deemed income of the ineligible spouse does not exceed the allocation for a spouse, only the eligible spouse's income is counted and compared to the applicable percentage of the poverty guideline for a one-person household.

(iv) The eligibility agency may not count SSI income to determine eligibility for QMB, SLMB or QI assistance.

(f) If any parent in the home receives SSI or is eligible for 1619(b) protected group coverage, the eligibility agency may not count the income of either parent to determine a child's eligibility for B or D Medicaid.

(g) Payments for providing foster care to a child are countable income. The portion of the payment that represents a reimbursement for the expenses related to providing foster care is not countable income.

(16) For Institutional Medicaid, the eligibility agency may only count the client in the household size. Only the client's income and deemed income from an alien client's sponsor is counted to determine the cost of care contribution. The provisions in Rule R414-307 govern who to include in the household size and whose income is counted to determine eligibility for home and community-based waiver services and the cost-of-care contribution.

(17) The eligibility agency shall deem, and count as unearned income, both ~~any~~ unearned and earned income from an alien's sponsor and the sponsor's spouse when the sponsor signs an Affidavit of Support pursuant to Section 213A of the Immigration and Nationality Act after December 18, 1997.

(a) The eligibility agency shall end sponsor deeming when the alien becomes a naturalized United States (U.S.) citizen, or has worked 40 qualifying quarters as defined under Title II of the Social Security Act, or can be credited with 40 qualifying work quarters. After December 31, 1996, a creditable qualifying work quarter is one during which the alien did not receive any federal means-tested public benefit.

(b) The eligibility agency may not apply sponsor deeming to applicants or recipients who are eligible for Medicaid for emergency services only, or who are eligible for Medicaid as described in Subsection R414-302-3(2).

(18) If retirement income has been divided between divorced spouses by the divorce decree pursuant to a Qualified Domestic Relations Order, the eligibility agency may only count as income the amount that is paid to the individual.

(19) The eligibility agency may not count as income any payments that an individual receives pursuant to the Individual Indian Money Account Litigation Settlement under the Claims Resettlement Act of 2010, Pub. L. No. 111 291, 124 Stat. 3064.

(20) The eligibility agency may not count as income any federal tax refund and refundable credit that an individual receives in accordance with the requirements of Sec. 6409, Pub. L. 112 240.

(21) The eligibility agency may not count income that is derived from an ownership interest in certain property and rights of federally-recognized American Indians and Alaska Natives including:

(a) certain tribal lands held in trust which are located on or near a reservation, or allotted lands located on a previous reservation;

(b) ownership interests in rents, leases, royalties, or usage rights related to natural resources that include extraction of natural resources; and

(c) ownership interests and usage rights in personal property which has unique religious, spiritual, traditional, or cultural significance, and rights that support subsistence or traditional lifestyles, as defined in Section 5006(b)(1) of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111 5, 123 Stat. 115.

(22) The eligibility agency may not count as income payments from the Department of Workforce Services under the

Family Employment program, the General Assistance program, or the Refugee Cash Assistance program.

R414-304-6. Unearned Income Provisions for Medically Needy Family, Child and Pregnant Woman Non-Institutional and Institutional Medicaid.

(1) The Department adopts and incorporates by reference 42 CFR 435.811 and 435.831, October 1, 2012 ed., 45 CFR 233.20(a)(1), 233.20(a)(3)(iv), 233.20(a)(3)(vi)(A), 233.20(a)(4)(ii), October 1, 2012 ed., and Subsection 404(h)(4) of the Compilation of the Social Security Laws, in effect January 1, 2013. The eligibility agency may not count as income any payments from sources that federal laws specifically prohibit from being counted as income to determine eligibility for federally-funded medical assistance programs.

(2) The eligibility agency may not count as income money loaned to the individual if the individual proves the money is from a loan that the individual is expected to repay.

(3) The eligibility agency may not count as income support and maintenance assistance provided in-kind by a non-profit organization certified by the Department of Human Services.

(4) The eligibility agency may not count as income the value of food stamp assistance, USDA food donations or WIC vouchers received by members of the household.

(5) The eligibility agency may not count income that is received too irregularly or infrequently to count as regular income, such as cash gifts, up to \$30 a calendar quarter per household member. Any amount that exceeds \$30 a calendar quarter per household member counts as income when received. Irregular or infrequent income may be divided equally among all members of the household.

(6) The eligibility agency may not count as income the amount deducted from benefit income to repay an overpayment.

(7) The eligibility agency may not count as income the value of special circumstance items paid for by donors.

(8) The eligibility agency may not count as income payments for home energy assistance.

(9) The eligibility agency may not count payments from any source that are to repair or replace lost, stolen or damaged exempt property. If the payments include an amount for temporary housing, the eligibility agency may only count the amount that the client does not intend to use or that is more than what is needed for temporary housing.

(10) The eligibility agency may not count as income SSA reimbursements of Medicare premiums.

(11) The eligibility agency may not count as income payments from the Department of Workforce Services under the Family Employment program, the ~~[Working Toward Employment]~~ General Assistance [P] program, and the Refugee Cash Assistance program. To determine eligibility ~~[for medically needy Medicaid]~~, the eligibility agency shall count income that the client receives to determine the amount of these payments, unless the income is an excluded income for medical assistance programs under other laws or regulations.

(12) The eligibility agency may not count as income interest or dividends earned on countable resources. The eligibility agency may not count as income interest or dividends earned on resources that are specifically excluded by federal laws from being counted as available resources to determine eligibility for federally-funded, means-tested medical assistance programs, other than resources excluded by 42 U.S.C. 1382b(a).

(13) The eligibility agency may not count as income the increase in pay for a member of the armed forces that is called "hostile fire pay" or "imminent danger pay," which is compensation for active military duty in a combat zone.

(14) The eligibility agency shall count as income SSI and State Supplemental payments received by children who are included in the coverage under medically needy Medicaid programs for families, pregnant women and children.

(15) The eligibility agency shall count unearned rental income. The eligibility agency shall deduct \$30 a month from the rental income. If the amount charged for the rental is consistent with community standards, the eligibility agency shall deduct the greater of either \$30 or the following actual expenses that the client can verify:

(a) taxes and attorney fees needed to make the income available;

(b) upkeep and repair costs necessary to maintain the current value of the property, including utility costs paid by the applicant or recipient;

(c) interest paid on a loan or mortgage made for upkeep or repair; and

(d) the value of a one-person food stamp allotment, if meals are provided to a boarder.

(16) The eligibility agency shall count deferred income when the client receives the income, the client does not defer the income by choice, and the client reasonably expects to receive the income. If the client defers the income by choice, the agency shall count the income according to when the client could receive the income. The eligibility agency shall count as income the amount deducted from income to pay for benefits like health insurance, medical expenses or child care in the month that the client could receive the income.

(17) The eligibility agency shall count the amount deducted from income to pay an obligation of child support, alimony or debts in the month that the client could receive the income.

(18) The eligibility agency shall count payments from trust funds as income in the month the payment is received by the individual or made available for the individual's use.

(19) The eligibility agency may only count as income the portion of a VA check to which the individual is legally entitled.

(20) The eligibility agency shall count as income deposits to financial accounts jointly-owned between the client and one or more other individuals, even if the deposits are made by a non-household member. If the client disputes ownership of the deposits and provides adequate proof that the deposits do not represent income to the client, the eligibility agency may not count those funds as income. The eligibility agency may require the client to terminate access to the jointly-held accounts.

(21) The eligibility agency shall count as unearned income the interest earned from a sales contract on lump sum payments and installment payments when the interest payment is received by or made available to the client.

(22) The eligibility agency shall count current child support payments as income to the child for whom the payments are being made. If a payment is for more than one child, the agency shall divide that amount equally among the children unless a court order indicates otherwise. Child support payments received by a parent or guardian to

repay amounts owed for past months or years are countable income to determine eligibility of the parent or guardian who receives the payments. If ORS collects current child support, the eligibility agency shall count the child support as current even if ORS mails the payment to the client after the month it is collected.

(23) The eligibility agency shall count payments from annuities as unearned income in the month that the client receives the payments.

(24) If retirement income has been divided between divorced spouses by the divorce decree pursuant to a Qualified Domestic Relations Order, the eligibility agency may only count the amount paid to the individual.

(25) The eligibility agency shall deem, and count as unearned income, both unearned and earned income from an alien's sponsor, and the sponsor's spouse, if any, when the sponsor has signed an Affidavit of Support pursuant to Section 213A of the Immigration and Nationality Act after December 18, 1997.

(a) The eligibility agency shall stop deeming income from a sponsor when the alien becomes a naturalized U.S. citizen, or has worked 40 qualifying quarters as defined under Title II of the Social Security Act or can be credited with 40 qualifying work quarters. After December 31, 1996, a creditable qualifying work quarter is one during which the alien did not receive any federal means-tested public benefit.

(b) The eligibility agency may not apply sponsor deeming to applicants or recipients who are eligible for emergency services only, or who are eligible for Medicaid as described in Subsection R414-302-3(2).

(26) The eligibility agency may not count as income any payments that an individual receives pursuant to the Individual Indian Money Account Litigation Settlement under the Claims Resettlement Act of 2010, Pub. L. No. 111 291, 124 Stat. 3064.

(27) The eligibility agency may not count as income any federal tax refund and refundable credit that an individual receives in accordance with the requirements of Sec. 6409 of the American Taxpayer Relief Act of 2012, Pub. L. No. 112 240, 126, Stat. 2313.

(28) The eligibility agency may not count income that is derived from an ownership interest in certain property and rights of federally-recognized American Indians and Alaska Natives including:

(a) certain tribal lands held in trust which are located on or near a reservation, or allotted lands located on a previous reservation;

(b) ownership interests in rents, leases, royalties, or usage rights related to natural resources that include extraction of natural resources; and

(c) ownership interests and usage rights in personal property which has unique religious, spiritual, traditional, or cultural significance, and rights that support subsistence or traditional lifestyles, as defined in Section 5006(b)(1) of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111 5, 123 Stat. 115.

KEY: financial disclosures, income, budgeting

Date of Enactment or Last Substantive Amendment: [September 1, 2015] 2016

Notice of Continuation: January 23, 2013

Authorizing, and Implemented or Interpreted Law: 26-18-3

**Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-305-3
Aged, Blind and Disabled Non-
Institutional and Institutional Medicaid
Resource Provisions**

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 40373
FILED: 05/02/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to implement a resource exemption through an Achieving a Better Life Experience (ABLE) account, in accordance with 80 FR 35611.

SUMMARY OF THE RULE OR CHANGE: This amendment allows an individual's assets to be held as an exempt resource under an ABLE account. An individual may set up an ABLE account in Utah or any other state.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Pub. L. No. 111-148 and Section 26-1-5 and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no impact to the state budget because this amendment neither affects Medicaid services nor the number of individuals who become eligible for Medicaid. It does not affect current or future appropriations for eligibility in Medicaid programs.
- ◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because they neither fund nor make eligibility determinations for Medicaid programs.
- ◆ **SMALL BUSINESSES:** There is no impact to small businesses because this amendment neither affects Medicaid services nor the number of individuals who become eligible for Medicaid.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to Medicaid providers because this amendment neither affects Medicaid services nor the number of individuals who become eligible for Medicaid. Additionally, there are no costs or savings to Medicaid recipients because the exemption only allows them to meet their disability expenses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no impact to a single Medicaid provider or to a Medicaid recipient because this amendment neither affects Medicaid

services nor the number of individuals who become eligible for Medicaid. Additionally, there are no costs or savings to a single Medicaid recipient because the exemption only allows the recipient to meet his disability expenses.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on business because the amendment does not affect services provided to Medicaid recipients or payments made to providers.

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 Office 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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/14/2016

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2016

AUTHORIZED BY: Joseph Miner, MD, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-305. Resources.

R414-305-3. Aged, Blind and Disabled Non-Institutional and Institutional Medicaid Resource Provisions.

(1) To determine resource eligibility of an individual on the basis of being aged, blind or disabled, the Department adopts and incorporates by reference 42 CFR 435.840, 435.845, October 1, 2012 ed., and 20 CFR 416.1201, 416.1202, 416.1205 through 416.1224, 416.1229 through 416.1239, and 416.1247 through 416.1250, April 1, 2012 ed. The Department also adopts and incorporates by reference Section 1917(b), (d), (e), (f) and (g) of the Compilation of the Social Security Laws in effect January 1, 2013. The eligibility agency may not count as an available resource any assets that are prohibited under other federal laws from being counted as a resource to determine eligibility for federally-funded medical assistance programs. In addition, the eligibility agency applies the following rules.

(2) A resource is available when the individual owns it or has the legal right to sell or dispose of the resource for the individual's own benefit.

(3) Except for the Medicaid Work Incentive Program, the resource limit for aged, blind or disabled Medicaid is \$2,000 for a one-person household and \$3,000 for a two-person household.

(4) For an individual who meets the criteria for the Medicaid Work Incentive Program, the resource limit is \$15,000. This limit applies whether the household size is one or more than one.

(5) The eligibility agency shall base non-institutional and institutional Medicaid eligibility on all available resources owned by the individual, or considered available to the individual from a spouse or parent. The eligibility agency may not grant eligibility based upon the individual's intent to or action of disposing of non-liquid resources as described in 20 CFR 416.1240, April 1, 2012 ed., unless Social Security is excluding the resources for an SSI recipient while the recipient takes steps to dispose of the excess resources.

(6) The eligibility agency may not count any resource or the interest from a resource held within the rules of the Uniform Transfers to Minors Act. Any money from the resource that is given to the child as unearned income is a countable resource that begins the month after the child receives it.

(7) The eligibility agency shall count the resources of a ward that are controlled by a legal guardian as the ward's resources.

(8) The eligibility agency may not count lump sum payments that an individual receives on a sales contract for the sale of an exempt home if the entire proceeds are used to purchase a new exempt home within three calendar months of when the property is sold. The eligibility agency shall grant the individual one three-month extension if more than three months is needed to complete the actual purchase. Proceeds are defined as all payments made on the principal of the contract. Proceeds do not include interest earned on the principal.

(9) If a resource is available, but a legal impediment exists, the eligibility agency may not count the resource until it becomes available. The individual must take appropriate steps to make the resource available unless one of the following conditions as determined by a person with established expertise relevant to the resource exists:

(a) Reasonable action does not allow the resource to become available; and

(b) The cost of making the resource available exceeds its value.

(10) Water rights attached to the home and the lot on which the home sits are exempt as long as the home is the individual's principal place of residence.

(11) For an institutionalized individual, the eligibility agency may not consider a home or life estate to be an exempt resource.

(12) To determine eligibility for nursing facility or other long-term care services, the eligibility agency shall exclude the value of the individual's principal home or life estate from countable resources if one of the following conditions is met:

(a) the individual intends to return to the home;

(b) the individual's spouse resides in the home;

(c) the individual's child who is under the age of 21, or who is blind or disabled resides in the home; or

(d) a reliant relative of the individual resides in the home.

(13) Even if the conditions in Subsection R414-305-3(12) are met, an individual is ineligible to receive nursing facility services or other long-term care services if the full equity value of the individual's home or life estate exceeds \$500,000, or increased value

according to the provisions of 42 U.S.C. 1396p(f)(1)(C) unless the individual's spouse, or the individual's child who is under the age of 21 or is blind or permanently disabled lawfully resides in the home. The individual may only qualify for Medicaid to cover ancillary services.

(14) For Aged, Blind and Disabled Medicaid, the eligibility agency may not count up to \$6,000 of equity value of non-business property used to produce goods or services essential to home use daily activities.

(15) The eligibility agency may retroactively designate for burial a previously unreported resource that meets the criteria for burial funds found in 20 CFR 416.1231. The effective date of the exclusion cannot be earlier than the first day of the month after the month in which the funds were designated for burial or intended for burial, were separated from non-burial funds, and the client was eligible for Medicaid. The eligibility agency shall treat the resources as funds set aside for burial and the amount exempted cannot exceed the limit established for the SSI program.

(16) One vehicle is exempt if it is used for regular transportation needs of the individual or a household member.

(17) The eligibility agency may not count resources of an SSI recipient who has a plan for achieving self-support approved by the Social Security Administration when the resources are set aside under the plan to purchase work-related equipment or meet self-support goals.

(18) The eligibility agency may not count an irrevocable burial trust as a resource. Nevertheless, if the owner is institutionalized or on home and community-based waiver Medicaid, the value of the trust, which exceeds \$7,000, is considered a transferred resource.

(19) The eligibility agency may not count business resources that are required for employment or self-employment.

(20) For the Medicaid Work Incentive Program, the eligibility agency may not count the following additional resources of the eligible individual:

(a) Retirement funds held in an employer or union pension plan, retirement plan or account, including 401(k) plans, or an Individual Retirement Account, even if the funds are available to the individual.

(b) A second vehicle when it is used by a spouse or child of the eligible individual living in the household to get to work.

(21) After qualifying for the Medicaid Work Incentive Program, the eligibility agency may not count the resources described in Subsection R414-305-3(20) to allow the individual to qualify for other Medicaid programs for the aged, blind or disabled, and not solely the Medicaid Work Incentive, even if the individual ceases to have earned income or no longer meets the criteria for the Work Incentive Program.

(22) Assets of an alien's sponsor, and the sponsor's spouse, if any, when the sponsor has signed an Affidavit of Support pursuant to Section 213A of the Immigration and Nationality Act after December 18, 1997, are considered available to the alien. The eligibility agency shall stop counting assets from a sponsor when the alien becomes a naturalized United States (U.S.) citizen, or has worked 40 qualifying quarters as defined under Title II of the Social Security Act or can be credited with 40 qualifying work quarters. After December 31, 1996, a creditable qualifying work quarter is one during which the alien did not receive any federal means-tested public benefit.

(23) The eligibility agency shall not consider a sponsor's assets as being available to applicants who are eligible for Medicaid for emergency services only.

(24) The eligibility agency may not count as a resource any federal tax refund and refundable credit that an individual receives for 12 months after the month of receipt.

(25) The eligibility agency may not count as a resource, for one year after the date of receipt, any payments that an individual receives under the Individual Indian Money Account Litigation Settlement under the Claims Resettlement Act of 2010, Pub. L. No. 111 291, 124 Stat. 3064.

(26) The eligibility agency may not count certain property and rights of federally-recognized American Indians including certain tribal lands held in trust which are located on or near a reservation, or allotted lands located on a previous reservation; ownership interests in rents, leases, royalties or usage rights related to natural resources (including extraction of natural resources); and ownership interests and usage rights in personal property which has unique religious, spiritual, traditional or cultural significance, and rights that support subsistence or traditional lifestyles, as defined in Section 5006(b)(1) of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111 5, 123 Stat. 115.

(27) The eligibility agency shall not count as a resource a qualified Achieving a Better Life Experience (ABLE) account.

(28[7]) The eligibility agency shall count only the portion of an asset such as a retirement plan that is legally available to an individual when that asset has been divided between two divorced spouses pursuant to a qualified domestic relations order.

(29[8]) Under the authority of Subsection 1902(r)(2) of the Social Security Act, to determine an individual's eligibility for Medicaid for long-term care services, the Department disregards otherwise countable assets or resources in an amount equal to the insurance benefit payments made to or on behalf of an individual who is a beneficiary under a qualified long-term care insurance partnership policy that meets the provisions found in 42 U.S.C. 1396p(b)(1)(C) (iii). The amount of the disregard applies to otherwise countable assets the client owns or that are deemed available to the client for the purpose of determining eligibility, and is equal to the amount of benefits the client has received from the partnership policy up through the month immediately before the month of application for long-term care assistance under Utah Medicaid.

(a) This resource disregard applies to aged, blind or disabled individuals who qualify for Medicaid under one of the following eligibility coverage groups found under:

(i) Subsection 1902(a)(10)(A)(ii)(V) of the Social Security Act; or

(ii) Subsection 1902(a)(10)(A)(ii)(VI) of the Social Security Act.

(b) The Department treats payments received after eligibility for long-term care services as a third-party liability that does not result in the disregard of additional resources.

(c) Assets disregarded under Subsection R414-305-3(28) are not subject to estate recovery authorized under Section 26-19-13.7, with the exception defined below in Subsection R414-305-3(28)(e).

(d) This disregard is not specific to any one asset. Any countable assets the individual owns or that are deemed available to the client are subject to the provisions defined in Section R414-305-9 regarding transfers of assets. The Department shall apply a penalty period or an overpayment proceeding for any transfer of assets for less than fair market value. In the event the Department learns of an asset transfer at the time of an estate recovery action for which a penalty period is not assessed or an overpayment is not collected, the

Department shall reduce the amount of assets in the estate that could otherwise be excluded from the estate recovery requirements by the value of the assets transferred for less than fair market value. The Department may also take legal steps to recover assets transferred for less than fair market value.

(e) Home equity in excess of the standard described in Subsection R414-305-3(13) is not a countable resource, so this disregard does not affect the application of Subsection R414-305-3(13).

(f) The Department recognizes long-term care insurance partnership policies purchased in other states under the reciprocity requirements of the statute. The beneficiary of the policy must have been a resident in a partnership state when coverage first became effective under the policy.

(30[29]) Life estates.

(a) For non-institutional Medicaid, the eligibility agency shall count life estates as resources only when a market exists for the sale of the life estate as established by knowledgeable sources.

(b) For Institutional Medicaid, the eligibility agency shall count life estates even if no market exists for the sale of the life estate, unless the life estate can be excluded as defined in Subsection R414-305-3(12).

(c) The individual may dispute the value of the life estate by verifying the property value to be less than the established value or by submitting proof based on the age and life expectancy of the life estate owner that the value of the life estate is lower. The value of a life estate shall be based upon the age of the individual and the current market value of the property.

(d) The following table lists the life estate figure corresponding to the individual's age. The eligibility agency uses this figure to establish the value of a life estate:

TABLE

Age	Life Estate Figure
0	.97188
1	.98988
2	.99017
3	.99008
4	.98981
5	.98938
6	.98884
7	.98822
8	.98748
9	.98663
10	.98565
11	.98453
12	.98329
13	.98198
14	.98066
15	.97937
16	.97815
17	.97700
18	.97590
19	.97480
20	.97365
21	.97245
22	.97120
23	.96986
24	.96841
25	.96678
26	.96495
27	.96290
28	.96062
29	.95813

30 .95543
 31 .95254
 32 .94942
 33 .94608
 34 .94250
 35 .93868
 36 .93460
 37 .93026
 38 .92567
 39 .92083
 40 .91571
 41 .91030
 42 .90457
 43 .89855
 44 .89221
 45 .88558
 46 .87863
 47 .87137
 48 .86374
 49 .85578
 50 .84743
 51 .83674
 52 .82969
 53 .82028
 54 .81054
 55 .80046
 56 .79006
 57 .77931
 58 .76822
 59 .75675
 60 .74491
 61 .73267
 62 .72002
 63 .70696
 64 .69352
 65 .67970
 66 .66551
 67 .65098
 68 .63610
 69 .62086
 70 .60522
 71 .58914
 72 .57261
 73 .55571
 74 .53862
 75 .52149
 76 .50441
 77 .48742
 78 .47049
 79 .45357
 80 .43659
 81 .41967
 82 .40295
 83 .38642
 84 .36998
 85 .35359
 86 .33764
 87 .32262
 88 .30859
 89 .29526
 90 .28221
 91 .26955
 92 .25771
 93 .24692
 94 .23728
 95 .22887
 96 .22181
 97 .21550
 98 .21000
 99 .20486
 100 .19975
 101 .19532
 102 .19054
 103 .18437
 104 .17856

105 .16962
 106 .15488
 107 .13409
 108 .10068
 109 .04545

KEY: Medicaid, resources

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

Notice of Continuation: January 23, 2013

Authorizing, and Implemented or Interpreted Law: 26-18-3; 26-1-5

Health, Health Care Financing,
 Coverage and Reimbursement Policy
R414-401-3
 Assessment

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40372

FILED: 05/02/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to update the annual assessment amounts for nursing care facilities and Intermediate Care Facilities for Persons with Intellectual Disabilities (ICFs/ID) for State Fiscal Year (SFY) 2017.

SUMMARY OF THE RULE OR CHANGE: In Subsection R414-401-3(2), every nursing facility is assessed at the uniform rate of \$18.74 per patient day, which is an increase from the previous \$18.32 per patient day assessment, based upon projected days. In Subsection R414-401-3(2), ICFs/ID are assessed at the uniform rate of \$8.45 per patient day, which is a decrease from the previous \$8.46 per patient day assessment, based upon projected days. These updates are based on estimates of patient days for SFY 2017 and the appropriation amounts.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The update to the assessment rates is anticipated to be budget neutral as it updates the collection rate based on projected days in SFY 2017 and the appropriation amount.

◆ **LOCAL GOVERNMENTS:** Inasmuch as swing beds are variable, it is not possible to determine the cost or savings to local hospital and swing bed facilities.

◆ **SMALL BUSINESSES:** Medicaid nursing facility providers will realize an increase in cost to non-Medicaid certified facilities as those facilities would be assessed at the higher amount and would not realize any payments from Medicaid.

Inasmuch as patient days are variable, it is not possible to determine the increased cost that will be realized by these facilities. ICFs/ID will realize a decreased cost based upon the decrease in the assessment rate. Inasmuch as patient days are variable, it is not possible to determine the decreased cost that will be realized by these facilities.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Medicaid nursing facility providers will realize an increase in cost to non-Medicaid certified facilities as those facilities would be assessed at the higher amount and would not realize any payments from Medicaid. Inasmuch as patient days are variable, it is not possible to determine the increased cost that will be realized by these facilities. ICFs/ID will realize a decreased cost based upon the decrease in the assessment rate. Inasmuch as patient days are variable, it is not possible to determine the decreased cost that will be realized by these facilities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs include an increased collection of \$0.76 per non-Medicare patient day from each nursing facility and a decreased cost of \$0.01 per qualifying patient day for the ICF/ID providers. The assessment monies are used to draw down federal matching funds that result in higher reimbursement rates than would be possible without the assessment monies. All Medicaid certified nursing and swing bed facilities have benefited from this process. The amount of overall gain or loss depends on the number of Medicaid patients in the facility. In addition, there would be an increase in cost to non-Medicaid-certified facilities as those facilities would be assessed the higher amount and would not realize any payments from Medicaid.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment will fiscally impact business because it increases the assessment rates for some types of nursing facilities and decreases assessment rates for others. While the individual per patient day assessment changes are small, an exact calculation of the impact on business is not possible because the number of days for individual patients is widely variable.

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 Office 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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/14/2016

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2016

AUTHORIZED BY: Joseph Miner, MD, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-401. Nursing Care Facility Assessment.

R414-401-3. Assessment.

(1) The collection agent for the nursing care facility assessment shall be the Department, which is vested with the administration and enforcement of the assessment.

(2) The uniform rate of assessment for every facility is \$[~~18.32~~]18.74 per non-Medicare patient day provided by the facility, except that intermediate care facilities for people with intellectual disabilities shall be assessed at the uniform rate of \$8.4[~~6~~]5 per patient day. Swing bed facilities shall be assessed the uniform rate for nursing facilities. The Utah State Veteran's Home is exempted from this assessment and this rule.

(3) Each nursing care facility must pay its assessment monthly on or before the last day of the next succeeding month.

(4) The Department shall extend the time for paying the assessment to the next month succeeding the federal approval of a Medicaid State Plan Amendment allowing for the assessment, and consequent reimbursement rate adjustments.

KEY: Medicaid, nursing facility

Date of Enactment or Last Substantive Amendment: [~~July 1, 2015~~]2016

Notice of Continuation: April 7, 2014

Authorizing, and Implemented or Interpreted Law: 26-1-30; 26-35a; 26-18-3

Human Resource Management,
Administration
R477-1
Definitions

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 40398
FILED: 05/02/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to add one new definition and make subsequent number modifications.

SUMMARY OF THE RULE OR CHANGE: This amendment adds the definition of "Leave Benefit" and updates numbers of definitions accordingly.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 67-19-6

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: These changes are administrative and do not directly impact state budgets.
- ◆ LOCAL GOVERNMENTS: This rule only affects the executive branch of state government and will have no impact on local government.
- ◆ SMALL BUSINESSES: This rule only affects the executive branch of state government and will have no impact on small businesses.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no direct compliance cost for these amendments. This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by the Department of Human Resource Management (DHRM) have no direct affect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by the "Utah Personnel Management Act", Title 67, Chapter 19. This act limits the provisions of career service and these rules to employees of the executive branch of state government. The only possible impact may be a very slight, indirect affect if an agency passes costs or savings on to business through fees. However, it is anticipated that the minimal costs associated with these changes will be absorbed by agency budgets and will have no affect on business.

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

HUMAN RESOURCE MANAGEMENT
ADMINISTRATION
ROOM 2120 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Greg Hargis by phone at 801-891-5680, or by Internet E-mail at ghargis@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/15/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

- ◆ 05/24/2016 10:00 AM, Senate Building, 420 N State Street, Aspen Room, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2016

AUTHORIZED BY: Debbie Cragun, Executive Director

R477. Human Resource Management, Administration.

R477-1. Definitions.

R477-1-1. Definitions.

The following definitions apply throughout these rules unless otherwise indicated within the text of each rule.

(1) Abandonment of Position: An act of resignation resulting when an employee is absent from work for three consecutive working days without approval.

(2) Actual FTE: The total number of full time equivalents based on actual hours paid in the state payroll system.

(3) Actual Hours Worked: Time spent performing duties and responsibilities associated with the employee's job assignments.

(4) Actual Wage: The employee's assigned wage rate in the central personnel record maintained by the Department of Human Resource Management.

(5) Administrative Leave: Leave with pay granted to an employee at management discretion that is not charged against the employee's leave accounts.

(6) Administrative Adjustment: An adjustment to a salary range approved by DHRM that is not a Market Comparability Adjustment, a Structure Adjustment, or a Reclassification. It is for administrative purposes only. An Administrative Adjustment will result in an increase to incumbent pay only when necessary to bring salaries to the minimum of the salary range.

(7) Administrative Salary Decrease: A decrease in the current actual wage based on non-disciplinary administrative reasons determined by an agency head.

(8) Administrative Salary Increase: An increase in the current actual wage based on special circumstances determined by an agency head.

(9) Agency: An entity of state government that is:

(a) directed by an executive director, elected official or commissioner defined in Title 67, Chapter 22 or in other sections of the code;

(b) authorized to employ personnel; and

(c) subject to Title 67, Chapter 19, Utah State Personnel Management Act.

(10) Agency Head: The executive director or commissioner of each agency or a designated appointee.

(11) Agency Human Resource Field Office: An office of the Department of Human Resource Management located at another agency's facility.

(12) Agency Management: The agency head and all other officers or employees who have responsibility and authority to establish, implement, and manage agency policies and programs.

(13) **Alternative State Application Program (ASAP):** A program designed to appoint a qualified person with a disability through an on the job examination period.

(14) **Appeal:** A formal request to a higher level for reconsideration of a grievance decision.

(15) **Appointing Authority:** The officer, board, commission, person or group of persons authorized to make appointments in their agencies.

(16) **Break in Service:** A point at which an individual has an official separation date and is no longer employed by the State of Utah.

(17) **Budgeted FTE:** The total number of full time equivalents budgeted by the Legislature and approved by the Governor.

(18) **Bumping:** A procedure that may be applied prior to a reduction in force action (RIF). It allows employees with higher retention points to bump other employees with lower retention points as identified in the work force adjustment plan, as long as employees meet the eligibility criteria outlined in interchangeability of skills.

(19) **Career Mobility:** A temporary assignment of an employee to a different position for purposes of professional growth or fulfillment of specific organizational needs.

(20) **Career Service Employee:** An employee who has successfully completed a probationary period in a career service position.

(21) **Career Service Exempt Employee:** An employee appointed to work for a period of time, serving at the pleasure of the appointing authority, who may be separated from state employment at any time without just cause.

(22) **Career Service Exempt Position:** A position in state service exempted by law from provisions of career service under Section 67-19-15.

(23) **Career Service Status:** Status granted to employees who successfully complete a probationary period for career service positions.

(24) **Category of Work:** A job series within an agency designated by the agency head as having positions to be eliminated agency wide through a reduction in force. Category of work may be further reduced as follows:

(a) a unit smaller than the agency upon providing justification and rationale for approval, including:

- (i) unit number;
- (ii) cost centers;
- (iii) geographic locations;
- (iv) agency programs.

(b) positions identified by a set of essential functions, including:

- (i) position analysis data;
- (ii) certificates;
- (iii) licenses;
- (iv) special qualifications;
- (v) degrees that are required or directly related to the position.

(25) **Change of Workload:** A change in position responsibilities and duties or a need to eliminate or create particular positions in an agency caused by legislative action, financial circumstances, or administrative reorganization.

(26) **Classification Grievance:** The approved procedure by which an agency or a career service employee may grieve a formal classification decision regarding the classification of a position.

(27) **Classified Service:** Positions that are subject to the classification and compensation provisions stipulated in Section 67-19-12.

(28) **Classification Study:** A Classification review conducted by DHRM under Section R477-3-4. A study may include single or multiple job or position reviews.

(29) **Compensatory Time:** Time off that is provided to an employee in lieu of monetary overtime compensation.

(30) **Contractor:** An individual who is contracted for service, is not supervised by a state supervisor, but is responsible for providing a specified service for a designated fee within a specified time. The contractor shall be responsible for paying all taxes and FICA payments, and may not accrue benefits.

(31) **Critical Incident Drug or Alcohol Test:** A drug or alcohol test conducted on an employee as a result of the behavior, action, or inaction of an employee that is of such seriousness it requires an immediate intervention on the part of management.

(32) **Demotion:** A disciplinary action resulting in a reduction of an employee's current actual wage.

(33) **Detailed Position Record Management Report:** A document that lists an agency's authorized positions, incumbent's name and hourly rate, job identification number, salary range, and schedule.

(34) **DHRM:** The Department of Human Resource Management.

(35) **DHRM Approved Recruitment and Selection System:** The state's recruitment and selection system, which is a centralized and automated computer system administered by the Department of Human Resource Management.

(36) **Disability:** Disability shall have the same definition found in the Americans With Disabilities Act (ADA) of 1990, 42 USC 12101 (2008); Equal Employment Opportunity Commission regulation, 29 CFR 1630 (2008); including exclusions and modifications.

(37) **Disciplinary Action:** Action taken by management under Rule R477-11.

(38) **Dismissal:** A separation from state employment for cause under Section R477-11-2.

(39) **Dual State Employment:** Employees who work for more than one agency and meet the employee criteria which is located in the Division of Finance accounting policy 11-18.00.

(40) **Drug-Free Workplace Act:** A 1988 congressional act, 34 CFR 84 (2008), requiring a drug-free workplace certification by state agencies that receive federal grants or contracts.

(41) **Employee Personnel Files:** For purposes of Title 67, Chapters 18 and 19, the files or records maintained by DHRM and agencies as required by Section R477-2-5. This does not include employee information maintained by supervisors.

(42) **Employment Eligibility Verification:** A requirement of the Immigration Reform and Control Act of 1986, 8 USC 1324 (1988) that employers verify the identity and eligibility of individuals for employment in the United States.

(43) **"Escalator" Principle:** Under the Uniformed Services Employment and Reemployment Rights Act (USERRA), returning veterans are entitled to return back onto their seniority escalator at the point they would have occupied had they not left state employment.

(44) Excess Hours: A category of compensable hours separate and apart from compensatory or overtime hours that accrue at straight time only when an employee's actual hours worked, plus additional hours paid, exceed an employee's normal work period.

(45) Fitness For Duty Evaluation: Evaluation, assessment or study by a licensed professional to determine if an individual is able to meet the performance or conduct standards required by the position held, or is a direct threat to the safety of self or others.

(46) FLSA Exempt: Employees who are exempt from the overtime and minimum wage provisions of the Fair Labor Standards Act.

(47) FLSA Nonexempt: Employees who are not exempt from the overtime and minimum wage provisions of the Fair Labor Standards Act.

(48) Follow Up Drug or Alcohol Test: Unannounced drug or alcohol tests conducted for up to five years on an employee who has previously tested positive or who has successfully completed a voluntary or required substance abuse treatment program.

(49) Furlough: A temporary leave of absence from duty without pay for budgetary reasons or lack of work.

(50) GOMB: Governor's Office of Management and Budget.

(51) Grievance: A career service employee's claim or charge of the existence of injustice or oppression, including dismissal from employment resulting from an act, occurrence, omission, condition, discriminatory practice or unfair employment practice not including position classification or schedule assignment, or a complaint by a reporting employee as defined in Section 67-19a-101(4)(c).

(52) Grievance Procedures: The statutory process of grievances and appeals as set forth in Sections 67-19a-101 through 67-19a-406 and the rules promulgated by the Career Service Review Office.

(53) Gross Compensation: Employee's total earnings, taxable and nontaxable, as shown on the employee's pay statement.

(54) Highly Sensitive Position: A position approved by DHRM that includes the performance of:

- (a) safety sensitive functions:
 - (i) requiring an employee to operate a commercial motor vehicle under 49 CFR 383 (January 18, 2006);
 - (ii) directly related to law enforcement;
 - (iii) involving direct access or having control over direct access to controlled substances;
 - (iv) directly impacting the safety or welfare of the general public;
 - (v) requiring an employee to carry or have access to firearms; or
 - (b) data sensitive functions permitting or requiring an employee to access an individual's highly sensitive, personally identifiable, private information, including:
 - (i) financial assets, liabilities, and account information;
 - (ii) social security numbers;
 - (iii) wage information;
 - (iv) medical history;
 - (v) public assistance benefits; or
 - (vi) driver license

(55) Hiring List: A list of qualified and interested applicants who are eligible to be considered for appointment or conditional

appointment to a specific position created in the DHRM approved recruitment and selection system.

(56) HRE: Human Resource Enterprise; the state human resource management information system.

(57) Incompetence: Inadequacy or unsuitability in performance of assigned duties and responsibilities.

(58) Inefficiency: Wastefulness of government resources including time, energy, money, or staff resources or failure to maintain the required level of performance.

(59) Interchangeability of Skills: Employees are considered to have interchangeable skills only for those positions they have previously held successfully in Utah state government executive branch employment or for those positions which they have successfully supervised and for which they satisfy job requirements.

(60) Intern: An individual in a college degree or certification program assigned to work in an activity where on-the-job training or community service experience is accepted.

(61) Job: A group of positions similar in duties performed, in degree of supervision exercised or required, in requirements of training, experience, or skill and other characteristics. The same salary range is applied to each position in the group.

(62) Job Description: A document containing the duties, distinguishing characteristics, knowledge, skills, and other requirements for a job.

(63) Job Family: A group of jobs that have related or common work content, that require common skills, qualifications, licenses, etc., and that normally represents a general occupation area.

(64) Job Requirements: Skill requirements defined at the job level.

(65) Job Series: Two or more jobs in the same functional area having the same job title, but distinguished and defined by increasingly difficult levels of skills, responsibilities, knowledge and requirements; or two or more jobs with different titles working in the same functional area that have licensure, certification or other requirements with increasingly difficult levels of skills, responsibilities, knowledge and requirements.

(66) Leave Benefit: A benefit provided to an employee that includes: Annual leave, sick leave, converted sick leave, and holiday leave. These benefits are not provided to non-benefited employees.

(6[6]7) Legislative Salary Adjustment: A legislatively approved salary increase for a specific category of employees based on criteria determined by the Legislature.

(6[7]8) Malfeasance: Intentional wrongdoing, deliberate violation of law or standard, or mismanagement of responsibilities.

(6[8]9) Market Based Bonus: One time lump sum monies given to a new hire or a current employee to encourage employment with the state.

([69]70) Market Comparability Adjustment: An adjustment to a salary range approved by the legislature that is based upon salary data and other relevant information from comparable jobs in the market that is collected by DHRM or from DHRM approved justifiable sources. The Market Comparability Adjustment may also change incumbent pay resulting in a budgetary impact for an agency.

(7[0]1) Merit Increase: A legislatively approved and funded salary increase for employees to recognize and reward successful performance.

(7[+2] Misconduct: Wrongful, improper, unacceptable, or unlawful conduct or behavior that is inconsistent with prevailing agency practices or the best interest of the agency.

(7[2]3) Misfeasance: The improper or unlawful performance of an act that is lawful or proper.

(7[3]4) Nonfeasance: Failure to perform either an official duty or legal requirement.

(7[4]5) Pay for Performance Award: A type of cash incentive award where an employee or group of employees may receive a cash award for meeting or exceeding well-defined annual production or performance standards, targets and measurements.

(7[5]6) Pay for Performance: A plan for incentivizing employees for meeting or exceeding production or performance goals, in which the plan is well-defined before work begins, eligible work groups are defined, specific goals and targets are determined, measurement procedures are in place, and specific incentives are provided when goals and targets are met.

(7[6]7) Performance Evaluation: A formal, periodic evaluation of an employee's work performance.

(7[7]8) Performance Improvement Plan: A documented administrative action to address substandard performance of an employee under Section R477-10-2.

(7[8]9) Performance Management: The ongoing process of communication between the supervisor and the employee which defines work standards and expectations, and assesses performance leading to a formal annual performance evaluation.

(7[9]80) Performance Plan: A written summary of the standards and expectations required for the successful performance of each job duty or task. These standards normally include completion dates and qualitative and quantitative levels of performance expectations.

(8[0]1) Performance Standard: Specific, measurable, observable and attainable objectives that represent the level of performance to which an employee and supervisor are committed during an evaluation period.

(8[1]2) Personnel Adjudicatory Proceedings: The informal appeals procedure contained in Section 63G-4-101 et seq. for all human resource policies and practices not covered by the state employees grievance procedure promulgated by the Career Service Review Office, or the classification appeals procedure.

(8[2]3) Position: A unique set of duties and responsibilities identified by DHRM authorized job and position management numbers.

(8[3]4) Position Description: A document that describes the detailed tasks performed, as well as the knowledge, skills, abilities, and other requirements of a specific position.

(8[4]5) Position Identification Number: A unique number assigned to a position for FTE management.

(8[5]6) Post Accident Drug or Alcohol Test: A Drug or alcohol test conducted on an employee who is involved in a vehicle accident while on duty or driving a state vehicle:

(a) where a fatality occurs;

(b) where there is sufficient information to conclude that the employee was a contributing cause to an accident that results in bodily injury or property damage; or

(c) where there is reasonable suspicion that the employee had been driving while under the influence of alcohol or a controlled substance.

(8[6]7) Preemployment Drug Test: A drug test conducted on:

(a) final applicants who are not current employees;

(b) final candidates for a highly sensitive position;

(c) employees who are final candidates for transfer or promotion from a non-highly sensitive position to a highly sensitive position; or

(d) employees who transfer or are promoted from one highly sensitive position to another highly sensitive position.

(8[7]8) Probationary Employee: An employee hired into a career service position who has not completed the required probationary period for that position.

(8[8]9) Probationary Period: A period of time considered part of the selection process, identified at the job level, the purpose of which is to allow management to evaluate an employee's ability to perform assigned duties and responsibilities and to determine if career service status should be granted.

([89]90) Proficiency: An employee's overall quality of work, productivity, skills demonstrated through work performance and other factors that relate to employee performance or conduct.

(9[0]1) Promotion: An action moving an employee from a position in one job to a position in another job having a higher salary range maximum.

(9[1]2) Protected Activity: Opposition to discrimination or participation in proceedings covered by the antidiscrimination statutes or the Utah State Grievance and Appeal Procedure. Harassment based on protected activity can constitute unlawful retaliation.

(9[2]3) Random Drug or Alcohol Test: Unannounced drug or alcohol testing of a sample of highly sensitive employees done in accordance with federal regulations or state rules, policies, and procedures, and conducted in a manner such that each highly sensitive employee has an equal chance of being selected for testing.

(9[3]4) Reappointment: Return to work of an individual from the reappointment register after separation from employment.

(9[4]5) Reappointment Register: A register of individuals who have prior to March 2, 2009:

(a) held career service status and been separated in a reduction in force;

(b) held career service status and accepted career service exempt positions without a break in service and were not retained, unless discharged for cause; or

(c) by Career Service Review Board decision been placed on the reappointment register.

(9[5]6) Reasonable Suspicion Drug or Alcohol Test: A drug or alcohol test conducted on an employee based on specific, contemporaneous, articulated observations concerning the appearance, behavior, speech or body odors of the employee.

(9[6]7) Reassignment: An action mandated by management moving an employee from one job or position to a different job or position with an equal or lesser salary range maximum for administrative reasons. A reassignment may not include a decrease in actual wage except as provided in federal or state law.

(9[7]8) Reclassification: A DHRM reallocation of a single position or multiple positions from one job to another job to reflect management initiated changes in duties and responsibilities.

(9[8]9) Reduction in Force: (RIF) Abolishment of positions resulting in the termination of career service staff. RIFs can occur due to inadequate funds, a change of workload, or a lack of work.

([99]100) Reemployment: Return to work of an employee who resigned or took military leave of absence from state employment to serve in the uniformed services covered under USERRA.

(10[0]1) Requisition: An electronic document used for HRE Online recruitment, selection and tracking purposes that includes specific information for a particular position, job seekers' applications, and a hiring list.

(10[4]2) Salary Range: Established minimum and maximum rates assigned to a job.

(10[2]3) Schedule: The determination of whether a position meets criteria stipulated in the Utah Code Annotated to be career service (schedule B) or career service exempt (schedule A).

(10[3]4) Separation: An employee's voluntary or involuntary departure from state employment.

(10[4]5) Settling Period: A sufficient amount of time, determined by agency management, for an employee to fully assume new or higher level duties required of a position.

(10[5]6) Structure Adjustment: An adjustment to a salary range approved by DHRM that is based upon salary data and other relevant information from comparable jobs in the market that is collected by DHRM or from DHRM approved justifiable sources. The salary range adjustment cannot have a budgetary impact on an agency unless additional approval is received from the Governor's Office.

(10[6]7) Tangible Employment Action: A significant change in employment status, such as firing, demotion, failure to promote, work reassignment, or a decision which changes benefits.

(10[7]8) Transfer: An action not mandated by management moving an employee from one job or position to another job or position with an equal or lesser salary range maximum for which the employee qualifies. A transfer may include a decrease in actual wage.

(10[8]9) Uniformed Services: The United States Army, Navy, Marine Corps, Air Force, Coast Guard; Reserve units of the Army, Navy, Marine Corps, Air Force, or Coast Guard; Army National Guard or Air National Guard; Commissioned Corps of Public Health Service, National Oceanic and Atmospheric Administration (NOAA), National Disaster Medical Systems (NDMS) and any other category of persons designated by the President in time of war or emergency. Service in Uniformed Services includes: voluntary or involuntary duty, including active duty; active duty for training; initial active duty for training; inactive duty training; full-time National Guard duty; or absence from work for an examination to determine fitness for any of the above types of duty.

(1[09]10) Unlawful Discrimination: An action against an employee or applicant based on race, religion, national origin, color, sex, age, disability, pregnancy, sexual orientation, gender identity, protected activity under the anti-discrimination statutes, political affiliation, military status or affiliation, or any other factor, as prohibited by law.

(11[0]1) USERRA: Uniformed Services Employment and Reemployment Rights Act of 1994 (P.L. 103-353), requires state governments to re-employ eligible veterans who resigned or took a military leave of absence from state employment to serve in the uniformed services and who return to work within a specified time period after military discharge.

(11[4]2) Veteran: An individual who has served on active duty in the armed forces for more than 180 consecutive days, or was a member of a reserve component who served in a campaign or expedition for which a campaign medal has been authorized. Individuals must have been separated or retired under honorable conditions.

(11[2]3) Volunteer: Any person who donates services to the state or its subdivisions without pay or other compensation except

actual and reasonable expenses incurred, as approved by the supervising agency.

(11[3]4) Wage: The fixed hourly rate paid to an employee.

(11[4]5) Work Period: The maximum number of hours an employee may work prior to accruing overtime or compensatory hours based on variable payroll cycles outlined in 67-19-6.7 and 29 CFR 553.230.

KEY: personnel management, rules and procedures, definitions

Date of Enactment or Last Substantive Amendment: ~~July 1, 2015~~ 2016

Notice of Continuation: February 2, 2012

Authorizing, and Implemented or Interpreted Law: 67-19-6; 67-19-18

Human Resource Management, Administration

R477-4-5

Transfer and Reassignment

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40389

FILED: 05/02/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to add clarification to the current provisions of Section R477-4-5.

SUMMARY OF THE RULE OR CHANGE: The changes clarify that a transfer may not include an increase in pay. Also, the amendment changes verbiage to further clarify eligibility for longevity increases as they relate to transfer and/or reassignment.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 67-19-6

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** These changes are administrative and do not directly impact state budgets.

♦ **LOCAL GOVERNMENTS:** This rule only affects the executive branch of state government and will have no impact on local government.

♦ **SMALL BUSINESSES:** This rule only affects the executive branch of state government and will have no impact on small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no direct compliance cost for these amendments. This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by the Department of Human Resource Management (DHRM) have no direct affect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by the "Utah Personnel Management Act", Title 67, Chapter 19. This act limits the provisions of career service and these rules to employees of the executive branch of state government. The only possible impact may be a very slight, indirect affect if an agency passes costs or savings on to business through fees. However, it is anticipated that the minimal costs associated with these changes will be absorbed by agency budgets and will have no affect on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 HUMAN RESOURCE MANAGEMENT
 ADMINISTRATION
 ROOM 2120 STATE OFFICE BLDG
 450 N MAIN ST
 SALT LAKE CITY, UT 84114-1201
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Greg Hargis by phone at 801-891-5680, or by Internet E-mail at ghargis@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/15/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
 ♦ 05/24/2016 10:00 AM, Senate Building, 420 N State Street, Aspen Room, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2016

AUTHORIZED BY: Debbie Cragun, Executive Director

**R477. Human Resource Management, Administration.
 R477-4. Filling Positions.
 R477-4-5. Transfer and Reassignment.**

(1) Positions may be filled through a transfer or reassignment.

(a) The receiving agency shall verify the employee's career service status and that the employee meets the job requirements for the position.

(b) Agencies receiving a transfer or reassignment of an employee shall accept all of that employee's previously accrued sick, annual, and converted sick leave on the official leave records.

(d) A transfer may not include in increase but may include a decrease in actual wage.

(e) A reassignment may not include a decrease in actual wage except as provided in federal or state law.

(f) Except as provided in R477-4-5, [A]an employee who is transferred or reassigned to a position where the employee's current actual wage is above the salary range maximum of the new position, is considered to be above maximum and [is not in longevity] may not be eligible for a longevity increase. Employees shall be eligible for a longevity increase [when] only after they have been above the salary range maximum for 12 months and all other longevity criteria are met.

(g) An employee [in] with a wage that is above the salary range maximum because of a longevity increase, who is transferred or reassigned and remains [in longevity] at or above the salary range maximum, shall receive their next longevity increase three years from the date they received the most recent increase if they receive a passing performance appraisal rating within the previous 12 months.

(2) A reassignment or transfer may include assignment to:

- (a) a different job or position with an equal or lesser salary range maximum;
- (b) a different work location; or
- (c) a different organizational unit.

KEY: employment, fair employment practices, hiring practices
Date of Enactment or Last Substantive Amendment: [~~July 1, 2015~~]2016
Notice of Continuation: February 2, 2012
Authorizing, and Implemented or Interpreted Law: 67-19-6; 67-20-8

**Human Resource Management,
 Administration
 R477-6
 Compensation**

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 40390
 FILED: 05/02/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify compensation rules regarding longevity, severance benefits and state paid life insurance.

SUMMARY OF THE RULE OR CHANGE: The amendment redefines "Longevity" as "Longevity Salary Increase" to add clarity to the eligibility process for a longevity salary increase; adds language to allow for state contributions into additional tax-advantaged arrangements other than an HSA; better defines salary requirements for state paid life insurance; and adds clarification to medical coverage provided as a severance benefit.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 49-20-410

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: These changes are administrative and do not directly impact state budgets.
- ◆ LOCAL GOVERNMENTS: This rule only affects the executive branch of state government and will have no impact on local government.
- ◆ SMALL BUSINESSES: This rule only affects the executive branch of state government and will have no impact on small businesses.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no direct compliance cost for these amendments. This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by the Department of Human Resource Management (DHRM) have no direct affect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by the "Utah Personnel Management Act", Title 67, Chapter 19. This act limits the provisions of career service and these rules to employees of the executive branch of state government. The only possible impact may be a very slight, indirect affect if an agency passes costs or savings on to business through fees. However, it is anticipated that the minimal costs associated with these changes will be absorbed by agency budgets and will have no affect on business.

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

HUMAN RESOURCE MANAGEMENT
ADMINISTRATION
ROOM 2120 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Greg Hargis by phone at 801-891-5680, or by Internet E-mail at ghargis@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/15/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

- ◆ 05/24/2016 10:00 AM, Senate Building, 420 N State Street, Aspen Room, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2016

AUTHORIZED BY: Debbie Cragun, Executive Director

R477. Human Resource Management, Administration.

R477-6. Compensation.

R477-6-6. Salary.

(1) Promotions.

(a) An employee who is in designated schedules B, AD, AR, AT, or AW and is promoted to a job with a salary range maximum exceeding the employee's current salary range maximum shall receive a wage increase of at least 5%.

(b) An employee who is promoted may not be placed higher than the maximum or lower than the minimum in the new salary range except as provided in subsection R477-6-6(3), governing longevity salary increases.

(c) To be eligible for a promotion, an employee shall meet the requirements and skills specified in the job description and position specific criteria as determined by the agency for the position.

(2) Reclassifications.

(a) At agency management's discretion, an employee reclassified to a job with a salary range maximum exceeding the employee's current salary range maximum may receive a wage increase of at least 1/2% or up to the salary range maximum. An employee shall be placed within the new salary range. ~~[-Placement of an]~~ An employee's eligibility for a ~~[-in]~~ longevity salary increase shall be consistent with Subsection R477-6-6(3).

(b) An employee whose job is reclassified to a job with a lower salary range shall retain the current wage.

(3) Longevity Salary Increase.

(a) An employee shall receive an initial longevity salary increase of 2.75% when:

(i) the employee has been in state service for eight years or more. The employee may accrue years of service in more than one agency and such service is not required to be continuous; and

(ii) the employee has been at or above the maximum of the current salary range for at least one year and received a passing performance appraisal rating within the 12-month period preceding the longevity increase.

(b) An employee who has received the initial longevity increase is then eligible for an additional 2.75% increase every three years. To be eligible for these additional increases, an employee shall receive a passing performance appraisal rating within the 12-month period preceding the longevity increase.

(c) An employee ~~[-in longevity]~~ with a wage that is above the maximum salary range because of a longevity salary increase ~~[-shall retain the current actual wage if receiving an administrative adjustment or is reassigned or reclassified to a job with a lower salary range maximum.]~~

(i) shall retain the current actual wage if receiving an administrative adjustment or is reassigned or reclassified to a job with a lower salary range maximum.

~~(d)ii~~ [An employee in longevity] who is reclassified to a job with a higher salary range maximum shall only receive a wage increase if the current actual wage is less than the salary range maximum of the new job. At the discretion of agency management the salary increase shall be at least 1/2% or up to the salary range maximum of the new job.

~~(e)iii~~ [An employee in longevity] who is promoted shall only receive a wage increase if the current actual wage is less than the salary range maximum of the new job. The wage increase shall be at least 5% or up to the salary range maximum of the new job.

~~(f)iv~~ [An employee in longevity] who is promoted, reclassified, transferred, reassigned or receives an administrative adjustment and remains in longevity at or above the salary range maximum, shall receive their next longevity salary increase three years from the date they received the most recent increase if they receive a passing performance appraisal rating within the previous twelve months.

~~(g)d~~ An employee ~~[who is not in longevity and]~~ with a wage that is not at or above the salary range maximum who is reclassified, transferred, reassigned, or receiving an administrative adjustment and has a current actual wage that is above the salary range maximum of the new job is considered to be above maximum and ~~[is]may not [in]be eligible for a longevity salary increase.~~ Employees shall be eligible for a longevity salary increase when they have been above the salary range maximum for 12 months and all other longevity salary increase criteria are met.

(h) An employee in Schedules AB, IN, or TL is not eligible for the longevity salary increase program.

(4) Administrative Adjustment.

(a) An employee whose position has been allocated by DHRM from one job to another job or salary range for administrative purposes may not receive an adjustment in the current actual wage unless the employee is below the minimum of the new salary range.

(b) An employee whose position is changed by administrative adjustment to a job with a lower salary range shall retain the current wage even if the current wage exceeds the new salary range maximum.

(5) Reassignment.

An employee's current actual wage may not be decreased except ~~[when]as provided in federal or state law. [Wage decreases shall be at least 1/2% or down to the salary range minimum.]~~

(6) Transfer.

Management may decrease the current actual wage of an employee who transfers to another job with the same or lower salary range maximum. ~~[Wage decreases shall be at least 1/2% or down to the salary range minimum.]~~

(7) Demotion.

An employee demoted consistent with Section R477-11-2 shall receive a reduction in the current actual wage of at least 1/2%, or down to the salary range minimum as determined by the agency head or designee. The agency head or designee may move an employee to a job with a lower salary range concurrent with the reduction in the current actual wage.

(8) Administrative Salary Increase.

The agency head authorizes and approves administrative salary increases under the following parameters:

(a) An employee shall receive an increase of at least 1/2% or up to the salary range maximum.

(b) Administrative salary increases shall only be granted when the agency has sufficient funding within their annualized base budgets for the fiscal year in which the adjustment is given.

(c) Justifications for administrative salary increases shall be:

(i) in writing;

(ii) approved by the agency head or designee;

(iii) supported by unique situations or considerations in the agency.

(d) The agency head or designee shall answer any challenge or grievance resulting from an administrative salary increase.

(e) Administrative salary increases may be given during the probationary period. Wage increases shall be at least 1/2% or up to the salary range maximum. These increases alone do not constitute successful completion of the probationary period or the granting of career service status.

(f) An employee at or above the salary range maximum ~~[or in longevity]~~ may not be granted administrative salary increases.

(g) Increasing an employee's wage as part of a transfer or reassignment action must be justified as an administrative salary increase in a separate action.

(9) Administrative Salary Decrease.

The agency head authorizes and approves administrative salary decreases for nondisciplinary reasons according to the following:

(a) The final wage may not be less than the salary range minimum.

(b) Wage decreases shall be at least 1/2% or down to the salary range minimum.

(c) Justification for administrative salary decreases shall be:

(i) in writing;

(ii) approved by the agency head; and

(iii) supported by issues such as previous written agreements between the agency and the employee to include career mobility, reasonable accommodation, or other unique situations or considerations in the agency.

(d) The agency head or designee shall answer any challenge or grievance resulting from an administrative salary decrease.

(10) Career Mobility.

(a) Agencies may offer an employee on a career mobility assignment a wage increase or decrease of at least 1/2% within the new salary range.

(b) If a career mobility assignment does not become permanent at its conclusion, the employee shall return to the previous position or a similar position and shall receive, at a minimum, the same wage and the same or higher salary range that the employee would have received without the career mobility assignment.

(11) Exceptions.

The Executive Director, DHRM, may authorize exceptions for wage increases or decreases.

R477-6-8. Employee Benefits.

(1) An employee shall be eligible for benefits when:

(a) in a position designated by the agency as eligible for benefits; and

(b) in a position which normally requires working a minimum of 40 hours per pay period.

(2) An eligible employee has 30 days from the hire date to enroll in or decline one of the traditional medical insurance plans and 60 days from the hire date to enroll in or decline one of the HSA-qualified medical insurance plans~~[-]~~ or other tax-advantaged arrangement offered by PEHP and authorized under the Internal Revenue Code for the benefit of the employee.

(a) An employee shall only be permitted to change medical plans during the annual open enrollment period for all state employees.

(3) An eligible employee has 60 days from the hire date to enroll in dental, vision, and a flexible spending account.

(4) An employee shall enroll in guaranteed issue life insurance within 60 days of the hire date to avoid having to provide proof of insurability.

(a) An employee may enroll in additional life insurance and accidental death and dismemberment insurance at any time and may be required to provide proof of insurability.

(5) An employee eligible for retirement benefits shall be electronically enrolled using the URS online certification process as follows:

(a) An employee with any service time with Utah Retirement Systems prior to July 1, 2011, from any URS eligible employer, shall be automatically enrolled in the Tier I defined benefit plan and the Tier I defined contribution plan.

(i) Eligibility for Tier I shall be determined by Utah Retirement Systems.

(ii) An employee eligible for Tier I shall remain in the Tier I system, even after a break in service.

(b) An employee with no previous service time with Utah Retirement Systems in Tier I shall be enrolled in the Tier II retirement system.

(i) An employee has one year from the date of eligibility to elect whether to participate in the Tier II hybrid retirement system or the Tier II defined contribution plan.

(A) If no election is made the employee shall be automatically enrolled in the Tier II hybrid retirement system.

(ii) An employee eligible for the Tier II system has one year from the date of eligibility to change the election or it is irrevocable.

(c) Changes in employee contributions, beneficiaries, and investment strategies shall be submitted electronically to URS through the URS website.

(6) A reemployed veteran under USERRA shall be entitled to the same employee benefits given to other continuously employed eligible employees to include seniority based increased pension and leave accrual.

(7) All insurance coverage, excluding COBRA, shall end:

(a) at midnight on the last day of the pay period in which the employee receives a paycheck for employees hired prior to February 15, 2003; or

(b) at midnight on the last day of the pay period in which the employment termination date became effective for employees hired on February 15, 2003, or later.

(8) An employee who is not eligible for benefits under R477-6-8(1) but does meet the minimum qualifications under the Affordable Care Act shall be eligible for medical insurance only.

R477-6-9. Employee Converting from Career Service to Schedule AC, AD, AR, or AS.

(1) A career service employee in a position meeting the criteria for career service exempt schedule AC, AD, AR, or AS shall have 60 days from the date of offer to elect to convert from career service to career service exempt. As an incentive to convert, an employee shall be provided the following:

(a) an administrative salary increase of at least 1/2% or up to the current salary range maximum. An employee at or above the current salary range maximum~~[-or in longevity]~~ shall receive, in lieu of the salary adjustment, a one time bonus, as determined by the agency head or designee, not to exceed limits in Subsection R477-6-7(1)(b);

(b) state paid term life insurance coverage if determined eligible by the Group Insurance Office to participate in the Term Life Program, Public Employees Health Plan, as provided in Section R477-6-10.

(2) An employee electing to convert to career service exempt after the 60 day election period may not be eligible for the wage increase, but shall be entitled to apply for the insurance coverage through the Group Insurance Office.

(3) An employee electing not to convert to career service exemption shall retain career service status even though the position shall be designated as schedule AC, AD, AR or AS. When these career service employees vacate these positions, subsequent appointments shall be career service exempt.

(4) An agency head may reorganize so that a current career service exempt position no longer meets the criteria for exemption. In this case, the employee shall be designated as career service if the employee had previously earned career service. However, the employee may not be eligible for a severance package, increased annual leave accrual, or exempt life insurance. In this situation, the agency and employee shall make arrangements through the Group Insurance Office to discontinue the exempt life insurance coverage.

(5) A career service exempt employee without prior career service status shall remain exempt. When the employee leaves the position, subsequent appointments shall be consistent with R477-4.

(6) Agencies shall communicate to all impacted and future eligible employees the conditions and limitations of this incentive program.

R477-6-10. State Paid Life Insurance.

(1) A benefits eligible career service exempt employee on schedule AA, AB, AD, AR and AT shall be provided the following benefits if the employee is approved through underwriting:

(a) State paid term life insurance coverage if determined eligible by the Group Insurance Office to participate in the Term Life Program Public Employees Health Plan:

(i) ~~[Salaries]~~ Hourly wage ~~[less than \$50,000]~~ \$24.03 or less shall receive \$125,000 of term life insurance;

(ii) ~~[Salaries]~~ Hourly wage between ~~[\$50,000]~~ 24.04 and ~~[\$60,000]~~ 28.84 shall receive \$150,000 of term life insurance;

(iii) ~~[Salaries]~~ Hourly wage \$28.85 or higher ~~[more than \$60,000]~~ shall receive \$200,000 of term life insurance.

(2) An employee on schedule AC or AS may be provided these benefits at the discretion of the appointing authority.

R477-6-11. Severance Benefit.

(1) At the discretion of the appointing authority a benefits eligible career service exempt employee on schedule AB, AC, AD, AR, AS or AT who is separated from state service through an action initiated by management, to include resignation in lieu of termination, may receive at the time of ~~severance~~separation a severance benefit equal to:

(a) one week of salary, up to a maximum of 12 weeks, for each year of consecutive exempt service in the executive branch; and

(b) if eligible for COBRA, ~~one month of health~~ medical insurance coverage only ~~up to a maximum of six months~~; shall be provided for two pay periods for each year of consecutive exempt service, up to a maximum of 13 pay periods, at the level of coverage the employee has at the time of severance, to be paid in a lump sum payment to the state's health care provider.

KEY: wages, employee benefit plans, insurance, personnel management

Date of Enactment or Last Substantive Amendment: ~~[July 1, 2015]~~**2016**

Notice of Continuation: February 2, 2012

Authorizing, and Implemented or Interpreted Law: 63F-1-106; 67-19-6; 67-19-12; 67-19-12.5; 67-19-15.1(4)

Human Resource Management,
Administration
R477-7
Leave

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40399

FILED: 05/02/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify the rule regarding leave.

SUMMARY OF THE RULE OR CHANGE: This amendment modifies language to clarify existing rules; expands on Section R477-7-10 to include provisions for part-time employees receiving military leave; and removes four-month provisions from Sections R477-7-16 and R477-7-17 to better align with Subsection R477-7-1(9).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 67-19-6

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** These changes are administrative and do not directly impact state budgets.

♦ **LOCAL GOVERNMENTS:** This rule only affects the executive branch of state government and will have no impact on local government.

♦ **SMALL BUSINESSES:** This rule only affects the executive branch of state government and will have no impact on small businesses.

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♦ Greg Hargis by phone at 801-891-5680, or by Internet E-mail at ghargis@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/15/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 05/24/2016 10:00 AM, Senate Building, 420 N State Street, Aspen Room, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2016

AUTHORIZED BY: Debbie Cragun, Executive Director

R477. Human Resource Management, Administration.

R477-7. Leave.

R477-7-1. Conditions of Leave.

- (1) An employee shall be eligible for a leave benefit when:
 - (a) in a position designated by the agency as eligible for benefits; and
 - (b) in a position which normally requires working a minimum of 40 hours per pay period.
- (2) An eligible employee shall accrue annual, sick and holiday leave in proportion to the time paid as determined by DHRM.
- (3) An employee shall use leave in no less than quarter hour increments.
- (4) An employee may not use annual, sick, or holiday leave before accrued. Leave accrued during a pay period may not be used until the following pay period.
- (5) An employee may not use annual leave, converted sick leave used as annual leave, or use excess or compensatory hours without advance approval by management.
- (6) An employee may not use any type of leave except military and jury leave to accrue excess hours.
- (7) An employee transferring from one agency to another is entitled to transfer all accrued annual, sick, and converted sick leave to the new agency.
- (8) An employee separating from state service shall be paid in a lump sum for all annual leave and excess hours. An FLSA nonexempt employee shall also be paid in a lump sum for all compensatory hours.
 - (a) An employee separating from state service for reasons other than retirement shall be paid in a lump sum for all converted sick leave.
 - (b) Converted sick leave for a retiring employee shall be subject to Section R477-7-5.
 - (c) Annual, sick and holiday leave may not be used or accrued after the last day worked, except for:
 - (i) leave without pay;
 - (ii) administrative leave specifically approved by management to be used after the last day worked;
 - (iii) leave granted under the FMLA; or
 - (iv) leave granted for other medical reasons that was approved prior to the commencement of the leave period.
 - (9) After four months cumulative leave [~~from the first day of absence due to the inability to perform the regular position~~] in a 24 month period, the employee ~~[shall] may~~ be separated from employment regardless of paid leave status unless prohibited by state or federal law. ~~[Exceptions may be granted by the agency head in consultation with DHRM]~~ Decisions to separate the employee shall be made by the agency head in consultation with DHRM.
 - (10) Contributions to benefits may not be paid on cashed out leave, other than FICA tax, except as it applies to converted sick leave in Section R477-7-5(2) and the Retirement Benefit in Section R477-7-6.

R477-7-3. Annual Leave.

- (1) An eligible employee shall accrue leave based on the following years of state service:
 - (a) less than 5 years -- four hours per pay period;
 - (b) at least 5 and less than 10 years -- five hours per pay period;
 - (c) at least 10 and less than 20 years -- six hours per pay period;
 - (d) 20 years or more -- seven hours per pay period.
- (2) The maximum annual leave accrual rate shall be granted to an employee under the following conditions:
 - (a) an employee in schedule AB, and agency deputy directors and division directors appointed to career service exempt positions.
 - (b) an employee who is schedule A, FLSA exempt and who has a direct reporting relationship to an elected official, executive director, deputy director, commissioner or board.
 - (c) The maximum accrual rate shall be effective from the day the employee is appointed through the duration of the appointment. Employees in these positions on July 1, 2003, shall have the leave accrual rate adjusted prospectively.
 - (3) The accrual rate for an employee rehired to a position which receives leave benefits shall be based on all eligible employment in which the employee accrued leave.
 - (4) The first eight hours of annual leave used by an employee in the calendar leave year shall be the employee's personal preference day.
 - (5) Agency management shall allow every employee the option to use annual leave each year for at least the amount accrued in the year [~~subject to Subsection R477-7-1(5)~~].
 - (6) Unused accrued annual leave time in excess of 320 hours shall be forfeited during year end processing for each calendar year.

R477-7-4. Sick Leave.

- (1) An eligible employee shall accrue sick leave, not to exceed four hours per pay period. Sick leave shall accrue without limit.
- (2) Agency management may grant sick leave for preventive health and dental care, maternity, paternity, and adoption care, or for absence from duty because of illness, injury or disability of the employee, a spouse, children, or parents living in the employee's home; or qualifying FMLA purposes.
- (3) Agency management may grant exceptions for other unique medical situations.
- (4) When management approves the use of sick leave, an employee may use any combination of Program I, Program II, and Program III sick leave.
- (5) An employee shall contact management prior to the beginning of the scheduled workday the employee is absent due to illness or injury.
- (6) Any application for a grant of sick leave to cover an absence that exceeds three consecutive working days shall be supported by administratively acceptable evidence.
- (7) If there is reason to believe that an employee is abusing sick leave, a supervisor may require an employee to produce evidence regardless of the number of sick hours used.

(8) Unless retiring, an employee separating from state employment shall forfeit any unused sick leave without compensation.

(a) An employee rehired into a benefited position within one year of separation due to a reduction in force shall have forfeited sick leave reinstated to Program I, Program II, and Program III as accrued prior to the reduction in force.

(b) An employee rehired with benefits within one year of separation for reasons other than a reduction in force shall have forfeited sick leave reinstated as Program III sick leave.

(c) An employee accepting a benefit eligible position within one year of forfeiting unused sick leave for accepting a non-benefit eligible position shall have their sick leave reinstated as Program III.

(e)d) An employee who retires from state service and is rehired may not reinstate forfeited sick leave.

R477-7-10. Military Leave.

A[n] benefited or non-benefited employee who is a member of the National Guard or Military Reserves and is on official military orders is entitled to paid military leave not to exceed 120 hours each calendar year, including travel time, under Section 39-3-2. Military leave for part-time employees shall be based on a prorated basis that is no more than the average hours worked in the last 12 months, or if employed less than 12 months, the average hours worked since date of hire.

(1) An employee may not claim salary for nonworking days spent in military training or for traditional weekend training.

(2) An employee may use any combination of military leave, accrued leave or leave without pay under Section R477-7-13.

(a) Accrued sick leave may only be used if the reason for leave meets the conditions in Section R477-7-4.

(3) An employee on military leave is eligible for any service awards or non-performance administrative leave the employee would otherwise be eligible to receive.

(4) An employee shall give notice of official military orders as soon as possible.

(5) Upon release from official military orders under honorable conditions, an employee shall be placed in a position in the following order of priority.

(a) If the period of service was for less than 91 days, the employee shall be placed:

(i) in the same position the employee held on the date of the commencement of the service in the uniformed services; or

(ii) in the same position the employee would have held if the continuous employment of the employee had not been interrupted by the service.

(b) If the period of service was for more than 90 days, the employee shall be placed:

(i) in a position of like seniority, status and salary, of the position the employee held on the date of the commencement of the service in the uniformed services; or

(ii) in a position of like seniority, status, and salary the employee would have held if the continuous employment of the employee had not been interrupted by the service.

(c) When a disability is incurred or aggravated while on official military orders, the employing agency shall adhere to the Uniformed Services Employment and Reemployment Rights Act (USERRA), United States Code, Title 38, Chapter 43.

(d) The cumulative length of time allowed for reemployment may not exceed five years. This rule incorporates by reference 20CFR1002.103 for the purposes of calculating cumulative time.

(e) An employee is entitled to reemployment rights and benefits including increased pension and leave accrual to which the employee would have been entitled had the employee not been absent due to military service. An employee entering military leave may elect to have payment for annual leave deferred.

(6) In order to be reemployed, an employee shall present evidence of military service, and:

(a) for service less than 31 days, return at the beginning of the next regularly scheduled work period on the first full day after release from service unless impossible or unreasonable through no fault of the employee;

(b) for service of more than 30 days but less than 181 days, submit a request for reemployment within 14 days of release from service, unless impossible or unreasonable through no fault of the employee; or

(c) for service of more than 180 days, submit a request for reemployment within 90 days of release from service.

R477-7-15. Family and Medical Leave.

(1) An eligible employee is allowed up to 12 work weeks of family and medical leave each calendar year for any of the following reasons:

(a) birth of a child;

(b) adoption of a child;

(c) placement of a foster child;

(d) a serious health condition of the employee; or

(e) care of a spouse, child, or parent with a serious medical condition.

(f) A qualifying exigency arising as a result of a spouse, son, daughter or parent being on active duty or having been notified of an impending call or order to active duty in the Armed Forces.

(2) An employee is allowed up to 26 work weeks of family and medical leave during a 12 month period to care for a spouse, son, daughter, parent or next of kin who is a recovering service member as defined by the National Defense Authorization Act.

(3) An employee on FMLA leave shall continue to receive the same health insurance benefits the employee was receiving prior to the commencement of FMLA leave provided the employee pays the employee share of the health insurance premium.

(4) An employee on FMLA leave shall receive any administrative leave given for non-performance based reasons if the leave would have been given had the employee been in a working status.

(5) To be eligible for family and medical leave, the employee shall:

(a) be employed by the state for at least ~~one year~~ 12 months;

(b) be employed by the state for a minimum of 1250 hours worked, as determined under FMLA, during the 12 month period immediately preceding the commencement of leave.

(6) To request FMLA leave, the employee or an appropriate spokesperson, shall apply in writing for the initial leave and when the reason for requesting family medical leave changes:

- (a) thirty days in advance for foreseeable needs; or
- (b) as soon as practicable in emergencies.

(7) An employee with a serious health condition may use accrued annual leave, sick leave, converted sick leave, excess hours and compensatory time prior to going into leave without pay status for the family and medical leave period.

(a) An employee who chooses to use accrued annual leave, sick leave, converted sick leave, excess hours and compensatory time prior to going into leave without pay status for the family and medical leave period shall notify the agency.

(b) If an employee fails to notify the agency under this Subsection, accrued leave will be used to pay the employee's payroll deductions in the following order:

- (i) Program III sick leave;
- (ii)(A) Compensatory time;
- (B) Excess leave; or
- (C) Annual leave;
- (iii)(A) Converted sick leave;
- (B) Program II sick leave; or
- (C) Program I sick leave.

(8) An employee who chooses to use FMLA leave shall use FMLA leave for all absences related to that qualifying event.

(9) Any period of leave for an employee with a serious health condition who is determined by a health care provider to be incapable of applying for Family and Medical Leave and has no agent or designee shall be designated as FMLA leave.

(10) An employee with a serious health condition covered under workers' compensation may use FMLA leave concurrently with the workers' compensation benefit.

(11) If an employee has gone into leave without pay status and fails to return to work after FMLA leave has ended, an agency may recover, with certain exceptions, the health insurance premiums paid by the agency on the employee's behalf. An employee is considered to have returned to work if the employee returns for at least 30 calendar days.

(a) Exceptions to this provision include:

(i) an FLSA exempt and schedule AB, AD and AR employee who has been denied restoration upon expiration of their leave time;

(ii) an employee whose circumstances change unexpectedly beyond the employee's control during the leave period preventing the return to work at the end of 12 weeks.

(12) Leave taken for purposes of childbirth, adoption, placement for adoption or foster care may not be taken intermittently or on a reduced leave schedule unless the employee and employer mutually agree.

(13) Medical records created for purposes of FMLA and the Americans with Disabilities Act shall be maintained in accordance with confidentiality requirements of Subsection R477-2-5.

R477-7-16. Workers Compensation Leave.

(1) An employee may use accrued leave benefits to supplement the workers compensation benefit.

(a) The combination of leave benefit, wages and workers compensation benefit may not exceed the employee's gross salary. Leave benefits shall only be used in increments of one hour in making up any difference.

(b) The use of accrued leave to supplement the worker compensation benefit shall be terminated if the:

(i) employee is declared medically stable by a licensed medical authority;

(ii) workers compensation fund terminates the benefit;

~~[(iii) employee has been absent from work for four months in a 24 month period;]~~

(iv) employee refuses to accept appropriate employment offered by the state; or

(v) employee is notified of approval for Long Term Disability or Social Security Disability benefits.

(c) The employee shall refund to the state any accrued leave paid which exceeds the employee's gross salary for the period for which the benefit was received.

(2) Workers compensation hours shall be counted for purposes of annual, sick and holiday leave accrual while the employee is receiving a workers compensation time loss benefit for up to six months from the last day worked in the regular position.

(3) Health insurance benefits shall continue for an employee on leave without pay while receiving workers compensation benefits. The employee is responsible for the payment of the employee share of the premium.

(4) If an employee has applied for LTD and is approved, the employee shall be eligible to receive a medical coverage stipend in their LTD check each month, beginning the day after the employee's last day worked pursuant to R477-7-17(2).

(5) If the employee is able to return to work in the employee's regular position, the agency shall place the employee in the previously held position or a similar position at a comparable salary range.

(6) If the employee is unable to return to work in the regular position~~[after four months cumulative leave in a 24 month period]~~, or if documentation from one or more qualified health care providers clearly establishes that the employee has a permanent condition preventing the employee from returning to the last held regular position, the employee ~~[shall]~~ may be separated from state employment unless prohibited by state or federal law. Exceptions may be granted by the agency head in consultation with DHRM.

(7) An employee who files a fraudulent workers compensation claim shall be disciplined under Rule R477-11.

(8) An employee covered under 67-19-27 who is injured in the course of employment shall be given a leave of absence with full pay during the period the employee is temporarily disabled.

(a) the employee shall be placed on administrative leave; and

(b) any compensation received from the state's workers compensation administrator shall be returned to the agency payroll clerks for deposit with the State Treasurer as a refund of expenditure in the unit number where the salary is recorded.

R477-7-17. Long Term Disability Leave.

~~[(1) An employee who has applied for the Long Term Disability Program (LTD) may be granted up to four months cumulative leave in a 24 month period as the result of health conditions, unless documentation from one or more qualified health care providers clearly establishes that the employee has a permanent~~

condition preventing the employee from returning to the last held regular position.

~~(a) After four months of cumulative leave in a 24 month period, the employee shall be separated from state employment unless prohibited by state or federal law. Exceptions may be granted by the agency head in consultation with DHRM.]~~

~~(2)1~~ An employee determined eligible for Long Term Disability benefits shall be eligible to receive a medical coverage stipend in their LTD check each month, beginning the day after the employee's last day worked or the last day of FMLA leave.

~~(3)2~~ Upon approval of the LTD claim:

(a) Biweekly salary payments that the employee may be receiving shall cease. If the employee received any salary payments after the three month waiting period, the LTD benefit shall be offset by the amount received.

(b) The employee shall be paid for remaining balances of annual leave, excess hours, and compensatory hours earned by FLSA non-exempt employees in a lump sum payment. This payment shall be made at the time LTD is approved unless the employee requests in writing to receive it upon separation from state employment. No reduction of the LTD payment shall be made to offset this payment. Upon return to work from an approved leave of absence, the employee has the option of buying back annual leave at the current hourly rate.

(c) An employee with a converted sick leave balance at the time of LTD eligibility shall have the option to receive a lump sum payout of all or part of the balance or to keep the balance intact to pay for health and life insurance upon retirement. The payout shall be at the rate at the time of LTD eligibility.

(d) An employee who retires from state government directly from LTD may be eligible for health and life insurance under Subsection 67-19-14.

(e) Unused sick leave balance shall remain intact until the employee retires. At retirement, the employee shall be eligible for the 401(k) contribution and the purchase of health and life insurance under Subsection 67-19-14.2.

~~(4)3~~ An employee in the Tier I retirement system shall continue to accrue service credit for retirement purposes while receiving long term disability benefits.

~~(5)4~~ Conditions for return from long term disability include:

(a) If an employee provides an administratively acceptable medical release allowing a return to work prior to termination under this section, the agency shall place the employee in the previously held position or similar position in a comparable salary range provided the employee is able to perform the essential functions of the job with or without a reasonable accommodation.

~~(6)5~~ An employee who files a fraudulent long term disability claim shall be disciplined under Rule R477-11.

~~(7)6~~ Long term disability benefits are provided to eligible employees in accordance with 49-21-403.

KEY: holidays, leave benefits, vacations

Date of Enactment or Last Substantive Amendment: ~~January 1,~~ 2016

Notice of Continuation: February 2, 2012

Authorizing, and Implemented or Interpreted Law: 34-43-103; 39-3-1; 63G-1-301; 67-19-6; 67-19-12.9; 67-19-14

Human Resource Management, Administration **R477-8** Working Conditions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40391

FILED: 05/02/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify the rule regarding working conditions.

SUMMARY OF THE RULE OR CHANGE: This amendment updates language relating to reasonable accommodation in Subsection R477-8-15(1).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-5-106 and Section 67-19-6

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** These changes are administrative and do not directly impact state budgets.

◆ **LOCAL GOVERNMENTS:** This rule only affects the executive branch of state government and will have no impact on local government.

◆ **SMALL BUSINESSES:** This rule only affects the executive branch of state government and will have no impact on small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no direct compliance cost for these amendments. This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by the Department of Human Resource Management (DHRM) have no direct affect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by the "Utah Personnel Management Act", Title 67, Chapter 19. This act limits the provisions of career service and these rules to employees of the executive branch of state government. The only possible impact may be a very slight, indirect affect if an agency passes costs or savings on to business through fees.

However, it is anticipated that the minimal costs associated with these changes will be absorbed by agency budgets and will have no affect on business.

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

HUMAN RESOURCE MANAGEMENT
ADMINISTRATION
ROOM 2120 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Greg Hargis by phone at 801-891-5680, or by Internet E-mail at ghargis@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/15/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 05/24/2016 10:00 AM, Senate Building, 420 N State Street, Aspen Room, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2016

AUTHORIZED BY: Debbie Cragun, Executive Director

R477. Human Resource Management, Administration.

R477-8. Working Conditions.

R477-8-11. Stand-by Time.

(1) An employee restricted to stand-by at a specified location ready for work shall be paid full-time or overtime, as appropriate. An employee shall be paid for stand-by time if required to stand by the post ready for duty, even during lunch periods, equipment breakdowns, or other temporary work shutdowns.

(2) The meal periods of [~~guards,~~] police, and other public safety or correctional officers and firefighters who are on duty more than 24 consecutive hours shall be counted as working time, unless an express agreement excludes the time.

R477-8-15. Reasonable Accommodation.

Employees and applicants seeking reasonable accommodation shall be evaluated under [~~the criteria of the Americans with Disabilities Act Amendments Act of 2008 (42 U.S.C.A. 12101)~~]state and federal law. This shall be done in conjunction with the agency ADA coordinator. The ADA coordinator shall consult with the Division of Risk management prior to denying any accommodation request.

KEY: breaks, telecommuting, overtime, dual employment

Date of Enactment or Last Substantive Amendment: [July 1, 2015]2016

Notice of Continuation: February 2, 2012

Authorizing, and Implemented or Interpreted Law: 67-19-6; 67-19-6.7; 20A-3-103

**Human Resource Management,
Administration**

R477-9

Employee Conduct

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40392

FILED: 05/02/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to add clarification to the rule regarding employee conduct.

SUMMARY OF THE RULE OR CHANGE: This amendment reorganizes the format of Section R477-9-2, adds clarification on personal interests, and corrects an improper citation in Section R477-9-5.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 67-16-11

ANTICIPATED COST OR SAVINGS TO:

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 ♦ 05/24/2016 10:00 AM, Senate Building, 420 N State Street, Aspen Room, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2016

AUTHORIZED BY: Debbie Cragun, Executive Director

R477. Human Resource Management, Administration.

R477-9. Employee Conduct.

R477-9-2. Outside Employment.

(1) An employee shall notify agency management in writing of outside employment. Failure to notify the employer and to gain approval for outside employment is grounds for disciplinary action.

[(1)2] State employment shall be the principal vocation for a full-time employee governed by these rules. An employee may engage in outside employment under the following conditions:

(a) Outside employment may not interfere with an employee's performance.

(b) Outside employment may not conflict with the interests of the agency nor the State of Utah.

(c) Outside employment may not give reason for criticism nor suspicion of conflicting interests or duties.

[~~_____ (d) An employee shall notify agency management in writing of outside employment.~~]

[(e)3] Agency management may deny an employee permission to engage in outside employment, or to receive payment, if the outside activity is determined to cause a real or potential conflict of interest.

(4) The provisions of this rule do not apply when two or more government positions are held by the same individual, unless the personal interest of the individual is not shared by the general public.

[~~_____ (f) Failure to notify the employer and to gain approval for outside employment is grounds for disciplinary action if the secondary employment is found to be a conflict of interest.~~]

R477-9-5. Employee Reporting Protections.

(1) Under Section 67-21-[9]3, an agency may not adversely affect the employment conditions of an employee who communicates in good faith, and in accordance with statute:

(a) the waste or misuse of public property, manpower, or funds;

(b) gross mismanagement;

(c) unethical conduct;

(d) abuse of authority; or

(e) violation of law, rule, or regulations.

KEY: conflict of interest, government ethics, Hatch Act, personnel management

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

Notice of Continuation: February 2, 2012

Authorizing, and Implemented or Interpreted Law: 63G-7-2; 67-19-6; 67-19-19; 5 USC Section 1502(a)(3)

Human Resource Management,
 Administration
R477-10-1
 Performance Evaluation

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40393

FILED: 05/02/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to add clarification to the rule regarding performance evaluation.

SUMMARY OF THE RULE OR CHANGE: This amendment adds language to require supervisors to notify employees when performance plans have been completed or modified, and modifies language regarding performance plans for probationary employees.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 67-19-6

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: These changes are administrative and do not directly impact state budgets.

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COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no direct compliance cost for these amendments. This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by the Department of Human Resource Management (DHRM) have no direct affect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by the "Utah Personnel Management Act", Title 67, Chapter 19. This act limits the provisions of career service and these rules to employees of the executive branch of state government. The only possible impact may be a very slight, indirect affect if an agency passes costs or savings on to business through fees. However, it is anticipated that the minimal costs associated with these changes will be absorbed by agency budgets and will have no affect on business.

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INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
 ♦ 05/24/2016 10:00 AM, Senate Building, 420 N State Street, Aspen Room, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2016

AUTHORIZED BY: Debbie Cragun, Executive Director

**R477. Human Resource Management, Administration.
 R477-10. Employee Development.
 R477-10-1. Performance Evaluation.**

Agency management shall utilize the Utah Performance Management (UPM) system for employee performance plans and evaluations. The Executive Director, DHRM, may authorize exceptions to the use of UPM and this rule consistent with Section

R477-2-2. For this rule, the word employee refers to a career service employee, unless otherwise indicated.

(1) Performance management systems shall satisfy the following criteria:

(a) Agency management shall select an overall performance rating scale.

(b) Performance standards and expectations for each employee shall be specifically written in a performance plan.

(c) Managers or supervisors shall notify employees when their performance plans are implemented or modified.

((e)d) Managers or supervisors provide employees with regular verbal and written feedback based on the standards of performance and behavior outlined in their performance plans.

(2) Each fiscal year a state employee shall receive a performance evaluation.

(a) An employee shall have the right to include written comments pertaining to the employee's performance evaluation.

(b) A probationary employee ~~shall~~ may receive a ~~an additional~~ performance evaluation at the end of the probationary period.

KEY: educational tuition, employee performance evaluations, employee productivity, training programs

Date of Enactment or Last Substantive Amendment: ~~July 1, 2014~~ 2016

Notice of Continuation: February 3, 2012

Authorizing, and Implemented or Interpreted Law: 67-19-6

**Human Resource Management,
 Administration
 R477-11
 Discipline**

**NOTICE OF PROPOSED RULE
 (Amendment)**

DAR FILE NO.: 40394

FILED: 05/02/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify the rule regarding discipline.

SUMMARY OF THE RULE OR CHANGE: This amendment changes minor language in the existing rule, and removes Subsection R477-11-1(2)(a).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 67-19-6

ANTICIPATED COST OR SAVINGS TO:

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 ◆ 05/24/2016 10:00 AM, Senate Building, 420 N State Street, Aspen Room, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2016

AUTHORIZED BY: Debbie Cragun, Executive Director

R477. Human Resource Management, Administration.

R477-11. Discipline.

R477-11-1. Disciplinary Action.

(1) Agency management may discipline any employee for any of the following causes or reasons:

(a) noncompliance with these rules, agency or other applicable policies, including but not limited to safety policies, agency professional standards, standards of conduct and workplace policies;

(b) work performance that is inefficient or incompetent;

(c) failure to maintain skills and adequate performance levels;

(d) insubordination or disloyalty to the orders of a superior;

(e) misfeasance, malfeasance, or nonfeasance;

(f) any incident involving intimidation, physical harm, or threats of physical harm against co-workers, management, or the public;

(g) no longer meets the requirements of the position;

(h) conduct, on or off duty, which creates a conflict of interest with the employee's public responsibilities or impacts that employee's ability to perform job assignments;

(i) failure to advance the good of the public service, including conduct on or off duty which demeans or harms the effectiveness or ability of the agency to fulfill its mission;

(j) dishonesty; or

(k) misconduct.

(2) Agency management shall consult with DHRM prior to disciplining an employee

~~[(a) DHRM shall consult with the Office of the Attorney General, if necessary, prior to agency management imposing discipline on an employee that is grievable to the Career Service Review Office.]~~

(3) All disciplinary actions of career service employees shall be governed by principles of due process and Title 67, Chapter 19a. The disciplinary process shall include all of the following, except as provided under Subsection 67-19-18(4):

(a) The agency representative notifies the employee in writing of the proposed discipline, the ~~underlying~~ reasons supporting the intended action, and the right to reply within five working days.

(b) The employee's reply shall be received within five working days in order to have the agency representative consider the reply before discipline is imposed.

(c) If an employee waives the right to reply or does not reply within the time frame established by the agency representative or within five working days, whichever is longer, discipline may be imposed in accordance with these rules.

(4) After a career service employee has been informed of the reasons for the proposed discipline and has been given an opportunity to respond and be responded to, the agency representative may discipline that employee, or any career service exempt employee not subject to the same procedural rights, by imposing one or more of the following forms of disciplinary action:

(a) written reprimand;

(b) suspension without pay up to 30 calendar days per incident requiring discipline;

(c) demotion of any employee, in accordance with Section R477-11-2, through one of the following actions:

(i) An employee may be moved from a position in one job to a position in another job having a lower maximum salary range and shall receive a reduction in the current actual wage.

(ii) An employee's current actual wage may be lowered within the current salary range, as determined by the agency head or designee.

(d) dismissal in accordance with Section R477-11-2.

(5) If agency management determines that a career service employee endangers or threatens the peace and safety of others or poses a grave threat to the public service or is charged with aggravated or repeated misconduct, the agency may impose the following actions, under Subsection 67-19-18(4), pending an investigation and determination of facts:

(a) paid administrative leave; or

(b) temporary reassignment to another position or work location at the same current actual wage.

(6) At the time disciplinary action is imposed, the employee shall be notified in writing of the discipline, the reasons for the discipline, the effective date and length of the discipline.

(7) Disciplinary actions are subject to the grievance and appeals procedure by law for career service employees, except under Section 67-19a-402.5. The employee and the agency representative may agree in writing to waive or extend any grievance step, or the time limits specified for any grievance step.

R477-11-2. Dismissal or Demotion.

An employee may be dismissed or demoted for cause under Subsection R477-10-2(3)(e) and Section R477-11-1, and through the process outlined in this rule.

(1) An agency head or appointing officer may dismiss or demote a probationary employee or career service exempt employee without right of appeal, except under Sections 67-21-2 and 67-19a-402.5. Such dismissal or demotion may be for any reason or for no reason.

(2) No career service employee shall be dismissed or demoted from a career service position unless the agency head or designee has observed the Grievance Procedure Rules and law cited in Section R137-1-13 and Title 67, Chapter 19a, and the following procedures:

(a) The agency head or designee shall notify the employee in writing of the specific reasons for the proposed dismissal or demotion.

(b) The employee shall have up to five working days to reply. The employee shall reply within five working days for the agency head or designee to consider the reply before discipline is imposed.

(c) The employee shall have an opportunity to be heard by the agency head or designee. This meeting shall be strictly limited to the specific reasons raised in the notice of intent to demote or dismiss.

(i) At the meeting the employee may present, either in person, in writing, or with a representative, comments or reasons as to why the proposed disciplinary action should not be taken. The agency head or designee is not required to receive or allow other witnesses on behalf of the employee.

(ii) The employee may present documents, affidavits or other written materials at the meeting. However, the employee is not entitled to present or discover documents within the possession or control of the department or agency that are private, protected or controlled under Section 63G-2-3.

(d) Following the meeting, the employee may be dismissed or demoted if the agency head finds adequate cause or reason.

(e) The employee shall be notified in writing of the agency head's decision. [Specific]The reasons shall be provided if the decision is a demotion or dismissal.

(3) Agency management may place an employee on paid administrative leave pending the administrative appeal to the agency head.

KEY: discipline of employees, dismissal of employees, grievances, government hearings

Date of Enactment or Last Substantive Amendment: ~~[July 1, 2013]~~**2016**

Notice of Continuation: February 3, 2012

Authorizing, and Implemented or Interpreted Law: 67-19-6; 67-19-18; 63G-2-3

Human Resource Management, Administration **R477-12** Separations

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 40395

FILED: 05/02/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify the rule regarding separations.

SUMMARY OF THE RULE OR CHANGE: This amendment updates Section R477-12-2 to better clarify management responsibilities and employee rights as they relate to abandonment of position, and corrects an incorrect citation in Subsection R477-12-3(8)(b).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 67-19-18 and Section 67-19-6

ANTICIPATED COST OR SAVINGS TO:

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◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no direct compliance cost for these amendments. This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by the Department of Human Resource Management (DHRM) have no direct affect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by the "Utah Personnel Management Act", Title 67, Chapter 19. This act limits the provisions of career service and these rules to employees of the executive branch of state government. The only possible impact may be a very slight, indirect affect if an agency passes costs or savings on to business through fees. However, it is anticipated that the minimal costs associated with these changes will be absorbed by agency budgets and will have no affect on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 HUMAN RESOURCE MANAGEMENT
 ADMINISTRATION
 ROOM 2120 STATE OFFICE BLDG
 450 N MAIN ST
 SALT LAKE CITY, UT 84114-1201
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Greg Hargis by phone at 801-891-5680, or by Internet E-mail at ghargis@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/15/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
 ♦ 05/24/2016 10:00 AM, Senate Building, 420 N State Street, Aspen Room, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2016

AUTHORIZED BY: Debbie Cragun, Executive Director

R477. Human Resource Management, Administration.

R477-12. Separations.

R477-12-2. Abandonment of Position.

An employee who is absent from work for three consecutive working days without approval shall be considered to have abandoned the position and to have resigned from the employing agency.

(1) An employee who has abandoned his position may be separated from state employment. Management shall inform the employee of the action in writing.

(a) ~~[The employee shall have the right to appeal to the agency head within five working days of]~~ Management shall send the employee notice of intent to separate to the employee's ~~[- receipt or delivery of the notice of abandonment to the]~~ last known address.

(b) The employee shall have the right to appeal separation to the agency head within five working of receipt, delivery, or attempted postal delivery of the notice of abandonment to the last known address.

([b]c) If the separation is appealed, management may not be required to prove intent to abandon the position.

R477-12-3. Reduction in Force.

Reductions in force (RIF) shall be governed by DHRM rules and business practices.

(1) When staff will be reduced in one or more categories of work, agency management shall develop a work force adjustment plan (WFAP). A career service employee shall only be given formal written notification of separation after a WFAP has been reviewed by the Executive Director, DHRM, or designee and approved by Agency Head or designee. The following items shall be addressed in the WFAP:

(a) the categories of work to be eliminated, including positions impacted through bumping;

(b) a decision by agency management allowing or disallowing bumping;

(c) specifications of measures taken to facilitate the placement of affected employees through reassignment, transfer and relocation to vacant positions for which the employee qualifies;

(d) job-related criteria as identified in Subsection R477-12-3(3)(a) used for determining retention points; and

(e) When more than one employee is affected, employees shall be listed in order of retention points.

(f) Retention points do not have to be calculated for a single incumbent WFAP.

(2) Eligibility for RIF.

(a) Only career service employees who have been identified in an approved WFAP and given an opportunity to be heard by the agency head or designee may be RIF'd.

(b) An employee covered by USERRA shall be identified, assigned retention points, and notified of the RIF in the same manner as a career service employee.

(3) Retention points shall be determined for all affected employees within a category of work by giving appropriate consideration for proficiency and seniority with proficiency being the primary factor.

(a) Performance evaluations and performance information for the past three years may be taken into account for assessing job proficiency.

(b) Seniority shall be determined by the length of most recent continuous career service, which commenced in a career service position for which the probationary period was successfully completed.

(i) Exempt service time subsequent to attaining career service tenure with no break in service shall be counted for purposes of seniority.

(c) In each WFAP, agency management shall develop the criteria they will use for determining retention points.

(i) Agency Management shall consult with Executive Director, DHRM or designee.

(ii) Agency plans shall comply with current DHRM business practices.

(4) The order of separation shall be:

(a) temporary employees in schedule IN or TL positions;

(b) probationary employees; then

(c) career service employees with the lowest retention points.

(5) An employee, including one covered under USERRA, who is separated due to a RIF shall be given formal written notification of separation, allowing for a minimum of 20 working days prior to the effective date of the RIF.

(6) An employee notified of separation due to a RIF may appeal to the agency head by submitting a written notice of appeal within 20 working days after the receipt of written notification of separation.

(a) The employee may appeal the decision of the agency head according to the appeals procedure of the Career Service Review Office.

(7) A career service employee who is separated in a RIF shall be governed by the rules in place at the time of separation.

(8) A career service employee who is separated in a RIF shall be given preferential consideration to the application score in the process of developing the hiring list as outlined in DHRM business practices when applying for a career service position.

(a) Preferential consideration shall end once the RIF'd individual accepts a career service position.

(b) A RIF'd individual may be rehired under Section R477-4-[7]6.

(c) At agency discretion, an individual rehired to a career service position may buy back part or all accumulated annual and converted sick leave that was cashed out when RIF'd.

(9) A career service employee accepting an exempt position without a break in service, who is later not retained by the appointing officer, unless discharged for cause under these rules, shall be given preferential consideration as outlined in Subsection R477-12-3(8).

(10) Prior to separation and in lieu of a RIF, management may reassign an employee to a vacant career service position for which the employee qualifies under Section R477-4-5.

KEY: administrative procedures, employees' rights, grievances, retirement

Date of Enactment or Last Substantive Amendment: ~~July 1, 2013~~ **2016**

Notice of Continuation: February 3, 2012

Authorizing, and Implemented or Interpreted Law: 67-19-6; 67-19-17; 67-19-18

Human Resource Management,
Administration
R477-15-1
Policy

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40396

FILED: 05/02/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify the rule on workplace harassment prevention.

SUMMARY OF THE RULE OR CHANGE: This amendment updates the formatting of Section R477-15-1.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 67-19-6

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** These changes are administrative and do not directly impact state budgets.

♦ **LOCAL GOVERNMENTS:** This rule only affects the executive branch of state government and will have no impact on local government.

♦ **SMALL BUSINESSES:** This rule only affects the executive branch of state government and will have no impact on small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no direct compliance cost for these amendments. This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by the Department of Human Resource Management (DHRM) have no direct affect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by the "Utah Personnel Management Act", Title 67, Chapter 19. This act limits the provisions of career service and these rules to employees of the executive branch of state government. The only possible impact may be a very slight, indirect affect if an agency passes costs or savings on to business through fees. However, it is anticipated that the minimal costs associated with these changes will be absorbed by agency budgets and will have no affect on business.

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

HUMAN RESOURCE MANAGEMENT
ADMINISTRATION
ROOM 2120 STATE OFFICE BLDG

450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Greg Hargis by phone at 801-891-5680, or by Internet E-mail at ghargis@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/15/2016

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 05/24/2016 10:00 AM, Senate Building, 420 N State Street, Aspen Room, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2016

AUTHORIZED BY: Debbie Cragun, Executive Director

R477. Human Resource Management, Administration.

R477-15. Workplace Harassment Prevention.

R477-15-1. Policy.

It is the policy of the State of Utah to provide a work environment free from discrimination and harassment based on race, religion, national origin, color, sex, age, disability, pregnancy, sexual orientation, gender identity, or protected activity or class under state or federal law.

(1) Workplace harassment includes the following subtypes:

(a) conduct in violation of Section R477-15-1 that is unwelcome, pervasive, demeaning, ridiculing, derisive, or coercive, and results in a hostile, offensive, or intimidating work environment;

(b) conduct in violation of Section R477-15-1 that results in a tangible employment action against the harassed employee.

(2) An employee may be subject to discipline for violating workplace [harassment] policies, even if [-] the conduct occurs outside of scheduled work time or work location, or if the the conduct is not sufficiently severe to warrant a finding of unlawful harassment.

[~~— (a) the harassment is not sufficiently severe to warrant a finding of unlawful harassment, or~~

~~— (b) the harassment occurs outside of scheduled work time or work location.]~~

(3) Once a complaint has been filed, the accused may not communicate with the complainant regarding allegations of harassment.

KEY: administrative procedures, hostile work environment

Date of Enactment or Last Substantive Amendment: [July 1, 2015] 2016

Notice of Continuation: February 3, 2012

Authorizing, and Implemented or Interpreted Law: 67-19-6; 67-19-18; 63G-2-305; E.O. No. 12 "Prohibiting Unlawful Harassment" (December 2006)

Labor Commission, Adjudication
R602-2-4
Attorney Fees

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40359

FILED: 04/27/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this proposed rule change is to update the maximum attorney fees awarded at the different stages of the workers' compensation legal process. The update is due to an increase in the average weekly wage of workers in Utah and the benefits calculated from that average.

SUMMARY OF THE RULE OR CHANGE: This rule change raises the maximum fee for legal services rendered through final commission action from \$18,590 to \$18,728, and for legal services rendered before the Court of Appeals from \$26,819 to \$27,017, and for legal services rendered before the Supreme Court from \$32,913 to \$33,157.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-1-301 et seq. and Section 63G-4-102 et seq.

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There should be no cost or savings to the state budget because attorney fees are paid from the benefits owed to injured workers.

◆ **LOCAL GOVERNMENTS:** There should be no cost or saving to local governments because attorney fees are paid from the benefits owed to injured workers.

◆ **SMALL BUSINESSES:** There should be no cost or saving to small businesses because attorney fees are paid from the benefits owed to injured workers.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There will a slight cost to injured workers because attorney fees are paid from the benefits owed to them. There should not be a cost or savings to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will a slight cost to injured workers because attorney fees are paid from the benefits owed to them. There should not be a cost or savings to other persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There should be no fiscal impact from this rule on businesses as attorney fees are paid out of the benefits owed to injured workers.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Heather Gunnarson by phone at 801-536-7928, by FAX at 801-530-6333, or by Internet E-mail at hgunnarson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON
THIS RULE BY SUBMITTING WRITTEN COMMENTS NO
LATER THAN AT 5:00 PM ON 06/15/2016

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2016

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R602. Labor Commission, Adjudication.

R602-2. Adjudication of Workers' Compensation and Occupational Disease Claims.

R602-2-4. Attorney Fees.

A. Pursuant to Section 34A-1-309, the Commission adopts the following rule to regulate and fix reasonable fees for attorneys representing applicants in workers' compensation or occupational illness claims.

1. This rule applies to all fees awarded after July 1, 2015.

2. Fees awarded prior to the effective date of this rule are determined according to the prior version of this rule in effect on the date of the award.

B. Upon written agreement, when an attorney's services are limited to consultation, document preparation, document review, or review of settlement proposals, the attorney may charge the applicant an hourly fee of not more than \$125 for time actually spent in providing such services, up to a maximum of four hours.

1. Commission approval is not required for attorneys fees charged under this subsection B. It is the applicant's responsibility to pay attorneys fees permitted by this subsection B.

2. In all other cases involving payment of applicants' attorneys fees which are not covered by this subsection B., the entire amount of such attorneys fees are subject to subsection C. or D. of this rule.

C. Except for legal services compensated under subsection B. of this rule, all legal services provided to applicants shall be compensated on a contingent fee basis.

1. For purposes of this subsection C., the following definitions and limitations apply:

a. The term "benefits" includes only death or disability compensation and interest accrued thereon.

b. Benefits are "generated" when paid as a result of legal services rendered after Adjudication Form 152 Appointment of Counsel form is signed by the applicant. A copy of this form must be filed with the Commission by the applicant's attorney.

c. In no case shall an attorney collect fees calculated on more than the first 312 weeks of any and all combinations of workers' compensation benefits.

2. Fees and costs authorized by this subsection shall be deducted from the applicant's benefits and paid directly to the attorney on order of the Commission. A retainer in advance of a Commission approved fee is not allowed.

3. Attorney fees for benefits generated by the attorney's services shall be computed as follows:

a. For all legal services rendered through final Commission action, the fee shall be 25% of weekly benefits generated for the first \$25,000, plus 20% of the weekly benefits generated in excess of \$25,000 but not exceeding \$50,000, plus 10% of the weekly benefits generated in excess of \$50,000, to a maximum of \$~~18,590~~18,728.

b. For legal services rendered in prosecuting or defending an appeal before the Utah Court of Appeals, an attorney's fee shall be awarded amounting to 30% of the benefits in dispute before the Court of Appeals. This amount shall be added to any attorney's fee awarded under subsection C.3.a. for benefits not in dispute before the Court of Appeals. The total amount of fees awarded under subsection C.3.a. and this subsection C.3.b. shall not exceed \$~~26,819~~27,017;

c. For legal services rendered in prosecuting or defending an appeal before the Utah Supreme Court, an attorney's fee shall be awarded amounting to 35% of the benefits in dispute before the Supreme Court. This amount shall be added to any attorney's fee awarded under subsection C.3.a. and subsection C.3.b. for benefits not in dispute before the Supreme Court. The total amount of fees awarded under subsection C.3.a, subsection C.3.b. and this subsection C.3.c shall not exceed \$~~32,913~~33,157.

D. The following expenses, fees and costs shall be presumed to be reasonable and necessary and therefore reimbursable in a workers' compensation claim:

1. Medical records and opinion costs;
2. Deposition transcription costs;
3. Vocational and Medical Expert Witness fees;
4. Hearing transcription costs;
5. Appellate filing fees; and
6. Appellate briefing expenses.

F. Other reasonable expenses, fees and costs may be awarded as reimbursable as the Commission may in its discretion decide in a particular workers compensation claim.

E. In "medical only" cases in which awards of attorneys' fees are authorized by Subsection 34A-1-309(4), the amount of such fees and costs shall be computed according to the provisions of subsection C and D.

KEY: workers' compensation, administrative procedures, hearings, settlements

Date of Enactment or Last Substantive Amendment: ~~July 8, 2015~~2016

Notice of Continuation: June 19, 2012

Authorizing, and Implemented or Interpreted Law: 34A-1-301 et seq.; 63G-4-102 et seq.

Labor Commission, Boiler and Elevator
Safety
R616-2-3
Safety Codes and Rules for Boilers and
Pressure Vessels

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40357

FILED: 04/27/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to incorporate the current nationally recognized safety codes as they apply to boilers and pressure vessels. The Utah Labor Commission's intent is to maintain uniformity between Utah and national standards for the design, installation, and inspection of boilers and pressure vessels.

SUMMARY OF THE RULE OR CHANGE: The changes include incorporation of current safety codes as they apply to boilers and pressure vessels in the State of Utah as follows: "American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code - 2015" -- Section I Rules for Construction of Power Boilers, Section IV Rules for Construction of Heating Boilers, and Section VIII Rules for Construction of Pressure Vessels; "Power Piping B31.1 - 2014"; "Controls and Safety Devices for Automatically Fired Boilers ASME CSD-1 - 2105"; "National Board Inspection Code Part 3 -2015"; "NFPA 85 Boiler and Combustion Systems Hazard Code - 2015 edition"; and "Pressure Vessel Inspection Code: Maintenance Inspection, Rating, Repair and Alteration API 510 tenth edition - 2014".

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-7-101 et seq.

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates ASME Boiler and Pressure Vessel Code Section IV, published by American Society of Mechanical Engineers, 2016
- ◆ Updates NFPA 85 Boiler and Combustion Systems Hazards Code, published by NFPA, 2015
- ◆ Updates NBIC Part 3 Repairs and Alterations, published by National Board of Boiler and Pressure Vessel Inspectors, 2015
- ◆ Updates ASME Boiler and Pressure Vessel Code Section I, published by American Society of Mechanical Engineers, 2015
- ◆ Updates Controls and Safety Devices for Automatically Fired Boilers, published by American Society of Mechanical Engineers, 2015

- ◆ Updates Pressure Vessel Inspection Code API510, published by American Petroleum Institute, May 2014
- ◆ Updates AMSE Boiler and Pressure Vessel Code Section VIII, published by American Society of Mechanical Engineers, 2015
- ◆ Updates ASME B31.1 Power Piping, published by American Society of Mechanical Engineers, 2014

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The initial cost to purchase all of these code books for the Division of Boiler, Elevator and Coal Mine Safety and for Administration Rules was \$2,569.70. Other than the cost to purchase these books, the Division is not aware of any other cost that will be incurred at the time of installation or during maintenance due to the incorporation of these codes.
- ◆ **LOCAL GOVERNMENTS:** Other than the cost to purchase these books, if desired, the Division is not aware of any other cost that will be incurred by local governments at the time of installation or during maintenance due to the incorporation of these codes. Purchase of these books is not required.
- ◆ **SMALL BUSINESSES:** Other than the cost to purchase these books, if desired, the Division is not aware of any other cost that will be incurred by small businesses at the time of installation or during maintenance due to the incorporation of these codes. Purchase of these books is not required.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Other than the cost to purchase these books, if desired, the Division is not aware of any other cost that will be incurred by persons other than small businesses, businesses, or local government entities at the time of installation or during maintenance due to the incorporation of these codes. Purchase of these books is not required.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Other than the cost to purchase these books, if desired, the Division is not aware of any other cost that will be incurred at the time of installation or during maintenance due to the incorporation of these codes. Purchase of these books is not required.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Other than the cost to purchase these books, if desired, I am not aware of any other cost that will be incurred at the time of installation or during maintenance due to the incorporation of these codes. Purchase of these books is not required.

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

LABOR COMMISSION
BOILER AND ELEVATOR SAFETY
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Ami Windham by phone at 801-530-6850, by FAX at 801-530-6871, or by Internet E-mail at awindham@utah.gov
 ◆ Pete Hackford by phone at 801-530-7605, by FAX at 801-530-6871, or by Internet E-mail at phackford@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/15/2016

THIS RULE MAY BECOME EFFECTIVE ON: 06/22/2016

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R616. Labor Commission, Boiler and Elevator Safety.**R616-2. Boiler and Pressure Vessel Rules.****R616-2-3. Safety Codes and Rules for Boilers and Pressure Vessels.**

The following safety codes and rules shall apply to all boilers and pressure vessels in Utah, except those exempted pursuant to Section 34A-7-101, and are incorporated herein by this reference in this rule.

A. ASME Boiler and Pressure Vessel Code ~~2015~~ ~~(2013)~~.

1. Section I Rules for Construction of Power Boilers ~~published July 1, 2013~~.

2. Section IV Rules for Construction of Heating Boilers ~~published July 1, 2013~~.

3. Section VIII Rules for Construction of Pressure Vessels ~~published July 1, 2013~~.

B. Power Piping ASME B31.1 ~~2014~~ ~~(2004)~~, ~~issued August 16, 2004~~.

C. Controls and Safety Devices for Automatically Fired Boilers ASME CSD-1-201 ~~2~~ ~~5~~. Except:

1. Part CG-130(c).

D. National Board Inspection Code ANSI/NB-23 -- 2015 Part 3 ~~[-Repairs and Alterations, issued July 31, 2013]~~.

E. NFPA 85 Boiler and Combustion Systems Hazard Code ~~[2007 Edition]~~ 2015.

F. Recommended Administrative Boiler and Pressure Vessel Safety Rules and Regulations NB-132 Rev. 4.

G. Pressure Vessel Inspection Code: Maintenance Inspection, Rating, Repair and Alteration API 510 ~~[Ninth]~~ Tenth Edition, ~~[June 2006]~~ 2014. Except:

1. Section-8, and

2. Appendix-A.

KEY: boilers, certification, safety

Date of Enactment or Last Substantive Amendment: ~~[March 10, 2014]~~ 2016

Notice of Continuation: October 5, 2011

Authorizing, and Implemented or Interpreted Law: 34A-7-101 et seq.

Labor Commission, Boiler and Elevator Safety

R616-3-3

Safety Codes for Elevators

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 40358

FILED: 04/27/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to incorporate the current nationally recognized safety codes as they apply to elevators and escalators, as defined in Chapter 34A-7-202. The Utah Labor Commission's intent is to maintain uniformity between Utah and national standards for the installation and inspection of elevators and escalators.

SUMMARY OF THE RULE OR CHANGE: The changes include the incorporation of current safety codes as they apply to elevators and escalators as defined in Section 34A-7-202 as follows: "ASME A17.3-2015 Safety Code for Existing Elevators and Escalators"; "ASME A90.1 - 2015 Standard for Belt Manlifts"; "ANSI A10-4 - 2016 Safety Requirements for Personnel Hoists and Employee Elevators for Construction and Demolition Operations"; and "ASME 18.1 - 2014 Safety Standard for Platform Lifts and Stairway Chairlifts".

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-1-101 et seq.

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates ASME A17.3 - 2015 Safety Code for Existing Elevators and Escalators, published by American Society of Mechanical Engineers, 2015
- ◆ Updates ASME A90.1-2015 Safety Standard for Belt Manlifts, published by American Society of Mechanical Engineers, 2015
- ◆ Updates ASME A18.1-2014 Safety Standard for Platform Lifts and Stairway Chairlifts, published by American Society of Mechanical Engineers, 2014
- ◆ Updates ANSI/ASSE A10.4 - 2016, published by American Society of Safety Engineers, 2016

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The initial cost to purchase all of these codes books both for the Division of Boiler, Elevator and Cola Mine Safety and for Administrative Rules was \$478.25. Other than the cost to purchase these books, the Division is not aware of any other cost that will be incurred, at the time of installation or during maintenance, due to the incorporation of these codes.

- ◆ LOCAL GOVERNMENTS: Other than the cost to purchase these books, if desired, the Division is not aware of any other cost that will be incurred by local governments at the time of installation or during maintenance due to the incorporation of these codes. Purchase of these books is not required.
- ◆ SMALL BUSINESSES: Other than the cost to purchase these books, if desired, the Division is not aware of any other cost that will be incurred by small businesses at the time of installation or during maintenance due to the incorporation of these codes. Purchase of these books is not required.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Other than the cost to purchase these books, if desired, the Division is not aware of any other cost that will be incurred by persons other than small businesses, businesses, or local government entities at the time of installation or during maintenance due to the incorporation of these codes. Purchase of these books is not required.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Other than the cost to purchase these books, if desired, the Division is not aware of any other cost that will be incurred at the time of installation or during maintenance due to the incorporation of these codes. Purchase of these books is not required.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Other than the cost to purchase these books, if desired, I am not aware of any other cost that will be incurred at the time of installation or during maintenance due to the incorporation of these codes. Purchase of these books is not required.

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

LABOR COMMISSION
 BOILER AND ELEVATOR SAFETY
 HEBER M WELLS BLDG
 160 E 300 S
 SALT LAKE CITY, UT 84111-2316
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Ami Windham by phone at 801-530-6850, by FAX at 801-530-6871, or by Internet E-mail at awindham@utah.gov
 ◆ Pete Hackford by phone at 801-530-7605, by FAX at 801-530-6871, or by Internet E-mail at phackford@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/15/2016

THIS RULE MAY BECOME EFFECTIVE ON: 06/22/2016

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R616. Labor Commission, Boiler and Elevator Safety.

R616-3. Elevator Rules.

R616-3-3. Safety Codes for Elevators.

The following safety codes are adopted and incorporated by reference within this rule:

A. ASME A17.1-2013/CSA B44-10, Safety Code for Elevators and Escalators, and amended as follows:

1. Delete 2.2.2.5;

2. Amend 8.6.5.8 as follows: Existing hydraulic cylinders installed below ground when found to be leaking shall be replaced with cylinders conforming to 3.18.3.4 or the car shall be provided with safeties conforming to 3.17.1 and guide rails, guide rail supports and fastenings conforming to 3.23.1. This code is issued every ~~[three]~~two years~~[-with annual addenda]~~. New issues ~~[and addenda]~~ become mandatory only when a formal change is made to these rules. Elevators are required to comply with the A17.1 code in effect at the time of installation.

B. ASME A17.3 - ~~[2002]~~2015 Safety Code for Existing Elevators and Escalators. This code is adopted for regulatory guidance only for elevators classified as remodeled elevators by the Division of Boiler and Elevator Safety.

C. ASME A90.1-~~[2009]~~2015, Safety Standard for Belt Manlifts.

D. ANSI A10.4-~~[2007]~~2016, Safety Requirements for Personnel Hoists and Employee Elevators for Construction and Demolition Operations.

E. ICC/ANSI A117.1 (2009) Accessible and Usable Buildings and Facilities, sections 407 and 408, and 410 approved October 20, 2010.

F. ASME A18.1-~~[2011]~~2014 Safety Standard For Platform Lifts And Stairway Chairlifts.

G. ASME A17.6-2010 Standard for Elevator Suspension, Compensation, and Governor Systems.

KEY: elevators, certification, safety

Date of Enactment or Last Substantive Amendment: ~~[June 22, 2015]~~2016

Notice of Continuation: October 5, 2011

Authorizing, and Implemented or Interpreted Law: 34A-1-101 et seq.

Navajo Trust Fund, Trustees

R661-9

Utah Navajo Trust Fund Public Facility Projects

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 40347

FILED: 04/21/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is required by Subsection 51-10-205(4) (a).

SUMMARY OF THE RULE OR CHANGE: The rule outlines the requirements for funding of Chapter Public Facility Projects by the Utah Navajo Trust Fund.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 51-10-205(4)(a)

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: There is no anticipated cost or savings to state budget as a result of this rule because this rule sets out the requirements for the Utah Navajo Chapters to apply for funding from the Trust Fund for Public Facility Projects.

◆ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government as a result of this rule because this rule sets out the requirements for Utah Navajo Chapters to apply for funding from the Trust Fund for Public Facility Projects.

◆ SMALL BUSINESSES: There is no anticipated cost or savings to small businesses as a result of this rule because this rule sets out the requirements for Utah Navajo Chapters to apply for funding from the Trust Fund for Public Facility Projects.

◆ 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 as a result of this rule because this rule sets out the requirements for Utah Navajo Chapters to apply for funding from the Trust Fund for Public Facility Projects.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as a result of this rule because this rule sets out the requirements for Utah Navajo Chapters to apply for funding from the Trust Fund for Public Facility Projects.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impacts on business because this rule sets out the requirements for Utah Navajo Chapters to apply for funding from the Trust Fund for Public Facility Projects.

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

NAVAJO TRUST FUND
TRUSTEES
ROOM 180
350 N STATE STREET
SALT LAKE CITY, UT 84114
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Katharine Kinsman by phone at 801-366-0140, or by Internet E-mail at kkinsman@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/14/2016

THIS RULE MAY BECOME EFFECTIVE ON: 06/21/2016

AUTHORIZED BY: David Damschen, State Treasurer

R661. Navajo Trust Fund, Trustees.**R661-9. Utah Navajo Trust Fund Public Facility Projects.****R661-9-101. Sponsors.**

Chapters shall be the main sponsors and proponents of a public facility project; if the sponsor is not a Chapter, the requesting entities will work directly with their respective Chapter in which the building is located.

(1) All requests, budget preparation, updates and progress reports, will be processed through the Chapter first.

(a) All documentation must be provided by the Chapter or to the hosting chapter.

(b) The sponsoring organization must work closely with the chapter.

(2) The Chapter shall be included in all the processes of development from the commencement to the completion.

R661-9-201. Compliance with Applicable Laws and Regulations.

The Chapter or Sponsor shall abide by all applicable laws, regulations, rules, policies, practices, and protocol for public facility projects, including but not limited to, site clearances, fees and permits, environmental clearances, abatement, uniform commercial building codes, architectural standards, and utility company requirements.

R661-9-301. Public Facility Projects Shall Follow General Chapter Project Policies.

(1) New construction, additions, major or minor renovation, and/or repairs are included in this program.

(2) The following types of projects will be considered for funding:

(a) Multi-Purpose Building

(b) Senior Citizen Center

(c) Warehouse

(d) Chapter recreation facilities such as baseball field construction basketball court construction, and/or swimming pool construction

(e) Headstart / Pre-School Building

(f) Library/Media Center

(g) Transfer Station

(h) Street Improvement

(i) Vendors Village

(j) Temporary Shelter

(k) Regional Water Purification Systems

R661-9-401. Funding.

(1) Chapters willing to use a portion of their annual allocation will have preference for funding by the Fund.

(2) Unless waived by the Dine Advisory Committee or the Board of Trustees, match funding for a project is required.

R661-9-501. Requirements for Approved Projects.

(1) The Chapter or non-Chapter sponsor shall enter into a contract with the Fund setting forth the terms and conditions for receipt of the UNTF funding.

(2) Documentation required to be submitted to UNTF

(a) Land Withdrawal Documents, boundary survey, and environmental assessment. If these items are not available, the funding request may include payment for these items to be performed.

(b) Tribal/State/Federal clearances for the use of land.

(c) Documentation of other match-funding sources, including any Navajo Nation funding sources.

(d) A Chapter resolution supporting the proposed project including priority criteria in support of the proposed project.

(e) An Operation and Maintenance Plan for the completed project.

(3) Required Professional Services

(a) An Architectural and Engineering firm to develop blueprints and specifications in compliance with the applicable building codes.

(b) A licensed contractor to perform the construction work.

KEY: chapter public facilities, Utah Navajo Trust Fund (UNTF)

Date of Enactment or Last Substantive Amendment: 2016
Authorizing, Implemented, or Interpreted Law: 51-10-205(4)
(a)

Navajo Trust Fund, Trustees
R661-10

Utah Navajo Trust Fund Short-Term Training Program

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 40348

FILED: 04/21/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is required by Subsection 51-10-205(4) (a).

SUMMARY OF THE RULE OR CHANGE: This rule outlines the requirements to receiving funding from the Utah Navajo Trust Fund for short-term training programs.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 51-10-205(4)(a)

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: There is no anticipated cost or savings to state budget as a result of this rule because the rule sets out the requirements for individuals to obtain funding from the Utah Navajo Trust Fund for short-term training programs.

◆ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government as a result of this rule because the rule sets out the requirements for individuals to obtain funding from the Utah Navajo Trust Fund for short-term training programs.

◆ SMALL BUSINESSES: There is no anticipated cost or savings to small businesses as a result of this rule because the rule sets out the requirements for individuals to obtain funding from the Utah Navajo Trust Fund for short-term training programs.

◆ 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 as a result of this rule because the rule sets out the requirements for individuals to obtain funding from the Utah Navajo Trust Fund for short-term training programs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons because the rule sets out the requirements for individuals to obtain funding from the Utah Navajo Trust Fund for short-term training programs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses because the rule sets out the requirements for individuals to obtain funding from the Utah Navajo Trust Fund for short-term training programs.

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

NAVAJO TRUST FUND
 TRUSTEES
 ROOM 180
 350 N STATE STREET
 SALT LAKE CITY, UT 84114
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Katharine Kinsman by phone at 801-366-0140, or by Internet E-mail at kkinsman@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/14/2016

THIS RULE MAY BECOME EFFECTIVE ON: 06/21/2016

AUTHORIZED BY: David Damschen, State Treasurer

R661. Navajo Trust Fund, Trustees.

R661-10. Utah Navajo Trust Fund Short-Term Training Program.

R661-10-101. Objective.

The Short-Term Training (STT) Program is established to assist adults interested in improving their job skills and marketability through short-term (up to six months) specialized training programs which offer hands-on training in an institutional setting.

(1) Eligible training programs include, but are not limited to: certification for CDL (truck driver training), contractor's license, electrician and plumbers training, welding, natural gas compression training, safety awareness programs, or petroleum technology. To be eligible the training program must be offered by a licensed, registered, or accredited vocational-technology institute or center.

(2) The STT program is not intended for college degree-seeking students.

R661-10-201. UNTF STT Funding.

UNTF STT funding is a supplemental funding source which must be matched with other funding sources.

(1) The maximum UNTF contribution amount will be determined in each fiscal year of the UNTF annual budget.

(a) The UNTF contribution shall not exceed 50% of the total cost for tuition, fees, books, supplies, and for living expenses per program attended.

(b) UNTF contribution may also provide for living expenses which if provided shall not exceed \$5000 per month, which shall be disbursed by the institution on a monthly basis during the training program.

(2) Applicants may only receive STT funding one time.

R661-10-301. Application Process.

(1) Applications shall include:

(a) A residency verification form completed and signed by the applicants Utah Chapter;

(b) A program description for the use of the STT funds and a brochure or information sheet of the program UNTF scholarship application, with the Financial Needs Analysis completed by the institution;

(c) Official transcript from the highest level educational facility attended;

(d) Highest grade completed in High School, GED, or post-high school educational institution last attended;

(e) A referral document from an agency proposing the training and/or the entity proposing the match-funding or acceptance documents from a vocational institution; and

(f) Documentation which validates a programs' potential for job placement.

(2) All applications are to be submitted to UNTF for review at least thirty (30) calendar days before the training start-up date.

R661-10-401. Reporting.

Applicants shall report to UNTF any job offer accepted after completion of the program.

KEY: Utah Navajo Trust Fund (UNTF), short-term training program

Date of Enactment or Last Substantive Amendment: 2016

Authorizing, Implemented, or Interpreted Law: 51-10-205(4)(a)

Navajo Trust Fund, Trustees
R661-11
Utah Navajo Trust Fund Water Development Projects Culinary and Septic Systems

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 40349

FILED: 04/21/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is required by Subsection 51-10-205(4)(a).

SUMMARY OF THE RULE OR CHANGE: The rule sets forth the requirements to obtain funding from the Utah Navajo Trust Fund for water development projects.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 51-10-205(4)(a)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There are no anticipated costs or savings to state budget as a result of this rule because this rule sets out the requirements to receive funding from the Utah Navajo Trust Fund.

♦ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local government as a result of this rule because this rule sets out the requirements to receive funding from the Utah Navajo Trust Fund.

♦ **SMALL BUSINESSES:** There are no anticipated costs or savings to small businesses as a result of this rule because this rule sets out the requirements to receive funding from the Utah Navajo Trust Fund.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities as a result of this rule because this rule sets out the requirements to receive funding from the Utah Navajo Trust Fund.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as a result of this rule because this rule sets out the requirements to receive funding from the Utah Navajo Trust Fund.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on business as a result of this rule because this rule sets out the requirements to receive funding from the Utah Navajo Trust Fund.

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

NAVAJO TRUST FUND
TRUSTEES
ROOM 180
350 N STATE STREET
SALT LAKE CITY, UT 84114
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Katharine Kinsman by phone at 801-366-0140, or by Internet E-mail at kkinsman@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/14/2016

THIS RULE MAY BECOME EFFECTIVE ON: 06/21/2016

AUTHORIZED BY: David Damschen, State Treasurer

R661. Navajo Trust Fund, Trustees.

R661-11. Utah Navajo Trust Fund Water Development Projects Culinary and Septic Systems.

R661-11-101. Objective.

The objective of the Water Development Project Program is to provide financial assistance to individuals and entities for Water Development Projects, culinary and septic leach field development, and development of wells for culinary, agricultural, or livestock water systems

R661-11-201. Role of the Chapter.

(1) Applications, budget preparation, updates and progress reports, shall be processed through the applicants' Chapter.

(2) Water development proposals must comply with Chapter project guidelines.

R661-11-301. Eligibility.

(1) The following water development project categories shall be considered eligible for funding applications:

(a) Culinary water and other plumbing systems for homes.

(b) Septic systems and leach fields for homes.

(c) Water well development systems for livestock.

(d) Water well development for Agricultural purposes.

(e) Well drilling, reservoir repair, and water tank placement for community purposes.

(2) Multi-user projects re preferred over single-user projects, although this program is available for individual homeowners who have match-funding.

R661-11-401. Procedures.

(1) Applications must include a plan developed in association with a utility company, the Indian Health Service, or Navajo Nation Water Resources

(2) Applications shall describe in detail the nature of the water or waste water project, including, but not limited to:

(a) the exact location of the well and lines to be installed;

(b) the number of housing units and/or families that will benefit from the project

(c) specifications on the amount of material needed for the project;

(d) the equipment to be used; and

(e) labor costs.

(3) Applications must include appropriate documentation of required clearances from the Navajo Nation Division of Resources - Department of Water Resources, Navajo Nation Land Department, Navajo Nation Farmland Management, Navajo Nation Environmental Protection Agency and other applicable agencies.

(4) If the project involves culinary water development, applications must include written verification that the project meets Indian Health Service requirements for public use and safety standards. Chapters shall work closely with IHS on all culinary water development projects.

(5) Applications shall list all match-funding agencies and their responsibility and contribution to the project. Chapters should identify and utilize every possible funding agency in order to provide adequate funding for the project.

(6) Applications shall include a resolution from the Chapter confirming support of the project.

(7) Contractors or sub-contractors hired by the Chapters to install indoor shall provide proof of insurance, bonding and warranties.

R661-11-501. Retainage.

Ten percent (10%) of UNTF funding will be retained; the Chapter may request final payment of the 10% retainage amount after a final inspection of the completed project is made and the Chapter has approved payment.

R661-11-601. Program Effectiveness Metrics.

(1) Multi-user water projects shall be completed within 2 years of approval by the UNTF.

(2) Single-user septic and/or water projects shall be completed within 6 months of approval by the UNTF.

KEY: Utah Navajo Trust Fund (UNTF), water projects

Date of Enactment or Last Substantive Amendment: 2016

Authorizing, Implemented, or Interpreted Law: 51-10-205(4)

(a)

Navajo Trust Fund, Trustees
R661-12
Utah Navajo Trust Fund Homesite
Lease Assistance Program

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 40350

FILED: 04/21/2016

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is required by Subsection 51-10-205(4) (a).

SUMMARY OF THE RULE OR CHANGE: The rule provides the requirements to obtain funding from the Utah Navajo Trust Fund to assist with obtaining a homesite lease on Navajo Reservation.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 51-10-205(4)(a)

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: There is no anticipated cost or savings to state budget as a result of this rule because the rule sets out the requirements to obtain funding from the Utah Navajo Trust Fund.

◆ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government as a result of this rule because the rule sets out the requirements to obtain funding from the Utah Navajo Trust Fund.

◆ SMALL BUSINESSES: There is no anticipated cost or savings to small businesses as a result of this rule because the rule sets out the requirements to obtain funding from the Utah Navajo Trust Fund.

◆ 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 as a result of this rule because the rule sets out the requirements to obtain funding from the Utah Navajo Trust Fund.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as a result of this rule because the rule sets out the requirements to obtain funding from the Utah Navajo Trust Fund.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses as a result of this rule because the rule sets out the requirements to obtain funding from the Utah Navajo Trust Fund.

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

NAVAJO TRUST FUND
TRUSTEES
ROOM 180
350 N STATE STREET
SALT LAKE CITY, UT 84114
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Katharine Kinsman by phone at 801-366-0140, or by Internet E-mail at kkinsman@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/14/2016

THIS RULE MAY BECOME EFFECTIVE ON: 06/21/2016

AUTHORIZED BY: David Damschen, State Treasurer

R661. Navajo Trust Fund, Trustees.**R661-12. Utah Navajo Trust Fund Homesite Lease Assistance Program.****R661-12-101. UNTF Funding.**

(1) UNTF will fund the costs associated with obtaining a Homesite Lease (HSL) for eligible families for the purpose of building a house, except the cost of the filing fee.

(a) UNTF will fund the costs for Land Surveys and/or Archaeological Clearances and/or Biological Review conducted by the Navajo Nation Fish and Wildlife Department for "Data/Species of Concern" and/or environmental assessment, if necessary.

(b) The application filing fee is not an eligible expense.

R661-12-201. Chapter Obligations.

(1) The requesting Chapter or organization will ensure that the client has obtained approval from the Grazing Permit holder and the Chapter's Grazing Committee Representative.

(2) The requesting Chapter or organization will ensure that the client has applied to the Navajo Land Department, and has paid their application fees.

(3) All requesting Chapters must fill out the UNTF Homesite Lease Application form on behalf of the applicant and submit the request to UNTF along with all required documents including an official Chapter Resolution.

(a) Chapters are encouraged to include as many clients as possible under this program and submit the request as a group project in order to minimize costs per client.

(b) Chapters may obtain quotations for eligible activities under this program or request UNTF to obtain quotations after the Chapter has approved the applicant.

(4) The Chapter shall report to UNTF staff when construction of a house begins on the lease site in which UNTF has paid for the Land Survey or Archaeological Clearance or other eligible expenses under this program.

R661-12-301. Procedures to Obtain UNTF Funding Assistance.

(1) Chapters must comply with the Homesite Lease Procedures of the Navajo Nation.

(2) Applicants shall:

(a) Obtain consent from the Grazing Permit Holder(s) to obtain a HSL and for the construction of a house;

(b) Notify surrounding neighbors of Applicants plans to withdraw land for a homesite lease.

(c) Contact local Chapter Grazing Committee representative to schedule a site visit to the proposed HSL area and mark the proposed corners of the HSL site with sturdy move-

resistant objects.

(d) Obtain HSL Field Clearance Certification from the Grazing Committee.

(e) Submit to the Navajo Land Department all required documents.

(f) Coordinate and work with the Chapter for HSL funding assistance.

(g) Follow all the requirements of the HSL process.

R661-12-401. Documentation Required to Apply for UNTF HSL Assistance.

(1) A Chapter Resolution supporting HSL assistance for the applicant which identifies Land Survey or Archaeological Clearance assistance or both.

(2) A Navajo Nation Home Site Lease application and fee receipt from the Navajo Nation Land Department.

(3) A detailed map that shows the exact location of the HSL.

(a) The map can be hand drawn or an area map printed

from the internet or map book.

(b) Landmarks such as Chapter Houses and other identifiers should be drawn on the map.

(c) The map should be drawn or identified so as to guide anyone that is not familiar with the area to the HSL site.

(d) The GPS coordinates shall be written on the map if that information is available.

(e) The Grazing Committee representative shall review the map for accuracy.

(4) All relevant materials should be gathered, packaged, and included in the funding proposal package including survey plats if that is available.

KEY: Utah Navajo Trust Fund (UNTF), homesite leases
Date of Enactment or Last Substantive Amendment: 2016
Authorizing, Implemented, or Interpreted Law: 51-10-205(4)
(a)

End of the Notices of Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

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

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

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

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 40376
FILED: 05/02/2016

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 32B-2-202 authorizes the Alcoholic Beverage Control (ABC) Commission to adopt and issue rules; to set policy by rule that establishes criteria and procedures for granting, denying, suspending, or revoking licenses and permits; and to prescribe the conduct, management, and equipment of any premise where alcohol is sold, served, consumed, or stored.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received during the five-year review period.

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 regulates the sale and service of alcoholic beverages within the state of Utah. It defines the terms used within all of Title R81; establishes policies for

payment of liquor; states that the department is an equal opportunity employer; establishes standards for providing notice of public hearings and meetings; addresses procedures for the department's handling of liquor law violations by licensees, including disciplinary hearings and consent calendar guidelines; establishes requirements for liquor and wine dispensing; regulates multiple-licensed facilities; sets standards and record requirements for attendance of alcohol education seminars by licensees and their employees; and sets guidelines for compliance with the Government Records Access and Management Act (GRAMA) and the Americans with Disabilities Act (ADA). The rule also sets guidelines for Commission declaratory orders; establishes definitions and standards for disqualifying individuals with certain criminal backgrounds from being involved in the sale and service of alcoholic beverages; clarifies advertising prohibitions; sets guidelines for emergency and electronic meetings; establishes rules for beer advertising at event venues; establishes guidelines for diplomatic embassy shipments and purchases; sets rules for the department's sale of limited-availability items; requires designated licenses to submit and implement a responsible alcohol service plan; outlines procedures for malted beverage label approval and state approval for sexually-orientated businesses; factors for granting licenses; defines duties of the Commission Subcommittees; and establishes procedures for reapplication of a denied license. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Andrew Hofeling by phone at 801-977-6835, by FAX at 801-977-6888, or by Internet E-mail at ahofeling@utah.gov

◆ Nina McDermott by phone at 801-977-6805, by FAX at 801-977-6888, or by Internet E-mail at nmcdermott@utah.gov

AUTHORIZED BY: Sal Petilos, Executive Director

EFFECTIVE: 05/02/2016

**Alcoholic Beverage Control,
Administration
R81-2
State Stores**

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

DAR FILE NO.: 40378
FILED: 05/02/2016

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 32B-2-202 authorizes the Alcoholic Beverage Control (ABC) Commission to adopt and issue rules; to set policy by rule that establishes criteria and procedures for granting, denying, suspending, or revoking licenses and permits; and to prescribe the conduct, management, and equipment of any premise where alcohol is sold, served, consumed, or stored.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received during the five-year review period.

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 regulates operations in state liquor stores. It addresses for liquor returns, refunds, and exchanges; requires that state stores post a warning sign; establishes guidelines to ensure employees acquire appropriate identification from customers; addresses what advertising is permitted; sets standards for refusal of service; prohibits minors from purchasing alcoholic beverages; establishes standards for accepting checks and credit cards for the purchase of alcoholic beverages; establishes store hours; designates how much access industry members may have to the stores' premises; and establishes procedures for store site selection. All of the regulations set forth in this rule remain important and applicable to liquor store operations. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
◆ Andrew Hofeling by phone at 801-977-6835, by FAX at 801-977-6888, or by Internet E-mail at ahofeling@utah.gov
◆ Nina McDermott by phone at 801-977-6805, by FAX at 801-977-6888, or by Internet E-mail at nmcdermott@utah.gov

AUTHORIZED BY: Sal Petilos, Executive Director

EFFECTIVE: 05/02/2016

**Alcoholic Beverage Control,
Administration
R81-3
Package Agencies**

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

DAR FILE NO.: 40379
FILED: 05/02/2016

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 32B-2-202 authorizes the Alcoholic Beverage Control (ABC) Commission to adopt and issue rules; to set policy by rule that establishes criteria and procedures for granting, denying, suspending, or revoking licenses and permits; and to prescribe the conduct, management, and equipment of any premise where alcohol is sold, served, consumed, or stored.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Written comments have been received regarding Type 5 Package Agency location, delivery, accounting, and product availability. The department engaged in rulemaking to address the location of the agency on premise of the manufacturing facility and is working with stakeholders to revise rules to address the other issues.

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 regulates operations at liquor package agencies throughout the state of Utah. It defines the five package agency types; addresses requirements for a change of package agency operator or location; clarifies compliance bond requirements; establishes procedures for special orders of liquor by the public and procedures for the return, refund, or exchange of liquor; requires package agents to post a warning sign on the premises; establishes guidelines for appropriate identification for liquor purchases; addresses how each type of package agency may list and promote products; establishes requirements for package agents who sell liquor on consignment; establishes application and evaluation guidelines for persons requesting a package agency contract; sets the operational restrictions for each agency type; sets guidelines for refusal of service to patrons; addresses the issue of minors on the package agency premises; permits type 4 package agencies to provide room service; and sets guidelines for package agency personnel to accept credit cards for the purchase of liquor. All of the regulations set forth in this rule remain important and applicable to the operations of a liquor package agency. Therefore, this rule should be continued.

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

ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY, UT 84104-1630
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Andrew Hofeling by phone at 801-977-6835, by FAX at 801-977-6888, or by Internet E-mail at ahofeling@utah.gov
- ◆ Nina McDermott by phone at 801-977-6805, by FAX at 801-977-6888, or by Internet E-mail at nmcdermott@utah.gov

AUTHORIZED BY: Sal Petilos, Executive Director

EFFECTIVE: 05/02/2016

**Alcoholic Beverage Control,
Administration
R81-4A
Restaurant Liquor Licenses**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION
DAR FILE NO.: 40381
FILED: 05/02/2016**

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 32B-2-202 authorizes the Alcoholic Beverage Control (ABC) Commission to adopt and issue rules; to set policy by rule that establishes criteria and procedures for granting, denying, suspending, or revoking licenses and permits; and to prescribe the conduct, management, and equipment of any premise where alcohol is sold, served, consumed, or stored.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received during the five-year review period.

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 regulates operations at establishments holding full-service restaurant liquor licenses. It establishes operational guidelines for businesses that operate with a liquor license during some hours of the day and a beer license during other hours of the same day; establishes a deadline of the 10th of the month for license applications; clarifies compliance bond and insurance requirements; establishes procedures by which a restaurant licensee orders liquor from liquor stores; sets hours of operation; establishes food sale and record requirements; sets liquor storage requirements; establishes regulations for the use of alcoholic product flavorings; requires that alcoholic beverage service and consumption must be at a patron's table; sets requirements for alcoholic beverage menus and price lists; requires restaurant employees to wear an ID badge; permits brown bagging of alcoholic beverages onto the restaurant premises for use at privately-hosted events and defines grandfathered bar structures. All of the regulations set forth in this rule remain important and applicable to the operations of a full-service restaurant. Therefore, this rule should be continued.

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

ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY, UT 84104-1630
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Andrew Hofeling by phone at 801-977-6835, by FAX at 801-977-6888, or by Internet E-mail at ahofeling@utah.gov
- ◆ Nina McDermott by phone at 801-977-6805, by FAX at 801-977-6888, or by Internet E-mail at nmcdermott@utah.gov

AUTHORIZED BY: Sal Petilos, Executive Director

EFFECTIVE: 05/02/2016

**Alcoholic Beverage Control,
Administration
R81-5
Club Licenses**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 40382
FILED: 05/02/2016

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 32B-2-202 authorizes the Alcoholic Beverage Control (ABC) Commission to adopt and issue rules; to set policy by rule that establishes criteria and procedures for granting, denying, suspending, or revoking licenses and permits; and to prescribe the conduct, management, and equipment of any premise where alcohol is sold, served, consumed, or stored.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received during the five-year review period, though there have been advisory board discussions regarding defining a lounge or bar area and allowing minors to momentarily pass through that area. Rule amendments are possible regarding those issues.

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 regulates operations at establishments licensed as clubs. It sets guidelines for license application procedures and establishes operational restrictions for the different club classifications; addresses bond and insurance requirements; sets advertising requirements; establishes procedures for the purchase of liquor from state liquor stores; sets operating hours; permits private club customers to run a tab for the purchase of alcoholic beverages; permits liquor products used for all purposes including cooking and flavoring to be stored in a common storage area; identifies liquor price list requirements; establishes requirements for employee ID badges; allows patrons to bring alcoholic beverages onto the club's premises for privately hosted events; establishes procedures for assessing club membership fees; prohibits minors from being in lounge or bar areas of equity, fraternal and dining clubs;

and sets regulations for age verification in social and dining clubs. All of the regulations set forth in this rule remain important and applicable to the operations of a club. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Andrew Hofeling by phone at 801-977-6835, by FAX at 801-977-6888, or by Internet E-mail at ahofeling@utah.gov
♦ Nina McDermott by phone at 801-977-6805, by FAX at 801-977-6888, or by Internet E-mail at nmcdermott@utah.gov

AUTHORIZED BY: Sal Petilos, Executive Director

EFFECTIVE: 05/02/2016

**Alcoholic Beverage Control,
Administration
R81-6
Special Use Permits**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 40383
FILED: 05/02/2016

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 32B-2-202 authorizes the Alcoholic Beverage Control (ABC) Commission to adopt and issue rules; set policy by rule that establishes criteria and procedures for granting, denying, suspending, or revoking licenses and permits; and prescribe the conduct, management, and equipment of any premise where alcohol is sold, served, consumed, or stored.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received during the five-year review period though there have been advisory board discussions regarding defining requirements for the scientific/educational use permit. Those discussions resulted in a change in application and may require rulemaking at a later date.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule regulates operations of those holding a special use permit. It underscores the fact that a special use permit applicant must present the department with a completed application before the ABC Commission may consider granting the permit; requires that a public service permittee must post a warning sign in its hospitality room; allows industrial, manufacturing, scientific, educational, or health care permit holders to purchase alcohol directly from alcohol manufacturers; sets operational guidelines for public service permittees including provisions for making alcohol purchases and keeping records; sets operational restrictions for educational wine judging seminars; and establishes provisions by which those holding religious wine permits may purchase wine for religious ceremonies. All of the regulations set forth in this rule remain important and applicable to the operations of a special use permittee. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Andrew Hofeling by phone at 801-977-6835, by FAX at 801-977-6888, or by Internet E-mail at ahofeling@utah.gov
♦ Nina McDermott by phone at 801-977-6805, by FAX at 801-977-6888, or by Internet E-mail at nmcdermott@utah.gov

AUTHORIZED BY: Sal Petilos, Executive Director

EFFECTIVE: 05/02/2016

**Alcoholic Beverage Control,
Administration
R81-7
Event Permits**

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

DAR FILE NO.: 40384
FILED: 05/02/2016

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE

OR REQUIRE THE RULE: Section 32B-2-202 authorizes the Alcoholic Beverage Control (ABC) Commission to adopt and issue rules; to set policy by rule that establishes criteria and procedures for granting, denying, suspending, or revoking licenses and permits; and to prescribe the conduct, management, and equipment of any premise where alcohol is sold, served, consumed, or stored.

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 received public comment regarding the determination of whether an entity was conducting a civic or community enterprise. The rule also received public comment regarding adding control measures and factors to be considered in determining whether a permit should be granted.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule regulates the alcoholic beverage operations of individuals and groups holding single event permits and temporary beer event permits. It establishes application requirements; it establishes guidelines and restrictions for alcoholic beverage sales and service; and it sets requirements for printed alcoholic beverage price lists. All of the regulations set forth in this rule remain important and applicable to the operations of a single event permittee. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Andrew Hofeling by phone at 801-977-6835, by FAX at 801-977-6888, or by Internet E-mail at ahofeling@utah.gov
♦ Nina McDermott by phone at 801-977-6805, by FAX at 801-977-6888, or by Internet E-mail at nmcdermott@utah.gov

AUTHORIZED BY: Sal Petilos, Executive Director

EFFECTIVE: 05/02/2016

**Alcoholic Beverage Control,
Administration
R81-8
Manufacturer Licenses (Distillery,
Winery, Brewery)**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 40385
FILED: 05/02/2016

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 32B-2-202 authorizes the Alcoholic Beverage Control (ABC) Commission to adopt and issue rules; to set policy by rule that establishes criteria and procedures for granting, denying, suspending, or revoking licenses and permits; and to prescribe the conduct, management, and equipment of any premise where alcohol is sold, served, consumed, or stored.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Public comment has been received regarding implementation of new legislation, which must be initiated within 180 days of 07/01/2016. As the department is still working with stakeholders, those changes have not yet been filed for rulemaking as of today, 05/02/2016.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule regulates operations of manufacturers who produce spirituous liquors, wines, and beers within the state of Utah. It underscores the need for those desiring a manufacturing license to bring a completed application before the ABC Commission for approval; requires brewers located outside the state of Utah to obtain a certificate of approval from the department before selling or delivering beer to licensed wholesalers or retailers in the state; and regulates the operations of wine tasting facilities on the premises of licensed wineries. All of the regulations set forth in this rule remain important and applicable to the operations of alcoholic beverages manufacturers located within the state of Utah. Therefore, this rule should be continued.

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

ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY, UT 84104-1630
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Andrew Hofeling by phone at 801-977-6835, by FAX at 801-977-6888, or by Internet E-mail at ahofeling@utah.gov
◆ Nina McDermott by phone at 801-977-6805, by FAX at 801-977-6888, or by Internet E-mail at nmcdermott@utah.gov

AUTHORIZED BY: Sal Petilos, Executive Director

EFFECTIVE: 05/02/2016

Alcoholic Beverage Control,
Administration
R81-9
Liquor Warehousing Licenses

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 40386
FILED: 05/02/2016

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 32B-2-202 authorizes the Alcoholic Beverage Control (ABC) Commission to adopt and issue rules; to set policy by rule that establishes criteria and procedures for granting, denying, suspending, or revoking licenses and permits; and to prescribe the conduct, management, and equipment of any premise where alcohol is sold, served, consumed, or stored.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received during the five-year review period.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule regulates operations of liquor warehouses within the state of Utah. It underscores the requirement for persons who want to store liquor in warehouses in the state to file a completed application for the ABC Commission's consideration; regulates the transporting of liquor and beer to the Department of Alcoholic Beverage Control (DABC) and federal military installations within the state; sets requirements and standards for maintaining shipping records; and mandates that liquor warehouse licensees permit audits and inspections by authorized DABC personnel. All of the regulations set forth in this rule remain important and applicable to the operations of liquor warehouses. Therefore, this rule should be continued.

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

ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION

1625 S 900 W
 SALT LAKE CITY, UT 84104-1630
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Andrew Hofeling by phone at 801-977-6835, by FAX at 801-977-6888, or by Internet E-mail at ahofeling@utah.gov
 ♦ Nina McDermott by phone at 801-977-6805, by FAX at 801-977-6888, or by Internet E-mail at nmcdermott@utah.gov

AUTHORIZED BY: Sal Petilos, Executive Director

EFFECTIVE: 05/02/2016

**Alcoholic Beverage Control,
 Administration
 R81-11
 Beer Wholesaler Licenses**

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

DAR FILE NO.: 40387
 FILED: 05/02/2016

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 32B-2-202 authorizes the Alcoholic Beverage Control (ABC) Commission to adopt and issue rules; to set policy by rule that establishes criteria and procedures for granting, denying, suspending, or revoking licenses and permits; and to prescribe the conduct, management, and equipment of any premise where alcohol is sold, served, consumed, or stored.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received during the five-year review period.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule regulates operations of licensed beer wholesalers located in the state of Utah. It underscores the need for a license applicant to submit a completed application for ABC Commission approval; regulates the transfer of a license to another person; requires ABC Commission approval for a change of trade name; and establishes guidelines for transferring the license in the event of the death of a partner when the license is held by a partnership. All of the regulations set forth in this rule remain

important and applicable to the operations of a beer wholesaler. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Andrew Hofeling by phone at 801-977-6835, by FAX at 801-977-6888, or by Internet E-mail at ahofeling@utah.gov
 ♦ Nina McDermott by phone at 801-977-6805, by FAX at 801-977-6888, or by Internet E-mail at nmcdermott@utah.gov

AUTHORIZED BY: Sal Petilos, Executive Director

EFFECTIVE: 05/02/2016

**Alcoholic Beverage Control,
 Administration
 R81-12**

**Local Industry Representative Licenses
 (Distillery, Winery, Brewery)**

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

DAR FILE NO.: 40388
 FILED: 05/02/2016

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 32B-2-202 authorizes the Alcoholic Beverage Control (ABC) Commission to adopt and issue rules; to set policy by rule that establishes criteria and procedures for granting, denying, suspending, or revoking licenses and permits; and to prescribe the conduct, management, and equipment of any premise where alcohol is sold, served, consumed, or stored.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received during the five-year review period.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE

RULE, IF ANY: The rule regulates persons licensed to represent manufacturers of spirituous liquors, wines, and beers within the state of Utah. It underscores the need for the applicant to file a completed application for ABC Commission approval; and regulates the activities of manufacturer representatives who choose to participate in educational seminars involving alcoholic beverage products. All of the regulations set forth in this rule remain important and applicable to the operations of manufacturer representatives. Therefore, this rule should be continued.

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

ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY, UT 84104-1630
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Andrew Hofeling by phone at 801-977-6835, by FAX at 801-977-6888, or by Internet E-mail at ahofeling@utah.gov
- ◆ Nina McDermott by phone at 801-977-6805, by FAX at 801-977-6888, or by Internet E-mail at nmcdermott@utah.gov

AUTHORIZED BY: Sal Petilos, Executive Director

EFFECTIVE: 05/02/2016

Commerce, Consumer Protection
R152-11
Utah Consumer Sales Practices Act

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 40342
FILED: 04/19/2016

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 13-11-8 requires the Division of Consumer Protection (DCP) to adopt substantive rules that prohibit with specificity acts or practices that violate Section 13-11-4 and appropriate procedural rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: DCP is not aware of any written comments regarding the rule. The interpretation of this rule is at times the subject of informal proceedings before DCP.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: As noted previously, DCP is required by statute to maintain rules of this nature. The "Utah Consumer Sales Practices Act" (CSPA) allows DCP to investigate and enforce Section 13-11-4 against those who engage in deceptive acts. Certain deceptive acts are delineated in the CSPA, but the rule allows DCP to further define specific violations of deceptive acts. DCP uses the statutorily mandated Rule R152-11 on a daily basis to help protect consumers from deceptive acts. Rule R152-11 is effective at targeting commonly complained of deceptive behavior. Without Rule R152-11, DCP would not be as effective at deterring deceptive acts or practices. This, along with the requirement to have substantive rules establishing deceptive acts or practices, justifies the continuance of this rule as implemented.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Jacob Hart by phone at 801-530-6636, or by Internet E-mail at jfhart@utah.gov

AUTHORIZED BY: Daniel O'Bannon, Director

EFFECTIVE: 04/19/2016

Commerce, Consumer Protection
R152-26
Telephone Fraud Prevention Act

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 40341
FILED: 04/19/2016

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 13-26-3(5) calls for the Division of Consumer Protection (DCP) to establish by rule the registration requirements for telephone soliciting businesses. Rule R152-26 designates registration

requirements of the Telephone Fraud Prevention Act (TFPA) and is, therefore, authorized by statute. Further, the establishing statute of DCP provides the director with authority to issue rules to administer and enforce the chapters listed in Section 13-2-1. One of the chapters listed is the TFPA.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: DCP is not aware of any written comments regarding the rules. The interpretation of this rule is at times the subject of informal proceedings before DCP.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R152-26 assists DCP in administering the TFPA, especially with regard to the statutory requirement for telephone soliciting businesses to register with DCP. This rule provides important clarification to the public about registration under the TFPA. For instance, the rule clarifies that a registration may be denied if the registrant has committed violations of law set forth in Section 13-26-11. It also sets forth the circumstances under which the Division may make a demand on a bond, irrevocable letter of credit, or certificate of deposit. This rule continues to be of practical importance in administering the TFPA's registration and is used on a regular basis. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Jacob Hart by phone at 801-530-6636, or by Internet E-mail at jfhart@utah.gov

AUTHORIZED BY: Daniel O'Bannon, Director

EFFECTIVE: 04/19/2016

Commerce, Corporations and
Commercial Code
R154-2
Utah Uniform Commercial Code,
Revised Article 9 Rules

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 40371
FILED: 05/02/2016

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 70A-9a-526 requires the Division of Corporations and Commercial Code to adopt rules governing filing of Uniform Commercial Code (UCCs).

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The statute is still active. Therefore, the rule should be continued.

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

COMMERCE
CORPORATIONS AND COMMERCIAL CODE
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Kathy Berg by phone at 801-530-6216, by FAX at 801-530-6438, or by Internet E-mail at kberg@utah.gov

AUTHORIZED BY: Kathy Berg, Director

EFFECTIVE: 05/02/2016

Commerce, Occupational and
Professional Licensing
R156-9

Funeral Service Licensing Act Rule

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 40354
FILED: 04/26/2016

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 9, provides for the licensure of funeral service directors, funeral service interns, funeral service establishments, and preneed funeral arrangement sales agents. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-9-201(3)(a) provides that the Funeral Service Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the Division director. This rule was enacted to clarify the provisions of Title 58, Chapter 9, with respect to funeral service directors, funeral service interns, funeral service establishments, and preneed funeral arrangement sales agents.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was last reviewed in September 2011, it has been amended two times. The Division received a 05/30/2012, email from Ralph Oakeson in which he supported the proposed amendments, which were filed under DAR No. 36117.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 9, with respect to funeral service directors, funeral service interns, funeral service establishments, and preneed funeral arrangement sales agents. The rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Dan Jones by phone at 801-530-6720, by FAX at 801-530-6511, or by Internet E-mail at dansjones@utah.gov

AUTHORIZED BY: Mark Steinagel, Director

EFFECTIVE: 04/26/2016

**Commerce, Occupational and
Professional Licensing
R156-40**

Recreational Therapy Practice Act Rule

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

DAR FILE NO.: 40352

FILED: 04/26/2016

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 40, provides for the licensure of various classifications of recreational therapists. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-40-201(3)(a) provides that the Recreational Therapy Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the Division Director. This rule was enacted to clarify the provisions of Title 58, Chapter 40, with respect to recreational therapists.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in August 2011, it has been amended three times. The only written comment received by the Division was a 09/30/2012, email from Sandra K. Negley in which she encouraged future collaboration to keep this rule updated and in line with national standards.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure, as allowed under statutory authority provided in Title 58, Chapter 40, with respect to recreational therapists. The rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Dane Ishihara by phone at 801-530-7632, by FAX at 801-530-6511, or by Internet E-mail at dishihara@utah.gov

AUTHORIZED BY: Mark Steinagel, Director

EFFECTIVE: 04/26/2016

Commerce, Occupational and Professional Licensing **R156-57**

Respiratory Care Practices Act Rule

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 40355
FILED: 04/26/2016

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 57, provides for the licensure of respiratory care practitioners. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-57-3(3) provides that the Respiratory Care Licensing Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the Division director. This rule was enacted to clarify the provisions of Title 58, Chapter 57, with respect to respiratory care practitioners.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was last reviewed in September 2011, no written comments have been received by the Division.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE

RULE, IF ANY: This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure, as allowed under statutory authority provided in Title 58, Chapter 57, with respect to respiratory care practitioners. The rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Jana Johansen by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at janajohansen@utah.gov

AUTHORIZED BY: Mark Steinagel, Director

EFFECTIVE: 04/26/2016

Commerce, Occupational and Professional Licensing **R156-77**

Direct-Entry Midwife Act Rule

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 40353
FILED: 04/26/2016

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 77, provides for the licensure of direct-entry midwives. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-77-201(3)(a) provides that the Licensed Direct-Entry Midwife Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the Division Director. This rule was enacted to clarify the provisions of Title 58, Chapter 77, with respect to direct-entry midwives.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in August 2011, the Division has received no written comments.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure, as allowed under statutory authority provided in Title 58, Chapter 77, with respect to direct-entry midwives. The rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Suzette Farmer by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at sfarmer@utah.gov

AUTHORIZED BY: Mark Steinagel, Director

EFFECTIVE: 04/26/2016

**Communications Authority Board
 (Utah), Administration**

R174-1

Utah 911 Advisory Committee

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 40397
 FILED: 05/02/2016

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE

OR REQUIRE THE RULE: The purpose of this rule is to outline the operation of the committee and procedures whereby the committee shall award funds to Public Safety Answering Points (PSAPs) and dispatch centers throughout the state of Utah for the establishment and maintenance of a statewide unified E-911 emergency system, and to establish the framework to provide grants from the Computer Aided Dispatch (CAD) Restricted Account. This rule is authorized by Subsections 63H-7a-302(5) and 63H-7a-204(11).

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

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 continuation of the operation of the committee and procedures whereby the committee shall award funds to PSAPs and dispatch centers throughout the state of Utah for the establishment and maintenance of a statewide unified E-911 emergency system, and to establish the framework to provide grants from the Computer Aided Dispatch (CAD) Restricted Account. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 COMMUNICATIONS AUTHORITY BOARD (UTAH)
 ADMINISTRATION
 5360 S RIDGE VILLAGE DRIVE
 WEST VALLEY CITY, UT 84118-4100
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Eric Parry by phone at 801-857-5825, by FAX at 801-840-4242, or by Internet E-mail at eparry@uca911.org

AUTHORIZED BY: Steven Proctor, Executive Director

EFFECTIVE: 05/02/2016

**Health, Disease Control and
 Prevention, Environmental Services**

R392-110

Home-based Child Care Food Service

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 40356
 FILED: 04/26/2016

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: During the Division's five-year review of the rule, it was noted that Section 26-39-104 was indicated in error as an authorizing section and will be removed in the next revision. Sections 26-15-2, 26-1-30, and 26-1-5, and Subsection 26-39-301(1)(a) are the correct authorizing sections and will be added in the next revision. Section 26-15-2 authorizes the Department to adopt rules and enforce minimum sanitary standards for the operation and maintenance of restaurants and all other places where food is handled for commercial purposes, sold, or served to the public. Sections 26-1-5 and 26-1-30 authorize the Department to establish, maintain, and enforce rules necessary to promote and protect the public health or to prevent disease and illness. Subsection 26-39-301(1)(a) authorizes the department to make rules to protect qualifying children's common needs for a safe and healthy environment.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Division of Disease Control and Prevention has taken comments from the residential child care advisory committee created under Section 26-1-7. These comments included a concern of a perceived overlap of duties between USDA inspectors and DOPL-licensed health inspectors and fees associated with inspections. These comments are currently under review and will be addressed in the next revision of the rule. Comments have been sought from the local health departments, and they have indicated that they are in support of the continuation of the rule. The Utah Department of Health has not received any comment against continuation 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 Rule R392-110 is recommended by the residential child care advisory committee. An entity serving food to the public is required to abide by Rule R392-100 "Food Service Sanitation", which is the food safety code used by the local health departments in Utah. Rule R430-50 "Residential Certificate Child Care" requires certified facilities to meet local health department food codes. Without Rule R392-110, these residential child care providers would be required to meet the full requirements of Rule R391-100, which normally apply to full service food establishments, meaning extensive plumbing and finished remodels of the homes. Rule R392-110 establishes a minimum set of standards that a home kitchen serving as a food preparation area for a residential child care can meet that also will protect the health and safety of the children.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Chris Nelson by phone at 801-538-6739, or by Internet E-mail at chrisnelson@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 04/26/2016

Insurance, Administration
R590-208
Uniform Application for Certificates of Authority

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 40346
FILED: 04/21/2016

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 31A-2-201 gives the commissioner the authority to write rules to implement Title 31A of the Utah Code. Subsection 31A-2-202(2)(c) authorizes the commissioner to require financial reporting on forms provided by the National Association of Insurance Commissioners (NAIC). The purpose of the rule is to ensure that the commissioner's requirements for domestic, foreign, and alien insurer applications to obtain a certificate of authority in Utah shall be consistent with requirements of other states by using forms provided by the NAIC.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any written comments during the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE

RULE, IF ANY: It is important that the department specify that insurers use the NAIC certificate of authority application, provided by the NAIC, to ensure uniform information from all insurers that apply. By having the same certificate of insurance application, the Department makes it easier and less time consuming for insurers to apply for a certificate of insurance from more than one state at a time. Therefore, this rule should be continued.

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

INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

AUTHORIZED BY: Steve Gooch, Information Specialist

EFFECTIVE: 04/21/2016

Insurance, Administration
R590-235
Medicare Prescription Drug Plan

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 40345
FILED: 04/21/2016

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(3) authorizes the commissioner to administer and enforce Title 31A and make rules to implement its provisions. The purpose of this rule is to establish licensing and regulatory requirements for a stand-alone prescription drug plan (PDP). These PDPs provide Medicare Part D benefit plans.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has not received any written comments regarding this rule within the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule establishes standards and requirements the PDP must meet before selling insurance. These standards are much the same as other insurers requiring the PDP to submit quarterly and annual statements, and they must comply with capital and surplus limits set within the rule and risk-based capital requirements set within the code. Linking these standards and requirements with the PDP allows the department to check their financial stability, giving greater assurance to consumers about the ability of the PDP to provide the benefits within their policy. Therefore, this rule should be continued.

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

INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

AUTHORIZED BY: Steve Gooch, Information Specialist

EFFECTIVE: 04/21/2016

Natural Resources, Wildlife Resources
R657-48
Wildlife Species of Concern and
Habitat Designation Advisory
Committee

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 40370
FILED: 05/02/2016

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Section 23-14-19, the Wildlife Board is authorized and required to provide rules to regulate and prescribe the means by which protected wildlife

and their habitat may be managed. The designation of a species of concern, which Rule R657-48 does, required approval from the Wildlife 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: No written comments supporting or opposing Rule R657-48 were received since 05/12/2011 when the rule was last reviewed.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Utah Division of Wildlife Resources thinks Rule R657-48 should be continued. This rule: 1) establishes the Wildlife Species of Concern and Habitat Designation Advisory Committee; 2) defines the procedure for designating wildlife species of concern as part of a process to preclude listing under the federal Endangered Species Act; and 3) defines the procedure for review and identification of wildlife habitat and management recommendations relating to significant land use development projects.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Gregory Sheehan, Director

EFFECTIVE: 05/02/2016

Regents (Board of), Administration
R765-608
Utah Engineering and Computer
Science Scholarship Program

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 40343
FILED: 04/19/2016

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53B-6-105 requires an administrative rule under Section 53B-6-105.7 to provide policy for an engineering and computer science scholarship program within the state system of higher education. This program is intended to encourage studies in related fields which lead to employment within the State of Utah for scholarship 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: No comments have been received on this rule during and 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 this rule is necessary since the State Legislature continues to fund a very small amount for this program each year. Students who receive funding from this scholarship are able to complete their educational pursuits in the engineering and computer science fields.

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 Office 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: 04/19/2016

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

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Abbreviations

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

Commerce

Occupational and Professional Licensing

No. 40217 (AMD): R156-17b. Pharmacy Practice Act Rule
Published: 03/15/2016
Effective: 04/21/2016

No. 40218 (AMD): R156-17b-614a. Operating Standards -
General Operating Standards, Class A and B Pharmacy
Published: 03/15/2016
Effective: 04/21/2016

No. 40216 (AMD): R156-37. Utah Controlled Substances
Act Rule
Published: 03/15/2016
Effective: 04/21/2016

No. 40219 (AMD): R156-55a. Utah Construction Trades
Licensing Act Rule
Published: 03/15/2016
Effective: 04/21/2016

Environmental Quality

Drinking Water

No. 40031 (AMD): R309-105-4. General
Published: 01/15/2016
Effective: 05/01/2016

No. 40032 (AMD): R309-110-4. Definitions
Published: 01/15/2016
Effective: 05/01/2016

No. 40033 (AMD): R309-200-5. Primary Drinking Water
Standards

Published: 01/15/2016
Effective: 05/01/2016

No. 40034 (AMD): R309-210. Monitoring and Water Quality:
Distribution System Monitoring Requirements

Published: 01/15/2016
Effective: 05/01/2016

No. 40035 (NEW): R309-211. Monitoring and Water Quality:
Distribution System – Total Coliform Requirements

Published: 01/15/2016
Effective: 05/01/2016

No. 40036 (AMD): R309-215. Monitoring and Water Quality:
Treatment Plant Monitoring Requirements

Published: 01/15/2016
Effective: 05/01/2016

No. 40037 (AMD): R309-220. Monitoring and Water Quality:
Public Notification Requirements

Published: 01/15/2016
Effective: 05/01/2016

No. 40038 (AMD): R309-225. Monitoring and Water Quality:
Consumer Confidence Reports

Published: 01/15/2016
Effective: 05/01/2016

Judicial Performance Evaluation Commission Administration

No. 40192 (AMD): R597-3-5. Public Comments
Published: 03/01/2016
Effective: 04/20/2016

NOTICES OF RULE EFFECTIVE DATES

Natural Resources

Parks and Recreation

No. 40213 (AMD): R651-412. Curriculum Standards for
OHV Education Programs Offered by Non-Division Entities

Published: 03/15/2016

Effective: 04/21/2016

No. 40215 (AMD): R651-637. Antelope Island State Park
Special Mule Deer and Bighorn Sheep Hunt

Published: 03/15/2016

Effective: 04/21/2016

End of the Notices of Rule Effective Dates Section

**RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)**

The Rules Index is a cumulative index that reflects all effective changes to Utah's administrative rules. The current Index lists changes made effective from January 2, 2016 through May 02, 2016. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules Index of Changes. Nonsubstantive changes, while not published in the Bulletin, do become part of the Utah Administrative Code (Code) and are included in this Index, as well as 120-Day (Emergency) rules that do not become part of the Code. The rules are indexed by Agency (Code Number) and Keyword (Subject).

Questions regarding the index and the information it contains should be addressed to the Office of Administrative Rules (801-538-3003).

A copy of the **RULES INDEX** is available for public inspection at the Office of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Office's web site (<http://www.rules.utah.gov/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
<u>Facilities Construction and Management</u>					
R23-19	Facility Use Rules	40226	NSC	03/11/2016	Not Printed
R23-23	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	40044	NSC	01/15/2016	Not Printed
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R655-10-5A	Hazard Classification -- Criteria	40169	AMD	03/24/2016	2016-4/67
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R657-9	Taking Waterfowl, Wilson's Snipe and Coot	39978	AMD	02/08/2016	2016-1/66
R657-33	Taking Bear	40093	AMD	03/09/2016	2016-3/490
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R661-2	Utah Navajo Trust Fund Definitions	40020	NEW	02/29/2016	2016-2/104
R661-3	Utah Navajo Trust Fund Residency Policy	40021	NEW	02/29/2016	2016-2/105
R661-4	Utah Navajo Trust Fund Chapter Projects	40022	NEW	02/29/2016	2016-2/107
R661-5	Utah Navajo Trust Fund Blue Mountain Dine' Community	40023	NEW	02/29/2016	2016-2/109
R661-6	Utah Navajo Trust Fund Higher Education Financial Assistance and Scholarship Program	40024	NEW	02/29/2016	2016-2/110
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R708-20	Motor Vehicle Accident Prevention Course Standards	40143	5YR	01/19/2016	2016-4/83
R708-38	Anatomical Gift	40144	5YR	01/19/2016	2016-4/83
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R714-161	Equipment Standards for Motorcycle and ATV Safety Inspections	40198	EXT	02/08/2016	2016-5/29
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R850-11	Procurement	39961	AMD	01/21/2016	2015-24/50
R850-30-400	Special Use Leases	40185	AMD	03/23/2016	2016-4/73
R850-50	Range Management	39960	AMD	01/21/2016	2015-24/52
R850-50	Range Management	40184	NSC	02/17/2016	Not Printed

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R986-700	Child Care Assistance	40104	AMD	04/01/2016	2016-3/495
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ABBREVIATIONS

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

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<u>accident prevention</u> Public Safety, Driver License	40143	R708-20	5YR	01/19/2016	2016-4/83
<u>accountants</u> Commerce, Occupational and Professional Licensing	39982	R156-26a	AMD	02/11/2016	2016-1/4
<u>accreditation</u> Education, Administration	40285	R277-505	5YR	03/30/2016	2016-8/93
<u>activities</u> Education, Administration	40098	R277-494	AMD	03/09/2016	2016-3/6
<u>adjudicative procedures</u> Natural Resources, Forestry, Fire and State Lands	40134	R652-8	5YR	01/14/2016	2016-3/529
<u>adjudicative proceedings</u> Commerce, Administration	40265 40293	R151-4 R151-14	5YR 5YR	03/15/2016 03/31/2016	2016-7/63 2016-8/92
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	40136	R652-41	5YR	01/14/2016	2016-3/530	
	40135	R652-80	5YR	01/14/2016	2016-3/531	
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	40185	R850-30-400	AMD	03/23/2016	2016-4/73	
	39960	R850-50	AMD	01/21/2016	2015-24/52	
	40184	R850-50	NSC	02/17/2016	Not Printed	
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	40151	R512-43	5YR	01/25/2016	2016-4/79	
	40306	R512-44	5YR	04/14/2016	2016-9/136	
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	39936	R277-705	AMD	01/07/2016	2015-23/17	
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<u>aggregate</u>						
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	40378	R81-2	5YR	05/02/2016	Not Printed	
	40379	R81-3	5YR	05/02/2016	Not Printed	
	40381	R81-4A	5YR	05/02/2016	Not Printed	
	40382	R81-5	5YR	05/02/2016	Not Printed	
	40383	R81-6	5YR	05/02/2016	Not Printed	
	40384	R81-7	5YR	05/02/2016	Not Printed	

	40385	R81-8	5YR	05/02/2016	Not Printed
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	40061	R651-203	5YR	01/07/2016	2016-3/514	
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	40090	R651-204	NSC	02/02/2016	Not Printed	
	40063	R651-205	5YR	01/07/2016	2016-3/515	
	40064	R651-206	5YR	01/07/2016	2016-3/516	
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	40188	R651-207	NSC	02/25/2016	Not Printed	
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	40189	R651-208	NSC	02/25/2016	Not Printed	
	40084	R651-209	5YR	01/07/2016	2016-3/517	
	40068	R651-210	5YR	01/07/2016	2016-3/518	
	40190	R651-210	NSC	02/25/2016	Not Printed	
	40069	R651-211	5YR	01/07/2016	2016-3/518	
	40191	R651-211	NSC	02/25/2016	Not Printed	
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<u>plumbing</u>						
Commerce, Occupational and Professional Licensing	40131	R156-55c	NSC	02/02/2016	Not Printed	
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	40228	R628-13	5YR	02/26/2016	2016-6/35
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	40007	R313-18-11	NSC	01/15/2016	Not Printed
	40008	R313-21	NSC	01/15/2016	Not Printed
	40009	R313-22	NSC	01/15/2016	Not Printed
	40010	R313-32-2	NSC	01/15/2016	Not Printed
	40011	R313-70	NSC	01/15/2016	Not Printed
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Commerce, Occupational and Professional Licensing	39912	R156-78-102	AMD	01/07/2016	2015-23/16	
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