

UTAH STATE BULLETIN

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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: Division of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3764. 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.

Division of Administrative Rules, Salt Lake City 84114

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SPECIAL NOTICES

Environmental Quality Air Quality

Notice of Public Comment Period for the Wildfire Exceptional Event on July 9, 2013

Ozone Exceptional Event

Federal regulations, 40 Code of Federal Regulations (CFR) Part 50, allow states to exclude air quality data that exceed or violate a National Ambient Air Quality Standard (NAAQS) if they can demonstrate that an "exceptional event" has caused the exceedance or violation. Exceptional events are unusual or naturally occurring events that can affect air quality but are not reasonably controllable or preventable using techniques implemented to attain and maintain the NAAQS.

Exceptional events may be caused by human activity that is unlikely to recur at a particular location, or may be due to a natural event. The Environmental Protection agency (EPA) defines a "natural event" as an event in which human activity plays little or no direct causal role to the event in question. For example, a natural event could include such things as high winds, wild fires, and seismic/volcanic activity. In addition, the EPA will allow states to exclude data from regulatory determinations on a case-by-case basis for monitoring stations that measure values that exceed or violate the NAAQS due to emissions from fireworks displays from cultural events. These events can be flagged as being affected by exceptional or natural events and then justified.

Federal regulations (40 CFR Part 50.14 (c) (3)(i)) require that all relevant flagged data, the reasons for the data being flagged, and a demonstration that the flagged data are caused by exceptional events be made available by the State for 30 days of public review and comment. These comments will be considered in the final demonstration of the event that is submitted to EPA. The following monitored value has been attributed to exceptional events:

July 9, 2013, Hawthorne Monitoring Station, 81 ppb ozone: due to western state wildfire emissions

The documentation to support removing this data from use in regulatory determinations will be available by September 20, 2014, for public review. It can be viewed at the following website http://www.airquality.utah.gov/Public-Interest/Public-Comment-Hearings/Exceptional_Events/Exceptional_Events.htm or available at the Multi Agency State Government Office Building located at 195 North 1950 West in Salt Lake City.

In compliance with the American with Disabilities Act, individuals with special needs (including auxiliary communicative aids and services) should contact Brooke Baker, Office of Human Resources at 801-536-4412 (TDD 536-4414).

The comment period will close at 5:00 p.m. on November 14, 2014. Comments postmarked on or before that date will be accepted. Comments may be submitted by electronic mail to jkarmazyn@utah.gov or may be mailed to: Joel Karmazyn, ATTN: Ozone Exceptional Events, Utah Division of Air Quality, PO Box 144820, 195 North 1950 West, Salt Lake City, UT 84114-4820

Health Health Care Financing, Coverage and Reimbursement Policy

Notice for November 2014 Medicaid Rate Changes

Effective November 1, 2014, 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/bcrp.htm>

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 Division of Administrative Rules for publication and distribution.

Governor's Executive Order EO/2014/008: Creating the Refugee Services Board of Advisors for the Refugee Services Office

EXECUTIVE ORDER

Creating the Refugee Services Board of Advisors for the Refugee Services Office

WHEREAS, there is created within the Utah Department of Workforce Services a Refugee Services Office 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 successful refugee resettlement;

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 of Utah;

WHEREAS, to effectively represent the interests of refugees to state and local governments and to the private sector;

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, by the authority vested in me by the Constitution and laws of the State of Utah, do hereby order the following:

1. There is established, within the Utah Department of Workforce Services, a Refugee Services Board of Advisors to provide support and advice to the Refugee Services Office:

- a. The membership of the board shall represent key stakeholders in the refugee community, providers, state and local governments, and the community at large;
- b. The Governor shall make appointments to the board and designate the board chair;
- c. The chair shall establish the board's agenda and meeting schedule;
- d. Appointed board members shall serve at the pleasure of the Governor and may be removed by the Governor at any time. Appointed board members shall serve four-year terms. The Governor may adjust the length of terms to ensure that the terms are staggered.
- e. The board shall, as needed, create subcommittees to further the work of the board and, in particular, raise private, foundation and corporate funds to increase the services that are provided to refugees;
- f. Any funds raised by the board or subcommittees shall be deposited into the Refugee Services Fund;
- g. Members of the board shall receive no compensation or benefits for their services, but may receive, subject to budget availability, per diem and expenses incurred in the performance of official board duties at the rates established by the Division of Finance under Utah Code Sections 63A-3-106 and 63A-3-107. Members may decline to receive per diem and expenses for their service.
- h. The board shall be staffed by the Refugee Services Office;

i. The board shall not exceed 15 voting members and shall consist of the following stakeholders, including, but not limited to:

- i. The Director of the Refugee Services Office shall be an ex officio non-voting member of the board;
- ii. A representative from Salt Lake County government;
- iii. A representative from each of the two U.S. Department of State sanctioned refugee resettlement agencies: the International Rescue Committee and Catholic Community Services;
- iv. A representative from the health provider community;
- v. At least three representatives from the business community;
- vi. At least three refugee leaders from the refugee community;
- vii. Other stakeholders as identified by the Governor.

2. The Board of Advisors shall, as appropriate:

- a. Educate policy makers and key stakeholders on critical issues related to refugees.
- b. Recommend standards for services to refugee populations in the state and provide recommendations to the State Refugee Services Office;
- c. Analyze the efforts by mainstream service providers to serve refugee populations and make appropriate recommendations to increase access to these services;
- d. Recommend to the Refugee Services Office and local governments improvements in the service delivery system for refugees;
- e. Provide a forum in which statewide refugee issues can be addressed and solutions entertained;
- f. Identify service gaps and make recommendations for funding strategies, including legislative funding for refugee services;
- g. Promote public awareness of refugee issues, needs and accomplishments;

3. The board shall make an annual report to the Governor on the status of refugee services, delivered by November 1.

4. This order replaces and supersedes Executive Order 2008-0002 and any other prior Executive Order establishing a board of advisors for the Refugee Services Office.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City on this 16th day of September 2014.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

EO/2014/008

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 September 16, 2014, 12:00 a.m., and October 01, 2014, 11:59 p.m. are included in this, the October 15, 2014, 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 Division 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 Division of Administrative Rules.

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least November 14, 2014. 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 February 12, 2015, the agency may notify the Division of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Division of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE OR A CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** 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

**Administrative Services, Facilities
Construction and Management
R23-22**

**General Procedures for Acquisition and
Selling of Real Property**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38890

FILED: 09/30/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for the amendments is to add a definitions section to the rule, update rule references, revise title report and insurance requirements, and to clarify other sections of the rule in order to make it easier to read and understand.

SUMMARY OF THE RULE OR CHANGE: The summary of the amendments to this rule are as follows: 1) DFCM is adding a definitions section to the rule; 2) for all real estate transactions, DFCM shall obtain a preliminary title report and an Owner's Policy of Title Insurance, and the director may waive the policy of title insurance with an estimated value of under \$50,000 if the director finds that circumstances indicate that there is no potential risk or if the transaction is between public entities; 3) DFCM shall sell the surplus real property if it is directed to do so by the Utah State Legislature, and may use a real estate professional in accordance with state law, the Procurement Code, and applicable laws; 4) a study of available services to the subject property shall be conducted; 5) a geotechnical analysis shall be obtained; 6) a flood plain analysis shall be accomplished; 7) drainage issues shall be studied; and 8) adding general clarification and rule reference updates to the rule to make the rule more clear and easier to understand.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63A-5-401 and Subsection 63A-5-103(1)(e)(iii) and Subsection 63A-5-103(1)(e)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The state budget will not be affected, because the change is simply adding a definitions section to the rule, providing better title protections, and clarifying other sections of the rule in order to make it more clear and easier to understand.
- ◆ **LOCAL GOVERNMENTS:** Local government budgets will not be affected, because the change is simply adding a definitions section to the rule, providing better title protections, and clarifying other sections of the rule in order to make it more clear and easier to understand.

◆ **SMALL BUSINESSES:** The budgets of small businesses will not be affected, because the change is simply adding a definitions section to the rule, and clarifying other sections of the rule in order to make it easier to read and understand.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No other person's budgets will be affected, because the change is simply adding a definitions section to the rule, providing better title protections, and clarifying other sections of the rule in order to make it more clear and easier to understand.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for any persons, because the change is simply adding a definitions section to the rule, providing better title protections, and clarifying other sections of the rule in order to make it more clear and easier to understand.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses.

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

ADMINISTRATIVE SERVICES
FACILITIES CONSTRUCTION AND MANAGEMENT
ROOM 4110 STATE OFFICE BLDG
450 N STATE ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov
- ◆ Cecilia Niederhauser by phone at 801-538-3261, by FAX at 801-538-9694, or by Internet E-mail at cniederhauser@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2014

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2014

AUTHORIZED BY: Joshua Haines, Director

R23. Administrative Services, Facilities Construction and Management.

R23-22. General Procedures for Acquisition and Selling of Real Property.

R23-22-1. Purpose.

This rule defines the procedures of the Division of Facilities Construction and Management for acquisition and selling of real property.

R23-22-2. Authority.

(1) This rule is authorized under Subsection 63A-5-103(1)(e), which directs the Utah State Building Board to make rules necessary for the discharge of the duties of the Division of Facilities Construction and Management [~~hereinafter referred to as "DFCM"~~]. All actions under this rule that refer to the DFCM shall be undertaken by the Director of the Division of Facilities Construction and Management [~~DFCM~~] or the Director's duly authorized designee.

(2) This rule is also authorized and intended to implement the requirements of Section 63A-5-401, as well as Subsection 63A-5-103(1)(e)(iii).

R23-22-3. Definitions.

(1) Except as otherwise stated in this rule, the following definitions shall apply throughout this Rule as follows:

(a) "Board" means the Utah State Building Board established pursuant to Section 63A-5-101.

(b) "Director" means the Director of the Division or the Director's duly authorized designee.

(c) "Division" means the Division of Facilities Construction and Management established pursuant to Section 63A-5-201.

(d) "State Agency" means any agency of the State of Utah that the Division is legally responsible for assisting with real estate transactions under this Rule. It may also include other public agencies when agreeable to the Director and consistent with applicable law.

R23-22-[3]4. Policy.

It is the general policy of the Board that, except as otherwise allowed by the Utah Code, [~~the~~] DFCM shall buy, sell or exchange real property in accordance with this Rule to ensure that the transaction is in the best interest of the State and that the value of the real property is congruent with the proposed price and other terms of the purchase, sale or exchange.

R23-22-[4]5. Scope of This Rule.

(1) This Rule shall apply to all purchases, sales, donations and exchanges of DFCM except as otherwise allowed by the Utah Code. The requirements of this Rule shall also not apply to a contract or other written agreement prior to May 5, 2008.

(2) This Rule contains a waiver provision in Rule R23-22-2[8] that is consistent with Section 63A-5-401.

(3) Nothing in the rule shall prohibit DFCM from proceeding with easements, lot line and other minor, incidental adjustments with other State entities or other public/private persons or entities, as long as DFCM reasonably determines that such property is not historically significant after consultation with the State Historic Preservation Officer, that the transaction is in the public interest, and that the value of the transaction, as reasonably determined by DFCM, is less than \$100,000.

R23-22-[5]6. Requirements for Purchase, Accepting a Donation, or Exchanges of Real Property.

Unless waived under Rule R23-22-[8]9, DFCM shall comply with the following in regard to the purchase, accepting a donation, or exchange of real property that is subject to this Rule:

(1) Selection Process. In accordance with State law, DFCM shall either perform the selection process or assist the [~~s~~]State agency with the selection process. The selection process must comply with applicable State laws and rules. DFCM may use the services of a real estate professional in accordance with State law and selected pursuant to the Utah Procurement Code and applicable rules.

(2) Financing Requirements. As authorized by the Utah Legislature, DFCM shall assist, as appropriate with financing requirements, including, but not limited to, coordinating financing requirements through the State Building Ownership Authority, or other authorized bonding authority.

(3) Document Preparation and Approvals. In accordance with State law, DFCM shall negotiate, draft and execute the applicable Real Estate Contract and transaction documents with due consideration to the State agency's comments. The State agency may be required by DFCM to be a signatory to the Contract. Legal documents shall either be on a form approved by the Utah Attorney General or submitted for approval to the Utah Attorney General. The same requirements shall apply to closing documents prepared by the title company.

(4) Substantive Requirements. Unless a provision below is waived under Rule R23-22-[8]9, DFCM shall obtain and review the following:

(a) Title Insurance. [~~DFCM shall obtain an Owner's Policy of Title Insurance for real property with an estimated value by DFCM at \$200,000 or above.~~] For all real estate transactions [property with an estimated value by DFCM of less than \$200,000], DFCM shall obtain a preliminary title report [title report] and [may obtain] an Owner's Policy of Title Insurance. [if, in the judgment of DFCM, title insurance is advantageous to the State.] The Director may waive the obtaining of the Policy of Title Insurance for real estate transactions with an estimated value by DFCM of under \$50,000 if the Director finds that the circumstances indicate that there is no potential title risk or if the transaction is between public entities.

(b) Environmental Assessment. A Phase I environmental Assessment or higher level environmental assessment is required.

(c) Engineering Assessment. DFCM shall obtain an engineering assessment of mechanical systems and structural integrity of improvements located on the property.

(d) A study of available services to the subject property shall be conducted. This includes an analysis of any required utilities, including water, sewer, gas, electricity and the like.

(e) A geotechnical analysis shall be obtained.

(f) A flood plain analysis shall be accomplished.

(g) Drainage issues shall be studied.

([d]h) Code Review. DFCM shall review the real property to ascertain its suitability under all applicable codes, including but not limited to, the Americans with Disabilities Act, laws, regulations and requirements.

(i[e]) Appraisal. Except for transactions where State law does not require a certain value to be established, the value used by DFCM in the negotiation shall be based upon an appraisal completed by an appraiser that is a state-certified general appraiser under Section 61-2B-2 and when determined by the Director that it is in the interest of the State, the Director may require that the appraiser be [and] a State of Utah licensed MAI appraiser.

([f]j) Maintenance and Operation History. DFCM shall obtain, if reasonably available, an analysis of past maintenance and operational expenses.

([g]k) Land Use Information. DFCM shall obtain, if reasonably available, the plat map, zoning and planning information.

([h]l) Survey. DFCM shall obtain an ALTA/ACSM Land Title Survey, current revision, of the subject property. An ALTA survey shall not be required if an ALTA survey has already been performed within the past 12 months unless otherwise determined by DFCM;

([i]m) Historic Assessment. DFCM shall undertake an historic property assessment under Section 9-8-404; and

([j]n) Other. DFCM shall also comply with other requirements determined necessary by law, rule, regulation or by DFCM.

R23-22-[6]7. Determination of Surplus Real Property.

(1) In accordance with State law, DFCM may recommend that certain real property be declared as surplus.

(2) If DFCM estimates that the value of the real property is less than \$100,000, then DFCM need only notify the Executive Director of the Department of Administrative Services prior to any declaration of surplus or disposition of the real property. DFCM shall also consult with the State Historic Preservation Office prior to any such declaration or disposition if the property is historically significant.

(3) If DFCM estimates that the value of the real property is \$100,000 or more, then the DFCM shall notify the Director of the Department of Administrative Services as well as the staff of the ~~[Building]~~Board, as well as receive approval from the ~~[Building]~~Board prior to any declaration of surplus or disposition of the real property. The ~~Board~~~~[Utah State Building]~~ may declare the property surplus after considering the following:

(a) the recommendation and any comments by the Division;

(b) the input from state agencies and institutions, including, but not limited to, whether any ~~[s]~~State agency or institution has a need for the subject property;

(c) any input from concerned persons or entities;

(d) the appraised value of the property; and

(e) whether the property is historically significant. The property shall be considered historically significant if the real property, structures, statues or other improvements on the real property, is listed on the National Register of Historic Places or the State Register, or if the Board determines that it is historically significant after considering input from the State Historic Preservation Officer and others that have relevant input at the Board meeting.

(4) If the Utah Legislature directs that the DFCM sell the property, then it shall be deemed as declared surplus under this Rule without the need for any Board approval.

R23-22-[7]8. Detailed Disposition Procedures.

After the appropriate determination is made that the real property is surplus, DFCM shall endeavor to sell the surplus real property on the open market, unless such property is to be conveyed to another State agency or public entity in accordance with applicable law or if DFCM is otherwise directed by the Utah State

Legislature. DFCM may use the services of a real estate professional in accordance with State law and selected pursuant to the Utah Procurement Code and applicable rules. The sale shall be processed as follows:

(1) Approvals. DFCM shall confirm that all necessary approvals have been sought for the declaration of surplus property.

(2) Appraisal. Except for transaction where State law does not require a certain value be established or when the Director of DFCM estimates that the value of the property is less than \$100,000, the value used by DFCM in the sale shall be based upon an appraisal completed by an appraiser that is a State of Utah certified general appraiser under Title 61, Chapter 2g, of the Utah Code and when determined by the Director that it is in the interest of the State, the Director may require that the appraiser be [is] a State of Utah licensed MAI appraiser.

(3) Listing Price. DFCM shall establish a listing price based on the appraisal or, if no appraisal is required, based upon DFCM's knowledge of prevailing market conditions and other circumstances customarily used in the industry for such sales.

(4) Advertise.

(a) When not using a real estate agent, the property shall be reasonably identified and placed in a newspaper of general circulation throughout the State of Utah, including the area of the subject property, for a period of no less than ninety (90) calendar days. At the discretion of the Director, publication may also occur on the DFCM website and in a local or regional publication. [DFCM shall advertise the property for sale in such a manner that is commercially reasonable in the discretion of the DFCM.] DFCM [may]shall set a time deadline for the submission of bids.

(b) When using a Real Estate Agent, in lieu of the advertising referred to in Rule R23-22-8(4)(a) above, advertising may be through a customary service used by the real estate agent.

(5) Award of Contract. DFCM shall endeavor to enter into a contract with the bidder/~~offeror~~ that provides the best value to the State of Utah taking into account the price, other terms and factors related to the sale. If the contract is with a person that does not have the highest bidding/~~offered~~ price, then DFCM shall file a written justification statement describing the circumstances in which the selected bidder/~~offeror~~ represents the best value to the State of Utah.

(6) Document Preparation and Approvals. In accordance with State law, DFCM shall negotiate, draft and execute the applicable Real Estate Contract or transaction documents with due consideration to the State agency's comments. The State agency may be required by DFCM to be a signatory to the Contract. Legal documents shall either be on a form approved by the Utah Attorney General or submitted for approval to the Utah Attorney General. The same requirements shall apply to closing documents prepared by the title company.

R23-22-[8]9. Waiver for Requirements, Other Than R23-22-6.

(1) The requirements under Rule R23-22-[6]7 may not be waived.

(2) To the extent allowed by law, any provision of this Rule R23-22, other than Rule R23-22-[6]7, may be waived by the DFCM Director when the adherence to the provision of the rule is not economically efficient or other special circumstances are documented which indicate that the enforcement of the rule would not be in the public interest.

KEY: ~~[real estate, historical significance, property transactions]~~ procedures, selling surplus, real property
Date of Enactment or Last Substantive Amendment: [August 7, 2014
Notice of Continuation: February 20, 2013
Authorizing, and Implemented or Interpreted Law: 63A-5-103; 63A-5-401

**Capitol Preservation Board (State),
 Administration
 R131-16
 Electronic Meetings**

NOTICE OF PROPOSED RULE
 (New Rule)
 DAR FILE NO.: 38887
 FILED: 09/30/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to establish procedures for conducting Capitol Preservation Board meetings by electronic means.

SUMMARY OF THE RULE OR CHANGE: This rule establishes procedures for conducting Capitol Preservation Board meetings by electronic means.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 52-4-207

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The state's budget will not be affected, because this rule simply establishes the procedures for conducting Capitol Preservation Board meetings by electronic means.
- ◆ **LOCAL GOVERNMENTS:** Local governments' budgets will not be affected, because this rule simply establishes the procedures for conducting Capitol Preservation Board meetings by electronic means.
- ◆ **SMALL BUSINESSES:** The budgets for small businesses will not be affected because this rule simply establishes the procedures for conducting Capitol Preservation Board meetings by electronic means.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No others will be affected, because this rule simply establishes the procedures for conducting Capitol Preservation Board meetings by electronic means.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for any person because this rule simply establishes the procedures for conducting Capitol Preservation Board meetings by electronic means.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:
 There is no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 CAPITOL PRESERVATION BOARD (STATE)
 ADMINISTRATION
 ROOM E110 EAST BUILDING
 420 N STATE ST
 SALT LAKE CITY, UT 84114-2110
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov
 ◆ Allyson Gamble by phone at 801-537-9156, by FAX at 801-538-3221, or by Internet E-mail at agamble@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2014

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2014

AUTHORIZED BY: Allyson Gamble, Executive Director

**R131. Capitol Preservation Board (State), Administration.
 R131-16. Electronic Meetings.
 R131-16-1. Electronic Meetings.**

(1) Purpose. Section 52-4-207 requires any public body that convenes or conducts an electronic meeting to adopt a rule governing the use of electronic meetings. This Rule R131-16 establishes procedures for conducting Capitol Preservation Board (hereinafter "Board") meetings by electronic means.

(2) Procedure. The following provisions govern any meeting at which one or more Board members appear electronically pursuant to Section 52-4-207:

(a) If one or more members of the Board desire to participate electronically, such member(s) shall contact the Executive Director of the Capitol Preservation Board (hereinafter "Executive Director"). The Executive Director shall assess the practicality of facility requirements needed to conduct the meeting electronically in a manner that allows for the attendance, participation and monitoring as required by this Rule. If it is practical, the Presiding Officer or Executive Director shall determine whether to allow for such electronic participation, and the public notice of the meeting shall so indicate. In addition, the notice shall specify the anchor location where the members of the Board not participating electronically will be present and where interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

(b) Notice of the meeting and the agenda shall be posted at the anchor location and be provided in accordance with the Open and Public Meetings Act. The anchor location is the physical location where the electronic meeting originates or where the participants are connected. The anchor location shall be identified

in the public notice for the meeting. Unless otherwise designated in the notice, the anchor location shall be a room in the Utah State Capitol Hill Complex where the Board would normally meet if the Board was not holding an electronic meeting.

(c) Notice of the possibility of an electronic meeting shall be given to the Board members at least 24 hours before the meeting. In addition, the notice shall describe how a Board member may participate in the meeting electronically.

(d) When notice is given of the possibility of a Board member participating electronically, any Board member may do so and any voting Board member, whether at the anchor location or participating electronically, shall be counted as present for purposes of a quorum and may fully participate and vote. At the commencement of the meeting, or at such time as any Board member initially appears electronically, the Presiding Officer shall identify for the record all those who are participating electronically. Votes by members of the Board who are not at the anchor location of the meeting shall be confirmed by the Presiding Officer.

(e) The anchor location will have space and facilities so that interested persons and the public may attend, monitor and participate in the open portions of the meeting, as appropriate.

KEY: electronic meetings, procedures

Date of Enactment or Last Substantive Amendment: 2014

Authorizing, and Implemented or Interpreted Law: 52-4-207

Commerce, Consumer Protection **R152-34** Postsecondary Proprietary School Act Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38880

FILED: 09/24/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to delete Section R152-34-7a, Rules Relating to Accredited Institutions Under Section 13-34-107.5. This section outlines the procedure by which an accredited institution may apply for a certificate of exemption to the registration requirement of Title 13, Chapter 34. In the 2014 General Legislative Session, Title 13, Chapter 34a, was enacted under H.B. 405. The new statute revises the process by which accredited institutions can obtain a certificate of postsecondary state authorization. Therefore, Section R152-34-7a is no longer needed.

SUMMARY OF THE RULE OR CHANGE: Section R152-34-7a is deleted. Through a separate filing, this section is replaced with a new rule, R152-34a. This new rule corresponds to Title 13, Chapter 34a, which was enacted under H.B. 405 (2014). In addition, technical corrections are made in Subsections R152-34-5(4) and R152-34-10(2)(i).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 13-2-5(1)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This filing makes two technical corrections and deletes language that is no longer necessary due to recent legislative action. No fiscal impact to the state budget is anticipated.

◆ **LOCAL GOVERNMENTS:** Local governments are not required to comply with or enforce the rules governing postsecondary proprietary schools. No fiscal impact to local government is anticipated.

◆ **SMALL BUSINESSES:** This filing is in response to recent legislative action. The new statute revises the process by which accredited institutions can obtain a certificate of postsecondary state authorization. Any fiscal impact to small businesses operating as accredited institutions has been considered by the Legislature. It is not anticipated that this rule filing will create any additional fiscal impact to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This filing is in response to recent legislative action. The new statute revises the process by which accredited institutions can obtain a certificate of postsecondary state authorization. Any fiscal impact to affected persons operating as accredited institutions has been considered by the Legislature. It is not anticipated that this rule filing will create any additional fiscal impact to affected persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This filing is in response to recent legislative action. The new statute revises the process by which accredited institutions can obtain a certificate of postsecondary state authorization. Any compliance costs for affected persons operating as accredited institutions have been considered by the Legislature. It is not anticipated that this rule filing will create any additional compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing makes two technical corrections and deletes a subsection that has become moot due to the enactment of Title 13, Chapter 34a (2014), which governs accredited institutions operating in Utah. No fiscal impact to businesses is anticipated beyond that considered by the Legislature in determining to take the action to which this filing responds.

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 Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Jennie Jonsson by phone at 801-530-6706, by FAX at 801-526-4387, or by Internet E-mail at jjonsson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2014

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2014

AUTHORIZED BY: Daniel O'Bannon, Director

R152. Commerce, Consumer Protection.

R152-34. Postsecondary Proprietary School Act Rules.

R152-34-5. Rules Relating to Institutions Exempt Under Section 13-34-105.

(1) Institutions that provide nonprofessional review courses, such as law enforcement and civil service, are not exempt, unless they are considered as workshops or seminars within the meaning of Section 13-34-105(1)(h).

(2) In order for the church or religious denomination to be "bona fide" such that the institution is exempt from registration, the institution may not be the church or religious denomination's primary purpose, function or asset. The institution shall submit a sworn statement in a form specified by the Division attesting to the religious nature of the education offered.

(3) Any institution which claims an accreditation exemption must furnish acceptable documentation to the Division upon request.

(4) To qualify for exemption under Section 13-34-105(1)(f):

(a) the training or instruction shall not be the primary activity of the organization, association, society, labor union, or franchise system or;

(b) the organization, association, society, labor union, or franchise system shall meet the following requirements:

(i) the organization, association, society, labor union, or franchise system does not recruit students;

(ii) the organization, association, society, labor union, or franchise system provides courses of instruction only to students who are currently employed;

(iii) the cost of the course of instruction is paid for by the employer of the student, not the student; and

(iv) enrollment in each individual course of instruction is limited to those who are bona fide employees of the employer.

(5) To qualify for exemption under Section 13-34-105(1)(c):

(a) the profession for which the review program is offered must be recognized by a state or national licensing or certifying body;

(b) the students enrolled in the review program must previously complete education and/or training in the occupation or field required to be obtained by the certifying body; and

(c) the professional review program must provide only review and preparation for exams or other certifying tests that are required to be passed by the certifying body.

(6) The Division shall determine an institution's status in accordance with the categories contained in this section.

(7) An exempt institution shall notify the Division within thirty (30) days of a material change in circumstances which may affect its exempt status as provided in this section and shall follow the procedure outlined in Section 13-34-107.

(8) An exempted institution which voluntarily applies for a certificate by filing a registration statement shall comply with all rules as though such institution were nonexempt.

~~**[R152-34-7a. Rules Relating to Accredited Institutions Under Section 13-34-107.5.**~~

~~(1) To apply for an exemption certificate, an accredited institution shall submit a completed registration statement application as outlined in Section 13-34-107.5(3) and a copy of such portions of its current accreditation, financial statements and self-evaluation report as specified by the Division.~~

~~(2) In accordance with U.C.A. Section 13-34-107.5(7)(a), institutions applying for an exemption certificate shall pay fees established by the Division pursuant to U.C.A. Section 63J-1-504.~~

~~(3) An exemption certificate is valid for a two (2) year period; the Division will conduct a review of the registration in alternating years. The Division will request and review updates on the institutions accreditation status.~~

[R152-34-10. Rules Relating to Suspension, Termination or Refusal to Register under Section 13-34-111.

(1) The Division may perform on-site evaluations to verify information submitted by an institution or an agent, or to investigate complaints filed with the Division.

(2) The Division may, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, issue an order to deny, suspend, or revoke a registration, upon a finding that:

(a) the award of credentials by a nonexempt institution without having first duly registered with the Division and having obtained the requisite surety;

(b) a registration statement application that contains material representations which are incomplete, improper, or incorrect;

(c) failure to maintain facilities and equipment in a safe and healthful manner;

(d) failure to perform the services or provide materials as represented by the institution, failure to perform any commitment made in the registration statement or permit application, offering programs or services not contained in the registration statement currently on file, or violations of the conditions of the certificate of registration;

(e) failure to maintain sufficient financial capability, as set forth in section R152-34-7;

(f) to confer, or attempt to confer, a fraudulent credential, as set forth in 13-34-201;

(g) employment of students for commercial gain, if such fact is not contained in the current registration statement;

(h) promulgation to the public of fraudulent or misleading statements relating to a program or service offered;

(i) failure to comply with the Postsecondary Proprietary School[s] Act or these rules;

(j) withdrawal of the authority to operate in the home state of an institution whose parent campus or headquarters is not domiciled in this state;

(k) failure to comply with applicable laws in this state or another state where the institution is doing business; and

(l) failure to provide reasonable information to the Division as requested from time to time.

(3) A violation of these administrative rules is also a violation of the Utah Consumer Sales Practices Act and accompanying administrative rules.

KEY: education, postsecondary proprietary schools, registration, consumer protection

Date of Enactment or Last Substantive Amendment: [~~December 5, 2012~~]2014

Notice of Continuation: June 14, 2012

Authorizing, and Implemented or Interpreted Law: 13-2-5(1)

Commerce, Consumer Protection **R152-34a** Utah Postsecondary School State Authorization Act Rules

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 38869

FILED: 09/16/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is: 1) to comply with rulemaking requirements stated in Title 13, Chapter 34a, which was enacted during the 2014 General Legislative Session by H.B. 405; 2) to create an application process by which a postsecondary school may apply for a certificate of state authorization; 3) to establish a process by which a person may submit a complaint about a postsecondary school that has obtained a certificate of state authorization; and 4) to establish standards for the conduct and operation of a postsecondary school that has obtained a certificate of state authorization.

SUMMARY OF THE RULE OR CHANGE: In Section R152-34a-102, the term "accredited" is defined. In Section R152-34a-201, in order to apply for a certificate of state authorization, a postsecondary school shall submit to the Division a completed application form; its accreditation statement, including in specified circumstances, audited financial statements; a list of course offerings; a tuition schedule and statement of total program costs(s); a refund policy; and a statement agreeing to operate in compliance with the governing statute and the rules promulgated thereunder. In Section R152-34a-206, a person who wishes to file a complaint against a postsecondary school that operates under a certificate of state authorization may complete the Division's complaint form or submit a signed letter and other specified information. In Section R152-34a-302, a postsecondary school that operates under a certificate of state authorization shall comply with stated affirmative duties and ensure that it does not engage in prohibited conduct as specified.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 13-34a-103 and Subsection 13-2-5(1)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The Division has the budget and staff in place to review applications from, and complaints regarding, postsecondary schools, and to take enforcement actions as needed. No fiscal impact to the state budget is anticipated.

◆ **LOCAL GOVERNMENTS:** Local governments are not required to comply with or enforce the rules governing postsecondary schools. No fiscal impact to local government is anticipated.

◆ **SMALL BUSINESSES:** A small business that requires a certificate of state authorization will incur a fee and other costs related to obtaining and providing the information and documents required by the Division in order to evaluate whether the applicant qualifies for the certificate. If granted a certificate, a small business will incur costs to comply with the stated standards of conduct including, for example, the requirement to retain student records for at least 60 years.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule governs businesses operating as postsecondary schools. It does not affect other persons. No fiscal impact to other persons is anticipated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Affected persons will incur a fee and other costs related to obtaining and providing the information and documents required by the Division in order to evaluate whether the applicant qualifies for the certificate. If granted a certificate, the business will incur costs to comply with the stated standards of conduct including, for example, the requirement to retain student records for at least 60 years.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Currently, the fee to apply for a certificate of state authorization to operate as a postsecondary school may range from \$1,500 to \$2,500. This fee was contemplated by the Legislature in determining to implement state authorization of postsecondary schools. In addition, as stated in the rule analysis, businesses will have operational costs associated with their compliance obligations. These costs will vary and cannot be estimated.

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 Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Jennie Jonsson by phone at 801-530-6706, by FAX at 801-526-4387, or by Internet E-mail at jjonsson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2014

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2014

AUTHORIZED BY: Daniel O'Bannon, Director

R152. Commerce, Consumer Protection.

R152-34a. Utah Postsecondary School State Authorization Act Rules.

R152-34a-101. Authority and Purpose.

(1) These rules are promulgated under the authority of Section 13-2-5(1) and Section 13-34a-103.

(2) These rules are promulgated to:

(a) administer and enforce the Utah Postsecondary School State Authorization Act; and

(b) provide standards by which persons subject to the Utah Postsecondary School State Authorization Act shall operate.

R152-34a-102. Definition.

"Accredited" means public recognition by a national or regional accrediting agency, as defined in Section 13-34a-102(2).

R152-34a-201. Application Process.

(1) To obtain a certificate of postsecondary state authorization, an applicant shall:

(a) submit to the division a completed application form, as provided by the division;

(b) attach to the application:

(i)(A) a copy of the school's accreditation statement; and

(B) if the applicant does not meet the criteria stated in Section 13-34a-203, audited financial statements pursuant to this Subsection (2);

(ii) a list of all current course offerings;

(iii) a copy of the school's tuition schedule and total program cost(s); and

(iv) a copy of the school's refund policy;

(c) comply in all respects with Section 13-34a-203 or Section 13-34a-204 as applicable;

(d) sign and notarize a statement that the owner of the school or similar controlling individual:

(i) has read and understood Section 13-34a et seq and these rules; and

(ii) agrees to operate in full compliance with Section 13-34a et seq and these rules; and

(e) pay the nonrefundable application fee.

(2) A school that is required to submit audited financial statements pursuant to this Subsection (1)(b)(i)(B) shall submit:

(a) the audited financial statements that were completed or provided to an accrediting agency in conjunction with the school's most recent accreditation review; and

(b) audited financial statements for the most recent fiscal year.

(3)(a) A postsecondary school that submits an application for a certificate of authorization under this Subsection R152-34a-201 is not required to apply concurrently with the division for registration as a postsecondary proprietary school under Section 13-34 et seq.

(b) For the purpose of Section 13-34-107(1)(b)(ii), a certificate of state authorization issued under this Subsection R152-34a-3 establishes an exemption to the registration requirement that otherwise applies to a person operating as a postsecondary proprietary school.

R152-34a-206. Complaint Process.

To file a complaint under Section 13-34a et seq against a postsecondary school that holds a certificate from the division, a person shall submit to the division:

(1) a completed complaint form as provided by the division;

or

(2) a letter, signed by the complainant, and including:

(a) all documentary evidence related to the complaint; and

(b) contact information for the complainant.

R152-34a-302. Grounds for Investigation and Enforcement - Requirements Upon Termination of Certificate of Authorization.

(1) A postsecondary school that holds a certificate of authorization shall:

(a) as to an entity granted a certificate under Section 13-34a-204, maintain financial capability pursuant to Section 13-34a-204(2)(a);

(b) disclose to each student, in writing, the school's tuition schedule, total program cost, and refund policy before requiring a student to make any payment to the school;

(c) if cited or investigated by the division, provide:

(i) copies of all advertised claims;

(ii) copies of any documents signed by or on behalf of the complainant and other interested person(s), as identified by the division;

(iii) all academic records of the complainant and other student(s), as identified by the division and permitted under any applicable confidentiality law or agreement; and

(iv) all other records requested by the division;

(d)(i) maintain each student's transcript(s) for a period of at least 60 years from the date of the student's last attendance:

(A) in either paper or electronic form; and

(B) at a physical location within the continental United States; and

(ii) provide a student's transcript(s):

(A) within 20 days of a request from the student or the division; and

(B)(I) without charge, if the request is from the division; or

(II) with or without a reasonable charge, if the request is from a student;

(e) if terminating operations, within the 30-day period following the date of termination:

(i) surrender to the division the school's current state certificate of authorization; and

(ii) identify:

(A) the name and contact information of the individual who will maintain custody of student records pursuant to this Subsection (1)(d); and

(B) the physical location where student transcripts will be maintained in compliance with this Subsection (1)(d); and

(f) notify the division within 10 business days of:

(i) any change in information on record with division; and

(ii) any action taken against the school by an accrediting body or a regulatory agency, including a state or the federal government.

(2) A postsecondary school that holds a certificate of state authorization may not:

(a) promulgate to the public a fraudulent or misleading statement relating to a program or service offered; or

(b) withhold information or documents requested by the division in an investigation.

(3) Pursuant to Section Subsection 13-34a-103(2)(iv), the violation of a rule in this Subsection R152-34a-302 may be sanctioned by denial, suspension, or revocation of a certificate of the postsecondary school state authorization.

KEY: postsecondary schools, certificate of state authorization, application requirements, consumer protection

Date of Enactment or Last Substantive Amendment: 2014

Authorizing, and Implemented or Interpreted Law: 13-2-5(1); 13-34a-103

Commerce, Occupational and
Professional Licensing
R156-63a
Security Personnel Licensing Act
Contract Security Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38886

FILED: 09/30/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule filing is to: 1) add the use of continuing education courses provided via the Internet as an acceptable means of completing the 16 hours of continuing education; and 2) add an academic exam requirement for the six hours of classroom firearms instruction.

SUMMARY OF THE RULE OR CHANGE: In Subsection R156-63a-304(2), deletes the words "formal classroom". New Subsection R156-63a-304(3) adds the use of education courses provided via the Internet as a recognized means of completing the 16 hours of continuing education. Remaining subsections are renumbered. Subsection R156-63a-304(8) replaces the word "attendees" with the word "participants" for consistency with other subsections. Subsection R156-63a-304(9) adds the word "course" and the word "participant" and deletes the word "instructor" for clarity and consistency. Subsection R156-63a-304(9)(e) adds that the continuing education course certificate shall also include the name of the course instructor. New Subsection R156-63a-604(2) adds an academic exam requirement for the six hours of classroom firearms instruction.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-63-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(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 only apply to licensed private contract security officers 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 decrease the cost of continuing education courses for private contract security officer small businesses by adding the use of Internet courses as an approved type of continuing education provider. The proposed amendments may increase the cost for providers offering the basic firearms training program by requiring an academic exam. This cost may be passed on to the overall cost to licensees for basic firearms training. However, due to a wide range of circumstances, the Division is not able to determine either an exact decrease in costs relating to continuing education courses or an exact increase in requiring an academic exam for basic firearms training programs.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendments only apply to licensed private contract security officers and applicants for licensure in those classifications. As a result, the proposed amendments will not impact other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments may decrease the amount licensees pay for continuing education courses. The filing may increase the cost for providers offering the basic firearms training programs by requiring the addition of an academic exam. This additional cost may be passed on to the overall cost to licensees for basic firearms training. However, due to a wide range of circumstances, the Division is not able to determine either an exact decrease in costs relating to continuing education courses or an exact increase in requiring an academic exam for basic firearms training programs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing amends the private security officer continuing education requirement to allow credit for courses completed online, provided that the course includes a final examination. Businesses that choose to offer online courses will incur development costs. These costs will vary and cannot be quantified.

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

COMMERCE
OCCUPATIONAL AND PROFESSIONAL

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Kristina Bean by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at kbean@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2014

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 10/28/2014 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 402 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2014

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.
R156-63a. Security Personnel Licensing Act Contract Security Rule.
R156-63a-304. Continuing Education for Armed and Unarmed Private Security Officers as a Condition of Renewal.

(1) In accordance with Subsections 58-1-203(1)(g) and 58-1-308(3)(b), there is created a continuing education requirement as a condition of renewal or reinstatement of licenses issued under Title 58, Chapter 63 in the classifications of armed private security officer and unarmed private security officer.

(2) Armed and unarmed private security officers shall complete 16 hours of continuing education every two years consisting of ~~[formal classroom]~~ education that ~~[covers]~~ includes:

- (a) company operational procedures manual;
- (b) applicable state laws and rules;
- (c) legal powers and limitations of private security officers;
- (d) observation and reporting techniques;
- (e) ethics; and
- (f) emergency techniques.

(3) Credit for the 16 hours of continuing education shall be recognized in accordance with the following:

(a) Unlimited hours shall be recognized for continuing education completed in blocks of time of not less than one hour in formally established classroom courses, seminars, or conferences.

(b) Unlimited hours shall be recognized for continuing education that is provided via Internet provided the course provider verifies registration and participation in the course by means of a test which demonstrates that the participant has learned the material presented.

([3]4) In addition to the required 16 hours of continuing education, armed private security officers shall complete not less than 16 additional hours of continuing firearms education and training every two years. The continuing firearms education and training shall be completed in four-hour blocks every six months

and shall not include any hours for the continuing education requirement in Subsection R156-63a-304(2). The continuing firearms education and training shall include as a minimum:

(a) live classroom instruction concerning the restrictions in the use of deadly force and firearms safety on duty, at home and on the range; and

(b) a recognized practical pistol recertification course on which the licensee achieves a minimum score of 80% using regular or low light conditions.

([4]5) An individual holding a current armed private security officer license in Utah who fails to complete the required four hours of continuing firearms education within the appropriate six month period will be required to complete one and one half times the number of continuing firearms education hours the licensee was deficient for the reporting period (this requirement is hereafter referred to as penalty hours). The penalty hours shall not be considered to satisfy in whole or in part any of the continuing firearms education hours required for subsequent renewal of the license.

([5]6) If a renewal period is shortened or lengthened to effect a change of renewal cycle, the continuing education hours required for that renewal period shall be increased or decreased accordingly as a pro rata amount of the requirements of a two-year period.

([6]7) Each licensee shall maintain documentation showing compliance with the requirements above.

([7]8) The continuing education course provider shall provide course ~~[attendees]~~ participants who complete the continuing education course with a course completion certificate.

([8]9) The course certificate shall contain:

- (a) the name of the ~~[instructor]~~ participant;
- (b) the date the course was taken;
- (c) the location where the course was taken;
- (d) the title of the course;
- (e) the name of the course provider and instructor; and
- (f) the number of continuing education hours completed.

R156-63a-604. Operating Standards - Content of Approved Basic Firearms Training Program for Armed Private Security Officers.

An approved basic firearms training program for armed private security officers shall have the following components:

(1) at least six hours of classroom firearms instruction to include the following:

- (a) the firearm and its ammunition;
- (b) the care and cleaning of the weapon;
- (c) the prohibition against alterations of firing mechanism;
- (d) firearm inspection review procedures;
- (e) firearm safety on duty;
- (f) firearm safety at home;
- (g) firearm safety on the range;
- (h) legal and ethical restraints on firearms use;
- (i) explanation and discussion of target environment;
- (j) stop failure drills;
- (k) explanation and discussion of stance, draw stroke, cover and concealment and other firearm fundamentals;
- (l) armed patrol techniques;

(m) use of deadly force under Utah law and the provisions of Title 76, Chapter 2, Part 4 and a discussion of 18 USC 44 Section 922; and

(n) the instruction that armed private security officers shall not fire their weapon unless there is an eminent threat to life and at no time shall the weapon be drawn as a threat or means to force compliance with any verbal directive not involving eminent threat to life; ~~and~~

(2) a final examination that demonstrates the competency of the participant on the subjects included in the six hours of classroom firearms instruction with a passing score requirement of 80%; and

(~~2~~3) at least six hours of firearms range instruction to include the following:

(a) basic firearms fundamentals and marksmanship;

(b) demonstration and explanation of the difference between sight picture, sight alignment and trigger control; and

(c) a recognized practical pistol course on which the applicant achieves a minimum score of 80% using regular and low light conditions.

KEY: licensing, security guards, private security officers

Date of Enactment or Last Substantive Amendment: ~~June 23,~~ 2014

Notice of Continuation: September 9, 2013

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-63-101

Commerce, Real Estate R162-2g Real Estate Appraiser Licensing and Certification Administrative Rules

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 38894
FILED: 10/01/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Appraiser Qualifications Board (AQB) of the Appraisal Foundation has adopted rule changes that affect appraisers in Utah. The purpose of this rule amendment is to adopt the AQB requirements together with additional rule amendments related to trainees and supervisory appraisers.

SUMMARY OF THE RULE OR CHANGE: Appraiser education requirements which were formerly adopted by statute will be by this amendment adopted by administrative rule. Appraiser experience requirements are also being amended. These requirements are changing beginning 01/01/2015 and the new requirements are reflected in the proposed rule amendment. In Subsection R162-2g-102(5), the definition of "CAMA" is added as an acronym meaning

Computer Assisted Mass Appraisal. In Section R162-2g-304a, applicants to become a licensed appraiser will have to successfully complete 30 semester hours of college-level education from an accredited college or university and experience requirements are amended from 12 months to 12 to 24 months depending on the type of experience. In Section R162-2g-304b, applicants to become a certified residential appraiser will be required to have a bachelor's degree from an accredited college or university (currently an associate's degree is required) and experience requirements are amended from 24 months to 24 to 36 months depending on the type of experience. In addition, outdated provisions are deleted. In Section R162-2g-304c, experience requirements are amended from 30 months to 30 to 42 months depending on the type of experience. In addition, outdated provisions are deleted. In Section R162-2g-304d, outdated provisions are deleted and experience from non-traditional clients is allowed up to 50% of total experience requirements. In addition, required experience hours are adjusted and limited with reference to Appendices 1-3. Section R162-2g-306a provides that continuing education (CE) credit may be obtained by attending one Appraiser Board meeting during the CE cycle. In the new Section R162-2g-307a, general education criteria is clarified and Subsections R162-2g-307(a) through (e) are renumbered. Section R162-2g-311 is amended to require that a trainee's supervisor be permitted and competent to perform supervision and allows trainees to have more than one supervisor. In Section R162-2g-502a, the rules relating to supervisory appraisers and trainees are updated requiring supervisory appraisers to be in good standing for three years prior to supervising a trainee. Supervisory appraisers must be competent in the geographic area and are jointly responsible with the trainee for the trainee's experience log. In Section R162-2g-502b, continuing education providers are prohibited from misrepresenting CE courses along with other prohibited conduct. In Section R162-2g-601 Appendices one through three are amended to more accurately reflect the hours of appraisal work necessary to gain the required competency in various standards and minor errors from previous editions are corrected. In addition, Appendix four is added clarifying the appraiser education requirements including required core curriculum and continuing education topics.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 61-2g-201 and Subsection 61-2g-202(1) and Subsection 61-2g-205(5)(c) and Subsection 61-2g-307(3) and Subsection 61-2g-401(5) and Subsection 63G-3-601(3)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The proposed amendments modify existing requirements. The division has the budget and staff in place to administer and enforce these provisions. It is not anticipated that the proposed amendments will affect those resources or result in any additional cost or savings to the state budget.

♦ LOCAL GOVERNMENTS: Local governments are not required to comply with or enforce the appraiser rules. No fiscal impact to local government is expected from the proposed amendments.

♦ SMALL BUSINESSES: That portion of the proposed amendments which require additional education before an appraiser can qualify for licensure or certification will have a fiscal impact on certain individuals or small businesses. The cost of this additional education will be borne by licensed or certified appraisers who often operate as or are employed by small businesses. This impact is anticipated and is mandated nationally by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation. The benefits resulting from better educated appraisers is determined to offset the cost of compliance. Failing to comply with AQB requirements would result in a much greater fiscal impact to both the state budget and appraisers.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: That portion of the proposed amendments which require additional education before an appraiser can qualify for licensure or certification will have a fiscal impact on certain individuals or small businesses. The cost of this additional education will be borne by licensed or certified appraisers who often operate as or are employed by small businesses. This impact is anticipated and is mandated nationally by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation. The benefits resulting from better educated appraisers is determined to offset the cost of compliance. Failing to comply with AQB requirements would result in a much greater fiscal impact to both the state budget and appraisers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The cost of compliance will vary and depend on whether an appraiser is seeking to qualify as a licensed appraiser (30 semester hours of college-level education) or as a certified residential appraiser (bachelor's degree rather than the current requirement of an associate's degree). The required education can be obtained at any accredited college or university. However, the cost of this education varies greatly between institutions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed the proposed filing for the above-referenced rule and considered the fiscal impact that the rule may have on businesses.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Justin Barney by phone at 801-530-6603, or by Internet E-mail at justinbarney@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2014

THIS RULE MAY BECOME EFFECTIVE ON: 12/31/2014

AUTHORIZED BY: Jonathan Stewart, Director

R162. Commerce, Real Estate.

R162-2g. Real Estate Appraiser Licensing and Certification Administrative Rules.

R162-2g-102. Definitions.

- (1) "Affiliation" means an ongoing business association:
 - (a) between:
 - (i) two individuals registered, licensed, or certified under Section 61-2g; or
 - (ii) an individual registered, licensed, or certified under Section 61-2g and:
 - (A) an appraisal entity; or
 - (B) a government agency;
 - (b) for the purpose of providing an appraisal service; and
 - (c) regardless of whether an employment relationship exists between the parties.
- (2) The acronym "AQB" stands for the Appraiser Qualifications Board of the Appraisal Foundation.
- (3) "Board" means the Utah Real Estate Appraiser Licensing and Certification Board.
- (4) "Business day" means a day other than:
 - (a) a Saturday;
 - (b) a Sunday; or
 - (c) a federal or state holiday.
- (5) The acronym "CAMA" stands for Computer Assisted Mass Appraisal.

~~(5)~~(6) "Classification" means the type of license or certification held by an appraiser.

~~(6)~~(7) "Day" means calendar day unless specified as "business day."

~~(7)~~(8) "Deferral" means the postponement or delay for completion of a continuing education requirement due to active military duty or due to the impacts of a state- or federally-declared disaster as specified in R162-2g-306a.

~~(8)~~(9) "Desk review" means review of an appraisal:

- (a) including verification of the data; but
- (b) not including a physical inspection of the property.

~~(9)~~(10) "Distance education" means an education process based on the geographical separation of student and instructor, including:

- (a) computer conferencing;
- (b) satellite teleconferencing;
- (c) interactive audio;
- (d) interactive computer software;
- (e) Internet-based instruction; and
- (f) other interactive online courses.

~~[(10)]~~~~(11)~~ "Division" means the Division of Real Estate of the Department of Commerce.

~~[(11)]~~~~(12)~~ "Draft report" means an appraisal report that is distributed prior to being completed, as provided in Subsection R162-2g-502b(1).

~~[(12)]~~~~(13)~~ "Entity" means:

- (a) a corporation;
- (b) a partnership;
- (c) a sole proprietorship;
- (d) a limited liability company;
- (e) another business entity; or
- (f) a subsidiary or unit of an entity described in this

Subsection ~~[(12)]~~~~(13)~~.

~~[(13)]~~~~(14)~~ "Field review" means review of an appraisal, including:

- (a) a physical inspection of the property; and
- (b) verification of the data.

~~[(14)]~~~~(15)~~ "Non-certified education" means a continuing education course offered outside of Utah, but for which a licensee may apply for credit pursuant to ~~[R162-2g-307c(4)]~~R162-2g-307d(4).

~~[(15)]~~~~(16)~~ "Person" means an individual or an entity.

~~[(16)]~~~~(17)~~ "Reinstatement" means renewing a license or certification for an additional period after its expiration date has passed, but prior to 12 months after the expiration date.

~~[(17)]~~~~(18)~~ The acronym "RELMS" stands for Real Estate Licensing and Management System, which is the online database through which individuals registered, licensed, or certified under these rules must submit certain information to the division.

~~[(18)]~~~~(19)~~ "Renewal" means reissuing a license or certification upon its expiration for an additional period.

~~[(19)]~~~~(20)~~ "School" means:

- (a) an accredited college, university, junior college, or community college;
- (b) any state or federal agency or commission;
- (c) a nationally recognized real estate appraisal or real estate related organization, society, institute, or association; or
- (d) any school or organization approved by the board.

~~[(20)]~~~~(21)~~ "School director" means an authorized individual in charge of the educational program at a school.

~~[(21)]~~~~(22)~~ "Supervisory Appraiser" means a state-certified residential appraiser or a state certified general appraiser that directly supervises a trainee.

~~[(22)]~~~~(23)~~ "Trainee" means a person who is working under the direct supervision of a state-certified residential appraiser or a state-certified general appraiser to earn experience hours for licensure, and who meets the requirements of Subsection R162-2g-302.

~~[(23)]~~~~(24)~~ "Transaction value" means:

- (a) for loans or other extensions of credit, the amount of the loan or extension of credit;
- (b) for sales, leases, purchases, and investments in, or exchanges of, real property, the market value of the real property interest involved; and
- (c) for the pooling of loans or interests in real property for resale or purchase, the amount of the loan or market value of the real property calculated with respect to each such loan or interest in real property.

~~[(24)]~~~~(25)~~ The acronym "USPAP" stands for the current edition of the Uniform Standards of Professional Appraisal Practice published by the Appraisal Foundation.

R162-2g-302. Application for Trainee Registration.

(1) Registration required.

(a) An individual who intends to obtain a license to practice as a state-licensed appraiser shall first register with the division as a trainee.

(b) The division and the board shall not award or recognize experience hours toward licensure for any appraisal work that is performed by an individual during a period of time when the individual is not registered as a trainee.

(2) Character. An individual registering with the division as a trainee shall evidence honesty, integrity, and truthfulness.

(a) A trainee applicant shall be denied registration for:

(i) a felony that resulted in:

(A) a conviction occurring within five years of the date of application; or

(B) a jail or prison release date falling within five years of the date of application; or

(ii) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty that resulted in:

(A) a conviction occurring within three years of the date of application; or

(B) a jail or prison release date falling within three years of the date of application.

(b) A trainee applicant may be denied registration upon consideration of the following:

(i) criminal convictions and pleas entered at any time prior to the date of application;

(ii) the circumstances that led to any criminal convictions or pleas under consideration;

(iii) past acts related to honesty or moral character, with particular consideration given to any such acts involving the appraisal business;

(iv) dishonest conduct that would be grounds under Utah law for sanctioning an existing licensee;

(v) civil judgments in lawsuits brought on grounds of fraud, misrepresentation, or deceit;

(vi) court findings of fraudulent or deceitful activity in civil lawsuits;

(vii) evidence of non-compliance with court orders or conditions of sentencing;

(viii) evidence of non-compliance with terms of a probation agreement, plea in abeyance, or diversion agreement; and

(ix) failure to pay taxes or child support obligations.

(3) Competency. An individual registering with the division as a trainee shall evidence competency. In evaluating an applicant for competency, the division and board may consider any evidence, including the following:

(a) civil judgments, with particular consideration given to any such judgments involving the appraisal business;

(b) failure to satisfy a civil judgment that has not been discharged in bankruptcy;

(c) the extent and quality of the applicant's training and education in appraisal;

(d) the extent of the applicant's knowledge of the Utah Real Estate Appraiser Licensing and Certification Act;

(e) evidence of disregard for licensing laws;

(f) evidence of drug or alcohol dependency; and

(g) the amount of time that has passed since any incident under consideration.

(4) Pre-licensing education.

(a) Within the five-year period preceding the date of application, an applicant shall successfully complete 75 classroom hours:

(i) approved by the AQB; and

(ii)(A) certified by the division pursuant to Subsection ~~[R162-2g-307b(1)-(3)]R162-2g-307c(1)-(3)~~; or

(B) not required to be certified by the division pursuant to Subsection ~~[R162-2g-307b(6)]R162-2g-307c(6)~~.

(b) The 75 hours of required education shall include:

(i) 30 hours of appraisal principles;

(ii) 30 hours of appraisal procedures; and

(iii) the 15-hour National USPAP course, or its equivalent.

(c) The 15-hour National USPAP Course or its equivalent may not be accepted by the division as qualifying education unless it is:

(i) taught by an instructor who:

(A) is a state-certified residential or state-certified general appraiser; and

(B) has been certified by the AQB; or

(ii) approved as a distance education course by the AQB and International Distance Education Certification Center.

(d) A person who applies for trainee registration on or after January 1, 2015 shall successfully complete the division-approved Supervisory Appraiser and Appraiser Trainee Course:

(i) as taught by a division-approved instructor; and

(ii) within the two-year period preceding the date of application.

(e) Examination. An applicant shall evidence having passed the final examination in all pre-licensing courses.

(5) Application to the division. An applicant shall submit the following to the division:

(a) a completed application as provided by the division;

(b) course completion certificates for the 75 hours of pre-licensing education;

(c)(i) two fingerprint cards in a form acceptable to the division; or

(ii) evidence that the applicant's fingerprints have been successfully scanned at a testing center;

(d) all court documents related to any past criminal proceeding;

(e) complete documentation of any sanction taken against any license in any jurisdiction;

(f) a signed letter of waiver authorizing the division to:

(i) obtain the fingerprints of the applicant;

(ii) review past and present employment records;

(iii) review education records; and

(iv) conduct a criminal background check;

(g) the fee for the criminal background check;

(h) the name of the state-certified appraiser(s) with whom the trainee is affiliated;

(i) the name and business address of any appraisal entity or government agency with which the trainee is affiliated; and

(j) the nonrefundable application fee.

(6) Affiliation with certified appraiser(s). Applicants shall affiliate with at least one supervising certified appraiser and evidence that affiliation by:

(a) identifying each supervising certified appraiser on a form supplied by the division; and

(b) obtaining each supervising certified appraiser's signature on the application.

R162-2g-304a. Application to Sit for the State-Licensed Appraiser Exam.

(1) An applicant to sit for the state-licensed appraiser exam shall provide the following to the division:

(a) completed experience forms, as required by the division:

(i) documenting all experience hours completed by the applicant from the date of trainee registration to the date of application for licensure; and

(ii) evidencing at least 2,000 hours of appraisal experience:

(A) pursuant to Subsection R162-2g-304d;

(B) completed during the time when the applicant was registered with the division as a trainee; and

(C) accrued in no fewer than ~~[12 months];~~

(i) 12 months for applicants submitting experience primarily from Appendices 1 and 2, or

(ii) 24 months for applicants submitting experience primarily from appendix 3;

(b) evidence of having successfully completed 30 semester hours of college-level education from an accredited:

(i) college;

(ii) junior college;

(iii) community college; or

(iv) university;

~~[(b)](c)~~ evidence of having successfully completed a state-licensed appraiser pre-licensing required core curriculum as described in Appendix 4, Table 1 and that has been certified by the division pursuant to Subsection ~~[R162-2g-307b]R162-2g-307c~~; and

~~[(e)](d)~~ a nonrefundable application fee.

(2) Applicants holding an Associate degree, or higher, from an accredited college, junior college, community college, or university satisfy the 30-hour college-level requirement.

~~[(2)](3)~~ The pre-licensing curriculum required by Subsection (1)(b) shall be conducted by:

(a) a college or university;

(b) a community or junior college;

(c) a real estate appraisal or real estate related organization;

(d) a state or federal agency or commission;

(e) a proprietary school;

(f) a provider approved by a state certification and licensing agency; or

(g) the Appraisal Foundation or its boards.

~~[(3)](4)~~(a) Upon determining that the applicant satisfies the education and experience requirements, the division shall issue to the applicant a form permitting the applicant to register for the examination.

(b) Upon being approved to register for the examination pursuant to this Subsection ~~[(3)](4)~~(a), an applicant shall:

(i) return the examination application form to the testing service designated by the division; and

(ii) pay a nonrefundable examination fee to the testing service designated by the division.

(c) The permission to register to sit for the examination shall be valid for 24 months after issuance.

R162-2g-304b. Application to Sit for the State-Certified Residential Appraiser Exam.

(1) ~~[Until December 31, 2014, an applicant to sit for the state-certified residential appraiser exam shall provide the following to the division:~~

~~_____ (a) completed experience forms, as required by the division; evidencing at least 2,500 hours of total appraisal experience, at least 500 of which:~~

~~_____ (i) meet the requirements of Subsection R162-2g-304d;~~
~~_____ (ii) are completed during the time when the applicant is licensed as a state-licensed appraiser:~~

~~_____ (A) with the division; or~~

~~_____ (B) in another state, if licensure was required in that state at the time the appraisal was performed; and~~

~~_____ (iii) are accrued in no fewer than 24 months;~~

~~_____ (b) evidence of having successfully completed a state-certified residential appraiser pre-licensing curriculum that has been certified by the division pursuant to Subsection R162-2g-307b and~~

~~_____ (c) a nonrefundable application fee.~~

~~_____ (2) As of January 1, 2014, a] An applicant to sit for the state-certified residential appraiser exam shall provide the following to the division:~~

(a) completed experience forms, as required by the division, evidencing at least 2,500 hours of total appraisal experience, at least 500 of which:

(i) meet the requirements of Subsection R162-2g-304d;

(ii) are completed during the time when the applicant is licensed as a state-licensed appraiser:

(A) with the division; or

(B) in another state, if licensure was required in that state at the time the appraisal was performed; and

(iii) are accrued in no fewer than ~~[24 months];~~

(A) 24 months from the date the applicant became an appraiser trainee for applicants submitting experience primarily from appendices 1 and 2; or

(B) 36 months from the date the applicant became an appraiser trainee for applicants submitting experience primarily from appendix 3;

(b) evidence of having received ~~[an associate-]a Bachelor's degree or higher [degree]~~ from an accredited college or university:

~~_____ (i) college;~~

~~_____ (ii) junior college;~~

~~_____ (iii) community college; or~~

~~_____ (iv) university;~~

(c) evidence of having successfully completed a state-certified residential appraiser pre-licensing required core curriculum as described in Appendix 4, Table 1 and that has been certified by the division pursuant to Subsection ~~[R162-2g-307b]R162-2g-307c; and~~

(d) a nonrefundable application fee.

~~[(3)](2)~~ The pre-licensing curriculum required by Subsection ~~[s](1)(b) and (2)](c)~~ shall be provided by:

(a) a college or university;

(b) a community or junior college;

(c) a real estate appraisal or real estate related organization;

(d) a state or federal agency or commission;

(e) a proprietary school;

(f) a provider approved by a state certification and licensing agency; or

(g) the Appraisal Foundation or its boards.

~~[(4)](3)(a)~~ Upon determining that the applicant satisfies the education and experience requirements, the division shall issue to the applicant a form permitting the applicant to register for the examination.

(b) Upon being approved to register for the examination pursuant to this Subsection ~~[(4)](3)(a)~~, an applicant shall:

(i) return the examination application form to the testing service designated by the division; and

(ii) pay a nonrefundable examination fee to the testing service designated by the division.

(c) The permission to register to sit for the examination shall be valid for 24 months after issuance.

R162-2g-304c. Application to Sit for the State-Certified General Appraiser Exam.

(1) ~~[Until December 31, 2014, an applicant to sit for the state-certified general appraiser exam shall provide the following to the division:~~

~~_____ (a) completed experience forms, as required by the division; evidencing at least 3,000 hours of total appraisal experience, 1,000 hours of which:~~

~~_____ (i) meet the requirements of Subsection R162-2g-304d;~~

~~_____ (ii) are completed during the time when the applicant is licensed as a state-licensed appraiser or state-certified residential appraiser:~~

~~_____ (A) with the division; or~~

~~_____ (B) in another state, if licensure was required in that state at the time the appraisal was performed; and~~

~~_____ (iii) are accrued in no fewer than 30 months;~~

~~_____ (b) evidence of having successfully completed a state-certified general appraiser pre-licensing curriculum that has been certified by the division pursuant to Subsection R162-2g-307b; and~~

~~_____ (c) except as provided in this Subsection (5)(a), a nonrefundable application fee.~~

~~_____ (2) As of January 1, 2015, a] An applicant to sit for the state-certified general appraiser exam shall provide the following to the division:~~

(a) completed experience forms, as required by the division, evidencing at least 3,000 hours of total appraisal experience, ~~[1,000 hours]~~ all of which:

(i) meet the requirements of Subsection R162-2g-304d;

(ii) are completed during the time when the applicant is licensed as a state-licensed appraiser or state-certified residential appraiser:

(A) with the division; or

(B) in another state, if licensure was required in that state at the time the appraisal was performed; and

(iii) are accrued in no fewer than ~~[30 months];~~

(A) 30 months from the date the applicant became an appraiser trainee for applicants submitting experience primarily from appendices 1 and 2, or

(B) 42 months from the date the applicant became an appraiser trainee for applicants submitting experience primarily from appendix 3;

(b) evidence of having received a bachelor's degree or higher degree from an accredited college or university;

(c) evidence of having successfully completed a state-certified general appraiser pre-licensing required core curriculum as

described in Appendix 4, Table 1 and that has been certified by the division pursuant to Subsection ~~[R162-2g-307b]~~ R162-2g-307c; and

(d) except as provided in this Subsection (5)(a), a nonrefundable application fee.

~~[(3)](2)~~ The pre-licensing curriculum required by Subsections (1)~~[(b) and (2)]~~(c) shall be provided by:

- (a) a college or university;
- (b) a community or junior college;
- (c) a real estate appraisal or real estate related organization;
- (d) a state or federal agency or commission;
- (e) a proprietary school;
- (f) a provider approved by a state certification and licensing agency; or

(g) the Appraisal Foundation or its boards.

~~[(4)](3)~~(a) Upon determining that the applicant satisfies the education and experience requirements, the division shall issue to the applicant a form permitting the applicant to register for the examination.

(b) Upon being approved to register for the examination pursuant to this Subsection ~~[(4)](3)~~(a), an applicant shall:

- (i) return the examination application form to the testing service designated by the division; and
- (ii) pay a nonrefundable examination fee to the testing service designated by the division.

(c) The permission to register to sit for the examination shall be valid for 24 months after issuance.

~~[(5)](4)~~(a) A state-licensed appraiser who, within six months of renewing the license, meets the requirements for certification and files a completed application shall pay a transfer fee rather than an application fee.

(b) A certification that is obtained under this Subsection ~~[(5)](4)~~(a) shall expire on the same date that the license was due to expire prior to transfer.

R162-2g-304d. Experience Hours.

(1)(a) Except as provided in this Subsection (1)(b), appraisal experience shall be measured in hours according to the appraisal experience hours schedules found in Appendices 1 through 3.

(b)(i) An applicant who has experience in categories other than those shown on the appraisal experience hours schedules, or who believes the schedules do not adequately reflect the applicant's experience or the complexity or time spent on an appraisal, may petition the board on an individual basis for evaluation and approval of the experience as being substantially equivalent to that required for licensure or certification.

(ii) Upon a finding that an applicant's experience is substantially equivalent to that required for licensure or certification, the board may award the applicant an appropriate number of hours for the alternate experience.

(2) General restrictions.

(a) An applicant may not accrue more than 2,000 experience hours in any 12-month period.

(b) The board may not award credit for:

- (i) appraisal experience earned more than five years prior to the date of application;
- (ii) appraisals that were performed in violation of:
 - (A) Utah law;
 - (B) the law of another jurisdiction; or

(C) the administrative rules adopted by the division and the board;

(iii) appraisals that fail to comply with USPAP;

(iv) appraisals of the value of a business as distinguished from the appraisal of commercial real estate;

(v) personal property appraisals; or

(vi) an appraisal that fails to clearly and conspicuously disclose the contribution made by the applicant in completing the assignment.

(c) At least 50% of the appraisals submitted for experience credit shall be appraisals of properties located in Utah.

(d) With regard to experience hours claimed from the schedules found in Appendices 1 and 2:

(i) appraisals where only an exterior inspection of the subject property is performed shall be granted ~~[25]~~20% of the credit awarded an appraisal that includes an interior inspection of the subject property; and

(ii) no more than 25% of the total experience required for licensure or certification may be earned from appraisals where the interior of the subject property is not inspected.

(e) A maximum of 250 experience hours may be earned from appraisal of vacant land.

(f) Appraisals on commercial or multi-unit form reports shall be awarded 75% of the credit normally awarded for the appraisal.

~~[(g)(i) If an applicant's education was approved prior to January 1, 2008 and his or her experience was approved prior to January 1, 2011 (under a system referred to by the division and industry as a segmented application), but the applicant did not pass the applicable examination required for licensure or certification by December 31, 2010, the applicant shall, by December 31, 2011:~~

~~_____ (A) complete all additional education, as required under the AQB standards;~~

~~_____ (B) pass the required examination applicable to the license or certification being sought by the individual; and~~

~~_____ (C) submit a complete application to the division.~~

~~_____ (ii) An applicant who fails to comply with the December 31, 2011 deadline established in this Subsection (2)(g)(i) shall:~~

~~_____ (A) complete all additional education as required under the AQB standards;~~

~~_____ (B) pass the required examination applicable to the license or certification sought by the individual;~~

~~_____ (C) submit recent appraisals that meet the requirements of all applicable statutes and rules for review by the experience review committee; and~~

~~_____ (D) submit a complete application to the division according to deadlines established in Subsection R162-2g-304f(1).~~

_____ (g) Experience for appraisal work without a traditional client may qualify for experience as follows:

_____ (i) a client hiring an appraiser for a business purpose; or

_____ (ii) a practicum course so long as the course is approved by the AQB Course Approval Program or by the division.

_____ (h) Experience gained for work without a traditional client may not exceed 50% of the total experience requirement.

(3) Specific restrictions applicable to trainees applying for licensure.

(a)(i) A registered trainee may not claim experience hours for any appraisal work performed after January 1, 2015 unless the trainee and the trainee's supervisor(s) have completed the division-

approved Supervisory Appraiser and Appraiser Trainee Course prior to performing the work to be claimed.

(ii) A trainee and the trainee's supervisor who signs the experience log shall document on the log the specific duties that the trainee performs for each appraisal.

(b) For each duty performed, the trainee shall be awarded a percentage of the total experience hours that may be awarded for the property type being appraised:

(i) pursuant to the appraisal experience hour schedules found in Appendices 1 through 3; and

(ii) with the following limitations for Appendix 2:

(A) participation in highest and best use analysis: 10% of total hours;

(B) participation in neighborhood description and analysis: 10% of total hours;

(C) property inspection: 20% of total hours, pursuant to this Subsection (3)(c);

(D) participation in land value estimate: 20% of total hours;

(E) participation in sales comparison property selection and analysis: 30% of total hours;

(F) participation in cost analysis: 20% of total hours;

(G) participation in income analysis: 30% of total hours;

(H) participation in the final reconciliation of value: 10% of total hours; and

(I) participation in report preparation: 20% of total hours.

(J) The applicant may claim up to 100% of the total hours allowed for the tasks listed in this Subsection(A) through (I).

(c) In order for a trainee to claim credit for an inspection pursuant to this Subsection (3)(b)(ii)(C):

(i) as to the first 100 residential appraisals or first 20 non-residential appraisals completed, as applicable to the license or certification being sought, the inspection must include:

(A) measurement of the exterior of a property that is the subject of an appraisal; and

(B) inspection of the exterior of a property that is used as a comparable in an appraisal; and

(ii) as to appraisals after the first 100 residential appraisals or first 20 non-residential appraisals completed, as applicable to the license or certification being sought, the inspection must satisfy all scope of work requirements.

(d) No more than one-third of the experience hours submitted toward licensure may come from any one of the categories identified in this Subsection (3)(b)(ii).

(4) Specific restrictions applicable to applicants for certification.

(a) An individual who obtained a license from the division through reciprocity shall provide to the division all records necessary for the division to verify that the individual satisfies the experience requirements outlined in these rules.

(b) The board may not award credit:

(i) for any appraisal where the applicant cannot prove more than 50% participation in the:

(A) data collection;

(B) verification of data;

(C) reconciliation;

(D) analysis;

(E) identification of property and property interests;

(F) compliance with USPAP standards; and

(G) preparation and development of the appraisal report; or

(ii) to more than one licensed appraiser per completed appraisal, except as provided in this Subsection (5).

(c)(i) An individual applying for certification as a state-certified residential appraiser shall document at least 75% of the hours submitted from:

(A) the residential experience hours schedule found in Appendix 1; or

(B) the residential portion of the mass appraisal hours schedule found in Appendix 3.

(ii) No more than 25% of the total hours submitted may be from:

(A) the general experience hours schedule found in Appendix 2; or

(B) properties other than 1- to 4-unit residential properties identified in the mass appraisal hours schedule found in Appendix 3.

(d) An individual applying for certification as a state-certified general appraiser shall document at least 1,500 experience hours as having been earned from:

(i) the general experience hours schedule found in Appendix 2; or

(ii) properties other than 1- to 4-unit residential properties identified in the mass appraisal hours schedule found in Appendix 3.

(5) Specific restrictions applicable to mass appraisers.

(a) Single-property appraisals performed under USPAP Standards 1 and 2 by mass appraisers shall be awarded full credit pursuant to Appendices 1 and 2.

(b) Review and supervision of appraisals by mass appraisers shall be awarded credit pursuant to this Subsection (6)(b)-(c).

(c)(i) Mass appraisers and mass appraiser trainees who perform 60% or more of the appraisal work shall be awarded full credit pursuant to Appendix 3.

(ii) Mass appraisers and mass appraiser trainees who perform between 25% and 59% of the appraisal work shall be awarded 50% credit pursuant to Appendix 3.

(iii) Mass appraisers and mass appraisal trainees who perform less than 25% of the appraisal work shall be awarded no credit for the appraisal assignment.

(d) In addition to submitting proof of required experience and samples, randomly selected from the experience log, of work conforming to USPAP Standard 6:

(i) a state-licensed appraiser applicant whose experience is earned primarily through mass appraisal shall submit proof of having performed at least five appraisals conforming to USPAP Standards 1 and 2;

(ii) a state-certified residential appraiser applicant whose experience is earned primarily through mass appraisal shall submit proof of having performed at least eight residential appraisals:

(A) conforming to USPAP Standards 1 and 2; and

(B) including the following property types:

(I) vacant property;

(II) two- to four-unit dwelling;

(III) non-complex single-family unit; and

(IV) complex single-family unit; and

(iii) a state-certified general appraiser applicant whose experience is earned primarily through mass appraisal shall submit proof of having performed at least eight appraisals from Appendix 2 conforming to USPAP Standards 1 and 2.

~~(e) No more than 60% of the total hours submitted for licensure or certification may be earned from any combination of appraisal assignments related to:~~

- ~~(i) property improvement inspection;~~
- ~~(ii) land segregation (division);~~
- ~~(iii) CAMA data entry; and~~
- ~~(iv) sale ratio study.~~

~~[(e) No more than 60% of the total hours submitted for licensure or certification may be earned from any combination of appraisal assignments related to:~~

- ~~(i) property types identified in Appendix 3(a)(i) and (ii);~~
- ~~(ii) property types identified in Appendix 3 (b)(i) and (ii);~~
- ~~(iii) property types identified in Appendix 3 (c)(i) and (ii);~~
- ~~(iv) property types identified in Appendix 3 (d)(i) and (ii);~~
- ~~(v) property types identified in Appendix 3 (e)(i) and (ii);~~

~~and~~

- ~~(vi) property types identified in Appendix 3 (f)(i).~~

~~(f) No more than 25% of the total hours submitted for licensure or certification may be earned from appraisal assignments related to property types identified in Appendix 3(f)(iii) and (iv) combined.~~

~~(g) No more than 20% of the total hours submitted for licensure or certification may have been earned from appraisal assignments related to property types identified in Appendix 3(g).~~

~~(h)(i) Mass appraisal of property with a personal property component of less than 50% of value shall be awarded full credit pursuant to Appendix 3 for the type of property appraised.~~

~~(ii) Mass appraisal of property with a personal property component of 50% to [85]75% of value shall be awarded 50% credit pursuant to Appendix 3 for the type of property appraised.~~

~~(iii) Mass appraisal of property with a personal property component greater than [85]75%, but less than 100%, shall be awarded [no credit.]25% credit pursuant to Appendix 3 for the type of property appraised.~~

~~(iv) Mass appraisal of property with no real property component shall be awarded no credit.~~

~~(+)(g) The appraisals submitted for review pursuant to this Subsection (5)(d) shall be selected from the applicant's most recent work.~~

(6) Special circumstances - condemnation appraisals, review appraisals, supervision of appraisers, other real estate experience, and government agency experience.

(a) Condemnation appraisals. A condemnation appraisal shall be awarded an additional 50% of the hours normally awarded for the appraisal if the condemnation appraisal includes a before-and-after appraisal because of a partial taking of the property.

(b) Review appraisals.

(i) Review appraisals shall be awarded experience credit when the appraiser performs technical reviews of appraisals prepared by employees, associates, or others, provided the appraiser complies with USPAP Standards Rule 3 when the appraiser is required to comply with the rule.

(ii) Except as provided in this Subsection (6)(e)(i), the following credit shall be awarded for review of appraisals:

(A) desk review: 30% of the hours that would be awarded if a separate written review appraisal report were prepared, up to a maximum of 500 hours; and

(B) field review: 50% of the hours that would be awarded if a separate written review appraisal report were prepared, up to a maximum of 500 hours.

(c) Supervision of appraisers. Except as provided in this Subsection (6)(e)(i), supervision of appraisers shall be awarded 20% of the hours that would be awarded to the appraisal, up to a maximum of 500 hours.

(d) Other real estate experience acceptable for certification.

(i) Provided that an applicant demonstrates to the satisfaction of the board that the applicant has the ability to arrive at a fair market value of property and to properly document value conclusions, the following activities may be used to satisfy up to 50% of the experience required for certification:

- (A) preliminary valuation estimates;
- (B) range of value estimates or similar studies;
- (C) other real estate-related experience gained by:
 - (I) bankers;
 - (II) builders;
 - (III) city planners and managers; or
 - (IV) other individuals.

(ii) A comparative market analysis by an individual licensed under Section 61-2f et seq. may be granted up to 100% experience credit toward certification if:

(A) the analysis conforms with USPAP Standards Rules 1 and 2; and

(B) the individual demonstrates to the board that the individual uses similar techniques as appraisers to value properties and effectively utilize the appraisal process.

~~(iii) [The following activities, if performed in accordance with USPAP Standards Rules 4 and 5, may be used to satisfy up to 50% of the experience required for certification:~~

- ~~(A) appraisal analysis;~~
- ~~(B) real estate counseling or consulting services; and~~
- ~~(C) feasibility analysis/study.~~

~~(iv)]Except as provided in this Subsection (6)(e)(i), no more than 50% of the total experience required for certification may be earned through any combination of experience described in this Subsection (6)(b)-(d).~~

(e) Government agency experience.

(i) An individual who obtains experience hours in conjunction with investigation by a government agency is not subject to the hour limitations of this Subsection (6).

(ii) In addition to submitting proof of required experience, an applicant whose experience is earned primarily in conjunction with investigations by government agencies and through review of appraisals, with no opinion of value developed, shall submit proof of having complied with USPAP Standards 1 and 2 in performing appraisals as follows:

(A) if applying for state-licensed appraiser with experience reviewing residential appraisals, five appraisals of one-unit dwellings;

(B) if applying for state-certified residential appraiser with experience reviewing residential appraisals, eight appraisals of one-unit dwellings; and

(C) if applying for state-certified general appraiser with experience reviewing appraisals of property types listed in Appendix 2, at least eight appraisals of property types identified in Appendix 2.

(7) The board, at its discretion, may request the division to verify the claimed experience by any of the following methods:

- (a) verification with the clients;
- (b) submission of selected reports to the board; and
- (c) field inspection of reports identified by the applicant at the applicant's office during normal business hours.

R162-2g-306a. Renewal and Reinstatement of a Registration, License, or Certification.

(1)(a) A registration, license, or certification is valid for two years and expires unless it is renewed according to this Subsection R162-2g-306a before the expiration date printed on the registration, license, or certificate.

(b) It shall be grounds for disciplinary sanction if, after an individual's registration, license, or certification has expired, the individual continues to perform work for which the individual is required to be registered, licensed, or certified.

(2)(a) To timely renew a registration, license, or certification, an applicant shall, prior to the expiration date of the registration, license, or certification, submit to the division:

(i) a completed renewal application as provided by the division;

(ii)(A) evidence that the continuing education requirements listed in this Subsection (2)(b) have been completed; or

(B) evidence sufficient to enable the Division, in its sole discretion, to determine that a deferral of continuing education is appropriate due to the applicant's having been currently or recently:

(I) assigned to active military duty; or

(II) impacted by a state- or federally-declared natural disaster; and

(iii) the applicable non-refundable renewal fee.

(b) The continuing education required under this Subsection (2)(a)(ii)(A) shall be completed during the two-year period preceding the date of application and shall include:

(i)(A) the 7-hour National USPAP Update Course, taught by an instructor or instructors, at least one of whom is a state-certified ~~residential or state-certified general~~ appraiser in good standing and ~~has been~~ is USPAP certified by the AQB; or

(B) equivalent education, as determined through the course approval program of the AQB; and

(ii)(A) 21 additional hours of continuing education:

(I) certified by the division for the appraisal industry at the time the courses are taught (see Appendix 4, Table 2 for a list of continuing education topics); or

(II) not required to be certified, pursuant to Subsection ~~[R162-2g-307c(3)]~~ R162-2g-307d(3); or

(B) if the renewal applicant is also working toward certification, 21 hours of pre-licensing education credit applicable to the certification being sought.

(iii) An appraiser may earn continuing education credit for attendance at one meeting of the Board in each continuing education two-year cycle provided:

(A) the meeting is open to the public;

(B) the meeting is a minimum of two hours in length;

(C) the total credit for attendance at the meeting is limited to a maximum of seven hours; and

(D) the division verifies attendance to ensure that the appraiser attends the meeting for the required period of time.

(c)(i) A trainee who registered with the division prior to January 1, 2015 shall complete the Supervisory Appraiser and Appraiser Trainee course by or before December 31, 2014.

(ii) A registered trainee may count the Supervisory Appraiser and Appraiser Trainee course toward the continuing education requirement of this Subsection (2)(b)(ii)(A) during any renewal cycle in which the trainee completes the course.

(d)(i) An appraiser who supervises a trainee identified in Subsection (2)(c)(i) shall complete the Supervisory Appraiser and Appraiser Trainee course by or before December 31, 2014.

(ii) A supervising appraiser may count the Supervisory Appraiser and Appraiser Trainee course toward the continuing education requirement of Subsection (2)(b)(ii)(A) during any renewal cycle in which the appraiser completes the course.

(3)(a) In order to renew on time, an applicant shall complete continuing education hours by the 15th day of the month in which the registration, license, or certification expires.

(b) An applicant who complies with this Subsection (3)(a), but whose credits are not banked by the education provider pursuant to Subsection R162-2g-502a(5)(c), may obtain credit for the course(s) taken by:

(i) submitting to the division the original course completion certificates; and

(ii) filing a complaint against the provider.

(4) A license, certification, or registration may be renewed for a period of 30 days after the expiration date upon payment of a late fee in addition to the requirements of this Subsection (2).

(5)(a) After the 30-day period described in this Subsection (4) and until six months after the expiration date, an individual may reinstate an expired license, certification, or registration by:

(i) complying with this Subsection (2);

(ii) paying a late fee; and

(iii) paying a reinstatement fee.

(b) After the six-month period described in this Subsection (5)(a) and until one year after the expiration date, an individual may reinstate an expired license, certification, or registration by:

(i) complying with this Subsection (2);

(ii) paying a late fee;

(iii) paying a reinstatement fee; and

(iv) completing 24 hours of additional continuing education as approved by the division.

(c)(i) An individual who does not reinstate an expired license, certification, or registration within 12 months of the expiration date shall:

(A) reapply with the division as a new applicant;

(B) retake and pass the 15-hour USPAP course; and

(C) retake and pass any applicable licensing or certification examination.

(ii) An individual reapplying under this Subsection (4)(c)(i) shall receive credit for previously credited pre-licensing education if:

(A) it was completed within the five-year period prior to the date of reapplication; and

(B) it was either:

(I) completed after January 1, 2008; or

(II) certified by the division and the AQB prior to January 1, 2008, as approved, qualified pre-licensing education.

(6) If the division receives renewal documents in a timely manner, but the information is incomplete, the appraiser or trainee may be extended a 15-day grace period to complete the application.

(7) Renewal after deferment of continuing education due to active military service or the impacts of a state- or federally-declared disaster.

(a) An appraiser or trainee who is unable to complete the continuing education requirements to renew a registration, license, or certification due to active military service or because the individual has been impacted by a state- or federally-declared disaster may:

(i) submit a timely application for renewal pursuant to Subsection (2)(a)(ii)(B); and

(ii) request that the application for renewal be conditionally approved, with the expiration date of the applicant's registration, license, or certification extended pursuant to this Subsection (7)(b), pending the completion of the continuing education requirement.

(b) Upon the division's approving a deferral of continuing education, the expiration date of the applicant's registration, license, or certification shall be extended 90 days, during which time the applicant shall:

(i) complete the continuing education required for the renewal; and

(ii) submit proof of the continuing education to the division.

R162-2g-307a. General Education Criteria Applicable to All Pre-Licensing Education and Continuing Education.

(1) A class hour is 60 minutes of which at least 50 minutes are instruction attended by the student.

(2) The prescribed number of class hours includes time for examinations.

(3) Experience may not be substituted for education, and education may not be substituted for experience.

R162-2g-307b. School Certification.

(1) Application. A school requesting certification shall:

(a) submit an application form as prescribed by the division, including:

(i) name, telephone number, email address, and address of:

(A) the school;

(B) the school director; and

(C) all owners of the school; and

(ii) as to each school director or owner, disclosure of criminal history and adverse regulatory actions;

(b) provide a description of:

(i) the type of school; and

(ii) the school's physical facilities;

(c) provide a statement outlining the:

(i) number of quizzes and examinations in each course offered;

(ii) grading system, including methods of testing and standards of grading;

(iii) requirements for attendance; and

(iv) school's refund policy.

(2) Standards for operation.

(a) All courses shall be taught in an appropriate classroom facility and not in a private residence, except for a course approved for distance education.

(b) A school shall teach the approved course of study as outlined in the state-approved outline.

(c) At the time of registration, a school shall provide to each student:

(i) the statement described in this Subsection (1)(c);

(ii) a copy of the qualifying questionnaire that the student will be required by the division to answer as part of the pre-licensing or precertification examination; and

(iii) a criminal history disclosure statement.

(d) A school shall require each student to attend 100% of the scheduled class time in order to earn credit for the course.

(e)(i) A school may not award credit to any student who fails the final examination.

(ii) A student who fails a school final examination must wait three days before retesting and may not retake the same final examination.

(iii) A student who fails a final examination a second time must wait two weeks before retesting and may not retake either exam that the student previously failed.

(iv) A student who fails a final exam a third time shall fail the course.

(f) A school may not allow a student to challenge a course or any part of a course by taking an exam in lieu of attendance.

(g) Credit hours.

(i) For a course that is taught outside of a college or university setting, one credit hour may be awarded for 50 minutes of instruction within a 60-minute period, allowing for a ten-minute break.

(ii) For a course that is taught in a college or university setting:

(A) one quarter hour is equivalent to 10 credit hours; and

(B) one semester hour is equivalent to 15 credit hours.

(iii) A school may not award more than eight credit hours per day per student.

(3) A school shall report to the division within 10 calendar days of:

(a) any change in the information provided pursuant to this Subsection (1)(a)(i); and

(b) a school director or owner being convicted, or entering a plea in abeyance or diversion agreement, as to a criminal offense, excluding class C misdemeanors.

(4)(a) A school certification is valid for two years from the date of issuance.

(b) To renew a school certification, an individual shall, prior to the date of expiration:

(i) submit a properly completed application as provided by the division; and

(ii) pay a nonrefundable applicable fee.

R162-2g-307[b]c. Pre-licensing Course Certification.

(1) To certify a pre-licensing course, an applicant shall, at least 30 days prior to the course being taught, submit a completed application as required by the division, including:

(a) a course outline, including:

(i) a description of the course;

(ii) the length of time to be spent on each subject area, broken into segments of no more than 30 minutes each; and

(iii) three to five learning objectives for every three hours;

(b) a description of any method of instruction that will be used other than lecture method, including:

(i) webinar;

(ii) satellite broadcast; or

(iii) other form of distance education;

(c) copies of at least three final examinations administered in the course and the answer keys that will be used to determine if a student passes the course;

(d) the school procedure for maintaining the security of the final exams and answer keys;

(e) the titles, authors, and publishers of all required textbooks;

(f)(i) the instructor(s) who will teach each class; and

(ii) evidence that each instructor is:

(A) certified by the division;

(B) qualified to serve as a guest lecturer; or

(C) a college or university faculty member who has academic training or appraisal experience satisfactory to the division and the board;

(g) a nonrefundable applicable fee; and

(h) a signed statement agreeing that the course provider will, within 10 business days of completing the class, upload to the division the following information:

(i) course name;

(ii) course certificate number assigned by the division;

(iii) date the course was taught;

(iv) number of credit hours; and

(v) name and license number of each student receiving education credit.

(2) Standards for approval of traditional classroom courses.

Each course shall:

(a) meet the minimum standards set forth in the state-approved course outline governing the course, including minimum hourly requirements;

(b) be approved through the AQB course approval program;

(c) allow a maximum of 10% of the required class time for testing, including review test and final examination;

(d) use texts, workbooks, supplement pamphlets, and other materials that are appropriate and current in their application to the required course outline.

(3) Standards for approval of distance education

(a) A distance education course shall:

(i) comply with this Subsection (2);

(ii) provide interaction between the student and instructor;

(iii) include a written examination personally proctored by an official approved by the presenting entity;

(iv) meet the course delivery requirements established by the AQB and the International Distance Education Certification Center; and

(v) offer at least 15 credit hours.

(b) A distance education course offered by a college or university may be deemed acceptable to meet the credit hour requirement if the course content is approved by:

(i) the AQB;

(ii) a state licensing jurisdiction; or

(iii) a college or university that:

(A) offers distance education programs in other disciplines;

and

(B) is approved or accredited by:

(I) the Commission on Colleges;

(II) a regional or national accreditation association; or

(III) an accrediting agency that is recognized by the United States Secretary of Education.

(4) Within 10 business days after the occurrence of any material change in a course that could affect approval, the school shall give the division written notice of the change.

(5) A course certification is valid for no more than 24 months.

(6) Credit for non-certified pre-licensing education.

(a) Division certification is not required for a pre-licensing course that is offered by a school, as defined in Subsection R162-2g-102(17) as long as:

(i) the course content:

(A) meets the minimum standards set forth in the Utah state-approved course outline; and

(B) is approved by the AQB course approval program;

(ii) the course provides at least 15 credit hours, including examination(s);

(iii) a closed-book, closed-note final examination is administered at the end of each course;

(iv) students are not allowed to earn credit from the course provider by challenge examination without first attending the course;

(v) credit is not awarded for duplicate or highly comparable classes;

(vi) where multiple classes are offered, they represent a progression in a student's knowledge; and

(vii) in order to receive credit, a student is required to:

(A) attend 100% of the scheduled class hours;

(B) complete all required exercises and assignments; and

(C) pass the course final examination.

(b) Hourly credit for a course taken from a professional appraisal organization shall be granted according to the division approved list.

(c) An applicant who wishes to be awarded credit for non-certified pre-licensing education shall:

(i) provide to the division a list of the cour(s) taken, including:

(A) course title(s);

(B) name(s) of the sponsoring organization(s);

(C) number of classroom hours completed;

(D) date(s) of course completion; and

(E) evidence that the cour(s) meet the requirements of:

(I) the AQB; and

(II) if distance education, the International Distance Education Certification Center;

(ii) request review of the course by the division and board;

(iii) establish that the criteria outlined in this Subsection (6)

(a) are met;

(iv) attest on a notarized affidavit that the courses have been completed as documented; and

(v) if requested by the division, provide proof of completion of the courses in the form of certificates, transcripts, report cards, letters of verification, or similar proof.

(7) Supervisory Appraiser and Appraiser Trainee Course. In order to obtain certification of the supervisory appraiser and appraiser trainee course, a course provider shall:

(a) comply with this Subsection (1); and

(b) sign a written attestation agreeing to provide a paper copy of the course manual to each attendee.

R162-2g-307[e]d. Continuing Education Course Certification.

(1) The division and the board may not award continuing education credit for a course that is taught in Utah to registered, licensed, or certified appraisers unless the course is certified prior to its being taught.

(2) To certify a continuing education course, an applicant shall, at least 30 days prior to the course being taught, submit a completed application as required by the division, including:

(a) name and contact information of the course sponsor and the entity through which the course will be provided;

(b) description of the physical facility where the course will be taught;

(c) the proposed number of credit hours for the course;

(d) identification of whether the method of instruction will be traditional education or distance education;

(e) title of the course;

(f) statement defining how the course will meet the objectives of continuing education by increasing the licensee's knowledge, professionalism, and ability to protect and serve the public;

(g) course outline including:

(i) a description of the subject matter covered in each 15-minute segment; and

(ii) a minimum of one learning objective for every hour of class time;

(h) the name and certification number of each certified instructor who will teach the course;

(i) copies of all materials that will be distributed to the participants;

(j) the procedure for pre-registration;

(k) the tuition or registration fee and a copy of the cancellation and refund policy;

(l) except for courses approved for distance education, the procedure for taking and maintaining control of attendance during class time;

(m) sample of the completion certificate;

(n) signed statement agreeing that the course provider will, within 10 business days of completing the class, upload to the division the following information:

(i) course name;

(ii) course certificate number assigned by the division;

(iii) date the course was taught;

(iv) number of credit hours; and

(v) names and license numbers of all students receiving continuing education credit;

(o) signed statement agreeing not to market personal sales products; and

(p) other information the division might require.

(2) Standards for approval.

(a)(i) A distance education course shall:

(A) provide interaction between the student and instructor; and

(B) include a written examination that requires a student to demonstrate mastery and fluency.

(ii) The division may approve a distance education course offered by a college or university if the college or university:

(A) offers distance education programs in other disciplines; and

(B)(I) is accredited by the Commission on Colleges or a regional accreditation association; or

(II) is approved by the International Distance Education Certification Center.

(b) The course topic must be AQB-approved.

(c) The procedure for taking and maintaining control of attendance shall be more extensive than having the students sign a class roll.

(d) The completion certificate shall allow for entry of:

(i) licensee's name;

(ii) type of license;

(iii) license number;

(iv) date of course;

(v) name of the course provider;

(vi) course title;

(viii) course certification number and expiration date;

(ix) credit hours awarded; and

(x) signatures of the course sponsor and the licensee.

(e) A real estate appraisal-related field trip that is submitted for continuing education credit may not include transit time to or from the field trip location as part of the credit hours awarded.

(4) Non-certified continuing education credit. Except as provided in Subsection [~~R162-2f-307e(1)~~]R162-2f-307d(1), the board may award continuing education credit on a case-by-case basis for the following:

(a) participation, other than as a student, in an appraisal practicum course;

(b) teaching, program development, authorship of textbooks, or similar activities that are determined by the board to be equivalent to obtaining continuing education, up to one-half of an individual's continuing education credit requirement;

(c) service as a member of the experience review committee, or the technical advisory panel, if approved by the board and offered in accordance with AQB standards as a:

(i) practicum course under this Subsection (3)(a); or

(ii) course under this Subsection (3)(b); and

(d) completion of any course that:

(i) meets the continuing education objectives of increasing the licensee's knowledge, professionalism, and ability to protect and serve the public; and

(ii) is taught outside the state of Utah.

R162-2g-307[d]e. Instructor Certification for Pre-licensing Education.

(1) To certify as a pre-licensing education instructor, an individual shall:

(a) evidence that the applicant meets the character and competency requirements outlined in Subsection R162-2g-302(2)-(3);

(b) submit a completed application as provided by the division;

(c) demonstrate knowledge of the subject matter to be taught as evidenced by:

(i) current, active licensure or certification as applicable to the pre-licensing course proposed to be taught;

(ii) a minimum of five years active experience in appraising; and

(iii)(A) college or other appropriate courses specific to the topic proposed to be taught; or

(B) other experience acceptable to the board in the topic proposed to be taught;

(d) if the individual proposes to teach a course in USPAP, evidence that the individual is an AQB-certified USPAP instructor; and

(e) pay a nonrefundable application fee.

(2) A pre-licensing instructor certification is valid for 24 months from the date of issuance.

(3) To renew a pre-licensing instructor certification, an individual shall:

(a) submit a completed application, as provided by the division;

(b) evidence having taught at least 20 hours of in-class instruction in certified course(s) during the preceding term of certification;

(c) evidence having attended a real estate instructor development workshop sponsored or approved by the division during the preceding two years; and

(d) pay a nonrefundable application fee.

(4)(a) To reinstate an expired pre-licensing instructor certification within 30 days following the expiration date, an individual shall:

(i) comply with this Subsection (3); and

(ii) pay a nonrefundable late fee.

(b) To reinstate an expired pre-licensing instructor certification after 30 days and within six months following the expiration date, an individual shall:

(i) comply with this Subsection (3);

(ii) pay a nonrefundable reinstatement fee; and

(iii) submit proof of having completed six classroom hours of education related to real estate appraisal or teaching techniques.

(c) After a pre-licensing instructor certification has been expired for six months, an individual is required to apply as an original applicant and obtain a new certification.

(5) A certified instructor shall comply with the reporting requirements of Section 61-2g-306(3).

R162-2g-307[e]f. Instructor Certification for Continuing Education.

(1) A continuing education course that is required to be certified shall be taught by a certified instructor.

(2) To obtain a continuing education instructor certification, and individual shall, at least 30 days prior to the date on which instruction is proposed to begin:

(a) evidence that the applicant meets the character and competency requirements outlined in Subsection R162-2g-302(2)-(3);

(b) submit a completed application form, as provided by the division;

(c) evidence:

(i) at least three years of full-time experience in the course subject;

(ii) college-level education related to the course subject; or

(iii) a combination of experience and education acceptable to the division;

(d) evidence:

(i) at least 12 months of full-time teaching experience;

(ii) part-time teaching experience equivalent to 12 months of full-time teaching experience; or

(iii) attendance at the division's Instructor Development Workshop;

(e) provide a signed statement agreeing to allow the instructor's courses to be randomly audited on an unannounced basis by the division or its representative;

(f) provide a signed statement agreeing not to market personal sales products;

(g) provide any other information the division requires; and

(h) pay a nonrefundable application fee.

(3) A continuing education instructor certification is valid for two years.

(4) To renew a continuing education instructor certification, an individual shall, prior to the date of expiration:

(a) submit a completed renewal application, as provided by the division;

(b)(i) evidence having taught a minimum of 12 continuing education credit hours during the past term of certification; or

(ii) provide a written explanation outlining the reason for not meeting the requirement having taught 12 continuing education credit hours and provide evidence satisfactory to the division that the applicant maintains an appropriate level of expertise; and

(c) pay a nonrefundable renewal fee.

(5)(a) To reinstate an expired continuing instructor certification within 30 days following the expiration date, an individual shall:

(i) comply with Subsection (4); and

(ii) pay a nonrefundable late fee.

(b) To reinstate an expired continuing instructor certification after 30 days and within six months following the expiration date, an individual shall:

(i) comply with Subsection (4); and

(ii) pay a nonrefundable reinstatement fee;

(c) After a continuing instructor certification has been expired for six months, an individual is required to apply as an original applicant and obtain a new certification.

R162-2g-311. Scope of Authority.

(1) Trainees.

(a) An individual who has properly qualified as a trainee [as] pursuant to Subsection R162-2g-302 may perform [the following] appraisal-related duties within the competence and scope of authority of the state-certified supervisory appraiser as follows:

(i) participating in property inspections;

(ii) measuring or assisting in the measurement of properties;

(iii) performing appraisal-related calculations;

(iv) participating in the selection of comparables for an appraisal assignment;

(v) making adjustments to comparables; and

(vi) drafting or assisting in the drafting of an appraisal report.

(b) The trainee may have more than one supervisory appraiser.

~~(b)~~(c) The supervising appraiser shall be responsible to determine the point at which a trainee is competent to participate in each of the activities identified in this Subsection (1)(a), within the following limitations:

(i) As to the trainee's first 100 inspections of residential properties:

(A) the trainee shall be accompanied and supervised by a state-certified appraiser;

(B) both the interior and the exterior of the properties shall be inspected; and

(C) the appraisal report shall comply with the requirements of Subsection R162-2g-502a(1)(g).

(ii) As to the trainee's first 20 inspections of non-residential properties:

(A) the trainee shall be accompanied and supervised by a state-certified general appraiser;

(B) both the interior and the exterior of the properties shall be inspected; and

(C) the appraisal report shall comply with the requirements of Subsection R162-2g-502a(1)(g).

~~(e)~~(d) A trainee may not:
 (i) solicit or accept an assignment on behalf of anyone other than:
 (A) the trainee's supervisor; or
 (B) the supervisor's appraisal firm;
 (ii) sign an appraisal report or discuss an appraisal assignment with anyone other than:
 (A) the appraiser responsible for the assignment;
 (B) state enforcement agencies;
 (C) third parties as may be authorized by due process of law; and
 (D) a duly authorized professional peer review committee.

~~(d)~~(e) The following are not subject to the scope of authority limitations of this Subsection (1):
 (i) full-time elected county assessors; and
 (ii) any person performing an appraisal for the purposes of establishing the fair market value of real estate for the assessment roll.
 (2) State-licensed appraisers. In a federally-related transaction, state-licensed appraisers may appraise:
 (a) non-complex one- to four-residential units having a transaction value of less than \$1,000,000;
 (b) complex one- to four- residential units having a transaction value of less than \$250,000; and
 (c) vacant or unimproved land that is utilized for one- to four-family purposes, or for which the highest and best use is one- to four-family purposes, so long as net income capitalization analysis is not required by the terms of the assignment.
 (3) State-licensed appraisers and state-certified residential appraisers may not perform appraisals of the following:
 (a) subdivisions for which:
 (i) a development analysis/appraisal is necessary; or
 (ii) a discounted cash flow analysis is required by the terms of the assignment; and
 (b) vacant land if the highest and best use of the land is for five or more one- to four-family units.

R162-2g-502a. Standards of Conduct and Practice.

(1) Affirmative duties in general. A person registered, licensed, or certified by the division shall:
 (a) if employing an unlicensed assistant who is not registered as a trainee pursuant to Subsection R162-2g-302:
 (i) actively supervise the unlicensed assistant; and
 (ii) ensure that the assistant performs only clerical duties, including:
 (A) typing research notes or reports completed by a trainee or an appraiser;
 (B) taking photographs of properties; and
 (C) obtaining copies of public records;
 (b)(i) except as provided in this Subsection (2)(a), comply with the current edition of USPAP; and
 (ii) observe the advisory opinions of USPAP;
 (c) in order to authorize another individual to sign an appraisal report on behalf of the individual who completes the report:
 (i) grant authority to the signer in writing;
 (ii) limit the signing authority to a specific property address;
 (iii) explicitly disclose within the appraisal report that the signer is authorized by the appraiser to sign the report on the appraiser's behalf;

(iv) attach a copy of the written permission required pursuant to this Subsection (1)(c)(i) to the report; and
 (v) ensure that the signer signs the appraiser's name, followed by the word "by," and then followed by the signer's own name;
 (d) if using a digital signature in place of a handwritten signature, ensure that:
 (i) the software program that generates the digital signature has a security feature; and
 (ii) no one other than the appraiser has control of the signature;
 (e) retain a photocopy or other exact copy of each report as it is provided to the client, including the appraiser's signature;
 (f) analyze and report the sales and listing history of the subject property for the three years preceding the appraisal if such information is available to the appraiser from a multiple listing service, listing agent(s), property owner, or other verifiable source(s);
 (g)(i) include in each appraisal report a statement indicating whether or not the subject property was inspected as part of the appraisal process; and
 (ii) if any inspections were done, include the following information concerning each inspection:
 (A) the names of all appraisers and trainees who participated in the inspection;
 (B) whether the inspection was an exterior inspection only or both an exterior and an interior inspection; and
 (C) the date that the inspection was performed; and
 (h) unless Subsection (2)(b) applies, respond within ten business days to division notification:
 (i) of a complaint against the individual; or
 (ii) that information is needed from the individual.
 (2) Exceptions.
 (a) An individual is exempt from complying with all provisions of USPAP when acting in an official capacity as:
 (i) a division staff member or employee;
 (ii) a member of the experience review committee as appointed and approved by the board;
 (iii) a member of the technical review panel as appointed and approved by the board;
 (iv) a hearing officer;
 (v) a member of a county board of equalization;
 (vi) an administrative law judge;
 (vii) a member of the Utah State Tax Commission; or
 (viii) a member of the board.
 (b) If a deadline for response under this Subsection (1)(h) falls on a day when the division is closed, the deadline shall be extended to the next business day.
 (3) A trainee shall:
 (a) using forms provided by the division, maintain a separate log of experience hours for each supervising appraiser with whom the trainee works; and
 (b) include in each log the following information for each appraisal:
 (i) file number;
 (ii) report date;
 (iii) subject address;
 (iv) client name;
 (v) type of property;

(vi) report form number or type;
 (vii) number of work hours;
 (viii) description of work performed by the trainee; and
 (ix) scope of the review and supervision of the supervising appraiser.

(4)(a) A ~~[supervising]~~supervisory appraiser shall ~~[-~~
~~(a)-] delegate to a trainee only such duties as the trainee is~~
 authorized to perform under Subsection R162-2g-311(1)~~[-];~~.

(b) A supervisory appraiser shall directly train and supervise the trainee in the performance of assigned duties by:

(i) critically observing and directing all aspects of the appraisal process;~~and~~

(ii) accepting full responsibility for the appraisal and the contents of the appraisal report by signing and certifying the appraisal complies with USPAP; and

~~(iii) reviewing and signing the trainee appraisal reports.~~

(c) A supervisory appraiser shall personally inspect:

(i) each property that is appraised with a trainee until the supervisory appraiser determines the trainee is competent to inspect the property in accordance with the competency rule of USPAP for the property type, and the trainee has performed at least:

(A) 100 residential inspections as provided in Subsection R162-2g-311(1)(b)(i); and

(B) 20 non-residential inspections as provided in Subsection R162-2g-311(1)(b)(ii); and

(ii) any property for which the appraisal report scope of work or certification requires appraiser inspection.

(d) A supervisory appraiser shall be state-certified and in good standing with the division for a period of at least three years prior to being eligible to become a supervisory appraiser.

(e) An appraiser may not act as a supervisory appraiser if the appraiser has been subject to a disciplinary action in any jurisdiction:

(i) within the three year period preceding the date on which the appraiser proposes to act as a supervisor; and

(ii) where the supervisory appraiser's legal eligibility to engage in the appraisal practice was impacted or impaired.

(f) A supervisory appraiser subject to a disciplinary action will be considered to be in good standing three years after the successful completion or termination of the sanction imposed against the appraiser.

(g) A supervisory appraiser shall comply with the competency rule of USPAP for the property type and geographic location for which the trainee appraiser is being supervised.

(h) Although a trainee is permitted to have more than one supervisory appraiser, a supervisory appraiser may not supervise more than three trainees at one time, unless a division program provides for progress monitoring, supervisory certified appraiser qualifications, and supervision and oversight requirements for supervisory appraisers.

(i) An appraisal experience log shall be maintained jointly by the supervisory appraiser and the trainee. It is the responsibility of both the supervisory appraiser and the trainee to ensure the experience log is accurate, current, and complies with division requirements.

(5) A school shall:

(a) maintain a record of each student's attendance for a minimum of five years after the student enrolls;

(b) display the certification number of all continuing education courses in advertising and marketing;

(c) as to each student who provides the school with an accurate name or license number, bank course completion information:

(i) within 10 days after the end of a course offering; and

(ii) to the database specified by the division;

(d) upon request of the division, substantiate any claim made in advertising or marketing;

(e) within 15 calendar days of any material change in the information outlined in ~~[R162-2g-307a(1)]~~R162-2g-307b(1), provide to the division written notice of the change;

(f) with regard to the criminal history disclosure required under ~~[R162-2g-307a(2)(c)(iii)]~~R162-2g-307b(2)(c)(iii):

(i) obtain each student's signature before allowing the student to participate in course instruction;

(ii) retain each signed criminal history disclosure for a minimum of two years; and

(iii) make any signed criminal history disclosure available to the division upon request;

(g) maintain a high quality of instruction;

(h) adhere to all state laws and administrative rules regarding school and instructor certification;

(i) provide the instructor(s) for each course with the required course content outline;

(j) require instructors to adhere to the approved course content;

(k) comply with a division request for information within 10 business days of the date of the request; and

(l) verify that the material is current in any course taught on:

(i) Utah statutes;

(ii) Utah administrative rules;

(iii) Federal laws; and

(iv) Federal regulations.

(6) An instructor shall adhere to the approved outline for any course taught.

R162-2g-502b. Prohibited Conduct.

(1) An individual registered, licensed, or certified by the division may not:

(a) release to a client a draft report of a one- to four-unit residential real property;

(b) release to a client a draft report of a property other than a one- to four-unit residential real property unless:

(i) the first page of the report prominently identifies the report as a draft;

(ii) the draft report is signed by the appraiser; and

(iii) the appraiser complies with USPAP in the preparation of the draft report;

(c) affix a signature to an appraisal report by means of a signature stamp; or

(d) sign a blank or partially completed appraisal report that will be completed by anyone other than the appraiser who has signed the report;

(e) sign an appraisal report containing a statement indicating that an appraiser has inspected a property if the appraiser has not inspected the property; or

(f) split appraisal fees with any person who is not a state-licensed or state-certified appraiser, except that a supervising appraiser may pay a trainee reasonable compensation proportionate to the lawful services actually performed by the trainee in connection with appraisals.

- (2) A trainee may not:
 - (a) solicit a client to address an engagement letter directly to the trainee; or
 - (b) accept payment for appraisal services from anyone other than:
 - (i) the trainee's supervisor; or
 - (ii) an appraisal or government entity with which the trainee is affiliated.
- (3) A supervising appraiser may not:
 - (a) sign a report that is completed in response to an engagement letter that is addressed to a trainee;
 - (b) ~~supervise more than three trainees at one time; or~~
 - ~~(c) sign an appraisal report as the supervising appraiser without having given adequate supervision to the trainee, appraiser, or assistant being supervised.~~
- (4) A state-licensed appraiser may not place a seal on an appraisal report or use a seal in any other manner likely to create the impression that the appraiser is a state-certified appraiser.
- (5) A school may not:
 - (a) in advertising and marketing:
 - (i) make a misrepresentation about any course of instruction;
 - (ii) make statements or implications that disparage the dignity and integrity of the appraisal profession;
 - (iii) disparage a competitor's services or methods of operation;
 - (iv) as to a continuing education course, use language that indicates division approval is pending or otherwise forthcoming;
 - (b) attempt by any means to obtain or use the questions on the state licensure or certification exam unless those questions have been dropped from the current exam bank;
 - (c) accept payment from a student without first providing to that student the information outlined in ~~[R162-2g-307a(2)(e)]R162-2g-307b(2)(c)~~;
 - (d) continue to operate after the expiration date of the school certification without renewing;
 - (e) continue to offer a course after its expiration date without renewing;
 - (f) allow an instructor whose instructor certification has expired to continue teaching;
 - (g) allow an individual student to earn more than eight credit hours of education in a single day;
 - (h) award credit to a student who has not complied with the minimum attendance requirements;
 - (i) allow a student to obtain credit for all or part of a course by taking an examination in lieu of attending the course;
 - (j) give valuable consideration to a person licensed with or certified by the division under Section 61-2g for referring students to the school;
 - (k) accept valuable consideration from a person licensed with or certified by the division under Section 61-2g for referring students to a licensed or certified appraiser; or
 - (l) require a student to attend any program organized for the purpose of solicitation.
- ~~(6) A continuing education provider may not:~~
 - ~~(a) in advertising and marketing:~~
 - ~~(i) make a misrepresentation about any course of instruction;~~

- ~~(ii) make statements or implications that disparage the dignity and integrity of the appraisal profession; or~~
- ~~(iii) as to a continuing education course, use language that indicates division approval is pending or otherwise forthcoming;~~
- ~~(b) continue to offer a course after its expiration date without renewing;~~
- ~~(c) allow an instructor whose instructor certification has expired to continue teaching;~~
- ~~(d) allow an individual student to earn more than eight credit hours of education in a single day;~~
- ~~(e) award credit to a student who has not complied with the minimum attendance requirements; or~~
- ~~(f) allow a student to obtain credit for all or part of a course by taking an examination in lieu of attending the course.~~
- ~~[(6)](7) An instructor may not:~~
 - (a) continue to teach any course after the course has expired and without renewing the course certification; or
 - (b) continue to teach any course after the individual's certification has expired and without renewing the instructor certification.

R162-2g-601. Appendices.

Appendix 1. Residential Experience Hours Schedule. The hours shown in the following schedule shall be awarded to form appraisals. Fifteen hours may be added to the hours shown if the appraisal is a narrative appraisal instead of a form appraisal.

TABLE [–1

APPENDIX 1

] Property Type (a) one-unit dwelling, above-grade: (i) living area less than 4,000 square feet, including a site	Hours that may be earned [5] Up to 10 hours (Expected avg hrs 7.5)
--	--

Part 1

Task	Hours
Highest and Best Use Analysis	0.25
Neighborhood Description	0.5
Exterior Inspection	0.5
Interior Inspection	0.5
Market Conditions	0.75
Land Value Estimate	0.5
Improvement Cost Estimate	0.5
Income Value Estimate	2.5
Sales Comparison Value Estimate	2.5
Final Reconciliation	0.25
Appraisal Report Preparation	1.75
Restricted Appraisal Report Preparation	0.5

(ii) living area 4,000 square feet or more, including a site [7-5] Up to 10 hours

Part 2

Task	Hours
Highest and Best Use Analysis	0.25
Neighborhood Description	0.5
Exterior Inspection	0.75
Interior Inspection	0.75
Market Conditions	0.75
Land Value Estimate	0.75
Improvement Cost Estimate	0.75
Income Value Estimate	3.0

Sales Comparison Value Estimate	3.0
Final Reconciliation	0.25
Appraisal Report Preparation	2.0
Restricted Appraisal Report Preparation	0.5

(b) multiple one-unit dwellings in the same subdivision or condominium project, which dwellings are substantially similar:

- (i) 1-25 dwellings [5] hours per dwelling, up to a maximum of [30] 42 hours
- (ii) over 25 dwellings [50] 70 hours maximum
- (c) two to four-unit dwelling [20] hours

Part 3

Task	Hours
Highest and Best Use Analysis	0.25
Neighborhood Description	0.5
Exterior Inspection	0.5
Interior Inspection	0.5
Market Conditions	0.75
Land Value Estimate	0.5
Improvement Cost Estimate	0.5
Income Value Estimate	3.0
Sales Comparison Value Estimate	3.0
Final Reconciliation	0.25
Appraisal Report Preparation	2.0
Restricted Appraisal Report Preparation	0.5

- (d) employee relocation counsel reports completed on currently accepted Employee Relocation Counsel form Up to 10 hours
- (e) residential lot, 1-4 unit [5] Up to 7 hours

Part 4

Task	Hours
Highest and Best Use Analysis	0.25
Neighborhood Description	0.5
Site Inspection	0.25
Market Conditions	0.75
Sales Comparison Value Estimate	1-3
Final Reconciliation	0.25
Appraisal Report Preparation	2.0
Restricted Appraisal Report Preparation	0.5

- (f) multiple lots in the same subdivision, which lots are substantially similar
 - (i) 1-25 lots 5 hours per lot, up to a maximum of 30 hours
 - (ii) Over 25 lots 50 hours maximum
- (g) small parcel ~~up to 5~~ of less than 20 acres up to 6.5 [5] hours

Part 5

Task	Hours
Highest and Best Use Analysis	0.25
Neighborhood Description	0.5
Site Inspection	0.25
Market Conditions	0.75
Sales Comparison Value Estimate	1-3
Final Reconciliation	0.25
Appraisal Report Preparation	2.0
Restricted Appraisal Report Preparation	0.5

- (h) vacant land, 20-~~500~~ 640 acres 20-40 hours, per board decision
- (i) recreational, farm, or timber acreage suitable for a house site:
 - (i) up to 10 acres 10 hours
 - (ii) ~~over~~ 10 acres or more 15 hours

- (j) all other unusual structures or acreage which are much larger or more complex than typical properties 5-35 hours, per board decision
- (k) review of residential appraisals with no opinion of value developed as part of the review performed in conjunction with investigations by government agencies 10-50 hours

Appendix 2. General Experience Hours Schedule. All appraisal reports claimed for property types identified in sections (a) through (k) of the following schedule shall be narrative appraisal reports. Experience hours listed in this schedule may be increased by 50% for unique and complex properties if the applicant notes the number of extra hours claimed on the appraiser experience log submitted by the applicant, and if the applicant maintains in the workfile for the appraisal an explanation as to why the extra hours are claimed.

TABLE[-2]

[APPENDIX-2]

Property Type	Hours that may be earned
(a) Apartment buildings: <ul style="list-style-type: none"> (i) 5-100 units 40 hours (ii) over 100 units 50 hours 	
(b) hotel or motels: <ul style="list-style-type: none"> (i) 50 units or fewer 30 hours (ii) 51-150 units 40 hours (iii) over 150 units 50 hours 	
(c) nursing home, rest home, care facilities: <ul style="list-style-type: none"> (i) fewer than 80 beds 40 hours (ii) over 80 beds or more 50 hours 	
(d) industrial or warehouse building: <ul style="list-style-type: none"> (i) smaller than 20,000 square feet 30 hours (ii) larger than 20,000 square feet or more, single tenant 40 hours (iii) larger than 20,000 square feet or more, multiple tenants 50 hours 	
(e) office buildings: <ul style="list-style-type: none"> (i) smaller than 10,000 square feet 30 hours (ii) larger than 10,000 square feet or more, single tenant 40 hours (iii) larger than 10,000 square feet or more, multiple tenants 50 hours 	
(f) entire condominium projects, using income approach to value: <ul style="list-style-type: none"> (i) 5- to 30-unit project 30 hours (ii) 31- or more-unit project 50 hours 	
(g) retail buildings: <ul style="list-style-type: none"> (i) smaller than 10,000 square feet 30 hours (ii) larger than 10,000 square feet or more, single tenant 40 hours (iii) larger than 10,000 square feet or more, multiple tenants 50 hours 	
(h) commercial, multi-unit, industrial, or other nonresidential use acreage: <ul style="list-style-type: none"> (i) 1 to 99 less than 100 acres 20-40 hours (ii) 100 acres or more, income approach to value 50-60 hours 	
(i) all other unusual structures or assignments that are much larger or more complex than the properties described in (a) to (h) herein. 5 to 100 hours per board decision	
(j) entire subdivisions or planned unit developments (PUDs): <ul style="list-style-type: none"> (i) 1- to 25-unit subdivision or PUD 30 hours (ii) over 25-unit subdivision or PUD 50 hours 	
(k) feasibility or market analysis 5 to 100 hours, each per board decision, up to a	

		maximum of 500 hours	
(l) farm and ranch appraisals:	Form	Narrative	
(i) [separate grazing privileges or permits	20 hrs	25 hrs	
—(ii)] irrigated cropland, pasture			
other than rangeland:			
(A) 1 to [40] less than 11 acres	10 hrs	15 hrs	
(B) 11- [50] less than 40 acres	12.5 hrs	20 hrs	
(C) [51] 40- less than 160 [200] acres	15 hrs	25 hrs	
(D) [201] 160- less than [1000] 1280 acres		25 hrs	40 hrs
(E) 1280 [more than 1000] acres or more	40 hrs	50 hrs	
[(iii)] (ii) dry farm:			
(A) 1 to [1000] less than 1280 acres	15 hrs	25 hrs	
(B) 1280 [more than 1000] acres or more	20 hrs	40 hrs	
(m) Improvements on properties other than a rural residence, maximum 10 hours:			
(i) dwelling	5 hrs	5 hrs	
(ii) shed	2.5 hrs	2.5 hrs	
(n) cattle ranches			
(i) 0-200 head	15 hrs	20 hrs	
(ii) 201-500 head	25 hrs	30 hrs	
(iii) 501-1000 head	30 hrs	40 hrs	
(iv) more than 1000 head	40 hrs	50 hrs	
(o) sheep ranches			
(i) 0-2000 head	25 hrs	30 hrs	
(ii) more than 2000 head	35 hrs	45 hrs	
(p) dairy, including all improvements except a dwelling			
(i) [1] 0-100 head	20 hrs	25 hrs	
(ii) 101-300 head	25 hrs	30 hrs	
(iii) more than 300 head	30 hrs	35 hrs	
(q) orchards			
(i) [5-] up to 50 acres	30 hrs	40 hrs	
(ii) more than 50 acres	40 hrs	50 hrs	
(r) rangeland/timber			
(i) 0-640 acres	20 hrs	25 hrs	
(ii) more than 640 acres	30 hrs	35 hrs	
(s) poultry			
(i) 0-100,000 birds	30 hrs	40 hrs	
(ii) more than 100,000 birds	40 hrs	50 hrs	
(t) mink			
(i) 0-5000 cages	30 hrs	35 hrs	
(ii) more than 5000 cages	40 hrs	50 hrs	
(u) fish farm	40 hrs	50 hrs	
(v) hog farm	40 hrs	50 hrs	
(w) review of appendix 2 appraisals with no opinion of value developed as part of the review, performed in conjunction with investigations by government agencies	20-100 hours		

Appendix 3. Mass Appraisal Experience Hours Schedule.

TABLE[-3]
APPENDIX-3]

Property Type	Hours that may be earned
(a) one-unit dwelling, above-grade living area less than 4,000 square feet:	
[(i) exterior inspection, highest and best use analysis, data collection only	0.5 hours
—(ii) interior and exterior inspection, highest and best use analysis, data collection only	1 hour
—(iii) inspection, highest and best use analysis, data collection, valuation analysis, conclusion, report	3.75 hours]

Part 1

Task	Hours
Highest and Best Use Analysis	0.25
Neighborhood Description	0.5

Exterior Inspection	0.5
Interior Inspection	0.5
CAMA Data Input and Review	0.5
Market Conditions	0.75
Land Value Estimate	0.5
Improvement Cost Estimate	0.5
Income Value Estimate	2.5
Sales Comparison Value Estimate	2.5
Final Reconciliation	0.25
Appraisal Report Preparation	1.75
Restricted Appraisal Report Preparation	0.5

(b) one-unit dwelling, above-grade living area area 4,000 square feet or more:	
[(i) exterior inspection, highest and best use analysis, data collection only	0.75 hours
—(ii) interior and exterior inspection, highest and best use analysis, data collection only	1.5 hours
—(iii) inspection, highest and best use analysis, data collection, valuation analysis, conclusion, report	5 hours]

Part 2

Task	Hours
Highest and Best Use Analysis	0.25
Neighborhood Description	0.5
Exterior Inspection	0.75
Interior Inspection	0.75
CAMA Data Input and Review	0.5
Market Conditions	0.75
Land Value Estimate	0.75
Improvement Cost Estimate	0.75
Income Value Estimate	3.0
Sales Comparison Value Estimate	3.0
Final Reconciliation	0.25
Appraisal Report Preparation	2.0
Restricted Appraisal Report Preparation	0.5

(c) two to four unit dwelling:	
[(i) exterior inspection, highest and best use analysis, data collection only	1.5 hours
—(ii) interior and exterior inspection, highest and best use analysis, data collection only	3 hours
—(iii) inspection, highest and best use analysis, data collection, valuation analysis, conclusion, report	15 hours]

Part 3

Task	Hours
Highest and Best Use Analysis	0.25
Neighborhood Description	0.5
Exterior Inspection	0.5
Interior Inspection	0.5
CAMA Data Input and Review	0.5
Market Conditions	0.75
Land Value Estimate	0.5
Improvement Cost Estimate	0.5
Income Value Estimate	3.0
Sales Comparison Value Estimate	3.0
Final Reconciliation	0.25
Appraisal Report Preparation	2.0
Restricted Appraisal Report Preparation	0.5

(d) commercial and industrial buildings, depending on complexity:	
[(i) exterior inspection, highest and best use analysis, data collection only	1-5 hours
—(ii) interior and exterior inspection, highest and best use analysis, data collection only	2-10 hours

~~(iii) inspection, highest and best use analysis, data collection, valuation analysis, conclusion, report 3-37.5 hours]~~

Part 4

Task	Hours
Highest and Best Use Analysis	0.25
Neighborhood Description	0.5
Exterior Inspection	0.5-4.5
Interior Inspection	0.5-9.5
CAMA Data Input and Review	0.5
Market Conditions	1.5
Land Value Estimate	2.0
Improvement Cost Estimate	2.0
Income Value Estimate	2-15
Sales Comparison Value Estimate	2-15
Final Reconciliation	0.5
Appraisal Report Preparation	1-10
Restricted Appraisal Report Preparation	0.5

(e) agricultural and other improvements, depending on complexity:
~~[(i) exterior inspection, highest and best use analysis, data collection only 0.5-2.5 hours~~
~~(ii) interior and exterior inspection, highest and best use analysis, data collection only 1-5 hours~~
~~(iii) inspection, highest and best use analysis, data collection, valuation analysis, conclusion, report 3.75-20 hours]~~

Part 5

Task	Hours
Highest and Best Use Analysis	0.25-0.5
Neighborhood Description	0.5
Exterior Inspection	0.25-0.5
Interior Inspection	0.5-1
CAMA Data Input and Review	0.5
Market Conditions	0.75
Land Value Estimate	0.5-1
Improvement Cost Estimate	0.5-1
Income Value Estimate	1-3
Sales Comparison Value Estimate	1-3
Final Reconciliation	0.25
Appraisal Report Preparation	2.0
Restricted Appraisal Report Preparation	0.5

(f) vacant land, depending on complexity:
~~[(i) inspection, highest and best use analysis, data collection only 0.5-2.5 hours~~
~~(ii) inspection, highest and best use analysis, data collection, valuation analysis, conclusion, report 2.5-25 hours~~
~~(iii) land segregation (division) analysis and processing, no field inspection 0.25 hours~~
~~(iv) land segregation (division) analysis and processing, field inspection 0.5 hours]~~

Part 6

Task	Hours
Highest and Best Use Analysis	0.25-0.5
Neighborhood Description	0.5
Site Inspection	0.25
Land Segregation	0.25
CAMA Data Input and Review	0.5
Inspection	0.25-2.25
Market Conditions	0.75
Income Value Estimate	1-3
Sales Comparison Value Estimate	1-3

Final Reconciliation	0.25
Appraisal Report Preparation	2.0
Restricted Appraisal Report Preparation	0.5

(g) ~~data input and review for experience hours claimed under property types(a) through (f) 0.25 hours~~
~~(h) land valuation guideline (development):~~
~~(i) 25 or fewer parcels 10 hours~~
~~(ii) 26 to 500 parcels 30 hours~~
~~(iii) over 500 parcels 25 additional hours for each 500 parcels, up to a maximum of 125 hours for each guideline~~
~~(h) land valuation guideline (update):~~
~~(i) 25 or fewer parcels 1 hour~~
~~(ii) 26 to 500 parcels 3 hours~~
~~(iii) over 500 parcels 2.5 additional hours for each 500 parcels, up to a maximum of 12.5 hours for each guideline~~

(i) assessment/sales ratio study, data collection, verification, sample inspection, analysis, conclusion, and implementation:
~~(i) base study of 100 reviewed sales 125 hours~~
~~(ii) additional increments of 100 sales 25 additional hours for each 100 additional sales, up to a maximum of 375 hours for each study~~

(j) multiple regression model, development and implementation:
~~(i) fewer than 5,000 parcels 100 hours~~
~~(ii) additional increments of 500 parcels 5 additional hours for each additional 500 parcels, up to a maximum of 375 hours for each regression model~~

(k) ~~industry depreciation study and analysis [100-] 5 to 40 hours~~
~~(l) reviews of "land value in use" in accordance with U.C.A. Section 59-2-505:~~
~~(i) office review only 0.25 hours~~
~~(ii) field review 0.5 hours~~

(m) natural resource properties, depending on complexity:
~~(i) sand and gravel [7-5] 1-20 hours per site~~
~~(ii) mine [7-5] 1-110 hours~~
~~(iii) oil and gas [1-65] 1-50 hours per site~~

(n) pipelines and gas distribution properties, depending on complexity 10-40 hours

(o) telephone and electric properties, depending on complexity 5-80 hours

(p) airline and railroad properties, depending on complexity 10-80 hours

(q) appraisal review/audit, depending on complexity 2.5-125 hours

(r) capitalization rate study [80] 10 to 100 hours

(s) mineral pricing study 10 to 100 hours

(t) effective tax rate study 10 to 100 hours

(u) Ad valorem centrally assessed property tax appeal preparation 5 to 125 hours

Appendix 4. Appraiser Education.

TABLE 1
Required Core Curriculum

<u>Trainee Appraiser</u>	
Basic Appraisal Principles	30 Hours
Basic Appraisal Procedures	30 Hours
15-Hour national USPAP Course or its Equivalent	15 Hours
Trainee Appraiser Education Requirements	75 Total Hours

<u>Licensed Appraiser</u>	
Basic Appraisal Principles	30 Hours
Basic Appraisal Procedures	30 Hours
15-Hour national USPAP Course or its Equivalent	15 Hours
Residential Market Analysis and Highest and Best Use	15 Hours
Residential Appraiser Site Valuation and Cost Approach	15 Hours
Residential Sales Comparison and Income Approaches	30 Hours
Residential Report Writing and Case Studies	15 Hours
Licensed Residential Education Requirements	150 Total Hours

<u>Certified Residential</u>	
Basic Appraisal Principles	30 Hours
Basic Appraisal Procedures	30 Hours
15-Hour national USPAP Course or its Equivalent	15 Hours
Residential Market Analysis and Highest and Best Use	15 Hours
Residential Appraiser Site Valuation and Cost Approach	15 Hours
Residential Sales Comparison and Income Approaches	30 Hours
Residential Report Writing and Case Studies	15 Hours
Statistics, Modeling and Finance	15 Hours
Advanced Residential Applications and Case Studies	15 Hours
Appraisal Subject Matter Electives	20 Hours
(May include hours over minimum shown above in other modules)	
Certified Residential Education Requirements	200 Total Hours

<u>Certified General*</u>	
Basic Appraisal Principles	30 Hours
Basic Appraisal Procedures	30 Hours
15-Hour national USPAP Course or its Equivalent	15 Hours
*General Appraiser Market Analysis and Highest and Best Use	30 Hours
Statistics, Modeling and Finance	15 Hours
*General Sales Comparison and Income Approaches	30 Hours
*General Appraiser Site Valuation and Cost Approach	30 Hours
General Appraiser Income Approach	60 Hours
*General Appraiser Report Writing and Case Studies	30 Hours
Appraisal Subject Matter Electives	30 Hours
(May include hours over minimum shown above in other modules)	
Certified General Education Requirements	300 Total Hours

*The four Certified General courses identified with an asterisk * may substitute for the equivalent four Licensed Appraiser or Certified Residential courses when a candidate provides proof of completion of these courses when applying for a Licensed or Certified Residential appraisal credential.

TABLE 2

Continuing Education Topics (Division Certification Required)

- (1) Ad valorem taxation
- (2) Arbitration, dispute resolution
- (3) Courses related to the practice of real estate appraisal or consulting
- (4) Development cost estimating
- (5) Ethics and standards of professional practice, USPAP
- (6) Land use planning, zoning
- (7) Management, leasing, timesharing
- (8) Property development, partial interests
- (9) Real estate law, easements, and legal interests
- (10) Real estate litigation, damages, condemnation
- (11) Real estate financing and investment
- (12) Real estate appraisal related computer applications
- (13) Real estate securities and syndication
- (14) Developing opinions of real property value in appraisals that also include personal property and/or business value
- (15) Seller concessions and impact on value
- (16) Energy efficient items and "green building" appraisals

KEY: real estate appraisals, school certification, instructor certification

Date of Enactment or Last Substantive Amendment: [May 22,] 2014

Authorizing, and Implemented or Interpreted Law: 61-2g-201(2)(h); 61-2g-202(1); 61-2g-205(5)(c); 61-2g-307(3); 61-2g-401(5)

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

**NOTICE OF PROPOSED RULE
(Amendment)**

**DAR FILE NO.: 38883
FILED: 09/26/2014**

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to correct punctuation and clarify language as needed; add conditions that have become nationally notifiable to Utah's reportable conditions list; clarify language for reporting laboratories, including adding information regarding electronic reporting for laboratories choosing to use this option; move information regarding HIV/AIDS special control measures from R388 to R386; clarify language pertaining to management of hepatitis B (including perinatal hepatitis B); and update information for references as needed.

SUMMARY OF THE RULE OR CHANGE: Proposed changes reflect suggestions and requests from leadership and stakeholders, including: Dr. Rolfs; Dr. Nakashima; Jennifer Brown (Utah Department of Health (UDOH)); Dr. Atkinson (Utah Public Health Laboratory (UPHL)); the Utah Epidemiology Affiliate Group; Salt Lake County Health

Department; Dr. Gesteland (Intermountain Healthcare); Cathy Gray, Karri Hoopes (Infection Control Practitioners); Bureau of Epidemiology Programs and Teams (CD Analysis and Reporting, CD Investigation and Response, Informatics, Immunizations, Prevention, Treatment and Care, TB); and the Hepatitis B Workgroup. In Section R386-702-1, revised purpose statement to delete "recent" and "new" to better and more accurately describe emergence of diseases. In Section R386-702-2, revised the definition of "outbreak" to clarify and broaden the definition in order to encourage early recognition and investigation of possible outbreaks. Also, revised the definition of "case" to emphasize criteria that must be met to make an event reportable, and corrected punctuation for "suspect case" definition. In Section R386-702-3, added "anaplasmosis" and "leptospirosis" to ensure Utah is collecting information on these nationally-notifiable conditions. Also, added "Mycobacteria other than tuberculosis" (TB). Laboratories report non-TB Mycobacteria results now, though not consistently. These results allow public health to rule out suspect TB cases. Adding non-TB Mycobacteria allows results to be reported through electronic laboratory reporting, and will facilitate continued reporting by laboratories. Also, added "patient encounter data" and language defining this data in order to support early identification (or ruling out) of public health threats, and facilitate other objectives of syndromic surveillance; clarified language within "Acinetobacter" condition; modified language in "hepatitis B" condition to standardize terminology used for hepatitis B and hepatitis C; changed "norovirus" condition to be reportable for outbreaks only; updated reference information within "Human Immunodeficiency Virus Infection" condition since information is being moved from Title R388 to Title R386; simplified language for "poliomyelitis" condition to make it one condition with two manifestations (paralytic and nonparalytic) vs. two separate conditions; clarified language for "Q Fever" condition to ensure reporting of Coxiella species, since Coxiella is the bacterium associated with Q Fever; simplified language for "rubella" condition to make it one condition with two manifestations (rubella and rubella, congenital syndrome) vs. two separate conditions; corrected spelling of "staphylococcal" in "Toxic-Shock Syndrome..." condition; and updated "trichinellosis" condition to reflect the more commonly used name. In Section R386-702-4, clarified information for reporting laboratories by: adding a reference to Subsection R386-702-4(4) in order to assist laboratories in locating the immediately reportable conditions; removing reference to "numbers only" reporting since there are no longer any conditions reportable by number only; added language noting all laboratories involved in testing are required to report results in order to prevent miscommunication between laboratories and ensure results are reported to public health; added requirement for reporting presumptive results for tuberculosis, Creutzfeldt-Jakob disease, and other transmissible human spongiform encephalopathies to ensure early identification of suspect cases of these diseases. Also, clarified that "rubella, congenital syndrome" is not immediately notifiable; added extensive guidance for laboratories that are reporting information electronically, including providing reference links

to current guidelines, specifying required data elements and message structure, and providing information regarding reporting negative results for Chlamydia, Gonorrhea, Hepatitis A, B, and C, some HIV results, Salmonellosis, and TB; clarified that clinical material is required to be submitted, not just isolates, for conditions requiring submission of material to the UPHL; changes in laboratory tests are resulting in situations where no isolate results from testing, but clinical material is still appropriate to submit for confirmatory testing; modifying this language will enable UPHL to continue providing confirmatory testing and allows for submission of material for bacterial, viral, and other types of organisms as needed; added "measles (rubeola)" and "West Nile virus" to the list of organisms mandated for clinical submission since public health routinely asks for samples to confirm these conditions; added references to "patient encounter data" (as added in Subsection R386-702-3(2)) wherever "emergency illnesses or health conditions" are noted to guide reporting; and clarified language to provide specific clinical data elements required when reporting emergency conditions (i.e. changed "the reportable condition suspected" to "chief complaint(s), reason for visit, and/or diagnosis.") In Section R386-702-6, updated language to clarify the need for a 10-day quarantine of a healthy dog, cat, or ferret that bites a person, regardless of the animal's vaccination status. In Section R386-702-7, updated language to require contact precautions for diapered or incontinent persons, regardless of age, for the duration of the person's illness. This section establishes requirements for: reporting of screening, diagnostic, and treatment test results related to HIV/AIDS; partner identification and notification; and HIV/AIDS-related research. Information is being moved from Rule R388-803 and added as a new section in Title R386. Most of the information is the same as was previously included in Rule R388-803, though some formatting and organization of the information has been modified. In Section R386-702-10, added language: "Hospitals or birthing facilities shall report every instance of administration of HBIG to a newborn to the Utah Department of Health Immunization Program at 801-538-9450, and to the local health department, within seven days of administration." This was requested by the Immunization Program to ensure administration of HBIG is reported, improving their ability to identify and follow-up appropriately with these mothers and infants. Also, added language: "All females between the ages of 12 and 50 years at the time an HBsAg positive test result is reported will be screened for pregnancy status within one week of receipt of that lab result." This should ensure pregnancy is identified and reported for all HBsAg positive women, for every pregnancy; corrected and clarified information for spacing of testing for infants born to HBsAg positive mothers; removed references to page numbers in "The Red Book Plus: 2009 Report of the Committee on Infectious Diseases" since these were incorrect page numbers; noting instead a reference to "the most current version of "The Red Book" as cited in Subsection R386-702-13(4)"; removed definitions of chronic and acute hepatitis B since inclusion is inconsistent when compared to other reportable conditions (definitions for specific conditions is

included in individual disease plans); and added language: "All identified acute hepatitis B cases shall be investigated by the local health department, and identified household and sexual contacts shall be advised to obtain vaccination against hepatitis B." This clarifies what is expected for investigation/action by LHDs for acute cases of hepatitis B. In Section R386-702-13, updated links and references as needed. Section R386-702-9 establishes requirements for: reporting of screening, diagnostic, and treatment test results related to HIV/AIDS; partner identification and notification; and HIV/AIDS-related research. Information is being moved from Rule R388-803 and added as a new section in Title R386. Most of the information is the same as was previously included in Rule R388-803, though some formatting and organization of the information has been modified. In Section R386-702-10, added language: "Hospitals or birthing facilities shall report every instance of administration of HBIG to a newborn to the Utah Department of Health Immunization Program at 801-538-9450, and to the local health department, within seven days of administration." This was requested by the Immunization Program to ensure administration of HBIG is reported, improving their ability to identify and follow-up appropriately with these mothers and infants. Also, added language: "All females between the ages of 12 and 50 years at the time an HBsAg positive test result is reported will be screened for pregnancy status within one week of receipt of that lab result." This should ensure pregnancy is identified and reported for all HBsAg positive women, for every pregnancy; corrected and clarified information for spacing of testing for infants born to HBsAg positive mothers; removed references to page numbers in "The Red Book Plus: 2009 Report of the Committee on Infectious Diseases" since these were incorrect page numbers; noting instead a reference to "the most current version of "The Red Book" as cited in Subsection R386-702-13(4)"; removed definitions of chronic and acute hepatitis B since inclusion is inconsistent when compared to other reportable conditions (definitions for specific conditions is included in individual disease plans); and added language: "All identified acute hepatitis B cases shall be investigated by the local health department, and identified household and sexual contacts shall be advised to obtain vaccination against hepatitis B." This clarifies what is expected for investigation/action by LHDs for acute cases of hepatitis B. In Section R386-702-13, updated links and references as needed.

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

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The majority of proposed changes provide clarifications to simplify interpretation of the rule and do not represent additional costs or savings. Adding anaplasmosis and leptospirosis to the reportable conditions list will result in minimal costs associated with management of those conditions since they are exceptionally rare; however, initially, personnel time will be needed to develop a disease

plan and fact sheets for these conditions (approximately four hours for an epidemiologist). Adding mycobacteria other than tuberculosis should be cost-neutral since this reporting is already occurring; the change is formalizing this practice. Making Norovirus reportable for outbreaks only will result in significant savings in time since management of individual cases will no longer be required. Overall, changes in the reportable disease list will most likely be approximately cost-neutral. Facilitating electronic laboratory reporting will result in more laboratories providing information electronically, which will lead to more comprehensive disease reporting, and presumably more cases being reported due to the automated detection and reporting made possible through electronic laboratory reporting. There will be a need to work with local health departments to manage these cases, however, this is a key responsibility for public health, and efforts will be made to make this cost-neutral through automating procedures when possible and focusing resources on collecting the most critical data elements for each report. Clarifying that clinical material should be submitted to UPHL for confirmatory testing (vs. isolates) will cause additional samples to be submitted, though quantifying this change is challenging. The majority of conditions are rare, however enterics such as *Campylobacter* and *Shigella* are not uncommon conditions. These enterics typically have an isolate submitted, though, so the net change should be minimal, and enabling submission of clinical material should serve to accommodate changes in testing platforms that will enable continued confirmation regardless of initial testing platform. Adding rubeola (measles) and West Nile virus to the list of conditions requiring submission of a sample for confirmatory testing should be cost-neutral since this is already occurring; the change will formalize this practice. No changes were made to the content of the special measures for HIV/AIDS, so no costs will be associated with its move beyond approximately three hours of administrative time to update R388 once the change is enacted. Changes related to hepatitis B management are minimal; notifications and screenings should already be occurring, but formalizing it in rule may result in a small influx of notifications and reports to UDOH, which would require a small increase in the amount of time spent receiving and managing this information. However, this will be minimal and will serve to improve the catchment and management of perinatal hepatitis B in Utah.

♦ **LOCAL GOVERNMENTS:** The main cost that may be incurred by local health departments is personnel time required to manage additional cases that may be detected and reported through electronic laboratory reporting, or through addition of anaplasmosis and leptospirosis to the list of reportable conditions. However, savings will accrue from making Norovirus reportable for outbreaks only, and efforts will be made to minimize costs associated with investigating cases through automating work when possible and focusing on collecting minimal information for only the most critical data elements. This should result in overall costs associated with the proposed changes being neutral.

♦ **SMALL BUSINESSES:** Small clinics may incur some cost with the requirement to screen women age 12-50 years for pregnancy if they test positive for HBsAg, however, this

screening should already be occurring so costs should be minimal. Likewise, reporting administration of HBIG should be occurring, but the change in its inclusion in rule may result in some costs for small facilities to identify and report this if they are not routinely doing so. Electronic laboratory reporting is optional, so the rule will not create a cost for small laboratories to implement electronic laboratory reporting unless they choose to do so. If they choose to implement this method of reporting, initial costs associated with programming systems to identify and report conditions to UDOH will be incurred, but it is anticipated that this will result in significant savings over time since reporting will be automated, requiring significantly less personnel time to manage.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: As noted above, the main cost that may be incurred by Local Health Departments is personnel time required to manage additional cases that may be detected and reported through electronic laboratory reporting, or through addition of anaplasmosis and leptospirosis to the list of reportable conditions. However, savings will accrue from making Norovirus reportable for outbreaks only, and efforts will be made to minimize costs associated with investigating cases through automating work when possible and focusing on collecting minimal information for only the most critical data elements. This should result in overall costs associated with the proposed changes being neutral. Clinics may incur some cost with the requirement to screen women age 12 through 50 years for pregnancy if they test positive for HBsAg, however, this screening should already be occurring so costs should be minimal. Likewise, reporting administration of HBIG should be occurring, but the change in its inclusion in Rule may result in some costs for facilities to identify and report this if they are not routinely doing so. Electronic laboratory reporting is optional, so the Rule will not create a cost for laboratories to implement electronic laboratory reporting unless they choose to do so. If they choose to implement this method of reporting, initial costs associated with programming systems to identify and report conditions to UDOH will be incurred, but it is anticipated that this will result in significant savings over time since reporting will be automated, requiring significantly less personnel time to manage.

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

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impact on businesses is minimal. The new requirement to screen women ages 12-50 years for pregnancy if they test positive for HBsAG may have a minimum impact on business since this screening should already occur as a standard practice. The electronic laboratory reporting is optional and therefore will not create a cost for labs that choose not to participate.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2014

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2014

AUTHORIZED BY: David Patton, PhD, Executive Director

R386. Health, Disease Control and Prevention, Epidemiology.

R386-702. Communicable Disease Rule.

R386-702-1. Purpose Statement.

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

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

(3) The successes of medicine and public health dramatically reduced the risk of epidemics and early loss of life due to infectious agents during the twentieth century. However, the [recent—]emergence of [new—]diseases, such as Human Immunodeficiency Virus, Hantavirus, and Severe Acute Respiratory Syndrome, and the rapid spread of diseases to the United States from other parts of the world, such as West Nile virus, made possible by advances in transportation, trade, food production, and other factors highlight the continuing threat to health from infectious diseases. Continual attention to these threats and cooperation among all health care providers, government agencies and other entities that are partners in protecting the public's health are crucial to maintain and improve the health of the citizens of Utah.

R386-702-2. Definitions.

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

(2) In addition, for purposes of this rule:

(a) "Outbreak" means an [epidemic limited to a localized] increase in incidence of disease, or two or more cases of disease with a common exposure.

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

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

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

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

(a) Acinetobacter species with resistance or intermediate resistance to carbapenems (specifically, meropenem and imipenem) from any anatomical site

(b) Acquired Immunodeficiency Syndrome

(c) Adverse event resulting [after]from smallpox vaccination

(d) Amebiasis

(e) Anaplasmosis

([e]f) Anthrax

([f]g) Arbovirus infection, including Saint Louis encephalitis and West Nile virus infection

([g]h) Babesiosis

([h]i) Botulism

([i]j) Brucellosis

([j]k) Campylobacteriosis

([k]l) Chancroid

([l]m) Chickenpox

([m]n) Chlamydia trachomatis infection

([n]o) Cholera

([o]p) Coccidioidomycosis

([p]q) Colorado tick fever

([q]r) Creutzfeldt-Jakob disease and other transmissible human spongiform encephalopathies

([r]s) Cryptosporidiosis

([s]t) Cyclospora infection

([t]u) Dengue fever

([u]v) Diphtheria

([v]w) Echinococcosis

([w]x) Ehrlichiosis, human granulocytic, human monocytic, or unspecified

([x]y) Encephalitis

([y]z)(1) Escherichia coli with resistance or intermediate resistance to carbapenems (meropenem, ertapenem, and imipenem) from any site

([y]z)(2) Shiga toxin-producing Escherichia coli (STEC) infection

([z]aa) Giardiasis

([aa]bb) Gonorrhea: sexually transmitted and ophthalmia neonatorum

([bb]cc) Haemophilus influenzae, invasive disease

([ee]dd) Hansen Disease (Leprosy)

([dd]ee) Hantavirus pulmonary syndrome

([ee]ff) Hemolytic Uremic Syndrome, postdiarrheal

([ff]gg) Hepatitis A

([gg]hh) Hepatitis B, acute, chronic, and perinatal[~~eases and carriers~~]

([hh]ii) Hepatitis C, acute and chronic infection

([ii]jj) Hepatitis, other viral

([jj]kk)(1) Human Immunodeficiency Virus Infection.

[Reporting requirements are listed in R388-803.]Special measures for the control of HIV/AIDS are included in R386-702-9.

([jj]kk)(2) Pregnancy in a HIV case

([kk]ll) Influenza-associated hospitalization

([H]mm) Influenza-associated death, in a person less than 18 years of age

([mm]nn) Klebsiella species with resistance or intermediate resistance to carbapenems (meropenem, ertapenem, and imipenem) from any site

([nn]oo) Legionellosis

[pp] Leptospirosis

([oo]qq) Listeriosis

([pp]rr) Lyme Disease

([qq]ss) Malaria

([rr]tt) Measles

([ss]uu) Meningitis (aseptic, bacterial, fungal, parasitic, protozoan, and viral)

([tt]vv) Meningococcal Disease

([uu]ww) Mumps

[xx] Mycobacteria other than tuberculosis

([vv]yy) Norovirus, [formerly called Norwalk-like virus, infection]outbreaks only

([ww]zz) Pertussis

([xx]aaa) Plague

([yy]bbb) Poliomyelitis, paralytic and nonparalytic

[zz] Poliovirus infection, nonparalytic

([aaa]ccc) Psittacosis

([bbb]ddd) Q Fever (Coxiella infection)

([eee]eee) Rabies, human and animal

([ddd]fff) Relapsing fever, tick-borne and louse-borne

([eee]ggg) Rubella, including congenital syndrome

[fff] Rubella, congenital syndrome

([ggg]hhh) Salmonellosis

([hhh]iii) Severe Acute Respiratory Syndrome (SARS)

([iii]iii) Shigellosis

([jjj]kkk) Smallpox

([kkk]lll) Spotted fever rickettsioses (including Rocky Mountain Spotted Fever)

([H]mmm) Staphylococcus aureus with resistance or intermediate resistance to vancomycin isolated from any site

([mmmm]nnn) Streptococcal disease, invasive, including Streptococcus pneumoniae and Groups A, B, C, and G streptococci isolated from a normally sterile site

([nnn]ooo) Syphilis, all stages and congenital

([ooo]ppp) Tetanus

([ppp]qqq) Toxic-Shock Syndrome,

[staphylococcal]staphylococcal or streptococcal

([qqq]rrr) Trichinellosis

([rrr]sss) Tuberculosis. Special Measures for the Control of Tuberculosis are listed in R388-804.

([sss]ttt) Tularemia

(~~ttt~~~~uuu~~) Typhoid, cases and carriers

(~~tttt~~~~vvv~~) Vibriosis

(~~vvv~~~~www~~) Viral hemorrhagic fever

(~~www~~~~xxx~~) Yellow fever

(~~xxx~~~~yyy~~) Any unusual occurrence of infectious or communicable disease or any unusual or increased occurrence of any illness that may indicate a Bioterrorism event or public health hazard, including any single case or multiple cases of a newly recognized, emergent or re-emergent disease or disease-producing agent, including newly identified multi-drug resistant bacteria or a novel influenza strain such as a pandemic influenza strain.

(~~yyy~~~~zzz~~) Any outbreak, epidemic, or unusual or increased occurrence of any illness that may indicate an outbreak or epidemic. This includes suspected or confirmed outbreaks of foodborne disease, waterborne disease, disease caused by antimicrobial resistant organisms, any infection that may indicate a bioterrorism event, or of any infection that may indicate a public health hazard.

(2) In addition to the reportable conditions set forth in R386-702-3(1) the Department declares the following reportable emergency illnesses, ~~or~~ health conditions, and patient encounter information to be of [concern to the] public health importance and reporting is authorized by Title 26, Chapter 23b, Utah Code, unless made mandatory by the declaration of a public health emergency:

(a) respiratory illness (including upper or lower respiratory tract infections, difficulty breathing and Adult Respiratory Distress Syndrome);

(b) gastrointestinal illness (including vomiting, diarrhea, abdominal pain, or any other gastrointestinal distress);

(c) influenza-like constitutional symptoms and signs;

(d) neurologic symptoms or signs indicating the possibility of meningitis, encephalitis, or unexplained acute encephalopathy or delirium;

(e) rash illness;

(f) hemorrhagic illness;

(g) botulism-like syndrome;

(h) lymphadenitis;

(i) sepsis or unexplained shock;

(j) febrile illness (illness with fever, chills or rigors);

(k) nontraumatic coma or sudden death;~~and~~

(l) other criteria specified by the Department as indicative of disease outbreaks or injurious exposures of uncertain origin; and

(m) patient encounter data including, but not limited to, chief complaint and discharge diagnosis data from healthcare settings which support early identification and ruling out of public health threats, disasters, disease outbreaks, suspected incidents, and acts of bioterrorism; assist in characterizing population groups at greatest risk for disease or injury; support assessment of the severity and magnitude of possible threats; or satisfy syndromic surveillance objectives of the Federal Centers for Medicaid and Medicare Meaningful Use incentive program.

R386-702-4. Reporting.

(1) Each reporting entity shall report each confirmed case and any case who the reporting entity believes, in its professional judgment, is likely to harbor an illness, infection, or condition reportable under R386-702-3(1), and each outbreak, epidemic, or unusual occurrence described in R386-702-3(1)(~~xxx~~~~yyy~~) or (~~yyy~~~~zzz~~) to the local health department or to the Bureau of

Epidemiology, Utah Department of Health. Unless otherwise specified, the report of these diseases to the local health department or to the Bureau of Epidemiology, Utah Department of Health shall provide the following information: name, age, sex, address, date of onset, and all other information as prescribed by the Department. A standard report form has been adopted and is supplied to physicians and other reporting entities by the Department. Upon receipt of a report, the local health department shall promptly forward a written or electronic copy of the report to the Bureau of Epidemiology, Utah Department of Health.

(2)(a) Where immediate reporting is required as noted in R386-702-4 (4), the reporting entity shall report as soon as possible, but not later than 24 hours after identification. Immediate reporting shall be made by telephone to the local health department or to the Bureau of Epidemiology, Utah Department of Health at 801-538-6191 or 888-EPI-UTAH (888-374-8824).

(b) All diseases not required to be reported immediately ~~or by number of cases~~ shall be reported within three working days from the time of identification. Reporting entities shall send reports to the local health department by phone, secured fax, secured email, or mail; or to the Bureau of Epidemiology by phone (801-538-6191), secured fax (801-538-9923), secured email (please contact the Bureau of Epidemiology at 801-538-6191 for information on this option), or by mail (288 North 1460 West, P. O. Box 142104, Salt Lake City, Utah 84114-2104).

(c) Laboratories ~~may~~ are encouraged to report case information electronically in a manner approved of by the Department if the laboratory has the capacity to do so. Laboratories should refer to <https://health.utah.gov/phaccess/public/elr/> for information about this option. ~~(-p)~~ Please contact the Bureau of Epidemiology at 801-538-6191 for questions[information on] regarding this option[}.

(d) When more than one licensed laboratory is involved in testing a specimen, all laboratories involved are required to report results.

(e) The following requirements apply to laboratories that are reporting information electronically:

(i) Laboratories reporting electronically shall send the following information with all reports:

(1) First and last name of the patient;

(2) Patient date of birth;

(3) Patient hospitalization status;

(4) Name and telephone number of the reporting facility;

(5) Name and telephone number of the testing laboratory;

(6) Patient address

(7) Name and address of the requesting health care provider;

(8) Pregnancy status;

(9) Specimen source;

(10) The laboratory's name for, or description of, the test;

(11) Test reference range; and

(12) Test status (e.g. preliminary, final, amended and/or corrected).

(ii) Laboratories reporting electronically shall use HL7 2.3.1 or 2.5.1 message structure for all fields and appropriate LOINC codes designating the test performed.

(iii) Laboratories reporting electronically shall submit all local vocabulary codes with translations to UDOH, if applicable.

(iv) Laboratories reporting electronically must send reports within 24 hours of finalization of test results.

(v) Laboratories reporting electronically must report preliminary positive results for immediately notifiable conditions as specified in R386-702-4 (4).

(vi) Electronic reporting of negative results:

(1) Electronic reporting shall include negative as well as positive results for tests ordered for the following conditions:

(a) Chlamydia

(b) Gonorrhea

(c) Hepatitis A

(d) Hepatitis B

(e) Hepatitis C, including viral loads

(f) Human Immunodeficiency Virus (HIV), including viral loads and confirmatory tests

(g) Salmonellosis

(h) STEC

(i) Tuberculosis

(2) Negative test results reported for these conditions will be used for the following purposes as authorized in Utah Health Code Section 26-1-30(2)(c),(d), and (f):

(a) To determine when a previously reported case becomes non-infectious;

(b) To identify newly acquired infections through identification of a seroconversion window; or

(c) To provide information critical for assignment of a case definition.

(3) Information associated with a negative test result will be retained by the Utah Department of Health for a period of 18 months.

(a) At the end of the 18 month period, if the result has not been appended to an existing case, personal identifiers will be stripped and expunged from the result.

(b) The de-identified result will be added to a de-identified, aggregate dataset which will be retained for use by public health to analyze trends associated with testing patterns and case distribution, enabling identification and establishment of prevention and intervention efforts for at-risk populations, and assessment of trends over time in those populations, as authorized by Utah Health Code 26-1-30(2)(f).

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

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

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

(c) Laboratories and other testing sites shall report laboratory evidence confirming any of the reportable diseases. Laboratories and other testing sites shall also report any test results that provide presumptive evidence of infection, which may include ~~such as~~ positive tests for HIV, syphilis, measles, ~~and~~ viral hepatitis, tuberculosis, and Creutzfeldt-Jakob disease and other transmissible human spongiform encephalopathies.

(i) Detailed lists of reportable laboratory events, e.g. laboratory tests and results that signify a reportable condition, are found at: <https://health.utah.gov/phaccess/public/elr/>; click on "Spreadsheet of Reportable Events and Vocabulary" to access this list.

(ii) Events noted within the "Spreadsheet of Reportable Events and Vocabulary" constitute those that are reportable according

to this Rule, and as such are considered mandatory for laboratories to report.

(iii) The "Spreadsheet of Reportable Events and Vocabulary" defines, for laboratory reporting purposes, those unusual occurrences of conditions as noted in R386-702-3 (1)(yyy) and (zzz).

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

(4) Immediately Reportable Conditions: Case[s] and suspect case[s] reports of anthrax, botulism (except for infant botulism), cholera, diphtheria, Haemophilus influenzae (invasive disease), hepatitis A, measles, meningococcal disease, plague, poliomyelitis, rabies, rubella (excluding congenital syndrome), Severe Acute Respiratory Syndrome (SARS), smallpox, Staphylococcus aureus with resistance (VRSA) or intermediate resistance (VISA) to vancomycin isolated from any site, tuberculosis, tularemia, typhoid, viral hemorrhagic fever, yellow fever, and any condition described in R386-702-3(1)(~~xxx~~yyy) or (~~yyy~~zzz) are to be made immediately as provided in R386-702-4(2).

(5) Mandatory Submission of Clinical Material:

(a) Laboratories shall submit clinical material from all cases identified with organisms listed in (5)(c) below to the Utah Department of Health, Utah Public Health Laboratory (UPHL). Clinical material is defined as:

(i) A clinical isolate containing the infectious organism for which submission of material is required, or

(ii) If an isolate is not available, material containing the infectious organism for which submission of material is required, in the following order of preference:

(A) a patient specimen;

(B) nucleic acid; or

(C) other laboratory material.

(b) Laboratories should alert UPHL via telephone during business hours at (801) 965-2400, or after hours at (801) 560-6586, of all bioterrorism (BT) agents that are being submitted. BT agents are marked below (as (BT)) with other organisms mandated for submission.

(c) Organisms that are mandated for clinical submission in Utah include:

(i) Bacillus anthracis (BT);

(ii) Brucella species (BT);

(iii) Campylobacter species;

(iv) Clostridium botulinum (BT);

(v) Corynebacterium diphtheriae;

(vi) Shiga toxin-producing Escherichia coli (STEC) (including enrichment and/or MacConkey broths that tested positive by enzyme immunoassay for Shiga toxin);

(vii) Francisella tularensis (BT);

(viii) Haemophilus influenzae, from normally sterile sites;

(ix) Influenza virus (hospitalized cases only);

(x) Legionella species;

(xi) Listeria monocytogenes;

(xii) Measles (rubeola);

(xiii) Mycobacterium tuberculosis complex;

(xiv) Neisseria gonorrhoeae;

(xv) Neisseria meningitidis, from normally sterile sites;

(xvi) Salmonella species;

(xvii) Shigella species;

(xviii) Staphylococcus aureus with resistance or intermediate resistance to vancomycin isolated from any site;

~~(xix) Vibrio species;~~

~~(xx) West Nile virus;~~

~~(xxi) Yersinia species (Yersinia pestis, BT); and~~

~~(xxii) any organism implicated in an outbreak when instructed by authorized local or state health department personnel.~~

~~([5]6) Full reporting of all relevant patient information related to laboratory-confirmed influenza is authorized and may be required by local or state health department personnel for purposes of public health investigation of a documented threat to public health.~~

~~([6]7) Reports of emergency illnesses, [or] health conditions, and patient encounter information under R386-702-3(2) shall be made as soon as practicable using a process and schedule approved by the Department. Full reporting of all relevant patient information is authorized. The report shall include at least, if known:~~

~~(a) name of the facility;~~

~~(b) a patient identifier;~~

~~(c) date of visit;~~

~~(d) time of visit;~~

~~(e) patient's age;~~

~~(f) patient's sex;~~

~~(g) zip code of patient's residence;~~

~~(h) [the reportable condition suspected] chief complaint(s), reason for visit, and/or diagnosis; and~~

~~(i) whether the patient was admitted to the hospital.~~

~~([7]8) An entity reporting emergency illnesses, [or] health conditions, and patient encounter information under R386-702-3(2) is authorized to report on other encounters during the same time period that do not meet definition for a reportable emergency illness, [or] health condition, or patient encounter. Submission of an isolate does not replace the requirement to report the case also to the local health department or Bureau of Epidemiology, Utah Department of Health. The report shall include the following information for each such encounter:~~

~~(a) facility name;~~

~~(b) date of visit;~~

~~(c) time of visit;~~

~~(d) patient's age;~~

~~(e) patient's sex; and~~

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

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

~~(a) Bacillus anthracis (BT);~~

~~(b) Brucella species (BT);~~

~~(c) Campylobacter species;~~

~~(d) Clostridium botulinum (BT);~~

~~(e) Corynebacterium diphtheriae;~~

~~(f) Shiga toxin-producing Escherichia coli (STEC) (including enrichment and/or MacConkey broths that tested positive by enzyme immunoassay for Shiga toxin);~~

~~(g) Francisella tularensis (BT);~~

~~(h) Haemophilus influenzae, from normally sterile sites;~~

~~(i) Influenza (hospitalized cases only), types A and B;~~

~~(j) Legionella species;~~

~~(k) Listeria monocytogenes;~~

~~(l) Mycobacterium tuberculosis complex;~~

~~(m) Neisseria gonorrhoeae;~~

~~(n) Neisseria meningitidis, from normally sterile sites;~~

~~(o) Salmonella species;~~

~~(p) Shigella species;~~

~~(q) Staphylococcus aureus with resistance or intermediate resistance to vancomycin isolated from any site;~~

~~(r) Vibrio species;~~

~~(s) Yersinia species (Yersinia pestis, BT); and~~

~~(t) any organism implicated in an outbreak when instructed by authorized local or state health department personnel.~~

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

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

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

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

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

(2) General Control Measures for Reportable Diseases.

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

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

(c) If, in the opinion of the local health officer it is necessary or advisable to protect the public's health that any person shall be kept from contact with the public, the local health officer shall establish, maintain and enforce involuntary treatment, isolation and quarantine as provided by Section 26-6-4. Control measures shall be specific to the known or suspected disease agent. Guidance is available from the Bureau of Epidemiology, Utah Department of Health or official reference listed in R386-702-12.

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

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

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

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

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

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

(5) Public Food Handlers.

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

(6) Communicable Diseases in Places Where Food or Drink Products are Handled or Processed.

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

(7) Request for State Assistance.

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

(8) Approved Laboratories.

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

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

(1) Rationale of Treatment.

A physician must evaluate individually each exposure to possible rabies infection. The physician shall also consult with local or

state public health officials if questions arise about the need for rabies prophylaxis.

(2) Management of Biting Animals.

(a) A healthy dog, cat, or ferret that bites a person shall be confined and observed at least daily for ten days from the date of bite, regardless of vaccination status, as specified by local animal control ordinances. It is recommended that rabies vaccine not be administered during the observation period. Such animals shall be evaluated by a veterinarian at the first sign of illness during confinement. A veterinarian or animal control officer shall immediately report any illness in the animal to the local health department. If signs suggestive of rabies develop, a veterinarian or animal control officer shall direct that the animal be euthanized, its head removed, and the head shipped under refrigeration, not frozen, for examination of the brain by a laboratory approved by the Utah Department of Health.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Measures for Standardized Rabies Control Practices.

(a) Humans requiring either pre- or post-exposure rabies prophylaxis shall be treated in accordance with the recommendations of the U.S. Public Health Service Immunization Practices Advisory Committee, as adopted and incorporated by reference in R386-702-12(2). A copy of the recommendations shall be made available to licensed medical personnel, upon request to the Bureau of Epidemiology, Utah Department of Health.

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

(c) The Compendium of Animal Rabies Prevention and Control, as adopted and incorporated by reference in R386-702-12(3), is the reference document for animal vaccine use.

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

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

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

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

(4) Measures to Prevent or Control Rabies Outbreaks.

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

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

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

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

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

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

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

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

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

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

(2) Cases: Standard precautions are required during hospitalization. Use contact precautions for diapered or incontinent [~~children under 6 years of age~~] patients for the duration of illness. Hospital care is desirable during acute illness. Release of the patient from supervision by the local health department shall be based on three or more negative cultures of feces (and of urine in patients with schistosomiasis) taken at least 24 hours apart. Cultures must have

been taken at least 48 hours after antibiotic therapy has ended and not earlier than one month after onset of illness as specified in R386-702-7(6). If any of these cultures is positive, repeat cultures at intervals of one month during the 12-month period following onset until at least three consecutive negative cultures are obtained as specified in R386-702-7(6). The patient shall be restricted from food handling, child care, and from providing patient care during the period of supervision by the local health department.

(3) **Contacts:** Administration of typhoid vaccine is recommended for all household members of known typhoid carriers. Household and close contacts of a carrier shall be restricted from food handling, child care, and patient care until two consecutive negative stool specimens, taken at least 24 hours apart, are submitted, or when approval is granted by the local health officer according to local jurisdiction.

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

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

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

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

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

- (a) Require the necessary laboratory tests for release;
- (b) Issue written instructions to the carrier;
- (c) Supervise the carrier.

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

(a) For carriers without schistosomiasis, three consecutive negative cultures obtained from fecal specimens authenticated by the attending physician, hospital personnel, laboratory personnel, or local health department staff taken at least one month apart and at least 48 hours after antibiotic therapy has stopped;

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

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

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

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

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

R386-702-9. Special Measures for the Control of HIV/AIDS.

(1) Authority for this section is established by Title 26, Chapter 6, Sections 3 and 3.5 of the Utah Communicable Disease Control Act. This section establishes requirements for:

(a) General reporting of screening, diagnostic, and treatment test results related to Human Immunodeficiency Virus (HIV) and Acquired Immunodeficiency Syndrome (AIDS).

(b) Partner identification and notification.

(2) Reporting of HIV and AIDS:(a) A health care provider who administers or causes to have administered any of the following tests shall report all positive and indeterminate results (preliminary and confirmatory) to the Department or the local health department:

(i) Presence of antibodies to HIV;

(ii) Presence of HIV antigen;

(iii) Isolation of HIV;

(iv) Demonstration of HIV pro-viral DNA;

(v) Demonstration of HIV specific nucleic acids;

(vi) HIV viral load determination;

(vii) Any other test or condition indicative of HIV infection;
and

(viii) CD4+ T-Lymphocyte tests, regardless of known HIV status.

(b) A laboratory that analyzes samples for any of the tests listed in R386-702-9(2)(a) shall report all results to the Department or the local health department.

(i) Specific electronic reporting requirements are described in R386-702-4(2)(e).

(c) Reports shall include, as available:

(i) First and last name of the patient;

(ii) Patient date of birth;

(iii) Sex;

(iv) Race;

(v) Occupation;

(vi) Patient phone number;

(vii) Patient hospitalization status;

(viii) Name and telephone number of the reporting facility;
(ix) Name and telephone number of the testing laboratory;
(x) Patient home and work address;
(xi) Name, address, and phone number of the requesting health care provider;
(xii) Specimen source;
(xiii) Laboratory's name for, or description of, the test;
(xiv) Test reference range; and
(xv) Test status (e.g. preliminary, final, amended and/or corrected).

(d) Reports may be made in writing, by telephone, or by other electronic means acceptable to the Department as described in R386-702-4(2).

(3) Partner identification and notification: if an individual is tested and found to have an HIV infection, the Department and/or local health department shall provide partner services, linkage-to-care activities, and promote retention to HIV care.

(a) Definitions:

(i) "Partner" is defined as any individual, including a spouse, who has shared needles, syringes, or drug paraphernalia or who has had sexual contact with an HIV infected individual.

(ii) "Spouse" is defined as any individual who is the marriage partner of that person at any time within the ten-year period prior to the diagnosis of HIV infection.

(iii) "Linkage to care" is defined by a reported CD4+ T-Lymphocyte test and/or HIV viral load determination within three months of HIV positive diagnosis.

(iv) "Retention to care" is defined by a reported CD4+ T-Lymphocyte test or HIV viral load determination twice within a 12-month period and at least three months apart.

(b) Partner services include:

(i) Confidential partner notification within 30 days of receiving a positive HIV result;

(ii) Prevention counseling;

(iii) Testing for HIV;

(iv) Providing recommendations for testing for other sexually transmitted diseases;

(v) Providing recommendations for hepatitis screening and vaccination;

(iv) Treatment or linkage to medical care within three months of HIV diagnosis; and

(v) Linkage or referral to other prevention services and support.

(4) A university or hospital that conducts research studies exempt from reporting AIDS and HIV infection under Section 26-6-3.5 shall submit the following to the Department:

(a) A summary of the research protocol including funding sources and justification for requiring anonymity;

(b) Written approval of the Utah Department of Health institutional review board; and

(c) A final report indicating the number of HIV positive and HIV negative individuals enrolled in the study.

R386-702-[9]10. Special Measures to Prevent Perinatal and Person-to-Person Transmission of Hepatitis B Infection.

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

the possible consequences, objects to the test on the basis of religious or personal beliefs.

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

(a) evidence of clinical hepatitis during pregnancy;

(b) injection drug use;

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

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

(e) the judgment of the healthcare provider.

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

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

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

(a) when a pregnant woman is admitted for delivery, or for monitoring of pregnancy status, the result from a test for HBsAg performed on that woman during that pregnancy is available for review and documented in the hospital record[-];

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

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

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

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

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

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

(h) hepatitis B immune globulin (HBIG) administration and birth dose hepatitis B vaccine status of infants born to mothers who are HBsAg-positive, or whose status is unknown, are reported within 24 hours of delivery to the local health department and Utah Department of Health Immunization Program at (801) 538-9450.

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

(a) All females between the ages of 12 and 50 years at the time an HBsAg positive test result is reported will be screened for pregnancy status within one week of receipt of that lab result.

([a]b) Infants born to HBsAg positive mothers complete the hepatitis B vaccine series as specified in in the most current version of "The Red Book" as cited in R386-702-13 (4)[Table 3.18, page 328 and Table 3.21, page 333 of the reference listed in subsection (9)].

([b]c) Children born to HBsAg positive mothers are tested for HBsAg and antibody against hepatitis B surface antigen (anti-HBs) at 9 to 1[5]8 months of age (testing is done at least one month[3-9 months] after the [third]final dose of hepatitis B vaccine series is administered, and no earlier than 9 months of age) to monitor the success of therapy and identify cases of perinatal hepatitis B infection.

(i) Children who test negative for HBsAg and do not demonstrate serological evidence of immunity against hepatitis B when tested as described in ([b]c) receive additional vaccine doses and are retested as specified [on page 332 of the reference listed in subsection (9)]in the most current version of "The Red Book" as cited in R386-702-13 (4).

([e]d) HBsAg positive mothers are advised regarding how to reduce their risk of transmitting hepatitis B to others.

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

(f) All identified acute hepatitis B cases shall be investigated by the local health department, and identified household and sexual contacts shall be advised to obtain vaccination against hepatitis B.

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

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

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

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

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

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

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

~~_____ (9) The Red Book Plus: 2009 Report of the Committee on Infectious Diseases, as referenced in R386-702-12(4) is the reference source for details regarding implementation of the requirements of this section.~~

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R386-702-1[0]1. Public Health Emergency.

(1) Declaration of Emergency: With the Governor's and Executive Director's or in the absence of the Executive Director, his designee's, concurrence, the Department or a local health department

may declare a public health emergency by issuing an order mandating reporting emergency illnesses or health conditions specified in sections R386-702-3 for a reasonable time.

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

(a) "emergency center" means:

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

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

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

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

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

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

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

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

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

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

(iv) by other arrangement approved by the Department.

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

(a) facility name;

(b) date of visit;

(c) time of visit;

(d) patient's age;

(e) patient's sex;

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

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

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

R386-702-1[4]2. Penalties.

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

R386-702-1[2]3. Official References.

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

(1) American Public Health Association. "Control of Communicable Diseases Manual". 19th ed., Heymann, David L., editor, 2008.

(2) Centers for Disease Control and Prevention. "Human Rabies Prevention---United States, 2008: Recommendations of the Advisory Committee on Immunization Practices." [Morbidity and Mortality Weekly Report.] 57 (RR03) (2008); [~~57 (RR03)~~]1-26, 28.

(3) [~~The~~]National Association of State Public Health Veterinarians Committee[~~me~~]. [;] "Compendium of Animal Rabies Prevention and Control, 2011." Nasphv.org. National Association of State Public Health Veterinarians, 31 May 2011. Web. <http://nasphv.org/Documents/RabiesCompendium.pdf>

(4) American Academy of Pediatrics. "Red Book: 2012 Report of the Committee on Infectious Diseases" 29th Edition. Elk Grove Village, IL, American Academy of Pediatrics; 2012.

(5) National Association of State Public Health Veterinarians Animal Contact Compendium Committee 2013. "Compendium of Measures to Prevent Disease Associated with Animals in Public Settings, 2013." Journal of the American Veterinary Medicine Association 243 (2013): 1270-288.

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

Date of Enactment or Last Substantive Amendment: [~~May 15, 2013~~]2014

Notice of Continuation: October 12, 2011

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

**Health, Disease Control and
Prevention, Immunization
R396-100
Immunization Rule for Students**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 38893

FILED: 09/30/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change is to add a requirement for meningococcal conjugate vaccine to seventh grade school entry requirements. Current national recommendations by the national Advisory Committee on Immunization Practices (ACIP) with the Centers of Disease Control and Prevention (CDC) recommends one dose of meningococcal conjugate vaccine at 11 or 12 years of age aligning with seventh grade school entry. This rule change would meet national recommendations for this vaccine. Section 53A-11-203 requires school entry requirements be based on a national standard which is ACIP. This rule change adds and updates incorporated references.

SUMMARY OF THE RULE OR CHANGE: The change requires one dose of meningococcal conjugate vaccine for seventh grade entry.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-11-303 and Section 53A-11-306

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates Updated Recommendations of the Advisory Committee on Immunization Practices (ACIP) Regarding Routine Poliovirus Vaccination: MMWR, published by Center for Disease Control and Prevention, 08/07/2009
- ◆ Updates Updated Recommendations of the Advisory Committee on Immunization Practices (ACIP) for the Control and Elimination of Mumps: MMWR, published by Center for Disease Control and Prevention, 06/09/2006
- ◆ Updates Prevention of Haemophilus influenza Type b Disease Among Infants and Children Two Months of Age and Older: MMWR Recommendations for Use of Haemophilus b Conjugate Vaccines and a Combined Diphtheria, Tetanus, and Pertussis, and Haemophilus b Vaccine: MMWR, published by Center for Disease Control and Prevention, 09/17/1993
- ◆ Updates Prevention of Haemophilus influenza Type b Disease Among Infants and Children Two Months of Age and Older: MMWR, published by Center for Disease Control and Prevention, 01/11/1991
- ◆ Adds Prevention and Control of Meningococcal Disease: Recommendations of the Advisory Committee on Immunization Practices (ACIP), published by Center for Disease Control and Prevention, 03/22/2013
- ◆ Updates Licensure of a 13-Valent Pneumococcal Conjugate Vaccine (PCV13) and Recommendations for Use Among Children—Advisory Committee on Immunization Practices, (ACIP), 2010: MMWR, published by Center for Disease Control and Prevention, 03/12/2010

- ◆ Updates Prevention of Hepatitis A Through Active or Passive Immunization: MMWR, published by Center for Disease Control and Prevention, 05/29/2006
- ◆ Updates Prevention of Varicella: MMWR, published by Center for Disease Control and Prevention, 06/22/2007

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no impact to state budgets as this change will be carried out through existing state budgets. Anticipated vaccine costs would be covered by individual insurance, Medicaid, CHIP, or the Vaccine for Children's Program.
- ◆ **LOCAL GOVERNMENTS:** Publicly funded vaccines are currently provided to local health departments at no cost to the local health departments through the federal Vaccines For Children program to cover children on Medicaid, CHIP, without insurance, who are American Indian/Alaskan Native and those who are underinsured. Local health departments choosing to serve children with private health insurance with vaccines as a covered service purchase vaccine and are reimbursed by contracts with insurance providers. As a public entity, they may purchase at a lower CDC contract price. The meningococcal conjugate vaccine has been available since 2005 and many children have already had this vaccine.
- ◆ **SMALL BUSINESSES:** Approximately 70% of children receive immunizations outside of public clinics. Their immunizations are paid for by insurance plans, Medicaid, and CHIP. All children who are not covered by insurance or might be under-insured for these vaccines qualify to receive them at no charge under the federal Vaccines For Children program (VFC). There are 350 private and public clinics enrolled in the VFC program in Utah. Meningococcal conjugate has been a standard immunization for many years and is covered by insurance providers in the state. The Department of Health knows of no insurance plan that does not cover required childhood immunizations, so this change will not be imposing an additional cost to them. It is a recommended vaccine for all LDS missionaries. The meningococcal conjugate vaccine has been available since 2005 and many children have already had this vaccine.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Approximately 83% of children receive immunizations outside of public clinics. Their immunizations are paid for by insurance plans, Medicaid, and CHIP. All children who are not covered by insurance for these vaccines qualify to receive them at no charge under the federal Vaccines For Children program (VFC). There are 350 private and public clinics enrolled in the VFC program in Utah. Meningococcal conjugate has been a standard immunization for many years and is covered by insurance providers in the state. The Department of Health knows of no insurance plan that does not cover required childhood immunizations, so this change will not be imposing an additional cost to them. It is a recommended vaccine for all LDS missionaries. The

meningococcal conjugate vaccine has been available since 2005 and many children have already had this vaccine.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for affected persons ("person" means any SINGLE individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency): As children's vaccinations are covered by either insurance or are available under the Vaccine For Children program, there is no cost for the vaccine to any individuals. There could be costs for a vaccine administration fee for those with no insurance or who are under-insured. The costs vary by provider and many decrease or defer fees based on ability to pay.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will minimally impact insurance plans which already pay for the immunization. Children not covered by insurance, Medicaid and CHIP are eligible at no charge for the federal Vaccines For Children program.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Linda Abel by phone at 801-538-9450, by FAX at 801-538-9440, or by Internet E-mail at label@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2014

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2014

AUTHORIZED BY: David Patton, PhD, Executive Director

R396. Health, Disease Control and Prevention, Immunization.

R396-100. Immunization Rule for Students.

R396-100-1. Purpose and Authority.

(1) This rule implements the immunization requirements of Title 53A, Chapter 11, Part 3. It establishes minimum immunization requirements for attendance at a public, private, or parochial kindergarten, elementary, or secondary school through grade 12, nursery school, licensed day care center, child care facility, family home care, or Head Start program in this state. It establishes:

- (a) required doses and frequency of vaccine administration;
- (b) reporting of statistical data; and
- (c) time periods for conditional enrollment.

(2) This rule is required by Section 53A-11-303 and authorized by Section 53A-11-306.

R396-100-2. Definitions.

As used in this rule:

"Department" means the Utah Department of Health.

"Early Childhood Program" means a nursery or preschool, licensed day care center, child care facility, family care home, or Head Start program.

"Exemption" means a relief from the statutory immunization requirements by reason of qualifying under Sections 53A-11-302 and 302.5.

"Parent" means a biological or adoptive parent who has legal custody of a child; a legal guardian, or the student, if of legal age.

"School" means a public, private, or parochial kindergarten, elementary, or secondary school through grade 12.

"School entry" means a student, at any grade, entering a Utah school or an early childhood program for the first time.

"Student" means an individual enrolled or attempting to enroll in a school or early childhood program.

R396-100-3. Required Immunizations.

(1) A student born before July 1, 1993 must meet the minimum immunization requirements of the ACIP prior to school entry for the following antigens: Diphtheria, Tetanus, Pertussis, Polio, Measles, Mumps, and Rubella.

(2) A student born after July 1, 1993 must meet the minimum immunization requirements of the ACIP prior to school entry for the following antigens: Diphtheria, Tetanus, Pertussis, Polio, Measles, Mumps, Rubella, and Hepatitis B.

(3) A student born after July 1, 1993, must also meet the minimum immunization requirements of the ACIP prior to entry into the seventh grade for the following antigens: Tetanus, Diphtheria, Pertussis, ~~and~~ Varicella, ~~and~~ Meningococcal.

(4) A student born after July 1, 1996 must meet the minimum immunization requirements of the ACIP prior to school entry for the following antigens: Diphtheria, Tetanus, Pertussis, Polio, Measles, Mumps, Rubella, Hepatitis B, Hepatitis A, and Varicella.

(5) To attend a Utah early childhood program, a student must meet the minimum immunization requirements of the ACIP for the following antigens: Diphtheria, Tetanus, Pertussis, Polio, Measles, Mumps, Rubella, Haemophilus Influenza Type b, Hepatitis A, Hepatitis B, Pneumococcal, and Varicella vaccines prior to school entry.

(6) The vaccinations must be administered according to the recommendations of the United States Public Health Service's Advisory Committee on Immunization Practices (ACIP) as listed below which are incorporated by reference into this rule:

(a) General Recommendations on Immunization: MMWR, December 1, 2006/Vol. 55/No. RR-15;

(b) Immunization of Adolescents: MMWR, November 22, 1996/Vol. 45/No. RR-13;

(c) Combination Vaccines for Childhood Immunization: MMWR, May 14, 1999/Vol. 48/No. RR-5;

(d) ~~[Diphtheria, Tetanus, and Pertussis: Recommendations for Vaccine Use and Other Preventive Measures: August 8, 1991/Vol. 40/No. RR-10;~~

~~(e) Pertussis Vaccination: Use of Acellular Pertussis Vaccines Among Infants and Children: March 28, 1997/Vol. 46/No. RR-7;~~

~~(f) Use of Diphtheria Toxoid-Tetanus Toxoid-Acellular Pertussis Vaccine as a Five-Dose Series: Supplemental Recommendations of the Advisory Committee on Immunization Practices: MMWR, November 17, 2000/Vol. 49/No. RR-13;~~

~~[(g)](e) Preventing Tetanus, Diphtheria, and Pertussis Among Adolescents: Use of Tetanus Toxoid, Reduced Diphtheria Toxoid and Acellular Pertussis Vaccines: March 24, 2006/Vol. 55/No. RR-3;~~

~~(h) Updated Recommendations for Use of Tetanus Toxoid, Reduced Diphtheria Toxoid and Acellular Pertussis (Tdap) Vaccine from the Advisory Committee on Immunization Practices, 2010: MMWR, January 14, 2011/Vol. 60/No. 1;~~

~~(f) A Comprehensive Strategy to Eliminate Transmission of Hepatitis B Virus Infection in the United States: MMWR, December 23, 2005/Vol. 54/No. RR-6;~~

~~[(+)](g) Haemophilus b Conjugate Vaccines for Prevention of Haemophilus influenza[e] Type b Disease Among Infants and Children Two Months of Age and Older: MMWR, January 11, 1991/Vol. 40/No. RR-1;~~

~~[(+)](h) Recommendations for Use of Haemophilus b Conjugate Vaccines and a Combined Diphtheria, Tetanus, and Pertussis, and Haemophilus b Vaccine: MMWR, September 17, 1993/Vol. 42/No. RR-13;~~

~~[(4e)](i) Measles, Mumps, and Rubella Vaccine Use and Strategies for Elimination of Measles, Rubella, and Congenital Rubella Syndrome and Control of Mumps: May 22, 1998/Vol. 47/No. RR-8;~~

~~(i) Updated Recommendations of the Advisory Committee on Immunization Practices (ACIP) for the Control and Elimination of Mumps: MMWR, June 9, 2006/Vol. 55/No. RR-22;~~

~~[(m)](j) Poliomyelitis Prevention in the United States: May 19, 2000/Vol. 49/No. RR-5;~~

~~(n) Updated Recommendations of the Advisory Committee on Immunization Practices (ACIP) Regarding Routine Poliovirus Vaccination: MMWR, August 7, 2009/Vol. 58/No. 30;~~

~~(k) Prevention of Varicella: MMWR, June 22, 2007/Vol. 56/No. RR-4;~~

~~[(e)](l) Prevention of Hepatitis A Through Active or Passive Immunization: MMWR, May 29, 2006/Vol. 55/No. RR-7; ~~and~~~~

~~[(p)](m) Preventing Pneumococcal Disease Among Infants and Young Children: October 6, 2000/Vol. 49/No. RR-9; Licensure of a 13-Valent Pneumococcal Conjugate Vaccine (PCV13) and Recommendations for Use Among Children-Advisory Committee on Immunization Practices, (ACIP), 2010: MMWR March 12, 2010/Vol. 59/No. 09; and~~

~~(n) Prevention and Control of Meningococcal Disease: Recommendations of the Advisory Committee on Immunization Practices (ACIP): March 22, 2013/62(RR02);1-22.~~

R396-100-4. Official Utah School Immunization Record (USIR).

(1) Schools and early childhood programs shall use the official Utah School Immunization Record (USIR) form as the record of each student's immunizations. The Department shall provide copies of the USIR to schools, early childhood programs, physicians, and local health departments upon each of their requests.

(2) Each school or early childhood program shall accept any immunization record provided by a licensed physician, registered nurse, or public health official as certification of immunization. It shall transfer this information to the USIR with the following information:

- (a) name of the student;
- (b) student's date of birth;
- (c) vaccine administered; and
- (d) the month, day, and year each dose of vaccine was administered.

(3) Each school and early childhood program shall maintain a file of the USIR for each student in all grades and an exemption form for each student claiming an exemption.

(a) The school and early childhood programs shall maintain up-to-date records of the immunization status for all students in all grades such that it can quickly exclude all non-immunized students if an outbreak occurs.

(b) If a student withdraws, transfers, is promoted or otherwise leaves school, the school or early childhood program shall either:

- (i) return the USIR and any exemption form to the parent of a student; or
- (ii) transfer the USIR and any exemption form with the student's official school record to the new school or early childhood program.

(4) A representative of the Department or the local health department may examine, audit, and verify immunization records maintained by any school or early childhood program.

(5) Schools and early childhood programs may meet the record keeping requirements of this section by keeping its official school immunization records in the Utah Statewide Immunization Information System (USIIS).

R396-100-5. Exemptions.

A parent claiming an exemption to immunization for medical, religious or personal reasons, as allowed by Section 53A-11-302, shall provide to the student's school or early childhood program the required completed forms. The school or early childhood program shall attach the forms to the student's USIR.

R396-100-6. Reporting Requirements.

(1) Each school and early childhood program shall report the following to the Department in the form or format prescribed by the Department:

- (a) by November 30 of each year, a statistical report of the immunization status of students enrolled in a licensed day care center, Head Start program, and kindergartens;
- (b) by November 30 of each year, a statistical report of the two-dose measles, mumps, and rubella immunization status of all kindergarten through twelfth grade students;
- (c) by November 30 of each year, a statistical report of tetanus, diphtheria, pertussis, hepatitis B, varicella, and the two-dose measles, mumps, and rubella immunization status of all seventh grade students; and
- (d) by June 15 of each year, a statistical follow-up report of those students not appropriately immunized from the November 30 report in all public schools, kindergarten through twelfth grade.

(2) The information that the Department requires in the reports shall be in accordance with the Centers for Disease Control and Prevention guidelines.

R396-100-7. Conditional Enrollment and Exclusion.

A school or early childhood program may conditionally enroll a student who is not appropriately immunized as required in this rule. To be conditionally enrolled, a student must have received at least one dose of each required vaccine and be on schedule for subsequent immunizations. If subsequent immunizations are one calendar month past due, the school or early childhood program must immediately exclude the student from the school or early childhood program.

(1) A school or early childhood program with conditionally enrolled students shall routinely review every 30 days the immunization status of all conditionally enrolled students until each student has completed the subsequent doses and provided written documentation to the school or early childhood program.

(2) Once the student has met the requirements of this rule, the school or early childhood program shall take the student off conditional status.

R396-100-8. Exclusions of Students Who Are Under Exemption and Conditionally Enrolled Status.

(1) A local or state health department representative may exclude a student who has claimed an exemption to all vaccines or to one vaccine or who is conditionally enrolled from school attendance if there is good cause to believe that the student has a vaccine preventable disease and:

- (a) has been exposed to a vaccine-preventable disease; or
- (b) will be exposed to a vaccine-preventable disease as a result of school attendance.

(2) An excluded student may not attend school until the local health officer is satisfied that a student is no longer at risk of contracting or transmitting a vaccine-preventable disease.

R396-100-9. Penalties.

Enforcement provisions and penalties for the violation or for the enforcement of public health rules, including this Immunization Rule for Students, are prescribed under Section 26-23-6.

KEY: immunizations, rules and procedures

Date of Enactment or Last Substantive Amendment: [~~March 15, 2010~~]**2014**

Notice of Continuation: **June 28, 2013**

Authorizing, and Implemented or Interpreted Law: **53A-11-303; 53A-11-306**

Health, Health Care Financing, Coverage and Reimbursement Policy **R414-1-5** Incorporations by Reference

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 38882

FILED: 09/25/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Subsection 26-18-3(2)(a) requires the Medicaid program to implement policy through administrative rules. The Department, in order to draw down federal funds, must have an approved state plan with the Centers for Medicare and Medicaid Services (CMS). The purpose of this change, therefore, is to incorporate the most current Medicaid State Plan by reference and to implement by rule ongoing Medicaid policy described in the Medical Supplies Utah Medicaid Provider Manual; Hospital Services Utah Medicaid Provider Manual with its attachments; Home Health Agencies Utah Medicaid Provider Manual, and the manual's attachment for the Private Duty Nursing Acuity Grid; Speech-Language Pathology and Audiology Services Utah Medicaid Provider Manual; Hospice Care Utah Medicaid Provider Manual; Long Term Care Services in Nursing Facilities Utah Medicaid Provider Manual with its attachments; Utah Home and Community-Based Waiver Services for Individuals 65 or Older Utah Medicaid Provider Manual; Personal Care Utah Medicaid Provider Manual with its attachments; Utah Home and Community-Based Waiver Services for Individuals with Acquired Brain Injury Age 18 and Older Utah Medicaid Provider Manual; Utah Home and Community-Based Waiver Services for Individuals with Intellectual Disabilities or Other Related Conditions Utah Medicaid Provider Manual; Utah Home and Community-Based Waiver Services for Individuals with Physical Disabilities Utah Medicaid Provider Manual; Utah Home and Community-Based Waiver Services New Choices Waiver Utah Medicaid Provider Manual; Utah Home and Community-Based Waiver Services for Technology Dependent, Medically Fragile Individuals Utah Medicaid Provider Manual; Utah Home and Community-Based Waiver Services Autism Waiver Utah Medicaid Provider Manual; Office of Inspector General (OIG) Administrative Hearings Procedures Manual; Pharmacy Services Utah Medicaid Provider Manual with its attachments; Coverage and Reimbursement Code Look-up Tool; CHEC Services Utah Medicaid Provider Manual with its attachments; Chiropractic Medicine Utah Medicaid Provider Manual; Dental, Oral Maxillofacial, and Orthodontia Services Utah Medicaid Provider Manual; General Attachments for the Utah Medicaid Provider Manual; Indian Health Utah Medicaid Provider Manual; Laboratory Services Utah Medicaid Provider Manual with its attachments; Medical Transportation Utah Medicaid Provider Manual; Non-Traditional Medicaid Health Plan Utah Medicaid Provider Manual with its attachments; Licensed Nurse Practitioner Utah Medicaid Provider Manual; Physical Therapy and Occupational Therapy Services Utah Medicaid Provider Manual; Physician Services and Anesthesiology Utah Medicaid Provider Manual with its attachments; Podiatric Services Utah Medicaid Provider Manual; Primary Care Network Utah Medicaid Provider Manual with its attachments; Psychology Services Utah Medicaid Provider Manual; Rehabilitative Mental Health and Substance Use Disorder Services Utah Medicaid Provider Manual; Rural Health Clinics and Federally Qualified Health Centers Services Utah Medicaid Provider Manual with its attachments; School-Based Skills Development Services

Utah Medicaid Provider Manual; Section I: General Information of the Utah Medicaid Provider Manual; Services for Pregnant Women Utah Medicaid Provider Manual; Targeted Case Management for Individuals with Serious Mental Illness Utah Medicaid Provider Manual; Targeted Case Management for Early Childhood (Ages 0-4) Utah Medicaid Provider Manual; Vision Care Services Utah Medicaid Provider Manual; and Women's Services Utah Medicaid Provider Manual.

SUMMARY OF THE RULE OR CHANGE: Section R414-1-5 is changed to incorporate the Utah Medicaid State Plan and approved state plan amendments (SPAs) by reference to 10/01/2014. These SPAs include: SPA 14-011 Nursing Facility Services, which clarifies that nursing facility services are available to individuals who are both eligible and not eligible under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program; SPA 14-013-UT Quality Improvement Incentive, which extends the Quality Incentive (QI) program and adds a new subprogram of the quality incentive programs, called patient dignity, for nursing facilities in state fiscal year 2015 and beyond; SPA 14-014-UT Reimbursement for Home Health Services, which updates the effective date of rates for home health services to 07/01/2014; SPA 14-015-UT Reimbursement for Physician and Anesthesia Services, which updates the effective date of rates for physician and anesthesia services to 07/01/2014; SPA 14-016-UT Reimbursement for Optometry Services, which updates the effective date of optometry rates to 07/01/2014; SPA 14-017-UT Reimbursement for Speech Pathology Services, which updates the effective date of speech pathology rates to 07/01/2014; SPA 14-018-UT Reimbursement for Audiology Services, which updates the effective date of audiology rates to 07/01/2014; SPA 14-019-UT Reimbursement for Chiropractic Services, which updates the effective date of chiropractic rates to 07/01/2014; SPA 14-020-UT Reimbursement for Eyeglasses Services, which updates the effective date of eyeglasses rates to 07/01/2014; SPA 14-021-UT Reimbursement for Clinic Services, which updates the effective date of rates for clinic services to 07/01/2014; SPA 14-022-UT Reimbursement for Physical Therapy and Occupational Therapy, which updates the effective date of rates for physical therapy and occupational therapy to 07/01/2014; SPA 14-023-UT Reimbursement for Rehabilitative Mental Health Services, which updates the effective date of rates for rehabilitative mental health services to 07/01/2014; SPA 14-024-UT Reimbursement for Licensed Practitioner Services, which updates the effective date of rates for licensed practitioner services to 07/01/2014; and SPA 14-025-UT Reimbursement for Transportation Services, which updates the effective date of transportation rates to 07/01/2014. This rule change also incorporates by reference the Medical Supplies Utah Medicaid Provider Manual, effective 10/01/2014; incorporates by reference the Hospital Services Utah Medicaid Provider Manual with its attachments, effective 10/01/2014; incorporates by reference the Home Health Agencies Utah Medicaid Provider Manual, and the manual's attachment for the Private Duty Nursing Acuity Grid, effective 10/01/2014; incorporates by reference

the Speech-Language Pathology and Audiology Services Utah Medicaid Provider Manual, effective 10/01/2014; incorporates by reference the Hospice Care Utah Medicaid Provider Manual, effective 10/01/2014; incorporates by reference the Long Term Care Services in Nursing Facilities Utah Medicaid Provider Manual, with its attachments, effective 10/01/2014; incorporates by reference the Utah Home and Community-Based Waiver Services for Individuals 65 or Older Utah Medicaid Provider Manual, effective 10/01/2014; incorporates by reference the Personal Care Utah Medicaid Provider Manual, with its attachments, effective 10/01/2014; incorporates by reference the Utah Home and Community-Based Waiver Services for Individuals with Acquired Brain Injury Age 18 and Older Utah Medicaid Provider Manual, effective 10/01/2014; incorporates by reference the Utah Home and Community-Based Waiver Services for Individuals with Intellectual Disabilities or Other Related Conditions Utah Medicaid Provider Manual, effective 10/01/2014; incorporates by reference the Utah Home and Community-Based Waiver Services for Individuals with Physical Disabilities Utah Medicaid Provider Manual, effective 10/01/2014; incorporates by reference the Utah Home and Community-Based Waiver Services New Choices Waiver Utah Medicaid Provider Manual, effective 10/01/2014; incorporates by reference the Utah Home and Community-Based Waiver Services for Technology Dependent, Medically Fragile Individuals Utah Medicaid Provider Manual, effective 10/01/2014; incorporates by reference the Utah Home and Community-Based Waiver Services Autism Waiver Utah Medicaid Provider Manual, effective 10/01/2014; incorporates by reference the Office of Inspector General (OIG) Administrative Hearings Procedures Manual, effective 10/01/2014; incorporates by reference the Pharmacy Services Utah Medicaid Provider Manual with its attachments, effective 10/01/2014; incorporates by reference the Coverage and Reimbursement Code Look-up Tool, effective 10/01/2014; incorporates by reference the CHEC Services Utah Medicaid Provider Manual with its attachments, effective 10/01/2014; incorporates by reference the Chiropractic Medicine Utah Medicaid Provider Manual, effective 10/01/2014; incorporates by reference the Dental, Oral Maxillofacial, and Orthodontia Services Utah Medicaid Provider Manual, effective 10/01/2014; incorporates by reference the General Attachments for the Utah Medicaid Provider Manual, effective 10/01/2014; incorporates by reference the Indian Health Utah Medicaid Provider Manual, effective 10/01/2014; incorporates by reference the Laboratory Services Utah Medicaid Provider Manual with its attachments, effective 10/01/2014; incorporates by reference the Medical Transportation Utah Medicaid Provider Manual, effective 10/01/2014; incorporates by reference the Non-Traditional Medicaid Health Plan Utah Medicaid Provider Manual with its attachments, effective 10/01/2014; incorporates by reference the Licensed Nurse Practitioner Utah Medicaid Provider Manual, effective 10/01/2014; incorporates by reference the Physical Therapy and Occupational Therapy Services Utah Medicaid Provider Manual, effective 10/01/2014; incorporates by reference the Physician Services and Anesthesiology Utah Medicaid

Provider Manual with its attachments, effective 10/01/2014; incorporates by reference the Podiatric Services Utah Medicaid Provider Manual, effective 10/01/2014; incorporates by reference the Primary Care Network Utah Medicaid Provider Manual with its attachments, effective 10/01/2014; incorporates by reference the Psychology Services Utah Medicaid Provider Manual, effective 10/01/2014; incorporates by reference the Rehabilitative Mental Health and Substance Use Disorder Services Utah Medicaid Provider Manual, effective 10/01/2014; incorporates by reference the Rural Health Clinics and Federally Qualified Health Centers Services Utah Medicaid Provider Manual with its attachments, effective 10/01/2014; incorporates by reference the School-Based Skills Development Services Utah Medicaid Provider Manual, effective 10/01/2014; incorporates by reference Section I: General Information of the Utah Medicaid Provider Manual, effective 10/01/2014; incorporates by reference the Services for Pregnant Women Utah Medicaid Provider Manual, effective 10/01/2014; incorporates by reference the Targeted Case Management for Individuals with Serious Mental Illness Utah Medicaid Provider Manual, effective 10/01/2014; Targeted Case Management for Early Childhood (Ages 0-4) Utah Medicaid Provider Manual, effective 10/01/2014; Vision Care Services Utah Medicaid Provider Manual, effective 10/01/2014; and Women's Services Utah Medicaid Provider Manual, effective 10/01/2014.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5 and Section 26-18-3

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates Section I: General Information of the Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Medical Supplies Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Targeted Case Management for Individuals with Serious Mental Illness Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Rural Health Clinics and Federally Qualified Health Centers Services Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Services for Pregnant Women Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Office of Inspector General Administrative Hearings Procedures Manual, published by Office of Inspector General and Medicaid Services, 10/01/2014
- ◆ Updates Physical Therapy and Occupational Therapy Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2014

- ◆ Updates CHEC Services Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates General Attachments for the Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Utah Home and Community-Based Waiver Services for Individuals with Acquired Brain Injury Age 18 and Older Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Indian Health Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Utah Home and Community-Based Waiver Services for Individuals with Physical Disabilities Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Utah Home and Community-Based Waiver Services New Choices Waiver Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Non-Traditional Medicaid Health Plan Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Utah Home and Community-Based Waiver Services Autism Waiver Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Targeted Case Management for Early Childhood (Ages 0-4) Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Women's Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Coverage and Reimbursement Code Look-up Tool, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Utah Home and Community-Based Waiver Services for Individuals 65 or Older Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Rehabilitative Mental Health and Substance Use Disorder Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Dental, Oral Maxillofacial, and Orthodontia Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Personal Care Utah Medicaid Provider Manual, with its attachments, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Primary Care Network Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Laboratory Services Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates School-Based Skills Development Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Utah Home and Community-Based Waiver Services for Individuals with Intellectual Disabilities or Other Related Conditions Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Licensed Nurse Practitioner Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Long Term Care Services in Nursing Facilities Utah Medicaid Provider Manual, with its attachments, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Utah Home and Community-Based Waiver Services for Technology Dependent, Medically Fragile Individuals Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Podiatric Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Chiropractic Medicine Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Hospital Services Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Utah Medicaid State Plan, published by Centers for Medicare and Medicaid Services, 10/01/2014
- ◆ Updates Home Health Agencies Utah Medicaid Provider Manual, and the manual's attachment for the Private Duty Nursing Acuity Grid, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Medical Transportation Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Psychology Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Hospice Care Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2014

- ◆ Updates Physician Services and Anesthesiology Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Speech-Language Pathology and Audiology Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Vision Care Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2014
- ◆ Updates Pharmacy Services Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 10/01/2014

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no budget impact because this change only fulfills the requirement to incorporate the state plan by reference. Implementation of the state plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the provider manuals and in the Look-up Tool, and hearings procedures described in the OIG manual do not create costs or savings to the Department or other state agencies.
- ◆ **LOCAL GOVERNMENTS:** There is no budget impact because this change only fulfills the requirement to incorporate the state plan by reference. Implementation of the state plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the provider manuals and in the Look-up Tool, and hearings procedures described in the OIG manual do not create costs or savings to local governments.
- ◆ **SMALL BUSINESSES:** There is no budget impact because this change only fulfills the requirement to incorporate the state plan by reference. Implementation of the state plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the provider manuals and in the Look-up Tool, and hearings procedures described in the OIG manual do not create costs or savings to small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no budget impact because this change only fulfills the requirement to incorporate the state plan by reference. Implementation of the state plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the provider manuals and in the Look-up Tool, and hearings procedures described in the OIG manual do not create costs or savings to Medicaid recipients and to Medicaid providers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this change only fulfills the requirement to incorporate the state plan by reference. Implementation of the state plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the provider manuals and in the

Look-up Tool, and hearings procedures described in the OIG manual do not create costs or savings to a single Medicaid recipient or to a Medicaid provider.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no impact on business because it makes no change to current practices.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2014

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2014

AUTHORIZED BY: David Patton, PhD, Executive Director

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

R414-1. Utah Medicaid Program.

R414-1-5. Incorporations by Reference.

The Department incorporates the [~~July~~October 1, 2014 versions of the following by reference:

- (1) Utah Medicaid State Plan, including any approved amendments, under Title XIX of the Social Security Act Medical Assistance Program;
- (2) Medical Supplies Utah Medicaid Provider Manual, Section 2, Medical Supplies, as applied in Rule R414-70;
- (3) Hospital Services Utah Medicaid Provider Manual with its attachments;
- (4) Home Health Agencies Utah Medicaid Provider Manual, and the manual's attachment for the Private Duty Nursing Acuity Grid;
- (5) Speech-Language Pathology and Audiology Services Utah Medicaid Provider Manual;
- (6) Hospice Care Utah Medicaid Provider Manual;
- (7) Long Term Care Services in Nursing Facilities Utah Medicaid Provider Manual with its attachments;
- (8) Personal Care Utah Medicaid Provider Manual with its attachments;
- (9) Utah Home and Community-Based Waiver Services for Individuals 65 or Older Utah Medicaid Provider Manual;

(10) Utah Home and Community-Based Waiver Services for Individuals with Acquired Brain Injury Age 18 and Older Utah Medicaid Provider Manual;

(11) Utah Home and Community-Based Waiver for Individuals with Intellectual Disabilities or Other Related Conditions Utah Medicaid Provider Manual;

(12) Utah Home and Community-Based Waiver Services for Individuals with Physical Disabilities Utah Medicaid Provider Manual;

(13) Utah Home and Community-Based Waiver Services New Choices Waiver Utah Medicaid Provider Manual;

(14) Utah Home and Community-Based Waiver Services for Technology Dependent, Medically Fragile Individuals Utah Medicaid Provider Manual;

(15) Utah Home and Community-Based Waiver Services Autism Waiver Utah Medicaid Provider Manual;

(16) Office of Inspector General Administrative Hearings Procedures Manual;

(17) Pharmacy Services Utah Medicaid Provider Manual with its attachments;

(18) Coverage and Reimbursement Code Look-up Tool found at <http://health.utah.gov/medicaid/stplan/lookup/CoverageLookup.php> ;

(19) CHEC Services Utah Medicaid Provider Manual with its attachments;

(20) Chiropractic Medicine Utah Medicaid Provider Manual;

(21) Dental, Oral Maxillofacial, and Orthodontia Services Utah Medicaid Provider Manual;

(22) General Attachments for the Utah Medicaid Provider Manual;

(23) Indian Health Utah Medicaid Provider Manual;

(24) Laboratory Services Utah Medicaid Provider Manual with its attachments;

(25) Medical Transportation Utah Medicaid Provider Manual;

(26) Non-Traditional Medicaid Health Plan Utah Medicaid Provider Manual with its attachments;

(27) Licensed Nurse Practitioner Utah Medicaid Provider Manual;

(28) Physical Therapy and Occupational Therapy Services Utah Medicaid Provider Manual;

(29) Physician Services and Anesthesiology Utah Medicaid Provider Manual with its attachments;

(30) Podiatric Services Utah Medicaid Provider Manual;

(31) Primary Care Network Utah Medicaid Provider Manual with its attachments;

(32) Psychology Services Utah Medicaid Provider Manual;

(33) Rehabilitative Mental Health and Substance Use Disorder Services Utah Medicaid Provider Manual;

(34) Rural Health Clinics and Federally Qualified Health Centers Services Utah Medicaid Provider Manual with its attachments;

(35) School-Based Skills Development Services Utah Medicaid Provider Manual;

(36) Section I: General Information of the Utah Medicaid Provider Manual;

(37) Services for Pregnant Women Utah Medicaid Provider Manual;

(38) Targeted Case Management for Individuals with Serious Mental Illness Utah Medicaid Provider Manual;

(39) Targeted Case Management for Early Childhood (Ages 0-4) Utah Medicaid Provider Manual;

(40) Vision Care Services Utah Medicaid Provider Manual; and

(41) Women's Services Utah Medicaid Provider Manual.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: [August 19,] 2014

Notice of Continuation: March 2, 2012

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3; 26-34-2

**Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-303-9
Subsidized Adoptions**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38888

FILED: 09/30/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to include a coverage group for Medicaid clients who receive kinship guardianship assistance payments through the Department of Human Services.

SUMMARY OF THE RULE OR CHANGE: This amendment provides kinship guardianship assistance payments for certain foster care individuals. It also updates what the Department has incorporated by reference and makes other technical changes.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5 and Section 26-18-3

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Adds Subsection 1902(a)(10)(A)(i)(I) of the Social Security Act, published by Social Security Administration, 01/01/2014
- ◆ Adds 42 CFR 435.227, published by Government Printing Office, 10/01/2013
- ◆ Updates 42 CFR 435.115(e)(1), published by Government Printing Office, 10/01/2013

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no impact to the state budget because this change only shifts coverage for clients

who are already covered under Title IV-E Foster Care Medicaid.

♦ LOCAL GOVERNMENTS: There is no impact to local governments because they neither fund Medicaid services nor determine Medicaid eligibility.

♦ SMALL BUSINESSES: There is no budget impact because this amendment does not impose new costs or requirements on small businesses.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no budget impact because this amendment does not impose new costs or requirements on Medicaid providers and Medicaid recipients.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this amendment does not impose new costs or requirements on a single Medicaid provider or on a Medicaid recipient.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no impact on business because the amendment does not impose new costs or requirements.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2014

THIS RULE MAY BECOME EFFECTIVE ON: 12/01/2014

AUTHORIZED BY: David Patton, PhD, Executive Director

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

R414-303. Coverage Groups.

R414-303-9. Subsidized Adoptions and Kinship Guardianship.

(1) The Department adopts and incorporates by reference 42 CFR 435.115(e)(1), October 1, 2013^[2] ed. in regard to Subsidized Adoption Medicaid.

(2) The Department elects to cover individuals under a state adoption agreement as defined in 42 CFR 435.227, October 1, 2013 ed., which is adopted and incorporated by reference.

(3) The Department may not impose resource or income tests for a child eligible under a state subsidized adoption agreement.

(4) The Department adopts and incorporates by reference Subsection 1902(a)(10)(A)(i)(I) of the Social Security Act, effective January 1, 2014, in regard to Kinship Guardianship Medicaid.

~~(5)(2) [Eligibility for subsidized adoptions is not governed by this rule.]~~ The Department of Human Services determines eligibility for subsidized adoption and Kinship Guardianship Medicaid.

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

Date of Enactment or Last Substantive Amendment: [July 1,] 2014

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
R414-308-6**

Eligibility Period and Reviews

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38889

FILED: 09/30/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to align the review process for all medical programs.

SUMMARY OF THE RULE OR CHANGE: The Department has elected the option to complete reviews for non-Modified Adjusted Gross Income (MAGI)-based programs in the same manner as required for MAGI-based programs. It also updates what the Department has incorporated by reference and makes other technical changes.

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

MATERIALS INCORPORATED BY REFERENCES:

- ♦ Updates 42 CFR 435.916, published by Government Printing Office, 10/01/2013

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: There is no impact to the state budget because this amendment only changes how the Department conducts its medical reviews.

♦ LOCAL GOVERNMENTS: There is no impact to local governments because they neither fund Medicaid services nor determine Medicaid eligibility.

♦ **SMALL BUSINESSES:** There is no budget impact because this amendment does not impose new costs or requirements on small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no budget impact because this amendment does not impose new costs or requirements on Medicaid providers and Medicaid recipients.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this amendment does not impose new costs or requirements on a single Medicaid provider or on a Medicaid recipient.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on business because this amendment does not impose new costs or requirements on businesses.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2014

THIS RULE MAY BECOME EFFECTIVE ON: 12/01/2014

AUTHORIZED BY: David Patton, PhD, Executive Director

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

R414-308. Application, Eligibility Determinations and Improper Medical Assistance.

R414-308-6. Eligibility Period and Reviews.

(1) The eligibility period begins on the effective date of eligibility as defined in Section R414-306-4, which may be after the first day of a month, subject to the following requirements.

(a) If a recipient must pay one of the following fees to receive Medicaid, the eligibility agency shall determine eligibility and notify the recipient of the amount owed for coverage. The eligibility agency shall grant eligibility when it receives the required payment, or in the case of a spenddown or cost-of-care contribution for waivers, when the recipient sends proof of incurred medical expenses equal to the payment. The fees a recipient may owe include:

(i) a spenddown of excess income for medically needy Medicaid coverage;

(ii) a Medicaid Work Incentive (MWI) premium; or

(iii) a cost-of-care contribution for home and community-based waiver services.

(b) A required spenddown, MWI premium, or cost-of-care contribution is due each month for a recipient to receive Medicaid coverage.

(c) The recipient must make the payment or provide proof of medical expenses within 30 calendar days from the mailing date of the application approval notice, which states how much the recipient owes.

(d) For ongoing months of eligibility, the recipient has until the close of business on the tenth day of the month after the benefit month to meet the spenddown or the cost-of-care contribution for waiver services, or to pay the MWI premium. If the tenth day of the month is a non-business day, the recipient has until the close of business on the first business day after the tenth. Eligibility begins on the first day of the benefit month once the recipient meets the required payment. If the recipient does not meet the required payment by the due date, the recipient may reapply for retroactive benefits if that month is within the retroactive period of the new application date.

(e) A recipient who lives in a long-term care facility and owes a cost-of-care contribution to the medical facility must pay the medical facility directly. The recipient may use unpaid past medical bills, or current incurred medical bills other than the charges from the medical facility, to meet some or all of the cost-of-care contribution subject to the limitations in Section R414-304-9. An unpaid cost-of-care contribution is not allowed as a medical bill to reduce the amount that the recipient owes the facility.

(f) Even when the eligibility agency does not close a medical assistance case, no eligibility exists in a month for which the recipient fails to meet a required spenddown, MWI premium, or cost-of-care contribution for home and community-based waiver services.

(g) The eligibility agency shall continue eligibility for a resident of a nursing home even when an eligible resident fails to pay the nursing home the cost-of-care contribution. The resident, however, must continue to meet all other eligibility requirements.

(2) The eligibility period ends on:

(a) the last day of the month in which the eligibility agency determines that the recipient is no longer eligible for medical assistance and sends proper closure notice;

(b) the last day of the month in which the eligibility agency sends proper closure notice when the recipient fails to provide required information or verification to the eligibility agency by the due date;

(c) the last day of the month in which the recipient asks the eligibility agency to discontinue eligibility, or if benefits have been issued for the following month, the end of that month;

(d) for time-limited programs, the last day of the month in which the time limit ends;

(e) for the pregnant woman program, the last day of the month which is at least 60 days after the date the pregnancy ends, except that for pregnant woman coverage for emergency services only, eligibility ends on the last day of the month in which the pregnancy ends; or

(f) the date the individual dies.

(3) A presumptive eligibility period begins on the day the qualified entity determines an individual to be presumptively eligible. The presumptive eligibility period shall end on the earlier of:

(a) the day the eligibility agency makes an eligibility decision for medical assistance based on the individual's application when that application is filed in accordance with the requirements of Sections 1920 and 1920A of the Social Security Act; or

(b) in the case of an individual who does not file an application in accordance with the requirements of Sections 1920 and 1920A of the Social Security Act, the last day of the month that follows the month in which the individual becomes presumptively eligible.

(4) For an individual selected for coverage under the Qualified Individuals Program, the eligibility agency shall extend eligibility through the end of the calendar year if the individual continues to meet eligibility criteria and the program still exists.

(5) The eligibility agency shall complete a periodic review of a recipient's eligibility for medical assistance in accordance with the requirements of 42 CFR 435.916, October 1, 2013^[2] ed., which the Department adopts and incorporates by reference. The Department elects to conduct reviews for non-MAGI-based coverage groups in accordance with 42 CFR 435.916(a)(3) if eligibility cannot be renewed in accordance with 42 CFR 435.916(a)(2). ~~[- at least once every 12 months.]~~ The eligibility agency shall review factors that are subject to change to determine if the recipient continues to be eligible for medical assistance.

(6) For non-MAGI-based coverage groups, the eligibility agency may complete an eligibility review more frequently when it:

(a) has information about anticipated changes in the recipient's circumstances that may affect eligibility;

(b) knows the recipient has fluctuating income;

(c) completes a review for other assistance programs that the recipient receives; or

(d) needs to meet workload demands.

(7) If a recipient fails to respond to a request for information to complete the review, the eligibility agency shall end eligibility effective at the end of the review month and send proper notice to the recipient.

(a) If the recipient responds to the review or reapplies within three calendar months of the review closure date, the eligibility agency shall consider the response to be a new application without requiring the client to reapply. The application processing period shall apply for the new request for coverage.

(b) If the recipient becomes eligible based on this reapplication, the recipient's eligibility becomes effective the first day of the month after the closure date if verification is provided timely. If the recipient fails to return verification timely or if the recipient is determined to be ineligible, the eligibility agency shall send a denial notice to the recipient.

(c) The eligibility agency may not continue eligibility while it makes a new eligibility determination.

(8) If the eligibility agency sends proper notice of an adverse decision in the review month, the agency shall change eligibility for the following month.

(9) If the eligibility agency does not send proper notice of an adverse change for the following month, the agency shall extend eligibility to the following month. Upon completing an eligibility determination, the eligibility agency shall send proper notice of the effective date of any adverse decision.

(10) If the recipient responds to the review in the review month and the verification due date is in the following month, the

eligibility agency shall extend eligibility to the following month. The recipient must provide all verification by the verification due date.

(a) If the recipient provides all requested verification by the verification due date, the eligibility agency shall determine eligibility and send proper notice of the decision.

(b) If the recipient does not provide all requested verification by the verification due date, the eligibility agency shall end eligibility effective the end of the month in which the eligibility agency sends proper notice of the closure.

(c) If the recipient returns all verification after the verification due date and before the effective closure date, the eligibility agency shall treat the date that it receives the verification as a new application date. The agency shall then determine eligibility and send notice to the recipient.

(11) The eligibility agency shall provide ten-day notice of case closure if the recipient is determined ineligible or if the recipient fails to provide all verification by the verification due date.

(12) The eligibility agency may not extend coverage under certain medical assistance programs in accordance with state and federal law. The agency shall notify the recipient before the effective closure date.

(a) If the eligibility agency determines that the recipient qualifies for a different medical assistance program, the agency shall notify the recipient. Otherwise, the agency shall end eligibility when the permitted time period for such program expires.

(b) If the recipient provides information before the effective closure date that indicates that the recipient may qualify for another medical assistance program, the eligibility agency shall treat the information as a new application. If the recipient contacts the eligibility agency after the effective closure date, the recipient must reapply for benefits.

KEY: public assistance programs, applications, eligibility, Medicaid

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

Notice of Continuation: January 23, 2013

Authorizing, and Implemented or Interpreted Law: 26-18

Labor Commission, Industrial Accidents R612-300-4 General Method for Computing Medical Fees

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 38881

FILED: 09/24/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to adopt, with modifications, the Optum 2014 Essential Resource-Based Relative Value Schedule (RBRVS), 2014 First Quarter

Emergency Update and the 2014 American Medical Association Current Procedural Terminology (CPT) coding standards, to specify the effective date of the rule as being 12/01/2014, and to adjust the conversion factors regarding certain medical specialties.

SUMMARY OF THE RULE OR CHANGE: The proposed rule removes the incorporation of the Optum 2013 Current Procedural Coding Expert, CPT Codes. The amendment incorporates by reference current versions of the RBRVS and adjusts the conversion factors related to the specific medical specialties listed within the rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-1-104 and Section 34A-2-201

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Removes Current Procedural Coding Expert, published by Optum, 2013
- ◆ Updates The Essential RBRVS, published by Optum, 2014

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The proposed amendment will impose no additional administrative or enforcement costs on the Labor Commission, which is the state agency charged with administering and enforcing Utah's workers' compensation system. The National Council on Compensation Insurance projects that overall workers' compensation costs will increase by 0.3% as a result of adoption of the updated RBRVS and CPT standards. The Commission presumes that this increase will be passed on to the state in increased workers' compensation insurance premiums.

◆ **LOCAL GOVERNMENTS:** The National Council on Compensation Insurance projects that overall workers' compensation costs will increase by 0.3% as a result of adoption of the updated RBRVS and CPT standards. The Commission presumes that this increase will be passed on to local governments in increased workers' compensation insurance premiums.

◆ **SMALL BUSINESSES:** The National Council on Compensation Insurance projects that overall workers' compensation costs will increase by 0.3% as a result of adoption of the updated RBRVS and CPT standards. The Commission presumes that this increase will be passed on to all employers, including small businesses, in increased workers' compensation insurance premiums.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The National Council on Compensation Insurance projects that overall workers' compensation costs will increase by 0.3% as a result of adoption of the updated RBRVS and CPT standards. The Commission presumes that this increase will be passed on to all employers, including small businesses, in increased workers' compensation insurance premiums.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Workers' compensation insurance carriers and those providing medical services to injured workers will be affected by the proposed amendment. Because the RBRVS and CPT systems are already used throughout the health care industry, insurance carriers and medical providers already receive and use updates to those systems. The Commission does not anticipate that the updates required by this rule amendment will result in any additional compliance costs for those entities.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The workers' compensation system uses the same relative value (RBRVS) and coding (CPT) systems that are generally used throughout the health industry. Periodically, the RBRVS and CPT systems are updated. It is therefore necessary for the Commission to also adopt those changes and adjust its conversion factor relating to certain medical specialties in order to: 1) avoid confusion; and 2) provide adequate payment for medical care provided to injured workers. This year, the modifications to the RBRVS and CPT will result in increased payments for some medical services. These increases will very likely be factored into workers' compensation insurance premiums but may be offset by reductions in other factors.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Ron Dressler by phone at 801-530-6841, by FAX at 801-530-6804, or by Internet E-mail at rdressler@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/15/2014

THIS RULE MAY BECOME EFFECTIVE ON: 11/24/2014

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R612. Labor Commission, Industrial Accidents.

R612-300. Workers' Compensation Rules - Medical Care.

R612-300-4. General Method For Computing Medical Fees.

A. Adoption of "CPT" and "RBRVS." The Labor Commission hereby adopts and by this reference incorporates:

[1. ~~"Optum 2013 Current Procedural Coding Expert, CPT codes with Medicare essentials enhanced for accuracy," ("CPT" hereafter); and~~

2.] "Optum 201[3]4 The Essential RBRVS, 201[3]4 1st Quarter Emergency Update," designated as 1761/RBRCU/U1771R--RBRC13/RBRC/U1771R, ("RBRVS" hereafter).

B. Medical fees calculated according to [~~CPT and~~]the RBRVS relative value unit assigned to each CPT code. Unless some other provision of these rules specifies a different method, the [~~CPT and~~]RBRVS [~~are~~]is to be used in conjunction with the "conversion factors" established in subsection C. of this rule to calculate payments for medical care provided to injured workers.

C. Conversion Factors. Fees for medical care of injured workers shall be computed by determining the relative value unit ("RVU") assigned by the RBRVS to a CPT code and then multiplying that RVU by the following conversion factors for specific medical specialties:

1. Anesthesiology (1 unit per 15 minutes of anesthesia): \$5[0]3.00;
2. Medicine (Evaluation and Medicine Codes 99201 - 99204 and 99211-99214): \$[46]50.00;
3. Pathology and Laboratory: \$5[2]6.00;
4. Radiology: \$5[3]8.00;
5. Restorative Services: \$[46]50.00;
6. Surgery (all 20000 codes, codes 49505 thru 49525, and all 60000 codes): \$[58]62.00;
7. Other Surgery: \$[37]40.00.

D. Fees for Medical care not addressed by CPT/RBRVS, or requiring unusual treatment.

1. The payor and medical provider may establish and agree to a reasonable fee for medical care of an injured worker if:

- a. neither the CPT/RBRVS or any other provision of these rules address the medical care in question; or
- b. application of CPT/RBRVS or other provisions of these rules would result in an inadequate fee due to extraordinary difficulty of treatment.

2. If the medical provider and payor cannot agree to a reasonable fee in such cases, the provider can request a hearing before the Commission's Adjudication Division to establish a reasonable fee.

KEY: workers' compensation, fees, medical practitioners
Date of Enactment or Last Substantive Amendment: [November 22, 2013]2014
Authorizing, and Implemented or Interpreted Law: 34A-1-104; 34A-2-201

Pardons (Board of), Administration
R671-309-2
Recusal

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 38876
 FILED: 09/22/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The current rule does not have a path for an individual to request the recusal of a Board member who may

vote on the decision but is not conducting the hearing. The rule does not have an administrative appeal process if the initial hearing officer denies the recusal.

SUMMARY OF THE RULE OR CHANGE: The proposed changes clarify situations that require recusal and mirror judicial rules about recusal. The changes also create a path for an individual to request recusal of a Board member and an administrative appeal process.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-1 and Section 77-27-5 and Subsection 77-27-9(4)(a)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The proposed changes affect the Board, Board staff, and individuals under the jurisdiction of the Board. The parole hearing process is already in place. The proposed changes clarify when a hearing officer or Board member should be recused as well as the administrative appeal process if a request is denied by the initial hearing officer. These changes do not add cost or create savings for the state budget.

◆ **LOCAL GOVERNMENTS:** The rule applies to the Board and its staff. The changes clarify the right of the offender to request recusal. Local governments do not participate in the parole hearing process. The recusal rule does not affect local governments.

◆ **SMALL BUSINESSES:** The proposed changes affect the Board, Board staff and individuals under the jurisdiction of the Board. The rule denotes the situations that require a Board member or hearing officer to be recused and an appeal process for the individual. There is no impact for small business.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed changes apply to an individual under the jurisdiction of the Board of Pardons and Parole. The changes clarify the circumstances for requesting a recusal and the appeal process if the individual's request is denied.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is not cost for the individual to participate in a hearing or to request recusal. The changes clarify the circumstances for requesting a recusal and the appeal process if the individual's request is denied.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes affect the Board, Board staff and the offender. The parole hearing process is already in place and does not involve businesses. There is no cost impact for businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 PARDONS (BOARD OF)
 ADMINISTRATION
 ROOM 300

448 E 6400 S
SALT LAKE CITY, UT 84107-8530
or at the Division of Administrative Rules.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2014

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2014

AUTHORIZED BY: Angela Micklos, Chair

R671. Pardons (Board of), Administration.

R671-309. Impartial Hearings.

R671-309-2. Recusal.

~~[A Board Member or other]~~(1) A hearing official or ~~[officer shall recuse themselves]~~Board member may be recused in ~~[a]ny~~ proceeding in which the ~~[official's]~~hearing official or Board member's impartiality might reasonably be questioned~~[-. However, a potentially disqualified]~~, including but not limited to the following circumstances:

~~(a) has a personal bias or prejudice concerning a party or a party's lawyer, is or could have been a witness or victim in any matter relating to the offender.~~

~~(b) has a familial, financial, or other relationship with anyone involved in the case that might reasonably be seen as a bias.~~

~~(c) served as a lawyer, judge, agent, or [recused hearing official may]caseworker in any previous matter with the offender.~~

(2) In cases where a clear basis for recusal exists the hearing official will document the recusal in the file and re-assign the case before the hearing is conducted.

(3) If the conflict isn't recognized before the hearing or the basis for recusal is minimal, the hearing official shall disclose the basis of the potential recusal to the offender~~[-, who, after disclosure, may waive disqualification or recusal-]~~. If the offender waives the recusal~~[or disqualification]~~ and agrees that the hearing official need not be disqualified, the hearing official may conduct the proceeding. The offender's waiver shall be entered on the record and memorialized in the case file.

(4) If the offender believes the hearing official or any Board member should be recused the offender shall raise the issue any time before or during the hearing.

(a) The offender may waive the recusal and continue with the hearing as prescribed in (2).

(b) If the offender requests the recusal of the hearing official or Board member who is conducting the hearing, the hearing official or Board member will rule on the issue. If the hearing official or Board member denies the recusal and proceeds with the hearing, the offender may appeal to the Board Chair or designee. The offender must clearly describe, in writing, the basis for recusing the hearing official and the requested remedy. If the offender does not appeal the issue within 10 calendar days after the hearing official denies the recusal, the appeal is waived.

~~(5) The offender may request the recusal of a Board member from the voting process based on any factors in subsection (1).~~

~~(a) If the offender requests the recusal of a Board Member who is not conducting the hearing, the hearing official will document the request. The Board will make a decision about the recusal before considering the case.~~

~~(b) If the offender does not raise the issue of recusal within 10 calendar days after the Board renders a decision the claim is waived.~~

KEY: parole, inmates

Date of Enactment or Last Substantive Amendment: [~~October 4, 2012~~2014

Notice of Continuation: January 31, 2012

Authorizing and Implemented or Interpreted Law: 63G-3-201(3); 77-27-1 et seq.; 77-27-5; 77-27-7; 77-27-9(4)(a)

Pardons (Board of), Administration

R671-514

Waiver and Pleas of Guilt

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38875

FILED: 09/22/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The current rule does not clearly enumerate the rights of an individual during the parole violation hearing process. The proposed changes will clarify the rights of the individual and give the right to withdraw the waiver.

SUMMARY OF THE RULE OR CHANGE: When an individual is returned to prison for alleged parole violations that individual is entitled to an evidentiary hearing to determine if the allegations are true. The individual may however choose to admit guilt and waive the hearing. The rule changes clarify the rights of the individual including the right to withdraw the waiver.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-13-6 and Section 77-27-11 and Subsection 77-27-9(4)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The proposed changes affect the Board, Board staff, Adult Probation and Parole, and individuals under the jurisdiction of the Board. The parole violation hearing process is already in place. These changes do not add cost or create savings for the state budget.

♦ **LOCAL GOVERNMENTS:** Local governments are not involved in the parole revocation process. The proposed changes do not impact local governments.

- ◆ **SMALL BUSINESSES:** The proposed changes affect the Board, Board staff, and individuals under the jurisdiction of the Board. The rule describes the waiver process for parole violations. There is no impact for small business.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed changes affect Adult Probation and Parole and the parolee however the fundamental process of revoking parole after a violation remains the same.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no cost to the individual parolee. The proposed changes elaborate the right of an individual to waive an evidentiary hearing and enter a plea of guilt. The changes also allow an individual to withdraw a waiver.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The parole revocation process involves the parolee and Adult Probation and Parole. There is no fiscal impact to businesses.

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

PARDONS (BOARD OF)
 ADMINISTRATION
 ROOM 300
 448 E 6400 S
 SALT LAKE CITY, UT 84107-8530
 or at the Division of Administrative Rules.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2014

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2014

AUTHORIZED BY: Angela Micklos, Chair

R671. Pardons (Board of), Administration.
R671-514. Waiver and Pleas of Guilt.
R671-514-1. Waiver and Pleas of Guilt.

After executing a Board warrant, the [agent]Department of Corrections employee shall inform the [parolee]offender of the opportunity to plead guilty to any or all of the alleged parole violations and that such a plea waives the right to a further hearing on any allegation admitted in the waiver. The Department of Corrections employee shall also inform the offender that a plea of guilty is voluntary, and there is no requirement to plead guilty or waive the offender's right to a parole violation hearing.

R671-514-2. Guilty Pleas Before Hearing.

(1) If [a parolee]an offender wishes to plead guilty or no contest to any alleged parole violation before a parole violation

hearing, the [agent]Department of Corrections employee shall provide the [parolee]offender with an Affidavit of Waiver and Plea of Guilt form. [If the parolee is functionally illiterate, or suffers from a mental disability, the agent shall explain the contents of the affidavit and waiver.]

(2) If the agent believes the [parolee]offender is unable to understand the affidavit and waiver and appreciate the consequences of signing it for any [other reason, the agent shall not execute the waiver. The agent shall promptly inform the Board, which may assign counsel to the parolee or take any other action that will assist the parolee understand the parolee's rights.]reason.

(a) The Department of Corrections employee may not execute the waiver.

(b) The Department of Corrections employee shall promptly inform the Board, which may assign counsel to the offender or take other action the Board deems appropriate to assist the offender with understanding the parole violation process or the offender's rights.

R671-514-3. Multiple Pleas Before Hearing.

[A parolee]An offender may plead guilty or no contest to some of the allegations and plead not guilty to others. The Board may decide to dismiss the allegations to which the [parolee]offender pled not guilty and enter a disposition based solely on the pleas of guilt[-] or no contest. If the Board chooses to make a disposition based solely on pleas of guilt or no contest, it [need]will not hold[either] an evidentiary or parole revocation hearing. However, at its discretion, the Board may schedule a hearing to interview the [parolee]offender or take victim testimony, if the Board determines that doing so would assist the Board in its decision.

R671-514-4. [Entry]Acceptance of Pleas[at Any Time].

[A parolee](1) An offender may enter a plea of [guilt]guilty or no contest at any time. [If the parolee]

(2) Before an offender pleads guilty or no contest at a revocation or evidentiary hearing, the hearing official shall explain to the [parolee]offender that a no contest plea, if offered, will be treated for dispositional purposes and revocation as a guilty plea; that a revocation of parole may result in the offender being ordered to serve their full sentences to expiration; and that such a plea waives the offender's rights [being waived and]to:

(a) a hearing at which the state would be required to prove parole violation allegations by a preponderance of the evidence;

(b) the appointment of an attorney to assist the offender at an evidentiary hearing;

(c) hear and see the evidence and testimony supporting the allegations;

(d) confront and cross-examine any witnesses who testify regarding the violation allegations;

(e) call witnesses and testify themselves regarding the violation allegations.

(3) The hearing official shall receive an admission and plea from the offender on the record.

(4) The hearing official may then receive information, statements, testimony or recommendations to assist the Board in its final determination and disposition of the revocation proceedings.

R671-514-5. ~~[Acceptance]~~Withdrawal of Pleas.

~~[If the parolee pleads]~~(1) A plea of guilty [to all] or no contest may be withdrawn by an offender prior to the entry of the [allegations, the Board may accept the plea(s)] Board's revocation order and [take any action it considers appropriate for] disposition[-]. The Board need not hold a [] based upon the plea.

(2) A plea of guilty or no contest may be withdrawn only upon leave of the Board and a showing that the plea was not knowingly and voluntarily made.

(3) A request to withdraw a plea of guilty or no contest shall:

(a) be made in writing;

(b) clearly state that it is a motion or request to withdraw a parole revocation [or evidentiary hearing. However, the Board may schedule a hearing to interview] plea;

(c) be addressed to the [parolee or take victim testimony if] Board Chair;

(d) clearly state the [Board determines that doing so would assist] reasons supporting the withdrawal; and

(e) be delivered to the Board within 10 days of the guilty or no contest plea.

(4) The Board need not hold a hearing prior to ruling on the request to withdraw a plea.

(5) The Board [in] shall rule on the request to withdraw a plea of guilty or no contest within thirty days of receipt, and shall promptly notify the offender of its decision.

KEY: parole, allegations, pleas

Date of Enactment or Last Substantive Amendment: [May 22, 2013] 2014

Notice of Continuation: February 15, 2013

Authorizing, and Implemented or Interpreted Law: 77-27-9(4); 77-27-11; 77-13-6.

Public Safety, Criminal Investigations
and Technical Services, Criminal
Identification

R722-310

Regulation of Bail Bond Recovery and
Enforcement Agents

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38873

FILED: 09/18/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify the requirement for continuing classroom instructions for bail bond recovery and enforcement agent licensees and to clarify the content of the course instruction.

SUMMARY OF THE RULE OR CHANGE: The changes clarify the requirement for continuing instruction and the content of the course instruction.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 53, Chapter 11

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: No aggregate anticipated cost or savings to the state budget. This rule amendment clarifies the requirement for continuing instruction and the content of the course instruction. The rule change will not affect the state budget nor are there any anticipated costs or savings.

◆ LOCAL GOVERNMENTS: No aggregate anticipated cost or savings to local government. This rule amendment clarifies the requirement for continuing instruction and the content of the course instruction. The rule change will not affect local government nor are there any anticipated costs or savings.

◆ SMALL BUSINESSES: No aggregate anticipated cost or savings to small businesses. This rule amendment clarifies the requirement for continuing instruction and the content of the course instruction. The rule change will not affect small businesses nor are there any anticipated costs or savings.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities. This rule amendment clarifies the requirement for continuing instruction and the content of the course instruction. The rule change will not affect persons other than small businesses, businesses, or local government entities nor are there any anticipated costs or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance costs--As this amended rule addresses clarifications for the requirements for continuing classroom instruction and the content of the course instruction there are no anticipated compliance costs for affected persons addressed above.

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

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

PUBLIC SAFETY
CRIMINAL INVESTIGATIONS AND TECHNICAL
SERVICES, CRIMINAL IDENTIFICATION
3888 W 5400 S
TAYLORSVILLE, UT 84118
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Alice Moffat by phone at 801-965-4939, by FAX at 801-965-4944, or by Internet E-mail at aerickso@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2014

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2014

AUTHORIZED BY: Alice Moffat, Bureau Chief

R722. Public Safety, Criminal Investigations and Technical Services, Criminal Identification.

R722-310. Regulation of Bail Bond Recovery and Enforcement Agents.

R722-310-1. Purpose.

The purpose of the rule is to establish procedures for the licensing of bail enforcement agents, bail bond recovery agencies, bail recovery agents, and bail recovery apprentices.

R722-310-2. Authority.

This rule is authorized by Subsection 53-11-103(5).

R722-310-3. Definitions.

- (1) Terms used in this rule are defined in Section 53-11-102.
- (2) In addition:
 - (a) "act involving moral turpitude" means conduct which:
 - (i) is done knowingly contrary to justice, honesty, or good morals;
 - (ii) has an element of falsification or fraud; or
 - (iii) contains an element of harm or injury directed to another person or another's property;
 - (b) "bureau" means the Bureau of Criminal Identification within the Department of Public Safety established by Section 53-10-201;
 - (c) "felony" means a crime under the laws of this state, any other state, the United States, or any district, possession, or territory of the United States for which the penalty is a term of imprisonment in excess of one year;
 - (d) "licensee" means an individual who has received a bail enforcement agent license, bail bond recovery agency license, bail recovery agent license or bail recovery apprentice license;
 - (e) "revocation" means the permanent deprivation of a bail bond recovery license, however revocation does not preclude an individual from applying for a new bail bond recovery license if the reason for revocation no longer exists; and
 - (f) "suspension" means the temporary deprivation, for a specified period of time, of a bail bond recovery license.

R722-310-4. Application for Licensure.

- (1)(a) An applicant seeking to obtain a license as a bail bond agency, bail enforcement agent, bail recovery agent, or a bail recovery apprentice shall submit a completed application packet to the bureau.
 - (b) The application packet shall include:
 - (i) a written application form provided by the bureau with the applicant's residential or physical address and mailing or business address;
 - (ii) one recent color photograph of passport quality which contains the applicant's name written on the back of the photograph, unless the applicant submitted a photo which meets these requirements to the bureau within the previous three years;

(iii) a photocopy of a state-issued driver license or identification card;

(iv) one completed FBI applicant fingerprint card (Form FD-258) with the applicant's legible fingerprints;

(v) a non-refundable processing fee in the form of cash, check, money order, or credit card in the amount required by Section 53-11-115; and

(vi) documentation from an approved provider indicating that the applicant has completed the 16-hour training program, described in Subsection 53-11-108(4).

(2) If the applicant is applying for license as a bail enforcement agent, the applicant must also provide documentation indicating that the applicant has 2,000 hours of experience related to bail bond recovery and enforcement.

(3) If an applicant for license as a bail enforcement agent wishes to operate a bail bond recovery agency, the applicant shall also provide:

(a) the name under which the bail bond recovery agency will operate; and

(b) a certificate of workers' compensation insurance, if applicable.

(4) If the applicant is applying for license as a bail recovery agent, the applicant shall also provide:

(a) documentation indicating that the applicant has 1,000 hours of experience related to bail bond recovery and enforcement; and

(b) verification from a bail bond recovery agency indicating that the agency will employ or contract with the applicant.

(5) If the applicant is applying for license as a bail recovery apprentice, the applicant shall also provide verification from a bail bond recovery agency indicating that the agency will employ or contract with the applicant.

(6) If the applicant is seeking to carry a firearm as a licensee, the applicant shall comply with all of the requirements found in R722-300 and provide documentation from an approved bail enforcement firearms instructor indicating that the applicant has completed the 16-hour firearms training course required in Subsection 53-11-108(5).

(7)(a) Once the application packet is complete, the bureau shall submit it to the board for their review at the next regularly scheduled meeting.

(b) Application packets that are received or completed less than seven days prior to a scheduled board meeting may not be considered by the board until the next regularly scheduled board meeting.

R722-310-5. Training Program Requirements.

(1) The 16-hour training program described in Subsection 53-11-108(4), which is required for licensure, shall be provided by a training program provider approved by the board.

(2) Training program providers seeking to become approved by the board shall provide a detailed course curriculum for the board's review.

(3)(a) Training programs which are approved by the board shall be open to anyone who wishes to attend.

(b) If a training provider charges a fee for the training program, the same fee shall apply to all participants in the training program.

(4) Training program providers shall notify the bureau, at least five days in advance, of the dates, times, and location of all courses provided.

(5)(a) Bureau investigators shall periodically monitor approved training programs to ensure that the training program is providing instruction as required by Subsection 53-11-108(4).

(b) The training program may not charge an investigator a fee for monitoring the program.

(6) If the board receives information that a training program is not providing instruction as required by Subsection 53-11-108(4), the board may terminate its approval of the training program after notice and an opportunity for a hearing before the board.

R722-310-6. Verification of Experience.

(1) When verifying the experience necessary for licensure as a bail enforcement agent or a bail recovery agent, an applicant shall provide a written statement which lists, in detail, the number of hours and the type of bail bond recovery work performed by the applicant.

(2) The verification of experience shall be signed and notarized by the applicant's employer or by an individual who has personal knowledge of the bail bond recovery work performed.

(3) The bail bond recovery work shall have been performed within ten years from the date of the application.

R722-310-7. Credit for Specified Training.

(1) An applicant who wishes to receive credit towards the experience requirement for licensure, shall provide documentation indicating that the applicant has a criminal justice bachelor's degree or has successfully completed a basic training course described in Subsections 53-11-114(1)(b) or 53-11-114(1)(c).

(2) An applicant may receive up to 1,000 hours of credit towards the experience requirement for licensure under Section 53-11-114.

(3) An applicant seeking credit under Section 53-11-114, is not exempt from completing the 16-hour training course required by Subsection 53-11-108(4).

R722-310-8. Renewal of a License.

(1)(a) A licensee seeking to renew a license as a bail bond agency, bail enforcement agent, bail recovery agent, or a bail recovery apprentice shall submit a completed renewal packet to the bureau.

(b) The renewal packet shall include:

(i) a written renewal form provided by the bureau with the licensee's residential or physical address and mailing or business address;

(ii) one recent color photograph of passport quality which contains the licensee's name written on the back of the photograph, unless the licensee submitted a photo which meets these requirements to the bureau within the previous three years;

(iii) a non-refundable processing fee in the form of cash, check, money order, or credit card in the amount required by Section 53-11-115;

(iv) evidence that the licensee has completed eight hours of continuing classroom instruction required by Subsection 53-11-111(2); and

(v) evidence that the licensee has a \$10,000 surety bond which meets the requirements described in Subsection 53-9-110(3).

(2)(a) Once the renewal packet is complete, the bureau shall review it to determine if the licensee meets the requirements for renewal.

(b) If the bureau determines the licensee does not meet the requirements for renewal, the bureau shall submit the renewal packet to the board for their review at the next regularly scheduled meeting.

(c) Renewal packets that are received or completed less than seven days prior to a scheduled board meeting may not be considered by the board until the next regularly scheduled board meeting.

(3) A licensee whose license has been expired for more than 90 days, shall reapply and meet all requirements found in R722-310-4.

R722-310-9. Requirements for Continuing Classroom Instruction.

~~[(1)(a) Four of the eight hours of continuing classroom instruction required by Subsection 53-11-111(2) shall be provided by the bureau.~~

~~[(b) The course provided by the bureau shall provide updates on Utah law, administrative changes, and other pertinent information designed to enhance the licensee's knowledge of bail recovery.~~

~~[(2) The remaining four hours of continuing classroom instruction required under Subsection 53-11-111(2) may be at the discretion of the licensee.~~

[(1) A licensee who renews his or her license for the first time shall attend four hours of continuing classroom instruction provided by the bureau, which shall count towards the eight hours of continuing classroom instruction required by Subsections 53-11-111(2) and 53-11-109(2).

[(2) The course provided by the bureau shall:

[(a) provide updates on Utah law, administrative changes, and other pertinent information designed to enhance the licensee's knowledge of bail recovery; and

[(b) be taught by the bureau twice yearly, with the dates posted on the bureau's website.

R722-310-10. Criteria for Certified Bail Enforcement Firearms Instructor.

(1) The 16-hour firearms training program described in Subsection 53-11-108(5), shall be provided by a bail enforcement firearms instructor approved by the bureau.

(2) A bail enforcement firearms instructor approved by the bureau shall be a certified Utah concealed firearm permit instructor under Subsection 53-5-704(8) and be in good standing with the bureau.

(3)(a) Each approved bail enforcement firearms instructor shall adhere to the curriculum adopted by the bureau.

(b) An instructor may supplement, but may not detract from the set curriculum.

R722-310-11. Notice to Commissioner.

A bail bond recovery agency may provide notice of a change in the name or address of a bail bond agency, or any change of employees or contract employees, to the commissioner as required by Subsection 53-11-116(5) by sending a written notice to the bureau that is signed by the licensee.

R722-310-12. Adjudicative Proceedings.

(1) All adjudicative proceedings shall be informal according to the provisions in Sections 63G-4-202 through 63G-4-203.

(2)(a) The board may deny a license application or renewal for failure to comply with the requirements in Sections 53-11-108 through 53-11-115, or for any of the reasons set forth in Section 53-11-118.

(b) The bureau may deny a license renewal for failure to comply with the requirements in Sections 53-11-108 through 53-11-115, or for any of the reasons set forth in Section 53-11-118.

(3) The board shall review all investigations presented by the bureau and may take disciplinary action against a licensee based on a violation of Section 53-11-119.

(4)(a) The board shall issue a written decision within ten days after the board meets to decide the matter.

(b) The board's written decision shall indicate that the applicant or licensee may appeal to the commissioner within 30 days from the date that the written decision is issued.

(5)(a) If an applicant or licensee appeals the board's decision, the commissioner, or his designee, shall review the materials in the bureau's file, the findings of the board along with any materials submitted by the applicant or licensee, and may affirm, adopt, modify, supplement, reverse, or reject the board's findings, or return the matter to the board for reconsideration.

(b) If the applicant or licensee requests a hearing, the commissioner, or his designee, shall schedule a hearing within 60 days from the receipt of the request for review.

R722-310-13. Identification of Licensees.

(1)(a) A licensee shall be issued an identification card by the bureau which identifies the licensee as a bail enforcement agent, bail bond recovery agency, bail recovery agent or bail recovery apprentice.

(b) The identification card shall indicate on its face if the licensee is authorized to carry a loaded and concealed firearm as provided in Subsection 53-11-108(5).

(2)(a) A bail enforcement agent or bail recovery agent may possess and display a badge that is identical to the badge depicted on the bureau's website in accordance with Section 53-11-121.

(b) A bail enforcement agent or bail recovery agent may obtain a badge from any source, so long as it complies with the following specifications:

(i) the badge shall be 2.55 inches high and 2.66 inches wide;
 (ii) the badge shall be in the shape of a five-point star on a circle;

(iii) the star shall be gold in color and the circle must be silver in color;

(iv) the center of the star shall be black in color and contain a seal with the phrase "Liberty and Justice For All";

(v) the text of the badge shall be written in block lettering and must be black;

(vi) the silver circle shall contain two panels with writing to indicate whether the agent is a bail enforcement or bail recovery agent; and

(vii) the badge shall contain two gold panels with writing to indicate the word "Utah" on the top panel and the agent's license number on the bottom panel.

(3) The design approved by the board under Subsection 53-11-121(5) shall contain the words "bail enforcement agent" or "bail recovery agent" written on both the chest and back in writing which is:

(a) at least two inches in height on the back;

(b) at least one half of an inch in height on the front; and

(c) in a color that contrasts with the color of the item of clothing.

KEY: bail bond enforcement agents, bail bond recovery agents, bail bond recovery apprentices, licenses

Date of Enactment or Last Substantive Amendment: ~~July 8, 2013~~ 2014

Notice of Continuation: May 12, 2010

Authorizing, and Implemented or Interpreted Law: 53-11

End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a **PROPOSED RULE** in the *Utah State Bulletin*, it may receive comment that requires the **PROPOSED RULE** to be altered before it goes into effect. A **CHANGE IN PROPOSED RULE** allows an agency to respond to comments it receives.

As with a **PROPOSED RULE**, a **CHANGE IN PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **CHANGE IN PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends November 14, 2014.

Following the **RULE ANALYSIS**, the text of the **CHANGE IN PROPOSED RULE** is usually printed. The text shows only those changes made since the **PROPOSED RULE** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (example). Deletions made to the rule appear struck out with brackets surrounding them (~~example~~). A row of dots in the text between paragraphs (.) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **CHANGE IN PROPOSED RULE** is too long to print, the Division of Administrative Rules may include only the **RULE ANALYSIS**. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

From the end of the 30-day waiting period through February 12, 2015, an agency may notify the Division of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective 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. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Division of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses.

CHANGES IN PROPOSED RULES are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

The Changes in Proposed Rules Begin on the Following Page

Environmental Quality, Water Quality R317-1-3 Requirements for Waste Discharges

NOTICE OF CHANGE IN PROPOSED RULE (Second)

DAR FILE NO.: 38530

FILED: 09/30/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change incorporates three modifications to proposed Subsection R317-1-3(3.3) that clarify the intent of the rule and address concerns relating to the potential impacts of the rule on industries that do not have reasonable potential to discharge phosphorus.

SUMMARY OF THE RULE OR CHANGE: This change in proposed rule (CPR) consists of three principal modifications to the proposed rule: 1) variance in Subsection R317-1-3(3.3)(C)(1)(b) was changed to clarify that in cases of economic hardship, an alternative TBPEL or phosphorus loading cap that would not cause economic hardship, may be applied; 2) Subsection R317-1-3(3.3)(D)(2) previously provided a variance from rule monitoring requirements when dischargers demonstrate no reasonable potential to discharge phosphorus or nitrogen. The proposed change allows the Division of Water Quality director to make this determination; and 3) Subsection R317-1-3(3.3)(D)(4) establishes the starting date for self-implementation of nitrogen and phosphorus monitoring. The proposed change extends the starting date six months from 01/01/2015 to 07/01/2015. (DAR NOTE: This is the second change in proposed rule (CPR) for Rule R590-226. The original proposed amendment upon which the first CPR was based was published in the June 1, 2014, issue of the Utah State Bulletin, on page 141. The first CPR upon which this second CPR is based was published in the September 15, 2014, issue of the Utah State Bulletin, on page 80. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike out indicates text that has been deleted. You must view the first CPR, the second CPR, and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 19, Chapter 5

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There are no additional costs or savings to the state budget anticipated as a result of the proposed changes. Costs will remain the same as estimated in the original proposed amendment.

◆ **LOCAL GOVERNMENTS:** There are no additional costs or savings to local government budgets anticipated as a result of the proposed changes. Costs will remain the same as estimated in the original proposed amendment.

◆ **SMALL BUSINESSES:** There are no additional costs or savings to small businesses anticipated as a result of the proposed changes. Costs will remain the same as estimated in the original proposed amendment.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no additional costs or savings to these persons anticipated as a result of the proposed changes. Costs will remain the same as estimated in the original proposed amendment.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A savings of \$100,000 statewide for reduced monitoring requirements for affected industries.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes in this rule recognize that many of Utah's industries may not have reasonable potential to discharge phosphorus into waters of the state because of the nature of their business and related chemical activities. The changes enable the Division of Water Quality time to identify these industries and allow sufficient regulatory flexibility to reduce or remove monitoring requirements for pollutants that are expected to be absent in these industrial wastewater discharges. The result of the changes will be continued reduction of phosphorus loads into Utah's waters while reducing the potential costs to industry.

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

ENVIRONMENTAL QUALITY
WATER QUALITY
DEQ, THIRD FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Judy Etherington by phone at 801-536-4344, by FAX at 801-536-4301, or by Internet E-mail at jetherington@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2014

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2014

AUTHORIZED BY: Walter Baker, Director

R317. Environmental Quality, Water Quality.**R317-1. Definitions and General Requirements.****R317-1-3. Requirements for Waste Discharges.**

3.1 Compliance With Water Quality Standards.

All persons discharging wastes into any of the waters of the State shall provide the degree of wastewater treatment determined necessary to insure compliance with the requirements of Rule R317-2 Water Quality Standards, except that the Director may waive compliance with these requirements for specific criteria listed in Rule R317-2 where it is determined that the designated use is not being impaired or significant use improvement would not occur or where there is a reasonable question as to the validity of a specific criterion or for other valid reasons as determined by the Director.

3.2 Compliance With Secondary Treatment Requirements.

All persons discharging wastes from point sources into any of the waters of the State shall provide treatment processes which will produce secondary effluent meeting or exceeding the following effluent quality standards.

A. The arithmetic mean of BOD values determined on effluent samples collected during any 30-day period shall not exceed 25 mg/l, nor shall the arithmetic mean exceed 35 mg/l during any 7-day period. In addition, if the treatment plant influent is of domestic or municipal sewage origin, the BOD values of effluent samples shall not be greater than 15% of the BOD values of influent samples collected in the same time period. As an alternative, if agreed to by the person discharging wastes, the following effluent quality standard may be established as a requirement of the discharge permit and must be met: The arithmetic mean of CBOD values determined on effluent samples collected during any 30-day period shall not exceed 20 mg/l nor shall the arithmetic mean exceed 30 mg/l during any 7-day period. In addition, if the treatment plant influent is of domestic or municipal sewage origin, the CBOD values of effluent samples shall not be greater than 15% of the CBOD values of influent samples collected in the same time period.

B. The arithmetic mean of SS values determined on effluent samples collected during any 30-day period shall not exceed 25 mg/l, nor shall the arithmetic mean exceed 35 mg/l during any 7-day period. In addition, if the treatment plant influent is of domestic or municipal sewage origin, the SS values of effluent samples shall not be greater than 15% of the SS values of influent samples collected in the same time period.

C. The geometric mean of total coliform and fecal coliform bacteria in effluent samples collected during any 30-day period shall not exceed either 2000 per 100 ml or 200 per 100 ml respectively, nor shall the geometric mean exceed 2500 per 100 ml or 250 per 100 ml respectively, during any 7-day period; or, the geometric mean of E. coli bacteria in effluent samples collected during any 30-day period shall not exceed 126 per 100 ml nor shall the geometric mean exceed 158 per 100 ml respectively during any 7-day period. Exceptions to this requirement may be allowed by the Director where domestic wastewater is not a part of the effluent and where water quality standards are not violated.

D. The effluent values for pH shall be maintained within the limits of 6.5 and 9.0.

E. Exceptions to the 85% removal requirements may be allowed where infiltration makes such removal requirements infeasible and where water quality standards are not violated.

F. The Director may allow exceptions to the requirements of Subsections R317-1-3.2.A, R317-1-3.2.B, and R317-1-3.2.D where

the discharge will be of short duration and where there will be no significant detrimental effect on receiving water quality or downstream beneficial uses.

G. The Director may allow that the BOD5 and TSS effluent concentrations for discharging domestic wastewater lagoons shall not exceed 45 mg/l for a monthly average nor 65 mg/l for a weekly average provided the following criteria are met:

1. the lagoon system is operating within the organic and hydraulic design capacity established by Rule R317-3;

2. the lagoon system is being properly operated and maintained;

3. the treatment system is meeting all other permit limits;

4. there are no significant or categorical industrial users (IU) defined by 40 CFR Part 403, unless it is demonstrated to the satisfaction of the Director that the IU is not contributing constituents in concentrations or quantities likely to significantly affect the treatment works; and

5. a Waste Load Allocation (WLA) indicates that the increased permit limits would not impair beneficial uses of the receiving stream.

3.3 Technology-based Limits for Controlling Phosphorus Pollution.

A. Technology-based Phosphorus Effluent Limits (TBPEL)

1. All non-lagoon treatment works discharging wastewater to surface waters of the state shall provide treatment processes which will produce effluent less than or equal to an annual mean of 1.0 mg/L for total phosphorus.

2. The TBPEL shall be achieved by January 1, 2020.

B. Discharging Lagoons -Phosphorus Loading Cap

1. No TBPEL will be instituted for discharging treatment lagoons. Instead, each discharging lagoon will be evaluated to determine the current annual average total phosphorus load based on average flows and concentrations. Absent field data to determine these loads, they will be estimated by the Division.

2. A cap of 125% times the current average annual total phosphorus load will be established and referred to as phosphorus loading cap. Once the lagoon's phosphorus loading cap has been reached, the owner of the facility will have five years to construct treatment processes or implement treatment alternatives to prevent the total phosphorus loading cap from being exceeded.

C. Variances for TBPEL and Phosphorus Loading Caps

1. The Director may authorize a variance to the TBPEL or phosphorus loading cap under any of the following conditions:

a. Where an existing TMDL has allocated a total phosphorus wasteload to a treatment works, no TBPEL or phosphorus loading cap, as applicable, will be applied.

b. If the owner of a discharging treatment works can demonstrate that imposing the TBPEL or phosphorus loading cap would result in an economic hardship, ~~an alternative for the users of the treatment works, no~~ TBPEL or phosphorus loading cap ~~that would not cause economic hardship may~~ ^{with} be applied. "Economic hardship" for a publicly owned treatment works is defined as sewer service costs that, as a result of implementing a TBPEL or phosphorus loading cap, would be greater than 1.4% of the median adjusted gross household income of the service area based on the latest information compiled by the Utah State Tax Commission, after inclusion of grants, loans, or other funding made available by the Utah Water Quality Board or other sources. ~~—If this variance is granted, the discharging treatment works may receive an alternative TBPEL or phosphorus~~

~~loading cap that would fail to cause economic hardship.]~~ The Director will consider other demonstrations of economic hardship on a case-by-case basis.

c. If the owner of a discharging treatment works can demonstrate that the TBPEL or phosphorus loading cap are clearly unnecessary to protect waters downstream from the point of discharge, no TBPEL or phosphorus loading cap will be applied.

d. If the owner of the discharging treatment works can demonstrate that a commensurate phosphorus reduction can be achieved in receiving waters using innovative alternative approaches such as water quality trading, seasonal offsets, effluent reuse, or land application.

2. All variances to TBPEL and phosphorus loading caps shall be revisited periodically to determine if the rationale used to justify the conditions in Subsection R317-1-3.3.C remains applicable.

3. For treatment works required to implement TBPEL or a phosphorus loading cap, the demonstration under Subsection R317-1-3.3.C must be made by January 1, 2018. Unless this demonstration is made, the owner of the discharging treatment works must proceed to implement the TBPEL or phosphorus loading cap, as applicable, in accordance with, respectively, Subsections R317-1-3.3.A and R317-1-3.3.B.

D. Monitoring

1. All discharging treatment works are required to implement, at a minimum, monthly monitoring of:

a. influent for total phosphorus (as P) and total Kjeldahl nitrogen (as N) concentrations; and

b. effluent for total phosphorus and orthophosphate (as P), and ammonia, nitrate-nitrite, and total Kjeldahl nitrogen (as N).

2. ~~[If a discharging treatment works demonstrates to the Director that there is no reasonable potential to discharge nitrogen or~~

~~phosphorus, the monitoring requirement identified in Subsection R317-1-3.3.D.1 will be waived.]~~ The Director may authorize a variance to the monitoring requirements identified in Subsection R317-1-3.3.D.1.

3. All monitoring under Subsection R317-1-3.3.D shall be based on 24-hour composite samples by use of an automatic sampler or minimum of four grab samples collected a minimum of two hours apart.

4. These monitoring requirements shall be self-implementing beginning ~~[January]~~ July 1, 2015.

3.4 Pollutants In Diverted Water Returned To Stream.

A user of surface water diverted from waters of the State will not be required to remove any pollutants which such user has not added before returning the diverted flow to the original watercourse, provided there is no increase in concentration of pollutants in the diverted water. Should the pollutant constituent concentration of the intake surface waters to a facility exceed the effluent limitations for such facility under a federal National Pollutant Discharge Elimination System permit or a permit issued pursuant to State authority, then the effluent limitations shall become equal to the constituent concentrations in the intake surface waters of such facility. This section does not apply to irrigation return flow.

KEY: water pollution, waste disposal, nutrient limits, effluent standards

Date of Enactment or Last Substantive Amendment: 2014

Notice of Continuation: October 2, 2012

Authorizing, and Implemented or Interpreted Law: 19-5

End of the Notices of Changes in 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 Division of Administrative Rules. **REVIEWS** are effective upon filing.

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

Administrative Services, Facilities Construction and Management

R23-2

Procurement of Architect-Engineer Services

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 38870
FILED: 09/16/2014

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The statutory provisions governing the procurement of architect-engineer services by the Division are contained in Title 63G, Chapter 6a, and Title 63A, Chapter 5.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule needs to be continued because it establishes procedures governing the procurement of architect-engineer services by the Division, which are contained in the Utah Procurement Code.

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

ADMINISTRATIVE SERVICES
FACILITIES CONSTRUCTION AND MANAGEMENT
ROOM 4110 STATE OFFICE BLDG
450 N STATE ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov
◆ Cecilia Niederhauser by phone at 801-538-3261, by FAX at 801-538-9694, or by Internet E-mail at cniederhauser@utah.gov

AUTHORIZED BY: Joshua Haines, Director

EFFECTIVE: 09/16/2014

Agriculture and Food, Regulatory Services

R70-440

Egg Products Inspection

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 38872
FILED: 09/16/2014

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 give the Utah Department of Agriculture and Food inspectors authority to conduct mandatory inspections and enforce the Egg Products Inspection Act in connection with the cooperative agreement with USDA, Food Safety and Inspection Service, and Egg Product Inspection under the authority of Section 4-4-2.

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 supporting or opposing this rule 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 purpose of this rule is to provide egg product inspection at least equal to those imposed under the federal Egg Products Inspection Act (21 USC 1031-1056). Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Cary Wise by phone at 801-538-7144, or by Internet E-mail at cwise@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
- ◆ Travis Waller by phone at 801-538-7150, by FAX at 801-538-7124, or by Internet E-mail at twaller@utah.gov

AUTHORIZED BY: LuAnn Adams, Commissioner

EFFECTIVE: 09/16/2014

**Agriculture and Food, Regulatory
Services
R70-540
Food Establishment Registration**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION
DAR FILE NO.: 38871
FILED: 09/16/2014**

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 4-5-9(1)(a) authorizes this rule. Title 4, Chapter 5 is the Utah Wholesome Food Act. Section 4-5-9 is the Registration of Food Establishments, Fee, Suspension and Reinstatement of Registration Inspection for Compliance. Pursuant to Title 63 G, Chapter 3, Utah Administrative Rulemaking Act, the department shall establish rules providing for the registration of food establishments to protect public health and ensure a safe food supply.

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 opposing or supporting this rule 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: Registration of retail and manufactured food facilities is required by statute. The Food Program protects the public health by providing inspection services by trained professionals who educate food industry and food workers about food safety guidelines and regulations. These food inspections also ensure compliance with food safety regulations and guidelines. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
- ◆ Noel Schvaneveldt by phone at 801-538-7108, by FAX at 801-538-7124, or by Internet E-mail at nschvaneveldt@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

AUTHORIZED BY: LuAnn Adams, Commissioner

EFFECTIVE: 09/16/2014

**Human Services, Services for People
with Disabilities
R539-4
Behavior Interventions**

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

DAR FILE NO.: 38891
FILED: 09/30/2014

**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 62A-5-102(2) states that "the division has the responsibility to plan and deliver an appropriate array of services and supports to persons with disabilities and their families within this state." Subsection 62A-5-103(2) states that the division has the authority and responsibility to: administer an array of services and supports for persons with disabilities, supervise those programs, ensure that constitutional rights are not deprived without due process, establish standards and rules for administration and operations of programs, and insure compliance. Rule R539-4 establishes standards for behavior supports, which are a vital part of being able to provide services to people with disabilities in the community instead of institutional settings. This rule is necessary to protect the people our division serves by setting forth the supports that are appropriate, establishing criteria and standards for when those behavior supports can and should be used and in what manner, and overall providing oversight when they are used.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: During the last year, starting in August of 2013, our division has participated in a collaborative workgroup with various self-advocates, outspoken family members of persons with disabilities, and service providers to gather feedback and make changes to Rule R539-4. The input has been substantial. This is a vital rule that will be reworked significantly because of that feedback. However, the main components and purposes remain the same - to provide protection for those persons with disabilities who are receiving behavior supports. The revisions of this rule will be submitted following the conclusion of our workgroup.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The division is tasked with managing community-based services waivers for people with disabilities. This would not be possible for persons with

targeted behavioral issues without the ability to provide a varied range of behavior supports. This rule allows the division to do so, while also maintaining clear rules with the purpose of safeguarding the people our division serves. The division also relies on this rule, as do our service providers, to dictate appropriate behavior supports and interventions for those served. Therefore, this rule should be continued.

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

HUMAN SERVICES
SERVICES FOR PEOPLE WITH DISABILITIES
195 N 1950 W
THIRD FLOOR
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Nathan Wolfley by phone at 801-538-4154, by FAX at 801-538-4279, or by Internet E-mail at nwolfley@utah.gov

AUTHORIZED BY: Paul Smith, Director

EFFECTIVE: 09/30/2014

**Human Services, Services for People
with Disabilities
R539-5
Self-Administered Services**

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

DAR FILE NO.: 38892
FILED: 09/30/2014

**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 62A-5-102(2) states that "the division has the responsibility to plan and deliver an appropriate array of services and supports to persons with disabilities and their families within this state." Subsection 62A-5-103(2) states that the division has the authority and responsibility to: administer an array of services and supports for persons with disabilities, to supervise those programs, and establish standards and rules for the administration and operation of those programs. Rule R539-5 governs the division's Self-Administered Services program. This program offers a unique array of services in a unique setting, often within the home of the person with disabilities, and is a great alternative for many people with disabilities. As the division is tasked with administering an array of services and supports, it has become necessary to put into rule the guidelines,

allowances, and limitations upon the Self-Administered Services Program.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The division has received no written comments either in support or opposition to the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Self-Administered Services plays a key role in the division's ability to provide services to people with disabilities in this state. It has an especially profound impact on the ability for people who live in rural areas to receive services. This rule needs to remain in place to continue to set guidelines and standards for this service delivery program, and to keep people with disabilities safe. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 HUMAN SERVICES
 SERVICES FOR PEOPLE WITH DISABILITIES
 195 N 1950 W
 THIRD FLOOR
 SALT LAKE CITY, UT 84116
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Nathan Wolfley by phone at 801-538-4154, by FAX at 801-538-4279, or by Internet E-mail at nwolfley@utah.gov

AUTHORIZED BY: Paul Smith, Director

EFFECTIVE: 09/30/2014

**Pardons (Board of), Administration
 R671-102
 Americans with Disabilities Act
 Complaint Procedures**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 38879
 FILED: 09/22/2014

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: In compliance with the Americans with Disabilities Act and Section 67-19-32, the Board adopted

this rule to address discrimination and provide grievance procedures.

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 rule is required to comply with federal law. The public and employees need to have a grievance procedure available. Therefore, this rule should be continued.

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

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

AUTHORIZED BY: Angela Micklos, Chair

EFFECTIVE: 09/22/2014

**Pardons (Board of), Administration
 R671-103
 Attorneys**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 38877
 FILED: 09/22/2014

**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: An individual has the right to be represented by an attorney when the Board of Pardons and Parole conducts a parole revocation hearing.

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 rule specifies the attorney must be licensed to practice law in the State of Utah and comply with the Utah Judicial Rules of Professional Conduct. In addition the rule requires a waiver if the attorney has a potential conflict of interest created by previously being involved with the client as a judge, administrative hearing officer, public official or public employee. The rule is necessary to prevent conflicts of interest and otherwise ensure that individuals under the Board's jurisdiction have counsel that is licensed and in compliance with judicial rules. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
ROOM 300
448 E 6400 S
SALT LAKE CITY, UT 84107-8530
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Greg Johnson by phone at 801-261-6454, by FAX at 801-261-6481, or by Internet E-mail at gregjohnson@utah.gov

AUTHORIZED BY: Angela Micklos, Chair

EFFECTIVE: 09/22/2014

Pardons (Board of), Administration

R671-201

Original Parole Grant Hearing
Schedule and Notice

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

DAR FILE NO.: 38878
FILED: 09/22/2014

**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: According to Sections 77-27-7 and 77-27-5, the Board of Pardons and Parole has the authority to schedule hearings to determine if parole will be granted and under what conditions. Rule R671-201 defines the timeline and notice requirements for Board hearings.

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 rule lays out the timelines for conducting hearings which are important for victims, individuals under the Board's jurisdiction, their families, and attorneys. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)
ADMINISTRATION
ROOM 300
448 E 6400 S
SALT LAKE CITY, UT 84107-8530
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Greg Johnson by phone at 801-261-6454, by FAX at 801-261-6481, or by Internet E-mail at gregjohnson@utah.gov

AUTHORIZED BY: Angela Micklos, Chair

EFFECTIVE: 09/22/2014

Public Service Commission,
Administration

R746-700

Complete Filings for General Rate
Case and Major Plant Addition
Applications

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

DAR FILE NO.: 38874
FILED: 09/22/2014

**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 54-7-12 describes the various informational requirements that need to be met for a general rate case application to be considered a complete filing. Section 54-7-13.4 describes the requirements for an

alternative cost recovery for a major plant addition application to be considered a complete filing. Sections 54-7-12 and 54-7-13.4 direct the commission to promulgate rules outlining the informational requirements for general rate case or alternative cost recovery for a major plant addition applications to be considered a complete filing.

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 since this rule was made effective 09/23/2009.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Commission developed the rule in consultation with participants from prior Commission proceedings to follow and incorporate the participants' practices relating to the information developed and exchanged among themselves and with the Commission in these types of proceedings. Applications of this nature continue to be filed with the Commission. Thus, the rule

describing the complete filing requirements needs to be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Jordan White by phone at 801-530-6712, or by Internet E-mail at jordanwhite@utah.gov
- ◆ Sheri Bintz by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

AUTHORIZED BY: Jordan White, Legal Counsel

EFFECTIVE: 09/22/2014

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 Division 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

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 38705 (AMD): R414-13. Psychology Services

Published: 08/15/2014

Effective: 09/25/2014

No. 38706 (REP): R414-33B. Substance Abuse Targeted Case Management

Published: 08/15/2014

Effective: 09/25/2014

No. 38707 (AMD): R414-33D. Targeted Case Management by Community Mental Health Centers for Individuals with Serious Mental Illness

Published: 08/15/2014

Effective: 09/25/2014

No. 38708 (REP): R414-34. Substance Abuse Services

Published: 08/15/2014

Effective: 09/25/2014

No. 38709 (REP): R414-35. Mental Health Services for Children in State Custody

Published: 08/15/2014

Effective: 09/25/2014

No. 38710 (AMD): R414-36. Services by Community Mental Health Centers

Published: 08/15/2014

Effective: 09/25/2014

No. 38703 (AMD): R414-61-2. Incorporation by Reference

Published: 08/15/2014

Effective: 09/26/2014

No. 38724 (AMD): R414-304. Income and Budgeting

Published: 08/15/2014

Effective: 10/01/2014

No. 38725 (AMD): R414-305. Resources

Published: 08/15/2014

Effective: 10/01/2014

Natural Resources

Forestry, Fire and State Lands

No. 38658 (AMD): R652-70-2300. Management of Bear Lake Sovereign Lands

Published: 07/15/2014

Effective: 09/23/2014

Pardons (Board Of)

Administration

No. 38713 (AMD): R671-103-1. Attorneys

Published: 08/15/2014

Effective: 09/29/2014

No. 38629 (AMD): R671-309-1. Ex-Parte Communications

Published: 07/01/2014

Effective: 09/29/2014

Public Safety

Emergency Management

No. 38704 (R&R): R704-1. Search and Rescue Financial Assistance Program

Published: 08/15/2014

Effective: 09/29/2014

NOTICES OF RULE EFFECTIVE DATES

No. 38701 (AMD): R704-2. Statewide Mutual Aid Act

Activation

Published: 08/01/2014

Effective: 09/29/2014

Workforce Services

Administration

No. 38714 (AMD): R982-401. Energy Assistance: General Provisions

Published: 08/15/2014

Effective: 10/01/2014

No. 38715 (AMD): R982-402. Energy Assistance Programs Standards

Published: 08/15/2014

Effective: 10/01/2014

No. 38716 (AMD): R982-403. Energy Assistance Income Standards, Income Eligibility, and Payment Determination

Published: 08/15/2014

Effective: 10/01/2014

No. 38717 (AMD): R982-405. Energy Assistance: Program Benefits

Published: 08/15/2014

Effective: 10/01/2014

No. 38718 (AMD): R982-407. Energy Assistance: Records and Benefit Management

Published: 08/15/2014

Effective: 10/01/2014

No. 38719 (AMD): R982-408. Energy Assistance: Special State Programs

Published: 08/15/2014

Effective: 10/01/2014

Employment Development

No. 38720 (AMD): R986-200-218. Exceptions to the Time Limit

Published: 08/15/2014

Effective: 10/01/2014

No. 38664 (AMD): R986-700. Child Care Assistance

Published: 07/15/2014

Effective: 10/01/2014

No. 38663 (AMD): R986-900-902. Options and Waivers

Published: 07/15/2014

Effective: 10/01/2014

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, 2014 through October 01, 2014. 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 Division of Administrative Rules (801-538-3764).

A copy of the **RULES INDEX** is available for public inspection at the Division of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment (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>Administration</u>					
R13-2	Access to Records	38570	5YR	06/02/2014	2014-12/53
R13-2	Access to Records	38569	AMD	07/22/2014	2014-12/6
<u>Child Welfare Parental Defense (Office of)</u>					
R19-1	Parental Defense Counsel Training	38547	5YR	05/21/2014	2014-12/53
<u>Debt Collection</u>					
R21-2	Office of State Debt Collection Administrative Procedures	38497	NSC	05/29/2014	Not Printed
R21-3	Debt Collection Through Administrative Offset	38496	NSC	05/29/2014	Not Printed
<u>Facilities Construction and Management</u>					
R23-2	Procurement of Architect-Engineer Services	38870	5YR	09/16/2014	Not Printed
R23-3	Planning and Programming for Capital Projects	38405	5YR	04/03/2014	2014-9/49
R23-19	Facility Use Rules	38617	AMD	08/07/2014	2014-13/8
R23-22	General Procedures for Acquisition and Selling of Real Property	38618	R&R	08/07/2014	2014-13/13
R23-23	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	38587	5YR	06/10/2014	2014-13/133
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 R865-19S-54 Governmental Exemption Pursuant to Utah Code Ann. Section 59-12-104 38596 AMD 08/28/2014 2014-13/124
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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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	38464	R477-101	AMD	07/01/2014	2014-10/92
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	38539	R280-150	AMD	07/08/2014	2014-11/117
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	38333	R455-15	NEW	07/21/2014	2014-7/71
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	38554	R602-2-4	AMD	07/22/2014	2014-12/41
	38193	R602-2-5	AMD	02/21/2014	2014-2/7
	38327	R602-7	5YR	03/05/2014	2014-7/94
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	37829	R307-335	CPR	06/02/2014	2014-7/85
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	37833	R307-401-19	AMD	01/06/2014	2013-15/29
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	38288	R317-2-14	CPR	07/02/2014	2014-11/168	
<u>water rights</u>						
Natural Resources, Water Rights	38723	R655-3	5YR	08/01/2014	2014-16/59	
<u>water slides</u>						
Health, Disease Control and Prevention, Environmental Services	38089	R392-302	AMD	02/14/2014	2013-22/69	
<u>water wells</u>						
Natural Resources, Water Rights	38722	R655-4	5YR	08/01/2014	2014-16/60	
<u>waterfowl</u>						
Natural Resources, Wildlife Resources	38605	R657-9	AMD	08/11/2014	2014-13/106	
<u>well drillers license</u>						
Natural Resources, Water Rights	38722	R655-4	5YR	08/01/2014	2014-16/60	
<u>well logging</u>						
Environmental Quality, Radiation Control	38147	R313-38-3	AMD	04/07/2014	2013-23/20	
	38147	R313-38-3	CPR	04/07/2014	2014-5/56	
<u>white-collar contests</u>						
Governor, Economic Development, Pete Suazo Utah Athletic Commission	38033	R359-1-604	AMD	01/24/2014	2013-20/25	
<u>wild turkey</u>						
Natural Resources, Wildlife Resources	38601	R657-54	AMD	08/11/2014	2014-13/111	
	38790	R657-54	5YR	08/18/2014	2014-18/97	
<u>wildlife</u>						
Natural Resources, Wildlife Resources	38616	R657-3	AMD	08/11/2014	2014-13/100	
	38168	R657-5	AMD	02/10/2014	2014-1/44	
	38600	R657-6	AMD	08/11/2014	2014-13/102	
	38605	R657-9	AMD	08/11/2014	2014-13/106	
	38231	R657-10	AMD	03/11/2014	2014-3/23	
	38169	R657-12	AMD	02/10/2014	2014-1/52	
	38167	R657-13	AMD	02/10/2014	2014-1/54	
	38316	R657-13	AMD	04/21/2014	2014-6/66	
	38483	R657-13	AMD	07/08/2014	2014-11/160	

	38230	R657-27	AMD	03/11/2014	2014-3/26
	38170	R657-38	AMD	02/10/2014	2014-1/61
	38171	R657-41	AMD	02/10/2014	2014-1/68
	38232	R657-43	AMD	03/11/2014	2014-3/30
	38558	R657-46	5YR	05/29/2014	2014-12/58
	38603	R657-46	AMD	08/11/2014	2014-13/109
	38601	R657-54	AMD	08/11/2014	2014-13/111
	38790	R657-54	5YR	08/18/2014	2014-18/97
	38236	R657-60	AMD	03/11/2014	2014-3/32
	38477	R657-60	AMD	06/24/2014	2014-10/99
	38427	R657-62	5YR	04/14/2014	2014-9/58
	38604	R657-62	AMD	08/11/2014	2014-13/115
	38172	R657-67	NEW	02/10/2014	2014-1/70
	38484	R657-67	AMD	07/08/2014	2014-11/165
	38602	R657-68	NEW	08/11/2014	2014-13/120
<u>wildlife conservation</u>					
Natural Resources, Wildlife Resources	38170	R657-38	AMD	02/10/2014	2014-1/61
<u>wildlife law</u>					
Natural Resources, Wildlife Resources	38169	R657-12	AMD	02/10/2014	2014-1/52
	38167	R657-13	AMD	02/10/2014	2014-1/54
	38316	R657-13	AMD	04/21/2014	2014-6/66
	38483	R657-13	AMD	07/08/2014	2014-11/160
	38230	R657-27	AMD	03/11/2014	2014-3/26
	38236	R657-60	AMD	03/11/2014	2014-3/32
	38477	R657-60	AMD	06/24/2014	2014-10/99
<u>wildlife permits</u>					
Natural Resources, Wildlife Resources	38171	R657-41	AMD	02/10/2014	2014-1/68
<u>work-based learning programs</u>					
Education, Administration	38412	R277-916	5YR	04/04/2014	2014-9/53
<u>workers' compensation</u>					
Labor Commission, Adjudication	38306	R602-2	AMD	04/22/2014	2014-6/61
	38554	R602-2-4	AMD	07/22/2014	2014-12/41
	38193	R602-2-5	AMD	02/21/2014	2014-2/7
Labor Commission, Industrial Accidents	38553	R612-200-8	AMD	07/22/2014	2014-12/43
<u>x-rays</u>					
Environmental Quality, Radiation Control	38146	R313-70-5	AMD	02/18/2014	2013-23/22
<u>zoological animals</u>					
Natural Resources, Wildlife Resources	38616	R657-3	AMD	08/11/2014	2014-13/100