

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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Division of Administrative Rules, Salt Lake City 84114

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SPECIAL NOTICES

Commerce Occupational and Professional Licensing

Public Notice of 2008 Board and Committee Meeting Schedule

NOTE: Meetings are subject to change - contact the Division at (801) 530-6628 to confirm meetings. Most meetings are held in the Heber M. Wells Building, 160 East 300 South, Salt Lake City, Utah.

January

2	Utah Board of Accountancy	1:00 p.m.
3	UBCC Plumbing Advisory Committee	9:00 a.m.
3	Social Worker Licensing Board	9:00 a.m.
3	Alarm System Security and Licensing Board	9:00 a.m.
3	UBCC Structural Advisory Committee	12:00 noon
7	Plumbers Licensing Board	8:30 a.m.
8	UBCC Mechanical Advisory Committee	10:00 a.m.
9	Residence Lien Recovery Fund Advisory Board	8:15 a.m.
9	Physicians Licensing Board	8:30 a.m.
9	Hearing Instrument Specialist Licensing Board	9:00 a.m.
9	Substance Abuse Counselors Licensing Board	9:00 a.m.
9	UBCC Architectural Advisory Committee	12:00 noon
10	Chiropractic Physicians Licensing Board	9:00 a.m.
11	Licensed Direct Entry Midwife Board	1:00 p.m.
15	Board of Massage Therapy	9:00 a.m.
15	Professional Counselors Licensing Board	9:00 a.m.
15	UBCC Unified Code Analysis Council	10:00 a.m.
15	UBCC Education Advisory Committee	1:00 p.m.
16	Osteopathic Physicians Licensing Board	9:00 a.m.
16	Professional Engineer and Professional Land Surveyor Licensing Board	9:00 a.m.
16	Speech-Language Pathology/Audiology Licensing Board	9:00 a.m.
17	Electricians Licensing Board	9:00 a.m.
17	Contract Security Education Peer Committee	9:00 a.m.
17	UBCC Electrical Advisory Committee	1:00 p.m.
18	Dentist and Dental Hygienist Board	8:15 a.m.
18	Uniform Building Code Commission	9:00 a.m.
18	CPA Education Advisory Committee	1:00 p.m.
22	State Board of Pharmacy	9:00 a.m.
22	Psychologist Board	9:00 a.m.
25	Board of Nursing	7:30 a.m.
25	Radiology Technologist Licensing Board	9:00 a.m.
30	Construction Services Commission	9:00 a.m.

February

5	Occupational Therapy Board	9:00 a.m.
5	UBCC Unified Code Analysis Council	10:00 a.m.
6	Plumbers Licensing Board	8:30 a.m.
6	Utah Board of Accountancy	1:00 p.m.
7	UBCC Plumbing Advisory Committee	9:00 a.m.
7	Social Worker Licensing Board	9:00 a.m.
7	UBCC Structural Advisory Committee	12:00 noon
8	Naturopathic Physicians Licensing Board	9:00 a.m.
8	Architects Licensing Board	9:00 a.m.
12	UBCC Mechanical Advisory Committee	10:00 a.m.
12	UBCC Education Advisory Committee	1:00 p.m.
13	Residence Lien Recovery Fund Advisory Board	8:15 a.m.
13	Physicians Licensing Board	8:30 a.m.

SPECIAL NOTICES

13	Optometrist Licensing Board	9:00 a.m.
13	UBCC Architectural Advisory Committee	12:00 noon
14	Security Services Licensing Board	9:00 a.m.
14	Professional Geologists Licensing Board	9:00 a.m.
15	Dentist and Dental Hygienist Board	8:15 a.m.
15	Uniform Building Code Commission	9:00 a.m.
19	Podiatric Physician Board	8:15 a.m.
20	Board of Funeral Service	9:00 a.m.
20	Deception Detection Examiners Board	1:00 p.m.
21	Electricians Licensing Board	9:00 a.m.
21	CPA Peer Review Committee	1:00 p.m.
21	UBCC Electrical Advisory Committee	1:00 p.m.
26	State Board of Pharmacy	9:00 a.m.
27	Construction Services Commission	9:00 a.m.
28	Controlled Substance Precursor Advisory Board	2:00 p.m.
29	Board of Nursing	7:30 a.m.

March

3	Barbering, Cosmetology/Barbering, Esthetics, Electrology and Nail Technology Licensing Board	9:00 a.m.
4	UBCC Unified Code Analysis Council	10:00 a.m.
5	Plumbers Licensing Board	8:30 a.m.
5	Utah Board of Accountancy	1:00 p.m.
6	UBCC Plumbing Advisory Committee	9:00 a.m.
6	Alarm System Security and Licensing Board	9:00 a.m.
6	Social Worker Licensing Board	9:00 a.m.
6	Veterinary Board	9:00 a.m.
6	UBCC Structural Advisory Committee	12:00 noon
11	Professional Counselors Licensing Board	9:00 a.m.
12	Residence Lien Recovery Fund Advisory Board	8:15 a.m.
12	Physicians Licensing Board	8:30 a.m.
13	Genetic Counselor Licensing Board	8:15 a.m.
14	Marriage and Family Therapist Licensing Board	9:00 a.m.
18	Board of Massage Therapy	9:00 a.m.
18	Building Inspector Licensing Board	10:00 a.m.
18	UBCC Education Advisory Committee	1:00 p.m.
19	Professional Engineer and Professional Land Surveyor Licensing Board	9:00 a.m.
19	Athletic Trainers Licensing Board	9:00 a.m.
20	Physician Assistant Licensing Board	8:15 a.m.
20	Electricians Licensing Board	9:00 a.m.
20	UBCC Electrical Advisory Committee	1:00 p.m.
21	Dentist and Dental Hygienist Board	8:15 a.m.
21	Uniform Building Code Commission	9:00 a.m.
25	State Board of Pharmacy	9:00 a.m.
25	Health Facility Administrators Board	9:00 a.m.
25	Massage Therapy Education Peer Committee	9:00 a.m.
25	Respiratory Care Licensing Board	9:00 a.m.
26	Construction Services Commission	9:00 a.m.
28	Board of Nursing	7:30 a.m.

April

1	Physical Therapy Licensing Board	9:00 a.m.
2	Plumbers Licensing Board	8:30 a.m.
2	Utah Board of Accountancy	1:00 p.m.
3	UBCC Plumbing Advisory Committee	9:00 a.m.
3	Social Worker Licensing Board	9:00 a.m.
3	UBCC Structural Advisory Committee	12:00 noon
9	Residence Lien Recovery Fund Advisory Board	8:15 a.m.
9	Physicians Licensing Board	8:30 a.m.
9	Hearing Instrument Specialist Licensing Board	9:00 a.m.
9	Substance Abuse Counselors Licensing Board	9:00 a.m.

10	Chiropractic Physicians Licensing Board	9:00 a.m.
10	Security Services Licensing Board	9:00 a.m.
11	Architects Licensing Board	9:00 a.m.
11	Licensed Direct Entry Midwife Board	1:00 p.m.
15	Psychologist Board	9:00 a.m.
15	UBCC Education Advisory Committee	1:00 p.m.
16	Osteopathic Physicians Licensing Board	9:00 a.m.
17	Electricians Licensing Board	9:00 a.m.
17	Speech-Language Pathology/Audiology Licensing Board	9:00 a.m.
17	Contract Security Education Peer Committee	9:00 a.m.
17	Landscape Architects Licensing Board	1:00 p.m.
18	Dentist and Dental Hygienist Board	8:15 a.m.
18	Uniform Building Code Commission	9:00 a.m.
18	Certified Court Reporters Board	2:00 p.m.
22	State Board of Pharmacy	9:00 a.m.
22	Recreational Therapy Board	9:00 a.m.
25	Radiology Technologist Licensing Board	9:00 a.m.
25	Board of Nursing	7:30 a.m.
30	Construction Services Commission	9:00 a.m.
<u>May</u>		
1	Alarm System Security and Licensing Board	9:00 a.m.
1	Social Worker Licensing Board	9:00 a.m.
7	Plumbers Licensing Board	8:30 a.m.
7	Utah Board of Accountancy	1:00 p.m.
9	CPA Education Advisory Committee	1:00 p.m.
13	Professional Counselors Licensing Board	9:00 a.m.
14	Residence Lien Recovery Fund Advisory Board	8:15 a.m.
14	Physicians Licensing Board	8:30 a.m.
14	Alternative Dispute Resolution Cert. Board	9:00 a.m.
15	Uniform Building Code Commission	9:00 a.m.
16	Dentist and Dental Hygienist Board	8:15 a.m.
16	Acupuncture Licensing Board	9:00 a.m.
20	Podiatric Physician Board	8:15 a.m.
20	Board of Massage Therapy	9:00 a.m.
20	UBCC Education Advisory Committee	1:00 p.m.
21	Professional Engineer and Professional Land Surveyor Licensing Board	9:00 a.m.
21	Board of Funeral Service	9:00 a.m.
21	Dietitian Board	9:00 a.m.
22	Electricians Licensing Board	9:00 a.m.
27	State Board of Pharmacy	9:00 a.m.
28	Construction Services Commission	9:00 a.m.
29	Athlete Agent Licensing Board	8:30 a.m.
30	Board of Nursing	7:30 a.m.
<u>June</u>		
3	Occupational Therapy Board	9:00 a.m.
3	UBCC Unified Code Analysis Council	10:00 a.m.
4	Plumbers Licensing Board	8:30 a.m.
4	Utah Board of Accountancy	1:00 p.m.
5	UBCC Plumbing Advisory Committee	9:00 a.m.
5	Social Worker Licensing Board	9:00 a.m.
5	UBCC Structural Advisory Committee	12:00 noon
9	Barbering, Cosmetology/Barbering, Esthetics, Electrology and Nail Technology Licensing Board	9:00 a.m.
10	Respiratory Care Licensing Board	9:00 a.m.
10	UBCC Mechanical Advisory Committee	10:00 a.m.
11	Residence Lien Recovery Fund Advisory Board	8:15 a.m.
11	Physicians Licensing Board	8:30 a.m.
11	UBCC Architectural Advisory Committee	12:00 noon
12	Security Services Licensing Board	9:00 a.m.

SPECIAL NOTICES

12	Professional Geologists Licensing Board	9:00 a.m.
13	Architects Licensing Board	9:00 a.m.
13	Marriage and Family Therapist Licensing Board	9:00 a.m.
17	Uniform Building Code Commission	9:00 a.m.
17	UBCC Education Advisory Committee	1:00 p.m.
18	Physician Assistant Licensing Board	8:15 a.m.
19	Veterinary Board	9:00 a.m.
19	Private Probation Providers Licensing Board	10:00 a.m.
19	Electricians Licensing Board	9:00 a.m.
20	Dentist and Dental Hygienist Board	8:15 a.m.
20	Uniform Building Code Commission	9:00 a.m.
24	State Board of Pharmacy	9:00 a.m.
24	Massage Therapy Education Peer Committee	9:00 a.m.
25	Construction Services Commission	9:00 a.m.
27	Board of Nursing	7:30 a.m.

July

1	Professional Counselors Licensing Board	9:00 a.m.
1	UBCC Unified Code Analysis Council	10:00 a.m.
2	Plumbers Licensing Board	8:30 a.m.
2	Utah Board of Accountancy	1:00 p.m.
3	Alarm System Security and Licensing Board	9:00 a.m.
3	UBCC Plumbing Advisory Committee	9:00 a.m.
3	UBCC Structural Advisory Committee	12:00 noon
8	UBCC Mechanical Advisory Committee	10:00 a.m.
9	Residence Lien Recovery Fund Advisory Board	8:15 a.m.
9	Physicians Licensing Board	8:30 a.m.
9	Hearing Instrument Specialist Licensing Board	9:00 a.m.
9	Substance Abuse Counselors Licensing Board	9:00 a.m.
9	UBCC Architectural Advisory Committee	12:00 noon
10	Chiropractic Physicians Licensing Board	9:00 a.m.
11	Licensed Direct Entry Midwife Board	1:00 p.m.
15	Board of Massage Therapy	9:00 a.m.
15	Psychologist Board	9:00 a.m.
15	UBCC Education Advisory Committee	1:00 p.m.
16	Osteopathic Physicians Licensing Board	9:00 a.m.
16	Professional Engineer and Professional Land Surveyor Licensing Board	9:00 a.m.
16	Speech-Language Pathology/Audiology Licensing Board	9:00 a.m.
17	Contract Security Education Peer Committee	9:00 a.m.
17	Social Worker Licensing Board	9:00 a.m.
17	Electricians Licensing Board	9:00 a.m.
17	UBCC Electrical Advisory Committee	1:00 p.m.
18	Dentist and Dental Hygienist Board	8:15 a.m.
18	Uniform Building Code Commission	9:00 a.m.
22	State Board of Pharmacy	9:00 a.m.
25	Board of Nursing	7:30 a.m.
25	Radiology Technologist Licensing Board	9:00 a.m.
30	Construction Services Commission	9:00 a.m.
30	Optometrist Licensing Board	9:00 a.m.

August

5	UBCC Unified Code Analysis Council	10:00 a.m.
6	Plumbers Licensing Board	8:30 a.m.
6	Utah Board of Accountancy	1:00 p.m.
7	Social Worker Licensing Board	9:00 a.m.
7	UBCC Plumbing Advisory Committee	9:00 a.m.
7	UBCC Structural Advisory Committee	12:00 noon
8	Environmental Health Scientist Board	9:00 a.m.
8	Architects Licensing Board	9:00 a.m.
8	CPA Education Advisory Committee	1:00 p.m.
12	UBCC Mechanical Advisory Committee	10:00 a.m.

13	Residence Lien Recovery Fund Advisory Board	8:15 a.m.
13	Physicians Licensing Board	8:30 a.m.
13	UBCC Architectural Advisory Committee	12:00 noon
14	Security Services Licensing Board	9:00 a.m.
14	UBCC Electrical Advisory Committee	1:00 p.m.
15	Dentist and Dental Hygienist Board	8:15 a.m.
15	Uniform Building Code Commission	9:00 a.m.
19	Podiatric Physician Board	8:15 a.m.
19	UBCC Education Advisory Committee	1:00 p.m.
20	Board of Funeral Service	9:00 a.m.
20	Deception Detection Examiners Board	1:00 p.m.
21	Electricians Licensing Board	9:00 a.m.
21	CPA Peer Review Committee	1:00 p.m.
26	State Board of Pharmacy	9:00 a.m.
27	Construction Services Commission	9:00 a.m.
28	Controlled Substance Precursor Advisory Board	2:00 p.m.
29	Board of Nursing	7:30 a.m.

September

2	UBCC Unified Code Analysis Council	10:00 a.m.
3	Plumbers Licensing Board	8:30 a.m.
3	Utah Board of Accountancy	1:00 p.m.
4	UBCC Plumbing Advisory Committee	9:00 a.m.
4	Alarm System Security and Licensing Board	9:00 a.m.
4	Social Worker Licensing Board	9:00 a.m.
4	UBCC Structural Advisory Committee	12:00 noon
8	Barbering, Cosmetology/Barbering, Esthetics, Electrology and Nail Technology Licensing Board	9:00 a.m.
9	Professional Counselors Licensing Board	9:00 a.m.
10	Residence Lien Recovery Fund Advisory Board	8:15 a.m.
10	Physicians Licensing Board	8:30 a.m.
10	Alternative Dispute Resolution Cert. Board	9:00 a.m.
12	Marriage and Family Therapist Licensing Board	9:00 a.m.
16	Board of Massage Therapy	9:00 a.m.
16	Recreational Therapy Board	9:00 a.m.
16	Uniform Building Code Commission	9:00 a.m.
16	UBCC Education Advisory Committee	1:00 p.m.
17	Professional Engineer and Professional, Land Surveyor Licensing Board	9:00 a.m.
18	Physician Assistant Licensing Board	8:15 a.m.
18	Electricians Licensing Board	9:00 a.m.
18	Veterinary Board	9:00 a.m.
18	Landscape Architects Licensing Board	1:00 p.m.
19	Dentist and Dental Hygienist Board	8:15 a.m.
19	Uniform Building Code Commission	9:00 a.m.
23	State Board of Pharmacy	9:00 a.m.
23	Massage Therapy Education Peer Committee	9:00 a.m.
23	Respiratory Care Licensing Board	9:00 a.m.
24	Construction Services Commission	9:00 a.m.
26	Board of Nursing	7:30 a.m.

October

1	Plumbers Licensing Board	8:30 a.m.
1	Utah Board of Accountancy	1:00 p.m.
2	Social Worker Licensing Board	9:00 a.m.
8	Residence Lien Recovery Fund Advisory Board	8:15 a.m.
8	Physicians Licensing Board	8:30 a.m.
8	Hearing Instrument Specialist Licensing Board	9:00 a.m.
8	Athletic Trainers Licensing Board	9:00 a.m.
9	Professional Geologists Licensing Board	9:00 a.m.
9	Security Services Licensing Board	9:00 a.m.
9	Chiropractic Physicians Licensing Board	9:00 a.m.

SPECIAL NOTICES

10	Architects Licensing Board	9:00 a.m.
10	Licensed Direct Entry Midwife Board	1:00 p.m.
14	Psychologist Board	9:00 a.m.
14	Health Facility Administrators Board	9:00 a.m.
14	Uniform Building Code Commission	9:00 a.m.
15	Osteopathic Physicians Licensing Board	9:00 a.m.
15	Substance Abuse Counselors Licensing Board	9:00 a.m.
15	Speech-Language Pathology/Audiology Licensing Board	9:00 a.m.
16	Electricians Licensing Board	9:00 a.m.
16	Contract Security Education Peer Committee	9:00 a.m.
17	Dentist and Dental Hygienist Board	8:15 a.m.
17	Certified Court Reporters Board	2:00 p.m.
21	Occupational Therapy Board	9:00 a.m.
21	UBCC Education Advisory Committee	1:00 p.m.
24	Radiology Technologist Licensing Board	9:00 a.m.
28	State Board of Pharmacy	9:00 a.m.
29	Construction Services Commission	9:00 a.m.
29	Physical Therapy Licensing Board	9:00 a.m.
31	Board of Nursing	7:30 a.m.

November

4	Professional Counselors Licensing Board	9:00 a.m.
5	Plumbers Licensing Board	8:30 a.m.
5	Utah Board of Accountancy	1:00 p.m.
6	Alarm System Security and Licensing Board	9:00 a.m.
6	Social Worker Licensing Board	9:00 a.m.
12	Residence Lien Recovery Fund Advisory Board	8:15 a.m.
12	Physicians Licensing Board	8:30 a.m.
12	Board of Funeral Service	9:00 a.m.
13	Naturopathic Physicians Licensing Board	9:00 a.m.
14	Board of Nursing	7:30 a.m.
14	Acupuncture Licensing Board	9:00 a.m.
14	CPA Education Advisory Committee	1:00 p.m.
17	Uniform Building Code Commission	9:00 a.m.
18	Podiatric Physician Board	8:15 a.m.
18	Board of Massage Therapy	9:00 a.m.
19	Professional Engineer and Professional Land Surveyor Licensing Board	9:00 a.m.
20	Dentist and Dental Hygienist Board	8:15 a.m.
20	Electricians Licensing Board	9:00 a.m.
20	Athlete Agent Licensing Board	8:30 a.m.
25	State Board of Pharmacy	9:00 a.m.
25	UBCC Education Advisory Committee	1:00 p.m.
26	Construction Services Commission	9:00 a.m.

December

1	Barbering, Cosmetology/Barbering, Esthetics, Electrology and Nail Technology Licensing Board	9:00 a.m.
3	Plumbers Licensing Board	8:30 a.m.
3	Utah Board of Accountancy	1:00 p.m.
4	Social Worker Licensing Board	9:00 a.m.
9	Respiratory Care Licensing Board	9:00 a.m.
10	Residence Lien Recovery Fund Advisory Board	8:15 a.m.
10	Physicians Licensing Board	8:30 a.m.
11	Security Services Licensing Board	9:00 a.m.
12	Board of Nursing	7:30 a.m.
12	Architects Licensing Board	9:00 a.m.
12	Marriage and Family Therapist Licensing Board	9:00 a.m.
16	Uniform Building Code Commission	9:00 a.m.
16	UBCC Education Advisory Committee	1:00 p.m.
18	Physician Assistant Licensing Board	8:15 a.m.
18	Electricians Licensing Board	9:00 a.m.

18	Private Probation Providers Licensing Board	10:00 a.m.
19	Dentist and Dental Hygienist Board	8:15 a.m.
19	Uniform Building Code Commission	9:00 a.m.
23	State Board of Pharmacy	9:00 a.m.
23	Massage Therapy Education Peer Committee	9:00 a.m.
31	Construction Services Commission	9:00 a.m.

Governor's Proclamation: Calling the Fifty-Seventh Legislature into a Seventh Extraordinary Session

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

WHEREAS, since the close of the 2007 General Session of the 57th Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

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

NOW, THEREFORE, I, JON M. HUNTSMAN, JR., Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and Laws of the State of Utah, do by this Proclamation call the Senate only of the 57th Legislature into a Seventh Extraordinary Session at the State Capitol in Salt Lake City, Utah, on the 14th day of November 2007, at 12:00 noon, for the following purpose:

For the Senate to consent to appointments made by the Governor to positions within state government of the State of Utah since the close of the 2007 General Session of the Legislature of the State of Utah.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the Salt Lake Capitol Complex in Salt Lake City, Utah, this 30th day of October, 2007.

(State Seal)

Jon M. Huntsman, Jr.
Governor

Gary R. Herbert
Lieutenant Governor

End of the Special Notices Section

NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between October 16, 2007, 12:00 a.m., and November 1, 2007, 11:59 p.m. are included in this, the November 15, 2007, issue of the *Utah State Bulletin*.

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

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

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least December 17, 2007. The agency may accept comment beyond this date and will list the last day the agency will accept comment in the RULE ANALYSIS. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency to hold a hearing on a specific PROPOSED RULE. Section 63-46a-5 requires that a hearing request be received "in writing not more than 15 days after the publication date of the PROPOSED RULE."

From the end of the public comment period through March 14, 2008, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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

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

The Proposed Rules Begin on the Following Page.

**Administrative Services, Fleet
Operations
R27-4
Vehicle Replacement and Expansion of
State Fleet**

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 30618
FILED: 10/25/2007, 08:42

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The current rule states that vehicles will be replaced by class; the new change states that vehicles will be replaced with the standard state fleet vehicle unless a request for a nonstandard state fleet vehicle is submitted and approved by the director of the Division of Fleet Operations (DFO). This rule change is in accordance with 2007 H.B. 110 and changes made to Section 63A-9-401. (DAR NOTE: H.B. 110 (2007) is found at Chapter 106, Laws of Utah 2007, and was effective 04/30/2007.)

SUMMARY OF THE RULE OR CHANGE: In an effort to promote the most fuel efficient vehicles for the state fleet, vehicle replacements will automatically default to the standard state fleet vehicle as designated by DFO staff.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63A-9-401(1)(d)(v)(A)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** None--By automatically replacing vehicles with a smaller vehicle, it is possible to save, but not anticipated. Agencies will have the opportunity to request, with justification, a nonstandard vehicle. This option prevents accurate savings predictions.
- ❖ **LOCAL GOVERNMENTS:** None--This change only affects state vehicles. Local governments will not be affected.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** None--This change only affects state vehicles. Small businesses will not be affected.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This rule change automatically replaces vehicles with a smaller vehicle. If there is any change in costs for agencies, it will be savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No known fiscal impact on businesses. Kimberly Hood, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Brian Fay at the above address, by phone at 801-538-3502, by FAX at 801-538-1773, or by Internet E-mail at bfay@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/17/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 12/24/2007

AUTHORIZED BY: Margaret Chambers, Director

**R27. Administrative Services, Fleet Operations.
R27-4. Vehicle Replacement and Expansion of State Fleet.
R27-4-1. Authority.**

(1) This rule is established pursuant to Subsections 63A-9-401(1)(a), 63A-9-401(1)(d)(v), 63A-9-401(1)(d)(ix), 63A-9-401(1)(d)(x), 63A-9-401(1)(d)(xi) 63A-9-401(1)(d)(xii), ~~63A-9-401(4)(ii)~~, and 63A-9-401(6) which require the Division of Fleet Operations (DFO) to: coordinate all purchases of state vehicles; make rules establishing requirements for the procurement of state vehicles, whether for the replacement or upgrade of current fleet vehicles or fleet expansion; make rules establishing requirements for cost recovery and billing procedures; make rules establishing requirements for the disposal of state vehicles; make rules establishing requirements for the reassignment and reallocation of state vehicles and make rules establishing rate structures for state vehicles.

(a) All agencies exempted from the DFO replacement program shall provide DFO with a complete list of intended vehicle purchases prior to placing the order with the vendor.

(b) DFO shall work with each agency to coordinate vehicle purchases to make sure all applicable mandates, including but not limited to alternative fuel mandates, and safety concerns are met.

(c) DFO shall assist agencies, including agencies exempted from the DFO replacement program, in their efforts to insure that all vehicles in the possession, control, and/or ownership of agencies are entered into the fleet information system.

(2) Pursuant to Subsection 63-38-3.5(8)(f)(ii), vehicles acquired by agencies, or monies appropriated to agencies for vehicle purchases, may be transferred to DFO and, when transferred, become part of the Consolidated Fleet Internal Service Fund.

R27-4-2. Fleet Standards.

(1) Prior to the purchase of replacement and legislatively approved expansion vehicles for each fiscal year, the Fleet Vehicle Advisory Committee (FVAC) DFO staff shall, on the basis of input from user agencies, recommend to DFO:

(a) a Standard State Fleet Vehicle (SSFV)

(b) a standard vehicle and the features and miscellaneous equipment to be included in said vehicle for each vehicle class in the fleet.

(2) DFO shall, after reviewing the recommendations made by the FVAC DFO staff, determine and establish, for each fiscal year[-]:

(a) a SSFV

(b) the standard replacement vehicle, along with included features and miscellaneous equipment for each vehicle class in the fleet. A

standard vehicle and the features and miscellaneous equipment to be included in said vehicle for each vehicle class in the fleet.

(3) DFO shall establish lease rates designed to recover, in addition to overhead and variable costs, the capital cost associated with acquiring a standard replacement vehicle for each vehicle class in the fleet.

(4) DFO shall establish replacement cycles according to vehicle type and expected use. The replacement cycle that applies to a particular vehicle supposes that the vehicle will be in service for a specified period of time and will be driven an optimum number of miles within that time. Whichever of the time or mileage criterion is reached first shall result in the vehicle's replacement.

R27-4-4. Vehicle Replacement.

(1) All state fleet motor vehicles shall, subject to budgetary constraints, be replaced when the vehicle meets the first of either the mileage or time component of the established replacement cycle criteria.

(2) Prior to the purchase of replacement motor vehicles, DFO shall provide each agency contact with a list identifying all vehicles that are due for replacement, and the standard replacement vehicle for the applicable class Standard State Fleet Vehicle (SSFV) that has been established by DFO after reviewing the recommendations of the FVAC DFO staff that will be purchased to take the place of each vehicle on the list.

(3) All vehicles replacements will default to a SSFV.

(4) Pursuant to Section 63A-9-401(4)(b)(iv), agencies may request a non-SSFV as long as one or more of the following justifications are cited:

- (a) Passenger space
- (b) Type of items carried
- (c) Hauling or towing capacity
- (d) Police pursuit capacity
- (e) Off-road capacity
- (f) 4x4 capacity
- (g) Emergency service (police, fire, rescue services) capacity
- (h) Attached equipment capacity (snow plows, winches, etc.)
- (i) Other justifications as approved by the Director of DFO or the director's designee.

(5) Agencies may petition the Executive Director of the Department of Administrative Services, or the executive director's designee, for a review in the event that the Director of DFO or the director's designee denies a request for the replacement of a motor vehicle with a non-standard vehicle.

~~(3)~~(6) Agencies may request that state fleet motor vehicles in their possession or control that have a history of excessive repairs, but have not reached either the mileage or time component of the applicable replacement cycle, be replaced. The request to replace motor vehicles with a history of excessive repairs is subject to budgetary constraints and the approval of the Director of DFO or the director's designee.

~~(4)~~(7) Agencies may petition the Executive Director of the Department of Administrative Services, or the executive director's designee, for a review in the event that the Director of DFO or the director's designee denies a request for the replacement of motor vehicles with a history of excessive repairs.

~~(5)~~(8) In the event that the replacement vehicle is not delivered to the agency by the vendor, the agency shall have five working days to pick-up the replacement vehicle from DFO, after receiving official

notification of its availability. If the vehicles involved are not exchanged within the five-day period, a daily storage fee will be assessed and the agency will be charged the monthly lease fee for both vehicles.

~~(6)~~(9) DFO is responsible for insuring that the state motor vehicle fleet complies with United States Department of Energy alternative fuel vehicle (AFV) mandates. DFO may require that a certain number of replacement vehicles, regardless of the requesting agency, be alternate fuel vehicles to insure compliance with said AFV mandates.

R27-4-6. Vehicle Feature and Miscellaneous Equipment Upgrade.

(1) Additional feature(s) or miscellaneous equipment to be added to the standard replacement vehicle in a given class, as established by DFO after reviewing the recommendations of the Fleet Vehicle Advisory Committee (FVAC) DFO staff, that results in an increase in vehicle cost shall be deemed a feature and miscellaneous equipment upgrade. A feature or miscellaneous equipment upgrade occurs when an agency requests:

(a) That a replacement vehicle contains a non-standard feature. For example, when an agency requests that an otherwise standard replacement vehicle have a diesel rather than a gasoline engine, or that a vehicle contain childproof locks.

(b) The installation of additional miscellaneous equipment not installed by the vehicle manufacturer. For example, when an agency requests that light bars or water tanks be installed on an otherwise standard replacement vehicle.

(2) Requests for feature and miscellaneous equipment upgrades shall be made in writing and:

(a) Present reasons why the upgrades are necessary in order to meet the agency's needs, and

(b) Shall be signed by the requesting agency's director, or the appropriate budget or accounting officer.

(3) All requests for vehicle feature and/or miscellaneous equipment upgrades shall be subject to review and approval by the Director of DFO or the director's designee. Vehicle feature and/or miscellaneous equipment upgrades shall be approved when in the judgment of the Director of DFO or the director's designee, the requested feature and/or miscellaneous equipment upgrades are necessary and appropriate for meeting the agency's needs.

(4) Agencies may petition the Executive Director of the Department of Administrative Services, or the executive director's designee, for a review in the event that the Director of DFO or the director's designee denies a request for a feature and/or miscellaneous equipment upgrade.

(5) Agencies obtaining approval for feature and/or miscellaneous equipment upgrades shall, prior to the purchase of the vehicle, pay in full to DFO, a feature and/or miscellaneous equipment upgrade rate designed to recover the total cost associated with providing the additional feature(s) and/or miscellaneous equipment, unless the requesting agency otherwise negotiates an agreement with DFO for payments to be made in installments, and provided that the terms of the installment agreement do not delay the payment of the general fund debt.

(6) In the event that an agreement providing for the payment of a feature and/or miscellaneous equipment upgrade in installments is reached, the agency shall indemnify and make DFO whole for any losses incurred resulting from damage to, loss or return of the vehicle and/or equipment prior to the receipt of all payment installments by DFO.

R27-4-8. Vehicle Class Differential Upgrade.

(1) For the purposes of this rule, requests for vehicles other than the planned replacement vehicle established by DFO after reviewing the recommendations of the Fleet Vehicle Advisory Committee (FVAC) DFO staff, that results in an increase in vehicle cost shall be deemed a vehicle class differential upgrade. For example, a vehicle class differential upgrade occurs when, regardless of additional features and/or miscellaneous equipment:

(a) The replacement vehicle requested by the agency, although within the same vehicle class as the vehicle being replaced, is not the standard replacement vehicle established by DFO for that class.

(b) The agency requests that a vehicle be replaced with a more expensive vehicle belonging to another class. For example, when an agency requests to have a standard 1/2 ton truck replaced with a standard 3/4 ton truck, or a compact sedan be replaced with a mid-size sedan.

(2) Requests for vehicle class differential upgrades shall be made in writing and:

(a) Present reasons why the upgrades are necessary in order to meet the agency's needs, and

(b) Shall be signed by the requesting agency's director or the appropriate budget or accounting officer.

(3) All requests for vehicle class differential upgrades shall be subject to review and approval by the Director of DFO or the director's designee. Vehicle class differential upgrades shall be approved only when:

(a) In the judgment of the Director of DFO or the director's designee, the requested vehicle upgrade is necessary and appropriate for meeting the demands of changing operational needs for which the planned replacement vehicle is clearly inadequate or inappropriate;

(b) In the judgment of the Director of DFO or the director's designee, the requested vehicle upgrade is necessary and appropriate for meeting safety, environmental, or health or other special needs for drivers or passengers.

(4) Agencies may petition the Executive Director of the Department of Administrative Services, or the executive director's designee, for a review in the event that the Director of DFO or the director's designee denies a request for a vehicle class differential upgrade.

(5) Agencies obtaining approval for vehicle class differential upgrade(s) at the end of the applicable replacement cycle shall pay to DFO, in full, prior to the purchase of the vehicle, a vehicle class differential upgrade rate designed to recover the difference in cost between the planned replacement vehicle and the actual replacement vehicle when the replacement vehicle is a more expensive vehicle belonging to the same or another class.

(6) Agencies obtaining approval for vehicle class differential upgrade(s) prior to the end of the current vehicle's replacement cycle shall, prior to the purchase of the replacement vehicle, pay to DFO, in full, an amount equal to the difference in cost between the actual replacement vehicle and the planned replacement vehicle plus the amount of depreciation still owed on the vehicle being replaced, less the salvage value of the vehicle being replaced.

R27-4-10. Executive Vehicle Replacement.

(1) Executive Vehicles shall be available to only those with employment positions that have an assigned vehicle as part of a compensation package in accordance with state statute.

(a) Each fiscal year DFO shall establish a standard executive vehicle type rate and purchase price.

(b) Executives may elect to replace their assigned vehicle at the beginning of each elected term, or appointment period, or as deemed necessary for the personal safety and security of the elected or appointed official.

(c) When the executive leaves office, the vehicle shall be sold in accordance with State Surplus Property Program policies and procedures.

(2) Executives shall have the option of choosing a vehicle other than the standard executive vehicle based on the standard executive vehicle purchase price.

(a) The alternative vehicle selection should not exceed the standard executive vehicle purchase price parameter guidelines.

(b) In the event that the agency chooses an alternative a vehicle that exceeds the standard vehicle purchase price guidelines, the agency shall pay for the difference in price between the vehicle requested and the standard executive vehicle purchase price.

KEY: fleet expansion, vehicle replacement

Date of Enactment or Last Substantive Amendment: January 10, 2005

Notice of Continuation: July 25, 2007

Authorizing, and Implemented or Interpreted Law: 63A-9-401(1)(a); 63A-9-401(1)(d)(v); 63A-9-401(1)(d)(ix); 63A-9-401(1)(d)(x); 63A-9-401(1)(d)(xi); 63A-9-401(1)(d)(xii); 63A-9-401(4)(ii)



Agriculture and Food, Plant Industry **R68-7** Utah Pesticide Control Act

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 30611

FILED: 10/23/2007, 13:02

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are being proposed in the rule to implement new requirements of H.B. 132 from 2007 Legislative Session. (DAR NOTE: H.B. 132 (2007) is found at Chapter 370, Laws of Utah 2007, and was effective 04/30/2007.)

SUMMARY OF THE RULE OR CHANGE: This amendment modifies Subsection R68-7-6(8) to allow all applicators to license in the public health category and not just state, federal, or other governmental employees. In Subsection R68-7-8(A)(1), the change requires pesticide applicator business to be licensed for each business location where applicators are located. In Subsections R68-7-8(A)(2) and (B)(2) and (C)(2), a person getting less than 65% on the exam must wait 3 days before retesting on that exam. Subsection R68-7-11(20) makes it unlawful to refuse or neglect to register a pesticide applicator business. Subsection R68-7-11(21) makes it unlawful to handle or apply any pesticide without having an appropriate complete and legible pesticide label on hand.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-14-6

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There will be no cost to state government because no new employees will be hired and will be done with existing employees.
- ❖ LOCAL GOVERNMENTS: There will be no involvement with local government, therefore there will be no cost to local government.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: All pesticide applicator businesses will be required to be registered and pay a fee between \$75 - \$300, depending on their size.

COMPLIANCE COSTS FOR AFFECTED PERSONS: All pesticide applicator businesses will be required to be registered and pay a fee between \$75 - \$300, depending on their size.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This new law will require all pesticide applicator businesses to be registered with the Department. Implementation of this law will enable the Department to provide better protection to the environment and public health of the citizens by tracing companies involved with applying pesticide products. Businesses will be required to pay a registration fee, but costs are minimal compared to the increased protection that will be provided. Leonard M. Blackham, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Clair Allen, Clark Burgess, or Kathleen Mathews at the above address, by phone at 801-538-7180, 801-538-9929, or 801-538-7103, by FAX at 801-538-7189, 801-538-7126, or 801-538-7126, or by Internet E-mail at ClairAllen@utah.gov, cburgess@utah.gov, or kmathews@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/17/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 12/24/2007

AUTHORIZED BY: Leonard M. Blackham, Commissioner

R68. Agriculture and Food, Plant Industry.

R68-7. Utah Pesticide Control Act.

R68-7-6. Categorization of Pesticide Applicators.

Applicators shall be categorized in one or more of the categories defined below, based on the application site and the type of work they perform.

(1) Agricultural Pest Control.

(a) Plant. This category includes applicators using pesticides to control pests in the production of agricultural crops including, but not limited to, field crops, vegetables, fruits, pasture, rangelands, and non-crop agricultural lands.

(b) Animal. This category includes applicators using pesticides on animals including, but not limited to, beef and dairy cattle, swine, sheep, horses, goats, poultry, and to places on or in which animals inhabit. Doctors of veterinary medicine or their employees engaged in the business of applying pesticides for hire, publicly representing themselves as pesticide applicators or engaged in large-scale use of pesticides, are included in this category.

(2) Forest Pest Control. This category includes applicators using pesticides in forests, forest nurseries, and forest seed-producing areas.

(3) Ornamental and Turf Pest Control. This category includes applicators using pesticides to control pests in the maintenance and production of ornamental trees, shrubs, flowers and turf. This includes controlling pests on home foundations, sidewalks, driveways, and other similar locations.

(4) Seed Treatment. This category includes applicators using pesticides on seeds.

(5) Aquatic Pest Control.

(a) Surface Water. This category includes applicators applying pesticides to standing or running water, excluding applicators engaged in public health-related activities included in R68-7-6(8).

(b) Sewer Root Control. This category includes applicators using pesticides to control roots in sewers or in related systems.

(6) Right-of-Way Pest Control. This category includes applicators using pesticides in the maintenance of public roads, electric power lines, pipelines, railway rights-of-way, or other similar areas.

(7) Structural and Health-related Pest Control. This category excludes any fumigation pesticide application and is limited to applicators using pesticides in, on, or around food handling establishments; human dwellings; institutions, such as schools and hospitals; industrial establishments, including warehouses, storage units and any other structures and adjacent areas, public or private; to control household pests, fabric pests, and stored-product pests and to protect stored, processed and manufactured products. This category includes vertebrate pest control in and around buildings.

(8) Public Health Pest Control. This category includes ~~state, federal, or other governmental employees or persons working under their supervision~~ applicators applying ~~[or supervising]~~ the use of ~~[restricted-use]~~ pesticides in public-health programs for the management and control of pests having medical and public-health importance.

(9) Regulatory Pest Control.

(a) This category is limited to state and federal, employees or persons under their direct supervision, who apply pesticides in a mechanical ejection device, or other methods to control regulated pests.

(b) This category is limited to state and federal, employees or persons under their direct supervision, who apply pesticides in a protective collar, or other methods to control regulated pests.

(10) Demonstration, Consultation and Research Pest Control. This category includes individuals who demonstrate or provide instruction to the public in the proper use, techniques, benefits and methods of applying restricted-use pesticides. This category includes, but is not limited to agricultural ~~[field representatives]~~ compliance specialists, extension personnel,

commercial representatives, consultants and advisors, and persons conducting field research with restricted-use pesticides. In addition, they shall meet the specific standards that may be applicable to their particular activity.

(11) Aerial Application Pest Control. This category includes applicators applying pesticides by aircraft. Aerial applicators are required to be certified in the Aerial-Application Pest-Control Category and any other categories of intended application.

(12) Vertebrate Animal Pest Control. This category includes applicators applying pesticides in the control of vertebrate pests outdoors, such as rodents, birds, bats, predators or domestic animals.

(13) Fumigation/Stored-Commodities Pest Control. This category includes applicators using fumigants to control pests in soils, structures, railroad cars, stored grains, manufactured products, grain elevators, flour mills, and similar areas and items.

(14) Wood-Preservation Pest Control. This category includes applicators who apply wood-preservative pesticides to wood products, such as fence posts, electrical poles, railroad ties, or any other form of wood products.

(15) Wood-Destroying Organisms Pest Control. This category includes applicators using pesticides to control termites, carpenter ants, wood-boring or tunneling insects, bees, wasps, wood-decaying fungi and any other pests destroying wood products.

R68-7-7. Standards of Competence for Certification of Applicators.

Applicators must show competence in the use and handling of pesticides according to the hazards involved in their particular classification by passing the tests and becoming certified as outlined in R68-7-8. Upon their becoming certified, the department will issue a license which will qualify an applicator to purchase and apply pesticides in the appropriate classification. Standards for certification of applicators as classified in R68-7-4 have been established by the EPA and such standards shall be a minimum for certification of applicators in the State of Utah.

(1) Commercial and Non-Commercial Applicators.

Commercial and non-commercial applicators shall demonstrate practical knowledge by written examination(s) of the principles and practices of pest control and safe use, storage and transportation of pesticides, to include the general standards applicable to all categories and the standards specifically identified for each category or subcategory designated by the applicant, as set forth in 40 CFR, Section 171.4 and the EPA approved Utah State Plan for certification of pesticide applicators. In addition, applicators applying pesticides by aircraft shall be examined on the additional standards specifically identified for this method of application as set forth herein.

(a) Exemptions. The standards for commercial and non-commercial applicators do not apply to the following persons for purposes of these rules:

(~~1~~)i) Persons conducting laboratory-type research involving pesticides; and

(~~2~~)ii) Doctors of medicine and doctors of veterinary medicine applying pesticides or drugs or medication during the course of their normal practice and who do not publicly represent themselves as pesticide applicators.

(2) Aerial Application. Additional Standards.

Applicators shall demonstrate by examination practical knowledge of pest control in a wide variety of environments. These may include, but are not limited to, agricultural properties, rangelands, forestlands, and marshlands. Applicators must have the

knowledge of the significance of drift and of the potential for non-target injury and the environmental contamination. Applicators shall demonstrate competency as required by the general standards for all categories of certified commercial and non-commercial applicators. They shall comply with all standards set forth by the Federal Aviation Administration (FAA) and submit proof of current registration by that agency as a requirement for licensing as an aerial applicator.

(3) Private Applicators. Private applicators shall show practical knowledge of the principles and practices of pest control and the safe use of pesticides, to include the standards for certification of private applicators as set forth in 40 CFR Section 171.5. In addition, private applicators applying restricted-use pesticides by aircraft shall show practical knowledge of the additional standards specifically identified for that method of application in R68-7-6(11) of these rules.

(4) Supervision of Non-Certified Applicators by Certified Private Applicators.

(a) A certified private applicator [~~who~~that] functions in a supervisory role shall be responsible for the actions of any non-certified applicators under his instruction and control.

(b) A certified private applicator shall provide written or oral instruction for the application of a restricted-use pesticide applied by a non-certified applicator under his supervision when the certified applicator is not required to be physically present. If an applicator cannot read, instructions shall be given in a language understood by the applicator. The instructions shall include procedures for contacting the certified applicator in the event he is needed.

(5) The certified applicator shall be physically present to supervise the application of a restricted-use pesticide by a non-certified applicator if such presence is required by the label of the pesticide being applied.

R68-7-8. Certification Procedures.

(A) Commercial Applicators.

(1) License Required. No person shall apply any pesticide for hire or compensation to the lands of another at any time without becoming certified and obtaining a commercial applicator's license and a pesticide applicator business license as described in 4-14-13 issued by the department, or working for a company which has already attained such business license.

(2) The pesticide applicator business fee will be determined by the number of commercial pesticide applicators employed by the business. The fee ranges are 1-4 commercial pesticide applicators, 2-5 commercial pesticide applicators and 10 or more commercial pesticide applicators.

~~Application for such [a]licenses shall be made in writing on an approved form obtained from the department and shall include such information as prescribed by the department. Each individual performing the physical act of applying pesticides for hire or compensation must be licensed. An applicator and business license fee determined by the department, pursuant to Subsection 4-2-2(2), shall be assessed at the time of certification and recertification.~~

~~(3) Written Examination. An applicant for a commercial pesticide license shall demonstrate competency and knowledge of pesticide applications by passing the appropriate written examinations. Examination and educational-material fees determined by the department, pursuant to Subsection 4-2-2(2), shall be assessed at the time of certification and recertification. Any person applying to become certified or recertified must demonstrate the ability to: (a) read and understand three or more sets of pesticide~~

label directions [~~copied or transcribed~~] from pesticide containers randomly chosen by division personnel, and (b) demonstrate competency and knowledge of [the] mixing and [application of] applying pesticides in a safe way. All applicants for a commercial applicator license must pass the general examination and the examination(s) pertaining to the category(s) for which they desire to be licensed. Certification examinations shall be conducted by representatives of the commissioner by appointment. A score of 70 or above is required to pass any written examination. A score of less than 70 on the general standards or category examinations shall result in denial of certification of that test. A person must pass the general and at least one category examination before becoming certified. An applicant scoring less than ~~[70]~~65% on any examination must wait three days before retesting on that examination. A person scoring from 65% to 69% may retake the test again the same day, schedule permitting.

~~[(3)](4)~~ License Issuance. If the department finds the applicant qualified to apply pesticides in the classifications applied for and for which the prescribed fee(s) have been paid, the department shall issue a commercial applicator's license. The license shall expire December 31 of each year unless it has been revoked or suspended prior by the commissioner for cause, which may include any of the unlawful acts given in R68-7-11. If an application for a commercial license is denied the applicant shall be informed of the reason. The applicator is required to have their license in their immediate possession at all times when making a pesticide application. If the applicator requests [license has been lost or misplaced and] a duplicate license [is requested] from the Department of Agriculture and Food, a fee determined by the department pursuant to Subsection 4-2-2(2), must be paid before a replacement license will be issued. A pesticide applicator business license shall be required for each pesticide business location with applicators working in the state.

(5) Any new applicator or applicator business license licensing after November 1 will be licensed for the remainder of that year and the following calendar year.

~~[(4)](6)~~ License Renewal, Recertification.

(a) A license will be renewed without examination if the renewal notice is received by the Utah Department of Agriculture and Food of prior to January 1 of any year.

(b) If the renewal notice is received after January 1 but before (March 1), individuals will be required to pay the late fee, and no re-examination will be required.

(c) If the renewal notice is received after March 1, individuals will be required to recertify according to the original pesticide-applicator certification procedures. Each license shall expire on December 31 of the year of its issuance. Commercial applicators may voluntarily pay a triennial license fee in lieu of the annual license fee. Commercial applicators must recertify every three years, and be subject to re-examination at any time. Information that may be required to insure a continuing level of competence and ability to use pesticides safely and properly due to changing technology, and to satisfy certification requirements as described herein, or meet any other requirements specified by the commissioner shall be added to this rule as often as necessary.

(d) Recertification options:

(i) Complete the original certification process of taking the required general and category test(s) and passing each required test with a score of 70% or above or;

(ii) Attend approved recertification courses and pass the required category examinations with a score of 70% or above or;

(iii) Participate in approved continuing education courses and accumulate 24 credits during the valid three years of certification.

~~[(5)](7)~~ Records Maintained. Commercial applicators shall keep and maintain records of each pesticide application. These records must be recorded within 24 hours after the pesticide application is made. These application records must include the following information:

- (a) Name and address of property owner;
- (b) Location of treatment site, if different from (a);
- (c) The month, day and year when the pesticide was applied;
- (d) Brand name of pesticide, EPA registration number, rate of pesticide applied per unit area and total amount of pesticide used;
- (e) Purpose of application;
- (f) The name, address and license number of the certified applicator who applied the pesticide.

Such records shall be kept for a period of two years from the date of application of the pesticide and shall be available for inspection by the commissioner's designee at reasonable times. The commissioner's designee shall, upon request, be furnished a copy of such records by the commercial applicator.

~~[(6)](8)~~ Exemption.

The provisions of this section relating to licenses and requirements for their issuance do not apply to a person applying pesticides for his neighbors provided he operates and maintains pesticide application equipment for his own use, is not engaged in the business of applying pesticides for hire or compensation, does not publicly represent himself as a pesticide applicator, and operates his pesticide application equipment only in the vicinity of his owned or rented property for the accommodation of his neighbors; provided, however, that when such persons use a restricted-use pesticide, they shall comply with the certification requirements specified herein.

(B) Non-Commercial Applicators.

(1) License Required. No non-commercial applicator shall use or demonstrate the use of any restricted-use pesticide without becoming certified and obtaining a non-commercial applicator's license issued by the department. Application for such license shall be made in writing on an approved form obtained from the department and shall include such information as is prescribed by the department. Each individual performing the physical act of applying restricted-use pesticides must be licensed.

(2) Written Examination. An applicant for a non-commercial pesticide license shall demonstrate to the department competency and knowledge of pesticides and their applications by passing the appropriate written examinations. Examination and educational-material fees determined by the department pursuant to Subsection 4-2-2(2), shall be assessed at the time an individual takes the general and category tests. All applicants for a non-commercial applicator license must successfully pass a general examination based upon standards applicable to all categories. After passing the general examination, applicants must pass the examination(s) pertaining to the category(s) for which they desire to be licensed. Certification examinations shall be conducted by representatives of the commissioner by appointment. A score of 70 percent or above is required for passing any written examination. A score of less than 70 percent on the general or category examinations shall result in denial of certification in that category. A person must pass[s] the general and at least one category examination before becoming certified. An applicator scoring less than ~~[70]~~65 percent on any examination must wait three days before retesting on that examination. A person scoring from 65% to 69% may retake the

test again the same day, schedule permitting. Any person applying to become certified or recertified must demonstrate the ability to: (a) read and understand three or more sets of pesticide label directions [~~copied or transcribed~~] from pesticide containers randomly chosen by division personnel, and (b) demonstrate competency and knowledge of [the] mixing and [application of] applying pesticides in a safe way.

(3) License Issuance. If the department finds the applicant qualified to apply pesticides in the classification(s) applied for, the department shall issue a non-commercial applicator's license limited to such activities and classifications applied for. A prescribed examination and educational material fees shall be required. The applicant is required to have his/her license in his/her immediate possession at all times when making a pesticide application.

If the applicator [~~loses or misplaces their license and~~] requests a [~~replacement~~] duplicate license from the Department of Agriculture and Food, a fee [~~will be charged~~] as determined by the department pursuant to Subsection 4-2-2(2), [~~and~~] must be paid before a replacement license will be issued. The license shall expire December 31, three calendar years after the issuance of the certification, unless it has been suspended or revoked by the commissioner for cause, which may include any of the unlawful acts given in R68-7-11. If an application for a non-commercial license is denied the applicant shall be informed of the reason.

(4) Any new applicator licensing after November 1 will be licensed for the remainder of that year and the following calendar year.

~~____~~ [(4)](5) License Renewal, Recertification. Non-commercial applicators must recertify every three years, and be subject to re-examination at any time. Information that may be required to insure a continuing level of competence and ability to use pesticides safely and properly due to changing technology, and to satisfying certification requirements as described herein, or any other requirements specified by the commissioner shall be added to this rule as often as necessary.

Recertification options are:

(a) Complete the original certification process of taking the required general and category test(s) and passing each required test with a score of 70% or above or;

(b) Attend approved recertification courses and pass the required category test(s) with a score of 70% or above or;

(c) Participate in approved continuing education courses and accumulate 24 credits during the valid three years of certification.

~~[(5)]~~ [(6) Records Maintained. Non-commercial applicators shall keep and maintain records of each application of any restricted-use pesticides. These application records must be recorded within 24 hours after the pesticide application is made. These records must include the following information:

(a) Name and address of property owner;

(b) Location of treatment site, if different from (a);

(c) The month, day and year when the pesticide was applied;

(d) Brand name of pesticide, EPA registration number, rate of pesticide applied per unit area, and total amount of pesticide used;

(e) Purpose of application;

(f) The name, address, and license number of the certified applicator who applied the pesticide.

Such records shall be kept for a period of two years from the date of application of the pesticide and shall be available for inspection by the commissioner's designee at reasonable times. The commissioner's designee shall, upon request, be furnished a copy of such records by the non-commercial applicator.

~~[(6)]~~ [(7) Exemption. The provisions of this section shall not apply to persons conducting laboratory research involving restricted-use pesticides as drugs or medication during the course of their normal practice.

(C) Private Applicators.

(1) License Required. No private applicator shall purchase, use or supervise the use of any restricted-use pesticide without a private applicator's license issued by the department. Issuance of such license shall be conditioned upon the applicator's complying with the certification requirements determined by the department as necessary to prevent unreasonable adverse effects on the environment, including injury to the applicator or other persons. Application for a license shall be made in writing on a designated form obtained from the department.

(2) Certification Methods. Any person applying to become licensed must demonstrate the ability to: (a) read and understand three or more sets of pesticide label directions, [~~copied or transcribed~~] from pesticide containers randomly chosen by division personnel, and (b) demonstrate competency and knowledge of [the] mixing and [application of] applying pesticides in a safe way. All first-time Private Applicators must successfully pass a written test. A score of 70 percent or above is required for passing any written test. A score of less than 70 percent will result in the denial of certification. A person must pass the general and at least one category examination before becoming certified. An applicator scoring less than 65% on any examination must wait three days before retesting on that examination. A person scoring from 65% to 69% may retake the test again the same day, schedule permitting.

(3) Emergency-Use Permit. A single restricted-use pesticide may be purchased and used by a non-certified person on a one-time-only basis if an emergency control situation is shown to exist. Before purchasing the product, the applicant shall participate in a discussion concerning safe use of the specific product with a representative of the Utah Department of Agriculture and Food. Following an adequate discussion of same, the Department of Agriculture and Food may issue the applicant a permit to purchase and use the product on a specific site on a one-time-only basis. The applicant shall be required to become certified before being authorized to further purchase and use restricted-use pesticides.

(4) License Issuance. If the department finds the applicant qualified to apply pesticides, the applicant shall be issued a private applicator's license. Examination and educational-material fees determined by the department pursuant to Subsection 4-2-2(2), shall be assessed at the time of certification and recertification. The license issued by the commissioner shall expire on December 31, three calendar years after issuance, unless the license has been revoked or suspended by the commissioner. If an application for a private license is denied, the applicant shall be informed of the reason. If the applicator requests [~~license has been lost or misplaced and a duplicate is requested~~] replacement from the Department of Agriculture and Food, a fee determined by the department pursuant to Subsection 4-2-2(2), must be paid before a replacement license will be issued.

(5) Any new applicator licensing after November 1 will be licensed for the remainder of that year and the following calendar year.

~~____~~ [(5)] [(6) License Renewal, Recertification. A person applying to recertify must demonstrate the ability to : (a) read and understand three or more sets of pesticide label directions, [~~copied or transcribed~~] from pesticide containers randomly chosen by division

personnel, and (b) demonstrate the mixing and application of pesticides in a safe way. All certified private applicators must recertify every three years, or more frequently if determined necessary by the department, by satisfying any of the following procedures or any other requirements specified by the department.

(a) Training Course. Completion of a training course approved by the Utah Department of Agriculture and Food which may require passing a written test with a score of 70% or above or;

(b) Self-Study Program. Successful completion of an approved written test. A passing score of 70 percent or above is required or;

(c) Written Examination. Successful completion of an approved written test. A score of 70 percent or above is required to pass or;

(d) Accumulate nine credits of approved continuing education during the valid three years of certification.

(D) Employees of Federal Agencies. Federal Government Employees wishing to be certified in Utah shall be required to qualify as non-commercial applicators by passing the appropriate examinations, unless such requirement is waived upon presentation of adequate evidence of certification in the appropriate categories from another state with comparable certification requirements. In the event a federal agency develops an applicator certification plan which meets the Utah certification standards, employees of that agency who become certified under that plan may qualify for certification in the State of Utah.

(E) Certification of Out-of-State Applicants.

When a pesticide applicator is certified under an approved state plan of another state and desires to apply pesticides in Utah, he/she shall make application to the department and shall include, along with the proper fee and any other details required by the Act or these rules, a true copy of his credentials as proof of certification in the person's state of residence and a letter from that state's department of agriculture stating that he/she has not been convicted of a violation of any pesticide law and is currently licensed as a pesticide applicator in that state. The department may upon review of the credentials, issue a Utah certification to the applicator in accordance with the use situations for which the applicator is certified in another state without requiring determination of competency; provided that the state having certified the applicator will similarly certify holders of Utah licenses or certificates and has entered into a reciprocal agreement with the State of Utah. Out-of-state pesticide applicators who operate in Utah will be subject to all Utah laws and rules.

R68-7-11. Unlawful Acts.

Any person who has committed any of the following acts is in violation of the Utah Pesticide Control Act or rules promulgated thereunder and is subject to penalties provided for in Sections 4-2-2 through 4-2-15:

- (1) Made false or fraudulent claims through any media misrepresenting the effect of pesticides or methods to be utilized;
- (2) Applied known ineffective or improper pesticides;
- (3) Operated in a faulty, careless or negligent manner;
- (4) Neglected or, after notice, refused to comply with the provisions of the Act, these rules or of any lawful order of the department;
- (5) Refused or neglected to keep and maintain records required by these rules, or to make reports when and as required;
- (6) Made false or fraudulent records, invoices or reports;

(7) Engaged in the business of applying a pesticide for hire or compensation on the lands of another without having a valid commercial applicator's license;

(8) Used, or supervised the use of, a pesticide which is restricted to use by "certified applicators" without having qualified as a certified applicator;

(9) Used fraud or misrepresentation in making application for, or renewal of, a registration, license, permit or certification;

(10) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license or permit;

(11) Used or caused to be used any pesticide in a manner inconsistent with its labeling or rules of the department if those rules further restrict the uses provided on the labeling;

(12) Aided or abetted a licensed or an unlicensed person to evade the provisions of the Act; conspired with such a licensed or an unlicensed person to evade the provisions of the Act; or allowed one's license or permit to be used by another person;

(13) Impersonated any federal, state, county, or other government official;

(14) Distributed any pesticide labeled for restricted use to any person unless such person or his agent has a valid license, or permit to use, supervise the use, or distribute restricted-use pesticide;

(15) Applied pesticides onto any land without the consent of the owner or person in possession thereof; except, for governmental agencies which must abate a public health problem.

(16) For an ~~commercial or a non-commercial~~ applicator to apply a termiticide at less than label rate.

(17) For an employer of a commercial or non-commercial applicator to allow an employee to apply pesticide before that individual has successfully completed the prescribed pesticide certification procedures.

(18) For a pesticide applicator not to have his/her current license in his/her immediate possession at all times when making a pesticide application.

(19) To allow ~~through negligence,~~ an application of pesticide to run off, or drift from the target area to cause plant, animal, human or property damage.

~~(20) Refused or neglected to register a pesticide applicator business with the Utah Department of Agriculture and Food.~~

~~(21) To handle or apply any registered pesticide for which the person does not have an appropriate, complete, or legible label at hand.~~

KEY: inspections

Date of Enactment or Last Substantive Amendment: July 25, 2006

Notice of Continuation: March 16, 2006

Authorizing, and Implemented or Interpreted Law: 4-14-6



Commerce, Corporations and Commercial Code

R154-10

Utah Digital Signatures Act Rules

NOTICE OF PROPOSED RULE

(Repeal)
 DAR FILE NO.: 30642
 FILED: 11/01/2007, 16:39

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The umbrella statute was repealed (S.B. 20, 2006 General Session) so the rule needs to be repealed as well. (DAR NOTE: S.B. 20 (2006) is found at Chapter 21, Laws of Utah 2006, and was effective 05/01/2006.)

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 46, Chapter 2, and Title 46, Chapter 3

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There would be no cost or savings the state budget because the law has not been used for several years now.
- ❖ LOCAL GOVERNMENTS: There would be no cost or savings to local governments because the law has not been used for several years now.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There would be no cost or savings to small businesses or other persons because the law has not been used for several years now.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There would be no cost or savings to any person because the law has not been used for several years now.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated, because the umbrella statute has been repealed and this rule is no longer necessary. Francine Giani, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kathy Berg at the above address, by phone at 801-530-6216, by FAX at 801-530-6438, or by Internet E-mail at kberg@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/17/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 12/24/2007

AUTHORIZED BY: Francine Giani, Executive Director

R154. Commerce, Corporations and Commercial Code.**~~R154-10. Utah Digital Signature Act Rules.~~****~~R154-10-100. Authority and Purpose.~~**

~~—These rules are adopted by the division under the authority of Subsection 46-3-104(3), to enable the division to facilitate the implementation of the Utah Digital Signature Act and Subsections 46-1-3(5)(b), to enable the division to facilitate the implementation of Electronic Communication between a signer and a Notary Public using a Digital Signature.~~

~~R154-10-101. Definitions.~~

~~—For purposes of these rules, in addition to the definitions set forth in Section 46-3-103, the following terms are herein defined:~~

- ~~—(1) "Distinguished name" means data unambiguously identifying the person or entity bearing the name.~~
- ~~—(2) "ISO" means the International Organization for Standardization.~~
- ~~—(3) "Primary certification practice statement" means a certification practice statement which includes references to all other material certification practice statements.~~
- ~~—(4) "Utah Act" means the Utah Digital Signature Act as found in Section 46-3-101 et seq.~~
- ~~—(5) "Working Capital" means the difference obtained by subtracting current liabilities from current assets.~~

~~R154-10-102. Certification Authority Filing Amounts.~~

~~—A certification authority, upon filing an application for a license or renewal, shall pay the following amounts annually:~~

- ~~—(1) a \$500.00 filing fee; and~~
- ~~—(2) additional costs that reflect expenses incurred to evaluate software and hardware systems if they have not been previously approved by the division. Additional amount(s) shall be paid when the actual cost is incurred by the division to have an information systems consultant evaluate whether the software and hardware systems utilized by the certification authority are trustworthy systems and meet prevailing national and international standards.~~

~~R154-10-103. Application or Renewal for Certification Authority License.~~

~~—Any person applying or renewing to be licensed as a certification authority must file an application pursuant to this chapter demonstrating compliance with the requirements of the Utah Digital Signature Act (U.C.A. Section 46-3-101, et seq.). To apply for a license or renewal, an applicant must submit in writing (in light of the Utah Digital Signature Act, documents submitted electronically and digitally signed are considered written) all of the following to the Utah Digital Signature Program, Division of Corporations and Commercial Code, Utah Department of Commerce, 160 East 300 South, Box 146705, Salt Lake City, Utah 84114-6705, or E-mail: DigSig@state.ut.us:~~

- ~~—(1) The name of the applicant;~~
- ~~—(2) The distinguished name of the applicant, in accordance with Utah Administrative Code R154-10-101(1);~~
- ~~—(3) The mailing and physical business address of the applicant;~~
- ~~—(4) The telephone number of the applicant and the facsimile transmission machine;~~

- (5) The electronic mail address of the applicant;
- (6) The name and address of the applicant's Utah registered agent for service of process and documentation certifying acceptance as applicant's registered agent;
- (7) A certificate issued by a licensed certification authority that shows the applicant as subscriber and is published in a recognized repository, pursuant U.C.A. Section 46-3-201(1)(a);
- (8) A written acknowledgment certifying that all the operative personnel employed by the applicant have undergone a criminal background check demonstrating that they have not been convicted of a felony or a crime involving fraud, false statement, or deception within the past fifteen years, pursuant to U.C.A. Section 46-3-201(1)(b) and Utah Administrative Code R154-10-107;
- (9) A written acknowledgment certifying that all the operative personnel employed by the applicant have demonstrated knowledge and proficiency in the requirements of the Utah Digital Signature Act and Administrative Rules, pursuant to U.C.A. Section 46-3-201(1)(c) and Utah Administrative Code R154-10-107;
- (10) A filing fee of five hundred dollars (\$500.00), pursuant to Utah Administrative Code R154-10-102;
- (11) A suitable guaranty in the amount of seventy five thousand dollars (\$75,000.00), pursuant to Utah Administrative Code R154-10-201, unless the applicant is the governor, a department or division of state government, the attorney general, state auditor, state treasurer, the judicial council, a city, a county, or the Legislature or its staff office;
- (12) A written acknowledgment certifying that the applicant has working capital reasonably sufficient to conduct business for a period of at least one year and no less than ten thousand dollars (\$10,000.00) in working capital, pursuant to Utah Administrative Code R154-10-203;
- (13) Documentation in the form of an information systems audit report from a qualified, independent third party information systems auditor establishing that the applicant has the right to use a trustworthy system as defined by Utah Administrative Code R154-10-106, including a secure means for controlling usage of its private key. The information systems audit report is not required to establish anything more than that the applicant has the use of a trustworthy system and is signed by the information systems auditor;
- (14) The applicant's written certification practice statement, its location in the form of a Universal Resource Locator, and method or procedure by which it may be retrieved, in accordance with Utah Administrative Code R154-10-302; and
- (15) The current public key(s) of the applicant on a floppy disk, in addition to an electronic document digitally signed by the applicant, by which its digital signature(s) may be verified.

R154-10-104. Issuance of License or Renewal.

- (1) The division shall, within a reasonable time, issue or renew a license as a certification authority if the applicant has:
 - (a) complied with and submitted all documentation and fees required by Utah Administrative Code R154-10-103; and
 - (b) the division has determined that the applicant meets all requirements for licensure pursuant to U.C.A. Section 46-3-201.
- (2) Issuance or renewal of a license shall be valid for a period of one year.
- (3) The division shall not provide a notice of expiration of the certification authority license. It is the applicant's responsibility to renew their license within 30 days prior to the expiration of their license.

—(4) Failure to receive a notice of the need to renew a license is an insufficient reason for failing to file the required application for renewal.

—(5) If any of the information presented on the application changes, the certification authority has ten days to submit information to the division to update its record. There is no fee for the amendment.

R154-10-105. Revocation or Suspension of Certification Authority License.

—(1) The division may revoke or suspend a license, pursuant to U.C.A. Section 46-3-201(4)(a), for failure to comply with any requirement of chapter 3, title 46, entitled, Utah Digital Signature Act or this chapter, for failure to remain qualified for a license pursuant to chapter 3, title 46, or this chapter, or for failure to comply with a lawful order of the division pursuant to U.C.A. Section 46-3-203(2).

—(2) The division shall inform a licensed certification authority by written order, by mail directed to the mailing address or electronic mail address listed on the licensee's application, of a decision to revoke or suspend the license. The notification shall state when the revocation or suspension shall be effective, which shall not be less than 30 days following the issuance of the order.

R154-10-106. Trustworthy System.

—A system shall be regarded as trustworthy if it materially satisfies the most current adopted version of:

—106.1 Common Criteria (CC) Protection Profile (PP) for Commercial Security 2 (CS2), (CCPPCS), developed by the National Institute of Standards and Technology (NIST); or

—106.2 Web Trust Program for Certification Authorities, version 1.0, as approved by the American Institute of Certified Public Accountants and the Canadian Institute of Chartered Accountants.

—106.3 The determination of whether a departure from CCPPCS is material shall be governed by Utah Administrative Code R154-10-403.

R154-10-107. Certification of Operative Personnel.

—The certification authority shall be responsible for determining whether an individual employed or acting as operative personnel qualifies to act as operative personnel. The determination must be made after a criminal background check of the individual and based on the individual's knowledge of chapter 3, title 46, entitled, Utah Digital Signature Act, this chapter and other information pertinent to asymmetric cryptosystems. The steps that a certification authority takes to assess an individual's qualification to be employed as operative personnel must be disclosed in the certification practice statement.

R154-10-201. Amount and Form of Suitable Guaranty.

—(1) A suitable guaranty shall be in an amount of seventy five thousand dollars (\$75,000.00);

—(2) The suitable guaranty shall specify a term of one (1) year commencing on the effective date of the certification authority license and terminating upon the expiration, revocation or termination of the license; and

—(3) The suitable guaranty shall provide coverage for a claim made against a certification authority where:

—(a) the claimed violation occurred within the period that the certification authority license was in effect; and

—(b) the claimant filed a written notice of the claim with the division within two (2) years following the occurrence of the incident that gave rise to the claim.

R154-10-202. Certification Authority Disclosure Records.

- (1) A certification authority disclosure record shall contain:
- (a) an indication that the certification authority disclosure record is provided and maintained by this state;
- (b) the name, street address, and voice telephone number of the certification authority;
- (c) the telephone number of the certification authority's facsimile transmission machine, if the certification authority has such a machine;
- (d) the electronic mail or other address by which the certification authority may be contacted electronically;
- (e) the distinguished name of the certification authority;
- (f) the current public key or keys of the certification authority by which its digital signatures on published certificates may be verified;
- (g) the restrictions, if any, placed on the certification authority's license pursuant to Subsection 46-3-201(3);
- (h) if the certification authority's license has been revoked or is currently suspended, the date of revocation or suspension, and the grounds for revocation or suspension;
- (i) the amount of the certification authority's suitable guaranty, to be updated periodically, as specified by the Division;
- (j) the total amount of all claims filed with the Division for payment from the suitable guaranty filed by the certification authority, to be updated periodically, as specified by the Division;
- (k) a brief description of any limit known to the Division and applicable to the certification authority's liability or legal capacity to pay damages in tort, or for breach of a duty prescribed in this chapter, unless the limitation is specified in this chapter;
- (l) the categorization pursuant to Subsection 46-3-202(2) of the certification authority's compliance with this chapter and resulting from the most recent performance audit of the certification authority's activities, and the date of the most recent performance audit;
- (m) any event which substantially affects the certification authority's ability to conduct its business or the validity of a certificate published in the repository provided by the Division or in a recognized repository;
- (n) if a certificate containing the public key required to verify one or more certificates issued by the certification authority has been revoked or is currently suspended, the date of its revocation or suspension; and
- (o) if the certification authority has a material, primary certification practice statement, indications of its location, the method or procedure by which it may be retrieved, its form and structure, its authorship, and its date, as prescribed in rule 302.
- (2) A certification authority disclosure record shall be digitally signed by the Division in its official capacity.
- (3) Certification authority disclosure records are public records of the state of Utah pursuant to the Utah Government Records Access and Management Act, Chapter 2 of Title 63.
- (4) The contents of the certification disclosure record shall be in a form and method specified by the Division.

R154-10-203. Certification Authority Proof of Sufficient Working Capital.

- A certification authority, upon filing an application for a license or renewal, shall provide the division with a written acknowledgment stating the following:
- (1) that the certification authority has working capital reasonably sufficient to conduct business as a certification authority for a period of one year; and
- (2) that the certification authority has no less than \$10,000.00 in working capital.

R154-10-204. Recovery Against Suitable Guaranty.

- (1) To recover a qualified right to payment against a surety or issuer of a suitable guaranty, pursuant to U.C.A. Section 46-3-310, the claimant must:
- (a) File a signed notice of the claim with the division stating the name and address of the claimant, the amount claimed, the grounds for the qualified right to payment, the date of the occurrence of the violation forming the basis of the claim; and
- (b) Append to the notice a certified copy of the judgment on which the qualified right to payment is based, except as provided in paragraph (2) of this section.
- (2) If the notice pursuant to paragraph (1)(a) of this section is filed prior to entry of judgment, the division shall hold such notice on file, without further action, until the claimant files a copy of the judgment. If the division determines that the litigation identified in the notice has been finally resolved without a judgment providing the claimant with a qualified right to payment, the division may expunge the notice from their records. The division shall not expunge a notice until two years have elapsed since it was first filed.
- (3) The division shall reject a notice for filing if the date of the occurrence of the violation is more than two years prior to the filing of the notice.
- (4) If a notice and judgment are filed pursuant to paragraph (1) of this section, the division shall provide the notice and judgment to the surety or issuer.

R154-10-301. Certificate Content and Form.

- (1) A certificate issued by a licensed certification authority shall contain or incorporate by reference:
- (a) an indication that the form and type of the certificate is in accordance with this rule;
- (b) an indication that the certification authority issuing the certificate is licensed by this state;
- (c) the serial number of the certificate, which must be unique among the certificates issued by the certification authority;
- (d) the name by which the subscriber is generally known;
- (e) the distinguished name of the subscriber;
- (f) a public key corresponding to a private key held by the subscriber;
- (g) an identifier of the algorithms with which the subscriber's public key was intended to be used;
- (h) the date and time on which the certificate was both issued and accepted;
- (i) the date and time on which the certificate expires;
- (j) the distinguished name of the certification authority issuing the certificate;
- (k) an identifier of the algorithm(s) used to sign the certificate, in the form generally accepted in the subscriber's industry;
- (l) the recommended reliance limit for the certificate;
- (m) either the distinguished name of one or more repositories designated for publication of notice of revocation or suspension, or a specification of the method by which notice of revocation or suspension is to be given pursuant to Subsections 46-3-306(3) and 46-3-307(5);
- (n) if a primary certification practice statement applies to the certificate, an indication of its location, the method or procedure by which it may be retrieved, its form and structure, its authorship, and its date as prescribed in Section R154-10-302.
- (2) A transactional certificate shall substantially comply with these requirements, and may include additional data.

—(3) A certificate issued by a licensed certification authority may, at the option of the subscriber and certification authority, contain or incorporate by reference additional information as determined by the licensed certification authority.

—(4) The data in a certificate shall be specified in the form generally accepted for the transactions for which the subscriber expects that the certificate will be used. Further, unless another form is generally accepted for such transactions:

—(a) the certificate shall be in the form specified by standard X.509v.3 of the International Telecommunication Union.

—(5) The contents of the certificate shall be in a form and method specified by the Division.

R154-10-302. Form of Certification Practice Statement.

—(1) If a certificate indicates or incorporates a certification practice statement by reference, or if a certification authority disclosure record refers to a primary certification practice statement, the certificate or certification authority disclosure record shall provide the following information in the form prescribed in Sections R154-10-301 and R154-10-302, and Section R154-10-202:

—(a) the location of the certification practice statement, in the form of a Universal Resource Locator or by another form generally accepted for the transactions in which the subscriber expects the certificate to be used;

—(b) the method or procedure by which the certification practice statement may be retrieved or by another form generally accepted for the transactions in which the subscriber expects the certificate to be used;

—(c) the form and structure of the certification practice statement, which shall be either the form recommended in subsection (2) of this rule, in the Hypertext Markup Language version 2.0, or in the form generally accepted for the transactions in which the subscriber expects the certificate to be used;

—(d) the authorship of the certification practice statement, either in the form recommended in subsection (2) of this rule, or in a form generally accepted in the transactions for which the subscriber expects that the certificate will be used; and

—(e) its date, either in the form recommended in subsection (2) of this rule or in a form generally accepted in the transactions for which the subscriber expects that the certificate will be used.

—(2) Unless the certificate of certification authority disclosure record clearly indicates otherwise and another form is generally accepted in the transactions for which the subscriber expects that the certificate will be used, a certification practice statement shall be in the form of a document marked in accordance with the Standard Generalized Markup Language, ISO standard 8879 (1986, as amended 1988), or in a form and method specified by the Division.

R154-10-303. Record-keeping by Certification Authorities.

—(1) A licensed certification authority shall maintain documentation of compliance with the Utah Act. The documentation shall include evidence demonstrating that the certification authority has:

—(a) accepted as evidence of identity such identification documents or other evidence presented by the person or entity named in a certificate that the certification authority has issued;

—(b) accepted as evidence of identity such identification documents or other evidence presented by the person or entity requesting revocation of each certificate that the certification authority has revoked;

—(c) evidence collected by the certification authority pertaining to the validity of all other facts listed in a certificate which the certification authority has issued; and

—(d) complied with the Utah Act in issuing, publishing, suspending, and revoking a certificate.

—(2) Identification of the person or entity named in a certificate shall be presumed to be established where a licensed certification authority has been presented identification documents consisting of at least one of the following:

—(a) an identification document issued by or under the authority of the United States, or such similar identification document issued under the authority of another country;

—(b) a birth certificate issued in the United States;

—(c) a driver's license issued by a State of the United States; or

—(d) a personal identification card issued by a State of the United States.

—(3) Other forms of identification documents may be substituted for those listed in paragraph (2) above upon written approval of the division prior to the issuance of the certificate or class of certificates.

—(4) Except for requests for suspension of a certificate, the licensed certification authority may require a subscriber or agent of a subscriber to submit documentation and other evidence reasonably sufficient to enable the certification authority to comply with this section.

—(5) A licensed certification authority shall retain its records of the issuance, acceptance, and any suspension or revocation of a certificate for a period of not less than ten years after the certificate is revoked or expires. The licensed certification authority shall itself retain custody of such records unless the licensed certification authority turns over its records to the Division or another licensed certification authority upon ceasing to act as a certification authority.

—(6) A licensed certification authority shall keep its records under circumstances of safekeeping and security which are commercially reasonable in light of the recommended reliance limits of the certificates.

—(7) The contents of the records shall be in a form and method specified by the Division.

—(8) All required information filed with the Division by the certification authority shall be in the English language.

—(9) Documentation of all evidence and records required to be maintained by a licensed certification authority may be maintained in an electronic format approved by the Division.

R154-10-304. Cessation of Certification Authority Activities.

—(1) Before ceasing to act as a certification authority, a licensed certification authority shall:

—(a) give to the subscriber of each unrevoked or unexpired certificate issued by the certification authority at least 90 days written notice of the certification authority's intention to discontinue acting as a certification authority;

—(b) 90 days or more after the notice required in Subsection (1)(a) of this section, revoke all certificates which then remain unrevoked or unexpired, regardless of whether the subscriber has requested revocation;

—(c) give written notice of revocation to the subscriber of each certificate revoked pursuant to subsection (1)(b) of this section; and

—(d) unless a contract between the certification authority and the subscriber provides otherwise, pay reasonable restitution to the subscriber for revoking the certificate before its expiration date.

—(2) To provide uninterrupted certification authority services, the discontinuing certification authority may arrange with another

certification authority for reissuance of the remaining certificates without charge, except as provided below for certification practice statements, or unless the subscriber of a certificate agrees to a charge. The succeeding certification authority shall create its own digital signature on all reissued certificates. In reissuing a certificate pursuant to this subsection:

— (a) the succeeding certification authority becomes subrogated to the rights and defenses of the discontinuing certification authority; and

— (b) unless the contract between the discontinuing certification authority and the subscriber provides otherwise, all certification practice statements of the discontinuing certification authority continue in effect under the new certification authority, unless the new certification authority gives sixty days' notice of the changes to be made in the applicable certification practice statements.

— (3) The requirements of this section may be varied by contract, except that the contract shall not permit the licensed certification authority to discontinue its certification authority activities without first giving each subscriber of an unexpired or unrevoked certificate at least ten days written notice, or without revoking all outstanding certificates upon cessation of certification authority activities.

— (4) Before ceasing to act as a certification authority, a licensed certification authority shall notify the Division of its intention to cease acting as a certification authority. The written notice shall be filed with the Division at least two months, but not more than six months, before the certification authority ceases to act as a certification authority. Further, the written notice shall be entitled "Notice of Intention to Discontinue Certification Authority Business" and include the following information:

- (a) name of certification authority;
- (b) distinguished name of withdrawing certification authority;
- (c) number of certificates issued and currently valid;
- (d) date on which the certification authority intends to discontinue business;
- (e) date on which notice will be given to subscribers of issued and valid certificates (append copy of notice to subscribers);
- (f) indicate whether the withdrawing certification authority will be succeeded by another licensed certification authority;
- (g) name of succeeding certification authority, if any;
- (h) distinguished name of succeeding certification authority, if any;

— (5) If a certification authority dies while licensed, the estate of the certification authority shall comply with the procedures of this section or any applicable contract for termination of the deceased certification authority's activities. If a certification authority becomes incapacitated within the meaning of Subsection 75-1-201(18), a court may either appoint a guardian as provided in the Utah Uniform Probate Code article 5, part 3, or, on the petition of an interested party, appoint a receiver to terminate the incapacitated certification authority's business as required by this section.

R154-10-401. Recognition of Repositories.

— (1) For a repository to be recognized as provided in Section 46-3-501, the licensed certification authority operating the repository shall file with the Division a request which:

- (a) states the full name, postal mailing address, address for service of process, physical location of hardware containing the repository, telephone number, electronic mail address, and distinguished name of the person or entity filing the application;
- (b) states the full name, address, telephone number, electronic mail address, and distinguished name of the licensed certification authority under whose direction the repository is operated;

— (c) describes in detail, noting compliance with any applicable technical standards:

- (i) the design and implementation of the repository's trustworthy system;
- (ii) the contents of the repository;
- (iii) all form requirements applicable to contents of the repository;
- (iv) the criteria for determining who may publish information in the repository;
- (v) procedures for processing newly published certificates and notices of suspension and revocation;
- (vi) processes to account for usage of the repository and access to the information published in it; and
- (vii) fees to be charged, if any for access to certification authority disclosure records and orders or advisory statements issued by the Division, if recognition is granted.

— (d) promises, if recognition is granted, to effect prompt publication of:

- (i) all certification authority disclosure records published in the repository by the Division;
- (ii) all updates or cancellations of existing certification authority disclosure records published in the repository by the Division;
- (iii) all orders or advisory statements published in the repository by the Division.

— (e) includes a copy of all applicable certification practice statements of the repository and the repository's archival policy. However, nothing in this section requires a repository to disclose trade secrets or information that could adversely affect the security of the trustworthy system;

— (f) acknowledges that the licensed certification authority operating the repository has and will continuously maintain in this state:

- (i) an office or a registered agent who is either an individual resident in this state, a domestic corporation, or a foreign corporation authorized to transact business in this state; and
- (ii) a custodian of the data and records of the repository (regardless of whether the hardware containing the repository is located outside of the State of Utah), upon whom any process, notice, or demand required or permitted by law may be served. The custodian of the records may be the same person or entity as the registered agent.

— (g) states the full name, address, telephone number, electronic mail address and address for service of process of the agent and the custodian referred to in the preceding subsection;

— (h) acknowledges that the licensed certification authority operating the repository submits the repository data to all lawful process, notice, demand, and orders issued by the State of Utah and its political subdivisions;

— (i) the licensed certification authority operating the repository shall promptly notify the Division of any changes in the information required by this rule; and

— (j) includes an annual filing fee of \$250.00.

— (2) The Division will proceed in the manner provided for formal adjudicative proceedings in the Utah Administrative Procedures Act, title 63, chapter 46b, to review the request for recognition and the evidence supporting it, unless:

- (a) the request is to renew recognition;
- (b) the request is filed within three months of the date on which recognition is scheduled to expire; and
- (c) the Division determines in light of the repository's prior record of service and performance that a hearing is not necessary.

— (3) The Division hereby delegates to each recognized repository all privileges held by the Division at common law with respect to the

publication of certification authority disclosure records and the orders or advisory statements of the Division.

R154-10-402. Qualification of Auditors.

—(1) An Auditor performing an audit of a licensed certification authority, as provided in Subsection 46-3-202(1), shall have the following qualifications:

—(a) be a licensed certified public accountant (CPA) in good standing;

—(b) have knowledge of trusted computer information systems, trusted telecommunications networking environments, and the professional audit techniques to test these systems; and

—(c) have knowledge of digital signature technology, standards and practices.

—(2) The Auditor performing an audit of a licensed certification authority, upon the filing of audit results, shall provide the division with an affirmative statement that auditor meets the foregoing requirements.

R154-10-403. Performance Audit.

—(1) A licensed certification authority shall obtain a performance audit at least once every year pursuant to U.C.A. Section 46-3-202. The qualified auditor shall issue an opinion evaluating the degree to which the certification authority conforms to the requirements of this chapter and of chapter 3, title 46, entitled, Utah Digital Signature Act. If the certification authority is also a recognized repository, the audit must include the repository.

—(2) For purposes of the opinion required by this section, the qualified auditor shall exercise reasonable professional judgment as to whether a condition that does not strictly comply with legal requirements is or is not material, taking into consideration the circumstances and context. Noncompliance as to any of the following shall be deemed material, in addition to any others the qualified auditor may judge to be material:

—(a) any condition of noncompliance with statute or rule that relates to the validity of a certificate;

—(b) any employee performing the functions of operative personnel who has not qualified pursuant to U.C.A. section 46-3-201(1)(c); or

—(c) any material indication that the certification authority has used any system other than a trustworthy system.

—(3) An audit may be performed by a qualified auditor pursuant to Utah Administrative Code R154-10-402. Any qualified auditor, or group of qualified auditors, performing an audit pursuant to this section shall include at least one individual who has been issued a current and valid certificate as either a Certified Information Systems Auditor, by the Information Systems Audit and Control Foundation, or as a Certified Information Systems Security Professional, by the International Information Systems Security Certification Consortium. The names of all individuals possessing such certificates shall be disclosed in the audit report, or in a cover letter accompanying that report.

—(4) The certification authority shall file a copy of the performance audit report with the Division, 30 days prior to the date the certification authority must renew its license pursuant to Utah Administrative Code R154-10-104. At the certification authority's option, it shall be sufficient to file a portion of the report if that report summarizes all audit exceptions and conditions of noncompliance (including those stated in paragraph (2) of this section) stated in the full report, and bears the auditor's signature. The report may be filed electronically, if it is validly digitally signed by the auditor, using a licensed certification authority. The Division shall publish the report, or summary, in the

certification authority disclosure record it maintains for the certification authority.

R154-10-404. Recognition of Foreign Licenses.

—(1) A certification authority licensed as such by a governmental entity other than the State of Utah, may act as a licensed certification authority in Utah only if, in addition to meeting any other requirements established by law for the transaction of business, it either:

—(a) obtains a license as a certification authority from the Division; or

—(b) provides to the Division a certified copy of a license issued by a governmental entity whose licensing or authorization requirements the Division has found to be substantially similar to those of Utah, together with the fee required by Utah Administrative Code R154-10-402. A license recognized under this subsection shall be valid in Utah only during the time it is valid in the issuing jurisdiction.

—(2) The Division may certify that the requirements of another jurisdiction are substantially similar to those of Utah if, in order to obtain a license, the controlling law of the other jurisdiction requires that a licensed certification authority:

—(a) issues certificates based upon a system of public key cryptography using a trustworthy system;

—(b) provides for a suitable guaranty in an amount of at least \$25,000;

—(c) employs as operative personnel only individuals who have demonstrated knowledge and proficiency in the requirements of the law regarding digital signatures, and who are free of felony criminal conviction for a minimum of fifteen years; and

—(d) is subject to a legally established system of enforcement of licensure requirements.

—(3) The Division shall make available upon request, a list of those jurisdictions which the Division has certified pursuant to paragraph (2) of this section. If a jurisdiction is not included in the list, the Division shall consider whether certification of such jurisdiction should be added, upon request of either the jurisdiction or a certification authority licensed by that jurisdiction and upon receipt of an English language copy of the applicable laws and regulations of that jurisdiction.

R154-10-405. Revocation of Recognition of a Repository.

—(1) This rule describes the Division's procedure for revoking the recognition of a repository, without also revoking the license of the certification authority that operates the repository. Because a valid license as a certification authority is a statutory requirement for recognition of a repository, the Division shall automatically revoke the recognition of any repository operated by a certification authority whose license is revoked, expired, or otherwise inoperative.

—(2) The Division may revoke recognition of a repository, pursuant to U.C.A. Section 46-3-501(4), for failure to comply with any requirement for recognition of a repository pursuant to Utah Administrative Code R154-10-401, or for failure to comply with a lawful order of the Division.

—(3) The Division shall inform a licensed certification authority that operates a recognized repository by written order, by mail directed to the mailing address listed on the licensee's application, of a decision to revoke recognition of the repository. The notification shall state when the revocation shall be effective, which shall not be less than 30 days following the issuance of the order.

—(4) If the certification authority files an application for an adjudicative hearing, pursuant to Title 63, Chapter 46b, entitled Administrative Procedures Act, prior to the effective date of revocation,

the revocation shall not take effect until so ordered by the presiding officer.

~~R154-10-406. Procedure upon discontinuance of business as a Recognized Repository.~~

~~— A licensed certification authority that discontinues providing services as a recognized repository shall notify the Division of its discontinuance at least 30 days before discontinuance pursuant to U.C.A. Section 46-3-501(3), and republish the records published in their repository into another recognized repository.~~

~~R154-10-407. Renewal of Recognition of a Repository.~~

~~— (1) The Division shall, within a reasonable time, renew a request for recognition of a repository from a licensed certification authority if the applicant has:~~

~~— (a) complied with and submitted all documentation and fees required by Utah Administrative Code R154-10-401; and~~

~~— (b) the Division has determined that the applicant meets all requirements for recognition pursuant to U.C.A. Section 46-3-501.~~

~~— (2) Renewal for recognition of a repository shall be valid for a period of one year.~~

~~— (3) The Division shall not provide a notice of expiration of recognition as a repository. It is the applicant's responsibility to renew their recognition as a repository within 30 days prior to the expiration of the recognition.~~

~~— (4) Failure to receive a notice of the need to renew a recognition of a repository is an insufficient reason for failing to file the required application for renewal.~~

~~— (5) If any of the information presented on the application changes, the certification authority has ten days to submit information to the Division to update its record. There is no fee for the amendment.~~

~~R154-10-501. Waiver of Requirements.~~

~~— (1) The Division will duly consider requests to waive any requirement of this rule if conflicts arise in implementation of these standards and procedures.~~

~~R154-10-502. Notary Acknowledgment by Electronic Communication.~~

~~— Any person(s) executing a notarization using their digital signature and electronic communication requires live audio and visual communication, demonstrating compliance with U.C.A. Section 46-1-2(1) and 46-1-2(11)(e). The following minimal specifications must be met and require:~~

~~— 1. Constant video frame rate of 15 frames per second or more.~~

~~— 2. Minimum video resolution of 320 x 240 picture elements (PIXELS).~~

~~— 3. Complies with desktop conferencing industry standard H.323 for communication via data networks and the Internet.~~

~~— 4. Full duplex audio (this means audio in both directions at the same time).~~

~~KEY: commerce, electronic commerce, digital signature, electronic communication~~

~~Date of Enactment or Last Substantive Amendment: March 14, 2003~~

~~Notice of Continuation: October 8, 2003~~

~~Authorizing, and Implemented or Interpreted Law: 46-3-102(4); 46-1-2(1); 46-1-2(11)(e)~~

◆ ————— ◆

Commerce, Occupational and Professional Licensing **R156-3a** Architect Licensing Act Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 30620

FILED: 10/25/2007, 10:49

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The division and the Architects Licensing Board have reviewed the rule and determined some changes need to be made.

SUMMARY OF THE RULE OR CHANGE: In Section R156-3a-102, definition of "Divisions of the ARE" is an outdated definition of the architectural registration examination sections and is being deleted. The definition is no longer relevant to current applicants for licensure. Remaining subsections have been renumbered. In Section R156-3a-201, changes are proposed in the makeup of the IDP (Individual Development Program) Committee. The Committee is responsible to coordinate the training requirements for applicants for licensure with the requirements of the National Council of Architectural Registration Boards (NCARB). In the past, all of the committee membership positions have not been needed or filled. In Subsection R156-3a-301(2)(c), additions set forth what can be considered equivalent education for a former licensee who has allowed their license to lapse for more than two years. Without this proposed amendment, a former licensee would be required to obtain an architectural degree if they were originally licensed at a time when an architectural degree was not required, even if the former licensee has since original licensure had significant and successful licensed experience and expertise and may have much more knowledge about successful practice than a newly graduated applicant for licensure. This proposed amendments provides the board and division may consider the applicant's total knowledge based upon both formal education and licensed experience in this limited situation. In Subsection R156-3a-303(1), amendments are made to restate poorly worded subsections. Subsection R156-3a-303(2) is added to allow applicants to take the Architectural Registration Examination (ARE) examination at any time after they graduate with an architectural degree. NCARB recently made a change to model law and their procedures which allows a state to determine when an applicant may sit for the ARE examination. Prior to this change, applicants were required to complete both the education and the IDP experience program before being allowed to sit for the examination. The proposed change will allow applicants to sit for the exam before completion of the IDP program and therefore become licensed immediately after completion of the IDP program. Under the existing procedure, an applicant would be delayed a minimum of several months after completion of the IDP before they could take and pass the examination and then become licensed. In Subsection R156-3a-304(9), changed "these

rules" to "this rule". In Section R156-3a-502, updated the NCARB "Rules of Conduct" to the July 2007 edition.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-3a-101 and 58-3a-303.5 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Updates the NCARB "Rules of Conduct" from the August 2002 edition to the July 2007 edition

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The division will incur minimal costs of approximately \$100 to reprint the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the division's current budget.
- ❖ LOCAL GOVERNMENTS: Proposed amendments do not apply to local governments; therefore, no costs or savings are anticipated. Proposed rule amendments only apply to licensed architects and applicants for licensure in that license classification.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Proposed rule amendments only apply to licensed architects and applicants for licensure in that license classification. The proposed amendments in Subsections R156-3a-102(4), R156-3a-201(1), R156-3a-303(1), and R156-3a-502(4) will have no financial impact on any party other than a cost to the division to republish the rule. The proposed amendment in Subsection R156-3a-301(2)(c) will save a very limited number of applicants the cost of returning to college and obtaining a degree if they have sufficient equivalent knowledge. The savings of costs to obtain that education for fees, books, and time to complete the education could be substantial to affected applicants. The division is unable to determine how many applicants this proposed amendment would apply to as it would depend on if a licensee had allowed the license to expire and the license was not reinstated within a two-year period. The proposed amendment in Subsection R156-3a-303(2) allowing applicants to take the ARE examination much sooner will not directly affect their cost of licensure. However, since these persons would potentially become licensed much sooner, they could potentially increase their personal income.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed rule amendments only apply to licensed architects and applicants for licensure in that license classification. The proposed amendments in Subsections R156-3a-102(4), R156-3a-201(1), R156-3a-303(1), and R156-3a-502(4) will have no financial impact on any party other than a cost to the division to republish the rule. The proposed amendment in Subsection R156-3a-301(2)(c) will save a very limited number of applicants the cost of returning to college and obtaining a degree if they have sufficient equivalent knowledge. The savings of costs to obtain that education for fees, books, and time to complete the education could be substantial to affected applicants. The proposed amendment in Subsection R156-3a-303(2) allowing applicants to take the ARE examination much sooner will not directly affect their cost of licensure. However, since these persons would potentially become licensed much sooner, they could potentially increase their personal income.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule change contains various amendments regarding qualifications for licensure as well as some technical amendments. The substantive provisions will likely result in cost savings to applicants and to the architectural industry. No other fiscal impact to businesses is anticipated. Francine A. Giani, Executive Director

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

COMMERCE
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:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/17/2007

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 12/14/2007 at 9:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 210 (second floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/24/2007

AUTHORIZED BY: F. David Stanley, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-3a. Architect Licensing Act Rule.
R156-3a-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 3a, as used in Title 58, Chapters 1, 3a, and 22 or this rule:

- (1) "ARE" means the NCARB Architectural Registration Examination.
- (2) "Committee" means the IDP Committee created in Section R156-3a-201.
- (3) "Complete and final" as used in Subsection 58-3a-603(1) means "complete construction plans" as defined in Subsection 58-3a-102(4).
- (4) [~~"Divisions of the ARE" mean:~~
 - ~~—(a) pre design (PD): satisfied by passing Division A between 1983 and 1996;~~
 - ~~—(b) site planning (SP): satisfied by passing both Division B-Written and Division B-Graphic between 1988 and 1996; or by passing Division B between 1983 and 1987;~~
 - ~~—(c) building planning (BP): satisfied by passing Division C between 1983 and 1996;~~
 - ~~—(d) building technology (BT): satisfied by passing Division C between 1983 and 1996;~~

~~—(e) general structures (GS): satisfied by passing Division D/F between 1988 and 1996; or by passing both Division D and Division F between 1983 and 1987;~~

~~—(f) lateral forces (LF): satisfied by passing Division E between 1983 and 1996;~~

~~—(g) mechanical and electrical systems (ME): satisfied by passing Division G between 1983 and 1996;~~

~~—(h) materials and methods (MM): satisfied by passing Division H between 1983 and 1996; and~~

~~—(i) construction documents and services (CD): satisfied by passing Division I between 1983 and 1996.~~

~~—(5)—~~"EESA" means the Education Evaluation Services for Architects.

([6]5) "Employee, subordinate, associate, or drafter of an architect" as used in Subsections 58-3a-102(8), 58-3a-603(1)(b) and this rule means one or more individuals not licensed as an architect who are working for, with, or providing architectural services directly to the licensed architect under the supervision of the licensed architect.

([7]6) "Incidental practice" means "architecture work as is incidental to the practice of engineering" as used in Subsection 58-22-102(9) and "engineering work as is incidental to the practice of architecture as used in Subsection 58-3a-102(6) which:

(a) can be safely and competently performed by the licensee without jeopardizing the life, health, property and welfare of the public;

(b) is in an area where the licensee has demonstrated competence by adequate education, training and experience;

(c) arises from and is directly related to work performed in the licensed profession;

(d) is substantially less in scope and magnitude when compared to the work performed or to be performed by the licensee in the licensed profession; and

(e) is work in which the licensee is fully responsible for the incidental practice performed as provided in Subsection 58-3a-603(1) or Subsection 58-22-603(1).

([8]7) "Intern Development Program" or "IDP" as used in Subsection R156-3a-302(2) means a NCARB approved training program.

([9]8) "NAAB" means the National Architectural Accrediting Board.

([10]9) "NCARB" means the National Council of Architectural Registration Boards.

([11]10) "Program of diversified practical experience" as used in Subsection 58-3a-302(1)(e) means:

(a) current licensure in a recognized jurisdiction; or

(b) the training standards and requirements set forth in the Intern Development Program.

([12]11) "Recognized jurisdiction" as used in Subsections 58-3a-302(2)(d)(i) and (iii), for licensure by endorsement, means any state, district, territory of the United States, or any foreign country who issues licenses for architects, and whose licensure requirements include:

(a) a bachelors or post graduate degree in architecture or equivalent education as set forth in Subsection R156-3a-301(2);

(b) a program of diversified practical experience as set forth in Subsection R156-3a-102(10), or an equivalent training program; and

(c) passing the ARE or passing a professional architecture examination that is equivalent to the ARE.

([13]12) "Responsible charge" as used in Subsections 58-3a-102(7), 58-3a-302(2)(d)(iv) and 58-3a-304(6) means direct control

and management by a principal over the practice of architecture by an organization.

([14]13) "Under the direction of the architect" as used in Subsection 58-3a-102(8), as part of the definition of "supervision of an employee, subordinate, associate, or drafter of an architect" means that the unlicensed employee, subordinate, associate, or drafter of the architect engages in the practice of architecture only on work initiated by the architect, and only under the administration, charge, control, command, authority, oversight, guidance, jurisdiction, regulation, management, and authorization of the architect.

([15]14) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 3a, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-3a-502.

R156-3a-201. Advisory Peer Committee Created - Membership - Duties.

(1) There is created in accordance with Subsection 58-1-203(1)(f), the IDP Committee as an advisory peer committee to the Architect Licensing Board consisting of ~~[five]~~ one or more members as follows:

(a) ~~[one]~~ a State IDP Coordinator;

(b) ~~[one]~~ an Education Coordinator; or

(c) ~~[two]~~ an Intern IDP Coordinator~~;~~ and

~~—(d) one member of the Utah Architects Licensing Board].~~

(2) The committee shall be appointed and serve in accordance with Section R156-1-205.

(3) The duties and responsibilities of the committee shall include assisting the board in its duties, functions, and responsibilities defined in Subsection 58-1-202(1)(e) as follows:

(a) promote an awareness of IDP by holding meetings and seminars on IDP;

(b) establish a network of sponsors and advisors for IDP interns;

(c) encourage firms to support IDP;

(d) act as a resource to respond to questions on IDP received from advisors, sponsors, and interns; and

(e) report to the board as directed.

R156-3a-301. Qualifications for Licensure - Architecture Program Criteria.

In accordance with Subsection 58-3a-302(1)(d), the architecture program criteria are established as follows.

(1) The architecture program shall be accredited by either the National Architectural Accrediting Board (NAAB), or the Canadian Architectural Certification Board (CACB), or an architectural program equivalent to a NAAB accredited program.

(2) Equivalency shall be documented by submitting one of the following:

(a) if educated in a foreign country, a comprehensive report prepared by EESA stating that the applicant has successfully completed an educational program that is equivalent to the NAAB accredited educational program; or

(b) a current NCARB Council Record;

(c)(i) if an applicant was previously licensed and practicing in Utah under a license that was granted under prior statute or rule but allowed the license to lapse for more than two years, the applicant may reinstate the license by demonstrating that their combined education, supervised experience and licensed practice demonstrate that the applicant's training is equivalent to an NAAB accredited educational program;

(ii) if the combined education and experience is not demonstrated to be equivalent, the Division, in collaboration with the Board, may:

(A) determine whether continuing education can bring the combined education and experience up to equivalency, and if so, specify the type of continuing education required; or

(B) determine that the applicant shall be required to obtain the actual degree under Subsection (1).

R156-3a-303. Qualifications for Licensure - Examination Requirements.

(1) In accordance with Subsections 58-3a-302(1)(f) and 58-3a-302(2)(e), an applicant for licensure as an architect (whether by education and experience or by endorsement) shall [either] submit documentation establishing:

(a) a score of 100% on the open book take home Utah Law and Rule Examination; and

(b)(i) [of] a current NCARB Council Record; or

(ii) passing scores on all divisions of the ARE as established by the NCARB [pass the following examinations:

(a) as part of the application for licensure, pass all questions on the open book, take home Utah Law and Rule Examination; and

(b) all divisions of the ARE as defined in Subsection R156-3a-102(4) with a passing score as established by NCARB.

(2) In accordance with Subsection 58-3a-302(2)(e), an applicant for licensure by endorsement shall either submit documentation of a current NCARB Council Record or pass the following examinations:

(a) as part of the application for licensure, pass all questions on the open book, take home Utah Law and Rule Examination; and

(b) all divisions of the ARE as defined in Subsection R156-3a-102(4) with a passing score as established by NCARB].

(2) An applicant for licensure may apply directly to NCARB to sit for any part of the ARE examination anytime after having completed the education requirements specified in Section R156-3a-301.

R156-3a-304. Continuing Professional Education for Architects.

In accordance with Section 58-3a-303.5, the qualifying continuing professional education standards for architects are established as follows:

(1) During each two year period ending on December 31 of each odd numbered year, a licensed architect shall be required to complete not less than 16 hours of qualified professional education directly related to the licensee's professional practice.

(a) Transition requirement. During the two year period ending on December 31, 2007, an architect shall be required to complete five hours of qualifying continuing professional education.

(2) The required number of hours of professional education for an individual who first becomes licensed during the two year period shall be decreased in a pro-rata amount equal to any part of that two year period preceding the date on which that individual first became licensed.

(3) Qualified continuing professional education under this section shall:

(a) have an identifiable, clear statement of purpose and defined objective for the educational program directly related to the practice of an architect and directly related to topics involving the public health, safety, and welfare of architectural practice and the ethical standards of architectural practice;

(i) health, safety, welfare and ethical standards as used in this subsection are defined to include the following:

(A) The definition of "health" shall include, but not be limited to, aspects of architecture that have salutary effects among users of buildings or sites and that address environmental issues. Examples include all aspects of air quality, provisions of personal hygiene, and use of non-toxic materials and finishes.

(B) The definition of "safety" shall include, but not be limited to, aspects of architecture intended to limit or prevent accidental injury or death among users of buildings or construction sites. Examples include fire-rated egress enclosures, automatic sprinkler systems, stairs with correct rise-to-run proportions, and accommodations for users with disabilities.

(C) The definition of "welfare" shall include, but not be limited to, aspects of architecture that consist of values that may be spiritual, physical, aesthetic and monetary in nature. Examples include spaces that afford natural light or views of nature or whose proportions, color or materials engender positive emotional responses from its users.

(D) The definition of "ethical standards of architectural practice" shall include, but not be limited to the NCARB rules of conduct specified in Subsection R156-3a-502(4).

(b) be relevant to the licensee's professional practice;

(c) be presented in a competent, well organized and sequential manner consistent with the stated purpose and objective of the program;

(d) be prepared and presented by individuals who are qualified by education, training and experience; and

(e) have associated with it a competent method of registration of individuals who actually completed the professional education program and records of that registration and completion are available for review.

(4) Credit for qualified continuing professional education shall be recognized in accordance with the following:

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

(b) a maximum of eight hours per two year period may be recognized for teaching in a college or university or for teaching qualified continuing professional education courses in the field of architecture, provided it is the first time the material has been taught during the preceding 12 months;

(c) a maximum of three hours per two year period may be recognized for preparation of papers, articles, or books directly related to the practice of architecture and submitted for publication; and

(d) unlimited hours may be recognized for continuing professional education that is provided via the Internet or through home study courses provided the course verifies registration and participation in the course by means of a test which demonstrates that the participant has learned the material presented.

(5) A licensee shall be responsible for maintaining records of completed qualified continuing professional education for a period of four years after the two year period to which the records pertain. It is the responsibility of the licensee to maintain information with respect to qualified continuing professional education to demonstrate it meets the requirements under this section.

(6) If a licensee exceeds the 16 hours of qualified continuing professional education during the two year period, the licensee may carry forward a maximum of 8 hours of qualified continuing professional education into the next two year period.

(7) A licensee who is unable to complete the continuing professional education requirement for reasons such as a medical or related condition, humanitarian or ecclesiastical services, or extended presence in a geographical area where continuing professional education is not available, may be excused from the requirement for a period of up to three years as provided in Section R156-1-308d.

(8) Any licensee who fails to timely complete the continuing professional education hours required by this rule shall be required to complete double the number of hours missed to be eligible for renewal or reinstatement of licensure.

(9) Any applicant for reinstatement shall be required to complete 16 hours of continuing professional education complying with th[ese] rule[s] within two years prior to the date of application for reinstatement of licensure.

R156-3a-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) submitting an incomplete final plan, specification, report, or set of construction plans to:

(a) a client, when the licensee represents, or could reasonably expect the client to consider, the plan, specification, report, or set of construction plans to be complete and final; or

(b) a building official for the purpose of obtaining a building permit;

(2) failing as a principal to exercise reasonable charge;

(3) failing as a supervisor to exercise supervision of an employee, subordinate, associate or drafter; or

(4) failing to conform to the generally accepted and recognized standards and ethics of the profession including those established in the [August 2002]July 2007 edition of the NCARB "Rules of Conduct", which is hereby incorporated by reference.

KEY: architects, licensing

Date of Enactment or Last Substantive Amendment: [~~August 23, 2007~~]2008

Notice of Continuation: April 10, 2006

Authorizing, and Implemented or Interpreted Law: 58-3a-101; 58-1-106(1)(a); 58-1-202(1)(a), 58-3a-303.5

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Commerce, Occupational and Professional Licensing

R156-60b

Marriage and Family Therapist Licensing Act Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 30626

FILED: 10/29/2007, 13:28

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The division and the Marriage and Family Therapist Licensing Board have reviewed the rule and determined a couple of amendments needed to be made in the rule with respect to education

requirements including the use of the Diagnostic Statistical Manual (DSM) and changes with respect to qualifications to be a marriage and family therapist training supervisor and mental health therapist training supervisor. About a year ago the rule was amended to allow other mental health therapists to supervise marriage and family therapist interns if the mental health therapists completed certain education requirements. The intent was to increase the available supervisors. It was found in the past year that this change was contrary to other states' licensing standards and that no other mental health therapists met the specified educational requirements. Additionally it was determined that a transition period to complete a supervisory course would have been beneficial to supervisors and applicants.

SUMMARY OF THE RULE OR CHANGE: Throughout the rule the term "these rules" has been changed to "this rule", as well as adjusting the title of the rule. In Subsections R156-60b-302a(1)(b)(ii) and (2)(b)(ii)(B), added that DSM education is to be included within the assessment and treatment coursework.

In Section R156-60b-302d, amendments are made to provide for a transition period for licensed marriage and family therapists to take a supervision course and clarify those requirements. Amendments also delete other types of mental health therapy practitioners (clinical social worker, psychologist or professional counselor) who may supervise marriage and family therapist interns.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-60-301 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The division will incur minimal costs of approximately \$100 to reprint the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the division's current budget.

❖ **LOCAL GOVERNMENTS:** Proposed amendments do not apply to local governments; therefore, no costs or savings are anticipated. Proposed rule amendments only apply to licensed marriage and family therapists and certified marriage and family therapist interns and applicants for licensure in those license classifications.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The proposed rule amendments only apply to licensed marriage and family therapists and certified marriage and family therapist interns and applicants for licensure in those license classifications. The division anticipates no costs are associated with the proposed amendments. However, the proposed amendments allow for a transition period until 01/01/2009 for required supervisor training which may be a cost savings for supervisors. The division however is unable to determine any exact savings amount related to the transition period allowed.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed rule amendments only apply to licensed marriage and family therapists and certified marriage and family therapist interns and applicants for licensure in those license classifications. The division anticipates no costs are associated with the proposed amendments. However, the proposed amendments

allow for a transition period until 01/01/2009 for required supervisor training which may be a cost savings for supervisors. The division however is unable to determine any exact savings amount related to the transition period allowed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing returns to the previous established policy that a supervisor of a marriage and family therapist intern must be a licensed marriage and family therapist. No fiscal impact to businesses is anticipated in returning to this previous policy. The filing also provides a transition period for supervisor training, which is expected to be a cost saving amendment for supervisors. Francine A. Giani, Executive Director

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:

Noel Taxin at the above address, by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at ntaxin@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/17/2007

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 12/14/2007 at 10:30 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 402 (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/24/2007

AUTHORIZED BY: F. David Stanley, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-60b. Marriage and Family Therapist Licensing Act Rule[s].
R156-60b-101. Title.**

Th[ese] rule[s-are] known as the "Marriage and Family Therapist Licensing Act Rule[s]".

R156-60b-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 60, as used in Title 58, Chapters 1 and 60, or th[ese] rule[s]:

- (1) "AAMFT" means the American Association for Marriage and Family Therapy.
- (2) "Face to face supervision" as described in Subsection R156-60b-302a(1)(b)(vii) includes both individual and group supervision.
- (3) "Group supervision" means supervision between the supervisor and no more than three supervisees, unless preapproved by the Board.

(4) "Individual supervision" means supervision between the supervisor and one or two supervisees in accordance with standards set forth in Subsection R156-60b-302b(1)(d).

(5) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 60, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-60b-502.

R156-60b-103. Authority - Purpose.

Th[ese] rule[s-are] adopted by the division under the authority of Subsection 58-1-106(1)(a) to enable the division to administer Title 58, Chapter 60, Part 3.

R156-60b-302a. Qualifications for Licensure - Education Requirements.

(1) Pursuant to Subsection 58-60-305(1)(d), an applicant applying for licensure as a marriage and family therapist after July 1, 2002 shall:

(a) produce certified transcripts evidencing completion of a master's or doctorate degree in marriage and family therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy at the time the applicant obtained the education; or

(b) produce certified transcripts evidencing completion of a master's degree in marriage and family therapy from a program accredited by a professional accrediting body approved by the Council for Higher Education Accreditation of the American Council on Education at the time the applicant obtained the education which includes courses in the following areas:

(i) six semester hours/nine quarter hours of course work in theoretical foundations of marital and family therapy;

(ii) nine semester hours/12 quarter hours of course work in assessment and treatment in marriage and family therapy, including Diagnostic Statistical Manual (DSM);

(iii) six semester hours/nine quarter hours of course work in human development and family studies which include ethnic minority issues, and gender issues including sexuality, sexual functioning, and sexual identity;

(iv) three semester hours/four and one-half quarter hours in professional ethics;

(v) three semester hours/four and one-half quarter hours in research methodology and data analysis;

(vi) three semester hours/four and one-half quarter hours in electives in marriage and family therapy; and

(vii) a clinical practicum of not less than 600 hours which includes not less than 100 hours of face to face supervision and not less than 500 hours of supervised clinical practice of which not less than 250 hours shall be with couples or families who are physically present in the therapy room.

(2) Pursuant to Subsection 58-60-305.5(2), an applicant applying for licensure as a marriage and family therapist before July 1, 2002 shall meet the following requirements:

(a) produce certified transcripts evidencing completion of a master's or doctorate degree in marriage and family therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy; or

(b) produce certified transcripts evidencing an earned doctorate or master's degree in a field of education emphasizing human behavioral studies and skill in therapy or counseling which shall:

(i) be from an institution which is accredited by a professional accrediting body approved by the Council for Higher Education

Accreditation of the American Council on Education at the time the applicant obtained the education; and

(ii) include successful completion of the following graduate level course work and a clinical practicum:

(A) six semester hours/nine quarter hours of course work in theoretical foundations of marital and family therapy;

(B) nine semester hours/12 quarter hours of course work in assessment and treatment in marriage and family therapy, including DSM;

(C) six semester hours/nine quarter hours of course work in human development and family studies which include ethnic minority issues, and gender issues including sexuality, sexual functioning, and sexual identity;

(D) three semester hours/four and one-half quarter hours in professional ethics;

(E) three semester hours/four and one-half quarter hours in research methodology and data analysis;

(F) three semester hours/four and one-half quarter hours in electives in marriage and family therapy; and

(G) a clinical practicum of not less than 600 hours which includes not less than 100 hours of face to face supervision and not less than 500 hours of supervised clinical practice of which not less than 250 hours shall be with couples or families who are physically present in the therapy room; or

(c) produce certified transcripts evidencing an earned doctorate or master's degree in a field of religious study with a documented emphasis in marriage and family therapy and which meets the requirements set forth under Subsections (2)(b)(ii)(A) through (G).

R156-60b-302d. Qualifications to be a Marriage and Family Therapist Training Supervisor ~~and Mental Health Therapist Training Supervisor~~.

Pursuant to the provisions of Subsection 58-60-307(1), to be qualified as a marriage and family therapist supervisor for training required under Subsections 58-60-305(1)(e) and (f), an individual shall:

(1) be licensed as a marriage and family therapist in good standing for not less than two years;

(2) be currently licensed as a marriage and family therapist in the state in which the training is being performed; and

(3) on or after January 1, 2009, meet one of the following three options:

(1) be currently approved by AAMFT as a marriage and family therapist supervisor; ~~or~~

~~(2) be currently licensed in good standing as a marriage and family therapist in the state in which the supervised training is being performed; and meet the following requirements:~~

~~(a) have lawfully engaged in the practice of mental health therapy for not less than two years; and]~~

(b) have successfully completed a supervision course in a Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) accredited marriage and family therapy (MFT) program at an accredited university; or

(c) have successfully completed 20 clock hours of instruction sponsored by AAMFT or the Utah Association ~~of~~ for Marriage and Family Therapists (UAMFT) as follows:

(A) four hours of review of models of MFT and supervision;

(B) eight hours of MFT supervision processes and practice;

(C) four hours of research on effective outcomes and processes of supervision; and

(D) four hours of AAMFT Code of Ethics, state rules and case studies related to MFT supervision ~~;~~

~~(3) be currently licensed as a clinical social worker, psychologist, or professional counselor in Utah and meet the following requirements:~~

~~(a) have lawfully engaged in the practice of mental health therapy for not less than two years;~~

~~(b) produce certified transcripts from a program accredited by a professional accrediting body approved by the Council for Higher Education Accreditation of the American Council on Education, which includes courses in the following areas:~~

~~(i) six semester hours/nine quarter hours in theoretical foundations of marriage and family therapy;~~

~~(ii) nine semester hours/12 quarter hours in assessment and treatment in marriage and family therapy; and~~

~~(iii) six semester hours/nine quarter hours in human development and family studies which includes ethnic minority and gender issues, including sexuality, sexual functioning and sexual identity; and~~

~~(c)(i) have successfully completed a supervision course in a COAMFTE accredited MFT program at an accredited university; or~~

~~(ii) have successfully completed 20 clock hours of instruction sponsored by AAMFT or UAMFT in the following areas:~~

~~(A) four hours in review of models of marriage and family therapy and supervision;~~

~~(B) eight hours in MFT supervision processes and practice;~~

~~(C) four hours in research on effective outcomes and processes of supervision; and~~

~~(D) four hours in AAMFT Code of Ethics, state rules and case studies related to MFT supervision].~~

**KEY: licensing, therapists, marriage and family therapist
Date of Enactment or Last Substantive Amendment: ~~June 19, 2006~~ 2007**

Notice of Continuation: October 21, 2004

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-60-301

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Commerce, Occupational and
Professional Licensing
R156-64
Deception Detection Examiners
Licensing Act Rules

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 30619
FILED: 10/25/2007, 10:19

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The division and Deception Detection Examiners Licensing Board reviewed the existing rule, which has not been amended since August 1997, and are proposing changes to the rule to conform with current profession practices and to further clarify statute provisions.

SUMMARY OF THE RULE OR CHANGE: Throughout the rule, plural has been changed to singular. In Section R156-64-102, additional definitions which appear in the rule are being added. New definitions include: "clinical testing", "comparison question", "deception detection case file", "experienced deception detection examiner", "post conviction sex offender testing", "screening exam", "specific issue/single issue examination" and "pre-employment exam". Section R156-64-201 is being added to create the Deception Detection Education Peer Committee which will be given the responsibility to conduct oral interviews to evaluate a deception detection intern's performance during an internship. In Section R156-64-302a, deleted the requirements for an applicant for licensure to submit two fingerprint cards and a fee to cover the cost of a Bureau of Criminal Investigation records check. In Subsection R156-64-302b(2) that equivalent investigation experience may be considered by the division in collaboration with the Board. Section R156-64-302d is being added to clarify supervision requirements for a deception detection intern. Section R156-64-306 is being deleted as there is no statutory authority allowing the division to access the Utah Bureau of Criminal Identification records. In Section R156-64-502, additions are made to the unprofessional conduct section to address changes in terminology within the industry and to also adopt the American Polygraph Association code of ethics and standards of practice.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-64-101 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Adds American Polygraph Association Code of Ethics, dated January 10, 1999, and Standards of Practice, dated January 20, 2007

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** The division will incur minimal costs of approximately \$100 to reprint the rule once the proposed amendments are made effective. Any costs incurred will be absorbed within the division's current budget.
- ❖ **LOCAL GOVERNMENTS:** Proposed amendments do not apply to local governments; therefore, no costs or savings are anticipated. Proposed rule amendments only apply to deception detection examiners and interns and applicants for licensure in those classifications.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** Proposed amendments only apply to deception detection examiners and interns and applicants for licensure in those classifications. Applicants for licensure in the above classifications will see a savings of the fingerprint fee of \$35 per applicant. The division licenses approximately 1 - 2 deception detection applicants per year for an aggregate savings of \$70 per year.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Proposed amendments only apply to deception detection examiners and interns and applicants for licensure in those classifications. Applicants for licensure in the above classifications will see a savings of the fingerprint fee of \$35 per applicant.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated with this rule filing which clarifies existing procedures and the standards of practice. Francine A. Giani, Executive Director

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:

Clyde Ormond at the above address, by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at cormond@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/17/2007

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 11/21/2007 at 9:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/24/2007

AUTHORIZED BY: F. David Stanley, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-64. Deception Detection Examiners Licensing Act Rule[s].
R156-64-101. Title.**

Th[ese]is rule[s-are]is known as the "Deception Detection Examiners Licensing Act Rule[s]".

R156-64-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 64, as used in Title 58, Chapters 1 and 64 or th[ese]is rule[s]:

(1) "Clinical testing" means a deception detection examination which is not intended to supplement and assist in a criminal investigation.

(1+2) "[Control]Comparison question" means a nonrelevant test question used for comparison against a relevant test question in a deception detection examination.

(3) "Deception detection case file" means written records of a polygraph exam including:

(a) case information;

(b) examinee information;

(c) a list of all questions used during the examination;

(d) copies of all charts recorded during the examination; and

(e) either the audio or video recording of the examination.

(4) "Experienced deception detection examiner" means a deception detection examiner who has completed over 250 deception detection examinations and has been licensed or certified by the United States Government for three years or more.

~~(2)5~~ "Irrelevant question" means a question of neutral impact, which does not relate to a matter under inquiry, in a deception detection examination.

~~(3)6~~ "Irrelevant and relevant testing" means a deception detection examination which consists of relevant questions, interspersed with irrelevant questions, and does not include any type of ~~control~~comparison questions.

~~(7)~~ "Post conviction sex offender testing" means testing of sex offenders and includes:

~~(a)~~ sexual history testing to determine if the examinee is accurately reporting all sexual offenses prior to a conviction;

~~(b)~~ maintenance testing to determine if the examinee is complying with the conditions of probation or parole; and

~~(c)~~ specific issue examinations.

~~(4)8~~ "Qualified continuing professional education" means continuing education that meets the standards set forth in Section R156-64-304.

~~(5)9~~ "Relevant question" means a question which relates directly to a matter under inquiry in a deception detection examination.

~~(10)~~ "Screening exam" means a multiple issue deception detection examination administered to determine the examinee's truthfulness concerning more than one narrowly defined issue.

~~(11)~~ "Specific issue/single issue examination" means a deception detection examination administered to determine the examinee's truthfulness concerning one narrowly defined issue.

~~(12)~~ "Pre-employment exam" means a deception detection screening examination administered as part of a pre-employment background investigation.

~~(6)13~~ "Unprofessional conduct" as defined in Title 58, Chapters 1 and 64, is further defined, in accordance with Subsection 58-1-203(~~[5]1~~(e)), in Section R156-64-502.

R156-64-103. Authority - Purpose.

Th~~ese~~is rule~~s~~is adopted by the division under the authority of Subsection 58-1-106(1)~~(a)~~ to enable the division to administer Title 58, Chapter 64.

R156-64-201. Education Peer Committee created - Membership - Duties.

~~(1)~~ In accordance with Subsection 58-1-203(1)(f), there is created the Deception Detection Education Peer Committee.

~~(a)~~ The duties and responsibilities of the Deception Detection Education Peer Committee are conduct an oral interview on behalf of the Board to evaluate the deception detection intern's performance and make a recommendation to the Board to:

~~(i)~~ approve the application; or

~~(ii)~~ deny the application but extend the intern period.

~~(b)~~ The composition of the Deception Detection Education Peer Committee shall be three deception detection examiners licensed in Utah who are not members of the Deception Detection Examiners Licensing Board.

R156-64-302a. Qualifications for Licensure - Application Requirements.

In accordance with Subsections 58-64-302(1)(c) and 58-64-302(2)(c), each applicant shall provide the following:

(1) a certification issued by the Bureau of Criminal Identification, Utah Department of Public Safety concerning the applicant's criminal history, ~~[except if]~~unless the applicant is a

peace officer as defined in Title 53, Chapter ~~[6]13~~, in good standing, in which case a certification is not required;

~~(2)~~ two fingerprint cards containing the fingerprints of the applicant; and

~~(3)~~ a fee established in accordance with Section 63-38-3-2 equal to the cost of conducting a check of the records of the Federal Bureau of Investigation and the Bureau of Criminal Identification, Utah Department of Public Safety, regarding the applicant].

R156-64-302b. Qualifications for Licensure - Education Requirements.

(1) In accordance with Subsections 58-64-302(1)(f)(i) and 58-64-302(2)(f)(i) the bachelor's degree shall have been earned from a university or college program, that at the time the applicant graduated, was accredited through the U.S. Department of Education or one of the regional accrediting association of schools and colleges.

(2) In accordance with Subsections 58-64-302(1)(f)(ii) and 58-64-302(2)(f)(ii), the 8,000 hours of investigation experience shall have been as a criminal or civil investigator with a federal, state, county or municipal law enforcement agency, or other equivalent investigation experience approved by the Division in collaboration with the Board.

(3) In accordance with Subsections 58-64-302(1)(f)(iii) and 58-64-302(2)(f)(iii), the college education and investigation experience may be combined in the ratio of 2000 hours of investigation experience for one year as a matriculated student in an accredited bachelor's degree program.

(4) In accordance with Subsections 58-64-302(1)(g) and 58-64-302(2)(g), the deception detection training program shall consist of:

(a) graduation from a course of instruction in deception detection in a school accredited by the American Polygraph Association; and

(b) passing the Utah Deception Detection Theory Exam with a score of at least 75%.

R156-64-302d. Qualifications for Licensure - Supervision Requirements.

In accordance with Subsection 58-64-302(2)(h), each deception detection intern supervision agreement shall be in a form that requires a deception detection intern to serve an internship under the direct supervision of an experienced deception detection examiner as follows:

(1) the supervising deception detection examiner shall observe either directly or by video recording a minimum of five complete examinations;

(2) if the deception detection intern is performing post conviction sex offender testing, the supervision deception detection examiner shall hold a certification for post conviction sex offender testing by the American Polygraph Association; and

(3) the "Internship Supervision Agreement", as required in Subsection 58-64-302(2)(h), shall be approved by the Division in collaboration with the Board.

R156-64-304. Continuing Education.

(1) In accordance with ~~[Section]~~Subsections 58-1-203(~~[7]1~~(g)) and 58-1-308(3)(b), there is created a continuing education requirement as a condition for renewal or reinstatement of a license in the classification of deception detection examiner.

(2) Continuing education shall consist of 60 hours of qualified continuing professional education in each preceding two year period of licensure or expiration of licensure.

(3) If a renewal period is shortened or extended 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.

(4) Qualified continuing professional education shall consist of the following:

(a) A minimum of 30 hours shall be from institutes, seminars, lectures, conferences, workshops, various forms of mediated instruction directly relating to deception detection; and

(b) 30 hours may be in the following college courses with one college credit being equal to 15 hours;

- (i) psychology;
- (ii) physiology;
- (iii) anatomy; and
- (iv) interview and interrogation techniques.

(5) A deception detection examiner who instructs an approved course shall be given double credit for the first presentation.

(6) A licensee shall be responsible for maintaining competent records of completed qualified continuing professional education for a period of four years after close of the two year period to which the records pertain.[]

~~R156-64-306. Clear Criminal History.~~

~~—(1) In accordance with Section 58-1-203(7) and 58-1-308(3)(b), there is created a clear criminal history requirement as a condition for renewal or reinstatement of a license issued under this chapter.~~

~~—(2) Each applicant shall submit documents and fees as set forth in Section R156-64-302a.]~~

R156-64-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) not immediately terminating the examination upon the request of the examinee;

(2) not conducting a pre-examination review with the examinee reviewing each question word for word prior to conducting the examination;

(3) attempting to determine truth or deception on matters or issues not discussed with the examinee during the pre-examination review;

(4) basing decisions concerning truthfulness or deception upon less than:

(a) two charts for a pre-employment exam;

(b) two charts for a screening exam that is to be followed by a specific issue exam; or

(c) three charts for all other exams~~[two repetitions of each question during pre-employment or routine examinations; or~~

~~(b) three repetitions of each question during specific or criminal examinations];~~

(5) conducting an examination if the examinee is not physically present and aware that an examination is being conducted;

(6) using irrelevant and relevant testing techniques in other than pre-employment and periodic testing, without prior approval of the division in collaboration with the board;

(7) using a polygraph instrument that does not record as a minimum:

(a) ~~[properly functioning respiration]~~respiration patterns recorded by two pneumograph components recording thoracic and abdominal patterns;

(b) ~~[galvanic skin response; and]~~electro dermal activity reflecting relative changes in the conductance or resistance of current by the epidermal tissue;

(c) ~~[cardiovascular response;]~~relative changes in pulse rate, pulse amplitude and relative blood volume by use of a cardiograph;

(d) continuous physiological recording of sufficient amplitude to be easily readable by the examiner; and

(e) pneumograph and cardiograph tracings no less than one-half inch in amplitude when using an analog polygraph instrument;

(8) conducting more than five deception detection examinations in a 24 hour period;

(9) conducting an examination of less than a 90 minute duration;

(10) conducting a pre-employment ~~[or periodic]~~ examination of less than a 60 minute duration;

(11) not audibly recording all criminal/specific examinations and informing the examinee of such recording prior to the examination;

(12) during a pre-employment pre-test interview or actual examination, asking any questions concerning the subject's sexual attitudes, political beliefs, union sympathies or religious beliefs unless there is demonstratable overriding reason;

(13) publishing, directly or indirectly, or circulating any fraudulent or false statements as to the skill or method of practice of any examiner;

(14) dividing fees or agreeing to split or divide the fees received for deception detection services with any person for referring a client;

(15) refusing to render deception detection services to or for any person on account of race, color, creed, national origin, sex or age of such person;

(16) conducting an examination:

(a) on a person who is under the influence of alcohol or drugs;

or

~~(b) [on a person who is pregnant except for a voice stress examination;~~

~~—(c)]on a person who is under the age of 14 without written permission from [their]the person's parent or guardian;[or~~

~~—(d) on a person who is under medical counseling without written permission from a health care provider;]~~

(17) not providing at least 20 seconds between the ~~[end]~~beginning of one question and the beginning of the next~~]; except when the examiner is utilizing a voice stress analyzer];~~

(18) failing during a pretest interview to specifically inquire whether the individual to be examined is currently receiving or has in the past received medical or psychiatric treatment or consultation;

(19) failing to obtain a release from the individual being examined or a physician's statement if there is any reasonable doubt concerning the individual's ability to safely undergo an examination;

~~(18)~~20 not using a numerical scoring system in all specific examinations;

~~(19)~~21 not creating and maintaining a record for every examination administered;

~~(20)~~22 creating records not containing at a minimum the following:

(a) all charts on each subject properly identified by name and date and if the exam was performed on an analog polygraph instrument, signed by the examinee;

- (b) an index, either chronological or alphabetical, listing:
 - (i) the names of all persons examined;
 - (ii) the type of exam conducted;
 - (iii) the date of the exam;
 - (iv) the name of the examiner;
 - (v) the file number in which the records are maintained;
 - (vi) the examiner's written opinion of the test results; and
 - (vii) the time the examination began and ended;
- (c) all written reports or memoranda of verbal reports;
- (d) a list of all questions asked while the instrument was recording;
- (e) background information elicited during the pre-test interviews;
- (f) a form signed by the examinee agreeing to take the examination after being informed of his or her right to refuse;
- (g) the following statement, dated and signed by the examinee: "If I have any reason to believe that the examination was not completely impartial, fair and conducted professionally, I am aware that I can report it to the Division of Occupational and Professional Licensing";
- (h) any recordings made of the examination; and
- (i) documentation of an instrument [calibration] functionality check on a quarterly basis including a calibration chart [, except for computerized deception detection instruments or computerized voice stress analyzers; and]
- (23) expressing a bias in any manner regarding the truthfulness of the examinee prior to the completion of any testing;
- (24) conducting a clinical polygraph examination of a sex offender without holding a current certification from the American Polygraph Association for post conviction sex offender testing;
- (25) not maintaining records of all deception detection examinations for a minimum of three years; and
- (26) failing to conform to the generally accepted and recognized standards and ethics of the profession including those established by the American Polygraph Association Code of Ethics, dated January 10, 1999, and Standards of Practice, dated January 20, 2007, which are hereby incorporated by reference.

KEY: licensing, deception detection examiner[²], deception detection intern
Date of Enactment or Last Substantive Amendment: [August 15, 1997]2007
Notice of Continuation: April 9, 2007
Authorizing, and Implemented or Interpreted Law: 58-64-101; 58-1-106(1)(a); 58-1-202(1)(a)



**Crime Victim Reparations,
 Administration
 R270-1-11
 Collateral Source**

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 30593
 FILED: 10/16/2007, 09:17

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Crime Victim Reparations (CVR) Board has proposed a new policy regarding collateral sources.

SUMMARY OF THE RULE OR CHANGE: The amendment removes current language identifying sick leave and annual leave as collateral sources meaning these sources of leave will not need to be used prior to a claim of lost wages.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63-25a-406(c)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** CVR may make more awards of lost wages because sick leave and annual leave will not need to be exhausted prior to claiming lost wages from CVR. If additional awards are made, this will be an added cost to the CVR Fund. Because some employers require employees to use leave if it is available, it is not clear whether this change will have an impact on the Fund or not. It is not possible at this point to estimate the added costs to the Fund.
- ❖ **LOCAL GOVERNMENTS:** It is possible that some local government employees may be able to claim lost wages from CVR rather than using sick leave or annual leave. This would result in a savings to the government employer. No other costs or savings are anticipated. The rule places no burdens on local government and impacts only individual claimants. It is not known how many claimants will exercise this option, so it is not possible to estimate the potential savings to local government.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** It is possible that some small business employees may be able to claim lost wages from CVR rather than using sick leave or annual leave. This would result in a savings to the small business. No other costs or savings are anticipated. The rule places no burdens on businesses and impacts only individual claimants. It is not known how many claimants will exercise this option, so it is not possible to estimate the potential savings to local government.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment will not involve any compliance costs. No person will need to do anything differently in order to comply. Rather, claimants will have additional options for seeking loss of wages.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It is possible that this amendment could actually benefit businesses. In some instances, CVR may be paying for wages rather than businesses paying out annual and/or sick leave due to time off work as a result of a crime. Ronald Gordon, Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ronald B Gordon at the above address, by phone at 801-238-2367, by FAX at 801-533-4127, or by Internet E-mail at rbgordon@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/17/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 12/24/2007

AUTHORIZED BY: Ronald B Gordon, Director

R270. Crime Victim Reparations, Administration.**R270-1. Award and Reparation Standards.****R270-1-11. Collateral Source.**

A. ~~[Pursuant to Section 63-25a-413, sick leave and annual leave shall be considered as a collateral source. If there are extenuating circumstances, the director may make an exception to this requirement.~~

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

[C]B. Crime Victim Reparations Trust Fund monies shall be used before the Utah Medical Assistance Program funds when considering allowable benefits for victims of violent crime.

KEY: victim compensation, victims of crimes

Date of Enactment or Last Substantive Amendment: [May 22], 2007

Notice of Continuation: July 3, 2006

Authorizing, and Implemented or Interpreted Law: 63-25a-401 et seq.



Education, Administration

R277-504

Early Childhood, Elementary, Secondary, Special Education (K-12), Communication Disorders, and Special Education (Birth-Age 5) Certification

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 30631

FILED: 10/31/2007, 14:53

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule was changed in response to a desperate need expressed by school districts/charter schools for trained specialists to assist students with speech language pathology needs. There was a competing concern expressed by formally-trained speech language pathologists that specialists have adequate and

professional training before providing services to public school students. This amended rule provides for speech language pathologist technicians, who will receive specific training to assist with immediate public school demands. The amended rule contains additional updated terminology.

SUMMARY OF THE RULE OR CHANGE: The changes include new and amended definitions, updated terminology changes, and new licensing requirements for speech language pathologists and speech language technicians.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 53A-1-402(1)(a) and 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated cost or savings to the state budget due to this amended rule. Speech language technicians will be trained to meet the needs of schools/school districts. They will, however, be trained at their own expense or possibly with assistance from schools/school districts. The state has not provided resources to the Utah State Office of Education and so will not contribute to the training costs for individuals with this specialty.

❖ LOCAL GOVERNMENTS: There are currently no anticipated cost/savings to schools/school districts for the required training for speech language technicians. It is possible that school districts/charter schools may, in the future, contribute to training additional technicians in this area. Currently, because the state is developing and seeking out appropriate training courses and opportunities, what those costs might be, as well as precisely what coursework or training might be required to reach the necessary proficiency or how scholarships might be offered, are speculative at this time.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There will, of course, be cost for the training of speech language technicians. Because this is a new category of service providers, the state and those currently in the profession are developing necessary curriculum and training. Costs for individual persons are unknown at this time. Additionally, some prospective technicians may require more coursework or training than others. Therefore, to actually effectuate this rule (though not the rule itself) may include costs for individuals, but they are presently unknown.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be compliance costs for individuals seeking a speech language technician license area of concentration. In addition to an individual required to complete a Utah State Board of Education-approved bachelor's degree in communication disorders at an accredited higher education institution, the individual will also be required to complete additional training as required by the Utah State Office of Education. Because necessary curriculum and training requirements are in the development stage, any compliance costs for affected persons are unknown at this time.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/17/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 12/24/2007

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

R277. Education, Administration.

R277-504. Early Childhood, Elementary, Secondary, Special Education (K-12), Communication Disorders, Speech-Language Pathologist and Speech-Language Technician, and Special Education (Birth-Age 5) Certification.

R277-504-1. Definitions.

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

B. "Communication Disorders license area of concentration" means the areas of content required for providing services to individuals from birth through age 22. Communication Disorders area of concentration carries an audiology endorsement.

~~C. "Basic Certificate" means the initial certificate issued by the Board which permits the holder to be employed in the public school system as an educator.~~

~~D. "Standard Certificate" means a certificate issued by the Board after a holder has demonstrated competence under the Basic Certificate.~~

~~F]C. "Early Childhood [Certificate]license area of concentration" means an Early Childhood Education [Certificate: the certificate]teaching license required for teaching kindergarten and permitting assignment in kindergarten through grade three. It is recommended for those teaching in formal programs below kindergarten level.~~

[M]D. "Early intervention credential" is the highest qualified personnel standard established by the Department of Health that persons must meet in able to provide services to infants and toddlers with disabilities age 0-3 in early intervention settings. Establishment of this standard was a collaborative initiative between the Department of Health and the State Office of Education. In order to provide services to infants and toddlers with disabilities age 0-3 in early intervention settings, a person must have an Early Intervention Credential or a Special Education (Birth-Age 5) [Certificate]license.

[G]E. "Elementary [Certificate]license area of concentration" means an Elementary [F]teaching [Certificate: the certificate]license required for teaching grades one through eight.

~~F]E. "Endorsement" means a specialty field or area listed on the teaching [certificate]license which indicates the specific qualification of the holder.~~

~~N]G. "Highest requirements in the State applicable to a specific profession or discipline" means the highest entry-level academic degree needed for any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to that profession or discipline.~~

~~H. "Middle Education Certificate" means Middle Education Teaching Certificate: the certificate required for teaching grades five through nine (valid, but no longer required after April 1, 1989).~~

~~H. "Level 1 license" means a Utah professional educator license issued upon completion of an approved preparation program or an alternative preparation program, or pursuant to an agreement under the NASDTEC Interstate Contract, to candidates who have also met all ancillary requirements established by law or rule.~~

~~I. "Level 2 license" means a Utah professional educator license issued after satisfaction of all requirements for a Level 1 license as well as any additional requirements established by law or rule relating to professional preparation or experience.~~

~~J. "National Council for Accreditation of Teacher Education (NCATE)" is a nationally recognized organization which accredits the education units providing baccalaureate and graduate degree programs for the preparation of teachers and other professional personnel for elementary and secondary schools.~~

~~F]K. "Secondary [Certificate]license area of concentration" means a Secondary [F]teaching [Certificate: the certificate]license required for teaching grades six through twelve. Secondary Certificates carry endorsements for the areas in which the holder is qualified.~~

~~J]L. "Special Education (Birth-Age 5) [Certificate]license area of concentration" means a [certificate]teaching license required [beginning June 30, 1990-]for teaching preschool students with [handicaps]disabilities.~~

~~K]M. "Special Education [Certificate]license area of concentration (K-12)" means Special Education [F]teaching [Certificate: the certificate]license required for teaching students with [handicaps]disabilities in kindergarten through grade twelve. Special Education [Certificates]areas of concentration carry endorsements in at least one of the following areas:~~

- ~~(1) Mild/Moderate Endorsement which permits the holder to teach students with mild/moderate learning and behavior problems;~~
- ~~(2) Severe Endorsement which permits the holder to teach students with severe learning and behavior problems;~~
- ~~(3) Hearing Impaired Endorsement which permits the holder to teach students who are deaf or other hearing impaired;~~
- ~~(4) Visually Impaired Endorsement which permits the holder to teach students who are blind or other visually impaired.~~

~~L. "Communication Disorders Certificate" means Communication Disorders Specialist Certificate: the certificate required for teaching students with communication disorders in kindergarten through grade twelve. Communication Disorders Certificates carry endorsements in at least one of the following areas:~~

- ~~(1) speech/language pathology;~~
- ~~(2) audiology.~~

~~N. "Speech-Language Pathologist license" means a speech-language pathologist area of concentration required for teaching students with communication disorders, birth through age 21. A speech-language pathologist license carries a Speech-Language Pathologist endorsement.~~

O. "Speech-language technician license area of concentration" means an area of concentration in which an individual has completed a Board-approved bachelor's degree in communication disorders at an accredited higher education institution and additional training as required by the USOE.

[B]P. "USOE" means Utah State Office of Education.

R277-504-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests the general control and supervision of the public schools in the State Board of Education and by Section 53A-1-402(1)(a) which directs the Board to make rules regarding the certification of educators, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to:

(1) specify the requirements for Early Childhood, Elementary, Secondary, Special Education (K-12), Communication Disorders, Speech-Language Pathologist and Speech-Language Technician, and Special Education (Birth-Age 5) [~~Certification~~]licensing; and

(2) specify the standards which must be met for each of these areas by a teacher preparation institution in order to receive Board approval of its program for teachers.

R277-504-3. [~~Basic Certificate~~]Level 1 License.

A. The [~~basic certificate~~]Level 1 license is issued for [~~four~~]three years.

B. During the [~~basic certification~~]Level 1 provisional period, [~~the preparing institution and~~] the employing school district shall supervise the candidate closely and make special assistance available.

C. An applicant for the [~~Basic~~]Level 1 Early Childhood, Elementary, Secondary, Special Education (K-12), Communication Disorders, Speech-Language Pathologist, Speech-Language Technician, and Special Education (Birth-Age 5) [~~Certificate~~]license area of concentration shall have done all of the following:

(1) graduated with a bachelor's degree, or in the case of Communication Disorders and Speech-Language Pathologist applicants, a masters degree or equivalent, from a [~~n~~] nationally or regionally accredited institution consistent with R277-503;

(2) completed a Board-approved program for the preparation of early childhood, elementary, secondary, special education (K-12), communication disorders, speech-language pathologist and speech-language technician, and special education (birth-age 5) specialists;

(3) demonstrated competence in computer understanding and use; and

(4) been recommended by an institution whose program of preparation is Board-approved and accredited consistent with R277-503.

D. If a teacher who has been issued a [~~Basic Certificate~~]Level 1 license does not teach immediately or has an interruption in service after the first year and more than [~~four~~]three years have elapsed, the candidate may request renewal of the [~~Basic Certificate~~]Level 1 license by presenting verification of pending employment and nine quarter hours (six semester hours) of credit taken during the preceding five-year period prior to the application for renewal.

(1) An exception shall be made for SLPs who have had continuous employment in a clinical setting rather than an educational setting.

(2) Documented clinical employment shall substitute for employment in education.

E. If the successful experience from the first to the second year of teaching is greater than five years, the first year of experience [~~will~~]may not apply.

[~~F. If an individual does not teach successfully for at least two years while holding the Basic Certificate, the certificate will expire and the teacher will no longer be eligible to teach in Utah. An individual's whose Basic Certificate expires, is eligible to apply for the program anew and proceed through the requirements as outlined.~~

—G]E. Under no circumstances shall a teacher be permitted to teach for more than [~~four~~]three years on the [~~Basic Certificate~~]Level 1 license without qualifying for the [~~Standard Certificate~~]Level 2 license.

H. The [~~Basic Secondary Certificate~~]Level 1 Secondary License

(1) A [~~Secondary Teaching Certificate~~]Level 1 secondary license with subject endorsement(s) is valid in grades six through twelve.

(2) The 6-12 [~~certificate~~]license requires a major and minor or composite major, but the teacher cannot teach in a self-contained class.

(3) An applicant for the [~~Basic Secondary Certificate~~]Level 1 Secondary license shall have completed an approved teaching major and minor or a composite major, consistent with subjects taught in Utah secondary schools. The [~~certificate~~]license is endorsed for all subjects in which the applicant has at least a minor or has completed equivalent training.

(a) A teaching major requires not fewer than 30 semester hours (45 quarter hours) [~~(30 semester hours)~~] of credit in one subject. [~~At least one-half of the hours must be upper division work.~~]

(b) A teaching minor requires not fewer than 16 semester hours (24 quarter hours) [~~(16 semester hours)~~] of credit in one subject.

(c) A composite major requires not fewer than 46 semester hours (69 quarter hours) [~~(46 semester hours)~~] of credit distributed in two or more subjects.

I. A Special Education (Birth-Age 5) [~~Basic Certificate~~]Level 1 License:

(1) Applicants for the Special Education (Birth-Age 5) [~~Certificate~~]license shall have completed a Board-approved program, consistent with R277-503, for teaching infants, toddlers, and preschool-age children with disabilities. [~~Applicants completing an approved Special Education (Birth-Age 5) certification program on or before June 1, 1994 shall also be recommended for the Early Intervention Credential by the Utah Department of Health.~~]

(2) Hearing Impaired/Vision Impaired (HI/VI) Endorsements required under this rule shall be issued to meet "the highest requirements in the State applicable to a specific profession or discipline" required by the Individuals with Disabilities Education Act (IDEA), Pub. L. No. 105-17, hereby incorporated by reference.

(a) Special Education (Birth-Age 5) [~~Certificate~~]license holders who teach children who are hearing impaired (birth-age 5) or vision impaired (birth-age 5) or both, in self-contained, categorical classrooms shall hold an endorsement for Hearing Impaired (Birth-Age 5) or Vision Impaired (Birth-Age 5) or both.

(b) All professional personnel teaching children with HI/VI in self-contained, categorical settings shall meet the standards in [~~Subsections~~]R277-504-3I(1) and (2) by June 30, 2003.

(c) Teachers who hold an equivalent [~~certificate~~]license from a state other than Utah shall be required to meet the standards referred to in [~~Subsection~~]R277-504-3I(2)(d) upon receipt of an initial Utah [~~certificate~~]license.

(d) All professional personnel teaching preschool-aged children who are HI/VI in self-contained, categorical classrooms as of January 1998, shall be required to complete a Board-approved training program, consistent with R277-503, by June 30, 2003, making them eligible for the Birth-Age 5 HI/VI endorsements under this rule.

(e) This training shall be developed based on an analysis of presently-held ~~[certificates, licenses and~~ endorsements, teaching experiences, and training activities as compared to the requirements of the new standards.

J. Applicants for Special Education (K-12) ~~[Certificates] licenses~~ shall have completed a Board[-]-approved program for teaching students with mild/moderate, severe, hearing, or visual handicaps. The Special Education ~~[Certificate] license~~ (K-12) is endorsed for any area in which the program has been completed. Educators who hold Special Education ~~[Certificates] licenses~~ may also be issued endorsements ~~[in English as a Second Language, Bilingual, and Driver Education, but are restricted to providing those services to special education students only].~~

K. Applicants for Communication Disorders ~~[Certificates] license areas of concentration (audiologist)[-~~

~~(1)-] shall have completed a Board[-]-approved program for teaching pupils with communication disorders which includes the master's degree or [55 quarter]30 semester hours earned after meeting requirements for a bachelor's degree[-or~~

~~(2) shall have completed a Board-approved bachelor's degree program in communication disorders at an accredited institution, including a practicum experience in a school setting, and acquired the competencies necessary for assignment as a communication disorders specialist at job entry level with any limitations noted by the preparing institution.~~

~~(a) A certificate issued under Subsection 3(K)(2) is valid for up to five years if the applicant has been admitted to an accredited graduate program at the time the certificate is issued and files with the State Office of Education evidence of completion of at least nine quarter hours (six semester hours) of credit which is applicable to the acquisition of a master's degree or the equivalent in communication disorders each year that the certificate is to remain in effect.~~

~~(b) A candidate must have been recommended by an institution whose program of preparation is Board approved].~~

L. Speech-Language Pathologist (SLP) License Area of Concentration

(1) Qualifications: To qualify for the SLP area of concentration, an individual shall have completed a Board-approved program for teaching students with speech/language impairments. Such programs include:

(a) a master's degree and Certificate of Clinical Competence (CCC); or

(b) a master's degree; or

(c) an international equivalent of a master's degree, earned in a communication disorders program, or equivalent after receiving a bachelor's degree at an accredited higher education institution.

(2) An individual who has completed a Board-approved bachelor's degree program in communication disorders at an accredited higher education institution, and acquired the competencies necessary for assignment as a graduate student intern, as determined by the higher education institution, may receive a one-year letter of authorization from the USOE.

(a) This letter of authorization shall be issued under R277-504-3(2)(d), and may be renewed annually for up to three years if:

(i) the applicant has been admitted to an accredited graduate program at the time the license is issued; and

(ii) the applicant files with the USOE evidence of completion of at least nine quarter hours (six semester hours) of credit applicable to the acquisition of a master's degree or the equivalent in communication disorders each year that the license is to remain in effect.

(b) A graduate student intern shall have been recommended by a higher education institution whose program of preparation is Board-approved. The graduate student intern shall be appropriately supervised by a speech-language pathologist.

(3) An individual with a letter of authorization may perform fully licensed speech-language functions, as directed, solely within the confines of the public school.

(4) This area of concentration does not qualify the individual to provide services outside of the educational setting.

M. Speech-Language Technician (SLT) License Area of Concentration

(1) To qualify for the SLT area of concentration, an individual shall have completed a Board-approved bachelor's degree in communication disorders at an accredited higher education institution and additional training as required by the USOE. Additional professional development shall be completed prior to or within the first year of receiving this area of concentration, in order to meet defined competencies.

(2) A speech-language technician shall work under the supervision of a speech-language pathologist who accepts full responsibility for the work of the speech-language technician.

(3) The supervising SLP maintains full responsibility for the caseload of the SLP and any SLTs supervised by the SLP.

(4) An individual may perform speech-language technician functions and duties solely within the confines of the public school.

(5) This area of concentration does not qualify the individual to provide services outside of the educational setting.

(6) The speech-language technician's function and duties shall conform to Utah's SLP/SLT Handbook, developed by the USOE, 2007.

(7) The performance of SLP and SLT duties shall be strictly consistent with Utah's SLP/SLT Handbook.

R277-504-4. ~~[Standard Certificate] Level 2 License.~~

A ~~[Standard Certificate] Level 2 license~~ for Early Childhood, Elementary, Secondary, Special Education (K-12), Communication Disorders, Speech-Language Pathologist and Speech-Language Technician, and Special Education (Birth-Age 5) is issued after:

(1) a candidate completes [two]three years of successful professional teaching;[-and]

(2) a candidate completes all other Entry Years Enhancements (EYE) requirements consistent with R277-522; and

([2]3) the employing school district recommends the candidate to receive the ~~[Standard Certificate] Level 2 license~~, based on information from peers and supervisors.

R277-504-5. Special Validations.

A. A ~~[Basic or Standard] Level 1 or Level 2 Early Childhood [Certificate] license~~ may be issued to an applicant who holds or is eligible to hold a ~~[Basic or Standard Elementary Certificate] Level 1 or Level 2 Elementary license~~ and who has completed two years

teaching a full kindergarten or pre-kindergarten program. The two ~~[certificates]~~licenses are issued to run concurrently.

B. An individual holding a ~~[Standard Elementary Certificate]~~Level 2 Elementary license and for whom the employing district has requested a letter of authorization assigning the individual to a kindergarten position may qualify for an Early Childhood ~~[Certificate]~~license by completing an approved program of early childhood education at an accredited institution of higher education. The program must consist of not more than 10 semester or 15 quarter hours of credit and may be based on demonstrated competence. The program may also include district in-service. Practicum experiences should be in the regularly assigned kindergarten classroom of the applicant for the ~~[certificate]~~license.

C. An Elementary ~~[Certificate]~~license is valid in grades one through eight.

(1) The 1-8 ~~[certificate]~~license permits the teacher to teach in any academic area in self-contained classes in grades 1-~~[6]~~8.

(2) A teacher must be endorsed in a subject by the USOE to teach assigned subjects at the 7-8 grade level.

(3) The Middle Level ~~[Certificates]~~license (5-9) currently in force will continue to be valid; however, a middle level ~~[certificate]~~license (5-9) will no longer be required of teachers assigned to the middle school, effective April 1, 1989.

R277-504-6. General Standards for Approval of Programs for the Preparation of Early Childhood, Elementary, Secondary, Special Education (K-12), Communication Disorders, Speech-Language Pathologist and Speech-Language Technician, and Special Education (Birth-Age 5) Teachers.

A. The teacher preparation program of an institution may be approved by the Board if it:

(1) meets the standards prescribed in the ~~[Standards for State Approval of Teacher Education, which are hereby incorporated by reference and available from the USOE Certification Section and education departments at Utah institutions of higher education]~~NCATE Professional Speciality Association or if 90 percent of the completers pass the Board-approved content assessments; and

(2) requires the study of:

(a) state laws and policies which specify content, values, and other expectations of teachers and other professionals in the school system;

(b) techniques for evaluating student progress, including the use and interpretation of both standardized and teacher-made tests; and

(c) knowledge and skills designed to meet the needs of students with handicapping conditions in the regular classroom. These shall include the following domains:

(i) knowledge of handicapping conditions;

(ii) knowledge of the role of regular education teachers in the education of students with handicapping conditions;

(iii) skills in assessing the educational needs and progress of students with handicapping conditions in the regular education classroom;

(iv) skills in the implementation of an educational program for the student handicapped in the regular classroom; and

(v) skills in monitoring student progress.

B. The standard requiring the application of methods and techniques in a clinical setting is met by student teaching carried out under the direction of the institution. The following may be accepted as totally or partially fulfilling this requirement:

(1) two years of full-time contract teaching experience in a regular classroom situation in kindergarten through grade twelve in a public or accredited private or parochial school may totally fulfill the requirement;

(2) teaching in an alternative school or similar school may be accepted for up to one-half of the student teaching requirement;

(3) teaching in a community college, trade-technical college, or other post-secondary teaching experiences may be accepted for up to one-half of the student teaching requirement;

(4) teaching in a preschool or headstart program may be accepted for up to one-half of the student teaching requirement;

(5) teaching experience in business or industry may be accepted for up to one-half of the student teaching requirement; and

(6) other experience accepted by the Board and designated as totally or partially fulfilling the requirement.

R277-504-7. Standards for Approval of Programs for Early Childhood and Elementary Teachers.

The standards must be applied to the specific age group or grade level for which the program of preparation is designed. The teacher preparation program of an institution may be approved by the Board if it:

A. ~~[M]~~meets the standards prescribed in the ~~[Standards for State Approval of Teacher Education for early childhood and elementary education]~~NCATE Professional Speciality Association or if 90 percent of the completers pass the Board-approved content tests; and

B. Requires study and experiences needed in disciplines which provide content knowledge needed to teach:

(1) language development and listening, speaking, writing, and reading, with emphasis on language development;

(2) mathematics;

(3) biological and physical science and health;

(4) social studies; and

(5) fine arts.

R277-504-8. Standards for Approval of Program for Preparing Teachers in Major and Minor Fields.

The teacher preparation program of an institution may be approved by the Board if it meets the general and specific standards prescribed in the ~~[Standards for State Approval of Teacher Education]~~NCATE Professional Speciality Association or if 90 percent of the completers pass the Board-approved content tests for teaching majors.

R277-504-9. Standards for Approval of Programs for Special Education (K-12) and Special Education (Birth-Age 5) Teachers.

The teacher preparation program of an institution may be approved by the Board if it meets the following standards:

A. Mild/Moderate Endorsement

(1) Assessment: eligibility determination; strength and weakness determination. The program shall require demonstrated competence in selection, design, administration, and interpretation of a representative sample of age-appropriate, norm referenced, criterion referenced, and ecological assessments to determine the discrepancies between academic, behavioral, and life skills demands or requirements and actual student performance.

(2) Planning: establishing goals and objectives for students based upon individual assessment, coordination of services, identification of resources, and implementation of activities. The program shall require demonstrated competence in:

(a) projecting long-term outcomes and establishing appropriate annual goals and short term objectives utilizing assessment data;

(b) designing, planning, and coordinating age-appropriate academic and social integration and transition programs within regular school and community environments;

(c) designing a plan for accessing and coordinating resources available in the student's natural environment to implement long-term outcomes, annual goals, and short-term objectives and identify a representative sample of such resources, both human and technological;

(d) designing appropriate, systematic, data-based, daily individual student activities based on student performance and relevant long-term outcomes, annual goals, and short-term objectives which provide for new skill development, practice, and application across environments;

(e) coordinating all services--required related services and a representative sample of support services including peer tutors, parents, and volunteers--necessary to implement daily individual student activities which provide for new skill development, practice, and applications across environments;

(f) developing an Individual Education Plan which is an integrated management tool and which meets federal and state requirements.

(3) Implementation: actualization of planning and utilization of effective pedagogy across levels including developmental, remedial, functional and compensatory. The program shall require demonstrated competence in:

(a) implementing a variety of methods and techniques which encompass the following areas:

(i) developmental--natural sequence of acquired skills;

(ii) remedial--reteaching specific areas of weakness;

(iii) functional--skills necessary to ensure independence;

(iv) compensatory--alternative strategies for reaching goals.

(b) knowledge of scope and sequence across academic, behavior, and life skills;

(c) conducting concept and task analysis to identify performance demands for skill use and application;

(d) teaching discrete skills, including selecting and sequencing instructional examples to facilitate acquisition, strategies of trial distribution, systematic strategies of response prompting and fading, and systematic strategies for rewarding correct student responses and correcting student errors in individual, small groups, and large group instruction;

(e) teaching for generalization;

(f) designing, implementing, and evaluating applied behavior analysis including related ethical issues;

(g) implementing effective techniques of consultation, collaboration, and teaming;

(h) utilizing the transdisciplinary approach to instruction.

(4) evaluation: monitoring student progress; formative and summary program evaluation. The program shall require demonstrated competence in:

(a) designing and implementing data collection systems that measure the accuracy, rate, duration, fluency, and independence of student performance;

(b) designing and implementing data collection systems that measure performance across novel stimuli -- generalization -- and time -- maintenance --and in natural -- non-instructional -- settings;

(c) selecting data collection systems which match the target behavior and intended outcome of instruction;

(d) adjusting instructional procedures based on student performance data;

(e) measuring consumer--e.g., parent, cooperating agency--and team--e.g., therapist, regular educator, paraprofessional--satisfaction with student educational program and adjusting classroom procedures, methods of communication with significant others, or educational programming based on consumer or team feedback, or all.

B. Severe Endorsement

(1) Assessment: eligibility determination; strength and weakness determination. The program shall require demonstrated competence in selection, design, administration, and interpretation of a representative sample of age-appropriate, norm-referenced, criterion referenced, and ecological assessments to determine the discrepancies between functional academic, functional behavior, and functional life skill demands and requirements and actual student performance.

(2) Planning: establishing goals and objectives for students based upon individual assessment, coordination of services, identification of resources, and implementation of activities. The program shall require demonstrated competence in:

(a) designing, planning, and coordinating age-appropriate social integration and transition programs within regular school and community environments;

(b) the requirements specified in Subsections 9(A)(2)(a), (c), (d), (e), and (f).

(3) Implementation: actualization of planning and utilization of effective pedagogy across levels including development, remedial, functional, and compensatory. The program shall require demonstrated competence in:

(a) knowledge of scope and sequence across functional life skill, academic, behavior, and life skills;

(b) conducting general case analysis of performance demands;

(c) the requirements specified in Subsections 9(A)(3)(c), (d), (f), (g), and (h).

(4) Evaluation: monitoring student progress; formative and summary program evaluation. The program shall require demonstrated competence in the requirements specified in Subsection 9(A)(4).

C. Hearing Impaired Endorsement: The teacher preparation program of an institution may be approved by the Board if it meets the standards prescribed in the [~~Standards for State Approval of Teacher Education~~]NCATE Professional Speciality Association or if 90 percent of the completers pass the Board-approved content tests for hearing impaired specialists.

D. Visually Impaired Endorsement: The teacher preparation program of an institution may be approved by the Board if it meets the standards prescribed in the Standards for State Approval of Teacher Education for visually impaired specialists.

R277-504-10. Standards for Approval of Programs for Communication Disorders [~~Certificates~~]and Speech-Language Pathologist Licenses.

A. Speech Pathology Endorsement: The preparation program for Speech-Language Pathologists of an institution may be approved by the Board if it meets the standards prescribed in the [~~Standards for State Approval of Teacher Education~~]NCATE Professional Speciality Association or if 90 percent of the completers pass the Board-approved content tests for speech-language pathologists.

B. Audiology Endorsement: The preparation program for audiologists of an institution may be approved by the Board if it meets the standards prescribed in the [~~Standards for State Approval of Teacher Education~~] NCATE Professional Speciality Association or if 90 percent of the completers pass the Board-approved content tests for audiologists.

KEY: teacher certification, professional education, accreditation

Date of Enactment or Last Substantive Amendment: [~~April 7, 1998~~] 2007

Notice of Continuation: September 7, 2004

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

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Education, Administration R277-515 Utah Educator Standards

NOTICE OF PROPOSED RULE

(New Rule)
DAR FILE NO.: 30632
FILED: 10/31/2007, 14:53

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is established to provide statewide standards for licensed public school educators.

SUMMARY OF THE RULE OR CHANGE: The rule provides definitions, standards for educators as role models, standards for educators to maintain a safe learning environment, standards for professional educator responsibility for compliance with school district policies and standards for professional educator conduct, and consequences for violations of professional ethics.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 53A-1-402(1)(a) and 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There are no anticipated cost or savings to the state budget because the Utah State Office of Education realizes that licensing fees cannot and will not increase to provide any commensurate increase in the budget to provide ethics training or for an ethics "exam" prior to educator licensing. Consequently, any training or required exam will be administered within existing budget and funds.
- ❖ **LOCAL GOVERNMENTS:** There will be no cost or savings to local government (school districts) for required ethics training or ethics exams. This is the case because educator licensing occurs at the state level. It would not be appropriate for local governmental units or school districts to bear these costs.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The Utah State Office of Education has determined, at least to date, that any required ethics training or ethics exam prior to educator licensing or license renewal will not be passed on to

those renewing educator licenses or new licensees. Consequently, the costs of any required ethics training or ethics exam will be borne by the State Agency rather than required of those seeking educator licenses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Any required ethics training or ethics exam will be borne by the State Agency and not by those seeking educator licenses.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/17/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 12/24/2007

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

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R277. Education, Administration. **R277-515. Utah Educator Standards.** **R277-515-1. Definitions.**

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

B. "Diversion agreement" means an agreement between a prosecutor and defendant entered into prior to a conviction delaying prosecution of a criminal charge for a specified period of time and contingent upon the defendant satisfying certain conditions.

C. "Educator or professional educator" means a person who currently holds a license, held a license at the time of an alleged offense, is an applicant for a license, or is a person in training to obtain a license. The "professional" denotes that the individual holds or is seeking a Utah educator license as opposed to a paraprofessional or a volunteer or unlicensed teacher in a classroom

D. "Felony offense" means any offense for which an individual is charged with a first, second or third degree felony under the Utah Criminal Code, Title 76, the Public Employees Ethics Act, Title 67, Chapter 16, the Clandestine Drug Lab Act, Title 58 Chapter 37d, the Procurement Code, Title 63 Chapter 56, or any other statute in the Utah Code establishing a felony.

E. "Illegal drug(s)" means a substance included in Schedules I, II, III, IV, or V of Section 58-37-4, and also includes a drug or

substance included in Schedules I, II, III, IV, or V of the federal Controlled Substances Act, Title II, P.L. 91-513, or any controlled substance analog.

F. "Illegal sexual conduct" means any conduct proscribed under the Utah Criminal Code, Sections 76-5-401 through 406, Section 76-5a-1-4, and Section 76-9-704 through 704.

G. "Licensing discipline" means sanctions ranging from an admonition, a letter of warning, a written reprimand, suspension of license, and revocation of license, or other appropriate disciplinary measures, for violation of professional educator standards.

H. "Misdemeanor offense" means any offense for which an individual is charged with a Class A, B, or C misdemeanor under the Utah Criminal Code, Title 76, the Public Employees Ethics Act, Title 67, Chapter 16, the Clandestine Drug Lab Act, Title 58 Chapter 37d, the Procurement Code, Title 63 Chapter 56, or any other statute in the Utah Code establishing a misdemeanor.

I. "Plea in abeyance" means a plea of guilty or no contest which is not entered as a judgment or conviction but is held by a court in abeyance for a specified period of time.

J. "School-related activity" means any event, activity or program occurring at the school before, during or after school hours or which students attend at a remote location as representatives of the school or with the school's authorization, or both.

K. "Stalking" means the act of intentionally or knowingly engaging in a course of conduct directed at a specific person as defined in Section 76-5-106.5.

L. "Utah Core Curriculum" means minimum academic standards provided through courses as established by the Board which shall be mastered by all students K-12 as a requisite for graduation from Utah's secondary schools.

M. "Utah Public Employees Ethics Act" means the provisions established in Section 67-16-1-14.

N. "Utah Professional Practices Advisory Commission (Commission)" means a commission established to assist and advise the Board in matters relating to the professional practices of educators, as established under Section 53A-6-301.

O. "USOE" means the Utah State Office of Education.

P. "Weapon(s)" means any item that in the manner of its use or intended use is capable of causing death or serious bodily injury.

R277-515-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests the general control and supervision of the public schools in the Board, by Section 53A-1-402(1)(a) which directs the Board to make rules regarding the certification of educators, by Section 53A-6 which provides all laws related to educator licensing and professional practices, and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to establish statewide standards for public school educators that provide notice to educators and prospective educators and notice and protection to public school students and parents. The rule also recognizes that licensed public school educators are professionals and, as such, should share common professional standards, expectations and role model responsibilities. The rule distinguishes behavior for which educators shall receive license discipline from behavior that all Utah educators should aspire to and for which license discipline shall be initiated only in egregious circumstances or following a pattern of offenses.

R277-515-3. Educator as a Role Model of Civic and Societal Responsibility.

A. The professional educator is responsible for compliance with federal, state, and local laws.

B. The professional educator shall familiarize himself with professional ethics and is responsible for compliance with applicable professional standards.

C. Failing to strictly adhere to the following shall result in licensing discipline as defined in R277-515-1G. The professional educator, upon receiving a Utah educator license:

(1) shall not be convicted of any felony or misdemeanor offense which adversely affects the individual's ability to perform assigned duties and carry out the responsibilities of the profession, including role model responsibilities.

(2) shall not be convicted of or commit any act of violence or abuse, including physical, sexual, or emotional abuse of any person;

(3) shall not commit any act of cruelty to children or any criminal offense involving children;

(4) shall not be convicted of a stalking crime;

(5) shall not possess or distribute illegal drugs, or be convicted of any crime related to illegal drugs, including prescription drugs not specifically prescribed for the individual;

(6) shall not be convicted of any illegal sexual conduct, including offenses that are plea bargained to lesser offenses from an initial sexual offense;

(7) shall not be subject to a diversion agreement specific to sex-related or drug-related offenses, plea in abeyance, court-imposed probation or court supervision related to criminal charges which could adversely impact the educator's ability to perform the duties and responsibilities of the profession;

(8) shall not provide to students or allow students, under the educator's supervision or control to consume alcoholic beverages or unauthorized drugs;

(9) shall not attend school or a school-related activity in an assigned supervisory capacity, while possessing, using, or under the influence of alcohol or illegal drugs;

(10) shall not intentionally exceed the prescribed dosages of prescription medications while at school or a school-related activity;

(11) shall cooperate in providing all relevant information and evidence to the proper authorities in the course of an investigation by a law enforcement agency or by Child Protective Services regarding potential criminal activity. However, an educator shall be entitled to decline to give evidence against himself in any such investigation if the same may tend to incriminate the educator as that term is defined by the Fifth Amendment of the U.S. Constitution;

(12) shall report suspected child abuse or neglect to law enforcement or the Division of Child and Family Services pursuant to Sections 53A-6-502 and 62A-4a-409 and comply with Board rules and school district policies regarding the reporting of suspected child abuse;

(13) shall strictly adhere to state laws regarding the possession of firearms, while on school property or at school-sponsored activities, and enforce district policies related to student access to or possession of weapons;

(14) shall not solicit, encourage or consummate an inappropriate relationship, written, verbal, or physical, with a student or minor;

(15) shall not participate in sexual, physical, or emotional harassment or any combination toward any public school-age

student or colleague, nor knowingly allow harassment toward students or colleagues:

(16) shall not make inappropriate contact in any communication-written, verbal, or electronic-with minor, student, or colleague, regardless of age or location;

(17) shall not interfere or discourage students' or colleagues' legitimate exercise of political and civil rights, acting consistent with law and school district/school policies;

(18) shall provide accurate and complete information in required evaluations of himself, other educators, or students, as directed, consistent with the law;

(19) shall be forthcoming with accurate and complete information to appropriate authorities regarding known educator misconduct which could adversely impact performance of professional responsibilities, including role model responsibilities, by himself or others;

(20) shall provide accurate and complete information required for licensure, transfer, or employment purposes; and

(21) shall provide accurate and complete information regarding qualifications, degrees, academic or professional awards or honors, and related employment history when applying for employment or licensure.

(22) shall notify the USOE at the time of application for licensure of past license disciplinary action or license discipline from other jurisdictions;

(23) shall notify the USOE honestly and completely of past criminal convictions at the time of the license application and renewal or licenses; and

(24) shall provide complete and accurate information during an official inquiry or investigation by school district, state, or law enforcement personnel.

D. Failure to adhere to the following may result in licensing discipline as defined in R277-515-1G. Penalties shall be imposed, most readily, if educators have received previous documented warning(s) from the educator's employer.

(1) An educator shall not exclude a student from participating in any program, or deny or grant any benefit to any student on the basis of race, color, creed, sex, national origin, marital status, political or religious beliefs, physical or mental conditions, family, social, or cultural background, or sexual orientation, and shall not engage in conduct that would encourage a student(s) to develop a prejudice on these grounds or any other, consistent with the law.

(2) An educator shall maintain confidentiality concerning a student unless revealing confidential information to authorized persons serves the best interest of the student and serves a lawful purpose, consistent with federal and state Family Educational Rights and Privacy Acts (FERPA).

(3) Consistent with the Utah Public Officers' and Employees' Ethics Act, Section 53A-1-402.5, and Board rules, a professional educator:

(a) shall not accept bonuses or incentives from vendors, potential vendors, or gifts from parents of students, or students where there may be the appearance of a conflict of interest or impropriety;

(b) shall not accept or give gifts to students that would suggest or further an inappropriate relationship;

(c) shall not accept or give gifts to colleagues that are inappropriate or further the appearance of impropriety;

(d) may accept donations from students, parents, and businesses donating specifically and strictly to benefit students;

(e) may accept, but not solicit, nominal appropriate personal gifts for birthdays, holidays and teacher appreciation occasions, consistent with school or school district policies and the Utah Public Officers' and Employees' Ethics Act;

(f) shall not use his position or influence to:

(i) solicit colleagues, students or parents or students to purchase equipment, supplies, or services from the educator or participate in activities that financially benefit the educator unless approved in writing by the local school board or governing board;

(ii) promote athletic camps, summer leagues, travel opportunities, or other outside instructional opportunities from which the educator receives personal remuneration, and that involve students in the educator's school system, unless approved in writing consistent with local school board or governing board policy and Board rule; and

(g) shall not use school property, facilities, or equipment for personal enrichment, commercial gain, or for personal uses without express supervisor permission.

R277-515-4. Educator Responsibility for Maintaining a Safe Learning Environment and Educational Standards.

A. A professional educator maintains a positive and safe learning environment for students, and works toward meeting educational standards required by law.

B. Failure to strictly adhere to the following shall result in licensing discipline as defined in R277-515-1G. The professional educator, upon receiving a Utah educator license:

(1) shall take prompt and appropriate action to prevent harassment or discriminatory conduct towards students or school employees that may result in a hostile, intimidating, abusive, offensive, or oppressive learning environment;

(2) shall resolve disciplinary problems according to law, school board policy, and local building procedures and strictly protect student confidentiality and understand laws relating to student information and records;

(3) shall supervise students appropriately at school and school-related activities, home or away, consistent with district policy and building procedures and the age of the students;

(4) shall take action to protect a student from any known condition detrimental to that student's physical health, mental health, safety or learning;

(5) shall demonstrate honesty and integrity by strictly adhering to all state and district instructions and protocols in managing and administering standardized tests to students consistent with Section 53A-1-608 and R277-473;

(a) shall cooperate in good faith with required student assessments;

(b) shall encourage students' best efforts in all assessments;

(c) shall submit and include all required student information and assessments, as required by state law and State Board of Education rules; and

(d) shall attend training and cooperate with assessment training and assessment directives at all levels.

C. Failure to adhere to the following may result in licensing discipline as defined in R277-515-1G. Penalties shall be imposed, most readily, if educators have received previous documented warning(s) from the educator's employer: A professional educator:

(1) shall demonstrate respect for diverse perspectives, ideas, and opinions and encourage contributions from a broad spectrum of school and community sources, including communities whose heritage language is not English;

(2) shall use appropriate language, eschewing profane, foul, offensive, or derogatory comments or language;

(3) shall maintain a positive and safe learning environment for students;

(4) shall work toward meeting educational standards required by law;

(5) shall teach the objectives contained in the Utah Core Curriculum;

(6) shall not distort or alter subject matter from the Core in a manner inconsistent with the law and shall use instructional time effectively; and

(7) shall use instructional time effectively consistent with school and school district policies.

R277-515-5. Professional Educator Responsibility for Compliance with School District Policies.

A. Failure to strictly adhere to the following shall result in licensing discipline as defined in R277-515-1G. The professional educator:

(1) understands and follows Board rules and local board policies

(2) understands and follows school and administrative policies and procedures;

(3) understands and respects appropriate boundaries, established by ethical rules and school policies and directives, in teaching, supervising and interacting with students and colleagues; and

(4) shall conduct financial business with integrity by honestly accounting for all funds committed to the educator's charge, as school responsibilities require, consistent with school and school district policy.

B. Failure to adhere to the following may result in licensing discipline as defined in R277-515-1G. Penalties shall be imposed most readily, if educators have received previous documented warning(s) from the educator's employer. The professional educator:

(1) shall resolve grievances with students, colleagues, school community members, and parents professionally, with civility, and in accordance with school district/charter school policies; and

(2) shall follow school district/charter school policies for collecting money from students, accounting for all money collected, and not commingling any school funds with personal funds.

R277-515-6. Professional Educator Conduct.

A. A professional educator exhibits integrity and honesty in relationships with school and district administrators and personnel.

B. Failure to adhere to the following may result in licensing discipline as defined in R277-515-1G. Penalties shall be imposed most readily, if educators have received previous documented warning(s) from the educator's employer. The professional educator:

(1) shall communicate professionally and with civility with colleagues, school and community specialists, administrators and other personnel;

(2) maintains a professional and appropriate relationship and demeanor with students, colleagues and school community members and parents;

(3) shall not promote personal opinions, personal issues, or political positions as part of the instructional process in a manner inconsistent with law; expresses personal opinions professionally and responsibly in the community served by the school;

(4) shall comply with school and district policies, supervisory directives, and generally-accepted professional standards regarding appropriate dress and grooming at school and school-related events;

(5) shall work diligently to improve the educator's own professional understanding, judgment, and expertise;

(6) shall honor all contracts for professional services;

(7) shall perform all services required or directed by the educator's contract with the school district, school, or charter school with professionalism consistent with local policies and Board rules; and

(8) shall recruit other educators for employment in another position only within district timelines and guidelines.

R277-515-7. Violations of Professional Ethics.

A. This rule establishes standards of ethical decorum and behavior for licensed educators in Utah.

B. Provisions of this rule do not prevent, circumvent, replace, nor mirror criminal or potential charges that may be issued against professional educators.

C. The Board and USOE shall adhere to the provisions of this rule in licensing and disciplining licensed Utah educators.

D. Reporting and employment provisions related to professional ethics are provided in:

(1) Section 53A-3-410;

(2) Section 53A-6-501;

(3) Section 53A-11-403; and

(4) R277-514-5.

KEY: educator, professional, standards

Date of Enactment or Last Substantive Amendments: 2007

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-402(1)(a); 53A-6; 53A-1-401(3)



Education, Administration
R277-616
 Education for Homeless and
 Emancipated Students and State
 Funding for Homeless and
 Economically Disadvantaged Ethnic
 Minority Students

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 30633

FILED: 10/31/2007, 14:54

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The amendments to this rule are the result of revised terminology in federal law regarding homeless students. To be specific, the McKinney-Vento Act, incorporated by reference in Rule R277-616, now uses the terminology "homeless student and unaccompanied youth". That phrase is added to the amended rule. This revised federal language was provided by the Utah State Office of Education specialist on homeless students.

SUMMARY OF THE RULE OR CHANGE: The amendments include changes in terminology and updated language for emancipated minors.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 53A-17a-121(2) and 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated cost or savings to the state budget. The changes make the rule consistent with federal and state law and current practices.

❖ LOCAL GOVERNMENTS: There are no anticipated cost or savings to local government. The changes make the rule consistent with federal and state law which schools/school districts have been following.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated cost or savings to small businesses and other persons other than business. The changes make the rule consistent with federal and state law, but requires no additional costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The changes make the rule consistent with federal law.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/17/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 12/24/2007

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

R277. Education, Administration.

R277-616. Education for Homeless and Emancipated Students and State Funding for Homeless and ~~Economically~~ Disadvantaged ~~Ethnic~~ Minority Students.

R277-616-1. Definitions.

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

B. "Domicile" means the place which a person considers to be the permanent home, even though temporarily residing elsewhere.

C. "Economically disadvantaged" means a student who is eligible for reduced price or free school lunch.

D. "Emancipated minor" means:

(1) a child under the age of 18 who has become emancipated through marriage or by order of a court ~~[-or through marriage]~~ consistent with Section 78-3a-1001 et seq.[7]; or

(2) a child recommended for school enrollment as an emancipated or independent or homeless child/youth by an authorized representative of the Utah State Department of Social Services.

E. "Enrolled" for purposes of this rule means a student has the opportunity to attend classes and participate fully in school and extracurricular activities based on academic and citizenship requirements of all students.

F. "Ethnic minority student" means non-Caucasian students as identified below:

- (1) American Indian or Alaskan native;
- (2) Hispanic/Latino;
- (3) Asian;
- (4) Pacific Islander;
- (5) Black/African American, not of Hispanic origin;
- (6) Other;
- (7) The total of ethnic minority students per school shall be determined annually on October 1.

G. "Homeless child/youth" means a child who:

(1) lacks a fixed, regular, and adequate nighttime residence;

(2) has primary nighttime residence in a homeless shelter, welfare hotel, motel, congregate shelter, ~~[-or]~~ domestic violence shelter, car, abandoned building, bus or train station, trailer park, or camping ground;

(3) sleeps in a public or private place not ordinarily used as a regular sleeping accommodation for human beings;

(4) is, ~~[out of necessity]~~ due to loss of housing or economic hardship, or a similar reason, living with relatives or friends usually on a temporary or emergency basis due to lack of housing; or

(5) is a runaway, a child or youth denied housing by his family, or school-age unwed mother living in a home for unwed mothers, who has no other housing available.

H. "Parent" means a parent or guardian having legal custody of a minor child.

I. "School district of residence for a homeless child/youth" means the school district in which the student or the student's legal guardian or both currently resides or the charter school that the student is attending for the period that the student or student's family satisfies the homeless criteria.

J. "USOE" means the Utah State Office of Education.

R277-616-2. Authority and Purpose.

A. This rule is authorized under Article X, Section 3 of the Utah State Constitution, Section 53A-17a-121(2) which directs the Board to develop rules for school districts and charter schools to spend monies for homeless and ethnic minority students, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, Section 53A-11-101 which requires that minors between the ages of 6 and 18 attend school during the school year of the school district of residence, ~~[and by]~~ Section 53A-2-201(5) which makes each school district or charter school responsible for providing educational services for all children of school age who reside in the school district or attend the school, and

the McKinney-Vento Homeless Assistance Act of 1987, Title VII, Subtitle B, as amended, 42 U.S.C. 11431 through 11435.

B. The purpose of this rule is to ensure that homeless children/youth have the opportunity to attend school with as little disruption as reasonably possible and that funds for homeless and economically disadvantaged ethnic minority students are distributed equitably and efficiently to school districts and charter schools.

R277-616-3. Criteria for Determining Where a Homeless or Emancipated Student Shall Attend School.

A. Under the McKinney-Vento Homeless Assistance Act of 1987, Title VII, Subtitle B, as amended, 42 U.S.C. 11431 through 11435, homeless students are entitled to immediate enrollment and full participation even if they are unable to produce records which may include medical records, birth certificates, school records, or proof of residency normally required for enrollment.

B. A homeless student shall:

(1) be immediately enrolled even if the student does not have documentation required under Sections 53A-11-201, 301, 302, 302.5 and Section 53A-2-201 through 213;

(2) be allowed to continue to attend his school of origin, to the extent feasible, unless it is against the parent/guardian's wishes; be permitted to remain in the student's school of origin for the duration of the homelessness and until the end of any academic year in which the student moves into permanent housing; or

(3) transfer to the school district of residence or charter school if space is available as defined under Subsection R277-616-11.

B. Determination of residence or domicile may include consideration of the following criteria:

(1) the place, however temporary, where the child actually sleeps;

(2) the place where an emancipated ~~[child]~~minor or an ~~[unemancipated]~~unaccompanied child/youth or accompanied child's/youth's family keeps its belongings;

(3) the place which an emancipated ~~[child]~~minor or an ~~[unemancipated]~~unaccompanied child/youth or accompanied child's/youth's parent considers to be home; or

(4) such recommendations concerning a child's domicile as made by the State Department of Human Services.

C. Determination of residence or domicile may not be based upon:

- (1) rent or lease receipts for an apartment or home;
- (2) the existence or absence of a permanent address; or
- (3) a required length of residence in a given location.

D. If there is a dispute as to residence or the status of ~~[a child as]~~an emancipated minor or an unaccompanied child/youth, the issue may be referred to the USOE for resolution.

E. The purpose of federal homeless education legislation is to ensure that a child's education is not needlessly disrupted because of homelessness. If a child's residence or eligibility is in question, the child shall be admitted to school until the issue is resolved.

R277-616-4. Transfer of Guardianship.

A. If guardianship of a minor child is awarded to a resident of a school district by action of a court or through appointment by a school district under Section 53A-2-202, the child becomes a resident of the school district in which the guardian resides.

B. If a child's residence has been established by transfer of legal guardianship, no tuition may be charged by the new school district of residence.

R277-616-5. School District Funding for Homeless Students and Economically Disadvantaged Ethnic Minority Students.

A. Funds appropriated for homeless and economically disadvantaged ethnic minority students shall be distributed as outlined under 53A-17a-121(3).

B. For purposes of determining the homeless student count, a school district or a charter school shall count annually the number of homeless students served in the school district or charter school.

C. If a student satisfies the homeless criteria at more than one time during the school year in the same school district or charter school, the student shall be counted once by the school district or charter school.

KEY: compulsory education, students' rights

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

Notice of Continuation: November 23, 2005

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-2-201(5); 53A-2-202; 53A-17a-121(3)



Education, Administration
R277-733
Adult Education Programs

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE No.: 30634

FILED: 10/31/2007, 14:54

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to bring the language up-to-date with current state and federal adult education law.

SUMMARY OF THE RULE OR CHANGE: The repealed Rule R277-733: 1) defined "adult basic education", "adult education", "GED", "measurable outcomes", and "other eligible adult education student"; 2) had a section on federal adult education; 3) had a section on fiscal procedures and on adult education pupil accounting; 4) had a section on adult basic education and adult high school education curriculum; 5) did NOT have a section on explaining adult education pupil accounting; and 6) did not adequately explain adult tuition and fees. The reenacted Rule R277-733: 1) revises several definitions (adult basic education, certificate of GED); (2) adds definitions (out of school youth, participant, desk monitoring); 3) establishes clearer fiscal standards and practices for adult education programs; 4) adds a new section focusing adult education funds on student outcomes and student mastery and more clearly stating the adult education Core curriculum; 5) adds information about adult education student individual education plans (IEP); and 6) provides more and clearer information about adult education program tuition and fees.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3), Section 53A-15-401, and Subsection 53A-1-402(1)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated cost or savings to the state budget because school districts/community-based organizations (CBOs) will provide adult education services and programs with the same amount of funding appropriated specifically for adult education by the Legislature.

❖ LOCAL GOVERNMENTS: The reenactment of Rule R277-733 may result in programmatic or (more likely) accounting changes for local adult education programs. The Utah State Office of Education would not characterize this as cost/savings due to this rule because though different and tighter provisions for carryover funds may have some short-term (mostly) benefits for local programs, there is no additional funding available for adult education programs. There will, consequently, be no cost/savings to local programs due to this rule repeal and reenactment.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated cost or savings to small businesses. School districts/schools are responsible for all funds and costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Fees for adult education programs will not be increased or changed because of this reenacted rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/17/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 12/24/2007

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

R277. Education, Administration.**~~[R277-733. Adult Education Programs.~~****~~R277-733-1. Definitions.~~**

~~— A. "Adult" means a person 18 years of age or over.~~

~~— B. "Adult basic education (ABE)" means a program that provides instruction for adults whose inability to compute or speak, read, or write the English language at or below the eighth grade level substantially impairs their ability to find or retain employment commensurate with their real ability. The instruction is designed to help adults by:~~

~~— (1) increasing their independence;~~

~~— (2) improving their ability to benefit from occupational training;~~

~~— (3) increasing opportunities for more productive and profitable employment; and~~

~~— (4) making them better able to meet adult responsibilities.~~

~~— C. "Adult education" means a program that provides instruction for eligible adult education students who are seeking:~~

~~— (1) a certificate of graduation from an accredited high school;~~

~~— (2) a GED Certificate of Completion;~~

~~— (3) English acquisition skills to compute, speak, read, or write the English language; or~~

~~— (4) competency functioning levels for adults who are currently assessed below the eighth grade level of competency; or~~

~~— (5) programs/courses to assist adults in becoming literate and obtaining the academic knowledge and skills necessary for employment and self-sufficiency; and~~

~~— Adult education programs/courses may also be made available to public education students who are younger than 18 as determined necessary by local adult education programs.~~

~~— D. "Adult high school education" means a program that provides instruction in Board approved subjects which leads to a high school diploma for adults.~~

~~— E. "Board" means the Utah State Board of Education.~~

~~— F. "Consumable items" means student workbooks, student packets, computer disks, pencils, papers, notebooks, and other similar personal items over which a student retains ownership during the course of study.~~

~~— G. "Eligible adult education student" means a person who is a legal resident of the United States, makes his true and permanent home in Utah, and:~~

~~— (1) is 17 years of age or older, and whose high school class has graduated;~~

~~— (2) is under 18 years of age and is married; or~~

~~— (3) has been adjudicated as an adult.~~

~~— H. "Enrollees" means adult students who have 12 or more contact hours within the adult education program.~~

~~— I. "Fee" means any charge, deposit, rental, or other mandatory payment, however designated, whether in the form of money or goods. Admission fees, transportation charges, and similar payments to third parties are fees if the charges are made in connection with an activity or function sponsored by or through a school. All fees are subject to approval by the local school board of education.~~

~~— J. "GED" means General Education Development. A program to provide instruction in subjects which leads to a GED certificate of completion.~~

~~— K. "GED Certificate of Completion" means a certificate issued by the Board acknowledging competency on the part of the certificate holder in the GED test areas.~~

~~— L. "Latest official census data" means statistical information used to determine the number of adults who need adult education services, and determined by:~~

— (1) individuals 18 years of age and older with less than a ninth grade education; or

— (2) individuals 18 years of age and older whose primary language is other than English; or

— (3) individuals 18 years of age and older without a high school diploma — ungraduated adults.

— M. "Measurable outcomes" means education results that lead to student progress in adult education. Funding is determined by measurable outcome percentages under R277-733-9.

— N. "Other eligible adult education student" means a person 16 to 18 years of age whose high school class has not graduated and is counted in the regular school program. The funds generated are credited to the adult education program.

— O. "Tuition" means the base cost of an adult education program providing services to the adult education student.

— P. "USOE" means the Utah State Office of Education.

R277-733-2. Authority and Purpose.

— A. This rule is authorized by Utah Constitution Article X, Section 3 which gives general control and supervision of the public school system to the Board, Section 53A-15-401 which places the general control and supervision of adult education under the Board, Section 53A-1-402(1) which allows the Board to adopt minimum standards for programs and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

— B. The purpose of this rule is to describe curriculum, program standards, allocation formulas, and operation procedures for the adult education program.

R277-733-3. Federal Adult Education.

— The Board adopts the Adult Education and Family Literacy Act, Chapter 2, Public Law 105-220, 20 U.S.C. 1201 et seq., hereby incorporated by reference, and the related current state plan required under that statute, as the standards and procedures governing the federally funded portion of its adult education program, available from the USOE Adult Education Section.

R277-733-4. Program Standards.

— A. Each eligible adult education student shall have a written Student Educational/Occupational Plan based upon an analysis of the student's goals and objectives, prior academic achievement, work experience and placement assessment data. The plan shall be signed by the student and a designated local school official.

— B. Local adult education programs shall make reasonable efforts to inform prospective students of the availability of the programs and provide enrollment information widely.

— C. Only courses identified in R277-733-7 qualify for adult education funds. Only 25 percent of an adult education student's credits toward graduation may be electives as identified under R277-733-7.

— D. Local adult education programs shall comply with state and federal requirements and Board rules. The USOE shall evaluate local programs to determine compliance.

R277-733-5. Fiscal Procedures.

— A. State funds appropriated for adult education are allocated in accordance with Section 53A-17a-119.

— B. No eligible school district shall receive less than its portion of a seven percent base amount of the state appropriation if:

— (1) instructional services approved by the USOE Adult Education Services have been provided to eligible adult students during the preceding fiscal year; or

— (2) the district is preparing to offer such services such a preparation period may not exceed two years.

— C. Lapsing and nonlapsing funds

— (1) Funds appropriated for adult education programs are subject to Board accounting, auditing, and budgeting rules.

— (2) State adult education funds which are allocated to local adult education programs and are not expended in a fiscal year may be carried over to the next fiscal year with written approval by the USOE. These funds may be considered in determining the district's allocation for the next fiscal year.

— D. The USOE shall develop uniform forms, deadlines, program reporting and accounting procedures, and guidelines to govern the state and federal adult basic skills and adult high school programs. The "Adult Education Guidelines for Fiscal, Student, and Program Accounting and Reporting" manual, July, 2003, includes these forms, procedures and guidelines and is available from the USOE.

R277-733-6. Adult Education Pupil Accounting.

— A. A student under 19 years of age who has not graduated and who is a resident of the district, may, with approval under the state administered Adult Education Program, enroll in the Adult Basic and Adult High School Completion Program and generate regular state WPU's at the rate of 990 clock hours of membership per one weighted pupil unit per year, 1 FTE on a yearly basis. The clock hours of students enrolled part time must be prorated.

— B. A student 17 years of age or over, without a high school diploma but whose high school class has graduated, who resides in the state of Utah, and who intends to graduate from high school, may enroll in the State Adult High School Completion Program. Student attendance up to 990 clock hours of membership is equivalent to 1 FTE per year.

— (1) The clock hours of students enrolled part time shall be prorated.

— (2) As an alternative, equivalent weighted pupil units may be generated for competencies mastered on the basis of prior authorization of a district plan by the USOE.

R277-733-7. Adult Basic Education and Adult High School Education Curriculum.

— A. Adult basic education shall consist of the following prerequisite courses to subsection R277-733-7B below:

— (1) English for Speakers of Other Languages (ESOL) competency levels one through six.

— (2) Adult Basic Education (ABE) competency levels one through four.

— B. Adult secondary education (ASE) shall satisfy ASE competency levels I and II requirements with a minimum of 24 credits as provided below:

— (1) Adult High School General Core Courses: 13.5 units of credit required:

— (a) English: 3.0;

— (b) mathematics: 2.0, elementary algebra or above;

— (c) science: 2.0, with a maximum of one credit in at least two of the following areas: (1) chemistry; (2) biological science; (3) earth science; (4) physics;

~~—(d) social studies: 3.0, 1.0 in United States history or American government; .5 in geography; .5 in world studies; 1.0 in elective social studies;~~

~~—(e) information technology: .5;~~

~~—(f) career and technical education: 1.0;~~

~~—(g) fine arts: 1.0;~~

~~—(h) healthy life styles: 1.0.~~

~~—(2) Adult High School completion shall satisfy requirements outlined in R277-600-6 and shall be consistent with R277-733-4C.~~

~~R277-733-8. Adult Education Programs—Tuition and Fees.~~

~~—A. Any adult may enroll in an adult education class as provided in Section 53A-15-404.~~

~~—B. Tuition and fees shall be charged for literacy courses and adult high school general courses in an amount not to exceed \$100 annually per student based on the student's ability to pay as determined by federal free and reduced lunch guidelines, under the Richard B. Russell National School Lunch Act, 42 USC 1751, et seq. The appropriate student fees and tuition shall be determined by the local school board.~~

~~—C. Adult education tuition and fees shall be waived or students shall be offered appropriate work in lieu of waivers for students who are younger than 18, qualify for fee waivers under R277-407, and their class has not graduated.~~

~~—D. Tuition may be charged for courses that satisfy requirements outlined in R277-700-6 and subject to R277-733-4C, when adequate state or local funds are not available.~~

~~—E. Fees may be charged for consumable and nonconsumable items necessary for adult high school general core courses, courses that satisfy requirements outlined in R277-700-6 and subject to R277-733-4C, and adult high school general core courses, consistent with the definitions under R277-733-1F and R277-733-1I.~~

~~R277-733-9. Allocation of Adult Education Funds.~~

~~—Adult education funds shall be distributed to school districts according to the following:~~

~~—A. Base amount—7 percent of appropriation or \$13,000, whichever is greater, to be distributed equally to each district with USOE approved plan.~~

~~—B. Latest official census data, as defined in R277-733-1I, at a decreasing rate per year until reaching zero percent: 15 percent of appropriation for FY 04, 10 percent for FY 05, five percent for FY 06, zero percent for FY 07, and zero percent thereafter.~~

~~—C. Measurable outcomes, as defined in R277-733-1M, on an increasing rate per year until reaching 50 percent: 35 percent of appropriation for FY 04, 40 percent for FY 05, 45 percent for FY 06, and 50 percent for FY 07 and 50 percent thereafter. Funds shall be distributed among measurable outcomes as follows:~~

~~—(1) number of high school diplomas awarded—30 percent of the total funds available;~~

~~—(2) number of GED certificates awarded—25 percent of the total funds available;~~

~~—(3) number of level gains: ESOL levels 1-6 and ABE competency levels 1-4—30 percent of the total funds available;~~

~~—(4) number of high school credits earned by students—15 percent of the total funds available.~~

~~—D. Enrollees as defined by federal regulations—25 percent of appropriation.~~

~~—E. Supplemental support, to be distributed to school districts for special program needs or professional development as determined by written request and USOE evaluation of need and~~

~~approval—2 percent or balance of appropriation whichever is smaller.~~

~~—F. Student participation, total number of contact hours between adult student and adult education program—16 percent.]~~

R277-733. Adult Education Programs.

R277-733-1. Definitions.

A. "Adult" means a person 18 years of age or over.

B. "Adult education" means organized educational programs, other than regular full-time and summer education and secondary schools/programs/courses, provided by school districts or nonprofit organizations affording opportunities for out-of-school youth and adults who have or have not graduated from high school, to improve their literacy levels and to further their high school level education.

C. "Adult Basic Education (ABE)" means a program of instruction below the 9.0 academic grade level for adults who lack competency in reading, writing, speaking, problem solving or computation at a level that substantially impairs their ability to find or retain adequate employment that will allow them to become employable, contributing members of society and preparing them for advanced education and training. The instruction is designed to help adults by:

(1) increasing their independence;

(2) improving their ability to benefit from occupational training;

(3) increasing opportunities for more productive and profitable employment; and

(4) making them better able to meet adult responsibilities.

D. "Adult Education and Family Literacy Act (AEFLA)" means Title II of the Workforce Investment Act (WIA) of 1998 which provides the principle source of federal support for adult basic and literacy education programs for adults who lack basic skills, an adult education secondary school diploma, or proficiency in English.

E. "Adult High School Completion (AHSC)" means a program of academic instruction at the 9.0 grade level or above in Board-approved subjects for eligible adult education students who are seeking:

(1) an adult education secondary education diploma from an adult education program; or

(2) a certificate of GED.

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

G. "Certificate of GED" means a certificate issued by the USOE to an individual who has successfully passed all five subject areas of the GED based on Utah passing standards; measuring the major and lasting outcomes and concepts associated with a traditional four-year high school education.

H. "Community-Based Organization (CBO)" means a nonprofit organization:

(1) eligible for and accepting federal AEFLA funds; and

(2) for the sole purpose of providing adult education services to qualified adult education learners.

(3) All rules and laws that apply to schools/school districts shall also apply to CBOs that receive adult education funding.

(4) CBOs:

(a) apply to the USOE;

(b) receive adult education funding through a competitive process; and

(c) receive USOE funding on a reimbursement basis only.

I. "Consumable items" means student workbooks, student packets, computer disks, pencils, papers, notebooks, and other similar personal items for which a student retains ownership during the course of study.

J. "Desk monitoring" means the review of UTopia data to ensure program integrity.

K. "Eligible adult education student" means a person making his primary and permanent home in Utah, and:

(1) is 17 years of age or older, and whose high school class has graduated; or

(2) is under 18 years of age and is married; or

(3) has been adjudicated as an adult; or

(4) is an out-of-school youth 16 years of age or older who has not graduated from high school.

L. "Enrollee" means an adult student who has 12 or more contact hours in an adult education program during a fiscal/program year, has completed an intake, academic assessment, established Entering Functioning Level, and who has an adult education Student Education Occupation Plan (SEOP).

M. "Fee" means any charge, deposit, rental, or other mandatory payment, however designated, whether in the form of money or goods. Admission fees, transportation charges, and similar payments to third parties are fees if the charges are made in connection with an activity or function sponsored by or through an adult education program. All fees are subject to approval by the local school board of education or local board of trustees.

N. "General Educational Development (GED)" means a program intended to provide instruction in five specific subject areas which may lead to a certificate of GED.

O. "Latest official census data" means the most current statistical information available used to determine the number of adults who need adult education services, and determined by:

(1) individuals 16 years of age and older; or

(2) individuals 16 years of age and older whose primary language is other than English; or

(3) individuals 16 years of age and older without a high school diploma - ungraduated adults.

P. "Measurable outcomes" means indicators of student achievement in adult education programs resulting in state funding. These outcomes are described in R277-733-9.

Q. "Other eligible adult education student" means a person 16 to 18 years of age whose high school class has not graduated and is counted in the regular school program. The funds generated, WPU or collected fees or both, are credited to the adult education program for attendance in an adult education program.

R. "Out-of-school youth" means a student 16 years of age or older who has not graduated from high school and is no longer enrolled in a K-12 program of instruction.

S. "Participant" means an adult education student who generates less than twelve contact hours in a fiscal/program year and does not meet the qualifications of an adult education enrollee.

T. "Tuition" means the base cost of an adult education program providing services to the adult education student.

U. "USOE" means the Utah State Office of Education.

V. "Waiver release form" means a form signed at least annually by an adult education student allowing for release of the student's personal data and student education occupation plan, including social security number and GED scores, for data matching purposes with agencies such as the Department of Workforce Services, higher education, Utah State Office of Rehabilitation and GED Scoring Services. Signed waiver release allows a student's education records to be shared with other adult education programs or interested agencies for the purpose of skill development, job training or career planning, or other purposes.

R277-733-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which gives general control and supervision of the public school system to the Board, Section 53A-15-401 which places the general control and supervision of adult education under the Board, Section 53A-1-402(1) which allows the Board to adopt minimum standards for programs and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to describe curriculum, program standards, allocation formulas, and operation procedures for the adult education program.

R277-733-3. Federal Adult Education.

The Board adopts the Adult Education and Family Literacy Act, Title II of the Workforce Investment Act (WIA), Public Law 105-220, 20 U.S.C. 1201 et seq., hereby incorporated by reference, and the related current state plan required under that statute, as the standards and procedures governing the federally-funded portion of its adult education program, available from the USOE Adult Education Section.

R277-733-4. Program Standards.

A. Local Utah adult education programs shall comply with state and federal requirements and Board rules and follow procedures as defined in the Utah Adult Education Policy and Procedures Guide published, updated, and available from the USOE.

B. Local Utah adult education programs shall make reasonable efforts to inform prospective students within their geographic areas of the availability of the programs and provide enrollment information.

C. Adult education programs/courses may also be made available to Utah residents who are between the ages of 16 and 18, as determined necessary by local adult education programs.

D. Local adult education programs shall make reasonable efforts to schedule classes at local community sites and times that meet the needs of adult education students.

E. Each eligible adult education student shall have a written student educational/occupational plan (SEOP) defining the student's goal(s) based upon a complete academic assessment, prior academic achievement, work experience and an established Entering Functioning Level. Annually, the plan shall be reviewed by the student and a designated program official and maintained in the student's file along with a signed data matching/agency sharing waiver release form.

F. Only courses identified in R277-733-7 qualify for adult education funds.

G. Local adult education programs shall establish and maintain a local adult education advisory committee consisting of representation from the Department of Workforce Services, Vocational Office of Rehabilitation, higher education and other interested community members with the responsibility to advocate for exemplary adult education programs through collaboration and partnerships with businesses and other community agencies.

H. The USOE shall evaluate local programs through tri-annual site monitoring visits, desk monitoring, and as needed, additional site visits or both, to assure compliance.

R277-733-5. Fiscal Procedures.

A. State funds appropriated for adult education are allocated in accordance with Section 53A-17a-119.

B. No eligible school district shall receive less than its portion of a seven percent base amount of the state appropriation if:

(1) instructional services approved by the USOE have been provided to eligible adult students during the preceding fiscal year;
or

(2) the school district is preparing to offer such services--such a preparation period may not exceed two years.

C. Lapsing and nonlapsing funds

(1) Funds appropriated for adult education programs shall be subject to Board accounting, auditing, and budgeting rules.

(2) State adult education funds which are allocated to school district adult education programs and are not expended in a fiscal year may be carried over to the next fiscal year with written approval by the USOE. These funds may be considered in determining the school district's allocation for the next fiscal year. Carried over funds shall be expended within the next fiscal year. If funds are not expended, they shall be recaptured by the USOE on February 1 of each program year, and reallocated to other school district adult education programs based on need and effort as determined by the Board consistent with Section 53A-17a-119(3).

D. The USOE shall develop uniform forms, deadlines, program reporting and accounting procedures, and guidelines to govern the state (legislative) and federal AEFLA adult education programs. The Utah Adult Education Policy and Procedures Guide, July, 2006 (updated annually) including forms, procedures and guidelines is available on the USOE adult education website.

R277-733-6. Adult Education Pupil Accounting.

A. A student who is at least 16 years of age but less than 19 years of age, who has not graduated from high school, who is a resident of a Utah school district, and who is enrolled in a K-12 program, may, with approval under the state administered Adult Education Program, also enroll in an adult education program. The regular state WPU's at the rate of 990 clock hours of membership per one weighted pupil unit per year, 1 FTE on a yearly basis, shall follow the student. The clock hours of students enrolled part-time shall be prorated within/by the school district.

B. A student 17 years of age or older, without a high school diploma but whose high school class has graduated, who is a Utah resident, and who intends to graduate from a K-12 high school, may enroll in the State Adult High School Completion Program. Student attendance up to 990 clock hours of membership is equivalent to 1 FTE per year.

(1) The clock hours of students enrolled part-time shall be prorated.

(2) As an alternative, equivalent weighted pupil units may be generated for competencies mastered on the basis of prior authorization of a school district plan by the USOE.

C. An out-of-school youth (minimum age of 16) who has not graduated from high school, may with parental/guardian written approval (if applicable) and school district administrative written approval, enroll in an adult education program:

(1) The WPU shall not be generated by the student's participation in an adult education program.

(2) This student shall be eligible for adult education state funding.

(3) This student may only receive an adult education diploma.

D. For purposes of funding the regular basic adult education program, a student can only be a pupil in average daily membership once on any day. If the student's day is part-time in the regular

school program and part-time in the adult education program, the student's membership shall be reported on a prorated basis for each program. A student may not be funded for more than one regular WPU for any school year.

R277-733-7. Program, Curriculum, Outcomes and Student Mastery.

A. The Utah Adult Education Program shall offer courses consistent with the Core curriculum under R277-700.

B. The Core curriculum and teaching strategies may be modified or adjusted to meet the individual needs of the adult education student.

C. Written course descriptions for AHSC required and elective courses shall be developed by school district adult education programs for all classes taught, consistent with the Utah Core curriculum and Utah adult education curriculum standards, as provided by the USOE.

D. Written course descriptions for English for Speakers of Other Languages (ESOL) and ABE courses shall be developed cooperatively by school districts, CBOs and the USOE based on Utah Core curriculum standards, modified for adult learners.

E. Course descriptions shall contain adult education mastery criteria and shall stress mastery of adult life skill course material consistent with Core objective standards and the Core curriculum.

F. Course content mastery shall be stressed rather than completion of predetermined seat time in a classroom.

G. Adult high school completion education is determined by the following prerequisite courses:

(1) ESOL competency levels one through six;

(2) ABE competency levels one through four.

H. Beginning January 1, 2008, AHSC students shall satisfy federal AHSC Levels I and II competency requirements with a minimum of 24 credits under the direction of a Utah licensed teacher as provided below:

(1) Adult High School Core Courses, as offered consistent with Utah Core objectives:

(a) 24.0 units of credit required through satisfaction of a course of study by demonstrated course competency or school district approved competency examination in correlation with the student's SEOP career focus;

(b) awarded adult education credit options including continuous professional employment training required for a professional license; or

(c) documented achievement of a trade or skill, basic or advanced military training;

(d) apprenticeship, union or registered work credentials;

(e) successful completion of the GED exam; academic credit for successfully passing the GED exam may only be applied toward an adult education diploma;

(f) transcribed college or university courses as they align to the following Core instructional areas:

(i) Language Arts: 3.0;

(ii) mathematics: 2.0, individualized mathematics courses to meet the life needs of adult learners;

(iii) science: 2.0, from the four science areas of chemistry, biological science, earth science, or physics;

(iv) social studies: 2.50, 1.0 in United States history, .50 in United States government and civics, .50 in geography; and .50 in world civilizations;

(v) arts: 1.50;

(vi) healthy lifestyles: 2.0, individualized courses meeting the life needs of adult learners that include: .25 - 1.50 health education, .25 - 1.50 individualized fitness for life courses;

(vii) career and technical education (CTE): 1.00;

(viii) general financial literacy: .50;

(ix) education technology: .50 computer technology courses or successful completion of school district approved competency examination;

(x) electives: 9.0 units of credit.

I. Through December 31, 2007, adult education students may qualify for adult education diplomas from local programs by satisfying adult education graduation requirements provided in R277-733-7I or by satisfying the requirements including prerequisites, outlined in R277-733-7H(1) through (3).

(1) English for Speakers of Other Languages (ESOL) competency levels one through six.

(2) Adult Basic Education (ABE) competency levels one through four.

(3) Adult secondary education (ASE) shall satisfy ASE competency Levels I and II requirements with a minimum of 24 credits as provided below:

(a) Adult High School General Core Courses: 13.5 units of credit required:

(i) English: 3.0;

(ii) mathematics: 2.0, elementary algebra or above;

(iii) science: 2.0, with a maximum of one credit in at least two of the following areas: chemistry; biological science; earth science; physics;

(iv) social studies: 3.0, 1.0 in United States history or American government; .5 in geography; .5 in world studies; 1.0 in elective social studies;

(v) information technology: .5;

(vi) career and technical education: 1.0;

(vii) fine arts: 1.0;

(viii) healthy life styles: 1.0.

(b) The additional 10.5 required units of credit may be satisfied with elective courses.

J. Adult education students proposing to earn an adult education diploma between January 2, 2008 and June 2008 who, due to specific, compelling circumstances, including documentation of those circumstances, are not able to satisfy graduation requirements of R277-733-7H(1) through (3), may appeal directly to the USOE Adult Education Director for a review of the compelling circumstances and the students' credits. The USOE Adult Education Director shall have sole discretion to review the students' credits and circumstances and determine if a diploma shall be awarded only through June 30, 2008.

K. The USOE Adult Education Section and local education programs shall disseminate clear information regarding revised adult education graduation requirements to all adult education students enrolled in Utah adult education courses as of October 1, 2007.

L. Graduation requirements may be changed or modified, or both, for adult students with documented disabilities through Individual Education Plans (IEPs) from age 16 up until their 22nd birthday or an adult education SEOP, or both to meet unique educational needs.

M. A student's IEP or adult education SEOP shall document the nature and extent of modifications, substitutions, or exemptions made to accommodate the student's disability(ies).

N. Modified graduation requirements for individual students shall:

(1) be consistent with the student's IEP or SEOP, or both;

(2) be maintained in the student's files;

(3) maintain the integrity and rigor expected for AHSC graduation.

O. School districts shall establish policies:

(1) allowing or disallowing adult education students participation in graduation activities or ceremonies; and

(2) allowing or disallowing adult education students from participating in the Utah Basic Skills Competency Test (UBSCT).

P. An adult education student may only receive an Adult Education Secondary diploma earned through a designated Utah adult education program.

Q. Adult education programs shall accept credits and grades awarded to students from other state recognized adult education programs, schools accredited by the Northwest Association of Accredited Schools or schools or programs approved by the Board without alteration.

R. Adult education programs may establish reasonable timelines and may require adequate and timely documentation of authenticity for credits and grades submitted from schools or private providers.

S. A school district/adult education program is the final decision-making authority for the awarding of credit and grades from non-accredited sources.

R277-733-8. Adult Education Programs--Tuition and Fees.

A. Any adult may enroll in an adult education class consistent with Section 53A-15-404.

B. Tuition and fees shall be charged for ABE, AHSC, or ESOL courses in an amount not to exceed \$100 annually per student based on the student's ability to pay as determined by federal free and reduced lunch guidelines, under the Richard B. Russell National School Lunch Act, 42 USC 1751, et seq. The appropriate student fees and tuition shall be determined by the local school board or CBO board of trustees.

C. Adults who are or may attend adult education programs shall be given adequate notice of program tuition and fees through public posting. Any charged tuition or fees shall be set and reviewed annually.

D. Adult education tuition and fees shall be waived or students shall be offered appropriate work in lieu of waivers for students who are younger than 18, qualify for fee waivers under R277-407, and their class has not graduated.

E. Tuition may be charged for courses that satisfy requirements outlined in R277-733-8B, when adequate state or local funds are not available.

F. Fees may be charged for consumable and nonconsumable items necessary for adult high school courses that satisfy requirements outlined in R277-733-8B, consistent with the definitions under R277-733-1E and R277-733-1I.

G. Fees and tuition charged and collected by adult education programs shall be reasonable and necessary as determined by the local boards of education or boards or trustees.

H. Collected fees and tuition shall be used specifically to provide additional adult education and literacy services that the program would otherwise be unable to provide.

I. The local program superintendent/chief executive officer and business administrator shall acknowledge by signature as part of the program's grant plan (state or federal, or both) submission and program assurances that all fees and tuition collected and submitted for accounting purposes are:

(1) returned/delegated with the exception of indirect costs to the local adult education program;

(2) used solely and specifically for adult education programming;

(3) not withheld and maintained in a general maintenance and operation fund.

J. All collected fees and tuition generated from the previous fiscal year shall be spent in the adult education program in the ensuing program year.

K. Collected fees and tuition may not be counted toward meeting federal matching, cost sharing or maintenance of effort requirements related to the local program's award.

L. Annually, local programs shall report to the school district or community-based organization all fees and tuition collected from students associated with each funding source.

M. Fees and tuition collected from adult education students shall not be commingled or reported with community education funds or any other public education fund.

R277-733-9. Allocation of Adult Education Funds.

Adult education state funds shall be distributed to school districts offering adult education programs consistent with the following:

A. Base amount distributed equally to each participating school district with a Board-approved adult education plan and budget - 7 percent of appropriation.

B. Enrollees (not participants) as defined in R277-733-1L - 25 percent of appropriation.

C. Contact hours (instructional and non-instructional) for both enrollees and participants - 16 percent of appropriation.

D. Measurable outcomes, outlined below, based upon state funds, shall be distributed to school districts - 50 percent of appropriation as follows:

(1) number of enrollee adult education secondary diplomas awarded - 30 percent of the 50 percent available;

(2) number of enrollee certificates of GED awarded - 25 percent of the 50 percent available;

(3) number of enrollee level gains: ESOL competency levels 1-6, ABE competency levels 1-4, and AHSC competency levels 1-2 - 30 percent of the 50 percent available;

(4) number of enrollee and participant adult education completed secondary credits - 15 percent of the 50 percent available.

E. Supplemental support, to be distributed to school districts for special program needs or professional development, as determined by written request and USOE evaluation of need and approval - 2 percent or balance of appropriation, whichever is smaller.

(1) Any school district with pre-approved carryover adult education funds from the previous fiscal year is ineligible for supplemental funding.

(2) For the first quarter of the fiscal year (July through September) priority of supplemental funding shall be given to school districts whose initial adult education allocation is less than 1 percent of the state allotted total, as indicated on the state allocation table.

(3) Any balance of supplemental funds after the first quarter of the fiscal year may be applied for by all remaining eligible school districts.

F. Funds, state (flow through) or federal (reimbursement) or both, may be withheld for noncompliance with state policy and

procedures and associated reporting timelines as defined by the USOE.

R277-733-10. Adult Education Records and Audits.

A. Official Records: To validate student outcomes, local programs shall maintain records for each program site in perpetuity which clearly and accurately show for each student:

(1) complete student intake(s);

(2) signed data matching/agency sharing waiver(s) of release as defined under R277-733-4E.

(3) copies of student assessments validating pre and post assessment outcomes, transcribed grade data including previous report cards, transcripts, work verification, military training, professional licenses, union or registered work credentials, GED certificates showing successful passing of all five areas of the GED exam.

B. Audits:

(1) To ensure valid and accurate student data, all programs accepting either state or federal adult education funds, or both, shall be entered and maintained in the Utah Online Performance Information for Adult Education (UTopia) data system.

(2) Annually, an independent auditor shall be retained by each school district and CBO to audit student accounting records to verify UTopia data entries.

(3) Reports of accuracy shall be completed and submitted to the school districts' boards of education, the CBOs boards' of trustees and the USOE.

(4) The USOE shall receive the final auditor report by September 15 annually.

(5) Independent audit reporting dates, forms, and procedures are available in the state of Utah Legal Compliance Audit Guide provided to the school districts and CBOs by the USOE in cooperation with the State Auditors's Office and published under the heading of APPC-5.

(6) USOE Adult Education Services program staff shall conduct tri-annual program reviews of each program to ensure accuracy of program data and program compliance. Desk monitoring shall be completed during years when tri-annual reviews are not performed. Additional informal monitoring or reviews or site visits may be conducted as necessary.

(7) The USOE shall review for cause school district or CBO records and practices for compliance with the law and this rule.

KEY: adult education

Date of Enactment or Last Substantive Amendment: ~~February 1, 2005~~ 2007

Notice of Continuation: October 5, 2007

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-15-401; 53A-1-402(1); 53A-1-401(3); ~~53A-15-404; 53A-12-101~~ 53A-17a-119; 53A-15-404



Environmental Quality, Water Quality

R317-1-4

Utilization and Isolation of Domestic
Wastewater Treatment Works Effluent

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 30639

FILED: 11/01/2007, 08:59

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment reorganizes water reuse system design requirements, supporting new proposed Rules R317-13 and R317-14. (DAR NOTE: The proposed new Rule R317-13 is under DAR No. 30637 and the proposed new Rule R317-14 is under DAR No. 30636 in this issue, November 15, 2007, of the the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: This amendment consolidates water reuse system technical requirements into a more appropriate section of the water quality rules. Existing design requirements were transferred from Section R317-1-4, "Utilization and Isolation of Domestic Wastewater Treatment Works Effluent", into Section R317-3-11, "Land Application of Wastewater Effluents". The net effect of this consolidation is to unify and streamline design requirements, eliminating potential rule conflicts and redundancies. (DAR NOTE: The proposed amendment to R317-3-11 is under DAR No. 30638 in this issue, November 15, 2007, of the the Bulletin.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-5-105

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There are no anticipated impacts to the state budget. Existing rules were reorganized and unified by this rule change. No new requirements were established and no current requirements were removed. The proposed amendment will be implemented using existing resources.
- ❖ LOCAL GOVERNMENTS: None--Existing rules were reorganized and unified by this rule change. No new requirements were established and no current requirements were removed. This change should simplify interpretation of existing rules; any cost impact would be beneficial.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--Existing rules were reorganized and unified by this rule change. No new requirements were established and no current requirements were removed. This change should simplify interpretation of existing rules; any cost impact would be beneficial.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No change in compliance costs are anticipated. No new requirements were established and no current requirements were removed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated. Existing rules were unified by this rule change. No new requirements were established and no current requirements were removed. This change should simplify interpretation of existing rules. Rick Sprott, Executive Director

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

ENVIRONMENTAL QUALITY
WATER QUALITY
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:

Dave Wham at the above address, by phone at 801-538-6052, by FAX at 801-538-6016, or by Internet E-mail at dwham@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/17/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 12/24/2007

AUTHORIZED BY: Walter Baker, Director

R317. Environmental Quality, Water Quality.**R317-1. Definitions and General Requirements.****R317-1-4. Utilization and Isolation of Domestic Wastewater Treatment Works Effluent.**

4.1 Untreated Domestic Wastewater. Untreated domestic wastewater or effluent not meeting secondary treatment standards as defined by these regulations shall be isolated from all public contact until suitably treated. Land disposal or land treatment of such wastewater or effluent may be accomplished by use of an approved total containment lagoon as defined in R317-3 or by such other treatment approved by the Board as being feasible and equally protective of human health and the environment.

~~[4.2 Submittal of Reuse Project Plan. If a person intends to reuse or provide for the reuse of treated domestic wastewater directly for any purpose, except on the treatment plant site as described in R317-1-4.6, a Reuse Project Plan must be submitted to and approved by the Division of Water Quality. A copy of the plan must also be submitted to the local health department. Any needed construction of wastewater treatment and delivery systems would also be covered by a construction permit as required in section R317-1-2.2 of this rule. The plan must contain the following information. At least items A, B, C, E and F should be provided before construction begins. All items must be provided before any water deliveries are made.~~

~~— A. A description of the source, quantity, quality, and use of the treated wastewater to be delivered, the location of the reuse site, an assessment of the direct hydrologic effects of the action, and how the requirements of this rule would be met. A nutrient management and agronomic uptake analysis may be required to document the proposed management of all nutrients.~~

~~— B. A description of public notification and participation in the development of the Reuse Project Plan may be required.~~

~~— C. Evidence that the State Engineer has agreed that the proposed reuse project planned water use is consistent with the water rights for the sources of water comprising the flows to the treatment plant which will be used in the reuse project.~~

— D. An operation and management plan to include:

— 1. A copy of the contract with the user, if other than the treatment entity.

— 2. A labeling and separation plan for the prevention of cross connections between reuse water distribution lines and potable water lines. Guidance for distribution systems is available from the Division of Water Quality.

— 3. Schedules for routine maintenance.

— 4. A contingency plan for system failure or upsets.

— E. If the water will be delivered to another entity for distribution and use, a copy of the contract covering how the requirements of this rule will be met.

— F. Requirements for ground water discharge permits, underground injection control (U.I.C.) permits, surface water discharge permits, total maximum daily load (TMDL) or nutrient loading considerations, if required, shall be determined in accordance with R317-1, R317-2, R317-6, R317-7, R317-8.

— 4.3 Use of Treated Domestic Wastewater Effluent Where Human Exposure is Likely (Type I)

— A. Uses Allowed

— 1. Residential irrigation, including landscape irrigation at individual houses.

— 2. Urban uses, which includes non-residential landscape irrigation, golf course irrigation, toilet flushing, fire protection, and other uses with similar potential for human exposure. Internal building uses of reuse water will not be allowed in individual, wholly-owned residences; and are only permitted in situations where maintenance access to the building's utilities is strictly controlled and limited only to the services of a professional plumbing entity. Projects involving effluent reuse within a building must be approved by the local building code official.

— 3. Irrigation of food crops where the applied reuse water is likely to have direct contact with the edible part. Type I water is required for all spray irrigation of food crops.

— 4. Irrigation of pasture for milking animals.

— 5. Impoundments of wastewater where direct human contact is likely to occur.

— 6. All Type II uses listed in 4.4.A below.

— B. Required Treatment Processes

— 1.a. Treatment processes that are expected to produce effluent in which both the BOD and total suspended solids concentrations do not exceed secondary quality effluent limits as defined in R317-1-3.2.

— b. Filtration, which includes passing the wastewater through filter media such as sand and/or anthracite or approved membrane processes.

— c. Disinfection to destroy, inactivate, or remove pathogenic microorganisms by chemical, physical, or biological means. Disinfection may be accomplished by chlorination, ozonation, or other chemical disinfectants, UV radiation, or other approved processes.

— 2. Other approved treatment processes in which any of the unit process functions of secondary treatment, filtration and disinfection may be combined, but still achieve the same secondary quality effluent limits as required above.

— C. Water Quality Limits. The quality of effluent before use must meet the following standards. Testing methods and procedures shall be performed according to test procedures approved under R317-2-10, or as otherwise approved by the Executive Secretary.

— 1. The monthly arithmetic mean of BOD shall not exceed 10 mg/l as determined by composite sampling conducted once per week. Composite samples shall be comprised of at least six flow proportionate samples taken over a 24-hour period.

— 2. The daily arithmetic mean turbidity shall not exceed 2 NTU, and turbidity shall not exceed 5 NTU at any time. Turbidity shall be measured continuously. The turbidity standard shall be met prior to disinfection. If the turbidity standard cannot be met, but it can be demonstrated to the satisfaction of the Executive Secretary that there exists a consistent correlation between turbidity and the total suspended solids, then an alternate turbidity standard may be established. This will allow continuous turbidity monitoring for quality control while maintaining the intent of the turbidity standard, which is to have 5 mg/l total suspended solids or less to assure adequate disinfection.

— 3. The weekly median *E. coli* concentration shall be none detected, as determined from daily grab samples, and no sample shall exceed 9 organisms/100 ml.

— 4. The total residual chlorine shall be measured continuously and shall at no time be less than 1.0 mg/l after 30 minutes contact time at peak flow. If an alternative disinfection process is used, it must be demonstrated to the satisfaction of the Executive Secretary that the alternative process is comparable to that achieved by chlorination with a 1 mg/l residual after 30 minutes contact time. If the effectiveness cannot be related to chlorination, then the effectiveness of the alternative disinfection process must be demonstrated by testing for pathogen destruction as determined by the Executive Secretary. A 1 mg/l total chlorine residual is recommended after disinfection and before the reuse water goes into the distribution system.

— 5. The pH as determined by daily grab samples or continuous monitoring shall be between 6 and 9.

— D. Other Requirements

— 1. An alternative disposal option or diversion to storage must be automatically activated if turbidity exceeds the maximum instantaneous limit for more than 5 minutes, or chlorine residual drops below the instantaneous required value for more than 5 minutes, where chlorine disinfection is used.

— 2. Any irrigation must be at least 50 feet from any potable water well. Impoundments of reuse water, if not sealed, must be at least 500 feet from any potable water well. The use should not result in a surface runoff and must not result in the creation of an unhealthy or nuisance condition, as determined by the local health department.

— 3. For residential landscape irrigation at individual homes, additional quality control restrictions may be required by the Executive Secretary. Proposals for such uses should also be submitted to the local health authority to determine any conditions they may require. When secondary residential irrigation systems are planned utilizing reuse water in new subdivisions, it is recommended that a notification of the type of irrigation system and possible sources of irrigation waters be made on the deed for the property. Such notification could be made during the plat approval process.

— 4.4 Use of Treated Domestic Wastewater Effluent Where Human Exposure is Unlikely (Type II)

— A. Uses Allowed

— 1. Irrigation of sod farms, silviculture, limited access highway rights of way, and other areas where human access is restricted or unlikely to occur.

— 2. Irrigation of food crops where the applied reuse water is not likely to have direct contact with the edible part, whether the food will be processed or not (spray irrigation not allowed).

— 3. Irrigation of animal feed crops other than pasture used for milking animals.

— 4. Impoundments of wastewater where direct human contact is not allowed or is unlikely to occur.

—5. Cooling water. Use for cooling towers which produce aerosols in populated areas may have special restrictions imposed.

—6. Soil compaction or dust control in construction areas.

—B. Required Treatment Processes

—1. Treatment processes that are expected to produce effluent in which both the BOD and total suspended solids concentrations do not exceed secondary quality effluent limits as defined in R317-1-3.2.

—2. Disinfection to destroy, inactivate, or remove pathogenic microorganisms by chemical, physical, or biological means. Disinfection may be accomplished by chlorination, ozonation, or other chemical disinfectants, UV radiation, or other approved processes.

—C. Water Quality Limits. The quality of effluent before use must meet the following standards. Testing methods and procedures shall be performed according to test procedures approved under R317-2-10, or as otherwise approved by the Executive Secretary.

—1. The monthly arithmetic mean of BOD shall not exceed 25 mg/l as determined by composite sampling conducted once per week. Composite samples shall be comprised of at least six flow proportionate samples taken over a 24-hour period.

—2. The monthly arithmetic mean total suspended solids concentration shall not exceed 25 mg/l as determined by daily composite sampling. The weekly mean total suspended solids concentration shall not exceed 35 mg/l. Properly calibrated, continuous monitoring of turbidity may be substituted for the suspended solids testing.

—3. The weekly median E. coli concentration shall not exceed 126 organisms/100 ml, as determined from daily grab samples, and no sample shall exceed 500 organisms/100 ml.

—4. The pH as determined by daily grab samples or continuous monitoring shall be between 6 and 9.

—5. At the discretion of the Executive Secretary, the sampling frequency to determine compliance with water quality limits for effluent from lagoon systems used to irrigate agricultural crops, may be reduced to monthly grab sampling for BOD, and weekly grab sampling for E. coli, TSS and pH. The Water Quality Board may also allow a relaxation of lagoon effluent BOD and suspended solids concentrations, in accordance with R317-1-3.2.

—D. Other Requirements

—1. An alternative disposal option or diversion to storage must be available in case quality requirements are not met.

—2. Any irrigation must be at least 300 feet from any potable water well. Spray irrigation must be at least 100 feet from areas intended for public access. This distance may be reduced or increased by the Executive Secretary, based on the type of spray irrigation equipment used and other factors. Impoundments of reuse water, if not sealed, must be at least 500 feet from any potable water well. The use should not result in a surface runoff and must not result in the creation of an unhealthy or nuisance condition, as determined by the local health department.

—3. Public access to effluent storage and irrigation or disposal sites shall be restricted by a stock-tight fence or other comparable means which shall be posted and controlled to exclude the public.

—4.5 Records. Records of volume and quality of treated wastewater delivered for reuse shall be maintained and submitted monthly in accordance with R317-1-2.7. If monthly operating reports are already being submitted to the Division of Water Quality, the data on water delivered for reuse may be submitted on the same form.

—[4.6]4.2 Use of Secondary Effluent at Plant Site. Secondary effluent may be used at the treatment plant site in the following manner provided there is no cross-connection with a potable water system:

A. Chlorinator injector water for wastewater chlorination facilities, provided all pipes and outlets carrying the effluent are suitably labeled.

B. Water for hosing down wastewater clarifiers, filters and related units, provided all pipes and outlets carrying the effluent are suitably labeled.

C. Irrigation of landscaped areas around the treatment plant from which the public is excluded.[]

—4.7 Other Uses of Effluents. Proposed uses of effluents not identified above, including industrial uses, shall be considered for approval by the Board based on a case-specific analysis of human health and environmental concerns.

—4.8 Reuse Water Distribution Systems. Where reuse water is to be provided by pressure pipeline, unless contained in surface pipes wholly on private property and for agricultural purposes, the following requirements will apply. The requirements will apply to all new systems and it is recommended that the accessible portions of existing reuse water distribution systems be retrofitted to comply with these rules. Requirements for secondary irrigation systems proposed for conversion from use of non-reuse water to use with reuse water will be considered on an individual basis considering protection of public health and the environment. Any person or agency that is constructing all or part of the distribution system must obtain a construction permit from the Division of Water Quality prior to beginning construction.

—A. Distribution Lines

—1. Minimum Separation.

a. Horizontal Separation. Reuse water main distribution lines parallel to potable (culinary) water lines should be installed in separate trenches. Reuse water main distribution lines parallel to sanitary sewer lines shall be installed at least ten feet horizontally from the sanitary sewer line if the sanitary sewer line is located above the reuse water main and three feet horizontally from the sanitary sewer line if the sanitary sewer line is located below the reuse water main.

b. Vertical Separation. At crossings of reuse water main distribution lines with potable water lines and sanitary sewer lines the order of the lines from lowest in elevation to highest should be: sanitary sewer line, reuse water line, and potable water line. A minimum 18 inches vertical separation between the reuse water line and sewer line shall be provided as measured from outside of pipe to outside of pipe. The crossings shall be arranged so that the reuse water line joints will be equidistant and as far as possible from the water line joints and the sewer line joints. If the reuse water line must cross above the potable water line, the vertical separation should be a minimum 18 inches. If the reuse water line must cross below the sanitary sewer line, the vertical separation shall be a minimum 18 inches and the reuse water line shall be encased in a continuous pipe sleeve to a distance on each side of the crossing equal to the depth of the reuse water line from the ground surface.

c. Special Provisions. Where the horizontal and/or vertical separation as required above cannot be maintained, special construction requirements shall be provided in accordance with requirements in R317-3 for protection of potable water lines and reuse water lines. Existing pressure lines carrying reuse water shall not be required to meet these requirements.

—2. Depth of Installation. To provide protection of the installed pipeline, reuse water lines should be installed with a minimum depth of bury of three feet.

—3. Reuse Water Pipe Identification.

a. General. All new buried pipe within the public domain, including service lines, valves, and other appurtenances, shall be

colored purple, Pantone 522 or equivalent. If fading or discoloration of the purple pipe is experienced during construction, identification tape is recommended. Locating wire along the pipe is also recommended.

— b. Identification Tape. If identification tape is installed along with the purple pipe, it shall be prepared with white or black printing on a purple field, color Pantone 512 or equivalent, having the words, "Caution: Reuse Water — Do Not Drink". The overall width of the tape shall be at least three inches. Identification tape shall be installed 12 inches above the transmission pipe longitudinally and shall be centered.

— 4. Conversion of existing water lines. Existing water lines that are being converted to use with reuse water shall first be accurately located and comply with leak test standards in accordance with AWWA Standard C-600 and in coordination with regulatory agencies. The pipeline must be physically disconnected from any potable water lines and brought into compliance with current State cross connection rules and requirements (R309-102-5), and must meet minimum separation requirements in section 4.8.A.1 of this rule above. If the existing lines meet approval of the water supplier and the Division, the lines shall be approved for reuse water distribution. If regulatory compliance of the system (accurate location and verification of no cross connections) cannot be verified with record drawings, televising, or otherwise, the lines shall be uncovered, inspected, and identified prior to use. All accessible portions of the system must be retrofitted to meet the requirements of this rule.

— 5. Valve Boxes and Other Surface Identification. All valve covers shall be of non-interchangeable shape with potable water covers, and shall have an inscription cast on the top surface stating "Reclaimed Water" or "Reuse Water". Valve boxes shall meet AWWA standards. All above-ground facilities shall be consistently color coded (purple, Pantone 512 or equivalent color) and marked to differentiate reuse water facilities from potable water facilities.

— 6. Blow-off Assemblies. If either an in-line type or end of line type blow-off or drain assembly is installed in the system, the Division of Water Quality shall be consulted on acceptable discharge or runoff locations.

— B. Storage. If storage or impoundment of reuse water is provided, the following requirements apply:

— 1. Fencing. For Type I effluent, no fencing is required by this rule, but may be required by local laws or ordinances. For Type II effluent, see R317-1-4.4.D.3 above.

— 2. Identification. All storage facilities shall be identified by signs prepared according to the requirements of Section 4.8.D.6 below. Signs shall be posted on the surrounding fence at minimum 500 foot intervals and at the entrance of each facility. If there is no fence, signs shall be located as a minimum on each side of the facility or at minimum 250 foot intervals or at all accessible points.

— C. Pumping Facilities.

— 1. Marking. All exposed and above-ground piping, fittings, pumps, valves, etc., shall be painted purple, Pantone 512 or equivalent color. In addition, all piping shall be identified using an accepted means of labeling reading "Caution: Reuse Water — Do Not Drink." In a fenced pump station area, signs shall be posted on the fence on all sides.

— 2. Sealing Water. Any potable water used as seal water for reuse water pumps seals shall be protected from backflow with a reduced pressure principle device.

— D. Other Requirements.

— 1. Backflow Protection. In no case shall a connection be made between the potable and reuse water system. If it is necessary to put potable water into the reuse distribution system, an approved air gap

must be provided to protect the potable water system. A reduced pressure principle device may be used only when approved by the Division of Water Quality, the local health department, and the potable water supplier.

— 2. Drinking Fountains. Drinking fountains and other public facilities shall be placed out of any spray irrigation area in which reuse water is used, or shall be otherwise protected from contact with the reuse water. Exterior drinking fountains and other public facilities shall be shown and called out on the construction plans. If no exterior drinking fountains, picnic tables, food establishments, or other public facilities are present in the design area, then it shall be specifically stated on the plans that none are to exist.

— 3. Hose Bibs. Hose bibs on reuse water systems in public areas and at individual residences are permitted, with the following restrictions:

— a. All exposed hose bib piping must be painted purple, Pantone 512 or equivalent color and;

— b. Hose bibs shall be fitted with a valve having a non-permanently attachable operating handle. To discourage inappropriate casual use, it is recommended that each hose bib be posted with a warning label or sign, as detailed in R317-1-4.8, and/or placed in a lockable subsurface valve box in accordance with R317-1-4.8.

— In public, non-residential areas, replacement of hose bibs with quick couplers is recommended.

— 4. Equipment and Facilities. To ensure the protection of public health, any equipment or facilities such as tanks, temporary piping or valves, and portable pumps which have been used for conveying reuse water may not be reused for conveying potable water.

— 5. Warning Labels. Warning labels shall be installed on designated facilities such as, but not limited to, controller panels and washdown or blow-off hydrants on water trucks, and temporary construction services. The labels shall indicate the system contains reuse water that is unsafe to drink.

— 6. Warning signs. Where reuse water is stored or impounded, or used for irrigation in public areas, warning signs shall be installed and contain, as a minimum, 1/2 inch purple letters (Pantone 512 or equivalent color) on a white or other high contrast background notifying the public that the water is unsafe to drink. Signs may also have a purple background with white or other high contrast lettering. Warning signs and labels shall read, "Warning: Reuse Water — Do Not Drink". The signs shall include the international symbol for Do Not Drink.

— 7. Public Education Program. Where reuse water is used in individual residential landscape or public landscape area irrigation systems, a public education program must be implemented prior to initial operation of the program and, as necessary, during operation of the system.]

KEY: water pollution, waste disposal, industrial waste, effluent standards

Date of Enactment or Last Substantive Amendment: ~~[January 19], 2007~~

Notice of Continuation: October 2, 2007

Authorizing, and Implemented or Interpreted Law: 19-5

◆ ————— ◆

Environmental Quality, Water Quality
R317-3-11
 Land Application of Wastewater
 Effluents

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 30638
 FILED: 11/01/2007, 08:59

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In support of new proposed Rules R317-13 and R317-14, the Division of Water Quality is reorganizing and consolidating portions of existing rules that address water reuse system design requirements. (DAR NOTE: The proposed new Rule R317-13 is under DAR No. 30637 and the proposed new Rule R317-14 is under DAR No. 30636 in this issue, November 15, 2007, of the the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: This amendment consolidates water reuse system technical requirements into a more appropriate section of the water quality rules. Existing design requirements were transferred from Rule R317-1, "Definitions and General Requirements" into Rule R317-3, "Design Requirements for Wastewater Collection, Treatment and Disposal Systems", under Section R317-3-11 "Land Application of Wastewater Effluents". The net effect of this consolidation is to unify and streamline design requirements, eliminating potential rule conflicts and redundancies.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-5-105

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There are no anticipated impacts to the state budget. Existing rules were reorganized and unified by this rule change. No new requirements were established and no current requirements were removed. The proposed change will be implemented using existing resources.
- ❖ LOCAL GOVERNMENTS: No new requirements were established and no current requirements were removed. This change should simplify interpretation of existing rules; any cost impact would be beneficial.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: No new requirements were established and no current requirements were removed. This change should simplify interpretation of existing rules; any cost impact would be beneficial.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Existing rules were unified by this rule change. No new requirements were established and no current requirements were removed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated. Existing rules were unified by this rule change. No new requirements were established and no current

requirements were removed. This change should simplify interpretation of existing rules. Rick Sprott, Executive Director

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

ENVIRONMENTAL QUALITY
 WATER QUALITY
 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:

Dave Wham at the above address, by phone at 801-538-6052, by FAX at 801-538-6016, or by Internet E-mail at dwham@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/17/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 12/24/2007

AUTHORIZED BY: Walter Baker, Director

R317. Environmental Quality, Water Quality.
R317-3. Design Requirements for Wastewater Collection, Treatment and Disposal Systems.
R317-3-11. ~~Land Application of Wastewater Effluents.~~ Use, Land Application and Alternate Methods for Disposal of Treated Wastewater Effluents.

11.1. General. Design requirements for effluent disposal or water reuse of municipal wastewater treatment plant effluents shall comply with the requirements of this section. Administrative and approval requirements for these land application systems are found in R317-13 and R317-14 for water reuse and effluent disposal, respectively. Land application of effluent from industrial wastewater treatment plants shall comply with the requirements of R317-1-5.

~~11.1.~~ 11.2 Effluent Criteria. Land application of treated effluents is permitted following treatment if standards are met as defined in ~~[R317-1, Definitions and General Requirements]~~ this section. ~~[The proposal for land application must include detailed site information, effluent characteristics, meteorological data, type of crop to be grown, ground water data, and a site management plan and practices.]~~

~~11.2.~~ 11.2. Site Operation and Management

~~A.~~ A. Piping System

~~1.~~ 1. All distribution pipes and sprinklers must have the capability to be completely drained.

~~2.~~ 2. Main distribution headers must have flow measurement devices and pressure gages. All land applied flow must be totalized.

~~B.~~ B. Warning Signs. Signs warning of the nature of the facility shall be provided at the boundaries of the site.]

11.3 Submittal of Project Plan. If a person intends to use or provide for the use of treated domestic wastewater directly for any purpose, except on the treatment plant site as described in R317-1-4.2, a Project Plan must be submitted to and approved by the Division of Water Quality. A copy of the plan must also be submitted to the local health department. Any needed construction of wastewater treatment and delivery systems would also be covered by a construction permit as

required in section R317-1-2.2. The plan must contain the following information. At least items A, B, D and E should be provided before construction begins. All items must be provided before any water deliveries are made.

A. A description of the quantity, quality, and use of the treated wastewater to be delivered, the location of the site, an assessment of the direct hydrologic effects of the action, and how the requirements of this rule would be met. A nutrient management and agronomic uptake analysis may be required to document the proposed management of all nutrients.

B. A description of public notification and participation in the development of the Project Plan may be required.

C. An operation and management plan to include:

1. A copy of the contract with the user, if other than the treatment entity.

2. A labeling and separation plan for the prevention of cross connections between treated effluent distribution lines and potable water lines. Guidance for distribution systems is available from the Division of Water Quality.

3. Schedules for routine maintenance.

4. A contingency plan for system failure or upsets.

D. If the water will be delivered to other entities for transmission, distribution and/or use, a copy of the contract covering how the requirements of this rule will be met.

E. Requirements for ground water discharge permits, underground injection control (U.I.C.) permits, surface water discharge permits, total maximum daily load (TMDL) or nutrient loading considerations, if required, shall be determined in accordance with R317-1, R317-2, R317-6, R317-7, R317-8.

11.4 Use of Treated Domestic Wastewater Effluent Where Human Exposure is Likely (Type I)

A. Uses Allowed

1. Residential irrigation, including landscape irrigation at individual houses.

2. Urban uses, which includes non-residential landscape irrigation, golf course irrigation, toilet flushing, fire protection, and other uses with similar potential for human exposure. Internal building uses of treated effluent will not be allowed in individual, wholly-owned residences; and are only permitted in situations where maintenance access to the building's utilities is strictly controlled and limited only to the services of a professional plumbing entity. Projects involving effluent reuse within a building must be approved by the local building code official.

3. Irrigation of food crops where the applied reuse water is likely to have direct contact with the edible part. Type I water is required for all spray irrigation of food crops.

4. Irrigation of pasture for milking animals.

5. Impoundments of wastewater where direct human contact is likely to occur.

6. All Type II uses listed in 11.5.A below.

B. Required Treatment Processes

1.a. Treatment processes that are expected to produce effluent in which both the BOD and total suspended solids concentrations do not exceed secondary quality effluent limits as defined in R317-1-3.2.

b. Filtration, which includes passing the wastewater through filter media such as sand and/or anthracite, approved membrane processes or other approved filtration processes.

c. Disinfection to destroy, inactivate, or remove pathogenic microorganisms by chemical, physical, or biological means. Disinfection may be accomplished by chlorination, ozonation, or other chemical disinfectants, UV radiation, or other approved processes.

2. Other approved treatment processes in which any of the unit process functions of secondary treatment, filtration and disinfection may be combined, but still achieve the same secondary quality effluent limits as required above.

C. Water Quality Limits. The quality of treated effluent before use must meet the following standards. Testing methods and procedures shall be performed according to test procedures approved under R317-2-10, or as otherwise approved by the Executive Secretary. Water quality sampling requirements specified in this section shall apply to the point of compliance at all times during use of treated effluent.

1. The monthly arithmetic mean of BOD shall not exceed 10 mg/l as determined by composite sampling conducted once per week. Composite samples shall be comprised of at least six flow proportionate samples taken over a 24-hour period.

2. The daily arithmetic mean turbidity shall not exceed 2 NTU, and turbidity shall not exceed 5 NTU at any time. Turbidity shall be measured continuously. The turbidity standard shall be met prior to disinfection. If the turbidity standard cannot be met, but it can be demonstrated to the satisfaction of the Executive Secretary that there exists a consistent correlation between turbidity and the total suspended solids, then an alternate turbidity standard may be established. This will allow continuous turbidity monitoring for quality control while maintaining the intent of the turbidity standard, which is to have 5 mg/l total suspended solids or less to assure adequate disinfection.

3. The weekly median E. coli concentration shall be none detected, as determined from daily grab samples, and no sample shall exceed 9 organisms/100 ml.

4. The total residual chlorine shall be measured continuously and shall at no time be less than 1.0 mg/l after 30 minutes contact time at peak flow. If an alternative disinfection process is used, it must be demonstrated to the satisfaction of the Executive Secretary that the alternative process is comparable to that achieved by chlorination with a 1 mg/l residual after 30 minutes contact time. If the effectiveness cannot be related to chlorination, then the effectiveness of the alternative disinfection process must be demonstrated by testing for pathogen destruction as determined by the Executive Secretary. A 1 mg/l total chlorine residual is recommended after disinfection and before the treated effluent goes into the distribution system.

5. The pH as determined by daily grab samples or continuous monitoring shall be between 6 and 9.

D. Other Requirements

1. An alternative disposal option or diversion to storage must be automatically activated if turbidity exceeds the maximum instantaneous limit for more than 5 minutes, or chlorine residual drops below the instantaneous required value for more than 5 minutes, where chlorine disinfection is used.

2. Any irrigation must be at least 50 feet from any potable water well. Impoundments of treated effluent, if not sealed, must be at least 500 feet from any potable water well. The use should not result in a surface runoff and must not result in the creation of an unhealthy or nuisance condition, as determined by the local health department.

3. For residential landscape irrigation at individual homes, additional quality control restrictions may be required by the Executive Secretary. Proposals for such uses should also be submitted to the local health authority to determine any conditions they may require. When secondary residential irrigation systems are planned utilizing treated effluent in new subdivisions, it is recommended that a notification of the type of irrigation system and possible sources of irrigation waters be made on the deed for the property. Such notification could be made during the plat approval process.

11.5 Use of Treated Domestic Wastewater Effluent Where Human Exposure is Unlikely (Type II)

A. Uses Allowed

1. Irrigation of sod farms, silviculture, limited access highway rights of way, and other areas where human access is restricted or unlikely to occur.

2. Irrigation of food crops where the applied treated effluent is not likely to have direct contact with the edible part, whether the food will be processed or not (spray irrigation not allowed).

3. Irrigation of animal feed crops other than pasture used for milking animals.

4. Impoundments of wastewater where direct human contact is not allowed or is unlikely to occur.

5. Cooling water. Use for cooling towers which produce aerosols in populated areas may have special restrictions imposed.

6. Soil compaction or dust control in construction areas.

B. Required Treatment Processes

1. Treatment processes that are expected to produce effluent in which both the BOD and total suspended solids concentrations do not exceed secondary quality effluent limits as defined in R317-1-3.2.

2. Disinfection to destroy, inactivate, or remove pathogenic microorganisms by chemical, physical, or biological means. Disinfection may be accomplished by chlorination, ozonation, or other chemical disinfectants, UV radiation, or other approved processes.

C. Water Quality Limits. The quality of effluent before use must meet the following standards. Testing methods and procedures shall be performed according to test procedures approved under R317-2-10, or as otherwise approved by the Executive Secretary. Water quality sampling requirements specified in this section shall apply to the point of compliance at all times during use of treated effluent.

1. The monthly arithmetic mean of BOD shall not exceed 25 mg/l as determined by composite sampling conducted once per week. Composite samples shall be comprised of at least six flow proportionate samples taken over a 24-hour period.

2. The monthly arithmetic mean total suspended solids concentration shall not exceed 25 mg/l as determined by daily composite sampling. The weekly mean total suspended solids concentration shall not exceed 35 mg/l. Properly calibrated, continuous monitoring of turbidity may be substituted for the suspended solids testing.

3. The weekly median E. coli concentration shall not exceed 126 organisms/100 ml, as determined from daily grab samples, and no sample shall exceed 500 organisms/100 ml.

4. The pH as determined by daily grab samples or continuous monitoring shall be between 6 and 9.

5. At the discretion of the Executive Secretary, the sampling frequency to determine compliance with water quality limits for effluent from lagoon systems used to irrigate agricultural crops, may be reduced to monthly grab sampling for BOD, and weekly grab sampling for E. coli, TSS and pH. The Water Quality Board may also allow a relaxation of lagoon effluent BOD and suspended solids concentrations, in accordance with R317-1-3.2.

D. Other Requirements

1. An alternative disposal option or diversion to storage must be available in case quality requirements are not met.

2. Any irrigation must be at least 300 feet from any potable water well. Spray irrigation must be at least 100 feet from areas intended for public access. This distance may be reduced or increased by the Executive Secretary, based on the type of spray irrigation equipment used and other factors. Impoundments of treated effluent, if not sealed, must be at least 500 feet from any potable water well. The use should

not result in a surface runoff and must not result in the creation of an unhealthy or nuisance condition, as determined by the local health department.

3. Public access to effluent storage and irrigation or disposal sites shall be restricted by a stock-tight fence or other comparable means which shall be posted and controlled to exclude the public.

11.6 Records. Records of volume and quality of treated wastewater used shall be maintained and submitted monthly in accordance with R317-1-2.7. If monthly operating reports are already being submitted to the Division of Water Quality, the data on treated effluent delivered may be submitted on the same form.

11.7 Other Uses of Effluents. Proposed uses of effluents not identified above, including industrial uses, shall be considered for approval by the Board based on a case-specific analysis of human health and environmental concerns.

11.8 Treated Effluent Water Distribution Systems. Where treated effluent is to be provided by pressure pipeline, unless contained in surface pipes wholly on private property and for agricultural purposes, the following requirements will apply. The requirements will apply to all new systems and it is recommended that the accessible portions of existing reuse water distribution systems be retrofitted to comply with these rules. Requirements for irrigation systems proposed for conversion from use of secondary water to use with treated effluent will be considered on an individual basis considering protection of public health and the environment. Any person or agency that is constructing all or part of the distribution system must obtain a construction permit from the Division of Water Quality prior to beginning construction.

A. Distribution Lines

1. Minimum Separation.

a. Horizontal Separation. Treated effluent main distribution lines parallel to potable (culinary) water lines should be installed in separate trenches. Treated effluent main distribution lines parallel to sanitary sewer lines shall be installed at least ten feet horizontally from the sanitary sewer line if the sanitary sewer line is located above the treated effluent main and three feet horizontally from the sanitary sewer line if the sanitary sewer line is located below the reuse water main.

b. Vertical Separation. At crossings of treated effluent main distribution lines with potable water lines and sanitary sewer lines the order of the lines from lowest in elevation to highest should be; sanitary sewer line, treated effluent line, and potable water line. A minimum 18 inches vertical separation between the treated effluent line and sewer line shall be provided as measured from outside of pipe to outside of pipe. The crossings shall be arranged so that the reuse water line joints will be equidistant and as far as possible from the water line joints and the sewer line joints. If the treated effluent line must cross above the potable water line, the vertical separation should be a minimum 18 inches. If the treated effluent line must cross below the sanitary sewer line, the vertical separation shall be a minimum 18 inches and the treated effluent line shall be encased in a continuous pipe sleeve to a distance on each side of the crossing equal to the depth of the treated effluent line from the ground surface.

c. Special Provisions. Where the horizontal and/or vertical separation as required above cannot be maintained, special construction requirements shall be provided in accordance with requirements in this Rule for protection of potable water lines and treated effluent lines. Existing pressure lines carrying treated effluent shall not be required to meet these requirements.

2. Depth of Installation. To provide protection of the installed pipeline, treated effluent lines should be installed with a minimum depth of bury of three feet.

3. Treated Effluent Pipe Identification.

a. General. All new buried pipe within the public domain, including service lines, valves, and other appurtenances, shall be colored purple, Pantone 522 or equivalent. If fading or discoloration of the purple pipe is experienced during construction, identification tape is recommended. A clearly labeled tracer location tape or wire shall be placed two feet above the top of treated effluent lines less than or equal to 24 inch (61 centimeters) in diameter, along its entire buried length.

b. Identification Tape. If identification tape is installed along with the purple pipe, it shall be prepared with white or black printing on a purple field, color Pantone 512 or equivalent, having the words, "Caution: Treated Wastewater-Do Not Drink". The overall width of the tape shall be at least three inches. Identification tape shall be installed 12 inches above the transmission pipe longitudinally and shall be centered.

4. Conversion of existing water lines. Existing water lines that are being converted to use with treated effluent shall first be accurately located and comply with leak test standards in accordance with AWWA Standard C-600 and in coordination with regulatory agencies. The pipeline must be physically disconnected from any potable water lines and brought into compliance with current State cross connection rules and requirements (R309-102-5), and must meet minimum separation requirements in section 4.8.A.1 of this rule above. If the existing lines meet approval of the water supplier and the Division, the lines shall be approved for treated effluent distribution. If regulatory compliance of the system (accurate location and verification of no cross connections) cannot be verified with record drawings, televising, or otherwise, the lines shall be uncovered, inspected, and identified prior to use. All accessible portions of the system must be retrofitted to meet the requirements of this rule.

5. Valve Boxes and Other Surface Identification. All valve covers shall be of non-interchangeable shape with potable water covers, and shall have an inscription cast on the top surface stating "Reclaimed Water" or "Treated Wastewater". Valve boxes shall meet AWWA standards. All above ground facilities shall be consistently color coded (purple, Pantone 512 or equivalent color) and marked to differentiate treated effluent facilities from potable water facilities.

6. Blow-off Assemblies. If either an in-line type or end-of-line type blow-off or drain assembly is installed in the system, the Division of Water Quality shall be consulted on acceptable discharge or runoff locations.

7. Line Drains. All distribution pipes and sprinklers must have the capability to be completely drained.

8. Flow Measurement. Main distribution headers must have flow measurement devices and pressure gages. All land applied flow must be totalized.

B. Storage. If storage or impoundment of treated effluent is provided, the following requirements apply:

1. Fencing. For Type I effluent, no fencing is required by this rule, but may be required by local laws or ordinances. For Type II effluent, see R317-3-11.5.D.2 above.

2. Identification. All storage facilities shall be identified by signs prepared according to the requirements of Section 11.8.D.6 below. Signs shall be posted on the surrounding fence at minimum 500 foot intervals and at the entrance of each facility. If there is no fence, signs shall be located as a minimum on each side of the facility or at minimum 250 foot intervals or at all accessible points.

C. Pumping Facilities.

1. Marking. All exposed and above ground piping, fittings, pumps, valves, etc., shall be painted purple, Pantone 512 or equivalent

color. In addition, all piping shall be identified using an accepted means of labeling reading "Caution: Treated Wastewater - Do Not Drink." In a fenced pump station area, signs shall be posted on the fence on all sides.

2. Sealing Water. Any potable water used as seal water for reuse water pumps seals shall be protected from backflow with a reduced pressure principle device.

D. Other Requirements.

1. Backflow Protection. In no case shall a connection be made between the potable and treated effluent system. If it is necessary to put potable water into the treated effluent distribution system, an approved air gap must be provided to protect the potable water system. A reduced pressure principle device may be used only when approved by the Division of Water Quality, the local health department, and the potable water supplier.

2. Drinking Fountains. Drinking fountains and other public facilities shall be placed out of any spray irrigation area in which reuse water is used, or shall be otherwise protected from contact with the treated effluent. Exterior drinking fountains and other public facilities shall be shown and called out on the construction plans. If no exterior drinking fountains, picnic tables, food establishments, or other public facilities are present in the design area, then it shall be specifically stated on the plans that none are to exist.

3. Hose Bibs. Hose bibs on treated effluent systems in public areas and at individual residences are permitted for Type I water, with the following restrictions:

a. All exposed hose bib piping must be painted purple, Pantone 512 or equivalent color and,

b. Hose bibs shall be fitted with a valve having a non-permanently attachable operating handle. To discourage inappropriate casual use, it is recommended that each hose bib be posted with a warning label or sign, as detailed in R317-3-11.8.D.5, and/or placed in a lockable subsurface valve box in accordance with R317-3-11.8.A.5.

In public, non-residential areas, replacement of hose bibs with quick couplers is recommended.

4. Equipment and Facilities. To ensure the protection of public health, any equipment or facilities such as tanks, temporary piping or valves, and portable pumps which have been used for conveying treated effluent may not be reused for conveying potable water.

5. Warning Labels. Warning labels shall be installed on designated facilities such as, but not limited to, controller panels and washdown or blow-off hydrants on water trucks, and temporary construction services. The labels shall indicate the system contains treated wastewater that is unsafe to drink.

6. Warning signs. Where treated effluent is stored or impounded, or used for irrigation in public areas, warning signs shall be installed and contain, as a minimum, 1/2 inch purple letters (Pantone 512 or equivalent color) on a white or other high contrast background notifying the public that the water is unsafe to drink. Signs may also have a purple background with white or other high contrast lettering. Warning signs and labels shall read, "Warning: Treated Wastewater - Do Not Drink". The signs shall include the international symbol for Do Not Drink.

7. Public Education Program. Where treated effluent is used in individual residential landscape or public landscape area irrigation systems, a public education program must be implemented prior to initial operation of the program and, as necessary, during operation of the system.

KEY: wastewater, water quality, water pollution
Date of Enactment or Last Substantive Amendment: ~~April 20, 2005~~ **2007**
Notice of Continuation: October 2, 2007
Authorizing, and Implemented or Interpreted Law: 19-5; 19-5-104; 40 CFR 503

◆ ————— ◆

Environmental Quality, Water Quality **R317-13** Approvals and Permits for a Water Reuse Project

NOTICE OF PROPOSED RULE
 (New Rule)
 DAR FILE No.: 30637
 FILED: 11/01/2007, 08:59

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being adopted to implement the requirements of H.B. 38 from the 2006 general legislative session. (DAR NOTE: H.B. 38 (2006) is found at Chapter 179, Laws of Utah 2006, and was effective 05/01/2006.)

SUMMARY OF THE RULE OR CHANGE: The proposed rule defines terms and establishes administrative requirements for water reuse projects, including application and approval procedures.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-5-105 and 19-5-104, and Title 73, Chapter 3c

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There are no anticipated impacts to the state budget. The Division of Water Quality is currently conducting review of water reuse projects. The administrative and technical requirement outlined in the proposed rule do not deviate from current practices in a manner that would incur additional costs or savings to the state budget.
- ❖ **LOCAL GOVERNMENTS:** No significant net costs or savings are anticipated. The proposed rule outlines administrative procedures for water reuse projects. The rule clarifies the application and approval process which should result in a slight savings to local governments who choose to pursue water reuse projects. Local governments who choose to pursue water reuse projects may see a slight increase in administrative costs due to an increase in the number of involved parties having input to the process. It is difficult to estimate the number of potential reuse projects as they are voluntary and made at the discretion of the local government.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The proposed rule applies to public agencies (as defined at Section 11-13-103) who wish to pursue a water reuse project. No significant net costs or savings are anticipated. The proposed rule outlines administrative procedures for water reuse projects. The rule clarifies the application and approval process which should result in a slight savings to local

governments who choose to pursue water reuse projects. Public agencies may see a slight increase in administrative costs due to an increase in the number of involved parties having input to the process. It is difficult to estimate the number of potential reuse projects as they are voluntary and made at the discretion of the public agency.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed rule applies to public agencies (as defined at Section 11-13-103) who wish to pursue a water reuse project. Public agencies may see a slight increase in administrative costs due to an increase in the number of involved parties having input to the process. It is difficult to estimate this potential cost because of significant differences in the nature of reuse projects. Reuse projects are voluntary and pursued at the discretion of the public agency.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impacts to businesses are anticipated. The proposed rule applies to public agencies (as defined at Section 11-13-103) who wish to pursue a water reuse project. Rick Sprott, Executive Director

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

ENVIRONMENTAL QUALITY
 WATER QUALITY
 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:
 Dave Wham at the above address, by phone at 801-538-6052, by FAX at 801-538-6016, or by Internet E-mail at dwham@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/17/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 12/24/2007

AUTHORIZED BY: Walter Baker, Director

R317. Environmental Quality, Water Quality.
R317-13. Approvals and Permits for a Water Reuse Project.
R317-13-1. Definitions.

1.1 "Executive Secretary" means the executive secretary of the Utah Water Quality Board.

1.2 "Domestic wastewater" means a combination of the liquid or water-carried wastes from structures with installed plumbing facilities and industrial establishments, and any groundwater, surface water, and storm water that is present with the waste.

1.3 "POTW" means a publicly owned treatment works as defined by Utah Code Annotated Section 19-5-102.

1.4 "Public agency" means a public agency as defined by Utah Code Annotated Section 11-13-103 that:

A. owns or operates a POTW;

- B. collects and transports domestic wastewater;
- C. holds legal title to a water right;
- D. is delegated the right to the beneficial use or reuse of water by the legal title holder of the water right;
- E. is a water supplier; or
- F. sells wholesale or retail water.

1.5 "Reuse water" means domestic wastewater treated to a standard acceptable under rules made by the Water Quality Board under Utah Code Annotated Section 19-5-104.

1.6 "Water reuse project" means a project for the reuse of treated domestic wastewater that requires approval by the Utah Water Quality Board in accordance with Utah Code Annotated Sections 19-5-104 and 73-3c-301, and the state engineer under Section 73-3c-302.

1.7 "Water supplier" means an entity engaged in the delivery of water for municipal purposes.

R317-13-2. Administrative Requirements.

- 2.1 General. This rule is issued for water reuse projects.
- 2.2 Authority. This rule is issued pursuant to the provisions of Utah Code Annotated Sections 19-5-104(1)(r) and Utah Code Annotated Section 73-3c-301. Violation of a construction permit, operating permit, or approval including compliance with the conditions thereof, or beginning of construction, or modification without the executive secretary's approval, is subject to the penalties provided in Utah Code Annotated Section 19-5-115.

2.3 Applicability. This rule applies to public agencies that propose a water reuse project.

2.4 Approvals and Permits Required.

A. Approval of Water Reuse Projects. The Executive Secretary may approve, approve in part, approve with conditions or deny, in writing, an application for the reuse of treated domestic wastewater.

B. Construction Permit Requirements. Water reuse projects involving the construction, installation, modification or operation of any collection system, treatment works, reuse water distribution system or part thereof, or any extension or addition thereto shall obtain a construction permit in accordance with this section and the requirements of R317-3, "Design Requirements for Wastewater Collection, Treatment and Disposal Systems", prior to construction.

C. Operating Permit for a water reuse project. If a water reuse project is approved, the Executive Secretary shall issue an operating permit consistent with any construction permit and the rules of the Board.

D. Limitations. The issuance of an approval, construction permit, or operating permit does not relieve the public agency of the obligation to obtain other approvals and permits, i.e., ground water discharge permit or permits and approvals from other agencies which may have jurisdiction over the project.

R317-13-3. Reuse Project Application and Technical Requirements.

3.1 Specific application requirements for a water reuse project. If a public agency intends to reuse or provide for the reuse of treated domestic wastewater for any purpose, application shall be made to the Executive Secretary as required in this rule and R317-3-11, prior to construction or operation of the water reuse project.

3.2 Technical requirements for a water reuse project. The design and operation of any water reuse utilizing treated domestic wastewater shall be in accordance with the applicable requirements of R317-3-11.

KEY: water pollution, waste disposal, industrial waste, effluent standards

Date of Enactment or Last Substantive Amendment: 2007

Authorizing, and Implemented or Interpreted Law: 19-5



Environmental Quality, Water Quality **R317-14** Approval in Change in Point of Discharge of POTW

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 30636

FILED: 11/01/2007, 08:59

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being adopted to implement the requirements of H.B. 38 from the 2006 general legislative session. (DAR NOTE: H.B. 38 (2006) is found at Chapter 179, Laws of Utah 2006, and was effective 05/01/2006.)

SUMMARY OF THE RULE OR CHANGE: The proposed rule defines terms and adds administrative procedures for considering changes in the point of discharge from a publicly owned wastewater treatment plant.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-5-105 and 19-5-104, and Title 73, Chapter 3c

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There may be some administrative costs incurred by the Division of Water Quality to review and consider point of discharge change applications. It is difficult to estimate the number of potential application as such requests are voluntary and made at the discretion of the publicly-owned wastewater treatment plant. However, we anticipate that the proposed rule can be implemented using existing resources.

❖ LOCAL GOVERNMENTS: The proposed rule clarifies the process of considering changes in the point of discharge from a publicly-owned wastewater treatment plant. There might be a cost savings for public agencies requesting a change in point of discharge for conformance with a permit condition or to protect public health or the environment. This saving cannot be quantified as there are too many project-specific unknowns. No cost impacts are anticipated.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The proposed rule clarifies the process of considering changes in the point of discharge from a publicly-owned wastewater treatment plant. There might be a cost savings for public agencies (as defined by Section 11-13-103) requesting a change in point of discharge for conformance with a permit condition or to protect public health or the environment. This saving cannot be quantified as there are too many project-specific unknowns. No cost impacts are anticipated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance cost impacts are anticipated. The proposed rule clarifies the process of considering changes in the point of discharge from a publicly owned wastewater treatment plant. This should streamline the process and result in a slight cost saving to public agencies (as defined by Section 11-13-103) pursuing a change in their point of discharge.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impacts to businesses are anticipated. The proposed rule applies to public agencies (as defined by Section 11-13-103) who wish to pursue a change in their point of discharge. Rick Sprott, Executive Director

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

ENVIRONMENTAL QUALITY
WATER QUALITY
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:

Dave Wham at the above address, by phone at 801-538-6052, by FAX at 801-538-6016, or by Internet E-mail at dwham@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/17/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 12/24/2007

AUTHORIZED BY: Walter Baker, Director

R317. Environmental Quality, Water Quality.

R317-14. Approval of Change in Point of Discharge of POTW.

R317-14-1. Definitions.

1.1 "Executive Secretary" means the executive secretary of the Utah Water Quality Board.

1.2 "POTW" means a publicly owned treatment works as defined by Utah Code Annotated Section 19-5-102.

R317-14-2. Administrative Requirements.

2.1 General. This rule is issued for changes in point of discharge from a POTW.

2.2 Authority. This rule is issued pursuant to the provisions of Utah Code Annotated Section 73-3c-304.

2.3 Approval Required. A POTW shall apply to and receive approval from the Executive Secretary prior to any change in the point of discharge of water from the POTW. The Executive Secretary shall issue an approval if it is determined that the change is necessary:

- A. for treatment purposes;
- B. to enhance environmental quality;
- C. to protect public health, safety, or welfare; or

D. to comply with rules of the Board or the POTW's discharge permit.

2.4 Before approving any change in the point of discharge from a POTW, the Executive Secretary shall consult with the State Engineer.

KEY: wastewater, POTW, discharge

Date of Enactment or Last Substantive Amendment: 2007

Authorizing, and Implemented or Interpreted Law: 19-5



Governor, Economic Development

R357-1

Rural Fast Track Program

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE No.: 30601

FILED: 10/18/2007, 14:23

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed rule will allow small currently existent Utah companies to apply for incentives from the Industrial Assistance Fund for job creation and infrastructure.

SUMMARY OF THE RULE OR CHANGE: The purpose of the program is to provide an efficient way for small companies in rural Utah to receive incentives for creating high paying jobs and to further promote business and economic development in rural Utah. Twenty percent of the unobligated money in the Industrial Assistance Fund at the beginning of each fiscal year shall be used in the program.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63-38f-903.5

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division of Economic Development is providing the following response in narrative form since this program has not previously been in existence and are using the best estimates that can based on the existing Industrial Assistance Fund (IAF) experience to date. The Rural Fast Track Program (RFTP) is by intent a much simpler program designed for small rural businesses and should have no significant impact on state budget costs. Estimates of the state budget cost or savings are being based on our experience with the IAF and on the fiscal footnote to the bill which was that no monies were appropriated for the bill; it will use existing funds for the program that were already allocated to IAF, and analysis by the legislative fiscal analysts office indicated, "Enactment of this bill likely will not result in any additional direct, measurable costs and/or benefits for individuals businesses or local governments."

❖ LOCAL GOVERNMENTS: The following response to this question is in narrative form since this program has not previously been in existence and are using the best estimates we can based on our experience with the existing IAF. Our

expectation is that only a nominal cost will be borne by the local community since the local economic development officials will only be minimally involved with confirming that local ordinances are being followed. The Legislative fiscal analysts office supported this estimate in the fiscal footnote to the bill. They stated, "Enactment of this bill likely will not result in any additional direct, measurable costs and/or benefits for individuals businesses or local governments."

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The following response is in narrative form since this program has not previously been in existence and are using the best estimates we can based on our experience with the existing IAF. Special care has been made to limit the application cost to rural companies by keeping the application to a short form. When the Rural Fast Track (RFT) application was compared to our IAF application, the time needed to fill out the form was nominal and the committee that looked at the application felt it would only take one to four hours to gather the information and complete the form. The Legislative analysts office supported our estimates in the fiscal footnote to the bill. They stated, "Enactment of this bill likely will not result in any additional direct, measurable costs and/or benefits for individuals businesses or local governments."

COMPLIANCE COSTS FOR AFFECTED PERSONS: The response to this question is in narrative form since this program has not previously been in existence and are using the best estimates we can based on our experience with the existing IAF. The rural office staff that looked at the application and the information gathering time and agreed with the expectation that the application time required will be less than four hours and consequently should not have a significant compliance cost. The Legislative fiscal analysts office supports our estimates in the fiscal footnote to the bill. They stated, "Enactment of this bill likely will not result in any additional direct, measurable costs and/or benefits for individuals businesses or local governments."

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Nominal impact is expected since the program is specifically being designed to be simple and convenient. Every effort has been made by staff to keep the application and material gathering process as simple as possible. Jason Perry, Executive Director

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

GOVERNOR
ECONOMIC DEVELOPMENT
324 S State
5th Floor
SALT LAKE CITY, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Michael Sullivan at the above address, by phone at 801-538-8811, by FAX at 801-538-8888, or by Internet E-mail at mgsullivan@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/17/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 12/24/2007

AUTHORIZED BY: Jason Perry, Director

R357. Governor, Economic Development.

R357-1. Rural Fast Track Program.

R357-1-1. Authority.

(1) Subsection 63-38f-903.5(4)(c) permits the administrator to make rules governing the following aspects of the Rural Fast Track Program:

- (a) the content of the application form;
- (b) who qualifies as an employee; and
- (c) the verification procedure.

R357-1-2. Application Form.

(1) An application shall:

(a) be required that details company information including company name, federal tax ID, mailing and street address, telephone number, company capabilities, project description, submission requirements, and other information that is deemed necessary by the Governor's Office of Economic Development.

(b) include financial statements demonstrating profitability and must accompany the application.

R357-1-3. Employees.

(1) The company must have at least 2 employees who are paid a salary. Each new incremental job added must be paid a salary. GOED will verify and use the county average annual wage based on the most recently published data from the United States Census Bureau.

(a) GOED will verify and use the county population of 30,000 or less based on the most recently published data from the United States Census Bureau.

(2) An application can be made based on job (FTE) creation in a rural community.

(a) Definition of FTE: "FTE" means an individual full time employee of Applicant's Utah Business that is a Utah Resident and employed at least 30 hours per week (excluding lunch) during each week.

(b) When counting FTEs, if an FTE has its employment with Applicant terminated for any reason before completion of the applicable RFT Disbursement Period, another person otherwise meeting the requirements described above may be promptly hired full time to fill the terminated FTE's position and complete the year of qualifying full-time employment. In such case, Applicant and the Administrator would count the combined contribution of these two (2) full time employees as one (1) FTE. A replacement will need to be hired within 60 days for the position to remain qualifying for FTE purposes during a given RFT disbursement period.

R357-1-4. Economic Opportunity.

(1) An application can be made based upon a unique Economic Opportunity in a rural community.

(a) Definition of Rural Fast Track Economic Opportunity: "Economic opportunity" means a unique business situation or community circumstance which lends itself to the furtherance of the economic interests of the state and the local community by providing a catalyst or stimulus to the growth or retention, or both, of commerce and industry in the state.

R357-1-5. Verification.

(1) Procedure for verifying FTE and disbursing funds on post performance basis:

(a) Request Letter

(i) Claim for credits earned and request for disbursement of funds on company letterhead.

(ii) The request should summarize the number of jobs claimed multiplied against the incentive dollars per employee and the total dollar amount requested.

(iii) Company tax ID number

(iv) Address and addressee for where the check is to be sent

(b) Support Document

(i) Summarizes the claim for credits earned by outlining the types of jobs and number of jobs that meet the minimum earnings threshold and is usually produced in spreadsheet form.

(ii) A base year document is created at the time of incentive approval and is used as a template for this summary document and will be sent to the company by the Administrator. Document will include requested information about the new jobs listed and compared against the base number of employees in the company at the time of the application.

(iii) Department of Workforce Services filing of quarterly unemployment insurance forms covering the disbursement period.

(c) Letter of Compliance

(i) A letter verifying the accuracy of the information supplied to claim the incentive. Completed and signed by company officer.

KEY: economic opportunity, job creation, rural economic development, Rural Fast Track Program

Date of Enactment or Last Substantive Amendment: 2007

Authorizing, and Implemented or Interpreted Law: 63-38f-903.5



Health, Epidemiology and Laboratory
Services, Environmental Services
R392-700
Indoor Tanning Bed Sanitation

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE No.: 30612

FILED: 10/23/2007, 14:35

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: S.B. 52 of the 2007 Utah Legislative Session directed the Department of Health to establish warning signs and written consent requirements for tanning facilities. This rule also establishes minimum sanitation and safety standards for tanning facilities. (DAR NOTE: S.B. 52 (2007) is found at Chapter 25, Laws of Utah 2007, and was effective 04/30/2007.)

SUMMARY OF THE RULE OR CHANGE: The new rule establishes the minimum sanitation standards for tanning beds. Additionally, it addresses the requirements directed by S.B. 52 regarding warning signs and consent requirements for persons under the age of 18.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-15-2 and 26-15-13, and 21 CFR 801, 21 CFR 1010.2, 21 CFR 1010.3, and 21 CFR 1040.20

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be costs to write and implement the new rule, but these costs will be covered by existing budgets.

❖ LOCAL GOVERNMENTS: There will be increased costs for some local health departments not already regulating tanning beds. Currently, there are 196 tanning facilities regulated within 3 local health departments. Implementation of this rule statewide will result in approximately 138 more tanning facilities regulated in the additional 9 local health departments which currently do not have a local tanning ordinance. Costs of inspection vary greatly between local health departments based on geographical location and time involved. The cost range would be \$50 to \$175 per inspection, per facility. This would result in an overall increased cost of approximately \$11,525 annually. This figure is based on the number of salons in the nine local health department jurisdiction multiplied by the actual fee that will be charged. Local health departments will charge permit fees to offset these costs.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: All tanning facilities are small businesses with fewer than 50 employees. There will be some anticipated cost to tanning facilities to meet the minimum requirements established by the rule. These costs should be very minimal but are very difficult to estimate as the condition of these unregulated facilities is not now known. The tanning facilities not now regulated in the 9 local health departments, will be charged a permit fee which will result in an estimated additional \$11,525 aggregate costs to the industry. There will be an additional cost to purchase the required signage. The costs will depend on the method and materials required to print the sign. The rule does not specify the materials from which the sign must be constructed.

A single, professionally produced plastic sign may cost as much as \$40 with considerable discount for multiple signs produced at the same time. The rule allows a facility operator to post paper signs, which may be produced from a Department of Health-provided Adobe Portable Document Format (.pdf) file, which would reduce the cost substantially. Assuming all facilities needed 11 signs (one in the lobby and 10 beds) at \$40 per sign, the maximum cost would be \$60,720. If all operators use the provided .pdf file, have it printed and laminated at a copy shop at approximately \$3 per sign, the aggregate cost for the signs would be \$4,554. There may be a minimal increase in costs to patrons of those facilities that choose to pass on the cost of the fees. There may be a minimal increase in costs to facilities to meet the consent form requirements as a result of printing costs and increased time to provide the tanning service to minors. This cost is very difficult to estimate and is highly variable among tanning facilities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The local health department charge for the permit required by the statute and the inspection ranges from \$50 to \$175. The fees established by the local health departments depend on the travel distance required to inspect and time required per inspection. There will be some minimal additional costs incurred by the tanning

facilities to print, obtain and track consent forms for each customer under the age of 18. There will be an additional cost to purchase the required signs. The costs depend on the method and materials used to print the sign. Assuming a facility needed 11 signs and chose to obtain signs at \$40 per sign, the cost would be \$440. Assuming a facility needed 11 signs and chose to use the provided .pdf file, have it printed and laminated at a copy shop at approximately \$3 per sign, the cost for the signs would be \$33. There may be a minimal increase in costs to patrons of those facilities that choose to pass on the cost of the fees. There may be a minimal increase in costs to facilities to meet the consent form requirements as a result of printing costs and of increased time to provide the tanning service to minors. This cost is very difficult to estimate, as it is highly variable.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The costs to business because of this rule are necessary to meet the requirements of the statute and to assure proper sanitation to protect the public health. A. Richard Melton, Ph.D., Acting Executive Director

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

HEALTH
EPIDEMIOLOGY AND LABORATORY SERVICES,
ENVIRONMENTAL SERVICES
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:

Ronald Marsden at the above address, by phone at 801-538-6191, by FAX at 801-538-6564, or by Internet E-mail at rmarsden@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/17/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 12/24/2007

AUTHORIZED BY: Richard Melton, Deputy Director

R392. Health, Epidemiology and Laboratory Services, Environmental Sanitation.

R392-700. Indoor Tanning Bed Sanitation.

R392-700-1. Authority and Purpose.

This rule establishes tanning facility standards. It is authorized by Section 26-15-2 and 26-15-13.

R392-700-2. Applicability.

This rule applies to places where consideration is given in exchange for access to a tanning device. This rule does not apply to private, non-commercial use of tanning equipment exclusively for non-commercial use.

R392-700-3. Definitions.

As used in this rule:

(1) "Department" means the Utah Department of Health.

(2) "Operator" means any person who owns, leases, or manages a business operating a tanning facility.

(3) "Patron" mean any person who enters a tanning facility with the intent to use a tanning device.

(4) "Phototherapy Device" means equipment that emits ultraviolet radiation used by a health care professional in the treatment of disease when used at the health care professional's health care office or clinic.

(5)(a) "Tanning device" means any equipment that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers used for tanning of the skin, including:

(i) a sunlamp; and

(ii) a tanning booth or bed.

(b) "Tanning device" does not include a phototherapy device.

(6) "Tanning Facility" means any commercial location, place, area, structure, or business that provides an individual access to a tanning device for the purpose of tanning the individual's skin while in the facility.

(7) "Timing Device" means a device that is capable of ending the emission of ultraviolet radiation from tanning device after a preset period of time.

(8) "Ultraviolet Radiation" means electromagnetic radiation that has a wave length interval of 200 nanometers to 400 nanometers in air.

R392-700-4. Warning Sign Placement.

(1) The operator of a tanning facility shall post a warning sign that meets the requirements of this rule in a conspicuous location that is readily visible to a person about to use a tanning device.

(a) The operator shall place the warning sign so that all patrons are alerted to the hazard and informed before being exposed to UV radiation. At a minimum, the operator shall post the warning sign:

(i) in the line of sight of a person presenting at the reception or sales counter and no more than 10 feet from where a patron checks in or pays for the tanning session; and

(ii) on a vertical surface in the reception area so that the top border of the writing is between five and six feet above the patron floor level at the reception or sales counter area.

(b) The operator shall also place a warning sign in each tanning booth. For a tanning booth that has the patron control switch located separate from the device, the operator shall also post a warning sign adjacent to the tanning device patron control switch. For a tanning booth that has the patron control switch located on the tanning device, the operator shall also post a warning sign either:

(i) on the wall opposite the entrance to the booth at a level and position easily visible by the patron; or

(ii) on the wall opposite the normal position of the patron's head while using the device and in a manner that is easily visible by the patron.

R392-700-5. Warning Sign Requirements.

(1) The warning sign required by R392-700-5 shall meet the requirements of this section. An Adobe Acrobat Portable Document Format, .pdf, file that meets the requirements of this section is available from the Department or the local health department.

(2) The sign shall be 11 inches high by 17 inches wide on a white background.

(3) All lettering shall be in a sans serif font proportional thickness to height so as to be easily readable. Acceptable fonts are arial, arial bold, folio medium, franklin gothic, helvetica, helvetica bold, meta bold, news gothic bold, poster gothic, and universe. In addition, the letters shall be:

(a) black in color

(b) capital letters

(c) adequately spaced and not crowded

(4) There must be a panel at the top of the sign. The background of the panel shall be safety orange in color and shall:

(a) be 3.3 centimeters high and 42 centimeters wide, including a black line border that is 0.16 centimeter wide surrounding the safety orange background;

(b) have the word "WARNING" in capital letters that are two centimeters high; and

(c) have an internationally recognized safety alert symbol that is two centimeters high and placed immediately to the left of the word "WARNING"

(5) The safety alert symbol shall be black with a yellow field.

(6) The word "WARNING" and the symbol shall be vertically and horizontally centered within the orange panel.

(7) Immediately below the orange panel shall appear the words: "ULTRAVIOLET RADIATION" in letters that are 1.5 centimeters high and centered between the vertical margins.

(8) Beneath the "ULTRAVIOLET RADIATION" line shall appear the body wording of the sign in letters that are one centimeter high.

(9) The body of the sign shall be the following five bulleted statements:

-WEAR PROTECTIVE EYEWEAR MAY CAUSE INJURY OR BLINDNESS

-DO NOT USE IF YOU ARE PREGNANT OR USING ORAL CONTRACEPTIVES

-TAKING CERTAIN MEDICATIONS OR USING CERTAIN COSMETICS MAY CAUSE YOU TO BURN MORE EASILY. TALK TO YOUR DOCTOR.

-AVOID FREQUENT OR LENGTHY EXPOSURE. MAY CAUSE PREMATURE AGING, DRYNESS, FRAGILITY AND EASY BRUISING OF THE SKIN.

-WAIT 48 HOURS BETWEEN TANNING SESSIONS.

(2) Local health departments may add additional warning requirements that are applicable to all patrons of all tanning facilities.

R392-700-6. Written and Signed Consent.

(1) It is unlawful for any operator of a tanning facility to allow a person younger than 18 years old to use a tanning device, except upon meeting the requirements of 26-15-13. The consent form shall conform to the Utah Department of Health Tanning Consent Form, October 15, 2007, which is incorporated by reference.

(2) Before allowing any patron to use a tanning device, the operator shall upon a patron's initial visit to the tanning facility and annually thereafter:

(a) provide the patron a written paper notice containing the information in subsection (3);

(b) provide the patron an opportunity to read the notice and ask questions;

(c) obtain the patron's dated signature signifying that the patron has read the notice;

(d) give the patron a copy of the notice.

(3) The notice required in subsection (2) shall include the following:

(a) a representative list of potential photosensitizing drugs and agents;

(b) information regarding potential negative health effects related to ultraviolet exposure including:

(i) the increased risk of skin cancer;

(ii) the increased risk of skin thinning and premature aging;

(iii) the possible adverse effect on some viral conditions or medical condition, such as lupus when using a tanning device.

(c) information on how to determine skin sensitivity, and information on how different skin types respond to the tanning facilities different tanning devices;

(d) an explanation of Ultraviolet-A (UVA) and Ultraviolet-B (UVB) light's effect on the body, the need to use proper protective eyewear with both UV-A and UV-B systems, and that closing the eyes is not sufficient to prevent possible eye damage;

(e) information on the capacity of devices, including proper exposure times and intensity;

(f) information on the risk of tanning too frequently and on over exposure;

(g) information that tanning may be inadvisable during pregnancy; and

(h) other relevant medical information as determined by the local health department.

(3) The operator shall retain the signed patron notices at the tanning facility and make them readily available for inspection by the Department and local health department.

(4) The operator shall provide a separate enclosed area for each tanning device that ensures patron safety and privacy.

(5) The operator shall ensure that only one person enters tanning area during a tanning session.

(6) The operator shall not allow an animal, except for a service animal, to be in a tanning area during a tanning session. The operator shall ensure that service animals allowed in tanning areas be provided eye protection from UV exposure.

R392-700-7. Tanning Devices.

(1) A tanning facility may use only commercially available tanning devices manufactured and certified in compliance with 21 CFR 801.4, 21 CFR 1010.2 and 1010.3, and 21 CFR 1040.20.

(a) The operator shall follow all manufacturer safety instructions applicable to each tanning device.

(b) The operator shall not:

(i) operate any tanning device that has an ineffective or inoperable timing device or for which the timing device is missing;

(ii) exceed the manufacturer's maximum recommended exposure time; or

(iii) exceed the exposure time recommended by the manufacturer in compliance with 21 CFR 1040.20(d)(1)(iv).

(3) The operator shall maintain at the tanning facility the manufacturer's, operating instructions, exposure recommendations, and safety instructions for each tanning device.

(4) The operator shall centrally install and locate the timing device controls for each tanning device so that a patron may not set or reset the exposure time on any tanning device. The operator shall not permit any person under age 18, including employees, to set or reset the exposure time on any tanning device.

(5) The operator shall control the temperature of the consumer contact surfaces of a tanning device and the surrounding area so that it will not exceed 100 degrees Fahrenheit.

(6) The operator shall maintain the tanning devices in good repair.

(7) The operator shall provide physical barriers to protect patrons from possible injury which may be induced by touching or breaking tanning equipment lamps.

(8) The operator shall provide physical barriers or other methods, such as handrails or floor markings to indicate the proper exposure distance between ultraviolet lamps and the patron's skin.

(9) The operator shall replace defective or burned-out lamps or filters with lamps and filters that are clearly identified by brand and model designation by the replacement lamp by the lamp manufacturer. The operator shall maintain lamp manufacturer's labeling and user instructions at the facility that demonstrate the equivalence of any replacement lamp or filter.

(10) An operator shall not advertise or promote the use of any tanning equipment using wording such as "safe," "safe tanning," "no harmful rays," "no adverse effect," "free from risk," or similar wording or concept.

(11) The operator shall track each patron's usage to ensure that a patron does not use a tanning device more frequently than once each calendar day or in excess of the manufacturer's recommended exposure.

(12) The tanning device shall allow each patron to exit the tanning device without assistance from the operator.

(13) The operator shall assess each patron's skin type and sensitivity and consider the intensity of the radiation output of the tanning devices in the tanning facility when assigning a patron to use a particular tanning device.

R392-700-8. Protective Eye Wear.

Prior to each tanning session, the operator shall offer protective eye wear to each patron, instructions for its use, and notify the patron of possible damage that might occur to the patron if the patron does not wear it. Protective eye wear shall be eye wear that is supplied by the manufacturer for use with the tanning device or that is the equivalent to the protective eye wear supplied by the manufacturer.

R392-700-9. Tanning Facility Sanitation.

(1) The operator shall maintain in good repair and in a sanitary condition all portions of the tanning facility, including wall, floors, ceilings, and equipment.

(2) The operator shall clean and sanitize before each use, all:

- (a) reusable protective eye wear;
- (b) body contact surfaces of the tanning device; and
- (c) body contact surfaces of the tanning booth, including all seating surfaces and door knobs.

(3) The operator shall clean the items in subsection (2) using a detergent or other agent able to emulsify oils and hold dirt in suspension using a concentration as indicated by the detergent or other agent manufacturer's use directions included on the product labeling. The operator shall sanitize the items in subsection (2) with a chlorine sanitizer or a quaternary ammonia compound using a concentration as indicated by the sanitizer or compound manufacturer's use directions included on the product labeling.

(4) If the operator cleans the items in a separate process from sanitizing the items, the operator shall clean the items prior to sanitizing them. The operator may use a single product to both clean and sanitize if that product meets the requirements of subsection (3) for the cleaning and sanitizing of the items in subsection (2).

(5) The operator shall ensure that restroom facilities are maintained in a clean and sanitary condition. The operator shall provide hand soap and single use hand drying towels or a hand drying mechanism for patron use.

(6) The operator shall clean and sanitize towels or other linens after each use.

R392-700-10. Tanning Physical Facilities.

(1) The operator shall provide a restroom that includes a flushing toilet and a hand-washing sink with hot and cold running water accessible to patrons at each tanning facility. The operator shall ensure that tanning facility floors and walls in the toilet and hand-washing are constructed of smooth, non-absorbent material.

(2) The operator shall ensure that all areas of the tanning facility and temporary tanning facility are properly ventilated. The internal ambient air temperature of the facility shall not exceed 85 degrees F.

(3) The operator shall ensure that all rooms of a tanning facility are capable of being illuminated to allow for proper cleaning and sanitizing.

(4) To prevent patron slip injury, the operator shall ensure that the floor adjacent to each tanning device is clean and slip resistant to allow for safe entry and exit from the tanning device.

R392-700-11. Enforcement and Penalties.

A person who violates a provision of this rule that is also a provision of Section 26-15-13 may be subject to a class C misdemeanor. A person who violates a provision of this rule that is not also a provision of Section 26-15-13 is subject to a Class B misdemeanor on the first offense or a Class A misdemeanor on the second offense within one year or a civil penalty on up to \$5,000 for each offense as provided in Section 26-23-6.

KEY: tanning beds, salons, sanitation, ultraviolet light safety
Date of Enactment of Last Substantive Change: 2007
Authorizing, and Implemented or Interpreted Law: 26-15-2; 26-15-13



Insurance, Administration **R590-131** Accident and Health Coordination of Benefits Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 30640

FILED: 11/01/2007, 10:46

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to adopt revisions made to the National Association of Insurance Commissioners (NAIC) Model Regulation 120, "Coordination of Benefits Model Regulation". The model allows for uniformity throughout the United States when coordinating benefits in insurance policies. This will reduce cost to both insurers and insureds and provide greater

efficiency in claims processing. The changes also provide insurers scenarios to help them better understand the coordination rules. Some of these changes have been requested by the industry.

SUMMARY OF THE RULE OR CHANGE: Section R590-131-2 adds an applicability subsection to clarify that the rule applies to all accident and health insurers. It states that the purpose of the rule is to establish coordination of benefits. In Section R590-131-3, the "Allowable Expense" definition was revised to address high deductible health plans; further clarification regarding health care that is provided under a contractual agreement has been provided; and now excludes benefits from coordination if an insured does not comply with plan provisions. A definition of "Child" was added to comply with Sections 31A-22-610, 31A-22-610.5, and 31A-22-611. Definitions for "Closed Panel Plan" and "Conforming Plan" were added. "Custodial" situations were defined in greater depth at the request of some insurers. Subsection R590-131-4(A) clarifies that insurers may not use a coordination of benefits (COB) provision to deny coverage when benefits under another plan do not exist. Section R590-131-5 explains how primary and secondary plans are to coordinate coverage for the insured. Subsection R590-131-6(B)(2)(c) adds a provision for coordination when a court decree does not address health care expenses or coverage. Subsection R590-131-6(B)(2)(e) provides for coordination when a child is receiving coverage from a guardian. Subsection R590-131-6(E) requires the plans to share expenses equally if a rule does not address the insured situation. Subsection R590-131-6(F) requires that if insurers do not come to an agreement within 30 days regarding a claim they must pay the claim in equal shares. Section R590-131-8 changes the word "complying" to "conforming" in compliance with Section 31A-26-301.6. Section R590-131-9 adds fictitious scenarios at the request of insurers to demonstrate the coordination rules. Section R590-131-10 provides for an effective date on existing contracts.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201 and 31A-22-619

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** Each accident and health insurer will be required to file an endorsement form with the department which will be reviewed pursuant to Section 31A-21-201. Currently, there are approximately 450 insurers affected by these changes. This will not create a change in the department's revenue. No new employees will be needed to handle these filings.

❖ **LOCAL GOVERNMENTS:** This rule deals with the relationship between insurers and their consumers and how claims are paid. It will have no impact on local governments.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** Some people will be affected if their coordination policy changes. For the most part, consumers should not be affected since the rule sets guidelines on which insurer or policy is primary and secondary.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Carriers will need to file an endorsement form with the department to change

their existing plans to comply with changes in this rule. They will incur a fee to submit their form electronically, which is either \$15 or \$25 per filing depending upon which filing provider is used. Currently there are around 450 health insurers that this will affect. There should be no additional mailing costs for an insurer because Section R590-131-10 delays the effective date for current contracts so carriers mail the endorsement with the insured's renewal statement. The one coordination situation that will see a significant change is when there is a dispute over which insurer pays what in a claim. If there is no agreement after 30 days, they are required to pay equal amounts.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impact on insurers should be offset by the efficiency in COB claims processing.
D. Kent Michie, Commissioner

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

INSURANCE
ADMINISTRATION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/17/2007

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 12/05/2007 at 11:00 AM, State Office Building (behind the Capitol), Room 1112, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/24/2007

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-131. Accident and Health Coordination of Benefits Rule.

R590-131-1. Authority.

This rule is adopted and promulgated pursuant to Subsection 31A-2-201(3)(a) and Section 31A-22-619.

R590-131-2. Purpose and Applicability.

A. The purpose of this rule is to:

~~[A. permit, but not require, plans to include a coordination of benefits, or COB, provision;~~

~~B. establish an order of priority in which plans pay their COB claims;~~

~~C. provide the authority for the orderly transfer of information needed to pay COB claims promptly;~~

~~D-]1. establish a uniform order of benefit determination under which plans pay coordination of benefit claims;~~

~~2. reduce duplication of benefits by permitting a reduction of the benefits paid by a plan when the plan, pursuant to this rule, does not have to pay its benefits first; and~~

~~[E. reduce COB claims payment delays; and~~

~~F. make all contracts that contain a COB provision consistent with this rule.]3. provide greater efficiency in the processing of claims when a person is covered under more than one plan.~~

~~B. This rule applies to all accident and health insurance plans issued on or after the effective date of this rule.~~

R590-131-3. Definitions.

For the purposes of this rule, the commissioner adopts the definitions in Sections 31A-1-301 and 31A-30-103, and the following:

A. "Allowable Expense" means~~[-] any health care expense, including coinsurance or copayments and without reduction for any applicable deductible, that is covered in full or in part by any of the plans covering the person.~~

1. ~~[The amount on which a plan would base its benefit payment for covered services in the absence of any other coverage.~~

~~2. When a plan provides benefits in the form of services, the reasonable cash value of each service will be considered as both an allowable expense and a benefit paid.~~

~~3. The difference between the cost of a private hospital room and the cost of a semi-private hospital room is not considered an allowable expense under the above definition unless the patient's stay in a private hospital room is medically necessary in terms of generally accepted medical practice.~~

~~4. When COB is restricted in its use to a specific coverage in a contract, for example, major medical or dental, the definition of allowable expense must include the corresponding expenses or services to which COB applies.]If an insurer is advised by a covered person that all plans covering the person are high-deductible health plans and the person intends to contribute to a health savings account established in accordance with Section 223 of the Internal Revenue Code of 1986, the primary high-deductible health plan's deductible is not an allowable expense, except for any health care expense incurred that may not be subject to the deductible as described in Section 223(c)(2)(C) of the Internal Revenue Code of 1986.~~

~~2. An expense or a portion of an expense that is not covered by any of the plans is not an allowable expense.~~

~~3. Any expense that a provider, by law or in accordance with a contractual agreement, is prohibited from charging a covered person is not an allowable expense.~~

~~4. The following are examples of expenses that are not allowable expenses:~~

~~a. If a person is confined in a private hospital room, the difference between the cost of a semi-private room in the hospital and the private room is not an allowable expense, unless one of the plans provides coverage for private hospital room expenses.~~

~~b. If a person is covered by two or more plans that compute their benefit payments on the basis of usual and customary fees or relative value schedule reimbursement or other similar reimbursement methodology, any amount charged by the provider in excess of the highest reimbursement amount for a specified benefit is not an allowable expense.~~

~~c. If a person is covered by two or more plans that provide benefits or services on the basis of negotiated fees, any amount in~~

~~excess of the highest of the negotiated fees is not an allowable expense.~~

~~d. If a person is covered by one plan that calculates its benefits or services on the basis of usual and customary fees, relative value schedule reimbursement, or other similar reimbursement methodology and another plan that provides its benefits or services on the basis of negotiated fees, the primary plan's payment arrangement shall be the allowable expense for all plans. However, if the provider has contracted with the secondary plan to provide the benefit or service for a specific negotiated fee or payment amount that is different than the primary plan's payment arrangement and if the provider's contract permits, that negotiated fee or payment shall be the allowable expense used by the secondary plan to determine its benefits.~~

~~e. The definition of "allowable expense" may exclude certain types of coverage or benefits such as dental care, vision care, or hearing aids.~~

~~i. A plan that limits the application of COB to certain coverages or benefits may limit the definition of allowable expense in its contract to expenses that are similar to the expenses that it provides.~~

~~ii. When COB is restricted to specific coverages or benefits in a contract, the definition of allowable expense shall include similar expenses to which COB applies.~~

~~f. When a plan provides benefits in the form of services, the reasonable cash value of each service will be considered an allowable expense and a benefit paid.~~

~~g. The amount of the reduction may be excluded from allowable expense when a covered person's benefits are reduced under a primary plan because the covered person does not comply with the plan provisions concerning second surgical opinions or pre-certification of admissions or services.~~

~~B. "Birthday" refers only to month and day in a calendar year[-] and does not include the year in which the person was born.~~

~~C. "Child" means a:~~

~~1. child as defined in Section 78-45-2; or~~

~~2. dependent child that is provided coverage pursuant to Sections 31A-22-610, 610.5 and 611.~~

~~D. "Claim" means a request that benefits of a plan be provided or paid. The benefits claimed may be in the form of:~~

~~1. services (including supplies);~~

~~2. payment for all or a portion of the expenses incurred;~~

~~3. a combination of (1) and (2) above; or~~

~~4. an indemnification.~~

~~E. "Closed Panel Plan" means a plan that provides health benefits to covered persons primarily in the form of services through a panel of providers that have contracted with or are employed by a plan, and that excludes benefits for services provided by other providers, except in the cases of emergency or referral by a panel member.~~

~~F. "Conforming Plan" means a plan that is subject to this rule.~~

~~G. [D-] "Continuation Coverage" means coverage provided under right of continuation pursuant to the federal (COBRA) law, Utah mini-COBRA, or a[the] state extension law. For the purposes of this rule, a person's eligibility status will maintain the same classification under continuation coverage.~~

~~H. [E-] "Coordination of Benefits" or "COB" means a provision establishing an order in which plans pay their coordination of benefit claims, and permitting secondary plans to reduce their benefits so that the combined benefits of all plans do not exceed total allowable expenses[the process of determining which of two or more accident~~

and health insurance policies, or other policies specifically included in this rule, covering a loss or claim, will have the primary responsibility to pay the loss or claim, and also the manner and extent to which the other policies shall pay or contribute].

L.[F-] "Custodial Parent" means: [the parent awarded custody of a child by a court decree. In the absence of a court decree, the parent with whom the child resides more than one half of the calendar year without regard to any temporary visitation is the custodial parent.]

1. the legal custodial parent or physical custodial parent as awarded by a court decree; or

2. in the absence of a court decree, the parent with whom the child resides more than one half of the calendar year without regard to any temporary visitation.

J.[G-] "Hospital Indemnity Benefits" means benefits not related to expenses incurred. The term does not include reimbursement-type benefits even if they are designed or administered to give the insured the right to elect indemnity-type benefits at the time of claim.

K. "Legal custodial parent" means the parent that can make a decision for the child.

L.[H-] "Noncomplying Plan" means a plan that is not subject to this rule[Rule].

M. "Physical custodial parent: means the parent with whom the child resides more than one half of the calendar year without regard to any temporary visitation.

N.[I-] "Plan" means a form of coverage with which coordination is allowed.

1. Separate parts of a plan that are provided through alternative contracts that are intended to be part of a coordinated package of benefits are considered one plan and there is no COB among the separate parts of the plan.

2. If a plan coordinates benefits, its contract shall state the types of coverage that will be considered in applying the COB provision of that contract.

3. Whether a plan's contract uses the term "plan" or some other term such as "program," the contractual definition may be no broader than the definition of "plan."

4. Plan shall include:

a. individual and group insurance contracts and subscriber contracts;

b. uninsured arrangements of group or group-type coverage;

c. coverage through closed panel plans;

d. medical care components of long-term care contracts, such as skilled nursing care; and

e. Medicare or other governmental benefits, as permitted by law.

5. Plan shall not include:

a. hospital indemnity coverage benefits or other fixed indemnity coverage;

b. accident only coverage;

c. specified disease or specified accident coverage;

d. limited benefit health coverage, as defined in Rule R590-126;

e. school accident-type coverages that cover students for accidents only, including athletic injuries, either on a twenty-four-hour basis or on a "to and from school" basis;

f. benefits provided in long-term care insurance policies for non-medical services, for example, personal care, adult day care, homemaker services, assistance with activities of daily living, respite care and custodial care or for contracts that pay a fixed daily

benefit without regard to expenses incurred or the receipt of services;

g. Medicare supplement policies;

h. a state plan under Medicaid; or

i. a governmental plan, which, by law, provides benefits that are in excess of those of any private insurance plan or other non-governmental plan [The definition of plan in the contract must state the types of coverage, which will be considered in applying the COB provision of that contract.

1. This rule uses the term plan. However, a contract may, instead, use "Program" or some other term.

2. Plan shall include:

a. individual, group, or HMO health insurance contracts providing hospital expense or medical surgical expense benefits, except those explicitly excluded under Subsection R590-131-3.1.3.;

b. group, group type, and individual automobile "no fault" medical payment contracts, after statutory PIP limit 31A-22-306 through 309; and

c. Medicare or other governmental benefits, except as provided in Subsection R590-131-3.1.3.f. below. That part of the definition of plan may be limited to the hospital, medical, and surgical benefits of the governmental program.

3. Plan shall not include:

a. hospital indemnity coverage;

b. disability income protection coverage;

c. accident only coverage;

d. specified disease or specified accident coverage;

e. nursing home and long-term care coverage;

f. a state plan under Medicaid, and shall not include a law or plan when, by state or federal law, its benefits are in excess of those of any private insurance plan or other non-governmental plan; and

g. Medicare supplement policies].

O.[J-] "Primary Plan" means a plan whose benefits for a person's health care coverage must be determined without taking the existence of any other plan into consideration [first according to R590-131-4-B]. A plan is a primary plan if [either of the following conditions is true]:

1. the plan has no order of benefit determination;

2. its rules differ from those permitted by this rule; or

3. all plans which cover the person use the order of benefit determination provisions of this rule and under those requirements the plan determines its benefits first.

P.[K-] "Secondary Plan" means a plan, which is not a primary plan. [If a person is covered by more than one secondary plan, the order of benefit determination rules of this rule decides the order in which their benefits are determined in relation to each other. The benefits of each secondary plan may take into consideration the benefits of the primary plan or plans and the benefits of any other plan, which, under the provisions of this rule, has its benefits determined before those of that secondary plan.]

Q. "Separated" means married persons living apart, either informally by one leaving the home or agreeing to separate while sharing a residence without sexual relations. Separated includes married persons who are legally separated.

R590-131-4. COB Contract Provisions.

A. A COB provision may not be used that permits a plan to reduce its benefits on the basis that:

1. another plan exists and the covered person did not enroll in that plan;

2. a person is or could have been covered under another plan;
or

3. a person has elected an option under another plan providing a lower level of benefits than another option that could have been elected.

B. Under the terms of a closed panel plan, benefits are not payable if the covered person does not use the services of a closed panel provider for either plan.

1. In most instances, COB does not occur if a covered person is enrolled in two or more closed panel plans and obtains services from a provider in one of the closed panel plans. The closed panel plan for whose providers were not used, has no liability.

2. COB may occur during the plan year when the covered person receives services from a provider who is on each closed panel, or emergency services that would have been covered by both plans. The secondary plan shall use the provisions of R590-131-7 determine the amount it should pay for the benefit.

C. No plan may use a COB provision, or any other provision that allows it to reduce its benefits with respect to any other coverage its insured may have that does not meet the definition of plan under R590-131-3.

R590-131-5. Rules for Coordination of Benefits.

When a person is covered by two or more plans, the rules for determining the order of benefit payments are as follows:

A. [General Rules:

1. The primary plan shall [must] pay or provide its benefits as if the secondary plans or plan did not exist. [A primary plan may not deny payment or a benefit on the grounds that a claim was not timely submitted if the claim was timely submitted to one or more secondary plans and was submitted to the primary plan within 36 months of the date of service. A plan that does not include a coordination of benefits provision may not take the benefits of another plan into account when it determines its benefits.

2. A secondary plan may take the benefits of another plan into account only when, under these rules, it is secondary to that other plan.]

B. If the primary plan is a closed panel plan and the secondary plan is not a closed panel plan, the secondary plan shall pay or provide benefits as if it were the primary plan when a covered person uses a non-panel provider, except for emergency services or authorized referrals that are paid or provided by the primary plan.

C. When multiple contracts providing coordinated coverage are treated as a single plan under this rule, this section applies only to the plan as a whole, and coordination among the component contracts is governed by the terms of the contracts. If more than one insurer pays or provides benefits under the plan, the insurer designated as primary within the plan shall be responsible for the plan's compliance with this rule.

D. If a person is covered by more than one secondary plan, benefits are determined using the rules in R590-131-6.

E. Each secondary plan shall take into considerations the benefits of the primary plan or plans and the benefits of any other plan, which, under the rules of this rule, has its benefits determined before those of the secondary plan.

R590-131-6. Determining Order of Benefits.

Each plan determines its order of benefits using the first of the following rules that apply:

A. Non-dependent or Dependent.]

1.] The [benefits of the] plan that [which] covers the person other than [as an employee, member or subscriber, that is, other than] as a dependent, such as an employee, member, policyholder retiree or subscriber, is the primary plan and [are determined before those of] the plan that covers [which ever] the person as a dependent is the secondary plan.

B. Child Covered Under More Than One Plan.]

2. Dependent Child/Parents Married or Living Together.]

Unless there is a court decree stating otherwise, plans covering a child shall determine the order of benefits as follows:

1. For a [The rules for the order of benefits for a dependent] child when the parents are married or living together, whether or not they have ever been married; [are as follows:]

a. The [benefits of the] plan of the parent whose birthday falls earlier in the calendar year is the primary plan; or [are determined before those of the plan of the parent whose birthday falls later in the year.]

b. If both parents have the same birthday, [the benefits of] the plan that has [which] covered the parent longest is the primary plan. [longer, are determined before those of the plan which covered the other parent for a shorter period of time.

c. If the other plan, R590-131-3.1.2b, does not have the rule described in R590-131-4.B.1, .2 and .3, but instead has a rule based upon another order, and if, as a result, the coordinating plans do not agree on the order of benefits, the rule of the other plan will determine the order of benefits.

3. Dependent Child/Parents Separated, Divorced or Not Living Together. If two or more plans cover a person as a dependent child of parents divorced, separated or not living together, benefits for the child are determined in the following order:

a. first, the plan of the custodial parent of the child;

b. then, the plan of the spouse of the custodial parent of the child;

c. the plan of the non-custodial parent; and

d. finally, the plan of spouse of the non-custodial parent.]

2. For a child whose parents are divorced or separated or are not living together, whether or not they have ever been married:

a.i. If a [the specific terms of a] court decree states [state] that one of the parents is responsible for the child's health care expenses or health care [insurance] coverage, the responsible parent's [and the plan of that parent has actual knowledge of those terms, that] plan is primary.

ii. If the parent with responsibility has no health care coverage for the child's health care [services or] expenses, but the [that parent's] spouse of the responsible parent does have health care coverage for the child's health care expenses, the responsible parent's spouse is the [spouse's plan is] primary plan. [This subparagraph shall not apply with respect to any claim determination period or plan year during which benefits are paid or provided before the entity has actual knowledge.]

b. [ii.] If [the specific terms of] a court decree states [state] that both [the parents have joint custody, without stating that one of the] parents are [is] responsible for the health care expenses or health care [insurance] coverage of the child [and the child's residency is split between the parents], the provisions of R590-131-6.B.1. shall determine the order of benefits [benefit determination rules outlined in Subsection R590-131-4.B.2. Dependent Child/Parents Married or Living Together shall apply. This subparagraph shall not apply with respect to any claim determination period or plan year during which benefits are paid or provided before the entity has actual knowledge].

c. If a court decree states that the parents have joint custody without stating that one parent has responsibility for the health care expenses or health care coverage of the child the provisions of R590-161-6.B.1. shall determine the order of benefits, or

d.~~iii.~~ If there is no court decree allocating responsibility for the child's health care ~~services or~~ expenses or health care coverage, the order of benefits for the child are as follows~~—benefit determination among the plans of the parents and the parents' spouses, if any, is~~:

i.~~A.~~ the plan covering~~of~~ the custodial parent;

ii.~~B.~~ the plan covering~~of~~ the custodial parent's spouse~~—of the custodial parent~~;

iii.~~C.~~ the plan covering~~of~~ the non-custodial parent; and then

iv.~~D.~~ the plan covering~~of the spouse of~~ the non-custodial parent's spouse~~parent~~.

e. For a child covered under more than one plan, and one or more of the plans provides coverage for individuals who are not the parents of the child, such as a guardian, the order of benefits shall be determined under R590-131-6.B.1. or 2. as if those individuals were parents of the child.

C.~~4.~~ Active, Retired, or Laid-Off Employee~~—Inactive Employee, Member or Subscriber~~.

1. The~~benefits of a~~ plan that~~—, which~~ covers a person as an active employee who is neither laid off, nor retired, nor a dependent of an active employee, is the primary plan~~—, member, and subscriber, are determined before those of a plan, which cover that person as an inactive employee, member, or subscriber~~.

2. If the other plan does not have this rule, and ~~if, as a result,~~ the plans do not agree on the order of benefits, this rule~~provision~~ is ignored.

3. This Subsection does not apply if the rule in Subsection 6.A. can determine the order of benefits.

D.~~5.~~ Longer or ~~/~~Shorter Length of Coverage.

1. If the preceding~~—none of the above~~ rules do not determine the order of benefits, the~~—benefits of the~~ plan that covered the person for the longer period of time is the primary plan and the plan that covered the person for the shorter period of time is the secondary plan~~—which covered an employee, member, or subscriber longer are determined before those of the plan which covered that person for the shorter term~~.

2.a. To determine the length of time a person has been covered under a plan, two successive plans shall be treated as one if the claimant was eligible under the second within 24 hours after coverage under the first plan ended.

b. The start of a new plan does not include:

i. a change in the amount or scope of a plan's benefits;

ii. a change in the entity that~~—which~~ pays, provides or administers the plan's benefits; or

iii. a change from one type of plan to another, such as, from a single employer plan to that of a multiple employer plan.

c. The person's~~claimant's~~ length of time covered under a plan is measured from the claimant's first date of coverage under that plan. If that date is not readily available, the date the claimant first became a member of the group shall be used as the date from which to determine the length of time the person's~~claimant's~~ coverage under the present plan has been in force.

E. If none of the above rules determine the primary plan, the allowable expenses shall be shared equally between the plans.

F. If the plans cannot agree on the order of benefits within 30 calendar days after the plans have received all of the information

needed to pay the claim, the plans shall immediately pay the claim in equal shares and determine their relative liabilities following payment, except that no plan shall be required to pay more than it would have paid had it been the primary plan.

R590-131-7~~5.~~ Procedure to be Followed by Secondary Plan to Calculate Benefits and Pay a Claim.

A. In determining the amount to be paid by the secondary plan on a claim, the secondary plan shall calculate the benefits, should the secondary plan wish to coordinate benefits, it would have paid on the claim in the absence of other health care coverage and apply that calculated amount to any allowable expense under its plan that is unpaid by the primary plan.~~When it is determined, pursuant to Section R590-131-4 that the plan is a secondary plan, benefits may be reduced as follows:~~

1. when one of the plans has contracted for discounted provider fees, the secondary plan may limit payment to any copayments and deductibles owed by the insured after payment by the primary plan; or

2. if none of the plans have contracted for discounted provider fees, the secondary plan may reduce its benefits so that total benefits paid or provided by all plans for a covered service are not more than the highest allowable expense of any of the plans for that service.]

B. The secondary plan may reduce its payment by the amount so that when combined with the amount paid by the primary plan, the total benefits paid or provided by all plans for the claim do not exceed 100% of the total allowable expense for that claim.~~must calculate the amount of benefits it would normally pay in the absence of coordination, including the application of credits to any policy maximums, and apply the payable amount to unpaid covered charges owed by the insured member after benefits have been paid by the primary plan. This amount must include deductibles, coinsurance and copays left owing by the insured member. The secondary plan can use its own deductibles, coinsurance and copays to figure the amount it would have paid in the absence of coordination, and a secondary plan is not required to pay a higher amount than what they would have paid in the absence of coordination. A secondary plan shall only apply its own deductibles, coinsurance and copays to the total allowable expenses, not to the amount left owing after payment by any primary plans.~~

Insurers must coordinate with plans listed under Subsection R590-131.3.1.2.b. with the same provisions under Subsection R590-131.5.B.]

C. The secondary plan shall credit to its plan deductible any amounts it would have credited to its deductible in the absence of other health care coverage.~~Nothing in this rule is intended to require a secondary plan to make payment for any service that is not covered as a benefit by the secondary plan.~~

R590-131-8~~6.~~ Miscellaneous Provisions.

A. Reasonable Cash Value of Services.

1. A secondary plan which provides benefits in the form of services may recover the reasonable cash value of providing the services from the primary plan, to the extent that benefits for the services are covered by the primary plan and have not already been paid or provided by the primary plan.

2. Nothing in this provision may be interpreted to require a plan to reimburse a covered person in cash for the value of services provided by a plan, which provides benefits in the form of services.

B. Excess and Other Nonconforming Provisions.

1. No policy~~[;]~~ or plan, as defined by this rule, may contain a provision that its benefits are "excess" or "always secondary" to any other plan or policy.

2. A plan with ~~COB[order of benefit determination]~~ rules which comply with ~~these rules~~~~(this rule)~~, which is called a ~~conforming~~~~[complying]~~ plan, may coordinate~~[its]~~ benefits with a plan which is "excess" or "always secondary" or which uses ~~COB[order of benefit determination]~~ rules~~[which are]~~ inconsistent with~~[those contained in]~~ this rule, which is called a ~~non-conforming~~~~[noncomplying]~~ plan, on the following basis:

a. if the ~~conforming~~~~[complying]~~ plan is the primary plan, it shall pay or provide its benefits on a primary basis;

b. if the ~~conforming~~~~[complying]~~ plan is the secondary plan, it shall pay or provide its benefits first~~[, but the amount of the benefits payable shall be determined as]~~

~~c. if the conforming~~~~[complying]~~ plan ~~is~~~~[were]~~ the secondary plan, it shall pay or provide its benefits first, but the amount of the benefits payable shall be determined as if the conforming plan were the secondary plan. In such a situation, ~~the~~~~[such]~~ payment shall be the limit of the ~~conforming~~~~[complying]~~ plan's liability; and

~~d. e. if the non-conforming~~~~[noncomplying]~~ plan does not provide the information needed by the ~~conforming~~~~[complying]~~ plan to determine its benefits within a reasonable time after it is requested to do so, the ~~conforming~~~~[complying]~~ plan shall assume that the benefits of the ~~non-conforming~~~~[noncomplying]~~ plan are identical to its own~~[;]~~ and shall pay its benefits accordingly. If within three years of payment, the conforming plan receives information as to the actual benefits of the non-conforming plan, it~~[However, the complying plan]~~ shall adjust any payments ~~accordingly~~~~[it makes based on such assumption whenever information becomes available as to the actual benefits of the noncomplying plan].~~

~~e. i. [3-] If the nonconforming~~~~[noncomplying]~~ plan reduces its benefits so that the ~~covered person~~~~[employee, subscriber, or member]~~ receives less in benefits than ~~the covered person~~~~[he or she]~~ would have received had the ~~conforming~~~~[complying]~~ plan paid or provided its benefits as the secondary plan, and the ~~nonconforming~~~~[noncomplying]~~ plan paid or provided its benefits as the primary plan~~[and governing state law allows the right of subrogation set forth below]~~, then the ~~conforming~~~~[complying]~~ plan shall advance to ~~the covered person~~, or on behalf of the ~~covered person~~~~[employee, subscriber, or member]~~ an amount equal to such difference.

~~ii. [a-] In no event shall~~~~[may]~~ the ~~conforming~~~~[complying]~~ plan advance more than the ~~conforming~~~~[complying]~~ plan would have paid had it been the primary plan, less any amount it ~~had~~ previously paid.

~~iii. [b-] In consideration of such advance, the conforming~~~~[complying]~~ plan shall be subrogated to all rights of the ~~covered person~~~~[employee, subscriber, or member]~~ against the ~~non-conforming~~~~[noncomplying]~~ plan in the absence of subrogation.

C. ~~[Allowable Expense. A term such as "usual and customary," "usual and prevailing," or "reasonable and customary," may be substituted for the term "necessary, reasonable and customary." Terms such as "medical care" or "dental care" may be substituted for "health care" to describe the coverages to which the COB provisions apply.]~~ If the plans cannot agree on the order of benefits within thirty calendar days after the plans have received all of the information needed to pay the claim, the plans shall immediately pay the claim in equal shares and determine their relative liabilities following payment, except that no plan shall be

required to pay more than it would have paid had it been the primary plans.

D. Subrogation.

~~[The] COB~~~~[concept]~~ clearly differs from~~[that of]~~ subrogation. Provisions for one may be included in health care ~~benefit~~~~[benefits]~~ contracts without compelling the inclusion or exclusion of the other.

E. Right To Receive and Release Needed Information. Certain facts are needed to apply these COB rules. An insurer has the right to decide which facts it needs. It may ~~obtain~~~~[get]~~ needed facts from or give them to any other organization or person. An insurer need not tell~~[;]~~ or ~~obtain~~~~[get the]~~ consent ~~from~~~~[of;]~~ any person to do this. To facilitate cooperation with insurers; guidelines for medical privacy issues are provided under U.A.R R590-206, and Title V of Gramm-Leach-Bliley Act of 1999. Each person claiming benefits under a plan shall give the insurer any facts it needs to pay the claim.

F. ~~[Facility of Payment. A payment made under another plan may include an amount, which should have been paid under the plan. If it does, the insurer may pay that amount to the organization, which made that payment. That amount will then be treated as though it were a benefit paid under the plan. The insurer will not have to pay that amount again. The term "payment made" includes providing benefits in the form of services, in which case "payment made" means reasonable cash value of the benefits provided in the form of services.~~

~~G-] Right of Recovery.~~

~~1. If the amount of the payments made by an insurer is more than it should have paid under the provisions of this rule, subject to 31A-26-301.6, it may recover the excess paid from one or more of the following, if they were paid by the insurer:~~

~~a. [1-] an~~~~[The insurer may recover from:~~

~~a. The] insured;~~~~[it has paid. However, reversals of payments made due to issues related to coordination of benefits are limited to a time period of 18 months from the date a payment is made unless the reversal is due to fraudulent acts, fraudulent statements, or material misrepresentation by the insured. It is the insurers responsibility to see that the proper adjustments between insurers and providers are made.]~~

~~b. a~~~~[The] non-contracted provider;~~~~[it has paid. It is the insurers responsibility to see that the proper adjustments between insurers and providers are made. However, reversals of payments made due to issues related to coordination of benefits are limited to a time period of 36 months from the date a payment is made unless the reversal is due to fraudulent acts, fraudulent statements, or material misrepresentation by the insured.]~~

~~c. a~~~~[The] contracted provider;~~~~[providers it has paid. Subject to 31A-26-301.6(15)(a)(ii), it is the insurers responsibility to see that the proper adjustments between insurers and providers are made.]~~

~~d. [2-] other~~~~[The insurer may recover from]~~ insurance companies~~[;]~~ or

~~e. [3- The insurer may recover from]~~ other organizations.

~~2. Reversals of payments made due to issues related to this rule are limited to the time period stated in Section 31A-26-301.6, except as provided in Section 31A-21-313.~~

~~3. It is the insurers responsibility to see that the proper adjustments between insurers and providers are made.~~

~~[H- The "amount of the payments made" includes the reasonable cash value of any benefits provided in the form of services:~~

~~I. A plan, whether primary or secondary, may not be required to pay a greater total benefit than would have been required had there been no other plan.~~

~~J. Exception to claim payment guidelines and timetables expressed under 31A-26-301.5(2)(b) and R590-192-7, for coordination of benefit claims are allowed by the secondary plan:~~

~~1. if the secondary plan has proof that they are the secondary plan; and~~

~~2. for only as long as a submitted claim is without an explanation of benefits from the primary plan.]G. Notice to Covered Persons. A plan shall, in its explanation of benefits provided to covered persons, include the following language: "If you are covered by more than one health benefit plan, you should file all your claims with each plan."~~

~~H. If otherwise covered benefits are due to a loss subject to Section 31A-22-306, then an accident and health insurer may exclude benefits covered by personal injury protection described Subsection 31A-22-307(1)(a), up to the:~~

~~1. personal injury protection benefit provided by motor vehicle insurance; or~~

~~2. minimum amount required by Section 31A-22-607, if motor vehicle insurance is not in effect.~~

R590-131-9. COB Scenarios.

The following scenarios are provided to assist in demonstrating the use of the COB rule:

A. Parents Not Married, Living Together, No Court Decree. The order of benefits pursuant to R590-131-6.B.1. shall be:

1. the parent whose birthday falls earlier in the calendar year; then

2. the parent whose birthday falls later in the calendar year; or

3. if the parents have the same birthday, the plan that has covered the parent longest; then

4. the plan that has covered the parent the shortest.

B. Parents Divorced, Separated, Or Not Living Together.

1. The court decree gives joint custody with the father responsible for the child's health care expenses or health care coverage, and the father has health care coverage. The order of benefits pursuant to R590-131-6.B.2.a. shall be the:

a. natural father;

b. step-mother;

c. natural mother; then

d. step-father.

2. The court decree gives joint custody with father responsible for the child's health care expenses or health care coverage, the father does not have health care coverage, but his wife does. The order of benefits pursuant to R590-131-6.B.2.b. shall be the:

a. step-mother;

b. natural mother; then

c. step-father.

3. The court decree gives custody to the father and requires both parents to be responsible for health care expenses or coverage. The father's date of birth (DOB) 12/01, the step-mother's DOB 02/17, the mother's DOB 08/23, and the step-father's DOB 01/10. The order of benefits pursuant to R590-131-6.B.2.c. shall be the:

a. step-father;

b. step-mother;

c. natural mother; then

d. natural father.

4. A court decree awards joint custody and the father physical custody. The court decree does not address health care expenses or coverage. The order of Benefits pursuant to R590-131-6.B.2.d. shall be the:

a. natural father;

b. step-mother;

c. natural mother; then

d. step-father.

5. A court decree awards joint custody and requires both parents to be responsible for health care expenses or coverage. The child lives with the mother 51% of the year. The father's DOB is 12/01, the step-mother's DOB is 02/17, the mother's DOB is 08/23, and the step-father's DOB is 01/10. The order of benefits pursuant to R590-131-6.B.2.c. shall be the:

a. step-father;

b. step-mother;

c. natural mother; then

d. natural father.

C. Parents Never Married.

1. The parents are not living together and no court decree exists. The order of benefits pursuant to R590-131-6.B.2.d shall be the:

a. plan covering the custodial parent;

b. plan covering the custodial parent's spouse;

c. plan covering the non-custodial parent; and then

d. plan covering the non-custodial parent's spouse.

2. The parents are not living together and the court decree awards custody to mother, but the decree does not address health care expenses or coverage. The order of benefits pursuant to R590-131-6.B.2.d. shall be the:

a. natural mother;

b. step-father;

c. natural father; then

d. step-mother.

D. Children No Longer Minors. A court decree orders that the natural father is to provide insurance for the minor children and physical custody is awarded to the natural mother. The dependents are age 18 and older. The order of benefits pursuant to R590-131-6.B.2.d shall be the:

1. natural mother;

2. step-father;

3. natural father; then

4. step-mother.

R590-131-10. Effective Date for Existing Contracts.

A. A contract that provides health care benefits issued before the effective date of this rule shall be brought into compliance with this rule by the later of:

1. the next anniversary date or renewal date of the contract; or

2. 12 months following the effective date of this rule; or

3. the expiration of any applicable collectively bargained contract pursuant to which it was written.

B. For the transition period between the adoption of this rule and the timeframe for which plans are to be in compliance, a plan that is subject to the prior COB requirements shall not be considered a non-conforming plan by a plan subject to the new COB requirements, and if there is a conflict between the prior COB requirements under the prior rule and the new COB requirements under the amended rule, the prior COB requirements shall apply.

R590-131-11[7]. Penalties.

Any insurer that[,-which] fails to comply with the provisions of this rule, shall be subject to the forfeiture and penalty provisions of Section 31A-2-308.

R590-131-12[8]. Separability.

If any provision of this rule or the application of it to any person is for any reason held to be invalid, the remainder of the rule and the application of any provision to other persons or circumstances shall not be affected.

R590-131-13[9]. Enforcement Date. [Existing Contracts.]

The commissioner will begin enforcing the revised provisions of this rule 45 days from the rule's effective date.

KEY: insurance law

Date of Enactment or Last Substantive Amendment: ~~August 22, 2002~~ **2007**

Notice of Continuation: November 27, 2002

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-21-307

◆ ————— ◆
Labor Commission, Industrial Accidents

R612-4-2
Premium Rates for the Uninsured
Employers' Fund and the Employers'
Reinsurance Fund

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 30594

FILED: 10/16/2007, 13:00

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to establish the premium assessment rates for 2008 to fund the Employers' Reinsurance Fund (ERF), the Uninsured Employers' Fund (UEF), and the Workplace Safety Account.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment retains the same workers' compensation insurance premium assessment rates for the 2008 calendar year that were applied for 2007: 7.25% for the ERF, .25% for the UEF, and .25% for Workplace Safety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 59-9-101(2) and Sections 59-9-101.3 and 34A-2-202

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There should be no cost or savings to the state budget as the assessment rates will remain at the same level for 2008 as they were for 2007.
- ❖ **LOCAL GOVERNMENTS:** There should be no cost or savings to the local governments as the assessment rates will remain at the same level for 2008 as they were for 2007.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There should be no cost or savings to the small businesses and persons other than businesses as the assessment rates will remain at the same level for 2008 as they were for 2007.

COMPLIANCE COSTS FOR AFFECTED PERSONS: As in previous years, the premium assessment imposed by this rule will increase the workers' compensation premium for employers by a total of 7.75%.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule continues "status quo" funding levels for the ERF and the UEF, and implements the statutory assessment to fund the Workplace Safety Program. Because the rule does not change current workers' compensation expenses, it will have no effect on businesses, but will provide sufficient funds to maintain the actuarial soundness of the UEF and ERF. Sherrie Hayashi, Commissioner

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:

Joyce Sewell at the above address, by phone at 801-530-6988, by FAX at 801-530-6804, or by Internet E-mail at jsewell@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/17/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/01/2008

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R612. Labor Commission, Industrial Accidents.**R612-4. Premium Rates.****R612-4-2. Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund.**

A. Pursuant to Section 59-9-101(2), Section 59-9-101.3 and 34A-2-202 the workers' compensation premium rates effective January 1, 2007[8], as established by the Labor Commission, shall be:

1. 0.25% for the Uninsured Employers' Fund;
2. 7.25% for the Employers' Reinsurance Fund;
3. 0.25% for the workplace safety account.

B. The premium rates are a percentage of the total workers' compensation insurance premium income as detailed in Section 59-9-101(2)(a).

KEY: workers' compensation, rates

Date of Enactment or Last Substantive Amendment: ~~January 1, 2007~~ **January 1, 2008**

Notice of Continuation: January 12, 2006

Authorizing, and Implemented or Interpreted Law: 59-9-101(2)

Labor Commission, Safety
R616-2-3
Safety Codes and Rules for Boilers and
Pressure Vessels

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 30627

FILED: 10/30/2007, 08:54

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule change is to adopt the 2007 edition of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code. The Utah Labor Commission's intent is to maintain uniformity between Utah standards and national standards for the design, manufacture, and installation of boilers and pressure vessels.

SUMMARY OF THE RULE OR CHANGE: The 2007 ASME Codes adopted by the proposed rule make a large number of relatively minor technical and editorial changes; such as, material specifications, testing, inspection, and administrative dialog.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-7-101

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: ASME Boiler and Pressure Vessel Code, published July 1, 2007, Section I Rules for Construction of Power Boilers, Section IV Rules for Construction of Heating Boilers, and Section VIII Rules for Construction of Pressure Vessels

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Although the 2007 ASME Codes address a large number of relatively minor changes, these changes taken as a whole will not result in net costs or savings. As for the purchase of the new code books, the ASME Code is purchased every three years and ASME supplies one complementary set to the division.

❖ LOCAL GOVERNMENTS: Although the ASME Codes address a large number of relatively minor changes, these changes taken as a whole will not result in net costs or savings.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Although the 2007 ASME Codes address a large number of relatively minor changes, these changes taken as a whole will not result in net costs or savings. The changes to the code are mainly errata and restructure of what was already there. These changes should not result in any aggregate cost or savings to manufactures, dealers, or purchasers of boilers and pressure vessels.

COMPLIANCE COSTS FOR AFFECTED PERSONS: On balance, the proposed rule will not result in significant expense or savings to affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The technical changes required by the 2007 ASME Codes will have no net fiscal impact on businesses. However, by adopting the new 2007 ASME Codes, Utah standards will remain consistent with national standards. This will allow businesses to avoid the costs that would otherwise accrue if Utah standards were based on outdated codes that were no longer followed nationally. Sherrie Hayashi, Commissioner

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

LABOR COMMISSION
 SAFETY
 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:
 Pete Hackford at the above address, by phone at 801-530-7605, by FAX at 801-530-6390, or by Internet E-mail at phackford@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/17/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 12/24/2007

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R616. Labor Commission, Boiler and Elevator Safety.
R616-2. Boiler and Pressure Vessel Rules.
R616-2-3. Safety Codes and Rules for Boilers and Pressure Vessels.

The following safety codes and rules shall apply to all boilers and pressure vessels in Utah, except those exempted pursuant to Section 34A-7-101, and are incorporated herein by this reference in this rule.

A. ASME Boiler and Pressure Vessel Code (~~2004~~2007).

1. Section I Rules for Construction of Power Boilers published July 1, ~~2004, the 2005 Addenda published July 1, 2005, and the 2006 Addenda published July 1, 2006~~2007.

2. Section IV Rules for Construction of Heating Boilers published July 1, ~~2004, the 2005 Addenda published July 1, 2005, and the 2006 Addenda published July 1, 2006~~2007.

3. Section VIII Rules for Construction of Pressure Vessels published July 1, ~~2004, the 2005 Addenda published July 1, 2005, and the 2006 Addenda published July 1, 2006~~2007.

B. Power Piping ASME B31.1 (2004), issued August 16, 2004.

C. Controls and Safety Devices for Automatically Fired Boilers ASME CSD-1-1998; the ASME CSD-1a-1999 addenda, issued March 10, 2000; and the ASME CSD-1b (2001) addenda, issued November 30, 2001.

D. National Board Inspection Code ANSI/NB-23 (2004) issued December 31, 2004, the 2005 Addendum issued December 31, 2005, and the 2006 Addendum issued December 31, 2006.

E. NFPA 85 Boiler and Combustion Systems Hazard Code 2004 Edition.

F. Recommended Administrative Boiler and Pressure Vessel Safety Rules and Regulations NB-132 Rev. 4.

G. Pressure Vessel Inspection Code: Maintenance Inspection, Rating, Repair and Alteration API 510 Ninth Edition, June 2006. Except:

1. Section-8, and
2. Appendix-A.

KEY: boilers, certification, safety

Date of Enactment or Last Substantive Amendment: [~~April 24~~], 2007

Notice of Continuation: November 30, 2006

Authorizing, and Implemented or Interpreted Law: 34A-7-101 et seq.



Money Management Council, Administration

R628-15

Certification as an Investment Adviser

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 30595

FILED: 10/16/2007, 14:58

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Although audited financials and insurance requirements are required in the "post" certification requirements of this rule, the Securities Division informed the Money Management Council that there is no way to make sure that the financials were being provided, and that insurance was in place after the fact. The Securities Division suggested that it would be best to require the financials and proof of insurance up front.

SUMMARY OF THE RULE OR CHANGE: This change moves the post requirements of proof of insurance and audited financials from the "post" requirements section of the rule, and makes them part of the application process to become certified.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 51-7-3(3), 51-7-18(2)(b)(vi) and (vii), and Section 51-7-11.5

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None--The \$500 fee charged covers the cost of having a Securities Division employee review the application already.

❖ **LOCAL GOVERNMENTS:** As the rule applies only to investment advisers and investment adviser representatives, local government is not affected by the change.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** None--This is not a new requirement. Before this change, the

adviser would still have to provide audited financials and proof of insurance before they did business with a public entity so any costs incurred to provide these items up front would still have to be incurred before doing business with a public entity.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance costs for affected persons because this is not a new requirement, it is now required during the certification process. It used to be a post requirement before doing business with public entities.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The impact on business from these changes are nominal as the amendment to rule is more clarification and a definition of terms and procedure than operative. Bruce Cohne, Chairman

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

MONEY MANAGEMENT COUNCIL
ADMINISTRATION
Room E315 EAST OFFICE BLDG
STATE CAPITOL COMPLEX
PO BOX 142315
SALT LAKE CITY UT 84114-2315, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ann Pedroza at the above address, by phone at 801-538-1883, by FAX at 801-538-1465, or by Internet E-mail at apedroza@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/17/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 12/24/2007

AUTHORIZED BY: Bruce B. Cohne, Chair

R628. Money Management Council, Administration.

R628-15. Certification as an Investment Adviser.

R628-15-6. Criteria for Certification of an Investment Adviser.

To be certified by the Director as a Certified investment adviser or Investment adviser representative under the Act, an investment adviser or investment adviser representative shall:

A. Submit an application to the Division on Form 628-15 clearly designating:

- (1) the investment adviser;
 - (2) its designated official as defined in R164-4-2 of the Division;
- and

(3) any investment adviser representative who provides investment advisory services to public treasurers in the state.

B. Provide written evidence of insurance coverage as follows:

- (1) fidelity coverage based on the following schedule:

TABLE

Utah Public funds under management	Percent for Bond
\$0 to \$25,000,000	10% but not less than \$1,000,000
\$25,000,001 to \$50,000,000	8% but not less than \$2,500,000
\$50,000,001 to \$100,000,000	7% but not less than \$4,000,000
\$100,000,001 to \$500,000,000	5% but not less than \$7,000,000
\$500,000,001 to \$1.250 billion	4% but not less than \$25,000,000
\$1,250,000,001 and higher	Not less than \$50,000,000

(2) errors and omissions coverage equal to five percent (5%) of Utah public funds under management, but not less than \$1,000,000 nor more than \$10,000,000 per occurrence.

C. Provide to the Division at the time of application or renewal of application, its most recent annual audited financial statements prepared by an independent certified public accountant in accordance with generally accepted accounting principles in accordance with R628-15-8A.

[B]D. Pay to the Division the non-refundable fee described in Section 51-7-18.4(2).

[C]E. Have a current Certificate of Good Standing dated within 30 days of application from the state in which the applicant is incorporated or organized.

[D]F. Have net worth as of its most recent fiscal year-end of not less than \$150,000 documented by the financial statements audited according to Subsection R628-15-6(C)[prepared by an independent certified public accountant in accordance with generally accepted accounting principles].

[E]G. Allow the public treasurer to select the forum and method for dispute resolution, whether that forum be arbitration, mediation or litigation in any state or federal court. No agreement, contract, or other document that the applicant requires or intends to require to be signed by the public treasurer to establish an investment advisory relationship shall require or propose to require that any dispute between the applicant and the public treasurer must be submitted to arbitration.

[F]H. Agree to the jurisdiction of the Courts of the State of Utah and applicability of Utah law, where relevant, for litigation of any dispute arising out of transactions between the applicant and the public treasurer.

[G]I. All Investment adviser representatives who have any contact with a public treasurer or its account, must sign and have notarized a statement that the representative:

- (1) is familiar with the authorized investments as set forth in the Act and the rules of the Council;
- (2) is familiar with the investment objectives of the public treasurer, as set forth in Section 51-7-17(2);
- (3) acknowledges, understands, and agrees that all investment transactions conducted for the benefit of the public treasurer must fully comply with all requirements set forth in Section 51-7-7 and that the Certified investment adviser and any Investment adviser representative is prohibited from receiving custody of any public funds or investment securities at any time.

R628-15-9. Post Certification Requirements.

A. Certified investment advisers shall notify the Division of any changes to any items or information contained in the original application within 30 calendar days of the change. The notification shall provide copies, where necessary, of relevant documents.

B. Certified investment advisers shall maintain a current application on Form 628-15 with the Division throughout the term of any agreement or contract with any public treasurer. Federal covered advisers shall maintain registration as an investment adviser under the Investment Advisers Act of 1940 throughout the term of any agreement or contract with any public treasurer.

C. Certified investment advisers shall provide and maintain written evidence of insurance coverage as described in R628-15-6(B). ~~[and shall maintain insurance coverage as follows:]~~

~~[(1) fidelity coverage based on the following schedule:~~

TABLE

Utah Public funds under management	Percent for Bond
\$0 to \$25,000,000	10% but not less than \$1,000,000
\$25,000,001 to \$50,000,000	8% but not less than \$2,500,000
\$50,000,001 to \$100,000,000	7% but not less than \$4,000,000
\$100,000,001 to \$500,000,000	5% but not less than \$7,000,000
\$500,000,001 to \$1.250 billion	4% but not less than \$25,000,000
\$1,250,000,001 and higher	Not less than \$50,000,000

(2) errors and omissions coverage equal to five percent (5%) of Utah public funds under management, but not less than \$1,000,000 nor more than \$10,000,000 per occurrence.

—]D. Certified investment advisers shall provide to the public treasurer the SEC Form ADV Part II prior to contract execution.

E. Certified investment advisers shall file annual audited financial statements with all public treasurers with whom they are doing business ~~[and with the Division].~~

F. Certified investment advisers shall fully disclose all conflicts of interest and all economic interests in certified dealers and other affiliates, consultants and experts used by the Investment adviser in providing investment advisory services.

G. Certified investment advisers shall act with the degree of care, skill, prudence, and diligence that a person having special skills or expertise acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

H. Certified investment advisers shall exercise good faith in allocating transactions to certified dealers in the best interest of the account and in overseeing the completion of transactions and performance of certified dealers used by the Investment adviser in connection with investment advisory services.

I. Certified investment advisers shall fully disclose to the public treasurer any self-dealing with subsidiaries, affiliates or partners of the Investment adviser and any soft dollar benefits to the Investment adviser for transactions placed on behalf of the public treasurer.

J. Certified investment advisers shall fully and completely disclose to all public treasurers with whom they do business the basis

for calculation of fees, whether and how fees may be adjusted during the term of any agreement, and any other costs chargeable to the account. If performance-based fees are proposed, the disclosure shall include a clear explanation of the amount of the fee at specific levels of performance and how prior losses are handled in calculation of the performance-based fee.

K. Certified investment advisers shall not assign any contract or agreement with a public treasurer without the written consent of the public treasurer.

L. Certified investment advisers shall provide immediate written notification to any public treasurer to whom advisory services are provided and to the Division upon conviction of any crime involving breach of trust or fiduciary duty or securities law violations.

M. Not less than once each calendar quarter and as often as requested by the public treasurer, Certified investment advisers shall timely deliver to the public treasurer:

- (1) copies of all trade confirmations for transactions in the account;
- (2) a summary of all transactions completed during the reporting period;
- (3) a listing of all securities in the portfolio at the end of each reporting period, the market value and cost of each security, and the credit rating of each security;
- (4) performance reports for each reporting period showing the total return on the portfolio as well as the realized rate of return, when applicable, and the net return after calculation of all fees and charges permitted by the agreement; and
- (5) a statistical analysis showing the portfolio's weighted average maturity and duration, if applicable, as of the end of each reporting period.

KEY: cash management, public investments, securities regulation, investment advisers

Date of Enactment or Last Substantive Amendment: [June 21, 2007]2007

Authorizing, and Implemented or Interpreted Law: 51-7-3(3); 51-7-18(2)(b)(vi); 51-7-18(2)(b)(vii); 51-7-11.5(2)(b); 51-7-11.5(2)(c)

◆ ————— ◆

Natural Resources, Parks and Recreation **R651-611** Fee Schedule

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 30621
FILED: 10/25/2007, 12:14

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Many new items and services have been added to the park system, including cabins and yurts, equipment maintenance, golf course maintenance, and services. It is necessary to raise fees in some parks, add fees for some parks, change fees, and make new tables to reflect these changes.

SUMMARY OF THE RULE OR CHANGE: Costs to operate state parks have increased, services have increased, cabins and yurts are being added at certain state parks, maintenance and repair has been addressed and improved, and definitions continue to be added for clarifying the services and facilities offered and maintained by Utah State Parks.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63-11-17(8)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There will be an increase in revenue of approximately \$544,000 per year.
- ❖ **LOCAL GOVERNMENTS:** These price changes and increases are within state parks only, and therefore no aggregate anticipated cost or savings to local government.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There will be an average increase in cost of 5% to park visitors/patrons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Only those who visit our state parks and utilize facilities and services will pay the increased fees.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There may be increased competition with local businesses. Mike Styler, Executive Director

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/17/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/01/2008

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

R651. Natural Resources, Parks and Recreation.

R651-611. Fee Schedule.

R651-611-2. Day Use Entrance Fees.

Permits the use of all day activity areas in a state park. These fees do not include overnight camping facilities or special use fees.

A. Annual Permits

1. ~~[\$70.00]~~\$75.00 Multiple Park Permit (good for all parks)

- 2. \$35.00 Senior Multiple Park Permit (good for all parks)
- 3. \$200.00 Commercial Dealer Demonstration Pass
- 4. Duplicate Annual Permits may be purchased if originals are lost, destroyed, or stolen, upon payment of a \$10.00 fee and the submittal of a signed affidavit to the Division office. Only one duplicate is allowed.

B. Special Fun Tag - Available free to Utah residents, who are disabled, as defined by the Special Fun Tag permit affidavit.

C. Daily Permit - Allows access to a specific state park on the date of purchase.

~~1. \$10.00 per private motor vehicle~~

Table 1

~~Bear Creek~~ ~~Jordanelle~~ ~~Hailstone~~

~~1. \$10.00 (\$5.00 for seniors) per private motor vehicle, or \$2.00 per person, (\$1.00 for seniors) for pedestrians or bicycles at the following park:~~

TABLE 1

~~Dead Horse Point~~

2. ~~[\$9.00]~~ \$10.00 (\$5.00 for seniors) per private motor vehicle, or \$5.00 per person, (\$3.00 for seniors) ~~]~~ for pedestrians or bicycles at the following parks:

TABLE 2

~~Deer Creek~~ ~~Utah Lake~~ ~~Jordanelle - Hailstone~~
~~Willard Bay~~

3. \$10.00 (\$5.00 for seniors) per private motor vehicle, or \$4.00 per person, (\$2.00 for seniors) for pedestrians or bicycles at the following parks:

TABLE 3

~~Sand Hollow~~

4. \$9.00 (\$5.00 for seniors) per private motor vehicle or \$5.00 per person (\$3.00 for seniors), for pedestrians or bicycles at the following parks:

TABLE 4

~~Utah Lake~~

5. \$9.00 (\$5.00 for seniors) per private motor vehicle or \$4.00 per person (\$2.00 for seniors), for pedestrians or bicycles at the following parks:

TABLE 5

~~East Canyon~~ ~~Rockport~~

6. \$8.00 (\$4.00 for seniors) per private motor vehicle or \$4.00 per person (\$2.00 for seniors) for pedestrians or bicycles at the following parks:

TABLE 6

~~Bear Lake Marina~~ ~~Bear Lake - Rendezvous~~
~~Quail Creek~~

~~3-7. \$7.00~~ (\$4.00 for seniors) per private motor vehicle or \$4.00 per person (\$2.00 for seniors) for pedestrians or bicycles at the following parks:

TABLE [9]

~~Bear Lake Marina~~ ~~Bear Lake Rendezvous~~
~~Dead Horse Point~~ ~~East Canyon~~
~~Jordanelle - Rockcliff~~ ~~Quail Creek~~
~~Rockport~~ ~~Sand Hollow~~
~~Yuba~~

8. \$7.00 (\$4.00 for seniors) per private motor vehicle or \$3.00 per person (\$2.00 for seniors) for pedestrians or bicycles at the following parks:

TABLE 8

~~Goblin Valley~~ ~~Red Fleet~~
~~Scofield~~ ~~Starvation~~
~~Steinaker~~

~~4-9. \$6.00~~ (\$3.00 for seniors) per private motor vehicle or \$3.00 per person (\$2.00 for seniors), for pedestrians or bicycles at the following parks:

TABLE [4]9

~~Antelope Island~~ ~~Goblin Valley~~
~~Coral Pink~~ ~~Hyrum~~
~~Kodachrome~~ ~~Palisade~~

10. \$6.00 (\$3.00 for seniors) per private motor vehicle or \$2.00 per person (\$2.00 for seniors), for pedestrians or bicycles at the following park:

TABLE 10

~~Antelope Island~~

~~5-11. \$2.00~~ (\$1.00 for seniors) per private vehicle at the following park:

TABLE [6]11

~~Great Salt Lake~~

~~6-12. \$6.00~~ per adult, \$3.00 per child (a child is defined as any person between the ages of six (6) and twelve (12) years old inclusively), and \$3.00 for seniors at Utah Field House State Park.

13. \$5.00 per adult, \$3.00 per child (a child is defined as any person between the ages of six (6) and twelve (12) years old inclusively).

TABLE 12

~~Edge of the Cedars~~

~~7-14. \$2.00~~ per person (\$1.00 for seniors), or \$6.00 per family (up to eight (8) individuals (\$3.00 for seniors), at the following parks:

TABLE [6]13

~~Camp Floyd~~ ~~Territorial~~

15. \$4.00 per person (\$2.00 for seniors), or \$6.00 per family (up to eight (8) individuals (\$3.00 for seniors), at the following parks:

TABLE 14

Anasazi

[~~8-~~16. \$3.00 per person (\$1.50 for seniors), or \$6.00 per family (up to eight (8) individuals (\$3.00 for seniors), at the following parks:

TABLE [~~7~~]15

[~~Anasazi~~ Edge of the Cedars
] Fremont Iron Mission

[~~9-~~17. \$5.00 (\$3.00 for seniors) per private motor vehicle or \$3.00 per person (\$2.00 for seniors), for pedestrians or bicycles at the parks not identified above, including the east side of Bear Lake.

[~~10-~~18. [~~10.00~~]15.00 per OHV rider at the Jordan River OHV Center.

[~~11-~~19. \$2.00 per person for commercial groups or vehicles with nine (9) or more occupants (\$15.00 per group at Great Salt Lake).

D. Group Site Day Use Fee - Advance reservation only. \$2.00 per person, age six (6) and over, for sites with basic facilities. [~~Minimum \$50.00 fee established for each facility.~~] Minimum cost for Group Day Use for the following parks:

TABLE 16

Bear Lake - East Side	\$ 75.00
Bear Lake - Big Creek	\$ 75.00
Bear Lake - Willow	\$ 75.00
Bear Lake Marina	\$ 75.00
Deer Creek Island	\$100.00
Deer Creek - Sailboat	\$100.00
Deer Creek - Peterson	\$100.00
Deer Creek - Rainbow	\$200.00
Deer Creek - Wallsburg	\$300.00
East Canyon - Small	\$100.00
East Canyon - Medium	\$175.00
Fremont	\$ 70.00
Hyrum	\$150.00
Jordanelle - Beach	\$175.00
Jordanelle - Cove	\$175.00
Jordanelle - Keatley	\$175.00
Jordanelle - Rock Cliff North	\$175.00
Jordanelle - Rock Cliff South	\$175.00
Otter Creek -	\$100.00
Rockport - Crandalls	\$100.00
Rockport - Highland	\$100.00
Rockport - Lariat Loop	\$100.00
Starvation - Mountain View	\$150.00
Steinaker -	\$150.00
Wasatch - Cottonwood	\$175.00
Wasatch - Oak Hollow	\$175.00
Wasatch - Soldier Hollow	\$175.00
Willard - Eagle Beach (150 max)	\$200.00
Willard - Pelican Beach (250 max)	\$350.00

E. Antelope Island Wildlife Management Program: A \$1.00 fee will be added to the entrance fee at Antelope Island. This additional fee will be used by the Division to fund the Wildlife Management Program on the Island.

R651-611-3. Camping Fees.

Permits overnight camping and day use for the day of arrival until 2:00 p.m. of the following day or each successive day. Camp sites must be vacated by 12:00 noon following the last camping night at Dead Horse Point. Camping is limited to 14 consecutive days at all

campgrounds with the exception of Snow Canyon State Park, with a five (5) consecutive day limit.

A. Individual Sites -- One (1) vehicle with up to eight (8) occupants and any attached recreational equipment as one (1) independent camp unit. Fees for individual sites are based on the following schedule:

1. [~~\$9.00~~]10.00 with pit or vault toilets; [~~\$12.00~~]13.00 with flush toilets; [~~\$15.00~~]16.00 with flush toilets and showers or electrical hookups; [~~\$18.00~~]20.00 with flush toilets, showers and electrical hookups; [~~(Dead Horse Point, electrical hookups - \$20);~~] [~~\$21.00~~]25.00 with full hookups.

2. Primitive camping fees may be decreased at the park manager's discretion dependent upon the developed state of the facilities to be used by park visitors. Notification of the change must be made to the Division's financial manager and reservations manager before the reduced fee can be made effective.

3. Special Fun Tag holders may receive a \$2.00 discount for individual camping sites Monday through Thursday nights, excluding holidays.

4. One-half the campsite fee rounded up to the nearest dollar will be charged per vehicle at all parks and individual camping sites for all additional transportation vehicles that are separate and not attached to the primary vehicle, but are dependent upon that unit. No more than one additional vehicle is allowed at any individual campsite. This fee is not applicable at primitive campsites.

B. Group Sites - (by advance reservation for groups)

[~~1-~~ \$2.00 per person, age six (6) and over at sites with vault toilets. Minimum \$50.00 fee for each facility.

~~2-~~ \$3.00 per person, age six (6) and over at sites with flush toilets and/or pavilions. Minimum \$75.00 fee for each facility.] 1. The following fees will apply to Overnight Group Camping:

Table 17

1. Reservation Fee: \$10.65 at the following parks:

Bear Lake - Eastside -	\$ 75.00
Bear Lake - Big Creek -	\$ 75.00
Bear Lake - Willow -	\$ 75.00
Bear Lake Marina -	\$ 75.00
Deer Creek - Wallsburg -	\$400.00
East Canyon - New -	\$200.00
Hyrum -	\$150.00
Jordanelle - Beach	\$250.00
Jordanelle - Cover	\$250.00
Jordanelle - Keatley	\$250.00
Jordanelle - Rock Cliff North	\$250.00
Jordanelle - Rock Cliff South	\$250.00
Rockport - Hawthorne	\$150.00
Rockport - Riverside	\$150.00
Rockport - Old Church	\$150.00
Steinaker -	\$200.00
Wasatch - Soldier Hollow	\$200.00
Willard - Pelican Beach (250 max)	\$350.00
Yuba - Painted Rocks	\$100.00
Yuba - Oasis	\$100.00

2. \$3.00 per person at Dead Horse (minimum - \$45.00)

3. \$3.00 per person at Goblin Valley, Green River No. 1 and No. 2, Palisade and Scofield (minimum) - \$ 75.00

R651-611-4. Special Fees.

A. Golf Course Fees

1. Palisade rental and green fees.

a. Nine holes general public - weekends and holidays - [~~\$12.00~~]13.00

b. Nine holes weekdays (except holidays) - [~~\$10.00~~]11.00

c. Nine holes Jr/Sr weekdays (except holidays) - \$8.00

- d. 20 round card pass - [~~\$160.00~~]\$180.00
e. 20 round card pass (Jr only) - [~~\$100.00~~]\$125.00
f. Promotional pass - single person (any day) - [~~\$450.00~~]\$500.00
g. Promotional pass - single person (weekdays only) - [~~\$300.00~~]\$350.00
h. Promotional pass - couples (any day) - [~~\$650.00~~]\$700.00
i. Promotional pass - family (any day) - [~~\$850.00~~]\$900.00
j. Promotional pass - annual youth pass - \$150.00
k. Companion fee - walking, non-player - \$4.00
l. Motorized cart (18 holes) - \$10.00
m. Motorized cart (9 holes) - \$5.00
n. Pull carts (9 holes) - \$2.00
o. Club rental (9 holes) - \$5.00
p. School teams - No fee for practice rounds with coach and team roster.
- Tournaments are \$3.00 per player.
q. Driving range - small bucket - \$2.50
r. Driving range - large bucket - \$3.50
2. Wasatch Mountain and Soldier Hollow rental and green fees.
a. Nine holes general public - \$13.50
b. Nine holes general public (weekends and holidays) - \$13.50
c. Nine holes Jr/Sr weekdays (except holidays) - \$11.00
d. 20 round card pass - \$220.00 - no holidays or weekends
e. Annual Promotional Pass (except holidays) - \$1,000.00
f. Business Class Membership Pass - \$1,000.00
g. Companion fee - walking, non-player - \$4.00
h. Motorized cart (9 holes - mandatory on Mt. course) - \$13.00
i. Motorized cart (9 holes single rider) - [~~\$7.00~~]\$6.50
j. Pull carts (9 holes) - \$2.25
k. Club rental (9 holes) - \$6.00
l. School teams - No fee for practice rounds with coach and team roster (Wasatch County only).
Tournaments are \$3.00 per player.
[~~4~~]3. Tournament fee (per player) - \$5.00
[~~3~~]2. Driving range - small bucket - \$2.50
[~~2~~]1. Driving range - large bucket - \$5.00
[~~1~~]0. Advance tee time booking surcharge - \$15.00
q. Gift Certificate Fee (Per Player) - \$5.00
3. Green River rental and green fees.
a. Nine holes general public - \$10.00
b. Nine holes Jr/Sr weekdays (except holidays) - \$8.00
c. Eighteen holes general public - \$16.00
d. 20 round card pass - [~~\$140.00~~]\$160.00
e. Promotional pass - single person (any day) - [~~\$350.00~~]\$375.00
f. Promotional pass - personal golf cart - \$350.00
g. Promotional pass - single person (Jr/Sr weekdays) - \$275.00
h. Promotional pass - couple (any day) - \$600.00
i. Promotional pass - family (any day) - \$750.00
j. Promotional pass - annual youth pass - \$150.00
k. Companion fee - walking, non-player - \$4.00
l. Motorized cart (9 holes) - \$10.00
m. Motorized cart (9 holes single rider) - \$5.00
n. Pull carts (9 holes) - \$2.25
o. Club rental (9 holes) - \$5.00
p. School teams - No fee for practice rounds with coach and team roster.
- Tournaments are \$3.00 per player.
4. Golf course hours are daylight to dark
5. No private, motorized golf carts are allowed, except where authorized by existing contractual agreement.
6. Jr golfers are 17 years and under. Sr golfers are 62 and older.
B. Boat Mooring and Dry Storage
1. Mooring Fees:
a. Day Use - \$5.00
b. Overnight Boat Parking - \$7.00 (until 8:00 a.m.)
c. Overnight Boat Camping - \$15.00 (until 2:00 p.m.)
d. Monthly - \$4.00/ft.
e. Monthly with Utilities - (Bear Lake and Jordanelle - Hailstone) [~~\$6.00~~]\$7.00/ft.
f. Monthly with Utilities - (Other Parks) \$5.00/ft.
g. Monthly Off Season - [~~\$2.00~~]\$3.00/ft
h. Monthly (Off Season with utilities) - [~~\$3.00~~]\$4.00/ft
2. Dry Storage Fees:
a. Overnight (until 2:00 p.m.) - \$5.00
b. Monthly During Season - \$75.00
c. Monthly Off Season - \$50.00
d. Monthly (unsecured) - \$25.00
C. Application Fees - Non - refundable PLUS Negotiated Costs.
1. Grazing Permit - \$20.00
2. Easement - \$250.00
3. Construction/Maintenance - \$50.00
4. Special Use Permit - \$50.00
5. [~~Commercial Filming - \$50.00~~
6.]~~Waiting List - \$10.00~~
D. Assessment and Assignment Fees.
1. Duplicate Document - \$10.00
2. Contract Assignment - \$20.00
3. Returned checks - [~~\$20.00~~]\$30.00
4. Staff time - [~~\$40.00~~]\$50.00/hour
[~~5. Equipment - \$30.00/hour~~
] 5. Equipment Maintenance and Repair:
- Snow Cat - \$100.00/hour
- Boat - \$50.00/per hour
- ATV/Snowmobile - \$50.00/hour
- Other Heavy Equipment - \$100.00/hour
- Vehicle - \$50.00/hour
[~~6. Vehicle - \$20.00/hour~~
7.]6. Researcher - \$5.00/hour
[~~8.]~~7. Photo copy - [~~\$.10~~]\$.30/each - Black and White
- \$1.00/each - Color
[~~9.]~~8. Fee collection - \$10.00
E. Lodging Fees.
1. Cabins:
(a) Basic: No indoor plumbing or kitchenette
\$60 per night - weekend
\$40 per night - Sunday through Thursday
(b) Deluxe: Indoor plumbing and kitchenette
\$80 per night - weekend
\$60 per night - Sunday through Thursday
2. Yurt - (circular, domed portable tent)
\$60 per night - weekend
\$45 per night - Sunday through Thursday
- R651-611-5. Reservations.**
A. Camping Reservation Fees.
1. Individual Campsite [~~\$8.00~~]\$8.50
2. Group site or building rental [~~\$10.25~~]\$10.65
3. Fees identified in [#]No. 1 and [#]No. 2 above are to be charged for both initial reservations and for changes to existing reservations.
B. All park facilities will be allocated on a first-come, first-serve basis.

C. Selected camp and group sites are reservable in advance by calling 322-3770, 1-800-322-3770 or on the Internet at: www.stateparks.utah.gov.

D. Applications for reservation of skating rinks, meeting rooms, buildings, mooring docks, dry storage spaces and other sites not covered above, will be accepted by the respective park personnel beginning on the first business day of February for the next 12 months. Application forms and instructions are available at the park.

E. All unreserved mooring docks, dry storage spaces and camp picnic sites are available on a first-come, first-serve basis.

F. The park manager for any group reservation or special use permit may require a cleanup deposit.

G. Golf course reservations for groups of 20 or more and tournaments will be accepted for the calendar year beginning the first Monday of March. Reservations for up to two starting times (8 persons) may be made for Saturday, Sunday and Monday, the preceding Monday; and for Tuesday through Friday, the preceding Saturday. Reservations will be taken by phone and in person during golf course hours.

H. One party will reserve park facilities for more than fourteen (14) consecutive days in any 30-day period.

KEY: parks, fees

Date of Enactment or Last Substantive Amendment: ~~August 21, 2007~~ **January 1, 2008**

Notice of Continuation: February 13, 2006

Authorizing, and Implemented or Interpreted Law: 63-11-17(8)

◆ ————— ◆

Regents (Board Of), University of Utah,
Parking and Transportation Services

R810-5

Permit Types, Eligibility and Designated
Parking Areas

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE No.: 30600
FILED: 10/18/2007, 11:04

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During the course of the five-year review, it was determined that amendments needed to be made to update current correct information and condense verbiage.

SUMMARY OF THE RULE OR CHANGE: This amendment shortens the definitions of permit types.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 53B-3-103 and 53B-3-107

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--As the rule amendment simply changes the description of the types of permits but not the cost associated with each permit, there are no cost or savings.

University of Utah Department of Commuter Services is self-funded by user fees.

❖ LOCAL GOVERNMENTS: None--As the rule amendment simply changes the description of the types of permits but not the cost associated with each permit, there are no cost or savings. University of Utah Department of Commuter Services is self-funded by user fees.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--As the rule amendment simply changes the description of the types of permits but not the cost associated with each permit, there are no cost or savings. University of Utah Department of Commuter Services is self-funded by user fees.

COMPLIANCE COSTS FOR AFFECTED PERSONS: As the rule amendment simply changes the description of the types of permits but not the cost associated with each permit, there are no cost or savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As the rule amendment simply changes the description of the types of permits but not the cost associated with each permit, there are no cost or savings.
Patti Trulli Ibholt, Associate Director

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

REGENTS (BOARD OF)
UNIVERSITY OF UTAH,
PARKING AND TRANSPORTATION SERVICES
Room 101
1910 E SOUTH CAMPUS DR
SALT LAKE CITY UT 84112-9350, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Patti Trulli Ibholt at the above address, by phone at 801-587-9883, by FAX at 801-581-5253, or by Internet E-mail at patti.trulli-ibholm@ucs.utah.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/17/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 12/24/2007

AUTHORIZED BY: Patti Trulli Ibholt, Associate Director

R810. Regents (Board of), University of Utah, Parking and Transportation Services.

R810-5. Permit Types, Eligibility and Designated Parking Areas.
R810-5-1. Parking Permits and Permit Parking Areas.

~~[A vehicle may be parked only in a vacant space in a parking lot for which the displayed permit shows eligibility. Possession of a parking permit does not guarantee space in a specific parking lot except for permits which provide for reserved stalls. Permit fees cover the period designated on the permit. Display of a current University parking permit allows free parking in non-reserved areas for University sponsored special events and athletic events during the permit~~

~~year.] Except for pay lots, parking meters, short term loading areas and parking reserved for clinical patients, all faculty, staff, students, visitors and vendors must purchase and display a current University of Utah parking permit.~~

~~Ownership of University parking permits is non-transferable.~~

~~All permit parking areas are designated by signage at the lot's entrance [marked by signs indicating which permits are valid in that area]. Parking is subject to change without notice.~~

R810-5-2. [Utah Residents] Permit Classifications.

Permit classifications, eligibility and designated parking areas are as follows:

A. Faculty and Staff Permits. Only one permit shall be available to each qualified faculty or staff member. The permit holder may park in any faculty/staff or student parking area. Persons eligible are:

1. All full time salaried personnel, 75 percent full time equivalent.
2. Faculty approved by the academic vice president.
3. Other personnel as designated by the University administration.

~~[Car Pool Permit. Three or more faculty, staff or enrolled students can form a car pool group. To qualify for a car pool "A" permit, all members must be eligible faculty and staff. All other car pool groups will be issued "U" permit parking. Each car pool vehicle shall display a window permit, and the car pool group receives one transferable permit that must be displayed from the rear view mirror of the vehicle parked on campus. An additional member may be added to the pool at any time. No rebates or proration of charges will be given to individuals who withdraw from the pool.]~~

B. Health Science Center Faculty and Staff Permits. Only one permit shall be available to each qualified faculty or staff member. The permit holder may park in the designated parking garage or other surface faculty/staff or student lot. Persons eligible are the same as R810-5-2(A)(1), (2) and (3) as listed above. ~~["U" Permit. This permit is issued to students, faculty and staff. The number of "U" permits sold may be restricted by Parking Services when necessary. The holder may park in "U" or "E" lots.]~~

C. Reserved Permits. Issued to full time faculty and staff who lease one specific space. The permit holder may also park in any faculty/staff or student parking area except the Health Science Center parking garages. Unauthorized vehicles in reserved stalls may be impounded without notification. A reserved stall permit holder may not park in another permitted area on campus if another vehicle occupies the reserved space. ~~["A" Permit. Only one permit shall be available to each qualified faculty or staff member. The "A" permit holder may park in "A," "U," or "E" lots. Persons eligible are:~~

- ~~1. All full time salaried personnel, 75 percent full time equivalent.~~
- ~~2. Faculty approved by the academic vice president.~~
- ~~3. Other personnel as designated by the University administration.]~~

D. Student Permits. Issued to students, faculty and staff. The permit holder may park in the designated student parking lots. ~~["Temporary" Permit. This permit is issued by Parking Services for periods exceeding one day and is valid in "U" areas for students and "A" and "U" areas for qualified faculty, staff and visitors. It is not valid on vehicles displaying another current University parking permit.]~~

E. Disabled Permits. Issued to qualified drivers with disabilities. Applicants must qualify under state statutes that govern parking for the disabled. Persons bringing individuals with disabilities to campus are not entitled to disabled parking privileges. ~~["S" Permit. This permit is issued to residence halls residents with the hall in which they live designated on the permit.~~

~~— F. "Day Pass." This pass is valid for one day only and must be clearly dated in ink. It is not valid on vehicles displaying another current University parking permit. This permit allows parking in "A" or "U" lots as designated.~~

~~— Fines for displaying an altered permit, shall be the same for a fraudulent permit.~~

~~— G. "M" Permit. This permit is issued for motorcycles, mopeds, motorseooters and motorbikes. The permit must be prominently displayed near the license plate.~~

~~— H. "D" Permit. This permit is issued to qualified drivers with disabilities. Applicants must qualify under state statutes which govern parking for the disabled. "D" permits allow parking in designated spaces, and in adjacent areas.~~

~~— Persons bringing individuals with disabilities to campus are not entitled to "D" parking privileges.~~

~~— I. Reserved Permit. Reserved stall permits are issued to full time faculty and staff members who lease one specific space. Unauthorized vehicles in reserved stalls may be impounded without notification. Upon purchase of a permit, all other valid permits must be surrendered.~~

~~— J. "X" Permit. This permit is issued to members of the Board of Regents, the Board of Trustees and the Governor. The vehicle may be parked in any "A," or "U" area.~~

~~— K. "E" Permit. This permit is issued to students, faculty, and staff. Holders of this permit may park in "E" lots only.~~

~~— L. "Quarterly" Permit. This permit is issued for one academic quarter only and is valid in those areas for which it was issued. The price of this permit may be used toward the purchase of an annual permit if surrendered on or before the expiration date on the permit.]~~

Other permits may be issued from time to time by University Commuter [Parking] Services to control parking areas.

KEY: parking facilities

Date of Enactment or Last Substantive Amendment: [1994]2007

Notice of Continuation: February 22, 2007

Authorizing, and Implemented or Interpreted Law: 53B-3-103; 53B-3-107



Regents (Board Of), University of Utah, Parking and Transportation Services

R810-10

Enforcement System

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 30602

FILED: 10/19/2007, 09:29

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During the course of the five-year review, it was determined that amendments needed to be made in order to update current information and alleviate excessive verbiage in the rule.

SUMMARY OF THE RULE OR CHANGE: This amendment shortens the explanations of enforcement policies.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 53B-3-103 and 53B-3-107

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--As the rule amendment simply changes the description of the types of enforcement action but not the cost associated with each action, there are no cost or savings. University of Utah Department of Commuter Services is self-funded by user fees.

❖ LOCAL GOVERNMENTS: None--As the rule amendment simply changes the description of the types of enforcement action but not the cost associated with each action, there are no cost or savings. University of Utah Department of Commuter Services is self-funded by user fees.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--As the rule amendment simply changes the description of the types of enforcement action but not the cost associated with each action, there are no cost or savings. University of Utah Department of Commuter Services is self-funded by user fees.

COMPLIANCE COSTS FOR AFFECTED PERSONS: As the rule amendment simply changes the description of the types of enforcement action but not the cost associated with each action, there are no cost or savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As the rule amendment simply changes the description of the types of enforcement action but not the cost associated with each action, there are no cost or savings. Patti Trulli Ibolm, Associate Director

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

REGENTS (BOARD OF)
UNIVERSITY OF UTAH,
PARKING AND TRANSPORTATION SERVICES
Room 101
1910 E SOUTH CAMPUS DR
SALT LAKE CITY UT 84112-9350, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Patti Trulli Ibolm at the above address, by phone at 801-587-9883, by FAX at 801-581-5253, or by Internet E-mail at patti.trulli-ibholm@ucs.utah.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/17/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 12/24/2007

AUTHORIZED BY: Patti Trulli Ibolm, Associate Director

R810. Regents (Board of), University of Utah, Parking and Transportation Services.

R810-10. Enforcement System.

R810-10-1. Responsibility.

Parking tickets are issued to registered owners of vehicles or registered permit holders. Tickets are not excused on the plea that another person was driving the vehicle.

Multiple tickets may be issued to violators who remain illegally parked for three hours or more at parking meters and other timed zones.[A. To keep registration information current, any change in license plates must be immediately reported to Parking Services.]

R810-10-2. Hours Of Enforcement.

Parking regulations are enforced year-round, including periods between ~~[quarters]~~semesters. Permit parking is enforced from 7 a.m. to 6 p.m. Monday through Friday and until 10 p.m. where posted.[~~Parking meters are enforced from 8 a.m. until 6 p.m. Monday through Friday.~~] Permit areas and meters are not regulated on state holidays. Fire lanes, restricted areas, designated reserved spaces and parking spaces for the disabled are enforced 24 hours every day of the year.[

~~Multiple citations may be issued to violators who remain illegally parked for three hours or more at parking meters and loading zones.]~~

R810-10-3. University Violation Fee Payment and Penalties.

1. Fees are charged for ~~[late payment]~~all tickets in accordance with amounts listed on the ticket. Vehicles with three or more unpaid tickets will be impounded and towed at the owners expense. The University may also apply other remedies ~~[listed below.~~When applicable, additional charges associated with these actions will be assessed. Partial payment will not satisfy the debt.]including:

~~[A. Students.]a. Academic holds, including transcript and registration holds for students.~~

~~[1. Registration Holds. Students will not be allowed to register until all outstanding parking tickets have been paid. It is the student's responsibility to notify Parking and Transportation Services of any address change. Parking tickets will not be excused due to incorrect addresses.~~

~~2. Registration Cancellation. Students who register without clearing all parking tickets will have their registration canceled unless the tickets are cleared within 10 days of receiving notice of such tickets.~~

~~3. Transcripts of credits are withheld for students leaving the University with delinquent parking tickets.~~

~~4. Other actions, to include collections referrals and redress through the court system, may be used.~~

~~B. Staff and faculty. In the event an employee fails to pay assessed violation fees within 30 days, the fees will be withheld from the employee's pay. Other actions, to include collections referrals and redress through the court system, may be used.]b. Payroll deduction from paychecks for tickets that remain unpaid after 30 days for staff.~~

~~[C.]c. Others. Unpaid fines may be collected through the judicial process or garnishment of state income tax returns.[In the event the assessed violation fees are not paid, the University will take action necessary to collect such fees. Actions will include collections referrals and redress through the court system.]~~

KEY: parking facilities

Date of Enactment or Last Substantive Amendment: ~~[1994]~~2007

Notice of Continuation: February 22, 2007
Authorizing, and Implemented or Interpreted Law: 53B-3-103;
53B-3-107

◆ ————— ◆

Treasurer, Unclaimed Property
R966-1-2
Proof Requirements and Bonds

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE NO.: 30596
 FILED: 10/16/2007, 15:08

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to allow claimants to purchase a bond in lieu of the actual stock certificate at a higher claim amount.

SUMMARY OF THE RULE OR CHANGE: This amendment increases amount of verified claim under which a bond may be provided in place of a lost stock certificate from \$250 to \$500.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 67-4a-501

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There is no cost or savings to the state budget because this amendment simply makes it easier for a member of the public to claim property.
- ❖ **LOCAL GOVERNMENTS:** None--This rule does not affect local governments.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** None--This rule does not affect small businesses. This amendment allows persons claiming lost stock to provide a bond at an average cost of 2% of the stock amount in lieu of a stock certificate.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The cost would be the cost of a bond which averages 2% of the stock amount.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no impact on businesses. Richard Ellis, Deputy State Treasurer

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

TREASURER
 UNCLAIMED PROPERTY
 Room E315 EAST BUILDING
 420 N STATE ST
 SALT LAKE CITY UT 84114-2315, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Betsy Ross at the above address, by phone at 801-538-1355, by FAX at 801-538-1383, or by Internet E-mail at betsyross@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/17/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 12/24/2007

AUTHORIZED BY: Betsy Ross, Director

R966. Treasurer, Unclaimed Property.

R966-1. Requirements for Claims where no Proof of Stock Ownership Exists.

R966-1-2. Proof Requirements and Bonds.

A. For verified claims with a value less than \$[~~250~~]500.00, the person may file an affidavit entitled "Uniform Affidavit of Lost Certificate". Such affidavit will constitute and provide sufficient indemnification to permit the administrator to allow the verified claim.

B. For verified claims with a value equal to or greater than \$[~~250~~]500.00, the person may obtain a bond issued by a licensed surety company rated at least "A" or better by A.M. Best and Co., called an abandoned property bond. The bond shall be a fixed bond for dividends and other definite dollar value items. The bond shall be an open bond for stock certificates and shares claimed. Presentation of the proper bond, or both bonds if both are required, will constitute and provide sufficient indemnification to allow the administrator to allow the verified claim.

KEY: stocks, bonds, property claims[[±]]

Date of Enactment or Last Substantive Amendment: [~~1990~~]2007

Notice of Continuation: December 4, 2002

Authorizing, and Implemented or Interpreted Law: 67-4a-501

◆ ————— ◆

Workforce Services, Employment
Development
R986-400-402
General Provisions

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE NO.: 30641
 FILED: 11/01/2007, 14:41

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to provide assistance for individuals who are eligible for citizenship but have not yet attained it.

SUMMARY OF THE RULE OR CHANGE: If a General Assistance (GA) customer meets the eligibility requirements of the program and is eligible for citizenship but has not yet attained it, that individual can receive GA even if suspended from Social Security Disability, as long as the client is actively pursuing citizenship. Obtaining citizenship is a lengthy process and some individuals are unable to complete the process within the time allowed by Social Security.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 and Subsection 35A-1-104(4)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There will be no anticipated costs or savings to the state budget. There are only a very few people who will be impacted by this rule and any costs will be paid by current funding levels.
- ❖ LOCAL GOVERNMENTS: There are no costs or savings to local government as this is a state-funded program.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There will be no costs or savings to small businesses as GA is only available to persons who cannot work due to a physical or mental disability. It will provide benefits to a few individuals while they pursue citizenship.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs associated with this proposed change because the change does not apply to any entity or organization, it only applies to applicants for GA and those individuals are not required to pay a fee or otherwise incur any costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business. Kristen Cox, Executive Director

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

WORKFORCE SERVICES
EMPLOYMENT DEVELOPMENT
140 E 300 S
SALT LAKE CITY UT 84111-2333, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/17/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 12/24/2007

AUTHORIZED BY: Liesa Corbridge, Program Specialist

R986. Workforce Services, Employment Development.
R986-400. General Assistance and Working Toward Employment.

R986-400-402. General Provisions.

(1) GA provides temporary financial assistance to single persons and married couples who have no dependent children residing with them 50% or more of the time and who are unemployable due to a physical or mental health condition.

(2) Unemployable is defined to mean the individual is not capable of earning \$500 per month in the Utah labor market. The incapacity must be expected to last 30 days after the date of application or more.

(3) Drug addiction and/or alcoholism alone is insufficient to prove the unemployable requirement for GA as defined in Public Law 104-121.

(4) For a married couple living together only one must meet the unemployable criteria. The spouse who is employable will be required to meet the work requirements of WTE unless the spouse can provide medical proof that he or she is needed at home to care for the unemployable spouse. Medical proof, consisting of a medical statement from a medical doctor, a doctor of osteopathy, a licensed Advanced Practice Registered Nurse, a licensed Physician's Assistant, a licensed Mental Health Therapist as defined in UCA 58-60-102, or a licensed psychologist, is required. The medical statement must include all of the following:

- (a) the diagnosis of the spouse's condition;
- (b) the recommended treatment needed or being received for the condition;
- (c) the length of time the client will be required in the home to care for the spouse; and
- (d) whether the client is required to be in the home full time or part time.

(5) GA is only available to a client who is at least 18 years old or legally or factually emancipated. Factual emancipation means the client has lived independently from his or her parents or guardians and has been economically self-supporting for a period of at least twelve consecutive months, and the client's parents have refused financial support.

(6) A client claiming factual emancipation must cooperate with the Department in locating his or her parents. The parents, once located, will be contacted by the Department. If the parents continue to refuse to support the client, a referral will be made to ORS to enforce the parents' child support obligations.

(7) A person eligible for Bureau of Indian Affairs assistance is not eligible for GA financial assistance.

(8) In addition to the residency requirements in R986-100-106, residents in a group home that is administered under a contract with a governmental unit or administered by a governmental unit are not eligible for financial assistance.

(9) An individual receiving SSI is not eligible for GA. This ineligibility includes persons whose SSI is in suspense status, as defined by 20 CFR Part 416.1321 through 416.1330. An individual

whose SSI benefits are suspended because he or she has not attained U.S. citizenship, may be eligible for GA if the individual actively pursues U.S. citizenship to regain SSI eligibility.

KEY: general assistance, working toward employment
Date of Enactment or Last Substantive Amendment: ~~July 31~~, 2007

Notice of Continuation: September 14, 2005
Authorizing, and Implemented or Interpreted Law: 35A-3-401; 35A-3-402



End of the Notices of Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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

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

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

Auditor, Administration
R123-3
State Auditor Adjudicative Proceedings

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

DAR FILE No.: 30616
FILED: 10/24/2007, 12:51

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is enacted pursuant to Section 63-46b-1 of the Utah Administrative Procedures Act for the purpose of designating hearings regarding agency actions with respect to reporting procedures, audits and special projects as informal.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued in order to give notice of what procedure the public may use to challenge agency action.

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

AUDITOR
ADMINISTRATION
Room E310 EAST BUILDING
420 N STATE ST
SALT LAKE CITY UT 84114-2310, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Betsy Ross at the above address, by phone at 801-538-1355, by FAX at 801-538-1383, or by Internet E-mail at betsyross@utah.gov

AUTHORIZED BY: Betsy Ross, Director

EFFECTIVE: 10/24/2007



Auditor, Administration
R123-4
Public Petitions for Declaratory Orders

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

DAR FILE No.: 30617
FILED: 10/24/2007, 13:35

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is enacted pursuant to Section 63-46b-21 of the Utah Administrative Procedures Act, which requires a rule for allowing petitions for declaratory orders.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to allow the public to request a declaratory order concerning agency interpretation of statutes, rules, and orders. Therefore, this rule should be continued.

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

AUDITOR
ADMINISTRATION
Room E310 EAST BUILDING

420 N STATE ST
SALT LAKE CITY UT 84114-2310, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Betsy Ross at the above address, by phone at 801-538-1355,
by FAX at 801-538-1383, or by Internet E-mail at
betsyross@utah.gov

AUTHORIZED BY: Betsy Ross, Director

EFFECTIVE: 10/24/2007

Auditor, Administration

R123-5

Audit Requirements for Audits of Political Subdivisions and Nonprofit Organizations

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 30623
FILED: 10/26/2007, 10:07

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is required under Section 51-2a-301, which requires the state auditor to "adopt guidelines, qualifications criteria, and procurement procedures for use in the procurement of audit services for all entities that are required by Section 51-2a-201 to cause an accounting report to be made."

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Statute requires this rule and there has been no opposition. Therefore, this rule should be continued.

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

AUDITOR
ADMINISTRATION
Room E310 EAST BUILDING
420 N STATE ST
SALT LAKE CITY UT 84114-2310, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Betsy Ross at the above address, by phone at 801-538-1355,
by FAX at 801-538-1383, or by Internet E-mail at
betsyross@utah.gov

AUTHORIZED BY: Betsy Ross, Director

EFFECTIVE: 10/26/2007

Commerce, Corporations and
Commercial Code

R154-1

Central Filing System for Agriculture Product Liens

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 30592
FILED: 10/16/2007, 08:17

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: Corporations and Commercial Code (UCC) incorporates by reference in its entirety 9 CFR Part 205 1992 to allow in the state the filing of agricultural liens and produce a master list. Section 70A-9a-334 determines that products require a commercial code filing and Section 70A-9a-501 states how that is done. In the case of agricultural products, the filing happens under the federal law 9 CFR 205 1992.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: All comments are positive that the folks who rely on this list are happy with it. They prefer to use the electronic versions of the listing of security interests.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is still mandated by federal law. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kathy Berg at the above address, by phone at 801-530-6216, by FAX at 801-530-6438, or by Internet E-mail at kberg@utah.gov

AUTHORIZED BY: Francine Giani, Executive Director

EFFECTIVE: 10/16/2007

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 10/29/2007

Health, Health Care Financing
R410-14
 Administrative Hearing Procedures

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

DAR FILE No.: 30625
 FILED: 10/29/2007, 08:40

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-18-3 requires the Department to enact administrative rules to implement Medicaid programs. Section 26-18-2.3 requires the effective and impartial administration of the Medicaid program. Section 63-46b-1 authorizes the department to conduct administrative review to carry out the provisions of this title. 42 CFR 431, Subpart E requires the department to provide a fair hearing process for disputed Medicaid issues. Section 1902(a)(3) of the Social Security Act requires the division to grant a fair hearing before the state agency to any individual whose claim for medical assistance under the plan is denied or is not acted upon with reasonable promptness.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written or oral comments were received regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary because it establishes the administrative hearing procedures for the Department of Health, Division of Healthcare Financing. Therefore, this rule should be continued.

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

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

Health, Health Care Financing,
 Coverage and Reimbursement Policy
R414-2B
 Inpatient Hospital Intensive Physical
 Rehabilitation Services

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

DAR FILE No.: 30628
 FILED: 10/30/2007, 15:24

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-18-3 requires the department to enact administrative rules to implement Medicaid programs. Section 26-1-5 authorizes the department to adopt, amend, or rescind rules as necessary to carry out the provisions of this title. Section 1905(a)(1) of the Social Security Act requires the division to establish inpatient hospital services.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written or oral comments were received regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary because it establishes program access, prior authorization, and restrictions for inpatient hospital intensive physical rehabilitation services. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 10/30/2007

◆ ————— ◆
**Health, Health Care Financing,
 Coverage and Reimbursement Policy**

R414-29

**Client Review/Education and
 Restriction Policy**

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

DAR FILE No.: 30629

FILED: 10/30/2007, 15:26

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-18-3 requires the department to enact administrative rules to implement Medicaid programs. Section 26-1-5 authorizes the department to adopt, amend, or rescind rules as necessary to carry out the provisions of this title. 42 CFR 431.54(e) and 42 CFR 456.3 requires the department to restrict over utilization of Medicaid services.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written or oral comments were received regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary because it establishes the restriction procedure for over utilization in the Medicaid program. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 10/30/2007

◆ ————— ◆
**Health, Health Systems Improvement,
 Emergency Medical Services**

R426-2

Air Medical Services Rules

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

DAR FILE No.: 30622

FILED: 10/26/2007, 09:47

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is established under Section 26a-8-105. This provision directs the department to permit ambulances and emergency response vehicles, and establish application, submission, and procedural requirements for licenses, designations, certificates, and permits.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments received during the past five years related to this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is established under Title 26a, Chapter 8. This rule establishes air ambulance standards which promote and protect the health and safety of the people of this state. The department currently licenses 11 air ambulance service agencies under the guidance of this rule. Without this rule, these agencies would no longer be regulated or licensed. Therefore, this rule should be continued.

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

HEALTH
 HEALTH SYSTEMS IMPROVEMENT,
 EMERGENCY MEDICAL SERVICES
 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:

Floyd Scott Westbroek at the above address, by phone at 801-538-9304, by FAX at 801-538-6808, or by Internet E-mail at fwestbro@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 10/26/2007

DIRECT QUESTIONS REGARDING THIS RULE TO:

Leslie Johnson at the above address, by phone at 801-538-6292, by FAX at 801-538-6808, or by Internet E-mail at leslejohanson@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 10/31/2007

Health, Health Systems Improvement,
Emergency Medical Services

R426-6

Emergency Medical Services
Competitive Grants Program Rules

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

DAR FILE No.: 30630
FILED: 10/31/2007, 12:24

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-8a-207 reads, "The Committee shall award 42 1/2% of the remaining funds as competitive grants for use specifically related to the provision of emergency medical services based upon rules established by the committee." The rule was written to establish eligibility, grant implementation, grant process, High School training program grants, and interim or emergency grant awards.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received. However, the Emergency Medical Services (EMS) will be submitting some changes to the rule within the next few months.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule helps EMS agencies under the competitive grant process. Therefore, this rule should be continued.

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

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

Human Services, Recovery Services

R527-550

Assessment

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

DAR FILE No.: 30614
FILED: 10/24/2007, 10:35

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Section 62A-1-117. This statute authorizes the Office of Recovery Services to act as payee for the department when receiving child support payments for children in the care of the state. The rule clarifies the Office of Recovery Services' (ORS) procedures in establishing support obligations for children in care under Sections 78-45-7.2 through 78-45-7.18. In addition, the rule provides information on how ORS will assess the repayment of public assistance overpayments and retained support when an obligated parent is receiving or no longer receiving public assistance.

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.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Federal regulations 45 CFR 300 through 307, as well as state statutes found in Sections 62A-1-117, 62A-7-124, 62A-11-104, 62A-11-107, 62A-11-110, 62A-11-111, 62A-11-201, 62A-11-301, 62A-11-320.5, 62A-11-320.6, 78-3a-906, 78-45-1, 78-45-4.3, 78-45-4.4, and 78-45-7 are still in effect. This rule provides necessary details on how ORS carries out duties outlined in these statutes when children are placed in the custody of the state. It defines the agency's limits when collecting public assistance overpayments and retained support. Upon review of this rule, the department recognizes the need for this rule to be amended to update the citations and format. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 HUMAN SERVICES
 RECOVERY SERVICES
 515 E 100 S
 SALT LAKE CITY UT 84102-4211, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Shancie Lawton at the above address, by phone at 801-536-8191, by FAX at 801-536-8833, or by Internet E-mail at shanielawton@utah.gov

AUTHORIZED BY: Mark Brasher, Director

EFFECTIVE: 10/24/2007



Insurance, Administration
R590-131
 Accident and Health Coordination of
 Benefits Rule

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

DAR FILE NO.: 30635
 FILED: 10/31/2007, 15:23

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 31A-2-201 gives the commissioner the right to make rules to implement the provisions of Title 31A. Section 31A-22-619 gives the commissioner the authority to adopt rules to coordinate the benefits between health and accident group and individual insurance policies; this rule establishes order of priority in which plans pay their coordination of benefit (COB) claims; provides the authority for the orderly transfer of information needed to pay COB claims promptly; and reduces duplication of benefits by permitting a reduction of the benefits paid by a plan when the plan does not have to pay its benefits first.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule brings consistency and order when considering which health policy covers a claim when there is more than one health carrier covering the same individual or group. It eliminates law suits and expedites the payment of health claims. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 INSURANCE
 ADMINISTRATION
 Room 3110 STATE OFFICE BLDG
 450 N MAIN ST
 SALT LAKE CITY UT 84114-1201, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 10/31/2007



Natural Resources, Parks and
 Recreation
R651-227
 Boating Safety Course Fees

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

DAR FILE NO.: 30605
 FILED: 10/22/2007, 09:59

**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 73-18-15-2(7)(a) allows a fee for the personal watercraft education course and fees for lost or stolen registration cards, or decals.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to continue the education of the public regarding safe use, laws, regulations, and fees for the use of watercraft on the waters of Utah. Fees offset the costs for the boating education course and fees for lost or stolen registration cards. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 NATURAL RESOURCES
 PARKS AND RECREATION
 Room 116
 1594 W NORTH TEMPLE

SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320,
by FAX at 801-537-3144, or by Internet E-mail at
deeguess@utah.gov

AUTHORIZED BY: Bruce Hamilton, Deputy Director (Operations)

EFFECTIVE: 10/22/2007

**Natural Resources, Parks and
Recreation**

R651-410

Off-Highway Vehicle Safety Equipment

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

DAR FILE No.: 30604
FILED: 10/22/2007, 09:58

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 41-22-31 and 41-22-33 require the board to set standards for the safety program, have safety certificates issued, cooperate with public and private entities that will instill the knowledge, attitudes, habits, and skills necessary for safe operation of off-highway vehicles. it also states the fees for the safety and education program and penalties.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to keep the off-highway vehicle (OHV) safety, training, and awareness programs in place for safety and educating the public who operate OHV's in Utah. Therefore, this rule should be continued.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320,
by FAX at 801-537-3144, or by Internet E-mail at
deeguess@utah.gov

AUTHORIZED BY: Bruce Hamilton, Deputy Director (Operations)

EFFECTIVE: 10/22/2007

Regents (Board Of), Administration

R765-134

**Informal Adjudicative Procedures Under
the Utah Administrative Procedures Act**

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

DAR FILE No.: 30607
FILED: 10/23/2007, 10:21

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized or mandated by Sections 63-46b-4 and 63-46b-5. Title 63, Chapter 46b, establishes administrative procedures and guidelines that a state agency must follow to allow for adjudicative procedures. This rule identifies situations wherein an informal proceeding may occur as permitted by Title 63, Chapter 46b.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received since the last review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The State Board of Regents, on behalf of itself and institutions and agencies in the Utah System of Higher Education, by this rule provides for certain adjudicative procedures to be conducted informally according to the procedures set forth in this rule enacted under authority of Section 63-46b-4. Therefore, this rule should be continued.

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

REGENTS (BOARD OF)
ADMINISTRATION
BOARD OF REGENTS BUILDING, THE GATEWAY
60 SOUTH 400 WEST
SALT LAKE CITY UT 84101-1284, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ronell Crossley at the above address, by phone at 801-321-7291, by FAX at 801-321-7299, or by Internet E-mail at rccrossley@utahsbr.edu

AUTHORIZED BY: Richard E. Kendell, Commissioner

EFFECTIVE: 10/23/2007

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Regents (Board Of), Administration
R765-993
Records Access and Management

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

DAR FILE No.: 30606
FILED: 10/23/2007, 09:58

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized or mandated by Subsections 63-2-204(2) and 63-2-904(2), and Sections 53B-16-301 through 53B-16-305. Title 63, Chapter 2, specifies requirements for records and public access to those records. Title 53B, Chapter 16, outlines restrictions to records within institutions of higher education when the nature of such records requires confidentiality to maintain rights and technology. These statutory provisions define who provides access and to what degree of access the general public may be permitted to higher education records.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received during or since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The State Board of Regents and the Office of the Commissioner of Higher Education create and retain records which must be classified and to which access must be determined in accordance with the Government Records Access and Management Act. Therefore, this rule should be continued.

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

REGENTS (BOARD OF)
ADMINISTRATION
BOARD OF REGENTS BUILDING, THE GATEWAY
60 SOUTH 400 WEST
SALT LAKE CITY UT 84101-1284, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ronell Crossley at the above address, by phone at 801-321-7291, by FAX at 801-321-7299, or by Internet E-mail at rccrossley@utahsbr.edu

AUTHORIZED BY: Richard E. Kendell, Commissioner

EFFECTIVE: 10/23/2007

◆ ————— ◆

Transportation, Operations, Aeronautics
R914-1
**Rules and Regulations of the Utah
State Aeronautical Committee**

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

DAR FILE No.: 30608
FILED: 10/23/2007, 10:54

**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: Rule R914-1 is authorized and required by Section 72-10-103 of the Uniform Aeronautical Regulatory Act. That section requires the Utah Department of Transportation (UDOT) to make rules regarding the establishment, licensing, location and use of air navigation facilities. Pursuant to this statutory requirement, Rule R914-1 makes specific rules regarding airport licensing, navigational aids, and safety as directed by the law.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R914-1 is an essential part of the regulatory scheme established for the safe operation of airports in the state of Utah. Without this rule, UDOT's ability to enforce appropriate safety standards and to regulate the licensing of airports is severely curtailed. This rule is necessary to maintain appropriate safety and regulatory controls for the safety of Utah's citizens. Therefore, this rule should be continued.

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

TRANSPORTATION
OPERATIONS, AERONAUTICS
135 N 2400 W
SALT LAKE CITY UT 84116-2982, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Maureen Short at the above address, by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at maureenshort@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 10/23/2007

◆ ————— ◆

Transportation, Operations, Aeronautics

R914-2

Safety Rules and Procedures for Aircraft Operations on Roads

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 30609
FILED: 10/23/2007, 11:51

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: Rule R914-2 is authorized by Section 72-10-117 of the Uniform Aeronautical Regulatory Act. That section requires UDOT to make rules regarding the licensing of aircraft and pilots to land and take off from county roads. Rule R914-2 details the eligibility, safety, and insurance requirements necessary for the use of county roads by aircraft.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R914-2 is necessary in order to establish the standards and circumstances under which a pilot and aircraft may safely utilize county roads for a runway. It sets forth what roads may be used in the county for aircraft and that aircraft use will only be made of county roads in the daylight hours. It establishes the necessary requirements a pilot must meet in order to qualify for a road landing license, and the necessity to show proof of insurance prior to licensing. The rule is required in order to maintain safety on Utah's roads. Therefore, this rule should be continued.

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

TRANSPORTATION
OPERATIONS, AERONAUTICS
135 N 2400 W
SALT LAKE CITY UT 84116-2982, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Maureen Short at the above address, by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at maureenshort@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 10/23/2007

◆ ————— ◆

Transportation, Operations, Traffic and Safety

R920-2

Traffic Control Systems for Railroad-Highway Grade Crossings

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 30610
FILED: 10/23/2007, 12:06

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: Rule R920-2 is authorized by Subsections 72-1-201(1) and (4), and 72-1-202(b). These sections give the Utah Department of Transportation (UDOT) the responsibility to maintain safe and reliable state roads and highways and to enact appropriate safety rules. Rule R920-2 specifically adopts safety rules regarding railroad and highway crossings in order to permit safe and efficient operation of railroads and highway traffic and to avoid or eliminate accidents at railroad crossings.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R920-2 is an integral part of the safety plan established by UDOT to maintain safe highway travel over railroad crossings. The rule adopts the "Traffic Control Systems For Railroad Highway Grade Crossings" established by the Federal Highway Administration and is designed to reduce and eliminate traffic accidents and fatalities at railroad crossings. This rule is necessary in order for UDOT to maintain safe and reliable state roads as required by Utah law. Therefore, this rule should be continued.

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

TRANSPORTATION
OPERATIONS, TRAFFIC AND SAFETY

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Maureen Short at the above address, by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at maureenshort@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 10/23/2007



Treasurer, Unclaimed Property
R966-1
Requirements for Claims where no
Proof of Stock Ownership Exists

FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION

DAR FILE NO.: 30624
FILED: 10/26/2007, 10:25

NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is enacted under

Section 67-4a-501, which authorizes the unclaimed property administrator to determine the form for claim.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule makes it easier for a member of the public to make a claim when they do not have a stock certificate. Therefore, this rule should be continued.

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

TREASURER
UNCLAIMED PROPERTY
Room E315 EAST BUILDING
420 N STATE ST
SALT LAKE CITY UT 84114-2315, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Betsy Ross at the above address, by phone at 801-538-1355, by FAX at 801-538-1383, or by Internet E-mail at betsyross@utah.gov

AUTHORIZED BY: Betsy Ross, Director

EFFECTIVE: 10/26/2007



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

NOTICES OF EXPIRED RULES

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63-46a-9). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file an extension with the Division of Administrative Rules (Division). However, if the agency fails to file either the review or the extension by the five-year anniversary date of the rule, the rule expires. Upon expiration of the rule, the Division is required to remove the rule from the *Utah Administrative Code*. The agency may no longer enforce the rule, and it must follow regular rulemaking procedures to replace the rule if necessary.

The rules listed below were *not* reviewed in accordance with Section 63-46a-9. These rules have expired and have been removed from the *Utah Administrative Code*. The expiration of administrative rules for failure to comply with the five-year review requirement is governed by Subsection 63-46a-9(8).

Natural Resources

Energy and Planning Resources

No. 30597: R637-1. R637-1. Utah Energy Saving Systems Tax Credit (ESSTC) Rules.

ENACTED OR LAST REVIEWED: 10/16/2002 (No. 25503, 5YR, filed 10/16/2002 at 10:27 a.m., published 11/15/2002).

EXPIRED: 10/17/2007

End of the Notices of Expired Rules Section

NOTICES OF RULE EFFECTIVE DATES

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

Abbreviations

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

Commerce

Occupational and Professional Licensing
No. 30360 (AMD): R156-37-610. Controlled Substance Database - Limitations on Access to Database Information -Standards and Procedures for Identifying Individuals Requesting Information.
Published: September 15, 2007
Effective: October 22, 2007

No. 30369 (AMD): R156-60d. Substance Abuse Counselor Act Rules.
Published: September 15, 2007
Effective: October 29, 2007

Real Estate

No. 30162 (AMD): R162-3-5. Activation.
Published: July 15, 2007
Effective: October 18, 2007

Corrections

Administration
No. 30039 (AMD): R251-401-3. Policy.
Published: July 1, 2007
Effective: October 25, 2007

Environmental Quality

Water Quality
No. 30382 (AMD): R317-1-7. TMDLs.
Published: September 15, 2007
Effective: October 22, 2007

No. 30383 (AMD): R317-4-9. Absorption Systems.
Published: September 15, 2007
Effective: October 23, 2007

No. 30381 (AMD): R317-10. Certification of Wastewater Works Operators.
Published: September 15, 2007
Effective: October 22, 2007

No. 30387 (AMD): R317-101. Utah Wastewater Project Assistance Program.
Published: September 15, 2007
Effective: October 22, 2007

No. 30384 (AMD): R317-102. Utah Wastewater State Revolving Fund (SRF) Program.
Published: September 15, 2007
Effective: October 22, 2007

Governor

Planning and Budget

No. 30335 (REP): R361-2. Rules of Procedure for the Utah Federal Assistance and Activity Review System.
Published: September 15, 2007
Effective: October 22, 2007

Health

Epidemiology and Laboratory Services; HIV/AIDS, Tuberculosis Control/Refugee Health

No. 30282 (REP): R388-801. AIDS Testing and Reporting for Emergency Medical Services Providers Rule.
Published: September 1, 2007
Effective: October 25, 2007

No. 30283 (REP): R388-802. HIV Positive Student or School Employee Rule.
Published: September 1, 2007
Effective: October 25, 2007

No. 30171 (NEW): R388-805. Ryan White Program.
Published: August 1, 2007
Effective: October 17, 2007

Epidemiology and Laboratory Services, Environmental Services

No. 30377 (AMD): R392-510. Utah Indoor Clean Air Act.
Published: September 15, 2007
Effective: October 31, 2007

Human Resource Management

Administration

No. 30170 (REP): R477-100. Americans With Disabilities Act (ADA) Complaint Procedure.
Published: August 1, 2007
Effective: October 24, 2007

Human Services

Child and Family Services

No. 30373 (AMD): R512-300. Out of Home Services.
Published: September 15, 2007
Effective: October 25, 2007

NOTICES OF RULE EFFECTIVE DATES

Recovery Services

No. 30357 (AMD): R527-450-1. Certification Criteria.
Published: September 15, 2007
Effective: October 25, 2007

Insurance

Title and Escrow Commission

No. 29994 (NEW): R592-5. Title Insurance Product or Service Approval for a Dual Licensed Title Licensee.
Published: June 15, 2007
Effective: October 26, 2007

No. 29994 (CPR): R592-5. Title Insurance Product or Service Approval for a Dual Licensed Title Licensee.
Published: August 15, 2007
Effective: October 26, 2007

Natural Resources

Geological Survey

No. 30385 (AMD): R638-2. Renewable Energy Systems Tax Credits.
Published: September 15, 2007
Effective: October 23, 2007

Wildlife Resources

No. 30366 (AMD): R657-11. Taking Furbearers.
Published: September 15, 2007
Effective: October 22, 2007

Pardons (Board Of)

Administration

No. 30362 (AMD): R671-311-1. General.
Published: September 15, 2007
Effective: October 25, 2007

No. 30361 (AMD): R671-315. Pardons.
Published: September 15, 2007
Effective: October 25, 2007

No. 30363 (AMD): R671-517. Evidentiary Hearings and Proceedings.

Published: September 15, 2007
Effective: October 25, 2007

No. 30364 (AMD): R671-519. Proceedings When Criminal Charges Result in Acquittal.

Published: September 15, 2007
Effective: October 25, 2007

Public Safety

Criminal Investigations and Technical Services, Criminal Identification

No. 30379 (AMD): R722-300. Concealed Firearm Permit Rule.

Published: September 15, 2007
Effective: October 22, 2007

Regents (Board Of)

College of Eastern Utah

No. 30143 (AMD): R767-1. Government Records Access and Management Act.

Published: July 15, 2007
Effective: October 29, 2007

Workforce Services

Employment Development

No. 30276 (AMD): R986-200. Family Employment Program.

Published: August 15, 2007
Effective: October 25, 2007

End of the Notices of Rule Effective Dates Section

RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2007, including notices of effective date received through November 1, 2007, the effective dates of which are no later than November 15, 2007. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: Due to space constraints, the Keyword (subject) index is not included in this Bulletin.

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

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

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Administrative Services					
<u>Administration</u>					
R13-2	Access to Records	29771	5YR	04/02/2007	2007-8/119
R13-2	Access to Records	29772	AMD	05/22/2007	2007-8/3
<u>Administrative Rules</u>					
R15-3-5	Statutory Provisions that Require Rulemaking Pursuant to Subsection 63-46a-4(11)	29554	AMD	04/30/2007	2007-6/5
R15-4-10	Estimates of Anticipated Cost or Savings, and Compliance Cost	30111	EMR	07/01/2007	2007-14/38
R15-4-10	Estimates of Anticipated Cost or Savings, and Compliance Costs	30112	AMD	08/24/2007	2007-14/3
<u>Debt Collection</u>					
R21-1	Transfer of Collection Responsibility of State Agencies (5YR EXTENSION)	29917	NSC	08/29/2007	Not Printed

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CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R21-1	Transfer of Collection Responsibility of State Agencies	30374	5YR	08/29/2007	2007-18/70
R21-2	Office of State Debt Collection Administrative Procedures (5YR EXTENSION)	29918	NSC	08/29/2007	Not Printed
R21-2	Office of State Debt Collection Administrative Procedures	30375	5YR	08/29/2007	2007-18/71
R21-3	Debt Collection Through Administrative Offset (5YR EXTENSION)	29919	NSC	08/29/2007	Not Printed
R21-3	Debt Collection Through Administrative Offset	30376	5YR	08/29/2007	2007-18/71
<u>Facilities Construction and Management</u>					
R23-1	Procurement of Construction	29965	5YR	05/24/2007	2007-12/59
R23-12	Building Code Appeals Process	30525	5YR	10/03/2007	2007-21/78
R23-19	Facility Use Rules	29964	5YR	05/24/2007	2007-12/59
R23-19	Facility Use Rule	29812	R&R	06/07/2007	2007-9/3
R23-20	Free Speech Activities	29811	NEW	06/07/2007	2007-9/11
R23-25	Administrative Rules Adjudicative Proceedings	29474	AMD	04/11/2007	2007-4/2
<u>Finance</u>					
R25-7	Travel-Related Reimbursements for State Employees	29910	AMD	07/03/2007	2007-10/3
R25-7-6	Travel-Related Reimbursements for State Employees	29953	AMD	08/20/2007	2007-12/6
R25-14	Payment of Attorneys Fees in Death Penalty Cases	29424	5YR	01/17/2007	2007-4/54
<u>Fleet Operations</u>					
R27-4	Vehicle Replacement and Expansion of State Fleet	30212	5YR	07/25/2007	2007-16/57
R27-5	Fleet Tracking	29457	5YR	01/29/2007	2007-4/54
R27-6	Fuel Dispensing Program	29515	5YR	02/14/2007	2007-5/19
R27-8	State Vehicle Maintenance Program	29534	5YR	02/21/2007	2007-6/36
R27-10	Identification Mark for State Motor Vehicles	29939	5YR	05/14/2007	2007-11/84
<u>Fleet Operations, Surplus Property</u>					
R28-1	State Surplus Property Disposal	29550	5YR	02/26/2007	2007-6/36
R28-7	Surplus Property Rate Schedule	29946	5YR	05/15/2007	2007-11/84
<u>Records Committee</u>					
R35-2-2	Declining Requests for Hearings	29081	AMD	01/05/2007	2006-20/2
<u>Risk Management</u>					
R37-1	Risk Management General Rules	30046	5YR	06/08/2007	2007-13/140
R37-2	Risk Management State Workers' Compensation Insurance Administration	30047	5YR	06/08/2007	2007-13/140
R37-3	Risk Management Adjudicative Proceedings	30048	5YR	06/08/2007	2007-13/141
R37-4	Adjusted Utah Governmental Immunity Act Limitations on Judgment	30565	5YR	10/09/2007	2007-21/78
<u>Agriculture and Food</u>					
<u>Administration</u>					
R51-2	Administration Procedures for Informal Proceedings Before the Utah Department of Agriculture and Food	29405	5YR	01/11/2007	2007-3/56
<u>Animal Industry</u>					
R58-1	Admission and Inspection of Livestock, Poultry, and Other Animals	29506	5YR	02/08/2007	2007-5/19
R58-1	Admission and Inspection of Livestock, Poultry, and Other Animals	29912	AMD	08/07/2007	2007-11/4
R58-6	Poultry	29504	5YR	02/08/2007	2007-5/20

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R58-8	Testing and Vaccination of Bovine Livestock for Brucellosis Control (5YR EXTENSION)	29512	NSC	06/07/2007	Not Printed
R58-8	Testing and Vaccination of Bovine Livestock for Brucellosis Control	30041	5YR	06/07/2007	2007-13/142
R58-8	Testing and Vaccination of Bovine Livestock for Brucellosis Control	30045	REP	08/07/2007	2007-13/3
R58-10-3	Federal Regulations Adopted by Reference	30450	AMD	11/08/2007	2007-19/2
R58-11	Slaughtering of Livestock	30449	AMD	11/08/2007	2007-19/2
R58-18	Elk Farming	29505	5YR	02/08/2007	2007-5/20
R58-19	Compliance Procedures	30439	5YR	09/12/2007	2007-19/45
R58-22	Equine Infectious Anemia (EIA)	29503	5YR	02/08/2007	2007-5/21
R58-23	Equine Viral Arteritis (EVA)	29342	NEW	02/28/2007	2007-1/5
Marketing and Development					
R65-11	Utah Sheep Marketing Order	30457	5YR	09/17/2007	2007-20/65
Plant Industry					
R68-15	Quarantine Pertaining to Japanese Beetle, (Popillia Japonica)	30475	5YR	09/20/2007	2007-20/65
R68-19	Compliance Procedures	29453	5YR	01/29/2007	2007-4/55
R68-20	Utah Organic Standards	29347	AMD	02/28/2007	2007-1/6
Regulatory Services					
R70-201	Compliance Procedures	29492	5YR	02/02/2007	2007-5/21
R70-320	Minimum Standards for Milk for Manufacturing Purposes, its Production and Processing	29507	5YR	02/08/2007	2007-5/22
R70-330	Raw Milk for Retail	30100	AMD	08/07/2007	2007-13/3
R70-350	Ice Cream and Frozen Dairy Foods Standards	29499	5YR	02/05/2007	2007-5/22
R70-360	Procedure for Obtaining a License to Test Milk for Payment	29500	5YR	02/05/2007	2007-5/23
R70-530	Food Protection	29632	5YR	03/12/2007	2007-7/149
R70-550	Utah Inland Shellfish Safety Program	29970	NEW	08/07/2007	2007-12/7
R70-560	Inspection and Regulation of Cottage Food Production Operations	30062	NEW	08/07/2007	2007-13/7
Alcoholic Beverage Control					
Administration					
R81-1-3	General Policies	29881	AMD	06/29/2007	2007-10/6
R81-1-3	General Policies	30168	NSC	07/30/2007	Not Printed
R81-1-6	Violation Schedule	29439	AMD	03/30/2007	2007-4/4
R81-1-6	Violation Schedule	30166	AMD	08/27/2007	2007-14/4
R81-1-21	Beer Advertising in Event Venues	30169	NSC	07/30/2007	Not Printed
R81-1-25	Sexually-Oriented Entertainers and Stage Approvals	29898	AMD	06/29/2007	2007-10/8
R81-1-26	Criminal History Background Checks	29440	AMD	03/30/2007	2007-4/6
R81-4D-1	Licensing	30167	NSC	07/30/2007	Not Printed
Attorney General					
Administration					
R105-2	Records Access and Management	30037	5YR	06/05/2007	2007-13/142
Auditor					
Administration					
R123-3	State Auditor Adjudicative Proceedings	30616	5YR	10/24/2007	2007-22/90
R123-4	Public Petitions for Declaratory Orders	30617	5YR	10/24/2007	2007-22/90

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R123-5	Audit Requirements for Audits of Political Subdivisions and Nonprofit Organizations	30623	5YR	10/26/2007	2007-22/91
Capitol Preservation Board (State)					
<u>Administration</u>					
R131-3	Use of Magnetometers on Capitol Hill	29952	5YR	05/16/2007	2007-12/60
Commerce					
<u>Administration</u>					
R151-2	Government Records Access and Management Act Rules	29524	5YR	02/15/2007	2007-5/23
R151-3	Americans With Disabilities Act Rules	29903	5YR	05/01/2007	2007-10/105
R151-33	Pete Suazo Utah Athletic Commission Act Rule	29927	5YR	05/10/2007	2007-11/85
R151-33	Pete Suazo Utah Athletic Commission Act Rule	30164	NSC	07/05/2007	Not Printed
R151-35	Powersport Vehicle Franchise Act Rule	30195	5YR	07/13/2007	2007-15/61
<u>Consumer Protection</u>					
R152-6	Utah Administrative Procedures Act Rules	30118	5YR	06/22/2007	2007-14/42
R152-11	Utah Consumer Sales Practices Act	29470	5YR	02/01/2007	2007-4/55
R152-15	Business Opportunity Disclosure Act Rules	30119	5YR	06/22/2007	2007-14/42
R152-20	New Motor Vehicle Warranties	29862	5YR	04/26/2007	2007-10/105
R152-20-2	Definitions	29412	AMD	03/20/2007	2007-3/4
R152-22	Charitable Solicitations Act	29427	AMD	04/02/2007	2007-4/8
R152-22	Charitable Solicitations Act	30120	5YR	06/22/2007	2007-14/43
R152-23	Utah Health Spa Services	29238	AMD	01/23/2007	2006-24/3
R152-23	Utah Health Spa Services	30121	5YR	06/22/2007	2007-14/43
R152-26	Telephone Fraud Prevention Act	29379	AMD	02/23/2007	2007-2/3
R152-26	Telephone Fraud Prevention Act	29594	5YR	03/05/2007	2007-7/149
R152-34	Postsecondary Proprietary School Act Rules	29710	AMD	05/22/2007	2007-8/4
R152-34	Postsecondary Proprietary School Act Rules	30101	5YR	06/15/2007	2007-13/142
R152-42	Uniform Debt-Management Services Act Rules	29413	NEW	05/22/2007	2007-3/5
R152-42	Uniform Debt-Management Services Act Rules	29413	CPR	05/22/2007	2007-8/114
<u>Corporations and Commercial Code</u>					
R154-1	Central Filing System for Agriculture Product Liens	30592	5YR	10/16/2007	2007-22/91
<u>Occupational and Professional Licensing</u>					
R156-1	General Rules of the Division of Occupational and Professional Licensing	29586	5YR	03/01/2007	2007-6/37
R156-1-102	Definitions	29555	NSC	03/09/2007	Not Printed
R156-3a	Architect Licensing Act Rules	30113	AMD	08/23/2007	2007-14/7
R156-9-302a	Qualifications for Licensure - Examination Requirements	29391	AMD	03/13/2007	2007-3/6
R156-11a	Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rules	29013	CPR	01/11/2007	2006-23/87
R156-11a	Cosmetologist/Barber, Esthetician, Electrologist and Nail Technician Licensing Act Rules	29013	AMD	01/11/2007	2006-19/5
R156-11a	Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rules	29432	AMD	03/27/2007	2007-4/9
R156-11a	Cosmetologist/Barber, Esthetician, Electrologist and Nail Technician Licensing Act Rule	29810	5YR	04/12/2007	2007-9/33

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R156-11a	Cosmetologist/Barber, Esthetician, Electrologist and Nail Technician Licensing Act Rule	30158	AMD	08/21/2007	2007-14/10
R156-11a	Barber, Cosmetologist/Barber, Esthetician, Electrologist and Nail Technician Licensing Act Rule	30463	NSC	10/18/2007	Not Printed
R156-16a	Optometry Practice Act Rules	29871	5YR	04/26/2007	2007-10/106
R156-17b	Pharmacy Practice Act Rules	29770	AMD	05/24/2007	2007-8/8
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rules	29355	AMD	02/22/2007	2007-2/3
R156-24a	Physical Therapist Practice Act Rules	29459	5YR	01/30/2007	2007-4/56
R156-26a	Certified Public Accountant Licensing Act Rules	29473	5YR	02/01/2007	2007-4/56
R156-26a-302b	Qualifications for Licensure - Experience Requirements	30365	NSC	09/13/2007	Not Printed
R156-28	Veterinary Practice Act Rules	29472	5YR	02/01/2007	2007-4/57
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