

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed June 17, 2008, 12:00 a.m. through July 1, 2008, 11:59 p.m.

Number 2008-14
July 15, 2008

Kimberly K. Hood, Executive Director
Kenneth A. Hansen, Director
Nancy L. Lancaster, Editor

The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah State Government. The Department of Administrative Services, Division of Administrative Rules produces the *Bulletin* under authority of Section 63G-3-402, *Utah Code Annotated* 1953.

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

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

Division of Administrative Rules, Salt Lake City 84114

Unless otherwise noted, all information presented in this publication is in the public domain and may be reproduced, reprinted, and redistributed as desired. Materials incorporated by reference retain the copyright asserted by their respective authors. Citation to the source is requested.

Printed in the United States of America

Library of Congress Cataloging-in-Publication Data

Utah state bulletin.

Semimonthly.

1. Delegated legislation--Utah--Periodicals. 2. Administrative procedure--Utah--Periodicals.

I. Utah. Office of Administrative Rules.

KFU440.A73S7

348.792'025--DDC

85-643197

TABLE OF CONTENTS

1. SPECIAL NOTICES

Health, Health Care Financing, Coverage and Reimbursement Policy: Public Meeting for the Proposed Amendments to the 1115 Waiver.....	1
Health, Health Care Financing, Coverage and Reimbursement Policy: Notice for August Medicaid Rate Changes.....	1

2. NOTICES OF PROPOSED RULES

Administrative Services

Facilities Construction and Management No. 31606 (New Rule): R23-22. General Procedures For Acquisition and Selling of Real Property.....	3
--	---

Alcoholic Beverage Control

Administration No. 31640 (Amendment): R81-1-27. Label Approvals.....	5
---	---

Commerce

Occupational and Professional Licensing No. 31614 (Amendment): R156-31b. Nurse Practice Act Rule.....	7
No. 31615 (Amendment): R156-31b. Nurse Practice Act Rule.....	15

Environmental Quality

Water Quality No. 31650 (Amendment): R317-2. Standards of Quality for Waters of the State.....	30
---	----

Health

Health Care Financing, Coverage and Reimbursement Policy No. 31644 (Repeal and Reenact): R414-54. Speech-Language Pathology Services.....	46
No. 31645 (Repeal and Reenact): R414-59. Audiology-Hearing Services.....	47
No. 31622 (Amendment): R414-304. Income and Budgeting.....	49

Human Resource Management

Administration No. 31621 (Amendment): R477-14. Substance Abuse and Drug-Free Workplace.....	51
--	----

Human Services

Administration No. 31629 (Amendment): R495-876. Provider Code of Conduct.....	53
Child and Family Services No. 31590 (Repeal and Reenact): R512-500. Kinship Services.....	57
Services for People with Disabilities No. 31593 (New Rule): R539-15. Time-Limited Respite Care Program.....	60

TABLE OF CONTENTS

Insurance

Administration

No. 31649 (Amendment): R590-238. Captive Insurance Companies.....61

No. 31647 (New Rule): R590-250. PEO Assurance Organization Designation.....63

No. 31641 (New Rule): R590-251. Preneed Life Insurance Minimum Standards for
Determining Reserve Liabilities and Nonforfeiture Values Rule.64

Natural Resources

Parks and Recreation

No. 31599 (Amendment): R651-611. Fee Schedule66

No. 31602 (Amendment): R651-617. Permit Violation68

Wildlife Resources

No. 31609 (Amendment): R657-6. Taking Upland Game.....69

No. 31611 (Amendment): R657-16. Aquaculture and Fish Stocking70

No. 31613 (Amendment): R657-23. Utah Hunter Education Program.....73

No. 31608 (Amendment): R657-55. Wildlife Convention Permits.....75

No. 31610 (New Rule): R657-57. Division Variance Rule77

No. 31612 (New Rule): R657-59. Private Fish Ponds80

No. 31623 (New Rule): R657-60. Aquatic Invasive Species Interdiction88

Public Service Commission

Administration

No. 31628 (Amendment): R746-349. Competitive Entry and Reporting Requirements.....91

No. 31642 (New Rule): R746-800. Working 4 Utah Operations95

Tax Commission

Administration

No. 31633 (Amendment): R861-1A-16. Utah State Tax Commission Management
Plan Pursuant to Utah Code Ann. Section 59-1-20796

No. 31634 (Amendment): R861-1A-23. Designation of Adjudicative Proceedings
Pursuant to Utah Code Ann. Section 63-46b-498

No. 31635 (Amendment): R861-1A-26. Procedures for Formal Adjudicative
Proceedings Pursuant to Utah Code Ann. Sections 59-1-501 and 63-46b 6
through 63-46b-1199

No. 31638 (Amendment): R861-1A-27. Discovery Pursuant to Utah Code Ann.
Section 63-46b-7101

Auditing

No. 31632 (Amendment): R865-6F-8. Allocation and Apportionment of Net
Income (Uniform Division of Income for Tax Purposes Act) Pursuant to Utah
Code Ann. Sections 59-7-302 through 59-7-321102

<u>Transportation</u>	
Administration	
No. 31591 (Repeal): R907-40. External Relations.....	113
Program Development	
No. 31636 (Amendment): R926-9. Establishment Designation and Operation of Hot Lanes or Toll Lanes on State Highways.....	113
<u>Transportation Commission</u>	
Administration	
No. 31637 (Amendment): R940-1. Establishment of HOT Lane Toll Rates.....	115

3. NOTICES OF CHANGES IN PROPOSED RULES

<u>Insurance</u>	
Administration	
No. 31081: R590-245. Self-Service Storage Insurance.....	118

4. NOTICES OF 120-DAY (EMERGENCY) RULES

<u>Administrative Services</u>	
Facilities Construction and Management	
No. 31607: R23-22. General Procedures For Acquisition and Selling of Real Property.....	120
<u>Human Services</u>	
Child and Family Services	
No. 31589: R512-500. Kinship Services.....	123
Services for People with Disabilities	
No. 31594: R539-15. Time-Limited Respite Care Program.....	126
<u>Labor Commission</u>	
Adjudication	
No. 31643: R602-4. Procedures for Termination of Temporary Total Disability Compensation Pursuant to Reemployment under Section 34A-2-410.5.....	127
<u>Natural Resources</u>	
Wildlife Resources	
No. 31625: R657-59. Private Fish Ponds.....	129
No. 31624: R657-60. Aquatic Invasive Species Interdiction.....	137

5. FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

<u>Natural Resources</u>	
Parks and Recreation	
No. 31601: R651-630. Unsupervised Children.....	142
<u>Public Safety</u>	
Peace Officer Standards and Training	
No. 31648: R728-501. Career Development Courses.....	142

TABLE OF CONTENTS

Public Service Commission

Administration

No. 31620: R746-110. Uncontested Matters to be Adjudicated Informally143

No. 31617: R746-210. Utility Service Rules Applicable Only to Electric Utilities143

No. 31619: R746-240. Telecommunication Service Rules144

No. 31618: R746-340. Service Quality for Telecommunications Corporations.....144

6. NOTICES OF RULE EFFECTIVE DATES.....146

7. RULES INDEX.....149

SPECIAL NOTICES

Health

Health Care Financing, Coverage and Reimbursement Policy

Public Meeting for the Proposed Amendments to the 1115 Waiver

The Division of Health Care Financing will hold a public meeting to discuss proposed amendments to its 1115 Waiver. These proposed changes prohibit children from enrolling in the Children's Health Insurance Program (CHIP) if their parents qualify for Utah's Premium Partnership for Health Insurance (UPP), expand UPP to individual policies, expand UPP to cover individuals going into Health Insurance Pool (HIP) Utah, expand UPP to cover individuals under the Consolidated Omnibus Budget Reconciliation Act (COBRA), extend CHIP and UPP crowd out requirement from 90 days to 6 months, increase the deductible allowed for policies that qualify for UPP, and increase the UPP subsidy amount.

These changes will be discussed at a public meeting to be held on Tuesday, July 29, 2008, from 4 to 6 p.m. in Room 125 of the Cannon Health Building, 288 North 1460 West, Salt Lake City, Utah.

Questions may be directed to: Craig Devashrayee by phone: 801-538-6641, or FAX: 801-538-6099, or by e-mail: cdevashrayee@utah.gov. Individuals requiring an accommodation to fully participate in this meeting should contact Heidi Weaver at 801-538-6806 before July 22.

Health

Health Care Financing, Coverage and Reimbursement Policy

Notice for August Medicaid Rate Changes

Effective August 1, 2008, Utah Medicaid will adjust its rates consistent with approved methodologies. Rate adjustments include new codes priced consistent with approved Medicaid methodologies, as well as potential adjustments to existing codes. No significant reimbursement change to impacted providers is expected. All rate changes are posted to the web and can be viewed at: <http://health.utah.gov/medicaid/stplan/bcrp.htm>. A copy of the changes may also be obtained through local health departments.

Questions may be directed to: Craig Devashrayee by phone: 801-538-6641, or FAX: 801-538-6099, or by e-mail: cdevashrayee@utah.gov.

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 June 17, 2008, 12:00 a.m., and July 1, 2008, 11:59 p.m. are included in this, the July 15, 2008, 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 August 14, 2008. 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 63G-3-302 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 November 12, 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 63G-3-301; 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, Facilities
Construction and Management**
R23-22
**General Procedures For Acquisition
and Selling of Real Property**

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 31606

FILED: 06/23/2008, 17:04

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule defines procedures for the acquisition and selling of real property.

SUMMARY OF THE RULE OR CHANGE: H.B. 354, 2008 General Session, requires procedures be defined for the acquisition and selling of real property. This is to ensure that the value is congruent with the proposed price and other terms of the purchase, sale, or exchange. This rule defines these procedures. (DAR NOTES: H.B. 354 (2008) is found at Chapter 203, Laws of Utah 2008, and was effective 05/05/2008. A corresponding 120-day (emergency) rule for Rule R23-22 is under DAR No. 31607 in this issue, July 15, 2008, of the Bulletin, and was effective 06/25/2008.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63A-5-103(1)(e), and Chapter 203, Laws of Utah 2008

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** This rule should assist the state budget by assuring proper values for real estate transactions.
- ❖ **LOCAL GOVERNMENTS:** In accordance with H.B. 354, this rule defines and codifies procedures the Division of Facilities and Construction Management (DFCM) will follow in assessing property value. There will be no effect on local governments because many of the procedures are already DFCM's practice. Therefore, the rule has no affect on cost for these entities.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** Again, in accordance with H.B. 354, this rule defines and codifies procedures DFCM will follow in assessing property value. There will be no effect on small businesses and persons other than businesses because many of the procedures are already DFCM's practice. Therefore, the rule has no affect on cost for these entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule defines procedures only and does not have any financial impact.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will assure fair and equitable DFCM real estate practices. Kimberly K. Hood, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Priscilla Anderson at the above address, by phone at 801-538-9595, by FAX at 801-538-3378, or by Internet E-mail at phanderson@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 08/14/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2008

AUTHORIZED BY: D. Gregg Buxton, Director

R23. Administrative Services, Facilities Construction and Management.

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

R23-22-1. Purpose.

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

R23-22-2. Authority.

This rule is authorized under Subsection 63A-5-103(1)(e), which directs the Building Board to make rules necessary for the discharge of the duties of the Division of Facilities Construction and Management (hereinafter referred to as the "Division") as well as pursuant to H.B. 354 of the 2008 General Session of the Utah Legislature.

R23-22-3. Policy.

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

R23-22-4. Scope of This Rule.

This Rule shall apply to all purchases, sales, donations and exchanges of DFCM, as applicable in this Rule, except as otherwise allowed by the Utah Code. The requirements of this Rule shall also not apply to a contract or other written agreement prior to May 5, 2008; or to any contract or to any purchase, sale or exchange of real property where the value is determined to be less than \$100,000 as estimated by DFCM.

R23-22-5. Requirements for Purchase or Exchanges of Real Property.

DFCM shall comply with the following in regard to the purchase or exchange of real property that is subject to this Rule:

(1) DFCM must find that all necessary approvals have been obtained from State and other applicable authorities. DFCM will assist other State agencies in obtaining these approvals when it is deemed by DFCM to be in the interest of the State.

(2) DFCM shall coordinate as required any necessary financing requirements through the State Building Ownership Authority, or other relevant bonding authority, as authorized by the Legislature.

(3) DFCM shall assist other State agencies in accordance with DFCM's governing statutes, through financial analysis and other appropriate means, in selecting the appropriate or particular real property to be purchased and/or exchanged.

(4) DFCM shall, in accordance with DFCM's governing statutes, negotiate, draft and execute the applicable Real Estate Contract with due consideration to the State agency's comments. The State agency may be required by DFCM to be a signatory to the Contract.

(5) DFCM shall obtain and review the following documents when such is determined by DFCM to be customary in the industry for the size and type of transaction or if required by another provision of this Rule or State law:

- a. title insurance commitment;
- b. an environmental assessment;
- c. an engineering assessment;
- d. a code review;
- e. an appraisal;
- f. an analysis of past maintenance and operational expenses, when available and relevant;
- g. the situs, zoning and planning information;
- h. an ALTA land survey; and
- i. other requirements determined necessary by DFCM, this Rule or State law.

(6) DFCM shall review, approve and execute when in the interest of the State, closing documents as prepared by the selected title company.

(7) DFCM may use boiler plate documents approved as to form by the Utah Attorney General or shall consult with the Utah Attorney General regarding provisions of the sale or significant changes to the boiler plate documents approved as to the form by the Utah Attorney General.

(8) DFCM shall endeavor to monitor the distribution of closing documents.

R23-22-6. Additional Requirements Regarding R23-22-5(5).

DFCM shall comply with the provisions below. None of the provisions below shall restrict the Director from requiring or not requiring any of the following if in the Director's opinion such is advantageous to the State or if such is required or allowed by State law:

(1) Title insurance commitment. The following applies to real property that may become State property by purchase, donation or exchange: DFCM shall obtain an Owner's Policy of Title Insurance for real property valued by DFCM at \$500,000 or above. For real property valued by DFCM at less than \$500,000, DFCM shall obtain a title report and may obtain an Owner's Policy of Title Insurance if, in the judgment of DFCM, title insurance is advantageous to the State.

(2) Phase I Environmental Assessment or Greater. The following applies to real property that may become State property by purchase, donation or exchange: A Phase I or greater Environmental Assessment may be required by DFCM prior to a purchase or exchange of real property when the property considered to become

State property has a use and/or occupancy history which in the opinion of DFCM indicates the possibility of environmental issues that would materially affect the DFCM's purchase of the property or the State agency's use of the property.

(3) Engineering Assessment. The following applies to real property that may become State property by purchase, donation or exchange: For all improved real property valued by DFCM at \$250,000 or above, DFCM shall obtain an engineering assessment of mechanical systems and structural integrity of improvements located on the property. An engineering assessment may be waived by the DFCM Director if an engineering assessment has already been performed within the past 12 months or if the land is unimproved. The State may perform an engineering assessment for real property valued at less than \$250,000 if, in the judgment of the Director, such an assessment is advantageous to the State.

(4) Code and Requirements Review. DFCM shall review the real property that may potentially become State property through purchase, donation or exchange to ascertain its suitability under all applicable codes and requirements, including any applicable provisions of State law.

(5) Appraisal. For real property that may potentially become State property through purchase or exchange, the State shall arrive at a fair market valuation of the property prior to purchase that is agreeable to the seller and the State. The fair market value determination used by DFCM in the negotiation shall be based upon an appraisal completed by an appraiser that specializes in the type of the subject real property and is a state-certified general appraiser under Section 61-2B-2 or by a State of Utah licensed MAI appraiser who also has such a certificate, except as follows:

- (a) When this rule is not applicable under its scope;
- (b) When State law otherwise provides that DFCM does not have to use fair market value; or
- (c) When the Director has determined by a writing filed with DFCM, that the cost of obtaining the appraisal is not justified in the economic interest of the State of Utah.

(6) Past maintenance and operational expenses. DFCM shall endeavor to obtain, past maintenance and operational expense histories attached to any real property that may be acquired by the State, including real property that is acquired by purchase, donation or exchange, unless it is determined by the Director that the obtaining of such records is not justified in the economic interest of the State of Utah.

(7) Situs, zoning and planning information. DFCM shall endeavor to obtain preexisting situs, zoning and planning information regarding the real property that may be acquired by purchase, donation or exchange when required by State law, or if the Director determines that the obtaining of such information is advantageous to the State.

(8) ALTA land survey. For all real property acquired by DFCM through purchase, donation or exchange, and the property to become State property is valued by DFCM at \$250,000 or above, DFCM shall obtain an ALTA/ACSM Land Title Survey, current revision, of the subject property. An ALTA survey shall not be required if an ALTA survey has already been performed within the past 12 months unless otherwise determined by the Director. The State may perform an ALTA survey for real property valued less than \$250,000 if the Director determines that such a survey is in the interest of the State.

R23-22-6. Requirements for the Disposition of Real Property by DFCM.

In addition to the policy of R23-22-3, it is the policy of this Board to efficiently and economically dispose of real property that is determined by DFCM or the State to be surplus in accordance with State law. In accordance with State law, DFCM may recommend to the Board that certain real property be declared as surplus. After the appropriate determination is made that the real property is surplus, then DFCM shall endeavor to sell the surplus real property on the open market, unless such property is to be conveyed to another State agency or public entity in accordance with Utah law. If there is such a sale, it shall be as follows:

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

(2) Unless otherwise allowed by State law, DFCM shall obtain at least fair market value for the real property to be sold. This shall be accomplished by the following:

(a) DFCM shall determine a fair market valuation of the property prior to the offer for sale. The fair market value determination used by DFCM in offer for sale shall be based upon an appraisal completed by an appraiser that specializes in the type of the subject real property and is a state-certified general appraiser under Section 61-2B-2, or by a Utah licensed MAI appraiser who also has such a certificate, except as follows:

(i) When this rule is not applicable under its scope;

(ii) When State law otherwise provides that DFCM does not have to use fair market value; or

(iii) When the Director has determined by a writing filed with DFCM, that the cost of obtaining the appraisal is not justified in the economic interest of the State of Utah.

(b) DFCM shall establish a listing price based on the appraisal obtained under this Rule or, if there is no appraisal based on the above, based upon DFCM's knowledge of prevailing market conditions and other circumstances customarily used in the industry for such sales.

(c) DFCM shall advertise the property for sale in such a manner that is commercially reasonable in the discretion of the Director. DFCM may set a time deadline for the submission of bids for the real property based upon the economic conditions at the time of the sale.

(d) DFCM shall endeavor to enter into a contract for sale to the highest reasonable bidder, unless the DFCM Director files a written justification statement as to why a lower bidder is more advantageous to the State or if there is a sole bidder, that such bid is unreasonable. If after a reasonable timeline set by the Director of public advertisement, no acceptable bid is submitted, then DFCM may sell the property through a private negotiated sale, provided that any sale below the fair market value initially established by DFCM for the subject property is accompanied by a written justification statement filed by the Director and a copy of which is provided to the Board prior to execution of the contract for sale.

(e) DFCM shall, in accordance with DFCM's governing statutes, negotiate, draft and execute the applicable Real Estate Contract, with due consideration to the comments of the affected State agency. The affected State agency may be required by DFCM to be a signatory to the Contract.

(f) DFCM shall review, approve, and execute when appropriate, closing documents as prepared by the selected title company.

(g) DFCM may use boiler plate documents approved as to form by the Utah Attorney General or shall consult with the Utah

Attorney General regarding provisions of the sale or significant changes to the boiler plate documents approved as to the form by the Utah Attorney General.

(h) DFCM shall endeavor to monitor the distribution of the closing documents.

KEY: real estate, property transactions

Date of Enactment or Last Substantive Amendment: 2008

Authorizing, and Implemented or Interpreted Law: 63A-5-103(1)(e); Chapter 203, Laws of Utah 2008



Alcoholic Beverage Control, Administration **R81-1-27** Label Approvals

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31640

FILED: 06/30/2008, 14:27

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule amendment is being proposed to implement S.B. 211 that was passed by the 2008 legislature in Title 32, Chapter 1, Part 8, Malted Beverages Act. (DAR NOTE: S.B. 211 (2008) is found at Chapter 211, Laws of Utah 2008, and was effective 05/05/2008.)

SUMMARY OF THE RULE OR CHANGE: This proposed rule: 1) establishes administrative fees that may be assessed by the Department of Alcoholic Beverage Control (DABC) to process applications for the approval of malt beverage labels and packaging; 2) provides supplemental procedures for applying for and processing label and package approvals; 3) defines the meaning of certain terms in the Malted Beverages Act; and 4) establishes the format of certain words and phrases required on the containers and packaging of certain flavored malt beverages.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 32A-1-107 and 32A-1-807

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: DABC staff will be required to approve the labels for all malted beverages sold in the state. This will be a cost to the state budget, though it is not clear what the cost will be because it is unknown how many applications for label approval will be received each year. At the same time, the DABC will assess a cost incurred.

❖ LOCAL GOVERNMENTS: None--This rule amendment only affects the DABC and does not affect local governments since local governments do not enforce product labeling laws in Utah.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The only small businesses that will be affected by this rule amendment are small businesses that manufacture malted

beverages. There will be a cost of \$30 to these businesses for each label approval application submitted to the DABC. For those small manufacturers that produce flavored malt beverages, there will be other costs associated with printing and affixing required labeling on containers and product packaging. The exact dollar amount cannot be determined. Persons other than businesses will not be impacted by this proposed rule amendment.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only businesses that will be affected by this rule amendment are businesses that manufacture malted beverages. There will be a cost of \$30 to these businesses for each label approval application submitted to DABC. For those manufacturers that produce flavored malt beverages, there will be other costs associated with printing and affixing required labeling on containers and product packaging. The exact dollar amount cannot be determined.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: DABC recognizes that this rule amendment will have a fiscal impact on businesses that produce malt beverages by way of costs assessed for label approvals and the need for additional labeling on products that are look-alikes for nonalcoholic beverages. DABC feels the costs to manufacturers are justified since these labeling restrictions will almost certainly help in the state's fight to eliminate the accessibility of alcoholic beverages to Utah's young people. Dennis R. Kellen, Director

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

ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY UT 84104-1630, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at smackay@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 08/14/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2008

AUTHORIZED BY: Dennis R. Kellen, Director

R81. Alcoholic Beverage Control, Administration.

R81-1. Scope, Definitions, and General Provisions.

R81-1-27. Label Approvals.

(1) Authority. This rule is pursuant to 32A-1-806(2)(c) and (d) and 32A-1-807 which give the commission the authority to adopt rules necessary to fully implement certain aspects of the Malted Beverages Act, 32A-1-801 to -809.

(2) Purpose.

(a) Pursuant to 32A-1-804, effective October 1, 2008, a manufacturer may not distribute or sell in this state any malted beverage including beer, heavy beer, and flavored malt beverage unless the label and packaging of the beverage has been first approved by the department.

(b) The requirements and procedures for applying for label and packaging approval are set forth in 32A-1-804 to -806.

(c) This rule:

(i) establishes administrative fees that may be assessed by the department to process applications for the approval of malt beverage labels and packaging;

(ii) provides supplemental procedures for applying for and processing label and package approvals;

(iii) defines the meaning of certain terms in the Malted Beverages Act; and

(iv) establishes the format of certain words and phrases required on the containers and packaging of certain flavored malt beverages.

(3) Application of Rule.

(a) The department shall assess a fee of \$30.00 made payable to the "Department of Alcoholic Beverage Control" for each application submitted for label and packaging approval.

(b) A complete set of original labels for each size of container must accompany each application for label and packaging approval.

(i) This includes all band, strip, front and back labels appearing on any individual container.

(ii) Original containers will not be accepted.

(iii) If original labels cannot be obtained, the following will be accepted:

(A) color reproductions that are exact size; or

(B) a copy of the federal certificate of label approval (COLA) from the Department of Treasury, Tax and Trade Bureau (Form TTB F5100.31) with the exact size label if printed in color.

(c) Because a heavy beer and flavored malt beverage product may be sold only by the department to consumers and on-premise retailers in this state, label approval for a heavy beer or flavored malt beverage need not be applied for until the department has decided to list the product for sale in this state. Any listing will be contingent on label and packaging approval.

(d) An application for approval is required for any revision of a previously approved label.

(e) An application for approval is required for any revision to packaging that significantly modifies the notice that the product is an alcoholic beverage.

(f) An application for approval is not required for any revision to packaging that relates to subject matter other than the required notice that the product is an alcoholic beverage such as temporary seasonal or promotional themes.

(g) Pursuant to 32A-1-805(6):

(i) the department may revoke any label and packaging approved by the department prior to October 1, 2008, that does not comply with the label and packaging requirements of the Malted Beverage Act;

(ii) the department may delist any heavy beer or flavored malt beverage product listed by the department prior to October 1, 2008, that does not meet the label and packaging requirements of the Malted Beverage Act;

(iii) any heavy beer or flavored malt beverage product listed by the department prior to October 1, 2008, that did not receive prior label and packaging approval need not submit an application for

label and packaging approval if the label and packaging meet the requirements of the Malted Beverage Act.

(h) Pursuant to 32A-1-806, effective October 1, 2008, a flavored malt beverage that is packaged in a manner that is similar to a label or package used for a nonalcoholic beverage must bear a prominently displayed label or a firmly affixed sticker on the container that includes the statement "alcoholic beverage" or "contains alcohol". Any packaging of a flavored malt beverage must also prominently include, either imprinted on the packaging or imprinted on a sticker firmly affixed to the packaging the statement "alcoholic beverage" or "contains alcohol". The words in the statement must appear:

- (i) in capital letters and bold type;
- (ii) in a solid contrasting background;
- (iii) on the front of the container and packaging;
- (iv) in a format that is readily legible;
- (v) separate and apart from any descriptive or explanatory information; and
- (vi) in a type size no smaller than 3 millimeters wide and 3 millimeters high.

(i) Pursuant to 32A-1-806, effective October 1, 2008, the label on a flavored malt beverage container shall state the alcohol content as a percentage of alcohol by volume or by weight. The alcohol content statement may not be abbreviated, but shall use the complete words "alcohol," "volume," or "weight". The words in the alcohol content statement must appear:

- (i) in capital letters and bold type;
- (ii) in a solid contrasting background;
- (iii) in a format that is readily legible; and
- (iv) separate and apart from any descriptive or explanatory information.

KEY: alcoholic beverages

Date of Enactment or Last Substantive Amendment: ~~August 27, 2007~~ **2008**

Notice of Continuation: August 31, 2006

Authorizing, and Implemented or Interpreted Law: 32A-1-107; 32A-1-119(5)(c); 32A-1-807; 32A-3-103(1)(a); 32A-4-103(1)(a); 32A-4-106(22); 32A-4-203(1)(a); 32A-4-304(1)(a); 32A-4-307(22); 32A-4-401(1)(a); 32A-4-403(1)(a); 32A-5-103(1)(a); 32A-5-107(40); 32A-6-103(2)(a); 32A-7-103(2)(a); 32A-7-106(5); 32A-8-103(1)(a); 32A-8-503(1)(a); 32A-9-103(1)(a); 32A-10-203(1)(a); 32A-10-206(14); 32A-10-303(1)(a); 32A-10-306(5); 32A-11-103(1)(a)



Commerce, Occupational and
Professional Licensing
R156-31b
Nurse Practice Act Rule

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 31614
FILED: 06/24/2008, 10:43

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and Nursing Board are proposing amendments to the rule to

implement H.B. 399 which was passed during the 2008 General Session of the Legislature with respect to Medication Aides-Certified. The proposed amendments establish and clarify the requirements for certification as a medication aide and establish a process for training programs to be approved by the Division. The proposed amendments also establish a model curriculum based upon the model curriculum adopted by the 2007 Delegate Assembly of the National Council of State Boards of Nursing. (DAR NOTE: H.B. 399 (2008) is found at Chapter 214, Laws of Utah 2008, and was effective 05/05/2008.)

SUMMARY OF THE RULE OR CHANGE: In Section R156-31b-102, adds the acronym "MA-C" to mean a medication aide-certified. In Section R156-31b-302, establishes the examination required to become a MA-C as the Utah Medication Aide Certification Examination and sets the minimum pass rate at 75%. In Section R156-31b-303, establishes the requirement for a MA-C to complete 16 contact hours of continuing education related to medication administration and medications to qualify for renewal of the certification. The new Section R156-31b-801 establishes the protocols that must be followed by a MA-C when administering medications and establishes routes of medication administration that cannot be used by the MA-C. The new Section R156-31b-802, establishes the process and standards that must be met in order for a facility, association, or educational institution to offer a MA-C training program. The new Section R156-31b-803, establishes a model curriculum that must be followed, as a minimum, to be approved as a training program. The curriculum is based on a national model adopted by the National Council of State Boards of Nursing.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-31b-101 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. State schools desiring to offer the MA-C training program will need to follow the model curriculum and have the necessary human and fiscal resources necessary to offer the program. The cost to operate an MA-C training program is unknown at this time. However, the schools who have indicated an interest in offering a program, currently offer the certified nurse aide program and can use the same facilities, supplies, and faculty currently involved in the assistant program so the costs should be minimal.

❖ LOCAL GOVERNMENTS: There should be little or no effect on local government as a result of the proposed amendments. Local governments do not operate nursing education programs and few operate any kind of health care facilities. However, if a local government ran a regulated facility, the use of an MA-C may save money because the MA-C could administer medications under the supervision of a nurse and the facility would not be required to hire another nurse to administer medications.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** Small business and Persons: A regulated facility may use the MA-C in addition to existing staff, thus lessening the burden on the nurses. Given there is a shortage of nurses throughout the state, the utilization of an MA-C under appropriate nurse supervision could save facilities personnel costs. If a regulated facility chooses to cover the costs of the training and examination as a benefit to their staff or as a recruitment/retention incentive, the facility would be responsible for those costs. Otherwise, the MA-C would be responsible to pay the costs incurred to become certified. It is estimated that the cost of the MA-C training and examination will be similar to that of the certified nurse aide. Training programs offered within educational institutions and associations/organizations charge between \$280 and \$400 for the course. The examination is estimated to cost between \$58 and \$70. Although the training and examination to become a MA-C will cost approximately between \$360 and \$470, the ability to utilize this type of provider to help with the administration of medications will more than offset any of the certification costs. The Division is not able to determine how many persons will apply for certification as a medication aide-certified.

COMPLIANCE COSTS FOR AFFECTED PERSONS: As indicated above, the training and examination costs are expected between \$360 and \$470 per applicant for certification as a medication aide-certified. The MA-C application fee is \$89 and the two year renewal fee is \$42. However, a person certified as an MA-C is expected to make at least \$1 per hour more than a certified nursing assistant. Hence, costs incurred could be recouped within a two month period of time.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing implements H.B. 399 passed during the 2008 Legislative Session regarding Medication Aides-Certified. No fiscal impact to businesses is anticipated beyond those addressed by the Legislature in passing H.B. 399 and those addressed in the rule summary. 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:

Laura Poe at the above address, by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at lpoe@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 08/14/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/18/2008 at 1:00 PM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2008

AUTHORIZED BY: F. David Stanley, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-31b. Nurse Practice Act Rule.**

R156-31b-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 31b, as defined or used in this rule:

(1) "Affiliated with an institution of higher education", as used in Subsection 58-31b-601(1), means the general and science education courses required as part of a nursing education program are provided by an educational institution which is approved by the Board of Regents or an equivalent governmental agency in another state or a private educational institution which is regionally accredited by an accrediting board recognized by the Council for Higher Education Accreditation of the American Council on Education; and the nursing program and the institution of higher education are affiliated with each other as evidenced by a written contract or memorandum of understanding.

(2) "APRN" means an advanced practice registered nurse.

(3) "APRN-CRNA" means an advanced practice registered nurse specializing and certified as a certified registered nurse anesthetist.

(4) "Approved continuing education" in Subsection R156-31b-303(3) means:

(a) continuing education that has been approved by a professional nationally recognized approver of health related continuing education;

(b) nursing education courses taken from an approved education program as defined in Section R156-31b-601; and

(c) health related course work taken from an educational institution accredited by a regional institutional accrediting body identified in the "Accredited Institutions of Postsecondary Education", 2006-2007 edition, published by the American Council on Education.

(5) "Approved education program" as defined in Subsection 58-31b-102(3) is further defined to include any nursing education program published in the documents entitled "Directory of Accredited Nursing Programs", 2006-2007, published by the National League for Nursing Accrediting Commission, which are hereby adopted and incorporated by reference as a part of this rule.

(6) "CCNE" means the Commission on Collegiate Nursing Education.

(7) "CGFNS" means the Commission on Graduates of Foreign Nursing Schools.

(8) "COA", as used in this rule, means the Council of Accreditation of Nurse Anesthesia Education Programs.

(9) "Clinical mentor/preceptor", as used in Section R156-31b-607, means an individual who is employed by a clinical health care facility and is chosen by that agency, in collaboration with the Parent-Program, to provide direct, on-site supervision and direction to a nursing student who is engaged in a clinical rotation, and who is

accountable to both the clinical agency and the supervisory clinical faculty member.

(10) "Comprehensive nursing assessment", as used in Section R156-31b-704, means an extensive data collection (initial and ongoing) for individuals, families, groups and communities addressing anticipated changes in patient conditions as well as emergent changes in patient's health status; recognizing alterations to previous patient conditions; synthesizing the biological, psychological, spiritual and social aspects of the patient's condition; evaluating the impact of nursing care; and using this broad and complete analysis to make independent decisions and identification of health care needs; plan nursing interventions, evaluate need for different interventions and the need to communicate and consult with other health team members.

(11) "Contact hour" means 60 minutes.

(12) "Deelegatee", as used in Sections R156-31b-701 and 701a, means one or more competent persons receiving a delegation who acts in a complementary role to the delegating nurse, who has been trained appropriately for the task delegated, and whom the delegating nurse authorizes to perform a task that the delegates is not otherwise authorized to perform.

(13) "Delegation" means transferring to delegates the authority to perform a selected nursing task in a selected situation. The delegating nurse retains accountability for the delegation.

(14) "Delegation", as used in Sections R156-31b-701 and 701a, means the nurse making the delegation.

(15) "Diabetes medical management plan (DMMP)", as used in this rule, means an individualized plan that describes the health care services that the student is to receive at school. The plan is developed and signed by the student's parent or guardian and health care team. It provides the school with information regarding how the student will manage diabetes at school on a daily basis. The DMMP shall be incorporated into and shall become a part of the student's IHP.

(16) "Direct supervision" is the supervision required in Subsection 58-31b-306(1)(a)(iii) and means:

(a) the person providing supervision shall be available on the premises at which the supervisee is engaged in practice; or

(b) if the supervisee is specializing in psychiatric mental health nursing, the supervisor may be remote from the supervisee if there is personal direct voice communication between the two prior to prescribing a prescription drug.

(17) "Disruptive behavior", as used in this rule, means conduct, whether verbal or physical, that is demeaning, outrageous, or malicious and that places at risk patient care or the process of delivering quality patient care. Disruptive behavior does not include criticism that is offered in good faith with the aim of improving patient care.

(18) "Focused nursing assessment", as used in Section R156-31b-703, means an appraisal of an individual's status and situation at hand, contributing to the comprehensive assessment by the registered nurse, supporting ongoing data collection and deciding who needs to be informed of the information and when to inform.

(19) "Individualized healthcare plan (IHP)", as used in Section R156-31b-701a, means a plan for managing the health needs of a specific student, written and reviewed at least annually by a school nurse. The IHP is developed by a nurse working in a school setting in conjunction with the student and the student's parent or guardian to guide school personnel in the care of a student with medical needs. The plan shall be based on the student's practitioner's orders

for the administration of medications or treatments for the student, or the student's DMMP.

(20) "Licensure by equivalency" as used in this rule means licensure as a licensed practical nurse after successful completion of course work in a registered nurse program which meets the criteria established in Sections R156-31b-601 and R156-31b-603.

(21) "LPN" means a licensed practical nurse.

(22) "MA-C" means a medication aide - certified.

(~~22~~23) "Medication", as used in Sections R156-31b-701 and 701a, means any prescription or nonprescription drug as defined in Subsections 58-17b-102(39) and (61) of the Pharmacy Practice Act.

(~~23~~24) "NLNAC" means the National League for Nursing Accrediting Commission.

(~~24~~25) "NCLEX" means the National Council Licensure Examination of the National Council of State Boards of Nursing.

(~~25~~26) "Non-approved education program" means any foreign nurse education program.

(~~26~~27) "Nurse", as used in this rule, means an individual licensed under Title 58, Chapter 31b as a licensed practical nurse, registered nurse, advanced practice registered nurse, or advanced practice registered nurse-certified registered nurse anesthetist, or a certified nurse midwife licensed under Title 58, Chapter 44a.

(~~27~~28) "Other specified health care professionals", as used in Subsection 58-31b-102(15), who may direct the licensed practical nurse means:

- (a) advanced practice registered nurse;
- (b) certified nurse midwife;
- (c) chiropractic physician;
- (d) dentist;
- (e) osteopathic physician;
- (f) physician assistant;
- (g) podiatric physician;
- (h) optometrist;
- (i) naturopathic physician; or
- (j) mental health therapist as defined in Subsection 58-60-102(5).

(~~28~~29) "Parent-program", as used in Section R156-31b-607, means a nationally accredited, Board of Nursing approved nursing education program that is providing nursing education (didactic, clinical or both) to a student and is responsible for the education program curriculum, and program and student policies.

(~~29~~30) "Patient", as used in this rule, means a recipient of nursing care and includes students in a school setting or clients of a health care facility, clinic, or practitioner.

(~~30~~31) "Patient surrogate", as used in Subsection R156-31b-502(4), means an individual who has legal authority to act on behalf of the patient when the patient is unable to act or decide for himself, including a parent, foster parent, legal guardian, or a person designated in a power of attorney.

(~~31~~32) "Psychiatric mental health nursing specialty", as used in Subsection 58-31b-302(4)(g), includes psychiatric mental health nurse specialists and psychiatric mental health nurse practitioners.

(~~32~~33) "Practitioner", as used in Sections R156-31b-701 and 701a, means a person authorized by law to prescribe treatment, medication, or medical devices, and who acts within the scope of such authority.

(~~33~~34) "RN" means a registered nurse.

(~~34~~35) "School", as used in Section R156-31b-701a, means any private or public institution of primary or secondary education, including charter schools, pre-school, kindergarten, and special education programs.

~~(35)~~36 "Supervision", as used in Sections R156-31b-701 and 701a, means the provision of guidance and review by a licensed nurse for the accomplishment of a nursing task or activity, including the provision for the initial direction of the task, periodic inspection of the actual act of accomplishing the task or activity, and evaluation of the outcome.

~~(36)~~37 "Supervisory clinical faculty", as used in Section R156-31b-607, means one or more individuals employed by an approved nursing education program who meet the accreditation and Board of Nursing specific requirements to be a faculty member and are responsible for the overall clinical experiences of nursing students and may supervise and coordinate clinical mentors/preceptors who provide the actual direct clinical experience.

~~(37)~~38 "Unprofessional conduct" as defined in Title 58, Chapters 1 and 31b, is further defined in Section R156-31b-502.

R156-31b-302c. Qualifications for Licensure - Examination Requirements.

(1) In accordance with Section 58-31b-302, the examination requirements for graduates of approved nursing programs are as follows.

(a) An applicant for licensure as an LPN or RN shall pass the applicable NCLEX examination.

(b) An applicant for licensure as an APRN shall pass one of the following national certification examinations consistent with the applicant's educational specialty:

(i) one of the following examinations administered by the American Nurses Credentialing Center Certification:

- (A) Adult Nurse Practitioner;
- (B) Family Nurse Practitioner;
- (C) Pediatric Nurse Practitioner;
- (D) Gerontological Nurse Practitioner;
- (E) Acute Care Nurse Practitioner;
- (F) Clinical Specialist in Medical-Surgical Nursing;
- (G) Clinical Specialist in Gerontological Nursing;
- (H) Clinical Specialist in Adult Psychiatric and Mental Health Nursing;

(I) Clinical Specialist in Child and Adolescent Psychiatric and Mental Health Nursing;

(J) Psychiatric and Mental Health Nurse Practitioner (Adult and Family);

- (ii) Pediatric Nursing Certification Board;
- (iii) American Academy of Nurse Practitioners;
- (iv) the National Certification Corporation for the Obstetric, Gynecologic and Neonatal Nursing Specialties;

(v) the Oncology Nursing Certification Corporation Advanced Oncology Certified Nurse if taken on or before July 1, 2005;

(vi) the Advanced Practice Certification for the Clinical Nurse Specialist in Acute and Critical Care; or

(vii) the Advanced Critical Care Examination administered by the American Association of Critical Care Nurses; or

(viii) the national certifying examination administered by the American Midwifery Certification Board, Inc.; or

(ix) the examination of the Council on Certification of Nurse Anesthetists.

(2) In accordance with Section 58-31b-303, an applicant for licensure as an LPN or RN from a non-approved nursing program shall pass the applicable NCLEX examination.

(3)(a) An applicant for certification as an MA-C shall pass the Utah Medication Aide Certification Examination with a score of 75% of greater; and

(b) the certification examination must be taken within six months of completion of the approved training program and cannot be taken more than two times without repeating an approved training program.

R156-31b-303. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two year renewal cycle applicable to licensees under Title 58, Chapter 31b, is established by rule in Section R156-1-308.

(2) Renewal procedures shall be in accordance with Section R156-1-308.

(3) Each applicant for renewal shall comply with the following continuing competence requirements:

(a) An LPN or RN shall complete one of the following during the two years immediately preceding the application for renewal:

- (i) licensed practice for not less than 400 hours;
- (ii) licensed practice for not less than 200 hours and completion of 15 contact hours of approved continuing education; or
- (iii) completion of 30 contact hours of approved continuing education hours.

(b) An APRN shall complete the following:

(i) be currently certified or recertified in their specialty area of practice; or

(ii) if licensed prior to July 1, 1992, complete 30 hours of approved continuing education and 400 hours of practice.

(c) An MA-C shall complete 16 contact hours of approved continuing education related to medications or medication administration during the two years immediately preceding the application for renewal.

R156-31b-801. Medication Aide - Certified - Formulary and Protocols.

In accordance with Subsection 58-31b-102(12)(b)(i), the formulary and protocols for an MA-C to administer routine medications are as follows.

(1) Under the supervision of a licensed nurse as defined in Subsection R156-31b-102(26), an MA-C may:

(a) administer medication:

(i) via approved routes as listed in Subsection 58-31b-102(17)(b);

(ii) that includes turning oxygen on and off at a predetermined, established flow rate; and

(iii) that is prescribed as PRN (as needed), if expressly instructed to do so by the nurse, or the medication is an over-the-counter medication;

(b) destroy medications per facility policy; and

(c) assist a patient with self administration.

(2) An MA-C shall not administer medications via the following routes:

(a) central lines;

(b) colostomy;

(c) intramuscular;

(d) subcutaneous;

(e) intrathecal;

(f) intravenous;

(g) nasogastric;

(h) nonmetered inhaler;

(i) intradermal;

(j) urethral;

(k) epidural;

(l) endotracheal; or

- (m) gastronomy or jejunostomy tubes.
- (3) An MA-C shall not administer the following kinds of medications:
- (a) barium and other diagnostic contrast;
- (b) chemotherapeutic agents except oral maintenance chemotherapy;
- (c) medication pumps including client controlled analgesia; and
- (d) nitroglycerin paste.
- (4) An MA-C shall not:
- (a) administer any medication which requires nursing assessment or judgment prior to administration, on-going evaluation, or follow-up;
- (b) receive written or verbal orders;
- (c) transcribe orders from the medical record;
- (d) conduct patient or resident assessments or evaluations;
- (e) engage in patient or resident teaching activities unless expressly instructed to do so by the nurse;
- (f) calculate drug doses, or administer any medication that requires a medication calculation to determine the appropriate dose;
- (g) administer the first dose of a new medication or a dosage change, unless expressly instructed to do so by the nurse; and
- (h) account for controlled substances, unless assisted by another MA-C or a nurse.
- (5) In accordance with Section R156-31b-701, a nurse may refuse to delegate the administration of medications to a specific patient or in a specific situation.
- (6) A nurse shall not supervise more than two MA-Cs per shift.

R156-31b-802. Medication Aide - Certified - Approval of Training Programs.

In accordance with Subsection 58-31b-601(3), the minimum standards for an MA-C training program to be approved by the Division in collaboration with the Board and the process to obtain approval are established as follows.

- (1) All training programs shall be approved by the Division in collaboration with the Board and shall obtain approval prior to implementing the program.
- (2) Training programs may be offered by an educational institution, a health care facility, or a health care association.
- (3) The program shall consist of a minimum of 60 clock hours of didactic (classroom) training which is consistent with the model curriculum in Section R156-31b-803, and at least 40 hours of practical training within a long-term care facility.
- (4) The classroom instructor shall:
- (a) have a current, active, unencumbered RN or APRN license or multistate privilege to practice nursing in Utah;
- (b) be a faculty member of an approved nursing education program, or an approved certified nurse aide (CNA) instructor who has completed the Department of Health's "Train the Trainer" program; and
- (c) have at least two years of clinical experience and at least one year of long-term care nursing experience in the past five years.
- (5) The on-site practical training experience instructor shall be available at all times during the practical training experience and shall meet the following criteria:
- (a) have a current, active, unencumbered RN or APRN license or multistate privilege to practice nursing in Utah;
- (b)(i) be a faculty member of an approved nursing education program with at least one year of experience in long-term care nursing; or

- (ii) be an approved CNA instructor who has completed the Department of Health's "Train the Trainer" program with at least one year of experience in long-term care nursing, and at least three months experience in the specific training facility;
- (c) shall not delegate supervisory responsibilities when providing practical experience training to a student;
- (d) may not perform any other duties while providing practical experience training and observation to a medication aide student; and
- (e) the practical training instructor to student ratio shall be 1:1 in the clinical setting.
- (6) An entity desiring to be approved to provide an MA-C training program to qualify a person for certification as a medication aide shall:
- (a) submit to the Division an application form prescribed by the Division;
- (b) provide evidence of adequate and appropriate trainers and resources to provide the training program including a well-stocked clinical skills lab or the equivalent;
- (c) submit a copy of the proposed training curriculum and an attestation that the proposed curriculum is consistent with the model curriculum in Section R156-31b-803;
- (d) document minimal admission requirements including, but not limited to:
- (i) an earned high school diploma or successful passage of the general educational development (GED) test;
- (ii) current certification as a nursing aide, in good standing, from the Utah Nursing Assistant Registry, with at least 2,000 hours of experience within the two years prior to application to the training program, working as a certified nurse aide in a long-term care setting; and
- (iii) current cardiopulmonary resuscitation (CPR) certification.

R156-31b-803. Medication Aide - Certified - Model Curriculum.

- Module I: Medication Fundamentals, recommend 16 hours classroom instruction and four hours of skills lab.
- (1) Objectives - the learner will:
- (a) describe the different documents on which medications can be ordered and recorded;
- (b) detail the elements of a complete medication order for safe administration;
- (c) discuss the various tasks to be performed for medications to be safely stored;
- (d) identify conditions necessitating disposal of medications or questioning an incomplete medication order;
- (e) state the ways to measure medications;
- (f) state the different forms in which medications can be manufactured;
- (g) recognize that the same medication may have different names;
- (h) identify accepted abbreviations;
- (i) recognize the abbreviations that should not be used;
- (j) list the different effects medications can cause, locally and systemically;
- (k) state the types of information that should be known about a specific medication prior to giving that medication;
- (l) list the three safety checks of medication administration;
- (m) identify the six rights of medication administration; and
- (n) describe basic steps of medication preparation prior to administration.

(2) Content Outline - medication orders, documentation, storage and disposal:

- (a) medication prescription or order:
 - (i) recorded on patient record;
 - (ii) complete order must be signed, legible, and include the drug name, dose, route, time, and frequency;
 - (iii) MA-C should not take verbal or telephone orders; and
 - (iv) questioning an incomplete medication order;
- (b) medication documentation system:
 - (i) documentation of orders onto agency's medication document;
 - (ii) medication administration record (MAR); and
 - (iii) controlled substance medication log;
- (c) medication storage:
 - (i) storage area;
 - (ii) medication room;
 - (iii) medication cart; and
 - (iv) medication tray; and
- (d) disposal of outdated, contaminated or unused medication.
- (3) Content Outline - mathematics, weights and measures:
 - (a) MA-C does not convert medications dosages; and
 - (b) systems of measurement:
 - (i) apothecaries' system;
 - (ii) metric system;
 - (iii) common household measures;
 - (iv) roman numerals - drams or grains;
 - (v) weight is grain; and
 - (vi) volume is minim.
- (4) Content Outline - forms of medication:
 - (a) liquid:
 - (i) aerosol;
 - (ii) inhalant;
 - (iii) drops;
 - (iv) elixir;
 - (v) spray;
 - (vi) solution;
 - (vii) suspension (needs mixing or shaking);
 - (viii) syrup; and
 - (ix) tincture; and
 - (b) solid and semi-solids:
 - (i) capsules;
 - (ii) tablet (dissolve);
 - (iii) scored versus unscored;
 - (iv) caplets;
 - (v) time-released;
 - (vi) covered with a special coating (not to be crushed);
 - (vii) lozenges (dissolve);
 - (viii) ointment;
 - (ix) paste;
 - (x) powder;
 - (xi) cream;
 - (xii) lotion; and
 - (xiii) linament.
- (5) Content Outline - medication basics:
 - (a) terminology:
 - (i) medication names:
 - (A) generic; and
 - (B) brand or trade name;
 - (b) abbreviations:
 - (i) use standardized abbreviations, acronyms and symbols; and
 - (ii) do not use abbreviations that should no longer be in use;

- (c) dosage range;
- (d) actions (how drug causes chemical changes in body);
- (e) implications for administration (what medical conditions are treated by the drug);
- (f) therapeutic effects (desired effect);
- (g) side effects (reaction not part of main effect desired);
- (h) precautions (anticipate or prepare for conditions that may change effect of drug);
- (i) contraindications (condition making drug dangerous to use);
- (j) allergic reactions (life threatening - anaphylaxis);
- (k) adverse reactions (unpleasant or serious side effects, other than desired):
 - (l) tolerance (body adapts to drug and may be resistant or less effective);
 - (m) interactions:
 - (i) specific administration information such as do not take with grapefruit juice; and
 - (ii) certain classes of medications that should not be prescribed at the same time;
 - (n) additive (synergistic) or antagonist effect;
 - (o) idiosyncratic effect (drug has unusual effect); and
 - (p) paradoxical effect (drug works in opposite way).
- (6) Content Outline - safety and rights of medication administration:
 - (a) three safety checks:
 - (i) when removing the medication package from storage (drawer or shelf);
 - (ii) when removing medication from the package or container it is kept in; and
 - (iii) when returning the package to where it is stored; and
 - (b) six rights of medication administration:
 - (i) right client;
 - (ii) right drug;
 - (iii) right dose;
 - (iv) right route;
 - (v) right time; and
 - (vi) right documentation.
- (7) Content Outline - preparation and actual medication administration:
 - (a) wash hands;
 - (b) review medications that require checking of pulse or blood pressure before administering;
 - (c) identify the patient;
 - (d) introduce yourself;
 - (e) explain what you are going to do;
 - (f) glove if necessary;
 - (g) position the client;
 - (h) do what you explained;
 - (i) wash your hands;
 - (j) special considerations; and
 - (k) document.
- Module 2: Safety, recommend six hours of classroom instruction and one hour of skills lab.
 - (1) Objectives - the learner will:
 - (a) identify information needed about the patient and the medication prior to medication administration;
 - (b) identify common causes of medication errors; and
 - (c) state what steps should be taken when a medication error occurs.
 - (2) Content Outline - prevention of medication errors:
 - (a) know the following before administering medications:

(i) name, generic and trade;
(ii) purpose;
(iii) effect;
(iv) length of time to take effect;
(v) side effects;
(vi) adverse effects;
(vii) interactions;
(viii) special instructions; and
(ix) where to get help.
(3) Content Outline - causes and reporting of medication errors:
(a) failure to follow prescriber's orders exactly;
(b) failure to follow manufacturer's specifications or directions for use;
(c) failure to follow accepted standards for medication administration;
(d) failure to listen to a patient's or family's concerns;
(e) notify the agency's nurse, supervisor, pharmacist, physician or other prescriber, according to the agency policy; and
(f) complete a medication error or incident report.
Module 3: Communication and documentation, recommend six hours of classroom instruction and two hours of skills lab:
(1) Objectives - the learner will:
(a) discuss building relationships (review from CNA training);
(b) state when the nurse must be notified of a change in the patient's normal condition;
(c) discuss when the nurse should be notified about vital sign changes;
(d) state when the nurse should be notified of a patient's pain;
(e) identify other alterations or conditions that should be reported to the nurse;
(f) state documentation requirements for medication administration; and
(g) explain the responsibilities of the delegating nurse when delegating medication administration to the MA-C.
(2) Content Outline - building relationships:
(a) review the communication process;
(b) review barriers to effective listening and communication;
(c) setting boundaries; and
(d) review team building.
(3) Content Outline - reporting of symptoms or side effects:
(a) observe, monitor and report any change that is different from the patient's normal condition;
(b) notify the nurse as soon as possible with as much information as available; and
(c) record changes.
(4) Content Outline - report any change from the patient's normal condition:
(a) temperature;
(b) pulse;
(c) respirations;
(d) blood pressure;
(e) observe and report complaints of pain; and
(f) other changes in condition such as urinary output, mental status, and activity.
(5) Content Outline - documentation of medication administration:
(a) identifying initials and time on the medication administration record (MAR);
(b) circle and document the reasons that a patient may not take a medication; and

(c) prn medication, delegated by the licensed nurse, per facility or agency policy.
(6) Content Outline - role of the delegating nurse:
(a) the nurse must determine the level of supervision, monitoring and accessibility he must provide for nursing assistive personnel;
(b) the nurse continues to have responsibility for the overall nursing care;
(c) to delegate effectively, nurses need to be able to rely on nursing assistive personnel's credentials and job descriptions, especially for a first time assignment;
(d) nursing administration has the responsibility for validating credentials and qualifications of employees;
(e) both nurse and MA-C need the appropriate interpersonal and communication skills and organizational support to successfully resolve delegation issues; and
(f) trust is central to the working relationships between nurses and assistive personnel; good relationships have two-way communication, initiative, appreciation, and willingness to help each other.
Module 4 - Medication administration, recommend 18 hours of classroom instruction and two hours of skills lab:
(1) Objectives - the learner will:
(a) identify common methods of medication administration;
(b) identify factors that may affect how the body uses medication; and
(c) identify the classifications of medications, state common effects of medications on the body, and identify resource materials and professionals to contact for clarification of medication questions.
(2) Content Outline - routes of administration:
(a) oral;
(b) buccal;
(c) sublingual;
(d) inhaler (metered dose);
(e) nebulizer;
(f) nasal;
(g) eye (ophthalmic);
(h) ear (otic);
(i) topical;
(j) dressings;
(k) soaks;
(l) transdermal such as patches; and
(m) suppositories, rectal and vaginal.
(3) Content Outline - factors affecting how the body uses medication:
(a) age;
(b) size;
(c) family traits;
(d) diet;
(e) disease;
(f) psychological issues;
(g) gender and basic metabolic rate; and
(h) dosage.
(4) Content Outline - classes of medications related to body systems and common actions:
(a) antimicrobials control or prevent growth of bacteria, fungus, virus or other microorganisms;
(b) cardiovascular:
(i) corrects an irregular, fast or slow heart rate;
(ii) prevents blood from clotting; and

(iii) lowers blood pressure;
(c) dermatological:
(i) antiinfective; and
(ii) anti-inflammatory;
(d) endocrine:
(i) antidiabetic;
(ii) reduces inflammation; and
(iii) hormones;
(e) gastrointestinal:
(i) promotes bowel movements;
(ii) antacids;
(iii) antidiarrheal; and
(iv) reduces gastric acid;
(f) musculoskeletal relaxes muscles;
(g) neurological:
(i) prevents seizures;
(ii) relieves pain;
(iii) lowers body temperature;
(iv) anti-parkinsonian;
(v) antidepressants;
(vi) promotes sleep;
(vii) relieves anxiety;
(viii) antipsychotics; and
(ix) mood stabilizer;
(h) nutrients, vitamins, and minerals replace chemicals missing or low in the body:
(i) respiratory:
(i) decreases mucus production;
(ii) bronchodilation;
(iii) cough depressant or expectorant; and
(iv) decongestant;
(j) sensory:
(i) antiglaucoma;
(ii) artificial terms; and
(iii) earwax emulsifiers; and
(k) urinary increases water loss through kidneys.
(5) Content Outline - location of resources and references:
(a) nurse;
(b) pharmacist;
(c) physician;
(d) package or drug insert; and
(e) drug reference manuals.
Module 5 - Ethical and Legal, recommend four hours classroom instruction and one hour skills lab:
(1) Objectives - the learner will:
(a) identify when a delegated task should or should not be performed by the MA-C;
(b) recognize when and how to report errors;
(c) recognize what should be reported to the licensed nurse;
(d) distinguish between the tasks an MA-C can and cannot accept;
(e) define redelegation;
(f) identify skills that enhance the delegation process;
(g) describe the rights of the client;
(h) discuss the types of abuse that must be reported;
(i) describe examples of the types of legal problems that can occur;
(j) list the three steps to take before medication is safe to give; and
(k) recognize the numerous rights that must be followed before and after medication is administered.

(2) Content Outline - role of the MA-C:
(a) MA-C may perform a task involving administration of medications if:
(i) MA-C's assignment is to administer medications under the supervision of a licensed nurse in accordance with provisions of the Nurse Practice Act and Rule; and
(ii) the delegation is not prohibited by any provision of this act and rule;
(b) role of the MA-C includes medication administration as a delegated nursing function under nursing supervision. The following shall not be delegated to an MA-C:
(i) conversion or calculation of medication dosage;
(ii) assessment of patient need for or response to medications;
(iii) nursing judgment regarding the administration of PRN medications; or
(iv) medications to be given via parenteral routes and through nasogastric, gastrostomy, or jejunostomy routes;
(c) MA-C shall not perform a task involving the administration of medications if:
(i) the medication administration requires an assessment of the patient's need for medication, a calculation of the dosage of the medication or the conversion of the dosage;
(ii) the supervising nurse is unavailable to monitor the progress of the patient and the effect of the medication on the patient; or
(iii) the patient is not stable or has changing needs;
(d) any MA-C who has any reason to believe that he has made an error in the administration of medication shall follow facility policy and procedure to report the possible or known error to the appropriate superior and shall assist in completing any required documentation of the medication error; and
(e) medication administration policies:
(i) MA-C shall report to the supervising nurse:
(A) signs or symptoms that appear life-threatening;
(B) events that appear health-threatening; and
(C) medications that produce no results or undesirable effects as reported by the patient;
(ii) a licensed nurse shall supervise an MA-C; and
(iii) a licensed nurse shall review periodically the following:
(A) authorized provider orders; and
(B) patient medication records.
(3) Content Outline - the responsibility of the MA-C when accepting delegation tasks:
(a) the MA-C has the responsibility not to accept a delegation that he knows is beyond his knowledge and skills;
(b) delegation is patient specific; having done a task for one patient does not automatically mean assistive personnel can do the task for all patients, additionally, delegation is also situation specific, doing a task for one patient in one situation does not mean the nursing assistive personnel may perform that task for this patient in all situations;
(c) a task delegated to assistive personnel cannot be redelegated by the nursing assistive personnel;
(d) the MA-C is expected to speak up and ask for training and assistance in performing the delegation, or request not to be delegated a particular task, function, or activity; and
(e) both nurse and MA-C need the appropriate interpersonal and communication skills and organizational support to successfully resolve delegation issues.
(4) Content Outline - rights of individuals:
(a) maintain confidentiality;
(b) respect patient's rights;

- (c) respect patient's privacy;
- (d) respect patient's individuality and autonomy;
- (e) communicate respectfully;
- (f) respect patient's wishes whenever possible;
- (g) right to refuse medication; and
- (h) right to be informed.
- (5) Content Outline - specific legal and ethical issues:
 - (a) abuse or neglect:
 - (i) identify types of abuse:
 - (A) physical;
 - (B) verbal;
 - (C) psychological;
 - (D) sexual; and
 - (E) financial;
 - (ii) preventive measures; and
 - (iii) duty to report;
 - (b) exposure to medical malpractice, negligence claims, or lawsuits:
 - (c) fraud;
 - (d) theft; and
 - (e) diversion.
- (6) Content Outline - safety and rights of medication administration:
 - (a) review the three safety checks; and
 - (b) review the six rights of medication administration.
- Module 6 - Practicum:
 - (1) Objective - the learner will demonstrate safe administration of medications to patients in a clinical setting.
 - (2) Content Outline - forty hours of supervised clinical practicum, which should be progressive, where the instructor observes medication administration, and gradually, the instructor increases the number of patients to whom the student administers medications.

KEY: licensing, nurses

Date of Enactment or Last Substantive Amendment: ~~June 23,~~ 2008

Notice of Continuation: April 1, 2008

Authorizing, and Implemented or Interpreted Law: 58-31b-101; 58-1-106(1)(a); 58-1-202(1)(a)

◆ ————— ◆

**Commerce, Occupational and
Professional Licensing
R156-31b
Nurse Practice Act Rule**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 31615

FILED: 06/24/2008, 11:18

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and Nursing Board are proposing amendments to change the standards and process for approval of nursing education programs. This filing also includes other various amendments

which have been suggested by Board members, licensees, employers, education programs, and Division staff.

SUMMARY OF THE RULE OR CHANGE: In Section R156-31b-102, definitions are updated and amended to be consistent with language used throughout the rule including "academic year", "equivalent to an approved practical nursing education program", "nurse accredited", and "parent academic institution". The definition for "licensure by equivalency" is deleted and included in the "equivalent to an approved practical nursing education program" definition. In Section R156-31b-302a, amendments clarify that only students enrolled in a registered nurse (RN) program with full approval status are eligible for licensure as an licensed practical nurse (LPN) by equivalency. In Section R156-31b-302c, amendments establish a new standard by which an examination for licensure under this chapter must be taken within three years from the date of completion or within four attempts. Adds the Acute Care Nurse Practitioner Certification exam to the list of approved exams for licensure as an advanced practice registered nurse (APRN). Deletes the Advance Critical Care Examination which is no longer available from the list of approved exams. Indicates the Division will not authorize any review or challenge to any exam required for licensure or certification under this chapter.

In Section R156-31b-304, amendments clarify that an applicant for a temporary LPN or RN must be a graduate from a nursing program with full approval status. Shortens the time an RN or LPN temporary license is issued from 120 days to 90 days to match the same length of time the authorization to test is valid. Clarifies that a temporary license issued to a foreign graduate may be issued for up to one year, but the time cannot be extended, thus allowing the person at least two opportunities to test. In Section R156-31b-306, amendments change the time frame by which a person without an active license may reapply and the manner in which current competency will be measured. In Section R156-31b-309, amendments clarify that an Intern license is issued for 90 days unless the applicant is specializing in psychiatric mental health nursing, then the Intern license is issued for one year and can be extended in yearly increments not to exceed five years. Clarifies it is the responsibility of the APRN Intern to report examination results to the Division. In Section R156-31b-310, amendments establish the standard that an applicant for licensure by endorsement must have a current, active license in another state or have passed the required examination within six months of making application for licensure in Utah. In Section R156-31b-601, current language is deleted and new language establishes the standards that must be met by the parent academic institution in order to offer a nursing education program that can be approved by the Division in collaboration with the Nursing Board. In Section R156-31b-602, current language is deleted and new language establishes three categories of approval status: full, provisional, and probationary. All programs that have full approval status must meet the criteria established in the rule. Establishes a timeline that must be followed by a provisionally approved program in order to become nationally accredited and obtain full approval status. In Section R156-31b-603, current language is deleted and new language establishes the general standards that all nursing education programs leading

toward licensure must meet to receive and maintain full approval status. Establishes quality improvement evaluation criteria. Delineates curriculum standards. Clarifies the qualifications for the nursing program administrator, faculty, preceptors, clinical adjunct faculty, and interdisciplinary faculty. Establishes a minimum pass rate of the National Council Licensure Examination of the National Council of State Board of Nursing (NCLEX) examinations that must be consistently met to maintain approval status. Clarifies requirement for hands-on, supervised clinical experiences throughout the life span. Clarifies additional requirements for APRN programs. In Section R156-31b-604, current language is deleted and new language clarifies the reasons a nursing education program may be disciplined and establishes the process that must be followed for a program to be disciplined. In Section R156-31b-606, amendments clarify that all programs granted provisional approval status shall submit all correspondence between the school and the nurse accrediting body to the Division. Section R156-31b-607, amendments clarify the criteria a nursing program must meet in order for its graduates to qualify for a license in Utah. Section R156-31b-608 is renumbered from Section R156-31b-607. In Sections R156-31b-703 and R156-31b-704, amendments eliminate the word "client" leaving only the term "patient". In a prior rule filing, the term "patient" was defined to include a "client". These two sections were overlooked and not included in the prior rule filing.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-31b-101 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Deletes the Directory of Accredited Nursing Programs, 2006-2007 edition, published by the National League for Nursing Accrediting Commission

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. State schools with nursing education programs will not be held to the same standards as programs with provisional approval. Schools may find it difficult to hire enough qualified faculty and may have to increase salaries to entice graduate prepared nurses to become faculty members. Additional costs should be minimal because the national accreditation standards (currently required of all programs with full approval status) already require the graduate prepared nurse for faculty.

❖ LOCAL GOVERNMENTS: There should be little or no effect on local government as a result of the proposed amendments. Local governments do not operate nursing education programs and few operate any kind of health care facility.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Small business and Persons: A proprietary school which is not regionally accredited and offers a nursing education program would be required to develop an articulation agreement or contract with a regionally accredited institution to offer the pre-requisite and co-requisite courses. Currently, all the schools offering nursing education courses meet this

standard so there should not be an effect on the school. Also, Utah has one proprietary school with a nursing education program that has full approval status. Once these proposed amendments are adopted, the program would be required to only hire graduate prepared faculty or someone who is currently enrolled in a graduate program. Given this is already the standard for national accreditation, there should be little or no effect on the school. The proposed changes to the nursing education approval standards and the requirement that all schools meet these standards may have a financial effect on the schools offering nursing education programs. Compliance may require the addition of qualified faculty members or changes to curriculum. The cost of any such changes are unknown. Also, if a program loses its approval status due to noncompliance with the standards, such as the NCLEX exam pass rate, the program would be forced to stop accepting students and close causing a loss of income. However, a student who pays \$50,000 for a nursing program who cannot pass the licensure examination and thus become licensed has lost a significant amount of money in tuition and time. The proposed amendments also shorten the length of time a nurse can be out of practice and still reinstate a license. A nurse out of practice 10 or more years would incur the cost of completing a current nursing education program (\$2,500 - \$10,000 depending on the type of program and the educational institution), apply for licensure which includes application fees of \$98 for LPN/RN and \$139 for APRN and retake the examination which includes (examination fees of \$200 for LPN/RN and \$600 for APRN. An applicant who cannot pass the licensure examination within the three years or four tries would also be required to pay the additional examination fees and application fee. The Division is not able to determine how many nurses would be affected by these two requirements due to varying factors.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Nursing education programs that cannot meet the new standards would not be allowed to accept new students until the standards are met, or would need to close if the standards cannot be met. This would have a significant effect on the school. A graduate of a program who cannot pass the licensure exam and become licensed experiences a significant loss of money and time and still cannot provide a livelihood for herself. It is better to remediate or close a program that cannot meet outcomes than to continue to allow students to enroll in the program with a high probability of failing to become licensed. The proposed amendments also shorten the length of time a nurse can be out of practice and still reinstate a license. A nurse out of practice 10 or more years would incur the cost of completing a current nursing education program (\$2,500 - \$10,000) depending on the type of program and the educational institution), apply for licensure which includes application fees of \$98 for LPN/RN and \$139 for APRN and retake the examination which includes examination fees of \$200 for LPN/RN and \$600 for APRN. An applicant who cannot pass the licensure examination within the three years or four tries would also be required to pay the additional examination fees and application fee.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing generally adopts

nursing education approval standards already used for national accreditation. Thus the costs to the schools should be minimal are discussed in the rule filing, and such costs are likely outweighed by the positive impact to students who will receive better preparation for examinations and to the public who receives better nursing care. The amendments which shorten the length of time a nurse can be out of practice and still reinstate a license and that limit the number of times a person may take an examination will result in costs to licensees or applicants, but such costs are again outweighed by the benefit to the public in receiving services from properly educated and trained individuals. 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:

Laura Poe at the above address, by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at lpoe@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 08/14/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/18/2008 at 1:00 PM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2008

AUTHORIZED BY: F. David Stanley, Director

R156. Commerce, Occupational and Professional Licensing.

R156-31b. Nurse Practice Act Rule.

R156-31b-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 31b, as defined or used in this rule:

(1) "Academic year", as used in Section R156-31b-601, means three quarters or two semesters. A quarter is defined to be equal to ten weeks and a semester is defined to be equal to 14 or 15 weeks.

(1) "Affiliated with an institution of higher education", as used in Subsection 58-31b-601(1), means the general and science education courses required as part of a nursing education program are provided by an educational institution which is approved by the Board of Regents or an equivalent governmental agency in another state or a private educational institution which is regionally accredited by an accrediting board recognized by the Council for Higher Education Accreditation of the American Council on Education; and the nursing program and the institution of higher

education are affiliated with each other as evidenced by a written contract or memorandum of understanding.

(2) "APRN" means an advanced practice registered nurse.

(3) "APRN-CRNA" means an advanced practice registered nurse specializing and certified as a certified registered nurse anesthetist.

(4) "Approved continuing education" in Subsection R156-31b-303(3) means:

(a) continuing education that has been approved by a professional nationally recognized approver of health related continuing education;

(b) nursing education courses taken from an approved education program as defined in Subsection R156-31b-102(6); and

(c) health related course work taken from an educational institution accredited by a regional institutional accrediting body identified in the "Accredited Institutions of Postsecondary Education", 2006-2007 edition, published by the American Council on Education.

(5) "Approved education program" as defined in Subsection 58-31b-102(3) is further defined to include any nursing education program located within the state of Utah which meets the standards established in Sections R156-31b-601, 602 and 603; and any nursing education program located outside of Utah which meets the standards established in Section R156-31b-607 ~~published in the documents entitled "Directory of Accredited Nursing Programs", 2006-2007, published by the National League for Nursing Accrediting Commission, which are hereby adopted and incorporated by reference as a part of this rule.~~

(6) "CCNE" means the Commission on Collegiate Nursing Education.

(7) "CGFNS" means the Commission on Graduates of Foreign Nursing Schools.

(8) "COA", as used in this rule, means the Council of Accreditation of Nurse Anesthesia Education Programs.

(9) "Clinical ~~mentor~~ preceptor", as used in Section R156-31b-607(8), means an individual who is employed by a clinical health care facility and is chosen by that agency, in collaboration with the Parent Nursing Education-Program, to provide direct, on-site supervision and direction to a nursing student who is engaged in a clinical rotation, and who is accountable to both the clinical agency and the supervisory clinical faculty member.

(10) "Comprehensive nursing assessment", as used in Section R156-31b-704, means an extensive data collection (initial and ongoing) for individuals, families, groups and communities addressing anticipated changes in patient conditions as well as emergent changes in patient's health status; recognizing alterations to previous patient conditions; synthesizing the biological, psychological, spiritual and social aspects of the patient's condition; evaluating the impact of nursing care; and using this broad and complete analysis to make independent decisions and identification of health care needs; plan nursing interventions, evaluate need for different interventions and the need to communicate and consult with other health team members.

(11) "Contact hour" means 60 minutes.

(12) "Delegatee", as used in Sections R156-31b-701 and 701a, means one or more competent persons receiving a delegation who acts in a complementary role to the delegating nurse, who has been trained appropriately for the task delegated, and whom the delegating nurse authorizes to perform a task that the delegates is not otherwise authorized to perform.

(14) "Delegation" means transferring to delegates the authority to perform a selected nursing task in a selected situation. The delegating nurse retains accountability for the delegation.

(15) "Delegation", as used in Sections R156-31b-701 and 701a, means the nurse making the delegation.

(16) "Diabetes medical management plan (DMMP), as used in this rule, means an individualized plan that describes the health care services that the student is to receive at school. The plan is developed and signed by the student's parent or guardian and health care team. It provides the school with information regarding how the student will manage diabetes at school on a daily basis. The DMMP shall be incorporated into and shall become a part of the student's IHP.

(17) "Direct supervision" is the supervision required in Subsection 58-31b-306(1)(a)(iii) and means:

(a) the person providing supervision shall be available on the premises at which the supervisee is engaged in practice; or

(b) if the supervisee is specializing in psychiatric mental health nursing, the supervisor may be remote from the supervisee if there is personal direct voice communication between the two prior to prescribing a prescription drug.

(18) "Disruptive behavior", as used in this rule, means conduct, whether verbal or physical, that is demeaning, outrageous, or malicious and that places at risk patient care or the process of delivering quality patient care. Disruptive behavior does not include criticism that is offered in good faith with the aim of improving patient care.

(19) "Equivalent to an approved practical nursing education program", as used in Subsection 58-31b-302(2)(e), means the applicant for licensure as an LPN by equivalency is currently enrolled in an RN education program with full approval status, and has completed course work which is equivalent to the course work of an NLNAC accredited practical nursing program.

(20) "Focused nursing assessment", as used in Section R156-31b-703, means an appraisal of an individual's status and situation at hand, contributing to the comprehensive assessment by the registered nurse, supporting ongoing data collection and deciding who needs to be informed of the information and when to inform.

(21) "Individualized healthcare plan (IHP), as used in Section R156-31b-701a, means a plan for managing the health needs of a specific student, written and reviewed at least annually by a school nurse. The IHP is developed by a nurse working in a school setting in conjunction with the student and the student's parent or guardian to guide school personnel in the care of a student with medical needs. The plan shall be based on the student's practitioner's orders for the administration of medications or treatments for the student, or the student's DMMP.

(22) "Licensure by equivalency" as used in this rule means licensure as a licensed practical nurse after successful completion of course work in a registered nurse program which meets the criteria established in Sections R156-31b-601 and R156-31b-603.

(23) "LPN" means a licensed practical nurse.

(24) "Medication", as used in Sections R156-31b-701 and 701a, means any prescription or nonprescription drug as defined in Subsections 58-17b-102(39) and (61) of the Pharmacy Practice Act.

(25) "NLNAC" means the National League for Nursing Accrediting Commission.

(26) "NCLEX" means the National Council Licensure Examination of the National Council of State Boards of Nursing.

(27) "Non-approved education program" means any foreign nurse education program.

(28) "Nurse", as used in this rule, means an individual licensed under Title 58, Chapter 31b as a licensed practical nurse, registered nurse, advanced practice registered nurse, or advanced practice registered nurse-certified registered nurse anesthetist, or a certified nurse midwife licensed under Title 58, Chapter 44a.

(29) "Nurse accredited", as used in this rule, means accreditation issued by NLNAC, CCNE or COA.

(30) "Other specified health care professionals", as used in Subsection 58-31b-102(15), who may direct the licensed practical nurse means:

(a) advanced practice registered nurse;

(b) certified nurse midwife;

(c) chiropractic physician;

(d) dentist;

(e) osteopathic physician;

(f) physician assistant;

(g) podiatric physician;

(h) optometrist;

(i) naturopathic physician; or

(j) mental health therapist as defined in Subsection 58-60-102(5).

(31) "Parent academic institution", as used in this rule, means the educational institution which grants the academic degree or awards the certificate of completion.

(32) "Parent nursing education-program", as used in Section R156-31b-607, means a nationally accredited, Board of Nursing approved nursing education program that is providing nursing education (didactic, clinical or both) to a student and is responsible for the education program curriculum, and program and student policies.

(33) "Patient", as used in this rule, means a recipient of nursing care and includes students in a school setting or clients of a health care facility, clinic, or practitioner.

(34) "Patient surrogate", as used in Subsection R156-31b-502(4)(1)(d), means an individual who has legal authority to act on behalf of the patient when the patient is unable to act or decide for himself, including a parent, foster parent, legal guardian, or a person designated in a power of attorney.

(35) "Psychiatric mental health nursing specialty", as used in Subsection 58-31b-302(4)(g), includes psychiatric mental health nurse specialists and psychiatric mental health nurse practitioners.

(36) "Practitioner", as used in Sections R156-31b-701 and 701a, means a person authorized by law to prescribe treatment, medication, or medical devices, and who acts within the scope of such authority.

(37) "RN" means a registered nurse.

(38) "School", as used in Section R156-31b-701a, means any private or public institution of primary or secondary education, including charter schools, pre-school, kindergarten, and special education programs.

(39) "Supervision", as used in Sections R156-31b-701 and 701a, means the provision of guidance and review by a licensed nurse for the accomplishment of a nursing task or activity, including the provision for the initial direction of the task, periodic inspection of the actual act of accomplishing the task or activity, and evaluation of the outcome.

(40) "Supervisory clinical faculty", as used in Section R156-31b-60(7)8, means one or more individuals employed by an approved nursing education program who meet the accreditation and Board of Nursing specific requirements to be a faculty member and are responsible for the overall clinical experiences of nursing

students and may supervise and coordinate clinical ~~mentors/~~preceptors who provide the actual direct clinical experience.

(~~37~~41) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 31b, is further defined in Section R156-31b-502.

R156-31b-302a. Qualifications for Licensure - Education Requirements.

In accordance with Sections 58-31b-302(2)(e) and 58-31b-303, the education requirements for licensure are defined as follows:

(1) Applicants for licensure as a LPN by equivalency shall submit written verification from a ~~[n-approved]~~ registered nurse education program with full approval status, verifying the applicant is currently enrolled and has completed course work which is equivalent to the course work of an NLNAC accredited practical nurse program.

(2) Applicants from foreign education programs who are not currently licensed in another state shall submit a credentials evaluation report from one of the following credentialing services which verifies that the program completed by the applicant is equivalent to an approved practical nurse or registered nurse education program.

(a) Commission on Graduates of Foreign Nursing Schools for an applicant who is applying for licensure as a registered nurse; or

(b) Foundation for International Services, Inc. for an applicant who is applying for licensure as a licensed practical nurse.

R156-31b-302c. Qualifications for Licensure - Examination Requirements.

(1) An applicant for licensure under Title 58, Chapter 31b shall pass the applicable licensure examination within three years from the date of completion or graduation from a nursing education program or four attempts whichever is sooner. An individual who does not pass the applicable licensure examination within three years of completion or graduation or four attempts is required to complete another approved nursing education program.

(~~4~~2) In accordance with Section 58-31b-302, the examination requirements for graduates of approved nursing programs are as follows.

(a) An applicant for licensure as an LPN or RN shall pass the applicable NCLEX examination.

(b) An applicant for licensure as an APRN shall pass one of the following national certification examinations consistent with the applicant's educational specialty:

(i) one of the following examinations administered by the American Nurses Credentialing Center Certification:

- (A) Adult Nurse Practitioner;
- (B) Family Nurse Practitioner;
- (C) Pediatric Nurse Practitioner;
- (D) Gerontological Nurse Practitioner;
- (E) Acute Care Nurse Practitioner;
- (F) Clinical Specialist in Medical-Surgical Nursing;
- (G) Clinical Specialist in Gerontological Nursing;
- (H) Clinical Specialist in Adult Psychiatric and Mental Health Nursing;

(I) Clinical Specialist in Child and Adolescent Psychiatric and Mental Health Nursing; or

(J) Psychiatric and Mental Health Nurse Practitioner (Adult and Family);

- (ii) Pediatric Nursing Certification Board;
- (iii) American Academy of Nurse Practitioners;

(iv) the National Certification Corporation for the Obstetric, Gynecologic and Neonatal Nursing Specialties;

(v) the Oncology Nursing Certification Corporation Advanced Oncology Certified Nurse if taken on or before July 1, 2005;

(vi) one of the following examinations administered by the American Association of Critical Care Nurses Certification Corporation Inc.:

(A) the Advanced Practice Certification for the Clinical Nurse Specialist in Acute and Critical Care; or

(B) the Acute Care Nurse Practitioner Certification;

~~(vii) [the Advanced Critical Care Examination administered by the American Association of Critical Care Nurses; or~~

~~(viii) [the national nurse midwifery certifying examination administered by the [American Midwifery Certification Board, Inc.] Accreditation Commission for Midwifery Education; or~~

~~(ix) [viii] the examination of the Council on Certification of Nurse Anesthetists.~~

(~~2~~3) In accordance with Section 58-31b-303, an applicant for licensure as an LPN or RN from a non-approved nursing program shall pass the applicable NCLEX examination.

(4) The examinations required under this Section are national exams and cannot be challenged before the Division.

R156-31b-304. Temporary Licensure.

(1) In accordance with Subsection 58-1-303(1), the division may issue a temporary license to a person who meets all qualifications for licensure as either an LPN or RN, except for the passing of the required examination, if the applicant:

(a) is a graduate of or has completed a Utah-based, ~~[approved]~~ nursing education program with full approval status within two months immediately preceding application for licensure;

(b) has never before taken the specific licensure examination;

(c) submits to the division evidence of having secured employment conditioned upon issuance of the temporary license, and the employment is under the direct, on-site supervision of a fully licensed registered nurse; and

(d) has registered for the appropriate NCLEX examination.

(2) The temporary license issued under Subsection (1) expires the earlier of:

(a) the date upon which the division receives notice from the examination agency that the individual failed the examination;

(b) ~~[four months]~~ 90 days from the date of issuance; or

(c) the date upon which the division issues the individual full licensure.

(2) A temporary license issued in accordance with Section 58-1-303 to a graduate of a foreign nursing education program may be issued for a period of time not to exceed one year from the date of issuance and shall not be renewed or extended.

R156-31b-306. Inactive Licensure, Reinstatement or Relicensure.

(1) In accordance with Subsection 58-1-305(1), an individual seeking activation of an inactive RN or LPN license must document current competency to practice as a nurse as defined in Subsection (3) below.

(2) An individual seeking reinstatement of RN or LPN licensure or relicensure as a RN or LPN in accordance with Subsection R156-1-308g(3)(b), R156-1-308i(3), R156-1-308j(3) and R156-1-308k(2)(c) shall document current competence as defined in Subsection (3) below.

(3) Documentation of current competency to practice as a nurse is established as follows:

(a) an individual who has not practiced as a nurse for five years or less must document current compliance with the continuing competency requirements as established in Subsection R156-31b-303(3);

(b) an individual who has not practiced as a nurse for more than five years but less than ~~[10]~~eight years must pass the required examinations as defined in Section R156-31b-302c within six months prior to making application for licensure or successfully complete an approved re-entry program;

(c) an individual who has not practiced as a nurse for more than ~~[10]~~eight years but less than ~~[15]~~10 years must pass the required examinations as defined in Section R156-31b-302c within six months prior to making application for licensure and successfully complete an approved re-entry program;

(d) an individual who has not practiced as a nurse for ~~[more than 15]~~10 years shall repeat an approved nursing education program and pass the required examinations as defined in Section R156-31b-302c within six months prior to making application for licensure.

(4) To document current competency for activation, reinstatement or relicensure as an APRN, an individual must pass the required examinations as defined in Section R156-31b-302c and be currently certified or recertified in the specialty area.

R156-31b-309. Intern Licensure.

(1) In accordance with Section 58-31b-306, an intern license shall expire the earlier of:

(a) ~~[immediately upon failing to take the first available examination]~~90 days from the date of issuance, unless the applicant is applying for licensure as an APRN specializing in psychiatric mental health nursing, then the intern license shall be issued for a period of one year and can be extended in one year increments not to exceed five years;

(b) 30 days after notification from the applicant or the examination agency, if the applicant fails the ~~[first available]~~ examination; or

(c) upon issuance of an APRN license.

(2) Regardless of the provisions of Subsection (1) of this section, the division in collaboration with the board may extend the term of any intern license upon a showing of extraordinary circumstances beyond the control of the applicant.

(3) It is the professional responsibility of the APRN Intern to inform the Division of examination results and to cause to have the examination agency send the examination results directly to the Division.

R156-31b-310. Licensure by Endorsement.

(1) In accordance with Section 58-1-302, an individual who moves from a Nurse Licensure Compact party state does not need to hold a current license, but the former home state license must have been in good standing at the time of expiration.

(2) An individual under Subsection (1) who has not been licensed or practicing nursing for three years or more is required to retake the licensure examination to demonstrate good standing within the profession.

(3) An applicant for licensure by endorsement must have a current, active license in another state, or pass the required examinations as defined in Section R156-31b-302c, within six months prior to making application for licensure.

R156-31b-601. ~~[Nursing—Education—Program Standards]~~Standards for Parent Academic Institution Offering Nursing Education Program.

In accordance with Subsection 58-31b-601(2), the minimum standards that a parent academic institution offering a nursing education program must meet to qualify graduates for licensure under this chapter are as follows~~[set forth in Sections R156-31b-601, 602, 603, and 604].~~

~~—(1) Standards for programs located within Utah leading to licensure as a registered nurse or advanced practice registered nurse:~~

~~—(a) be accredited or preaccredited regionally by a professional accrediting body approved by the Council for Higher Education Accreditation of the American Council on Education, or one of the following national accrediting bodies: the Accrediting Bureau of Health Education Schools (ABHES), the Accrediting Commission of Career Schools and Colleges of Technology (ACCSCCT), or the Accrediting Commission of the Distance Education and Training Council (DETC);~~

~~—(b) admit as students, only persons having a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate;~~

~~—(c) be legally authorized by the State of Utah to provide a program of education beyond secondary education;~~

~~—(d) provide not less than a two academic year program of study that awards a minimum of an associate degree that is transferable to another institution of higher education;~~

~~—(e) provide an academic program of study that awards a minimum of a master's degree that is transferable to another institution of higher education if providing education toward licensure as an advanced practice registered nurse;~~

~~—(f) meet the accreditation standards of either CCNE, NLNAC, or COA as evidenced by accreditation by one of the organizations as required under Subsection R156-31b-602; and~~

~~—(g) have at least 20 percent of the school's revenue from sources that are not derived from funds provided under title IV, HEA program funds or student fees, including tuition if a proprietary school.~~

~~—(2) Standards for programs located within Utah leading to licensure as a licensed practical nurse:~~

~~—(a) be accredited or preaccredited regionally by a professional accrediting body approved by the Council for Higher Education Accreditation of the American Council on Education; or one of the following national accrediting bodies: the Accrediting Bureau of Health Education Schools (ABHES) or the Accrediting Commission of Career Schools and Colleges of Technology (ACCSCCT);~~

~~—(b) admit as nursing students, only persons having a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate;~~

~~—(c) be legally authorized by the State of Utah to provide a program of education beyond secondary education;~~

~~—(d) provide not less than one academic year program of study that leads to a certificate or recognized educational credential and provides courses that are transferable to an institution of higher education;~~

~~—(e) meet the accreditation standards of either CCNE or NLNAC as evidenced by accreditation by either organization as required under Subsection R156-31b-602.~~

~~—(f) have at least 20 percent of the school's revenue from sources that are not derived from funds provided under title IV, HEA program funds or student fees, including tuition if a proprietary school.~~

~~— (3) Programs located outside of Utah leading toward licensure as a nurse must be:~~

~~— (a) accredited by the CCNE, NLNAC or COA; and~~

~~— (b) approved by the Board of Nursing or duly recognized agency in the state in which the program is offered.]~~

~~— (1) The parent academic institution shall be legally authorized by the State of Utah to provide a program of education beyond secondary education.~~

~~— (2) The parent academic institution shall admit as students only persons having a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate.~~

~~— (3) At least 20 percent of the parent academic institution's revenue shall be from sources that are not derived from funds provided under title IV, HEA program funds or student fees, including tuition if a proprietary school.~~

~~— (4) In addition to the standards established in Subsections (1), (2), and (3) above, a parent education institution offering a nursing education program leading toward licensure as an LPN shall:~~

~~— (a) be accredited or preaccredited regionally by a professional accrediting body approved by the Council for Higher Education Accreditation of the American Council on Education, or one of the following national accrediting bodies: the Accrediting Bureau of Health Education Schools (ABHES), the Accrediting Commission of Career Schools and Colleges of Technology (ACCSCT), Council on Occupational Education, or the Accrediting Commission of the Distance Education and Training Council (DETC); and~~

~~— (b) provide not less than one academic year program of study that leads to a certificate or recognized educational credential.~~

~~— (5) In addition to the standards established in Subsections (1), (2), and (3) above, a parent education institution offering a nursing education program leading toward licensure as an RN shall:~~

~~— (a) be accredited or preaccredited regionally by a professional accrediting body approved by the Council for Higher Education Accreditation of the American Council on Education, or one of the following national accrediting bodies: the Accrediting Bureau of Health Education Schools (ABHES), the Accrediting Commission of Career Schools and Colleges of Technology (ACCSCT), or the Accrediting Commission of the Distance Education and Training Council (DETC); and~~

~~— (b) provide or require not less than a two academic year program of study that awards a minimum of an associate degree.~~

~~— (6) In addition to the standards established in Subsections (1), (2), and (3) above, a parent education institution offering a nursing education program leading toward licensure as an APRN or APRN-CRNP shall:~~

~~— (a) be accredited or preaccredited regionally by a professional accrediting body approved by the Council for Higher Education Accreditation of the American Council on Education;~~

~~— (b) admit as students, only persons having completed at least an associate degree in nursing or baccalaureate degree in a related discipline; and~~

~~— (c) provide or require not less than a two academic year program of study that awards a minimum of a master's degree.~~

R156-31b-602. [Nursing Education Program Full Approval] Categories of Nursing Education Programs Approval Status.

~~— (1) Full approval of a nursing program shall be granted when it becomes accredited by the NLNAC or the CCNE.~~

~~— (2) Programs which have been granted full approval as of the effective date of this rule and are not accredited, must become accredited by December 31, 2005, or be placed on probationary status. (1) Full approval status of a nursing program shall be granted and maintained by adherence to the following:~~

~~— (a) current accreditation by the NLNAC, CCNE, or COA; and~~

~~— (b) compliance with the standards established in Sections R156-31b-601 and 603 and the nurse accrediting body in which the program chooses to become accredited.~~

~~— (2) The Division may place on probationary approval status a nursing education program for a period not to exceed three years provided the program:~~

~~— (a) is located or available within the state;~~

~~— (b) is found to be out of compliance with the standards for approval to the extent that the ability of the program to competently educate nursing students is impaired; and~~

~~— (c) provides a plan of correction which is reasonable and includes an adequate safeguard of the student and public.~~

~~— (3) The Division may grant provisional approval status to a nursing education program for a period not to exceed two years after the date of the first graduating class, provided the program:~~

~~— (a) is located or available within the state;~~

~~— (b) is newly organized;~~

~~— (c) meets all standards established in Sections R156-31b-601 and 603; and~~

~~— (d) is progressing in a timely manner to qualify for full approval status by obtaining accreditation from a nurse accrediting body.~~

~~— (4)(a) A nursing education program seeking accreditation from NLNAC shall demonstrate progression toward accreditation and qualifying for full approval status by becoming a Candidate for Accreditation by the NLNAC no later than six months from the date of the first day a nursing course is offered.~~

~~— (b) A program that fails to obtain NLNAC Candidacy Status as required in this Subsection shall:~~

~~— (i) immediately cease accepting any new students;~~

~~— (ii) the approval status of the program shall be changed to "Probationary" and if the program fails to become a Candidate for NLNAC accreditation within one year from the date of the first day a nursing course is offered, the program shall cease operation at the end of the current academic term such as at the end of the current semester or quarter; and~~

~~— (iii) a nursing education program that ceases operation under this Subsection, is eligible to submit a new application for approval status of a nursing education program to the Division for review and action no sooner than one calendar year from the date the program ceased operation.~~

~~— (5) A nursing education program that has been granted provisional approval status and fails to become accredited by a nurse accrediting body within two years of the first graduating class, shall cease operation at the end of the two year period of time and the academic term, such as a semester or quarter, of that time period.~~

~~— (6) After receiving notification from a nurse accrediting body of a failed site visit or denied application for accreditation by the nurse accrediting body, a nursing education program on provisional approval status shall:~~

~~— (i) notify the Division and Board within 10 days of being notified of the failed site visit or denied application for accreditation;~~

~~— (ii) cease operation at the end of the current academic term; and~~

~~(iii) be eligible to submit a new application for approval status of a nursing education program to the Division for review and action no sooner than one calendar year from the date the program ceased operation.~~

~~(7)(a) A nursing education program on provisional approval status shall schedule a nurse accreditation site visit no later than one calendar year from the graduation date of the first graduating class.~~

~~(b) A program that fails to schedule a site visit within one year of the first graduating class shall:~~

~~(i) cease to accept any new students;~~

~~(ii) no later than two years after the first graduating class, cease operation; and~~

~~(iii) if ceasing operation under this Subsection, be eligible to submit a new application for approval status of a nursing education program to the Division for review and action no sooner than one calendar year from the date the program ceased operation.~~

R156-31b-603. Nursing Education Program [Provisional Approval]Standards.

~~(1) The division may grant provisional approval to a nursing education program for a period not to exceed three years after the date of the first graduating class, provided the program:~~

~~(a) is located or available within the state;~~

~~(b) is newly organized;~~

~~(c) meets all standards for provisional approval as required in this section; and~~

~~(d) is progressing in a reasonable manner to qualify for full approval by obtaining accreditation.~~

~~(2) The general standards for provisional approval include:~~

~~(a) the purpose and outcomes of the nursing program shall be consistent with the Nurse Practice Act and Rule and other relevant state statutes;~~

~~(b) the purpose and outcomes of the nursing program shall be consistent with generally accepted standards of nursing practice appropriate for graduates of the type of nursing program offered;~~

~~(c) the input of consumers shall be considered in developing and evaluating the purpose and outcomes of the program;~~

~~(d) the nursing program shall implement a comprehensive, systematic plan for ongoing evaluation that is based on program outcomes and incorporates continuous improvement;~~

~~(e) the curriculum shall provide diverse didactic and clinical learning experiences consistent with program outcomes;~~

~~(f) faculty and students shall participate in program planning, implementation, evaluation, and continuous improvement;~~

~~(g) the nursing program administrator shall be a professionally and academically qualified registered nurse with institutional authority and administrative responsibility for the program;~~

~~(h) professionally and academically qualified nurse faculty shall be sufficient in number and expertise to accomplish program outcomes and quality improvement;~~

~~(i) the fiscal, human, physical, clinical and technical learning resources shall be adequate to support program processes, security and outcomes;~~

~~(j) program information communicated by the nursing program shall be fair, accurate, complete, consistent, and readily available;~~

~~(k) the program must meet the criteria for nursing education programs established in Section R156-31b-601; and~~

~~(l) the nursing education program shall be an integral part of a governing academic institution accredited by an accrediting body that is recognized by the U.S. Secretary of Education.~~

~~(3) Programs which have been granted provisional approval status shall submit an annual report to the Division on the form prescribed by the Division.~~

~~(4) Programs which have been granted provisional approval prior to the effective date of this rule and are not accredited, must become accredited by December 31, 2005.~~

~~(5) A comprehensive nursing education program evaluation shall be performed annually for quality improvement and shall include but not be limited to:~~

~~(a) students' achievement of program outcomes;~~

~~(b) evidence of adequate program resources including fiscal, physical, human clinical and technical learning resources, and the availability of clinical sites and the viability of those sites to meet the objectives of the program;~~

~~(c) multiple measures of program outcomes for graduates such as NCLEX pass rate, student and employer survey, and successful completion of national certification programs;~~

~~(d) evidence that accurate program information for consumers is readily available;~~

~~(e) the head of the academic institution and the administration support meet program outcomes;~~

~~(f) the program administrator and program faculty meet board qualifications and are sufficient to achieve program outcomes; and~~

~~(g) evidence that the academic institution assures security of student information.~~

~~(6) The curriculum of the nursing education program shall enable the student to develop the nursing knowledge, skills and competencies necessary for the level, scope and standards of nursing practice consistent with the level of licensure. The curriculum shall include:~~

~~(a) content regarding legal and ethical issues, history and trends in nursing and health care, and professional responsibilities;~~

~~(b) experiences that promote the development of leadership and management skills and professional socialization consistent with the level of licensure, including the demonstration of the ability to supervise others and provide leadership of the profession;~~

~~(c) learning experiences and methods of instruction, including distance education methods are consistent with the written curriculum plan;~~

~~(d) coursework including, but not limited to:~~

~~(i) content in the biological, physical, social and behavioral sciences to provide a foundation for safe and effective nursing practice;~~

~~(ii) didactic content and supervised clinical experience in the prevention of illness and the promotion, restoration, and maintenance of health in clients across the life span and in a variety of clinical settings, to include:~~

~~(A) using informatics to communicate, manage knowledge, mitigate error and support decision making;~~

~~(B) employing evidence based practice to integrate best research with clinical expertise and client values for optimal care, including skills to identify and apply best practices to nursing care;~~

~~(C) providing client centered, culturally competent care:~~

~~(1) respecting client differences, values, preferences and expressed needs;~~

~~(2) involving clients in decision making and care management;~~

~~(3) coordinating and managing continuous client care; and~~

~~(4) promoting healthy lifestyles for clients and populations;~~

~~(D) working in interdisciplinary teams to cooperate, collaborate, communicate and integrate client care and health promotion; and~~

— (E) participating in quality improvement processes to measure client outcomes, identify hazards and errors, and develop changes in processes of client care; and

— (e) supervised clinical practice which include development of skill in making clinical judgments, management and care of groups of clients, and delegation to and supervision of other health care providers;

— (i) clinical experience shall be comprised of sufficient hours to meet these standards, shall be supervised by qualified faculty and ensure students' ability to practice at an entry level;

— (ii) delivery of instruction by distance education methods must be consistent with the program curriculum plan and enable students to meet the goals, competencies and objectives of the educational program and standards of the division; and

— (iii) all student clinical experiences, including those with preceptors, shall be directed by nursing faculty.

— (7) Students rights and responsibilities:

— (a) students shall be provided the opportunity to acquire and demonstrate the knowledge, skills and abilities for safe and effective nursing practice, in theory and clinical experience with faculty oversight;

— (b) all policies relevant to applicants and students shall be available in writing;

— (c) students shall be required to meet the health standards and criminal background checks as required in Utah;

— (d) students shall receive faculty instruction, advisement and oversight; and

— (e) students shall maintain the integrity of their work.

— (8) The qualifications for the administrator of a nursing education program shall include:

— (a) the qualifications for an administrator in a program preparing an individual for licensure as an LPN shall include:

— (i) a current, active, unencumbered RN license or multistate privilege to practice nursing in Utah;

— (ii) a minimum of a masters degree in nursing or a nursing doctorate;

— (iii) educational preparation or experience in teaching and learning principles for adult education, including curriculum development and administration, and at least two years of clinical experience; and

— (iv) a current knowledge of nursing practice at the practical nurse level;

— (b) the qualifications for an administrator in a program preparing an individual for licensure as an RN shall include:

— (i) a current, active unencumbered RN license or multistate privilege to practice nursing in Utah;

— (ii)(A) associate degree program: a minimum of a masters degree in nursing or a nursing doctorate;

— (B) baccalaureate degree program: a minimum of a masters degree in nursing and an earned doctorate or a nursing doctorate;

— (iii) education preparation or experience in teaching and learning principles for adult education, including curriculum development and administration, and at least two years of clinical experience; and

— (iv) a current knowledge of RN practice;

— (e) the qualifications for an administrator/director in a graduate program preparing an individual for licensure as an APRN shall include:

— (i) a current, active unencumbered APRN license or multistate privilege to practice as an APRN in Utah;

— (ii) a minimum of a masters in nursing or a nursing doctorate in an APRN specialty;

— (iii) educational preparation or experience in teaching and learning principles for adult education, including curriculum development and administration, and at least two years of clinical experience; and

— (iv) a current knowledge of APRN practice.

— (9) The qualifications for faculty in a nursing education program shall include:

— (a) a sufficient number of qualified faculty to meet the objectives and purposes of the nursing education program;

— (b) the nursing faculty shall hold a current, active, unencumbered RN license or multistate privilege, or APRN license or multistate privilege to practice in Utah; and

— (c) clinical faculty shall hold a license or privilege to practice and meet requirements in the state of the student's clinical site.

— (10) The qualifications for nursing faculty who teach in a program leading to licensure as a practical nurse include:

— (a) a minimum of a baccalaureate degree with a major in nursing;

— (b) two years of clinical experience; and

— (c) preparation in teaching and learning principles for adult education, including curriculum development and implementation.

— (11) The qualifications for nursing faculty who teach in a program leading to licensure as a RN include:

— (a) a minimum of a masters degree with a major in nursing or a nursing doctorate degree;

— (b) two years of clinical experience; and

— (c) preparation in teaching and learning principles for adult education, including curriculum development and implementation.

— (12) The qualifications for nursing faculty who teach in a program leading to licensure as an APRN include:

— (a) a minimum of a masters degree with a major in nursing or a nursing doctorate degree;

— (b) holding a license or multistate privilege to practice as an APRN;

— (c) two years of clinical experience practicing as an APRN; and

— (d) preparation in teaching and learning principles for adult education, including curriculum development and implementation.

— (13) Adjunct clinical faculty employed solely to supervise clinical nursing experiences of students shall meet all the faculty qualifications for the program level they are teaching.

— (14) Interdisciplinary faculty who teach non-clinical nursing courses shall have advanced preparation appropriate to the area of content.

— (15) Clinical preceptors shall have demonstrated competencies related to the area of assigned clinical teaching responsibilities and will serve as a role model and educator to the student. Clinical preceptors may be used to enhance faculty directed clinical learning experiences after a student has received clinical and didactic instruction in all basic areas for that course or specific learning experience. Clinical preceptors should be licensed as a nurse at or above the level for which the student is preparing.

— (16) Additional required components of graduate education programs, including post masters certificate programs, leading to APRN licensure include:

— (a) Each student enrolled shall be licensed or have a multistate privilege to practice as an RN in Utah;

— (b) The curriculum shall be consistent with nationally recognized APRN roles and specialties and shall include:

~~(i) graduate nursing program core courses;~~
~~(ii) advanced practice nursing core courses including legal, ethical and professional responsibilities of the APRN, advanced pathophysiology, advanced health assessment, pharmacotherapeutics, and management and treatment of health care status; and~~
~~(iii) coursework focusing on the APRN role and specialty.~~
~~(c) Dual track APRN graduate programs (preparing for two specialties) shall include content and clinical experience in both functional roles and specialties.~~
~~(d) Instructional track/major shall have a minimum of 500 hours of supervised clinical. The supervised experience shall be directly related to the knowledge and role of the specialty and category. Specialty tracks that provide care to multiple age groups and care settings will require additional hours distributed in a way that represents the populations served.~~
~~(e) There shall be provisions for the recognition of prior learning and advanced placement in the curriculum for individuals who hold a masters degree in nursing who are seeking preparation in a different role and specialty. Post masters nursing students shall complete the requirements of the masters APRN program through a formal graduate level certificate or master level track in the desired role and specialty. A program offering a post-masters certificate in a specialty area must also offer a master degree course of study in the same specialty area. Post-master students must master the same APRN outcome criteria as the master level students and are required to complete a minimum of 500 supervised clinical hours.~~
~~(f) A lead faculty member who is educated and nationally certified in the same specialty area and licensed as an APRN or possessing a APRN multistate privilege shall coordinate the educational component for the role and specialty in the APRN program. In accordance with Subsection 58-31b-601(2), the minimum standards that a nursing education program must meet to qualify graduates for licensure under this chapter are set forth as follows.~~
~~(1) A nursing education program shall meet the following standards:~~
~~(a) purposes and outcomes shall be consistent with the Nurse Practice Act and Rule and other relevant state statutes;~~
~~(b) purposes and outcomes shall be consistent with generally accepted standards of nursing practice appropriate for graduates of the type of nursing program offered;~~
~~(c) consumer input shall be considered in developing and evaluating the purpose and outcomes of the program;~~
~~(d) the program shall implement a comprehensive, systematic plan for ongoing evaluation that is based on program outcomes and incorporates continuous improvement;~~
~~(e) the curriculum shall provide diverse, integrated didactic and clinical learning experiences across the lifespan, consistent with program outcomes;~~
~~(f) the faculty and students shall participate in program planning, implementation, evaluation, and continuous improvement;~~
~~(g) the nursing program administrator shall be professionally and academically qualified as a registered nurse with institutional authority and administrative responsibility for the program;~~
~~(h) professionally and academically qualified nurse faculty shall be sufficient in number and expertise to accomplish program outcomes and quality improvement;~~
~~(i) fiscal, human, physical, clinical and technical learning resources shall be adequate to support program processes, security and outcomes;~~

(j) program information communicated by the nursing program shall be fair, accurate, complete, consistent, and readily available;
(k) the program shall meet all the criteria established in this rule;
(l) the program shall be an integral part of a parent academic institution which is accredited by an accrediting body that is recognized by the U.S. Secretary of Education; and
(m) the program shall require students to obtain general education, pre-requisite, and co-requisites courses from a regionally accredited institution of higher education, or have in place an articulation agreement with a regionally accredited institution of higher education.
(2) A comprehensive nursing education program evaluation shall be performed annually for quality improvement and shall include but not be limited to:
(a) students' achievement of program outcomes;
(b) evidence of adequate program resources including fiscal, physical, human, clinical and technical learning resources, and the availability of clinical sites and the viability of those sites to meet the objectives of the program;
(c) multiple measures of program outcomes for graduates such as NCLEX pass rate, student and employer survey, and successful completion of national certification programs;
(d) evidence that accurate program information for consumers is readily available;
(e) evidence that the head of the academic institution and the administration support program outcomes;
(f) evidence that the program administrator and program faculty meet board qualifications and are sufficient to achieve program outcomes; and
(g) evidence that the academic institution assures security of student information.
(3) The curriculum of the nursing education program shall enable the student to develop the nursing knowledge, skills and competencies necessary for the level, scope and standards of nursing practice consistent with the level of licensure. The curriculum shall include:
(a) content regarding legal and ethical issues, history and trends in nursing and health care, and professional responsibilities;
(b) experiences that promote the development of leadership and management skills and professional socialization consistent with the level of licensure, including the demonstration of the ability to supervise others and provide leadership of the profession;
(c) learning experiences and methods of instruction, including distance education methods, consistent with the written curriculum plan;
(d) coursework including, but not limited to:
(i) content in the biological, physical, social and behavioral sciences to provide a foundation for safe and effective nursing practice;
(ii) didactic content integrated with supervised clinical experience in the prevention of illness and the promotion, restoration, and maintenance of health in patients across the life span and in a variety of clinical settings, to include:
(A) using informatics to communicate, manage knowledge, mitigate error and support decision making;
(B) employing evidence-based practice to integrate best research with clinical expertise and patient values for optimal care, including skills to identify and apply best practices to nursing care;
(C) providing patient-centered, culturally competent care;
(1) respecting patient differences, values, preferences and

expressed needs:

(2) involving patients in decision-making and care management;

(3) coordinating and managing continuous patient care; and

(4) promoting healthy lifestyles for patients and populations;

(D) working in interdisciplinary teams to cooperate, collaborate, communicate and integrate patient care and health promotion; and

(E) participating in quality improvement processes to measure patient outcomes, identify hazards and errors, and develop changes in processes of patient care;

(e) supervised clinical practice which includes development of skill in making clinical judgments, management and care of groups of patients, experience with interdisciplinary teamwork, working with families in the provision of care, managing crisis situations, and delegation to and supervision of other health care providers;

(i) clinical experience shall be comprised of sufficient hours, shifts, variety of populations, and hands-on practice to meet these standards, and ensure students' ability to practice at an entry level;

(ii) no more than 25% of the clinical hours can be obtained in a nursing skills laboratory, or by clinical simulation or virtual clinical excursions;

(iii) all student clinical experiences, including those with preceptors, shall be supervised by qualified nursing faculty at a ratio of not more than 10 students to one faculty member unless the experience includes students working with preceptors who can be supervised at a ratio of not more than 15 students to one faculty member; and

(iv) nursing faculty, must be on-site with students during all fundamental, medical-surgical and acute care clinical experiences;

(f)(i) clinical preceptors may be used to enhance faculty-directed clinical learning experiences after a student has completed didactic and clinical instruction in all foundational courses including introduction to nursing, fundamentals, medical-surgical, obstetrics, and pediatrics. Therefore, clinical preceptors shall not be utilized in LPN nursing programs.

(ii) a clinical preceptor shall:

(A) demonstrate competencies related to the area of assigned clinical teaching responsibilities;

(B) serve as a role model and educator to the student;

(C) be licensed as a nurse at or above the level for which the student is preparing;

(D) not be used to replace clinical faculty;

(F) be provided with a written document defining the functions and responsibilities of the preceptor;

(G) confer with the clinical faculty member and student for monitoring and evaluating learning experiences, but the clinical faculty member shall retain responsibility for student learning; and

(H) not supervise more than two students during any one scheduled work time or shift; and

(g) delivery of instruction by distance education methods must be consistent with the program curriculum plan and enable students to meet the goals, competencies and objectives of the educational program and standards of the division.

(4) Students rights and responsibilities:

(a) opportunities to acquire and demonstrate the knowledge, skills and abilities for safe and effective nursing practice, in theory and clinical experience with faculty oversight shall be provided to students;

(b) all policies shall be written and available to students;

(c) students shall be required to meet the health standards and criminal background checks as required in Utah;

(d) students shall receive faculty instruction, advisement and oversight;

(e) students shall maintain the integrity of their work;

(f)(i) an applicant accepted into a nursing education program that has received provisional approval status from the Division, must sign a disclaimer form indicating the applicant's knowledge of the provisional approval status of the program, and the lack of a guarantee that the program will achieve national nursing accreditation and full approval status from the Division; and

(ii) the disclaimer shall also contain a statement regarding the lack of a guarantee that the credit received from the provisionally approved program will be accepted by or transferable to another educational facility; and

(g) an applicant accepted into a nursing education program or a student of a nursing education program that is on or receives probationary approval status from the Division, must sign a disclaimer form indicating the applicant or student has knowledge of the program's probationary approval status, and the lack of a guarantee that the program will maintain any approval status or will be able to offer the complete program.

(5) An administrator of a nursing education program shall meet the following requirements:

(a) a program preparing an individual for licensure as an LPN:

(i) have a current, active, unencumbered RN or APRN license or multistate privilege to practice nursing in Utah;

(ii) have a minimum of an earned graduate degree with a major in nursing, or a baccalaureate degree in nursing and an earned doctoral degree in a related discipline from a nurse accredited education program or regionally accredited institution;

(iii) have academic preparation in curriculum and instruction;

(iv) have at least three years of experience teaching in an accredited nursing education program;

(v) have knowledge of current LPN practice; and

(vi) have adequate time to fulfill the role and responsibilities of a program administrator;

(b) a program preparing an individual for licensure as an RN:

(i) have a current, active, unencumbered RN or APRN license or multistate privilege to practice nursing in Utah;

(ii)(A) associate degree program: have a minimum of an earned graduate degree with a major in nursing from a nurse accredited education program;

(B) baccalaureate degree program: have a minimum of an earned graduate degree in nursing and an earned doctorate in nursing or a related discipline from a nurse accredited program or regionally accredited institution;

(iii) have academic preparation in curriculum and instruction;

(iv) have at least three years of experience teaching in an accredited nursing education program;

(v) have knowledge of current RN practice; and

(vi) have adequate time to fulfill the role and responsibilities of a program administrator;

(c) a program preparing an individual for licensure as an APRN:

(i) have a current, active, unencumbered RN or APRN license or multistate privilege to practice nursing in Utah;

(ii) have a minimum of an earned graduate degree with a major in nursing and an earned doctorate in nursing or a related discipline from a nurse accredited program or regionally accredited institution;

(iii) have academic preparation in curriculum and instruction;
(iv) have at least three years of experience teaching in an accredited nursing education program;
(v) have knowledge of current nursing practice;
(vi) have adequate time to fulfill the role and responsibilities of a program administrator; and
(v) if the program administrator is not a licensed APRN, then the program must also have a director that meets the qualifications of Subsection (d) below:
(d) the director of a graduate program preparing an individual for licensure as an APRN shall meet the following requirements:
(i) have a current, active, unencumbered APRN license or multistate privilege to practice as an APRN in Utah;
(ii) have a minimum of an earned graduate degree with a major in nursing in an APRN role and specialty from a nurse accredited program;
(iii) have educational preparation in curriculum and instruction;
(iv) have at least three years of experience teaching in an accredited nursing education program;
(v) have knowledge of current APRN practice; and
(vi) have adequate time to fulfill the role and responsibilities of a program director.
(6) The qualifications for nursing faculty who teach didactic, clinical, or in a skills practice laboratory, in a nursing education program shall include:
(a) a program preparing an individual for licensure as an LPN:
(i) have a current, active, unencumbered RN or APRN license or multistate privilege to practice nursing in Utah;
(ii) have a baccalaureate degree in nursing or an earned graduate degree with a major in nursing from a nurse accredited program, the majority of faculty (at least 51%) shall have an earned graduate degree with a major in nursing from a nurse accredited program;
(iii) have at least two years of clinical experience;
(iv) (A) have educational preparation in curriculum and instruction; or
(B) have at least three years of experience teaching in an accredited nursing education program; and
(v) the majority of faculty shall have documented educational preparation as specified in Subsection (iv)(A) above;
(b) a program preparing an individual for licensure as an RN:
(i) have a current, active, unencumbered RN or APRN license or multistate privilege to practice nursing in Utah;
(ii) have an earned graduate degree with a major in nursing from a nurse accredited program or be currently enrolled in a graduate level accredited nursing education program with graduation from the program no later than three years from the date of hire;
(iii) have at least two years of clinical experience;
(iv) (A) have educational preparation in curriculum and instruction; or
(B) have at least three years of experience teaching in an accredited nursing education program; and
(v) the majority of faculty shall have documented educational preparation as specified in Subsection (iv)(A) above;
(c) a program preparing an individual for licensure as an APRN:
(i) have a current, active, unencumbered APRN license or multistate privilege to practice nursing in Utah;
(ii) have an earned graduate degree with a major in nursing in an APRN role and specialty from a nurse accredited program or

regionally accredited institution; the majority of the faculty shall have an earned doctorate from a regionally accredited institution;
(iii) have at least two years of clinical experience practicing as an APRN;
(iv)(A) have educational preparation in curriculum and instruction; or
(B) have at least three years of experience teaching in an accredited nursing education program; and
(v) the majority of faculty shall have documented educational preparation as specified in Subsection (iv)(A) above.
(7) At the time this Rule becomes effective, any currently employed nursing faculty member who does not meet the criteria established in Subsection (6), shall have until July 1, 2011 to meet the criteria.
(8) Adjunct clinical faculty, except clinical associates, employed solely to supervise clinical nursing experiences of students shall meet all the faculty qualifications for the program level they are teaching. A clinical associate is a staff member of a health care facility with an earned graduate degree or a student currently enrolled in a graduate nursing education program, who is given release time from the facility to provide clinical supervision to other students. The clinical associate is supervised by a graduate prepared mentor faculty member.
(9) Interdisciplinary faculty who teach non-clinical nursing courses shall have advanced preparation appropriate to the area of content.
(10) A nursing education program preparing graduates for licensure as either an LPN or RN must maintain an average pass rate on the applicable NCLEX examination that is no more than 5% below the national average pass rate for the same time period.
(11) A program that has received full approval status from the Division in collaboration with the board and is accredited by either CCNE or NLNAC:
(a) if the low NCLEX pass rate occurs twice, either after two consecutive graduation cycles or over a two year period of time, the program shall be issued a letter of warning by the Division in collaboration with the Board, and within 30 days from the date of the letter of warning, the program administrator shall submit a written remediation plan to the Board for approval;
(b) if the low NCLEX pass rate occurs three times either after three consecutive graduation cycles or over a two year period of time, the program administrator shall schedule and participate in a meeting with the Board to discuss the approved remediation plan and its implementation, and the program's approval status shall be changed to "Probationary"; and
(c) if the low NCLEX pass rate occurs four times either after four consecutive graduation cycles or over a two year period of time, the program shall cease accepting new students;
(i) if the program is unable to raise the pass rate to the required level after five consecutive graduation cycles or over a two year period of time, the program shall cease operation at the end of the current academic timeframe such as at the end of the current semester or quarter; and
(ii) a nursing education program that ceases to operate under this Subsection, may submit a new application for approval status of a nursing education program to the Division for review and action no sooner than one year from the date the program ceases to operate.
(12) A program that has been granted provisional approval status by the Division in collaboration with the Board, but has not received either CCNE or NLNAC accreditation:

(a) if a low NCLEX pass rate occurs after any one graduation cycle, the program shall be issued a letter of warning by the Division in collaboration with the Board, and within 30 days from the date of the letter of warning, the program administrator shall submit a written remediation plan to the Board for approval;

(b) if the low NCLEX pass rate occurs twice, either after two consecutive graduation cycles, or a two year period of time, the program administrator shall schedule and participate in a meeting with the Board to discuss the approved remediation plan and its implementation and the program's approval status shall be changed to "Probationary"; and

(c) if the low NCLEX pass rate occurs three times either after three consecutive graduation cycles or over a two year period of time, the program shall cease accepting new students;

(i) if the program is unable to raise the pass rate to the required level after four consecutive graduation cycles or over a two year period of time, the program shall cease operation at the end of the current academic timeframe such as at the end of the current semester or quarter; and

(ii) a nursing education program that ceases operation under this Subsection, may submit a new application for approval status of a nursing education program to the Division for review and action no sooner than one year from the date the program ceases to operate.

(13) Additional required components of graduate education programs, including post-masters certificate programs, leading to APRN licensure include:

(a) each student enrolled shall be licensed or have a multistate privilege to practice as an RN in Utah;

(b) the curriculum shall be consistent with nationally recognized APRN roles and specialties and shall include:

(i) graduate level advanced practice nursing core courses including legal, ethical and professional responsibilities of the APRN, advanced pathophysiology, advanced health assessment, pharmacotherapeutics, and management and treatment of health care status; and

(ii) coursework focusing on the APRN role and specialty;

(c) dual track APRN graduate programs (preparing for two specialties) shall include content and clinical experience in both functional roles and specialties;

(d) instructional track/major shall have a minimum of 500 hours of supervised clinical experience directly related to the recognized APRN role and specialty;

(e) specialty tracks that provide care to multiple age groups and care settings shall require additional hours distributed in a manner that represents the populations served;

(f) there shall be provisions for the recognition of prior learning and advanced placement in the curriculum for individuals who hold a masters degree in nursing who are seeking preparation in a different role and specialty;

(g) post-masters nursing students shall complete the requirements of the APRN masters program through a formal graduate level certificate or master level track in the desired role and specialty;

(i) a program offering a post-masters certificate in a specialty area must also offer a master degree course of study in the same specialty area; and

(ii) post-master students must master the same APRN outcome criteria as the master level students and are required to complete a minimum of 500 supervised clinical hours; and

(h) a lead faculty member who is educated and nationally certified in the same specialty area and licensed as an APRN or

possessing an APRN multistate privilege shall coordinate the educational component for the role and specialty in the APRN program.

R156-31b-604. Nursing Education Program - Disciplinary Action[Probationary Approval].

(1) The division may place on probationary approval status a nursing education program for a period not to exceed three years provided the program:

(a) is located or available within the state;

(b) is found to be out of compliance with the standards for provisional or full approval to the extent that the ability of the program to competently educate nursing students is impaired; and

(c) provides a plan of correction which is reasonable and includes an adequate safeguard of the student and public.

(2) The division may place on probationary approval status a program which implements an outreach program or satellite program without prior notification to the Division.

(3) Programs which have been granted probationary approval status shall submit an annual report to the division on the form prescribed by the division. (1) The Division, in collaboration with the Board, may conduct an administrative hearing or issue a Memorandum of Understanding and Order placing a nursing program on probationary status for any of the following reasons:

(a) change in nurse accreditation status;

(b) failure to maintain the standards established by the nurse accreditation bodies such as receiving significant deficiencies during a review as evidenced by conditions being placed on the program;

(c) failure to maintain the standards established in this rule;

(d) pass rate of more than 5% below the national average;

(e) low graduation rate defined as the percent of first-time, degree seeking students who graduate longer than 150% of the designated time for graduation;

(f) sudden, high, or frequent faculty attrition;

(g) frequent program administrator turnover;

(h) national certification pass rate less than 80%; and

(i) implementation of a new education program, or an outreach or satellite nursing education program without prior notification to the Division.

(2) The Division, in collaboration with the Board, may take any of the following actions upon a nursing education program:

(a) issue an Order changing the approval status of the program;

(b) limit or restrict enrollment of new students or require the program to cease accepting new students within a specified timeframe;

(c) require the program director to meet with the Board or its designee, and present a remediation plan to correct any problems within a specified time frame;

(d) establish specific criteria that must be met within a specific length of time;

(e) withdraw approval status; or

(f) issue a cease and desist Order.

(3) Any adjudicative proceeding in regards to a nursing education program shall be classified as a formal adjudicative proceeding and shall comply with Title 63G, Chapter 4, the Utah Administrative Procedures Act.

R156-31b-605. Nursing Education Program Notification of Change.

(1) Educational institutions wishing to begin a new nursing education program shall submit an application to the division for

approval status at least one year prior to the implementation of the program.

(2) An approved program that expands onto a satellite campus or implements an outreach program shall notify the Division at least one semester before the intended change.

R156-31b-606. Nursing Education Program Surveys.

(1) The ~~[d]~~Division ~~[may]~~shall conduct an annual survey of nursing education programs to monitor compliance with this rule. The survey may include the following:

~~[(1)]~~[a] a copy of the program's annual report to a nurse accrediting body;

~~[(2)]~~[b] a copy of any changes submitted to any nurse accrediting body; and

~~[(3)]~~[c] a copy of any accreditation self study summary report.

(2) Programs which have been granted provisional approval status shall submit to the Division a copy of all correspondence between the program and the nurse accrediting body within 10 days of receipt or submission.

R156-56-607. Approved Nursing Education Programs Located Outside of Utah.

(1) In accordance with Section 58-31b-302, an approved nursing education program located outside of Utah must meet the following requirements in order for a graduate to meet the educational requirement for licensure in this state:

(a) be accredited by the CCNE, NLNAC or COA; or

(b) be approved by the Board of Nursing or an equivalent agency in the state in which the nursing education program is offered.

R156-31b-60[7]8. Standards for Out-of-State Programs Providing Clinical Experiences in Utah.

In accordance with Subsection 58-31b-601(2), the minimum standards that a nursing education program which is located outside the state must meet to allow students to obtain clinical experiences in Utah are set forth as follows.

(1) An entry level distance learning nursing education program which leads to licensure utilizing precepted clinical experiences in Utah must meet the following criteria:

(a) parent nursing education-program must be Board of Nursing approved in the state of primary location (business), be nationally accredited by either NLNAC, CCNE, or COA, and must be affiliated with an institution of higher education;

(b) parent nursing education-program clinical faculty supervisor must be licensed in Utah or a Compact state;

(c) preceptors within the health care facilities must be licensed in good standing, in Utah or a Compact State;

(d) parent nursing education-program must have a contract with the Utah health care facilities that provide the clinical sites; and

(e) parent nursing education-program must document compliance with the above stated criteria, along with a request to be approved to have a student who is exempt from licensure under Subsection 58-1-307(c).

(2) A nursing education program located in another state that desires to use Utah health care facilities for clinical experiences for one or more students must meet the following criteria:

(a) be approved by the home state Board of Nursing, be nationally accredited by ~~[either]~~ NLNAC₂ ~~[or]~~ CCNE, or COA and ~~[must]~~ be affiliated with an institution of higher education;

(b) clinical faculty must be employed by the nursing education program, meet the requirements to be a faculty member as established by the accrediting body and the program's Board of Nursing, and must be licensed, in good standing in Utah or a Compact state;

(c) preceptors within the health care facilities must be licensed, in good standing, in Utah or a Compact state;

(d) have a contract with the Utah health care facilities that provide the clinical sites;

(e) submit an annual report on forms provided by the Division of Occupational and Professional Licensing and Utah Board of Nursing; and

(f) document compliance with the above stated criteria, along with a request to be approved to have a student(s) who is exempt from licensure under Subsection 58-1-307(c) ~~[of the Utah Code]~~.

(3) A distance learning didactic nursing education program with a Utah based ~~[proprietary]~~ postsecondary school which provides tutoring services, facilitates clinical site selection, and provides clinical site faculty must meet the following criteria:

(a) parent nursing education-program must be approved by the Board of Nursing in the state of primary location (business), be nationally accredited by ~~[either]~~ NLNAC₂ ~~[or]~~ CCNE, or COA and must be affiliated with an institution of higher education;

(b) a formal contract must be in place between the parent nursing education-program and the Utah postsecondary school;

(c) parent nursing education-program and Utah postsecondary school must submit an application for program approval status by the Division of Occupational and Professional Licensing in collaboration with the Board of Nursing in Utah, utilizing the parent-program's existing curriculum. Approval status is granted to the parent nursing education-program, not to the postsecondary school;

(d) clinical faculty ~~[(mentors)]~~ must be employed by the parent nursing education-program (this can be as a contractual faculty member), meet the requirements to be a faculty member as established by the accrediting body and the parent nursing education-program's Board of Nursing, and must be licensed, in good standing in Utah or a Compact state;

(e) clinical faculty supervisor(s) located at the parent nurse education-program must be licensed, in Utah or a Compact state;

(f) parent nursing education-program ~~[is]~~shall be responsible for conducting the nursing education program, the program's policies and procedures, and the selection of the students;

(g) parent nursing education-program must have a contract with the Utah health care facilities that provide the clinical sites; and

(h) the parent nursing education-program shall submit an annual report on forms provided by the Division of Occupational and Professional Licensing and Utah Board of Nursing.

R156-31b-703. Generally Recognized Scope of Practice of an LPN.

In accordance with Subsection 58-31b-102(15), the LPN practicing within the generally recognized LPN scope of practice practices as follows:

(1) In demonstrating professional accountability₂ shall:

(a) practice within the legal boundaries for practical nursing through the scope of practice authorized in statute and rule;

(b) demonstrate honesty and integrity in nursing practice;

(c) base nursing decisions on nursing knowledge and skills, and the needs of patients ~~[clients]~~;

(d) accept responsibility for individual nursing actions, competence, decisions and behavior in the course of practical nursing practice; and

(e) maintain continued competence through ongoing learning and application of knowledge in the ~~client's~~patient's interest.

(2) In demonstrating the responsibility for nursing practice implementation shall:

(a) conduct a focused nursing assessment;

(b) plan for episodic nursing care;

(c) demonstrate attentiveness and provides patient~~client~~ surveillance and monitoring;

(d) assist in identification of ~~client~~patient needs;

(e) seek clarification of orders when needed;

(f) demonstrate attentiveness and provides observation for signs, symptoms and changes in ~~client~~patient condition;

(g) assist in the evaluation of the impact of nursing care, and contributes to the evaluation of patient~~client~~ care;

(h) recognize ~~client~~patient characteristics that may affect the patient's~~clients~~ health status;

(i) obtain orientation/training competency when encountering new equipment and technology or unfamiliar care situations;

(j) implement appropriate aspects of ~~client~~patient care in a timely manner~~;~~;

(i) provide assigned and delegated aspects of patient's~~clients~~ health care plan;

(ii) implement treatments and procedures; and

(iii) administer medications accurately;

(k) document care provided;

(l) communicate relevant and timely ~~client~~patient information with other health team members including:

(i) patient~~client~~ status and progress;

(ii) patient~~client~~ response or lack of response to therapies;

(iii) significant changes in patient~~client~~ condition; or

(iv) patient~~client~~ needs;

(m) participate in nursing management~~;~~;

(i) assign nursing activities to other LPNs;

(ii) delegate nursing activities for stable patients~~clients~~ to unlicensed assistive personnel;

(iii) observe nursing measures and provide feedback to nursing manager; and

(iv) observe and communicate outcomes of delegated and assigned activities;

(n) take preventive measures to protect patient~~client~~, others and self;

(o) respect patient's~~clients~~ rights, concerns, decisions and dignity;

(p) promote a safe ~~client~~patient environment;

(q) maintain appropriate professional boundaries; and

(r) assume responsibility for own decisions and actions.

(3) In being a responsible member of an interdisciplinary health care team shall:

(a) function as a member of the health care team, contributing to the implementation of an integrated health care plan;

(b) respect ~~client~~patient property and the property of others; and

(c) protect confidential information unless obligated by law to disclose the information.

R156-31b-704. Generally Recognized Scope of Practice of an RN.

In accordance with Subsection 58-31b-102(16), the RN practicing within the generally recognized RN scope of practice practices as follows:

(1) In demonstrating professional accountability, shall:

(a) practice within the legal boundaries for nursing through the scope of practice authorized in statute and rule;

(b) demonstrate honesty and integrity in nursing practice;

(c) base professional decisions on nursing knowledge and skills, and the needs of patients~~clients~~;

(d) accept responsibility for judgments, individual nursing actions, competence, decisions and behavior in the course of nursing practice; and

(e) maintain continued competence through ongoing learning and application of knowledge in the patient's~~clients~~ interest.

(2) In demonstrating the responsibility for nursing practice implementation shall:

(a) conduct a comprehensive nursing assessment;

(b) detect faulty or missing patient~~client~~ information;

(c) apply nursing knowledge effectively in the synthesis of the biological, psychological, spiritual and social aspects of the patient's~~clients~~ condition;

(d) utilize this broad and complete analysis to plan strategies of nursing care and nursing interventions that are integrated within the patient's~~clients~~ overall health care plan;

(e) provide appropriate decision making, critical thinking and clinical judgment to make independent nursing decisions and identification of health care needs;

(f) seek clarification of orders when needed;

(g) implement treatments and therapy, including medication administration, delegated medical and independent nursing functions;

(h) obtain orientation/training for competence when encountering new equipment and technology or unfamiliar situations;

(i) demonstrate attentiveness and provides ~~client~~patient surveillance and monitoring;

(j) identify changes in patient's~~clients~~ health status and comprehends clinical implications of patient~~client~~ signs, symptoms and changes as part of expected and unexpected patient~~client~~ course or emergent situations;

(k) evaluate the impact of nursing care, the patient's~~clients~~ response to therapy, the need for alternative interventions, and the need to communicate and consult with other health team members;

(l) document nursing care;

(m) intervene on behalf of patient~~client~~ when problems are identified and revises care plan as needed;

(n) recognize patient~~client~~ characteristics that may affect the patient's~~clients~~ health status; and

(o) take preventive measures to protect patient~~client~~, others and self.

(3) In demonstrating the responsibility to act as an advocate for patient~~client~~ shall:

(a) respect the patient's~~clients~~ rights, concerns, decisions and dignity;

(b) identify patient~~client~~ needs;

- (c) attend to patient[~~client~~] concerns or requests;
 - (d) promote safe patient[~~client~~] environment;
 - (e) communicate patient[~~client~~] choices, concerns and special needs with other health team members regarding:
 - (i) patient[~~client~~] status and progress;
 - (ii) patient[~~client~~] response or lack of response to therapies; and
 - (iii) significant changes in patient[~~client~~] condition;
 - (f) maintain appropriate professional boundaries;
 - (g) maintain patient[~~client~~] confidentiality; and
 - (h) assume responsibility for own decisions and actions.
- (4) In demonstrating the responsibility to organize, manage and supervise the practice of nursing, shall:
- (a) assign to another only those nursing measures that fall within that nurse's scope of practice, education, experience and competence or unlicensed person's role description;
 - (b) delegate to another only those nursing measures which that person has the necessary skills and competence to accomplish safely;
 - (c) match patient[~~client~~] needs with personnel qualifications, available resources and appropriate supervision;
 - (d) communicate directions and expectations for completion of the delegated activity;
 - (e) supervise others to whom nursing activities are delegated or assigned by monitoring performance, progress and outcome, and assures documentation of the activity;
 - (f) provide follow-up on problems and intervenes when needed;
 - (g) evaluate the effectiveness of the delegation or assignment;
 - (h) intervene when problems are identified and revises plan of care as needed;
 - (i) retain professional accountability for nursing care as provided;
 - (j) promote a safe and therapeutic environment by:
 - (i) providing appropriate monitoring and surveillance of the care environment;
 - (ii) identifying unsafe care situations; and
 - (iii) correcting problems or referring problems to appropriate management level when needed; and
 - (k) teach and counsel patient[~~client~~] families regarding health care regimen, which may include general information about health and medical condition, specific procedures and wellness and prevention.
- (5) In being a responsible member of an interdisciplinary health care team shall:
- (a) function as a member of the health care team, collaborating and cooperating in the implementation of an integrated patient[~~client~~]-centered health care plan;
 - (b) respect patient[~~client~~] property, and the property of others; and
 - (c) protect confidential information.
- (6) In being the chief administrative nurse shall:
- (a) assure that organizational policies, procedures and standards of nursing practice are developed, kept current and implemented to promote safe and effective nursing care;
 - (b) assure that the knowledge, skills and abilities of nursing staff are assessed and that nurses and nursing assistive personnel are assigned to nursing positions appropriate to their determined competence and licensure/certification/registration level;
 - (c) assure that competent organizational management and management of human resources within the nursing organization are

established and implemented to promote safe and effective nursing care; and

(d) assure that thorough and accurate documentation of personnel records, staff development, quality assurance and other aspects of the nursing organization are maintained.

(7) When functioning in a nursing program educator (faculty) role shall:

(a) teach current theory, principles of nursing practice and nursing management;

(b) provide content and clinical experiences for students consistent with statutes and rule;

(c) supervise students in the provision of nursing services; and

(d) evaluate student scholastic and clinical performance with expected program outcomes.

KEY: licensing, nurses

Date of Enactment or Last Substantive Amendment: [June 23, 2008

Notice of Continuation: April 1, 2008

Authorizing, and Implemented or Interpreted Law: 58-31b-101; 58-1-106(1)(a); 58-1-202(1)(a)



Environmental Quality, Water Quality R317-2 Standards of Quality for Waters of the State

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31650

FILED: 07/01/2008, 17:22

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division of Water Quality (DWQ) is required to review its water quality standards at least once every three years. This process, called triennial review, is required by Section 303(c) of the Clean Water Act and must include the opportunity for public and EPA review of the standards as well as DWQ internal review. The review is intended to ensure that standards meet public concerns, reflect new scientific and technical information, and follow EPA guidelines.

SUMMARY OF THE RULE OR CHANGE: The changes are: Triennial review wording added; total dissolved solids (TDS) standard modified; E. coli standard modified; beneficial uses for several waterbodies revised; word "High Quality" deleted; Antidegradation review procedures revised; Great Salt Lake segmented into five areas; a tissue-based selenium standard of 12.5 mg/kg added to Gilbert Bay; recreational classifications re-defined; chronic ammonia standard added to all waters of the state; assessment procedures described; site specific classifications for TDS given; site specific standard for South Fork of Spring Creek, (Cache County) added; dissolved oxygen concentration changed from one-day average to minimum value; two organics added to pollutants; approved

laboratory methods approved over instrumentation; and the State Canal given same standards as Jordan River.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-5-105

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: No costs or savings to the state budget are anticipated. The proposed amendments will be addressed with existing resources.

❖ LOCAL GOVERNMENTS: Impacts to local governments will generally be limited to entities that operate Publicly Owned Treatment Works (POTWs). POTWs may or may not incur additional costs to implement the chronic ammonia standard. Cost estimates for individual facilities will vary based on a number of site-specific factors such as individual treatment processes, classification and quality of the receiving waterbody, and current limits. Dischargers that are required to implement provisions of an Antidegradation Level II Review (ADR) may incur additional costs. The Level II ADR Review consists of an evaluation of whether there are any reasonable nondegrading or less degrading alternatives for the proposed activity. This question will be addressed by the Division based on information provided by the project proponent. These costs are unknown as they will vary as a function of site specific factors and discharge alternative(s) imposed during the ADR process. The current ADR rule allows costs to be no more than 20% higher than the cost of the discharging alternative, and (for POTW) where the projected cost per connection is not greater than 1.4% of the median adjusted gross household income (MAGHI). There may be additional costs associated with removing selenium from discharges if an increase in selenium in waterfowl eggs nesting on the Great Salt Lake is observed. The addition of language allowing a site-specific adjustment of TDS limits could result in either a potential cost or savings depending on the specific conditions found in each waterbody and locale. Actual costs cannot be projected without conducting the analysis required for each individual standard change request.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Impacts to businesses and other persons will be limited to entities holding or seeking permits to discharge to the waters of the state. Dischargers may or may not incur additional costs to implement the chronic ammonia standard. Cost estimates for individual facilities will vary based on a number of site-specific factors such as individual treatment processes, classification and quality of the receiving waterbody and current limits. Dischargers that are required to implement provisions of an ADR may incur additional costs. The Level II ADR Review consists of an evaluation of whether there are any reasonable nondegrading or less degrading alternatives for the proposed activity. This question will be addressed by the Division based on information provided by the project proponent. These costs are unknown as they will vary as a function of site specific factors and discharge alternative(s) imposed during the ADR process. The current ADR rule allows costs to be no more than 20% higher than the cost of the discharging alternative, and (for POTW) where the projected cost per connection is not greater than 1.4% of the MAGHI. There may be additional costs associated with removing selenium from discharges if an increase in selenium

in waterfowl eggs nesting on the Great Salt Lake is observed.

The addition of language allowing a site-specific adjustment of TDS limits could result in either a potential cost or savings depending on the specific conditions found in each waterbody and locale. Actual costs cannot be projected without conducting the analysis required for each individual standard change request.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for affected persons will be limited to entities holding or seeking permits to discharge to the waters of the state. Dischargers may or may not incur additional costs to implement the chronic ammonia standard. Cost estimates for individual facilities will vary based on a number of site-specific factors such as individual treatment processes, classification and quality of the receiving waterbody, and current limits. Dischargers that are required to implement provisions of an ADR may incur additional costs. The Level II ADR Review consists of an evaluation of whether there are any reasonable nondegrading or less degrading alternatives for the proposed activity. This question will be addressed by the Division based on information provided by the project proponent. These costs are unknown as they will vary as a function of site specific factors and discharge alternative(s) imposed during the ADR process. The current ADR rule allows costs to be no more than 20% higher than the cost of the discharging alternative, and (for POTW) where the projected cost per connection is not greater than 1.4% of the MAGHI. There may be additional costs associated with removing selenium from discharges if an increase in selenium in waterfowl eggs nesting on the Great Salt Lake is observed. The addition of language allowing a site-specific adjustment of TDS limits could result in either a potential cost or savings depending on the specific conditions found in each waterbody and locale. Actual costs cannot be projected without conducting the analysis required for each individual standard change request.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Potential impacts to businesses will be limited to entities holding or seeking permits to discharge to the waters of the state. Dischargers may or may not incur additional costs to implement the chronic ammonia standard. Cost estimates for individual facilities will vary based on a number of site-specific factors such as individual treatment processes, classification and quality of the receiving waterbody, and current limits. Dischargers that are required to implement provisions of an ADR may incur additional costs. The Level II ADR Review consists of an evaluation of whether there are any reasonable non-degrading or less degrading alternatives for the proposed activity. This question will be addressed by the Division based on information provided by the project proponent. These costs are unknown as they will vary as a function of site specific factors and discharge alternative(s) imposed during the ADR process. The current ADR rule allows costs to be no more than 20% higher than the cost of the discharging alternative, and (for POTW) where the projected cost per connection is not greater than 1.4% of the MAGHI. There may be additional costs associated with removing selenium from discharges if an increase in selenium in waterfowl eggs nesting on the Great Salt Lake is observed. The addition of

language allowing a site-specific adjustment of TDS limits could result in either a potential cost or savings depending on the specific conditions found in each waterbody and locale. Actual costs cannot be projected without conducting the analysis required for each individual standard change request.
Richard 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 08/20/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 8/19/2008 at 6:30 PM, DEQ Bldg, 168 N 150 W, Room 101, Salt Lake City, UT and 8/14/2008 at 1:00 PM, Southeast District Health Department, 28 S 100 E, Price, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 09/22/2008

AUTHORIZED BY: Walter Baker, Director

R317. Environmental Quality, Water Quality.

R317-2. Standards of Quality for Waters of the State.

R317-2-1C. Triennial Review.

The water quality standards shall be reviewed and updated, if necessary, at least once every three years. The Executive Secretary will seek input through a cooperative process from stakeholders representing state and federal agencies, various interest groups, and the public to develop a preliminary draft of changes. Proposed changes will be presented to the Water Quality Board for information. Informal public meetings may be held to present preliminary proposed changes to the public for comments and suggestions. Final proposed changes will be presented to the Water Quality Board for approval and authorization to initiate formal rulemaking. Public hearings will be held to solicit formal comments from the public. The Executive Secretary will incorporate appropriate changes and return to the Water Quality Board to petition for formal adoption of the proposed changes following the Division of Administrative Rules' rulemaking procedures.

R317-2-3. Antidegradation Policy.

3.1 Maintenance of Water Quality

Waters whose existing quality is better than the established standards for the designated uses will be maintained at high quality unless it is determined by the Board, after appropriate intergovernmental coordination and public participation in concert with the Utah continuing planning process, allowing lower water quality is

necessary to accommodate important economic or social development in the area in which the waters are located. However, existing instream water uses shall be maintained and protected. No water quality degradation is allowable which would interfere with or become injurious to existing instream water uses.

In those cases where potential water quality impairment associated with a thermal discharge is involved, the antidegradation policy and implementing method shall be consistent with Section 316 of the Federal Clean Water Act.

3.2 ~~[High Quality Waters]~~Category 1 Waters

Waters of high quality which have been determined by the Board to be of exceptional recreational or ecological significance or have been determined to be a State or National resource requiring protection, shall be maintained at existing high quality through designation, by the Board after public hearing, as ~~[High Quality Waters]~~Category 1 Waters. New point source discharges of wastewater, treated or otherwise, are prohibited in such segments after the effective date of designation. Protection of such segments from pathogens in diffuse, underground sources is covered in R317-5 and R317-7 and the Regulations for Individual Wastewater Disposal Systems (R317-501 through R317-515). Other diffuse sources (nonpoint sources) of wastes shall be controlled to the extent feasible through implementation of best management practices or regulatory programs.

Projects such as, but not limited to, construction of dams or roads will be considered where pollution will result only during the actual construction activity, and where best management practices will be employed to minimize pollution effects.

Waters of the state designated as ~~[High Quality Waters]~~Category 1 Waters are listed in R317-2-12.1.

3.3 ~~[High Quality Waters]~~Category 2 Waters

~~[High Quality Waters]~~Category 2 Waters are designated surface water segments which are treated as ~~[High Quality Waters]~~Category 1 Waters except that a point source discharge may be permitted provided that the discharge does not degrade existing water quality. Waters of the state designated as ~~[High Quality Waters]~~Category 2 Waters are listed in R317-2-12.2.

3.4 Category 3 Waters

For all other waters of the state, point source discharges are allowed and degradation may occur, pursuant to the conditions and review procedures outlined ~~[below]~~in Section 3.5.

3.5 Antidegradation Review (ADR)

An antidegradation review will determine whether the proposed activity complies with the applicable antidegradation requirements for receiving waters that may be affected.

An antidegradation review (ADR) may consist of two parts or levels. A Level I review is conducted to insure that existing uses will be maintained and protected. In addition, a Level I review evaluates the criteria in Section 3.5b to determine if any degradation is de minimis in nature and therefore does not require a Level II review. A Level II review as described in Section 3.5c is needed when the impacts are not de minimis.

Both Level I and Level II reviews will be conducted on a parameter-by-parameter basis. A decision to move to a Level II review for one parameter does not require a Level II review for other parameters. Discussion of parameters of concern are those expected to be affected by the proposed activity.

Antidegradation reviews shall include opportunities for public participation, as described in Section 3.5e.

a. Activities Subject to Antidegradation Review (ADR)

1. For all State waters, antidegradation reviews will be conducted for proposed federally regulated activities, such as those under Clean

Water Act Sections 401 (FERC and other Federal actions), 402 (UPDES permits), and 404 (Army Corps of Engineers permits). The Executive Secretary may conduct an ADR on other projects with the potential for major impact on the quality of waters of the state. The review will determine whether the proposed activity complies with the applicable antidegradation requirements for the particular receiving waters that may be affected.

2. For ~~[High Quality]~~Category 1 Waters and ~~[High Quality]~~Category 2 ~~W~~aters, reviews shall be consistent with the requirement established in Sections 3.2 and 3.3, respectively.

~~[For State waters that do not have a High Quality Category 1 or High Quality Category 2 designation, reviews shall be consistent with the procedures identified in Section 3.4 a. 3.4 b.~~

~~The antidegradation review consists of two parts. An antidegradation Level I review will be to determine if the proposed activity requires an antidegradation Level II review as described in Section 3.4 b. below. If so, further review will be required.]~~3. For Category 3 Waters, reviews shall be consistent with the requirements established in this section

b. An Anti-degradation Level II review is not required where any of the following conditions apply:

1. Water quality will not be lowered by the proposed activity (e.g., a UPDES permit is being renewed and the proposed effluent concentration value and pollutant loading is equal to or less than the existing effluent concentrations value and pollutant loading).

2. ~~[Discharge limits are established in an approved TMDL that is consistent with the current water quality standards for the receiving water (e.g., where TMDLs are established, changes in effluent limits that are consistent with the existing load allocation would not trigger an anti-degradation review), or]~~Assimilative capacity (based upon concentration) is not available or has previously been allocated, as indicated by water quality monitoring or modeling information. This includes situations where:

(a) the water body is included on the current 303(d) list for the parameter of concern; or

(b) existing water quality for the parameter of concern does not satisfy applicable numeric or narrative water quality criteria; or

(c) discharge limits are established in an approved TMDL that is consistent with the current water quality standards for the receiving water (i.e., where TMDLs are established, and changes in effluent limits that are consistent with the existing load allocation would not trigger an antidegradation review).

~~Under conditions (a) or (b) the effluent limit in an UPDES permit may be equal to the water quality numeric criterion for the parameter of concern.~~

3. Water quality impacts will be temporary and related only to sediment or turbidity and fish spawning will not be impaired, or

~~[4. The discharge is to a water quality limited water, and assimilative capacity is essentially allocated to existing discharges.~~

~~5]~~4. The water quality effects of the proposed activity are expected to be temporary and limited. As general guidance, CWA Section 402 general permits, CWA Section 404 nationwide and general permits, or activities of short duration, will be deemed to have a temporary and limited effect on water quality where there is a reasonable factual basis to support such a conclusion. The 404 nationwide permits decision will be made at the time of permit issuance, as part of the Division's water quality certification under ~~[DWA]~~CWA Section 401. Where it is determined that the category of activities will result in temporary and limited effects, subsequent individual activities authorized under such permits will not be subject to further antidegradation review. Factors to be considered in

determining whether water quality effects will be temporary and limited may include the following:

(a) Length of time during which water quality will be lowered.

(b) Percent change in ambient concentrations of pollutants of concern

(c) Pollutants affected

(d) Likelihood for long-term water quality benefits to the segment (e.g., dredging of contaminated sediments)

(e) Potential for any residual long-term influences on existing uses.

(f) Impairment of the fish spawning, survival and development of aquatic fauna excluding fish removal efforts.

5. The proposed concentration downstream of the mixing zone:

(a) would be equal to or less than 50% of the applicable criterion, and the project would consume less than 20% of remaining assimilative capacity; or

(b) is greater than 50% and less than 75% of the criterion, and the project would consume less than 10% of the remaining assimilative capacity.

Exception: Level II reviews are required if the proposed concentration below the mixing zone is equal to or greater than 75% of the criterion.

~~6. The affected waters are classified as 3C, 3D (and not 3A or 3B), or 3E waters, or are classified only as Class 4.~~

~~7. The affected waters are considered to be poor quality fisheries as indicated by Utah Division of Wildlife Resource (UDWR) Classes IV, V, and VI with the exception of those waters which add a letter (P, R, N, B, X, or C) to the numerical rating and those which have a "unique rating".~~

~~8. The water body is listed on the current 303(d) list for the parameters of concern.~~

~~9. Existing water quality for the parameters of concern does not satisfy applicable numeric and narrative water quality criteria.~~

~~10. Water quality impacts are expected to be minor. For example: (a) for discharge permit renewals, if the increase in project loading over the prior permit is less than 20%; or (b) if the increase in pollutant loading to the stream is less than 20% over existing background.~~

~~11. The volume of the discharge is small as compared to the flow of the receiving stream. In general, this would be considered where the ratio of the average stream flow to the discharged flow is expected to be greater than 100:1, the ratio of the 7Q10 (7 day 10 year) low flow to the discharge flow is expected to be greater than 25:1, and where the increase in concentration of the pollutants in the stream at 7Q10 at low flow is expected to be less than 10%, or based upon other site specific criteria.~~

~~Both Level I and Level II reviews will be conducted on a parameter-by-parameter basis. A decision to move to a Level II review for one parameter may not require a Level II review for other parameters that will be affected by the proposed activity. An antidegradation review may be required by the Executive Secretary if the receiving water is a drinking water source, if the receiving water has a special value for recreation or fisheries, if an existing use may be impaired, or based on other site specific factors as appropriate.]~~

c. Anti-degradation Review Process

For all activities requiring a Level II review, the Division will notify affected agencies and the public with regards to the requested proposed activity and discussions with stakeholders may be held. In the case of Section 402 discharge permits, if it is determined that a discharge will be allowed, the Division of Water Quality will develop

any needed UPDES permits for public notice following the normal permit issuance process.

The ADR will cover the following requirements or determinations:

1. Will all Statutory and regulatory requirements be met?

The Executive Secretary will review to determine that there will be achieved all statutory and regulatory requirements for all new and existing point sources and all required cost-effective and reasonable best management practices for nonpoint source control in the area of the discharge. If point sources exist in the area that have not achieved all statutory and regulatory requirements, the Executive Secretary will consider whether schedules of compliance or other plans have been established when evaluating whether compliance has been assured. Generally, the "area of the discharge" will be determined based on the parameters of concern associated with the proposed activity and the portion of the receiving water that would be affected.

2. Are there any reasonable less-degrading alternatives?

There will be an evaluation of whether there are any reasonable non-degrading or less degrading alternatives for the proposed activity. This question will be addressed by the Division based on information provided by the project proponent. Control alternatives for a proposed activity will be evaluated in an effort to avoid or minimize degradation of the receiving water. Alternatives to be considered, evaluated, and implemented to the extent feasible, could include pollutant trading, water conservation, water recycling and reuse, land application, total containment, etc.

For proposed UPDES permitted discharges, the following list of alternatives should be considered, evaluated and implemented to the extent feasible:

- (a) innovative or alternative treatment options
- (b) more effective treatment options or higher treatment levels
- (c) connection to other wastewater treatment facilities
- (d) process changes or product or raw material substitution
- (e) seasonal or controlled discharge options to minimize discharging during critical water quality periods[
- ~~(f) seasonal or controlled discharge options to minimize discharging during critical water quality periods]~~
- (~~g~~)f pollutant trading
- (~~h~~)g water conservation
- (~~i~~)h water recycle and reuse
- (~~j~~)i alternative discharge locations or alternative receiving waters
- (~~k~~)j land application
- (~~l~~)k total containment
- (~~m~~)l improved operation and maintenance of existing treatment systems
- (~~n~~)o other appropriate alternatives

An option more costly than the cheapest alternative may have to be implemented if a substantial benefit to the stream can be realized. Alternatives would generally be considered feasible where costs are no more than 20% higher than the cost of the discharging alternative, and (for POTWs) where the projected per connection service fees are not greater than 1.4% of MAGHI (median adjusted gross household income), the current affordability criterion now being used by the Water Quality Board in the wastewater revolving loan program. Alternatives within these cost ranges should be carefully considered by the discharger. Where State financing is appropriate, a financial assistance package may be influenced by this evaluation, i.e., a less polluting alternative may receive a more favorable funding arrangement in order to make it a more financially attractive alternative.

It must also be recognized in relationship to evaluating options that would avoid or reduce discharges to the stream, that in some situations it may be more beneficial to leave the water in the stream for instream flow purposes than to remove the discharge to the stream.

3. Special Procedures for 404 Permits.

For 404 permitted activities, all appropriate alternatives to avoid and minimize degradation should be evaluated. Activities involving a discharge of dredged or fill materials that are considered to have more than minor adverse effects on the aquatic environment are regulated by individual CWA Section 404 permits. The decision-making process relative to the 404 permitting program is contained in the 404(b)(1) guidelines (40 CFR Part 230). Prior to issuing a permit under the 404(b)(1) guidelines, the Corps of Engineers:

(a) makes a determination that the proposed activity discharges are unavoidable (i.e., necessary):

(b) examines alternatives to the proposed activity and authorize only the least damaging practicable alternative; and

(c) requires mitigation for all impacts associated with the activity. A 404(b)(1) finding document is produced as a result of this procedure and is the basis for the permit decision. Public participation is provided for in the process. Because the 404(b)(1) guidelines contains an alternatives analysis, the executive secretary will not require development of a separate alternatives analysis for the anti-degradation review. The division will use the analysis in the 404(b)(1) finding document in completing its anti-degradation review and 401 certification.

4. Does the proposed activity have economic and social importance?

Although it is recognized that any activity resulting in a discharge to surface waters will have positive and negative aspects, information must be submitted by the applicant that any discharge or increased discharge will be of economic or social importance in the area.

The factors addressed in such a demonstration may include, but are not limited to, the following:

- (a) employment (i.e., increasing, maintaining, or avoiding a reduction in employment);
- (b) increased production;
- (c) improved community tax base;
- (d) housing;
- (e) correction of an environmental or public health problem; and
- (f) other information that may be necessary to determine the social and economic importance of the proposed surface water discharge.

5. The applicant may submit a proposal to mitigate any adverse environmental effects of the proposed activity (e.g., instream habitat improvement, bank stabilization). Such mitigation plans should describe the proposed mitigation measures and the costs of such mitigation. Mitigation plans will not have any effect on effluent limits or conditions included in a permit (except possibly where a previously completed mitigation project has resulted in an improvement in background water quality that affects a water quality-based limit). Such mitigation plans will be developed and implemented by the applicant as a means to further minimize the environmental effects of the proposed activity and to increase its socio-economic importance. An effective mitigation plan may, in some cases, allow the Executive Secretary to authorize proposed activities that would otherwise not be authorized.

6. Will water quality standards be violated by the discharge?

Proposed activities that will affect the quality of waters of the state will be allowed only where the proposed activity will not violate water quality standards.

7. Will existing uses be maintained and protected?

Proposed activities can only be allowed if "existing uses" will be maintained and protected. No UPDES permit will be allowed which will permit numeric water quality standards to be exceeded in a receiving water outside the mixing zone. In the case of nonpoint pollution sources, the non-regulatory Section 319 program now in place will address these sources through application of best management practices to ensure that numeric water quality standards are not exceeded.

8. If a situation is found where there is an existing use which is a higher use (i.e., more stringent protection requirements) than that current designated use, the Division will apply the water quality standards and anti-degradation policy to protect the existing use. Narrative criteria may be used as a basis to protect existing uses for parameters where numeric criteria have not been adopted. Procedures to change the stream use designation to recognize the existing use as the designated use would be initiated.

d. Special Procedures for Drinking Water Sources

An Antidegradation Review may be required by the Executive Secretary for discharges to waters with a Class 1C drinking water use assigned, irrespective of whether any of the conditions in Section 3.4 b. applies. Factors to be considered may include the volume of the discharge compared to the flow of the receiving stream, or where the pollutants discharged may have potentially adverse impact on the drinking water supply.

Depending upon the locations of the discharge and its proximity to downstream drinking water diversions, additional treatment or more stringent effluent limits or additional monitoring, beyond that which may otherwise be required to meet minimum technology standards or in stream water quality standards, may be required by the Executive Secretary in order to adequately protect public health and the environment. Such additional treatment may include additional disinfection, suspended solids removal to make the disinfection process more effective, removal of any specific contaminants for which drinking water maximum contaminant levels (MCLs) exists, and/or nutrient removal to reduce the organic content of raw water used as a source for domestic water systems.

Additional monitoring may include analyses for viruses, [~~giardia, cryptosporidium~~]Giardia, Cryptosporidium, other pathogenic organisms, and/or any contaminant for which drinking water MCLs exist. Depending on the results of such monitoring, more stringent treatment may then be required.

The additional treatment/effluent limits/monitoring which may be required will be determined by the Executive Secretary after consultation with the Division of Drinking Water and the downstream drinking water users.

e. Public Notice

The public will be provided notice and an opportunity to comment on the conclusions of all completed antidegradation reviews. Where possible, public notice on the antidegradation review conclusions will be combined with the public notice on the proposed permitting action. In the case of UPDES permits, public notice will be provided through the normal permitting process, as all draft permits are public noticed for 30 days, and public comment solicited, before being issued as a final permit. The Statement of Basis for the draft UPDES permit will contain information on how the ADR was addressed including results of the Level I and Level II reviews. In the case of Section 404 permits from the Corps of Engineers, the Division of Water Quality will develop any needed 401 Certifications and the public notice will be published in conjunction with the US Corps of Engineers public notice procedures. Other permits requiring a Level II review will receive a

separate public notice according to the normal State public notice procedures.

R317-2-4. Colorado River Salinity Standards.

In addition to quality protection afforded by these regulations to waters of the Colorado River and its tributaries, such waters shall be protected also by requirements of "Proposed Water Quality Standards for Salinity including Numeric Criteria and Plan of Implementation for Salinity Control, Colorado River System, June 1975" and a supplement dated August 26, 1975, entitled "Supplement, including Modifications to Proposed Water Quality Standards for Salinity including Numeric Criteria and Plan of Implementation for Salinity Control, Colorado River System, June 1975", as approved by the seven Colorado River Basin States and the U.S. Environmental Protection Agency, as updated by the 1978 Revision and the 1981, 1984, 1987, 1990, 1993, 1996, 1999, 2002, 2005, and [~~2002~~]2008 Reviews of the above documents.

R317-2-6. Use Designations.

The Board as required by Section 19-5-110, shall group the waters of the state into classes so as to protect against controllable pollution the beneficial uses designated within each class as set forth below. Surface waters of the state are hereby classified as shown in R317-2-13.

6.1 Class 1 -- Protected for use as a raw water source for domestic water systems.

a. Class 1A -- Reserved.

b. Class 1B -- Reserved.

c. Class 1C -- Protected for domestic purposes with prior treatment by treatment processes as required by the Utah Division of Drinking Water

6.2 Class 2 -- Protected for recreational use and aesthetics.

a. Class 2A -- Protected for frequent primary contact recreation [such as swimming,] where there is a high likelihood of ingestion of water or a high degree of bodily contact with the water. Examples include, but are not limited to, swimming, rafting, kayaking, diving, and water skiing.

b. Class 2B -- Protected for infrequent primary contact recreation. Also protected for secondary contact recreation [such as boating, wading, or similar uses,] where there is a low likelihood of ingestion of water or a low degree of bodily contact with the water. Examples include, but are not limited to, wading, hunting, and fishing.

6.3 Class 3 -- Protected for use by aquatic wildlife.

a. Class 3A -- Protected for cold water species of game fish and other cold water aquatic life, including the necessary aquatic organisms in their food chain.

b. Class 3B -- Protected for warm water species of game fish and other warm water aquatic life, including the necessary aquatic organisms in their food chain.

c. Class 3C -- Protected for nongame fish and other aquatic life, including the necessary aquatic organisms in their food chain.

d. Class 3D -- Protected for waterfowl, shore birds and other water-oriented wildlife not included in Classes 3A, 3B, or 3C, including the necessary aquatic organisms in their food chain.

e. Class 3E -- Severely habitat-limited waters. Narrative standards will be applied to protect these waters for aquatic wildlife.

6.4 Class 4 -- Protected for agricultural uses including irrigation of crops and stock watering.

6.5 Class 5 -- The Great Salt Lake. [~~Protected for primary and secondary contact recreation, waterfowl, shore birds and other water-oriented wildlife including their necessary aquatic organisms in their food chain, and mineral extraction.]~~

a. Class 5A Gilbert Bay

Geographical Boundary -- All open waters at or below 4,208-foot elevation south of the Union Pacific Causeway, excluding all of the Farmington Bay south of the Antelope Island Causeway and salt evaporation ponds.

Beneficial Uses -- Protected for primary and secondary contact recreation, waterfowl, shore birds and other water-oriented wildlife including their necessary food chain.

b. Class 5B Gunnison Bay

Geographical Boundary -- All open waters at or below 4,208-foot elevation north of the Union Pacific Causeway and west of the Promontory Mountains, excluding salt evaporation ponds.

Beneficial Uses -- Protected for secondary contact recreation, waterfowl, shore birds and other water-oriented wildlife including their necessary food chain.

c. Class 5C Bear River Bay

Geographical Boundary -- All open waters at or below 4,208-foot elevation north of the Union Pacific Causeway and east of the Promontory Mountains, excluding salt evaporation ponds.

Beneficial Uses -- Protected for secondary contact recreation, waterfowl, shore birds and other water-oriented wildlife including their necessary food chain.

d. Class 5D Farmington Bay

Geographical Boundary -- All open waters at or below 4,208-foot elevation east of Antelope Island and south of the Union Pacific Causeway, excluding salt evaporation ponds.

Beneficial Uses -- Protected for secondary contact recreation, waterfowl, shore birds and other water-oriented wildlife including their necessary food chain.

e. Class 5E Transitional Wetlands along the Shoreline of the Great Salt Lake Geographical Boundary -- All wetlands below 4,208-foot elevation to the current lake elevation of the open water of the Great Salt Lake receiving their source water from naturally occurring springs, streams, impounded wetlands, or facilities requiring a UPDES permit. The geographical areas of these transitional wetlands change corresponding to the fluctuation of open water elevation.

Beneficial Uses -- Protected for secondary contact recreation, waterfowl, shore birds and other water-oriented wildlife including their necessary food chain.

R317-2-7. Water Quality Standards.

7.1 Application of Standards

The numeric criteria listed in R317-2-14 shall apply to each of the classes assigned to waters of the State as specified in R317-2-6. It shall be unlawful and a violation of these regulations for any person to discharge or place any wastes or other substances in such manner as may interfere with designated uses protected by assigned classes or to cause any of the applicable standards to be violated, except as provided in R317-1-3.1. At a minimum, assessment of the beneficial use support for waters of the state will be conducted biannually and available for a 30-day period of public comment and review. Monitoring locations and target indicators of water quality standards shall be prioritized and published yearly. For water quality assessment purposes (with the exception of TABLE 2.14.5 LIST OF HUMAN HEALTH CRITERIA (CONSUMPTION)), up to 10% of representative samples may exceed the standard. The Board may allow site specific modifications based upon bioassay or other tests performed in accordance with standard procedures determined by the Board.

7.2 Narrative Standards

It shall be unlawful, and a violation of these regulations, for any person to discharge or place any waste or other substance in such a way

as will be or may become offensive such as unnatural deposits, floating debris, oil, scum or other nuisances such as color, odor or taste; or cause conditions which produce undesirable aquatic life or which produce objectionable tastes in edible aquatic organisms; or result in concentrations or combinations of substances which produce undesirable physiological responses in desirable resident fish, or other desirable aquatic life, or undesirable human health effects, as determined by bioassay or other tests performed in accordance with standard procedures.

R317-2-12. ~~High Quality~~ Category 1 and Category 2 Waters.

12.1 ~~High Quality Waters~~ Category 1 Waters.

In addition to assigned use classes, the following surface waters of the State are hereby designated as ~~High Quality Waters~~ Category 1 Waters:

a. All surface waters geographically located within the outer boundaries of U.S. National Forests whether on public or private lands with the following exceptions:

All High Quality Waters - Category 2 as listed in R317-2-12.2.

Weber River, a tributary to the Great Salt Lake, in the Weber River Drainage from Uintah to Mountain Green.

b. Other surface waters, which may include segments within U.S. National Forests as follows:

1. Colorado River Drainage

Calf Creek and tributaries, from confluence with Escalante River to headwaters.

Sand Creek and tributaries, from confluence with Escalante River to headwaters.

Mamie Creek and tributaries, from confluence with Escalante River to headwaters.

Deer Creek and tributaries, from confluence with Boulder Creek to headwaters (Garfield County).

Indian Creek and tributaries, through Newspaper Rock State Park to headwaters.

2. Green River Drainage

Price River (Lower Fish Creek from confluence with White River to Scofield Dam.

Range Creek and tributaries, from confluence with Green River to headwaters.

Strawberry River and tributaries, from confluence with Red Creek to headwaters.

Ashley Creek and tributaries, from Steinaker diversion to headwaters.

Jones Hole Creek and tributaries, from confluence with Green River to headwaters.

Green River, from state line to Flaming Gorge Dam.

Tollivers Creek, from confluence with Green River to headwaters.

Allen Creek, from confluence with Green River to headwaters.

3. Virgin River Drainage

North Fork Virgin River and tributaries, from confluence with East Fork Virgin River to headwaters.

East Fork Virgin River and tributaries from confluence with North Fork Virgin River to headwaters.

4. Kanab Creek Drainage

Kanab Creek and tributaries, from irrigation diversion at confluence with Reservoir Canyon to headwaters.

5. Bear River Drainage

Swan Creek and tributaries, from Bear Lake to headwaters.

North Eden Creek, from Upper North Eden Reservoir to headwaters.

Big Creek and tributaries, from Big Ditch diversion to headwaters.

Woodruff Creek and tributaries, from Woodruff diversion to headwaters.

6. Weber River Drainage

Burch Creek and tributaries, from Harrison Boulevard in Ogden to headwaters.

Hardscrabble Creek and tributaries, from confluence with East Canyon Creek to headwaters.

Chalk Creek and tributaries, from U.S. Highway 189 to headwaters.

Weber River and tributaries, from U.S. Highway 189 near Oakley to headwaters.

7. Jordan River Drainage

City Creek and tributaries, from City Creek Water Treatment Plant to headwaters (Salt Lake County).

Emigration Creek and tributaries, from Hogle Zoo to headwaters (Salt Lake County).

Red Butte Creek and tributaries, from Foothill Boulevard in Salt Lake City to headwaters.

Parley's Creek and tributaries, from 13th East in Salt Lake City to headwaters.

Mill Creek and tributaries, from Wasatch Boulevard in Salt Lake City to headwaters.

Big Cottonwood Creek and tributaries, from Wasatch Boulevard in Salt Lake City to headwaters.

Little Willow Creek and tributaries, from diversion to headwaters (Salt Lake County.)

Bell Canyon Creek and tributaries, from Lower Bells Canyon Reservoir to headwaters (Salt Lake County).

South Fork of Dry Creek and tributaries, from Draper Irrigation Company diversion to headwaters (Salt Lake County).

8. Provo River Drainage

Upper Falls drainage above Provo City diversion (Utah County).

Bridal Veil Falls drainage above Provo City diversion (Utah County).

Lost Creek and tributaries, above Provo City diversion (Utah County).

9. Sevier River Drainage

Chicken Creek and tributaries, from diversion at canyon mouth to headwaters.

Pigeon Creek and tributaries, from diversion to headwaters.

East Fork of Sevier River and tributaries, from Kingston diversion to headwaters.

Parowan Creek and tributaries, from Parowan City to headwaters.

Summit Creek and tributaries, from Summit City to headwaters.

Braffits Creek and tributaries, from canyon mouth to headwaters.

Right Hand Creek and tributaries, from confluence with Coal Creek to headwaters.

10. Raft River Drainage

Clear Creek and tributaries, from state line to headwaters (Box Elder County).

Birch Creek (Box Elder County), from state line to headwaters.

Cotton Thomas Creek from confluence with South Junction Creek to headwaters.

11. Western Great Salt Lake Drainage

All streams on the south slope of the Raft River Mountains above 7000' mean sea level.

Donner Creek (Box Elder County), from irrigation diversion to Utah-Nevada state line.

Bettridge Creek (Box Elder County), from irrigation diversion to Utah-Nevada state line.

Clover Creek, from diversion to headwaters.

All surface waters on public land on the Deep Creek Mountains.

12. Farmington Bay Drainage

Holmes Creek and tributaries, from Highway US-89 to headwaters (Davis County).

Shepard Creek and tributaries, from Height Bench diversion to headwaters (Davis County).

Farmington Creek and tributaries, from Height Bench Canal diversion to headwaters (Davis County).

Steed Creek and tributaries, from Highway US-89 to headwaters (Davis County).

12.2 ~~[High Quality Waters-]~~ Category 2 Waters.

In addition to assigned use classes, the following surface waters of the State are hereby designated as ~~[High Quality Waters-]~~ Category 2 Waters:

a. Green River Drainage

Deer Creek, a tributary of Huntington Creek, from the forest boundary to 4800 feet upstream.

Electric Lake.

R317-2-13. Classification of Waters of the State (see R317-2-6).

13.1 Upper Colorado River Basin

a. Colorado River Drainage

TABLE

Paria River and tributaries, from state line to headwaters	2B	3C	4
All tributaries to Lake Powell, except as listed below	2B	3B	4
Escalante River and tributaries, from Lake Powell to headwaters except as listed below [confluence with Boulder Creek]	2B	3B [3C]	4
[Escalante River and tributaries, from confluence with Boulder Creek, including Boulder Creek, to headwaters]	2B	3A	4
<u>Boulder Creek and tributaries from confluence with Escalante River to headwaters</u>	2B	3A	4
<u>Calf Creek and tributaries from confluence with Escalante River to headwaters</u>	2B	3A	4
<u>Sand Creek and tributaries from confluence with Escalante River to headwaters</u>	2B	3A	4
<u>Death Hollow Creek and tributaries from confluence with Escalante River to headwaters</u>	2B	3A	4
<u>Pine Creek and tributaries from confluence with Escalante River to headwaters</u>	2B	3A	4
<u>North Creek and tributaries from confluence with Escalante River to headwaters</u>	2B	3A	4
<u>Birch Creek and tributaries from confluence with Escalante River to headwaters</u>	2B	3A	4
Dirty Devil River and tributaries, from Lake Powell to Fremont River	2B	3C	4

Deer Creek and tributaries, from confluence with Boulder Creek to headwaters	2B 3A	4	except as listed below	1C <u>2A</u> [2B]	3B	4
Fremont River and tributaries, from confluence with Muddy Creek to Capitol Reef National Park, except as listed below	1C 2B 3C	4	Indian Creek and tributaries, through Newspaper Rock State Park to headwaters	1C	2B 3A	4
Pleasant Creek and tributaries, from confluence with Fremont River to East boundary of Capitol Reef National Park	2B 3C	4	Kane Canyon Creek and tributaries, from confluence with Colorado River to headwaters	2B	3C	4
Pleasant Creek and tributaries, from East boundary of Capitol Reef National Park to headwaters	1C 2B 3A	4	Mill Creek and tributaries, from confluence with Colorado River to headwaters	1C	2B 3A	4
Fremont River and tributaries, through Capitol Reef National Park to headwaters	1C 2B 3A	4	Dolores River and tributaries, from confluence with Colorado River to state line	2B	3C	4
Muddy Creek and tributaries, from confluence with Fremont River to Highway U-10 crossing, except as listed below	2B 3C	4	Roc Creek and tributaries, from confluence with Dolores River to headwaters	2B 3A		4
Quitcupah Creek and Tributaries, from Highway U-10 crossing to headwaters	2B 3A	4	LaSal Creek and tributaries, from state line to headwaters	2B 3A		4
Ivie Creek and tributaries, from Highway U-10 to headwaters	2B 3A	4	Lion Canyon Creek and tributaries, from state line to headwaters	2B 3A		4
Muddy Creek and tributaries, from Highway U-10 crossing to headwaters	1C 2B 3A	4	Little Dolores River and tributaries, from confluence with Colorado River to state line	2B	3C	4
San Juan River and Tributaries, from Lake Powell to state line except As listed below:	1C <u>2A</u> [2B] 3B	4	Bitter Creek and tributaries, from confluence with Colorado River to headwaters	2B	3C	4
Johnson Creek and tributaries, from confluence with Recapture Creek to headwaters	1C 2B 3A	4	b. Green River Drainage			
Verdure Creek and tributaries, from Highway US-191 crossing to headwaters	2B 3A	4	TABLE			
North Creek and tributaries, from confluence with Montezuma Creek to headwaters	1C 2B 3A	4	Green River and tributaries, from confluence with Colorado River to state line except as listed below:	1C <u>2A</u> [2B]	3B	4
South Creek and tributaries, from confluence with Montezuma Creek to headwaters	1C 2B 3A	4	Thompson Creek and tributaries from Interstate Highway 70 to headwaters	2B	3C	4
Spring Creek and tributaries, from confluence with Vega Creek to headwaters	2B 3A	4	San Rafael River and tributaries, from confluence with Green River to confluence with Ferron Creek	2B	3C	4
Montezuma Creek and tributaries, from U.S. Highway 191 to headwaters	1C 2B 3A	4	Ferron Creek and tributaries, from confluence with San Rafael River to Millsite Reservoir	2B	3C	4
Colorado River and tributaries, from Lake Powell to state line			Ferron Creek and tributaries, from Millsite Reservoir to headwaters	1C	2B 3A	4
			Huntington Creek and tributaries, from confluence with Cottonwood Creek to Highway U-10 crossing	2B	3C	4
			Huntington Creek and tributaries, from Highway U-10 crossing to headwaters	1C	2B 3A	4
			Cottonwood Creek and tributaries, from confluence with Huntington Creek to			

Highway U-57 crossing Cottonwood Creek and tributaries, from Highway U-57 crossing to headwaters	2B	3C	4	Power House Canal from Confluence with Uinta River to headwaters	2B 3A	4
Cottonwood Canal, Emery County	1C	2B	3E 4	Whiterocks River and Canal, From Tridell Water Treatment Plant to Headwaters	1C	2B 3A
Price River and tributaries, from confluence with Green River to Carbon Canal Diversion at Price City Golf Course	2B	3C	4	Duchesne River and tributaries, from Myton Water Treatment Plant intake to headwaters	1C	2B 3A
Except as listed below Grassy Trail Creek and tributaries, from Grassy Trail Creek Reservoir to headwaters	1C	2B 3A	4	Lake Fork River and tributaries, from confluence with Duchesne River to headwaters	1C	2B 3A
Price River and tributaries, from Carbon Canal Diversion at Price City Golf Course to Price City Water Treatment Plant intake.	2B 3A		4	Lake Fork Canal from Dry Gulch Canal Diversion to Moon Lake	1C	2B 3E 4
Price River and tributaries, from Price City Water Treatment Plant intake to headwaters	1C	2B 3A	4	Dry Gulch Canal, from Myton Water Treatment Plant to Lake Fork Canal	1C	2B 3E 4
Range Creek and tributaries, from confluence with Green River to Range Creek Ranch	2B 3A		4	Ashley Creek and tributaries, from confluence with Green River to Steinaker diversion	2B	3B 4
Range Creek and tributaries, from Range Creek Ranch to headwaters	1C	2B 3A	4	Ashley Creek and tributaries, from Steinaker diversion to headwaters	1C	2B 3A 4
Rock Creek and tributaries, from confluence with Green River to headwaters	2B 3A		4	Big Brush Creek and tributaries, from confluence with Green River to Tyzack (Red Fleet) Dam	2B	3B 4
Nine Mile Creek and tributaries, from confluence with Green River to headwaters	2B 3A		4	Big Brush Creek and tributaries, from Tyzack (Red Fleet) Dam to headwaters	1C	2B 3A 4
Pariette Draw and tributaries, from confluence with Green River to headwaters	2B	3B	3D 4	Jones Hole Creek and tributaries, from confluence with Green River to headwaters	2B 3A	
Willow Creek and tributaries (Uintah County), from confluence with Green River to headwaters	2B 3A		4	Diamond Gulch Creek and tributaries, from confluence with Green River to headwaters	2B 3A	4
White River and tributaries, from confluence with Green River to state line, except as listed below	2B	3B	4	Pot Creek and tributaries, from Crouse Reservoir to headwaters	2B 3A	4
Bitter Creek and Tributaries from White River to Headwaters	2B 3A		4	Green River and tributaries, from Utah-Colorado state line to Flaming Gorge Dam except as listed below:	2A [2B] 3A	4
Duchesne River and tributaries, from confluence with Green River to Myton Water Treatment Plant intake, except as listed below	2B	3B	4	Sears Creek and tributaries, Daggett County	2B 3A	
Uinta River and tributaries, From confluence with Duchesne River to Highway US-40 crossing	2B	3B	4	Tolivers Creek and tributaries, Daggett County	2B 3A	
Uinta River and tributaries, From Highway US-4- crossing to headwaters	2B 3A		4	Red Creek and tributaries, from confluence with Green River to state line	2B	3C 4
				Jackson Creek and tributaries, Daggett County	2B 3A	

Davenport Creek and tributaries, Daggett County	2B 3A			Newton Creek and tributaries, from Cutler Reservoir to Newton Reservoir	2B 3A	4
Goslin Creek and tributaries, Daggett County	2B 3A			Clarkston Creek and tributaries, from Newton Reservoir to headwaters	2B 3A	4
Gorge Creek and tributaries, Daggett County	2B 3A			Birch Creek and tributaries, from confluence with Clarkston Creek to headwaters	2B 3A	4
Beaver Creek and tributaries, Daggett County	2B 3A			Summit Creek and tributaries, from confluence with Bear River to headwaters	2B 3A	4
O-Wi-Yu-Kuts Creek and tributaries, County	2B 3A			Cub River and tributaries, from confluence with Bear River to state line, except as listed below:	2B 3B	4
Tributaries to Flaming Gorge Reservoir, except as listed below	2B 3A		4	High Creek and tributaries, from confluence with Cub River to headwaters	2B 3A	4
Birch Spring Draw and tributaries, from Flaming Gorge Reservoir to headwaters	2B	3C	4	All tributaries to Bear Lake from Bear Lake to headwaters, except as listed below	2B 3A	4
Spring Creek and tributaries, from Flaming Gorge Reservoir to headwaters	2B 3A			Swan Springs tributary to Swan Creek	1C 2B 3A	
All Tributaries of Flaming Gorge Reservoir from Utah-Wyoming state line to headwaters	2B 3A		4	Bear River and tributaries in Rich County, <u>except as listed below</u>	2B 3A	4

13.2 Lower Colorado River Basin

.....

13.3 Bear River Basin
a. Bear River Drainage

TABLE

Bear River and tributaries, from Great Salt Lake to Utah-Idaho border, except as listed below:	2B	3B	3D	4	<u>Saleratus Creek, from confluence with Bear River to Deseret Ranch high Ditch Diversion</u>	2B	3C	3D	4
Perry Canyon Creek from U.S. Forest boundary to headwaters	2B 3A			4	<u>Saleratus Creek from Deseret Ranch High Ditch Diversion to Headwaters</u>	2B 3A			4
Box Elder Creek from confluence with Black Slough to Brigham City Reservoir (the Mayor's Pond)	2B		3C	4	Bear River and tributaries, from Utah-Wyoming state line to headwaters (Summit County)	2B 3A			4
Box Elder Creek, from Brigham City Reservoir (the Mayor's Pond) to headwaters	2B 3A			4	Mill Creek and tributaries, from state line to headwaters (Summit County)	2B 3A			4
<u>Salt Creek, from confluence with Bear River to Crystal Hot Springs</u>	2B		3C					

13.5 Utah Lake-Jordan River Basin
a. Jordan River Drainage

TABLE

Malad River and tributaries, from confluence with Bear River to state line	2B		3C		Jordan River, from Farmington Bay to North Temple Street, Salt Lake City	2B	3B *	3D	4
Little Bear River and tributaries, from Cutler Reservoir to headwaters	2B 3A		3D	4	<u>State Canal, from Farmington Bay to confluence with the Jordan River</u>	2B	3B *	3D	4
Logan River and tributaries, from Cutler Reservoir to headwaters	2B 3A		3D	4	Jordan River, from North Temple Street in Salt Lake City to confluence with Little Cottonwood Creek	2B	3B *		4
Blacksmith Fork and tributaries, from confluence with Logan River to headwaters	2B 3A			4					

Surplus Canal from Great Salt Lake to the diversion from the Jordan River	2B	3B * 3D	4
Jordan River from confluence with Little Cottonwood Creek to Narrows Diversion	2B	3A	4
Jordan River, from Narrows Diversion to Utah Lake	1C	2B 3B	4
City Creek, from Memory Park in Salt Lake City to City Creek Water Treatment Plant	2B	3A	
City Creek, from City Creek Water Treatment Plant to headwaters	1C	2B 3A	
Red Butte Creek and tributaries, from Red Butte Reservoir to headwaters	1C	2B 3A	
Emigration Creek and tributaries, from Foothill Boulevard in Salt Lake City to headwaters	2B	3A	
Parley's Creek and tributaries, from 1300 East in Salt Lake City to Mountain Dell Reservoir to headwaters	1C	2B 3A	
Parley's Creek and tributaries, from Mountain Dell Reservoir to headwaters	1C	2B 3A	
Mill Creek (Salt Lake County) from confluence with Jordan River to Interstate Highway 15	2B	3C	4
Mill Creek (Salt Lake County) and tributaries from Interstate Highway 15 to headwaters	2B	3A	4
Big Cottonwood Creek and tributaries, from confluence with Jordan River to Big Cottonwood Water Treatment Plant	2B	3A	4
Big Cottonwood Creek and tributaries, from Big Cottonwood Water Treatment Plant to headwaters	1C	2B 3A	
Deaf Smith Canyon Creek and tributaries	1C	2B 3A	4
Little Cottonwood Creek and tributaries, from confluence with Jordan River to Metropolitan Water Treatment Plant	2B	3A	4
Little Cottonwood Creek and tributaries, from Metropolitan Water Treatment Plant to headwaters	1C	2B 3A	
Bell Canyon Creek and tributaries, from lower Bell's Canyon reservoir to headwaters	1C	2B 3A	
Little Willow Creek and tributaries, from Draper Irrigation Company diversion to headwaters	1C	2B 3A	
Big Willow Creek and tributaries, from Draper Irrigation Company diversion to headwaters	1C	2B 3A	

South Fork of Dry Creek and tributaries, from Draper			
Irrigation Company diversion to headwaters	1C	2B 3A	
All permanent streams on east slope of Oquirrh Mountains (Coon, Barney's, Bingham, Butterfield, and Rose Creeks)	2B	3D	4
Kersey Creek from confluence of C-7 Ditch to headwaters	2B	3D	

* Site specific criteria for dissolved oxygen. See Table 2.14.5.

.....

13.11 National Wildlife Refuges and State Waterfowl Management Areas, and other Areas Associated with the Great Salt Lake

TABLE

Bear River National Wildlife Refuge, Box Elder County	2B	3B	3D
Open Water below 4,208			5C
Transitional Wetlands 4,208 ft. to Open Water			5E
Open Water above 4,208 ft.	2B	3B	3D
<u>Bear River Bay</u>			
Open Water below 4,208			5C
Transitional Wetlands 4,208 ft. to Open Water			5E
Open Water above 4,208 ft.	2B	3B	3D
Brown's Park Waterfowl Management Area, Daggett County	2B	3A	3D
Clear Lake Waterfowl Management Area, Millard County	2B	3C	3D
Desert Lake Waterfowl Management Area, Emery County	2B	3C	3D
Farmington Bay Waterfowl Management Area, Davis and Salt Lake Counties	2B	3C	3D
Open Water below 4,208			5D
Transitional Wetlands 4,208 ft. to Open Water			5E
Open Water above 4,208 ft.	2B	3B	3D
<u>Farmington Bay</u>			
Open Water below 4,208			5C
Transitional Wetlands 4,208 ft. to Open Water			5E
Open Water above 4,208 ft.	2B	3B	3D
Fish Springs National Wildlife Refuge, Juab County	2B	3C	3D
Harold Crane Waterfowl Management Area, Box Elder County	2B	3C	3D
<u>Gilbert Bay</u>			
Open Water below 4,208			5A
Transitional Wetlands 4,208 ft. to Open Water			5E
Open Water above 4,208 ft.	2B	3B	3D
<u>Gunnison Bay</u>			
Open Water below 4,208			5B
Transitional Wetlands 4,208 ft. to Open Water			5E
Open Water above 4,208 ft.	2B	3B	3D
Howard Slough Waterfowl Management Area, Weber County	2B	3C	3D

Open Water below 4,208				5C
Transitional Wetlands 4,208 ft. to Open Water				5E
Open Water above 4,208 ft.	2B	3B	3D	
Locomotive Springs Waterfowl Management Area, Box Elder County [2B 3B-3D]				
Open Water below 4,208				5B
Transitional Wetlands 4,208 ft. to Open Water				5E
Open Water above 4,208 ft.	2B	3B	3D	
Ogden Bay Waterfowl Management Area, Weber County [2B 3C-3D]				
Open Water below 4,208				5C
Transitional Wetlands 4,208 ft. to Open Water				5E
Open Water above 4,208 ft.	2B	3B	3D	
Ouray National Wildlife Refuge, Uintah County				
	2B	3B	3D	
Powell Slough Waterfowl Management Area, Utah County				
	2B		3C 3D	
Public Shooting Grounds Waterfowl Management Area, Box Elder County [2B 3C-3D]				
Open Water below 4,208				5C
Transitional Wetlands 4,208 ft. to Open Water				5E
Open Water above 4,208 ft.	2B	3B	3D	
Salt Creek Waterfowl Management Area, Box Elder County [2B 3C-3D]				
Open Water below 4,208				5C
Transitional Wetlands 4,208 ft. to Open Water				5E
Open Water above 4,208 ft.	2B	3B	3D	
Stewart Lake Waterfowl Management Area, Uintah County				
	2B	3B	3D	
Timpie Springs Waterfowl Management Area, Tooele County [2B 3B-3D]				
Open Water below 4,208				5B
Transitional Wetlands 4,208 ft. to Open Water				5E
Open Water above 4,208 ft.	2B	3B	3D	

13.12 Lakes and Reservoirs [~~20 Acres or Larger~~]. All lakes and any reservoirs greater than 10 acres not listed in 13.12 are assigned by default to the classification of the stream with which they are associated.

R317-2-14. Numeric Criteria.

TABLE 2.14.1
 NUMERIC CRITERIA FOR DOMESTIC, RECREATION, AND AGRICULTURAL USES

Parameter	Domestic Source	Recreation and Aesthetics		Agri-culture
	1C	2A	2B	4
BACTERIOLOGICAL				
(30-DAY GEOMETRIC MEAN) (NO.)/100 ML (7)				
E. coli	206	126	206	
MAXIMUM				
(NO.)/100 ML (7)				
[E. coli	940	576	940]	
E. coli	668	409	668	
PHYSICAL				
pH (RANGE)	6.5-9.0	6.5-9.0	6.5-9.0	6.5-9.0
Turbidity Increase (NTU)		10	10	

METALS (DISSOLVED, MAXIMUM MG/L) (2)			
Arsenic	0.01		0.1
Barium	1.0		
Beryllium	<0.004		
Cadmium	0.01		0.01
Chromium	0.05		0.10
Copper			0.2
Lead	0.015		0.1
Mercury	0.002		
Selenium	0.05		0.05
Silver	0.05		
INORGANICS (MAXIMUM MG/L)			
Bromate	0.01		
Boron			0.75
Chlorite	<1.0		
Fluoride (3)	1.4-2.4		
Nitrates as N	10		
Total Dissolved Solids (4)	[Irrigation]		1200
	[Stock Watering]		2000]
RADIOLOGICAL (MAXIMUM pCi/L)			
Gross Alpha	15		15
Gross Beta	4 mrem/yr		
Radium 226, 228 (Combined)	5		
Strontium 90	8		
Tritium	20000		
Uranium	30		
ORGANICS (MAXIMUM UG/L)			
Chlorophenoxy Herbicides			
2,4-D	70		
2,4,5-TP	10		
Methoxychlor	40		
POLLUTION INDICATORS (5)			
BOD (MG/L)	5	5	5
Nitrate as N (MG/L)	4	4	
Total Phosphorus as P (MG/L) (6)	0.05	0.05	

FOOTNOTES:
 (1) Reserved
 (2) The dissolved metals method involves filtration of the sample in the field, acidification of the sample in the field, no digestion process in the laboratory, and analysis by [atomic absorption or inductively coupled plasma (ICP) spectrophotometry] approved laboratory methods for the required detection levels.
 (3) Maximum concentration varies according to the daily maximum mean air temperature.

TEMP (C)	MG/L
12.0	2.4
12.1-14.6	2.2
14.7-17.6	2.0
17.7-21.4	1.8
21.5-26.2	1.6
26.3-32.5	1.4

(4) [Total dissolved solids (TDS) limits may be adjusted if such adjustment does not impair the designated beneficial use of the receiving water. The total dissolved solids (TDS) standards shall be at background where it can be shown that natural or unalterable conditions prevent its attainment. In such cases rulemaking will be undertaken to modify the standard accordingly.] Site-specific criteria for total dissolved solids may be adopted by rulemaking where it is demonstrated that: (a) a less stringent

critterion is appropriate because of natural or un-alterable conditions; or (b) a less stringent, site-specific criterion and/or date-specified criterion is protective of existing and attainable agricultural uses; or (c) a more stringent criterion is attainable and necessary for the protection of sensitive crops. For water quality assessment purposes, up to 10% of representative samples may exceed the standard.

[Site Specific Standards for Total Dissolved Solids (TDS)]
SITE SPECIFIC STANDARDS FOR TOTAL DISSOLVED SOLIDS (TDS)

Antelope Creek and tributaries from confluence with Duchesne River to headwaters: 2,655 mg/l;

Castle Creek from confluence with the Colorado River to Seventh Day Adventist Diversion: 1,800 mg/l;

Cottonwood Creek from the confluence with Huntington Creek to I-57: 3,500 mg/l;

Ferron Creek from the confluence with San Rafael River to Highway 10: 3,500 mg/l;

[Gordon Creek from the confluence with Price River to headwaters, 3,800 mg/l;]

Huntington Creek and tributaries from the confluence with Cottonwood Creek to U-10: 4,800 mg/l;

Indian Canyon Creek and tributaries from confluence with Duchesne River to headwaters: 2,180 mg/l;

Ivie Creek and its tributaries from the confluence with Muddy Creek to U-10: 2,600 mg/l;

Lost Creek from the confluence with Sevier River to U.S. Forest Service Boundary: 4,600 mg/l;

Muddy Creek and tributaries from the confluence with [Quitichupah] Ivie Creek to U-10: 2,600 mg/l;

Muddy Creek from confluence with Fremont River to confluence with Quitichupah Creek: 5,800 mg/l;

North Creek from the confluence with Virgin River to headwaters: 2,035 mg/l;

Onion Creek from the confluence with Colorado River to road crossing above Stinking Springs: 3000 mg/l;

Brine Creek-Petersen Creek, from the confluence with the Sevier River to U-119 Crossing: 9,700 mg/l;

Paria River from the Utah/Arizona border to confluence of Cottonwood Wash: 1,500 mg/l;

Paria River from confluence of Rock Springs Creek to headwaters: 2,500 mg/l;

[Pinnacle Creek from the confluence with Price River to headwaters, 3,800 mg/l;]

Price River and tributaries up to 7,500 feet in elevation from confluence with Green River to confluence with Soldier Creek: 3,000 mg/l;

Price River and tributaries up to 7,500 feet in elevation from the confluence with ~~Coal~~ Soldier Creek to Carbon Canal Diversion: 1,700 mg/l ~~[+]~~ with the following exceptions:

Soldier Creek and tributaries to 7,200 feet in elevation from confluence with Price River: 1,700 mg/l;

Coal Creek and tributaries to 7,200 feet in elevation from confluence with Price River: 1,700 mg/l;

Pinnacle Creek and tributaries to 7,500 feet in elevation from confluence with Price River: 3,800 mg/l;

Gordon Creek Creek and tributaries to 7,500 feet in elevation from confluence with Price River: 3,800 mg/l;

Price River and tributaries from the confluence with Green River to confluence with Soldier Creek: 3,000 mg/l;

Quitichupah Creek from the confluence with Ivie Creek to U-10: ~~[2,600]~~ 1,700 mg/l;

Rock Canyon Creek from the confluence with Cottonwood Creek to headwaters: 3,500 mg/l;

San Pitch River from below Gunnison Reservoir to the Sevier River: 2,400 mg/l;

San Rafael River from the confluence with the Green River to Buckhorn Crossing: 4,100 mg/l;

San Rafael River from the Buckhorn Crossing to the confluence with Huntington Creek and Cottonwood Creek: 3,500 mg/l;

Sevier River between Gunnison Bend Reservoir and DMAD Reservoir: 1,725 mg/l;

Sevier River from Gunnison Bend Reservoir to Clear Lake: 3,370 mg/l;

South Fork Spring Creek and Spring Creek from the confluence with Cutler Reservoir to US 89: 1,600 mg/l (March-Sept.) 2,400 mg/l (Oct.-Feb.)

Virgin River from the Utah/Arizona border to Pah Tempe Springs: 2,360 mg/l

(5) Investigations should be conducted to develop more information where these pollution indicator levels are exceeded.

(6) Total Phosphorus as P (mg/l) indicator for lakes and reservoirs shall be 0.025.

(7) Where the criteria are exceeded and there is a reasonable basis for concluding that the indicator bacteria E. coli are primarily from natural sources (wildlife), e.g., in National Wildlife Refuges and State Waterfowl Management Areas, the criteria may be considered attained provided the density attributable to non-wildlife sources is less than the criteria. Exceedences of ~~[bacteriological numeric criteria]~~ E. coli from nonhuman nonpoint sources will generally be addressed through appropriate Federal, State, and local nonpoint source programs.

Measurement of E. coli using the "Quanti-Tray 2000" procedure is approved as a field analysis. Other EPA approved methods may also be used.

For water quality assessment purposes, up to 10% of representative samples may exceed the 668 per 100 ml criterion (for 1C and 2B waters) and 409 per 100 ml (for 2A waters). For small datasets, where exceedences of these criteria are observed, follow-up ambient monitoring should be conducted to better characterize water quality.

TABLE 2.14.2
NUMERIC CRITERIA FOR AQUATIC WILDLIFE

Parameter	Aquatic Wildlife				5
	3A	3B	3C	3D	
PHYSICAL					
Total Dissolved Gases	(1)	(1)			
Minimum Dissolved Oxygen (MG/L) (2)					
30 Day Average	6.5	5.5	5.0	5.0	
7 Day Average	9.5/5.0	6.0/4.0			
1 Day Average	8.0/4.0	5.0/3.0	3.0	3.0	
Minimum	8.0/4.0	5.0/3.0	3.0	3.0	

Max. Temperature(C)(3)	20	27	27		Chlorine (Total Residual)				
Max. Temperature Change (C)(3)	2	4	4		4 Day Average	0.011	0.011	0.011	0.011
pH (Range)	6.5-9.0	6.5-9.0	6.5-9.0	6.5-9.0	1 Hour Average	0.019	0.019	0.019	0.019
Turbidity Increase (NTU)	10	10	15	15	Hydrogen Sulfide (13) (Undissociated, Max. UG/L)	2.0	2.0	2.0	2.0
METALS (4) (DISSOLVED, UG/L) (5)					Phenol (Maximum)	0.01	0.01	0.01	0.01
Aluminum					RADIOLOGICAL (MAXIMUM pCi/L)				
4 Day Average (6)	87	87	87	87	Gross Alpha (10)	15	15	15	15
1 Hour Average	750	750	750	750	ORGANICS (UG/L) (4)				
Arsenic (Trivalent)					Aldrin				
4 Day Average	150	150	150	150	1 Hour Average	1.5	1.5	1.5	1.5
1 Hour Average	340	340	340	340	Chlordane				
Cadmium (7)					4 Day Average	0.0043	0.0043	0.0043	0.0043
4 Day Average	0.25	0.25	0.25	0.25	1 Hour Average	1.2	1.2	1.2	1.2
1 Hour Average	2.0	2.0	2.0	2.0	4,4' -DDT				
Chromium (Hexavalent)					4 Day Average	0.0010	0.0010	0.0010	0.0010
4 Day Average	11	11	11	11	1 Hour Average	0.55	0.55	0.55	0.55
1 Hour Average	16	16	16	16	<u>Diazinon</u>				
Chromium (Trivalent) (7)					4 Day Average	0.17	0.17	0.17	0.17
4 Day Average	74	74	74	74	1 Hour Average	0.17	0.17	0.17	0.17
1 Hour Average	570	570	570	570	Dieldrin				
Copper (7)					4 Day Average	0.056	0.056	0.056	0.056
4 Day Average	9	9	9	9	1 Hour Average	0.24	0.24	0.24	0.24
1 Hour Average	13	13	13	13	Alpha-Endosulfan				
Cyanide (Free)					4 Day Average	0.056	0.056	0.056	0.056
4 Day Average	5.2	5.2	5.2		1 Hour Average	0.11	0.11	0.11	0.11
1 Hour Average	22	22	22	22	beta-Endosulfan				
Iron (Maximum)	1000	1000	1000	1000	4 Day Average	0.056	0.056	0.056	0.056
Lead (7)					1 Day Average	0.11	0.11	0.11	0.11
4 Day Average	2.5	2.5	2.5	2.5	Endrin				
1 Hour Average	65	65	65	65	4 Day Average	0.036	0.036	0.036	0.036
Mercury					1 Hour Average	0.086	0.086	0.086	0.086
4 Day Average	0.012	0.012	0.012	0.012	Heptachlor				
1 Hour Average	2.4	2.4	2.4	2.4	4 Day Average	0.0038	0.0038	0.0038	0.0038
Nickel (7)					1 Hour Average	0.26	0.26	0.26	0.26
4 Day Average	52	52	52	52	Heptachlor epoxide				
1 Hour Average	468	468	468	468	4 Day Average	0.0038	0.0038	0.0038	0.0038
Selenium					1 Hour Average	0.26	0.26	0.26	0.26
4 Day Average	4.6	4.6	4.6	4.6	Hexachlorocyclohexane (Lindane)				
1 Hour Average	18.4	18.4	18.4	18.4	4 Day Average	0.08	0.08	0.08	0.08
<u>Selenium (14)</u>					1 Hour Average	1.0	1.0	1.0	1.0
<u>Gilbert Bay (Class 5A)</u>					Methoxychlor (Maximum)	0.03	0.03	0.03	0.03
<u>Great Salt Lake</u>					Mirex (Maximum)	0.001	0.001	0.001	0.001
<u>Geometric Mean over Nesting Season (mg/kg dry wt)</u>				12.5	<u>Nonylphenol</u>				
Silver					4 Day Average	6.6	6.6	6.6	6.6
1 Hour Average (7)	1.6	1.6	1.6	1.6	1 Hour Average	28.0	28.0	28.0	28.0
Zinc (7)					Parathion				
4 Day Average	120	120	120	120	4 Day Average	0.013	0.013	0.013	0.013
1 Hour Average	120	120	120	120	1 Hour Average	0.066	0.066	0.066	0.066
INORGANICS (MG/L) (4)					PCB's				
Total Ammonia as N (9)					4 Day Average	0.014	0.014	0.014	0.014
30 Day Average	(9a)	(9a)	(9a)	(9a)	Pentachlorophenol (11)				
1 Hour Average	(9b)	(9b)	(9b)	(9b)	4 Day Average	15	15	15	15
					1 Hour Average	19	19	19	19

Toxaphene				
4 Day Average	0.0002	0.0002	0.0002	0.0002
1 Hour Average	0.73	0.73	0.73	0.73

POLLUTION INDICATORS (11)				
Gross Beta (pCi/L)	50	50	50	50
BOD (MG/L)	5	5	5	5
Nitrate as N (MG/L)	4	4	4	
Total Phosphorus as P (MG/L) (12)	0.05	0.05		

FOOTNOTES:

- (1) Not to exceed 110% of saturation.
- (2) These limits are not applicable to lower water levels in deep impoundments. First number in column is for when early life stages are present, second number is for when all other life stages present.
- (3) The temperature standard shall be at background where it can be shown that natural or un-alterable conditions prevent its attainment. In such cases rulemaking will be undertaken to modify the standard accordingly.
Site Specific Standards for Temperature
Ken's Lake: From June 1st - September 20th, 27 degrees C.
- (4) Where criteria are listed as 4-day average and 1-hour average concentrations, these concentrations should not be exceeded more often than once every three years on the average.
- (5) The dissolved metals method involves filtration of the sample in the field, acidification of the sample in the field, no digestion process in the laboratory, and analysis by [~~atomic absorption spectrophotometry or inductively coupled plasma (ICP)-~~] EPA approved laboratory methods for the required detection levels.
- (6) The criterion for aluminum will be implemented as follows: Where the pH is equal to or greater than 7.0 and the hardness is equal to or greater than 50 ppm as CaCO3 in the receiving water after mixing, the 87 ug/l chronic criterion (expressed as total recoverable) will not apply, and aluminum will be regulated based on compliance with the 750 ug/l acute aluminum criterion (expressed as total recoverable).
- (7) Hardness dependent criteria. 100 mg/l used. Conversion factors for ratio of total recoverable metals to dissolved metals must also be applied. In waters with a hardness greater than 400 mg/l as CaCO3, calculations will assume a hardness of 400 mg/l as CaCO3. See Table 2.14.3 for complete equations for hardness and conversion factors.
- (8) Reserved
- (9) The following equations are used to calculate Ammonia criteria concentrations:
(9a) The thirty-day average concentration of total ammonia nitrogen (in mg/l as N) does not exceed, more than once every three years on the average, the chronic criterion calculated using the following equations.
Fish Early Life Stages are Present:
 $mg/l \text{ as N (Chronic)} = ((0.0577/1+10^{7.688-pH}) + (2.487/1+10^{pH-7.688}))$
* MIN (2.85, $1.45 \times 10^{0.028 * (25-1)}$)
Fish Early Life Stages are Absent:
 $mg/l \text{ as N (Chronic)} = ((0.0577/1+10^{7.688-pH}) + (2.487/1+10^{pH-7.688}))$
* $1.45 \times 10^{0.028 * (25-\text{MAX}(1,7))}$
(9b) The one-hour average concentration of total ammonia nitrogen (in mg/l as N) does not exceed, more than once every three years on the average the acute criterion calculated using the following equations.
Class 3A:
 $mg/l \text{ as N (Acute)} = (0.275/(1+10^{7.204-pH})) + (39.0/1+10^{pH-7.204})$
Class 3B, 3C, 3D:
 $mg/l \text{ as N (Acute)} = 0.411/(1+10^{7.204-pH}) + (58.4/(1+10^{pH-7.204}))$
In addition, the highest four-day average within the 30-day period should not exceed 2.5 times the chronic criterion. The "Fish Early Life Stages are Present" 30-day average total ammonia criterion will be applied by default unless it is determined by the Division, on a site-specific basis, that it is appropriate to apply the "Fish Early Life Stages are Absent" 30-day average criterion for all or some portion of the year. At a minimum, the "Fish Early Life Stages are Present" criterion will apply from the beginning of spawning

through the end of the early life stages. Early life stages include the pre-hatch embryonic stage, the post-hatch free embryo or yolk-sac fry stage, and the larval stage for the species of fish expected to occur at the site. The division will consult with the Division of Wildlife Resources in making such determinations. The Division will maintain information regarding the waterbodies and time periods where application of the "Early Life Stages are Absent" criterion is determined to be appropriate.

(10) Investigation should be conducted to develop more information where these levels are exceeded.

(11) pH dependent criteria. pH 7.8 used in table. See Table 2.14.4 for equation.

(12) Total Phosphorus as P (mg/l) as a pollution indicator for lakes and reservoirs shall be 0.025.

(13) Formula to convert dissolved sulfide to un-dissociated hydrogen sulfide is: $H_2S = \text{Dissolved Sulfide} * e^{(-1.92 + pH) + 12.05}$

(14) The selenium water quality standard of 12.5 (mg/kg dry weight) for Gilbert Bay is a tissue based standard using the complete egg/embryo based upon a minimum of five samples over the nesting season. Assessment procedures are incorporated as a part of this standards as follows:

g	Sampling	Egg	Response
			Concentration
			(% of
			Standard)

Water column, Eggs mg/kg
Brine Shrimp,
and Brine
Shrimp Eggs

<u>4 Locations</u>	<u>1 Location</u>	<u>Up to 40%</u>	<u>None</u>
<u>prior to</u>	<u>for 1</u>		
<u>nesting</u>	<u>Species</u>		
<u>season</u>			

<u>4 Locations</u>	<u>2 Locations</u>	<u>40%</u>	<u>Level II</u>
<u>With</u>	<u>for 1</u>		<u>Antidegradation Review</u>
<u>Quarterly</u>	<u>Species</u>		<u>required for all new</u>
<u>Frequency</u>			<u>permits and renewals</u>

<u>8 Locations</u>	<u>2 Locations</u>	<u>60%</u>	<u>Implementation of</u>
<u>With</u>	<u>for 2</u>		<u>annual selenium</u>
<u>Quarterly</u>	<u>Species</u>		<u>loading caps of GSL</u>
<u>Frequency</u>			<u>permits</u>

<u>8 Locations</u>	<u>3 Locations</u>	<u>80%</u>	<u>Preliminary studies of</u>
<u>With</u>	<u>for 2</u>		<u>load reductions</u>
<u>Quarterly</u>	<u>Species;</u>		
<u>Frequency</u>	<u>Hatchability</u>		
	<u>on 2</u>		
	<u>species</u>		

		<u>100%</u>	<u>Impairment: TMDL</u>
			<u>required</u>

Additional assessment procedures associated with this standard are referenced at R317-2-7.1 Application of Standards. Antidegradation Level II Review procedures associated with this standard are referenced at R317-2-3.5.C

TABLE
1-HOUR AVERAGE (ACUTE) CONCENTRATION OF
TOTAL AMMONIA AS N (MG/L)

pH	Class 3A	Class 3B, 3C, 3D
6.5	32.6	48.8
6.6	31.3	46.8
6.7	29.8	44.6
6.8	28.1	42.0
6.9	26.2	39.1

7.0	24.1	36.1
7.1	22.0	32.8
7.2	19.7	29.5
7.3	17.5	26.2
7.4	15.4	23.0
7.5	13.3	19.9
7.6	11.4	17.0
7.7	9.65	14.4
7.8	8.11	12.1
7.9	6.77	10.1
8.0	5.62	8.40
8.1	4.64	6.95
8.2	3.83	5.72
8.3	3.15	4.71
8.4	2.59	3.88
8.5	2.14	3.20
8.6	1.77	2.65
8.7	1.47	2.20
8.8	1.23	1.84
8.9	1.04	1.56
9.0	0.89	1.32

.....

TABLE 2.14.5
SITE SPECIFIC CRITERIA FOR
DISSOLVED OXYGEN FOR JORDAN RIVER, ~~AND~~ SURPLUS CANAL, ~~SEGMENTS~~ AND
STATE CANAL
(SEE SECTION 2.13)

DISSOLVED OXYGEN:

May-July	
7-day average	5.5 mg/l
30-day average	5.5 mg/l
Instantaneous minimum	4.5 mg/l
August-April	
30-day average	5.5 mg/l
Instantaneous minimum	4.0 mg/l

.....

KEY: water pollution, water quality standards
Date of Enactment or Last Substantive Amendment: ~~June 1, 2005~~ 2008
Notice of Continuation: October 2, 2007
Authorizing, and Implemented or Interpreted Law: 19-5



Health, Health Care Financing,
 Coverage and Reimbursement Policy
R414-54
 Speech-Language Pathology Services

NOTICE OF PROPOSED RULE
 (Repeal and Reenact)
 DAR FILE No.: 31644
 FILED: 07/01/2008, 09:36

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to repeal and reenact Rule R414-54

to clarify speech-language pathology services for Medicaid recipients.

SUMMARY OF THE RULE OR CHANGE: The reenacted rule clarifies that speech-language pathology services are optional and refers Medicaid recipients to the Speech-Language Pathology Services Provider Manual for a complete list of service criteria. The previous rule only lists in general terms some of the services and criteria for speech-language pathology services. In addition, the new rule refers providers and recipients to the State Plan for reimbursement information.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-1-5 and 26-18-3

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: No significant impact to the state budget is expected. The rule clarifies ongoing Medicaid policy for speech-language pathology services. The majority of Medicaid recipients will receive the same services under this rule. On balance it is expected to be budget neutral.
- ❖ LOCAL GOVERNMENTS: There is no budget impact because local governments do not fund or provide speech-language-pathology hearing services to Medicaid recipients.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: No significant impact to business is expected. The rule clarifies ongoing Medicaid policy for speech-language pathology services. The majority of Medicaid recipients will receive the same services under this rule. Providers and recipients should find it easier to determine what is available.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this change only clarifies ongoing Medicaid policy for speech-language pathology services.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Speech-Language Pathology Services are an optional service in Medicaid. This rule should make it easier for providers and recipients to know what services are authorized and may have a small positive fiscal impact on business. The current level of authorized funding in this category should not change as a result of this rule. A. Richard Melton, Acting Executive Director

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/14/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2008

AUTHORIZED BY: Richard Melton, Deputy Director

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

R414-54. Speech-Language Pathology Services.

R414-54-1. Introduction and Authority.

— (1) The Speech-Language Pathology Program provides speech-language services to meet the basic speech-language pathology needs of Medicaid clients.

— (2) Speech-language pathology services are described in 42 CFR, subsection 440.110(e)(1)(2), October 1997 edition, which is adopted and incorporated by reference.

R414-54-2. Definitions.

— (1) The definitions in the Speech-Language Pathology and Audiology Licensing Act, Title 58, Chapter 41, apply to this rule.

— (2) In addition, "Client", "Categorically Needy", and "Medically Needy" have the same meanings as defined in R414-1.

R414-54-3. Client Eligibility Requirements.

— Speech-language pathology services are available to Categorically Needy and Medically Needy individuals.

R414-54-4. Program Access Requirements.

— A physician must refer clients to a speech-language pathologist before any service may be provided.

R414-54-5. Service Coverage.

— (1) Speech-language services for individuals or groups with speech or language disorders or dysphagia include: evaluative, diagnostic, screening, treatment, preventive, and corrective processes. Only speech-language pathologists, or speech-language pathology aides under supervision of speech-language pathologists, may provide these services.

— (2) All services must be related to a medical need. Treatments for social, educational, and developmental needs, while important to the individual, are not covered services.

— (3) Only speech-language pathologists may bill for reimbursable services.

R414-54-6. Reimbursement.

— (1) The Department pays for speech and language pathology services according to an established fees schedule, based on CPT codes as described in the State Plan, Attachment 4.19-B. Fee schedules were initially established after consultation with provider representatives. Adjustments to the schedule are made in accordance with appropriations and to produce efficient and effective services.

— (2) The Department pays the lower of the amount billed and the rate on the schedule. A provider shall not charge the Department a fee that exceeds the provider's usual and customary charges for the provider's private-pay patients.]

R414-54-1. Introduction and Authority.

— (1) This rule governs the provision of speech-language pathology services.

— (2) This rule is authorized by Sections 26-18-3 and 26-18-5.

— (3) As required by Section 26-18-3, the Department provides these services in an efficient, economical manner, safeguarding against unnecessary, unreasonable, or inappropriate use of these services.

R414-54-2. Definitions.

— (1) The definitions in the Speech-Language Pathology and Audiology Licensing Act, Title 58, Chapter 41, apply to this rule.

R414-54-3. Services.

— (1) Speech-language pathology services are optional.

— (2) Speech-language pathology services are limited to services described in the Speech-Language Pathology Services Provider Manual.

— (3) The Speech-Language Pathology Services Provider Manual specifies the reasonable and appropriate amount, duration, and scope of the service sufficient to reasonably achieve its purpose.

— (4) Speech-language pathology services may be provided by licensed speech-language pathologists, or speech-language pathology aides under the supervision of speech-language pathologists.

R414-54-4. Services for Individuals Eligible for Optional Services.

— (1) An individual receiving speech-language pathology services may receive speech-language pathology services as described in the Speech-Language Pathology Provider Manual.

— (2) An individual receiving speech-language pathology services must meet the criteria established in the Speech-Language Pathology Provider Manual and obtain prior approval if required.

R414-54-5. Reimbursement.

— Speech-language pathology services are reimbursed using the fee schedule in the Utah Medicaid State Plan and incorporated by reference in R414-1-5.

KEY: Medicaid, speech-language pathology services

Date of Enactment or Last Substantive Amendment: [~~October 25, 2004~~2008

Notice of Continuation: March 23, 2004

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



Health, Health Care Financing, Coverage and Reimbursement Policy

R414-59

Audiology-Hearing Services

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 31645

FILED: 07/01/2008, 09:43

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to repeal and reenact Rule R414-59 to clarify audiology-hearing services for Medicaid recipients.

SUMMARY OF THE RULE OR CHANGE: The reenacted rule clarifies that audiology-hearing services are optional and refers Medicaid recipients to the Audiology Provider Manual for a complete list of service criteria. The previous rule only lists in general terms some of the services and criteria for audiology-hearing services. In addition, the new rule adds a reimbursement section that refers providers and recipients to the State Plan for reimbursement information.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-1-5 and 26-18-3

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** No significant impact to the state budget is expected. The rule clarifies ongoing Medicaid policy for audiology-hearing services. The majority of Medicaid recipients will receive the same services under this rule. On balance it is expected to be budget neutral.

❖ **LOCAL GOVERNMENTS:** There is no budget impact because local governments do not fund or provide audiology-hearing services to Medicaid clients.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** No significant impact to business is expected. The rule clarifies ongoing Medicaid policy for audiology-hearing services. The majority of Medicaid recipients will receive the same services under this rule. Providers and recipients should find it easier to determine what is available.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this change only clarifies ongoing Medicaid policy for audiology-hearing services.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Audiology-Hearing Services are an optional service in Medicaid. This rule should make it easier for providers and recipients to know what services are authorized and may have a small positive fiscal impact on business. The current level of authorized funding in this category should not change as a result of this rule. A. Richard Melton, Acting Executive Director

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/14/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2008

AUTHORIZED BY: Richard Melton, Deputy Director

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

R414-59. Audiology-Hearing Services.

~~R414-59-1. Introduction and Authority.~~

~~—(1) The Audiology Hearing Program provides audiology and hearing services to meet the basic audiology and hearing needs of Medicaid clients.~~

~~—(2) Audiology hearing services are authorized by 42 CFR, Subsection 440.110(e)(1)(2), October 1994 edition, which is adopted and incorporated by reference.~~

~~R414-59-2. Definitions.~~

~~—(1) The definitions in the Speech-language Pathology and Audiology Licensing Act, Title 58, Chapter 41, apply to this rule.~~

~~—(2) In addition, "Client," "Categorically Needy," "Medically Needy," and "Provider" have the same meanings as defined in R414-1-1.~~

~~R414-59-3. Client Eligibility Requirements.~~

~~—Audiology hearing services are available to Categorically Needy and Medically Needy individuals.~~

~~R414-59-4. Program Access Requirements.~~

~~—(1) A physician provider must refer a client for audiology hearing services before the client can receive these services.~~

~~—(2) The referral form must state that the medical examination determined that the conditions causing the hearing loss are not medically correctable. It must also state that conditions medically treatable were identified and treated prior to this referral.~~

~~—(3) The referral form must also state that there is no medical reason, dysfunction, or hearing impairment that would preclude the use of a hearing aid.~~

~~R414-59-5. Service Coverage.~~

~~—(1) A provider may provide audiology hearing services for a client, including: testing, examination, evaluation, recommendations, hearing aid evaluation, prescription for a hearing aid, ear mold, fitting, orientation, and follow-up. Audiological habilitation includes, but is not limited to, speech, hearing, and gestural communications. All services must be related to medical need. Treatments for social, educational, and developmental needs, while important to the individual, are not covered services.~~

~~—(2) Only a licensed audiologist may perform audiology examinations and hearing aid assessments.~~

~~—(3) Hearing aids are a covered service when hearing loss criteria are met, as outlined in the provider manual.~~

~~—(4) Either an audiologist or a hearing aid supplier may provide hearing aids. All requests for hearing aids must include the results of audiology examinations performed by a licensed audiologist.~~

—(5) Medicaid shall not reimburse an audiologist or a hearing aid supplier for hearing aids that are not guaranteed by the manufacturer for at least one year.]

R414-59-1. Introduction and Authority.

(1) This rule governs the provision of audiology-hearing services.

(2) This rule is authorized by Sections 26-18-3 and 26-1-5.

(3) As required by Section 26-18-3, the Department provides these services in an efficient, economical manner, safeguarding against unnecessary, unreasonable, or inappropriate use of these services.

R414-59-2. Definitions.

(1) The definitions in the Speech-Language Pathology and Audiology Licensing Act, Title 58, Chapter 41, apply to this rule.

R414-59-3. Services.

(1) Audiology-hearing services are optional services.

(2) Audiology-hearing services are limited to services described in the Audiology Services Provider Manual.

(3) The Audiology Services Provider Manual specifies the reasonable and appropriate amount, duration, and scope of the service sufficient to reasonably achieve its purpose.

(4) Audiology-hearing services may be provided to an individual only after being referred by a physician. All audiology-hearing services must be provided by a licensed audiologist.

R414-59-4. Services for Individuals Eligible for Optional Services.

(1) An individual receiving audiology-hearing services may receive audiology services as described in the Audiology Provider Manual.

(2) An individual receiving audiology-hearing services must meet the criteria established in the Audiology Provider Manual and obtain prior approval if required.

R414-59-5. Reimbursement.

Audiology services are reimbursed using the fee schedule in the Utah Medicaid State Plan and incorporated by reference in R414-1-5.

KEY: [m]Medicaid, audiology

Date of Enactment or Last Substantive Amendment: [January 24, 1996]2008

Notice of Continuation: November 22, 2005

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



Health, Health Care Financing,
Coverage and Reimbursement Policy

R414-304

Income and Budgeting

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31622

FILED: 06/25/2008, 13:11

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Federal regulators recently clarified that they will allow states to exclude earned income paid by the United States (U.S.) Census Bureau, for temporary census takers to all categories of Medicaid eligible individuals. This will eliminate a small spenddown requirement that occurs only once every 10 years and costs more to administer than is generated from the requirement.

SUMMARY OF THE RULE OR CHANGE: This amendment expands the exclusion of income paid to temporary census takers to include medically needy individuals. Temporary census takers work for a few months during the census, which is done one time each 10 years.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-18-3 and Section 1902(r)(2) of the Social Security Act

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Department estimates an overall cost of \$31,350 due to a loss in the amount the state might otherwise collect in spenddown amounts based on an estimate of about 35 recipients who may have earned income as a temporary census worker. This would occur during late 2009 and early 2010. This small cost is offset by a much larger expense that the Department would incur to program data systems to deal with this spenddown.

❖ **LOCAL GOVERNMENTS:** This change does not impact local governments as they do not determine eligibility nor receive monies collected as spenddowns from Medicaid recipients.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** This change does not impact small businesses because they do not receive funds collected as spenddowns. The impact on Medicaid clients is that their spenddowns will not increase if they choose to work as temporary census workers. The estimated aggregate savings for Medicaid clients is \$31,500.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this change does not require an individual to pay more for Medicaid coverage.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Recent federal interpretations permit Utah Medicaid the option of excluding this nominal source of income that occurs only once every 10 years when a census is taken. This change will have no negative fiscal impact on businesses that serve Medicaid recipients. David N. Sundwall, MD, Executive Director

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:

Kimi McNutt at the above address, by phone at 801-538-6381, by FAX at 801-538-6099, or by Internet E-mail at KMCNUTT@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 08/14/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 09/01/2008

AUTHORIZED BY: David N. Sundwall, Executive Director

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

R414-304. Income and Budgeting.

R414-304-5. A, B and D Medicaid and A, B and D Institutional Medicaid Earned Income Provisions.

(1) The Department adopts 42 CFR 435.725, 435.726, 435.811 through 435.832, 2001 ed., and 20 CFR 416.1110 through 416.1112, 2002 ed., which are incorporated by reference. The department adopts Subsection 1612(b)(4)(A) and (B) of the Compilation of the Social Security Laws, in effect January 1, 2001, which is incorporated by reference.

(2) If an SSI recipient has a plan for achieving self-support approved by the Social Security Administration, the Department shall not count income set aside in the plan that allows the individual to purchase work-related equipment or meet self support goals. This income shall be excluded and may include earned and unearned income.

(3) Expenses relating to the fulfillment of a plan to achieve self-support shall not be allowed as deductions from income.

(4) For A, B and D Medicaid, earned income used to compute a needs-based grant is not countable.

(5) For A, B and D Institutional Medicaid, \$125 shall be deducted from earned income before contribution towards cost of care is determined.

(6) For A, B and D Institutional Medicaid impairment-related work expenses shall be allowed as an earned income deduction.

(7) Capital gains shall be included in the gross income from self-employment.

(8) To determine countable net income from self-employment, the state shall allow a 40 percent flat rate exclusion off the gross self-employment income as a deduction for business expenses. For self-employed individuals who have actual allowable business expenses greater than the 40 percent flat rate exclusion amount, if the individual provides verification of the actual expenses, the self-employment net profit amount will be calculated using the same deductions that are allowed under federal income tax rules.

(9) No deductions shall be allowed for the following business expenses:

- (a) transportation to and from work;
- (b) payments on the principal for business resources;
- (c) net losses from previous tax years;
- (d) taxes;
- (e) money set aside for retirement;
- (f) work-related personal expenses.

(10) Net losses of self-employment from the current tax year may be deducted from other earned income.

(11) The Department disregards [E] earned income paid by the U.S. Census Bureau to temporary census takers to prepare for and conduct the census, [shall be excluded for any A, B, or D category programs that use a percentage of the federal poverty guideline as an eligibility income limit] for individuals defined in 42 CFR 435.120, 435.122, 435.130 through 435.135, 435.137, 435.138, 435.139, 435.211, 435.301, 435.320, 435.322, 435.324, 435.340, 435.350 and 435.541. This income is also excluded for individuals described in 1634(b), (c) and (d), 1902(a)(10)(A)(i)(II), 1902(a)(10)(A)(ii)(X), 1902(a)(10)(A)(ii)(XII), 1902(a)(10)(A)(ii)(XIII), 1902(a)(10)(A)(ii)(XVIII), and 1902(a)(10)(E)(i) through (iv)(I) of Title XIX of the Social Security Act. The Department does not exclude earnings paid to temporary census takers from the post-eligibility process of determining the person's cost-of-care contribution for long-term care recipients.

(12) Deductions from earned income such as insurance premiums, savings, garnishments or deferred income is counted in the month when it could have been received.

R414-304-6. Family Medicaid and Family Institutional Medicaid Earned Income Provisions.

This section provides eligibility criteria governing earned income for the determination of eligibility for Family Medicaid and Institutional Family Medicaid coverage groups.

(1) The Department adopts 42 CFR 435.725, 435.726, 435.811 through 435.832, 2001 ed. and 45 CFR 233.20(a)(6)(iii) through (iv), 233.20(a)(6)(v)(B), 233.20(a)(6)(vi) through (vii), and 233.20(a)(11), 2003 ed., which are incorporated by reference.

(2) The following definitions apply to this section:

(a) "Full-time student" means a person enrolled for the number of hours defined by the particular institution as fulfilling full-time requirements.

(b) "Part-time student" means a person who is enrolled for at least one-half the number of hours or periods considered by the institution to be customary to complete the course of study within the minimum time-period. If no schedule is set by the school, the course of study must be no less than an average of two class periods or two hours a day, whichever is less.

(c) "School attendance" means enrollment in a public or private elementary or secondary school, a university or college, vocational or technical school or the Job Corps, for the express purpose of gaining skills that lead to gainful employment.

(d) "Full-time employment" means an average of 100 or more hours of work a month or an average of 23 hours a week.

(e) "Aid to Families with Dependent Children" (AFDC) means a state plan for aid that was in effect on June 16, 1996.

(f) "1931 Family Medicaid" is Medicaid coverage required by Subsection 1931(a), (b), and (g) of the Compilation of Social Security Laws.

(3) The income of a dependent child is not countable income if the child is:

(a) in school or training full-time;

(b) in school or training part-time, if employed less than 100 hours a month;

(c) in a job placement under the federal Workforce ~~Information~~ Investment Act (WIA).

(4) For Family Medicaid, the AFDC \$30 and 1/3 of earned income deduction is allowed if the wage earner has received 1931 Family Medicaid in one of the four previous months and this disregard has not been exhausted.

(5) The Department determines countable net income from self-employment by allowing a 40 percent flat rate exclusion off the gross self-employment income as a deduction for business expenses. If a self-employed individual provides verification of actual business expenses greater than the 40 percent flat rate exclusion amount, the Department allows actual expenses to be deducted. The expenses must be business expenses allowed under federal income tax rules.

(6) Items such as personal business and entertainment expenses, personal transportation, purchase of capital equipment, and payments on the principal of loans for capital assets or durable goods, are not business expenses.

(7) For Family Medicaid, the Department shall deduct child-care costs, and the costs of providing care for an incapacitated adult who is included in the Medicaid household size, from the earned income of clients working 100 hours or more in a calendar month. A maximum of up to \$200.00 per month per child under age 2 and \$175.00 per month per child age 2 and older or incapacitated adult, may be deducted. A maximum of up to \$160.00 per month per child under age 2 and \$140.00 per month per child age 2 and older or incapacitated adult, may be deducted from the earned income of clients working less than 100 hours in a calendar month.

(8) For Family Institutional Medicaid, the Department shall deduct child-care costs from the earned income of clients working 100 hours or more in a calendar month. A maximum of up to \$160 a month per child may be deducted. A maximum of up to \$130 a month is deducted from the earned income of clients working less than 100 hours in a calendar month.

(9) The Department excludes [E]earned income paid by the U.S. Census Bureau to temporary census takers to prepare for and conduct the census, [is excluded for any family Medicaid programs that use a percentage of the federal poverty guideline as an eligibility income limit, and for determining eligibility for 1931 Family Medicaid.] for individuals defined in 42 CFR 435.110, 435.112 through 435.117, 435.119, 435.210 for groups defined under 201(a)(5) and (6), 435.211, 435.222, 435.223, and 435.300 through 435.310 and individuals defined in Title XIX of the Social Security Act Sections 1902(a)(10)(A)(i)(III), (IV), (VI), (VII), 1902(a)(10)(A)(ii)(XVII), 1902(a)(47), 1902(e)(1), (4), (5), (6), (7), and 1931(b) and (c), 1925 and 1902(l). The Department does not exclude earnings paid to temporary census takers from the post-eligibility process of determining the person's cost-of-care contribution for long-term care recipients.

(10) Under 1931 Family Medicaid, for households that pass the 185% gross income test, if net income does not exceed the applicable BMS, the household is eligible for 1931 Family Medicaid. No health insurance premiums or medical bills are deducted from gross income to determine net income for 1931 Family Medicaid.

(11) For Family Medicaid recipients who otherwise meet 1931 Family Medicaid criteria, who lose eligibility because of earned income that does not exceed 185% of the federal poverty guideline, the state shall disregard earned income of the specified relative for six months to determine eligibility for 1931 Family Medicaid. Before the end of the sixth month, the state shall conduct a review of the household's earned income. If the earned income exceeds 185% of the federal poverty guideline, the household is eligible to receive Transitional Medicaid following the provisions of R414-303 as long as it meets all other criteria.

(12) After the first six months of disregarding earned income, if the average monthly earned income of the household does not

exceed 185% of the federal poverty guideline for a household of the same size, the state shall continue to disregard earned income for an additional six months to determine eligibility for 1931 Family Medicaid. In the twelfth month of receiving such income disregard, if the household continues to have earned income, the household is eligible to receive Transitional Medicaid following the provisions of R414-303 as long as it meets all other criteria.

KEY: financial disclosures, income, budgeting

Date of Enactment or Last Substantive Amendment: [January 28], 2008

Notice of Continuation: January 25, 2008

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



Human Resource Management,
Administration
R477-14
Substance Abuse and Drug-Free
Workplace

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31621

FILED: 06/25/2008, 08:37

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These amendments replace current language with language found in the Utah Code. Nonsubstantive changes are also made to comply with rulemaking style.

SUMMARY OF THE RULE OR CHANGE: In Subsections R477-14-1(6) through R477-14-1(13), the term "safety sensitive" is replaced with "highly sensitive".

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 67-19-6, 67-19-18, 67-19-34, 67-19-37, and 67-19-38

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There is no impact to the state budget as these amendments merely clarify intent and remove unnecessary language.

❖ **LOCAL GOVERNMENTS:** This rule only affects the executive branch of state government and will have no impact on local governments.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** This rule only affects the executive branch of state government and will have no impact on other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule only affects agencies of the executive branch of state government.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by the Department of Human Resource Management (DHRM) have

no direct effect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by the Utah Personnel Management Act, Title 67, Chapter 19. This act limits the provisions of career service and these rules to employees of the executive branch of state government. The only possible impact may be a very slight, indirect effect if an agency passes costs or savings on to business through fees. However, it is anticipated that the minimal costs associated with these changes will be absorbed by agency budgets and will have no effect on business. Jeff Herring, Executive Director

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

HUMAN RESOURCE MANAGEMENT
ADMINISTRATION
Room 2120 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

J.J. Acker at the above address, by phone at 801-537-9096, by FAX at 801-538-3081, or by Internet E-mail at jacker@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 08/14/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2008

AUTHORIZED BY: Jeff Herring, Executive Director

R477. Human Resource Management, Administration.

R477-14. Substance Abuse and Drug-Free Workplace.

R477-14-1. Rules Governing a Drug-Free Workplace.

(1) This rule implements the federal Drug-Free Workplace Act of 1988, Omnibus Transportation Employee Testing Act of 1991, 49 USC 2505; 49 USC 2701; and 49 USC 3102, and Section 67-19-36 authorizing drug and alcohol testing, in order to:

(a) Provide a safe and productive work environment that is free from the effect of unlawful use, distribution, dispensing, manufacture, and possession of controlled substances or alcohol use during work hours. See the Federal Controlled Substance Act, 41 USC 701.

(b) Identify, correct and remove the effects of drug and alcohol abuse on job performance.

(c) Assure the protection and safety of employees and the public.

(2) State employees may not unlawfully manufacture, dispense, possess, distribute or use any controlled substance or alcohol during working hours, on state property, or while operating a state vehicle at any time, or other vehicle while on duty except where legally permissible.

(a) Employees shall follow Subsection R477-14-1(2) outside of work if any violations directly affect the eligibility of state agencies to receive federal grants or to qualify for federal contracts of \$25,000 or more.

(3) All drug or alcohol testing shall be done in compliance with applicable federal and state regulations and policies.

(4) All drug or alcohol testing shall be conducted by a federally certified or licensed physician or clinic, or testing service approved by DHRM.

(5) Drug or alcohol tests with positive results or a possible false positive result shall require a confirmation test.

(6) Employees in non [safety]highly sensitive positions are subject to one or more of the following drug or alcohol tests:

- (a) reasonable suspicion;
- (b) critical incident;
- (c) post accident;
- (d) return to duty;
- (e) follow up.

(7) For employees in non [safety]highly sensitive positions, the State of Utah will use the same cut off levels for positive drug tests as the federal government. This rule incorporates by reference the requirements of 49 CFR 40.40, Sections 85 to 87 (2002), Laboratory Analysis Procedures.

(8) For employees in non [safety]highly sensitive positions, the State of Utah will use a blood alcohol concentration level of .08 as the cut off for a positive alcohol test.

(9) Employees who hold [safety]highly sensitive positions, are final candidates for, are transferred to, or are assigned the duties of a [safety]highly sensitive position, and final applicants for [safety]highly sensitive positions are subject to one or more of the following drug or alcohol tests:

- (a) reasonable suspicion;
- (b) critical incident;
- (c) post accident;
- (d) return to duty;
- (e) follow up;
- (f) preemployment;
- (g) random.

(10) For employees in [safety]highly sensitive positions, the State of Utah will use the same cutoff levels for positive drug and alcohol tests as the federal government. This rule incorporates by reference the requirements of 49 CFR 40.40, Sections 85 to 87 (2002), Laboratory Analysis Procedures, 49 CFR 382.107 (2002), Definitions, 49 CFR 382.201 (2002), Alcohol Concentration and 49 CFR 382.505 (2002), Other Alcohol Related Conduct.

(11) Employees in [safety]highly sensitive positions, as approved by DHRM, are subject to random drug or alcohol testing without justification of reasonable suspicion or critical incident. Except when required by federal regulation or state policy, random drug or alcohol testing of employees in [safety]highly sensitive positions shall be conducted at the discretion of the employing agency.

(12) Employees in [safety]highly sensitive positions whose confirmation test for alcohol results are .02 or greater, when tested before, during, or immediately after performing [safety]highly sensitive functions, must be removed from performing [safety]highly sensitive duties for 8 hours, or until another test is administered and the result is less than .02.

(13) Employees in [safety]highly sensitive positions whose confirmation test for alcohol results are .04 or greater when tested before, during or after performing [safety]highly sensitive duties, may be subject to corrective action or discipline.

(14) Agencies with employees in positions requiring a commercial driver license shall administer testing and prohibition requirements and conduct training on these requirements as outlined in the current DHRM Drug and Alcohol Testing Manual.

(15) Management may take disciplinary action if:

- (a) there is a positive confirmation test for controlled substances;

(b) results of a confirmation test for alcohol meet or exceed the established alcohol concentration cutoff level;

(c) management determines an employee is unable to perform his assigned job tasks, even when the results of a confirmation test for alcohol shows less than the established alcohol concentration cutoff level.

(16) The agency[~~s~~] human resource field office or authorized official shall keep a separate, private record of drug or alcohol test results. The employee's official personnel file shall only contain a document making reference to the existence of the drug or alcohol test record.

R477-14-2. Management Action.

(1) [~~Pursuant to~~] Under Rules R477-10, R477-11 and Section R477-14-2, supervisors and managers who receive notice of a workplace violation of these rules shall take immediate action.

(2) Management may take disciplinary action which may include dismissal.

(3) An employee who refuses to submit to drug or alcohol testing may be subject to disciplinary action which may include dismissal. See Section 67-19-33.

(4) An employee who substitutes, adulterates, or otherwise tampers with a drug or alcohol testing sample, or attempts to do so, is subject to disciplinary action which may include dismissal.

(5) Management may also take disciplinary action against employees who manufacture, dispense, possess, use, sell or distribute controlled substances or use alcohol, per Rule R477-11, under the following conditions:

(a) if the employee's action directly affects the eligibility of the agency to receive grants or contracts in excess of \$25,000.00;

(b) if the employee's action puts employees, clients, customers, patients or co-workers at physical risk.

(6) An employee who has a confirmed positive test for use of a controlled substance or alcohol in violation of these rules may be required to participate, at his expense, in a rehabilitation program, [~~as provided for in~~] under Subsection 67-19-38(3). If this is required, the following shall apply:

(a) An employee participating in a rehabilitation program shall be granted accrued leave or leave without pay for inpatient treatment.

(b) The employee must sign a release to allow the transmittal of verbal or written compliance reports between the state agency and the inpatient or outpatient rehabilitation program provider.

(c) All communication shall be classified as private in accordance with Title 63, Chapter 2.

(d) An employee may be required to continue participation in an outpatient rehabilitation program prescribed by a licensed practitioner on the employee's own time and expense.

(e) An employee, upon successful completion of a rehabilitation program shall be reinstated to work in his previously held position, or a position with a comparable or lower salary range.

(7) An employee who fails to complete the prescribed treatment without a valid reason shall be subject to disciplinary action.

(8) An employee who has a confirmed positive test for use of a controlled substance or alcohol is subject to follow up testing.

(9) An employee who is convicted for a violation occurring in the workplace, under federal or state criminal statute which regulates manufacturing, distributing, dispensing, possessing, selling or using a controlled substance, shall notify the agency head of the conviction no later than five calendar days after the conviction.

(a) The agency head shall notify the federal grantor or agency for which a contract is being performed within ten calendar days of receiving notice from:

(i) the judicial system;

(ii) other sources;

(iii) an employee performing work under the grant or contract who has been convicted of a controlled substance violation in the workplace.

R477-14-4. Policy Exceptions.

The Executive Director, DHRM, may authorize exceptions to [~~the provisions of~~] this rule consistent with Subsection R477-2-2(1).

KEY: personnel management, drug/alcohol education, drug abuse, discipline of employees

Date of Enactment or Last Substantive Amendment: ~~July 1, 2006~~ 2008

Notice of Continuation: December 6, 2006

Authorizing, and Implemented or Interpreted Law: 67-19-6; 67-19-18; 67-19-34; 63-19-37; 67-19-38



Human Services, Administration **R495-876** Provider Code of Conduct

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31629

FILED: 06/27/2008, 10:08

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended to add the section for the department's rulemaking authority and to update the statutory citations impacted by H.B. 63 and H.B. 78. (DAR NOTES: H.B. 63 (2008) is found at Chapter 382, Laws of Utah 2008, and was effective 05/05/2008. H.B. 78 (2008) is found at Chapter 3, Laws of Utah 2008, and was effective 02/07/2008.)

SUMMARY OF THE RULE OR CHANGE: This amendment adds a new Section R495-876-1 that gives the department's rulemaking authority. The following sections of the rule are renumbered to conform to the format prescribed by the Division of Administrative Rules. The citations within the rule that were impacted by H.B. 63 and H.B. 78 are updated. Some minor grammatical errors have been corrected. Two websites were updated to provide the reader with the accurate websites.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-1-111

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There is no anticipated costs or savings to the state budget by this amendment because they are nonsubstantive formatting changes.

❖ LOCAL GOVERNMENTS: There is no anticipated costs or savings to the local governments by this amendment because they are nonsubstantive formatting changes.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There is no anticipated cost or saving to small businesses and persons other than businesses by this amendment because they are nonsubstantive formatting changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no anticipated compliance cost for affected persons by this amendment because they are nonsubstantive formatting changes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses by the amendment to this rule because the changes to this rule are nonsubstantive formatting changes. Lisa-Michele Church, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

L Ray Winger at the above address, by phone at 801-538-4319, by FAX at 801-538-4424, or by Internet E-mail at raywinger@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 08/14/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2008

AUTHORIZED BY: Lisa-Michele Church, Executive Director

R495. Human Services, Administration.

R495-876. Provider Code of Conduct.

R495-876-1. Authority.

The Department of Human Services promulgates this rule pursuant to the rulemaking authority granted in Section 62A-1-111.

R495-876-1]2. Statement of Purpose.

(1) The Department of Human Services ("DHS") adopts this Code of Conduct to:

(a) Protect its clients from abuse, neglect, maltreatment and exploitation; and

(b) Clarify the expectation of conduct for DHS Providers and their employees and volunteers who interact in any way with DHS clients, DHS staff and the public.

(2) The Provider shall distribute a copy of this Code of Conduct to each employee and volunteer, regardless of whether the employees or volunteers provide direct care to clients, indirect care, administrative services or support services. The Provider shall require each employee and volunteer to read the Code of Conduct and sign a copy of the

attached "Certification of Understanding" before having any contact with DHS clients. The Provider shall file a copy of the signed Certificate of Understanding in each employee and volunteer's personnel file. The Provider shall also maintain a written policy that adequately addresses the appropriate treatment of clients and that prohibits the abuse, neglect, maltreatment or exploitation of clients. This policy shall also require the Provider's employees and volunteers to deal with DHS staff and the public with courtesy and professionalism.

(3) This Code of Conduct supplements various statutes, policies and rules that govern the delivery of services to DHS clients. The Providers and the DHS Divisions or Offices may not adopt or enforce policies that are less-stringent than this Code of Conduct unless those policies have first been approved in writing by the Office of Licensing and the Executive Director of the Utah Department of Human Services. Nothing in this Code of Conduct shall be interpreted to mean that clients are not accountable for their own misbehavior or inappropriate behavior, or that Providers are restricted from imposing appropriate sanctions for such behavior.

R495-876-2]3. Abuse, Neglect, Exploitation, and Maltreatment Prohibited.

Providers shall not abuse, neglect, exploit or maltreat clients in any way, whether through acts or omissions or by encouraging others to act or by failing to deter others from acting.

R495-876-3]4. General Definitions.

(1) "Client" means anyone who receives services from DHS or from a Provider pursuant to an agreement with DHS or funding from DHS.

(2) "DHS" means the Utah Department of Human Services or any of its divisions, offices or agencies.

(3) "Domestic-violence-related child abuse" means any domestic violence or a violent physical or verbal interaction between cohabitants in the physical presence of a child or having knowledge that a child is present and may see or hear an act of domestic violence.

(4) "Emotional maltreatment" means conduct that subjects the client to psychologically destructive behavior, and includes conduct such as making demeaning comments, threatening harm, terrorizing the client or engaging in a systematic process of alienating the client.

(5) "Provider" means any individual or business entity that contracts with DHS or with a DHS contractor to provide services to DHS clients. The term "Provider" also includes licensed or certified individuals who provide services to DHS clients under the supervision or direction of a Provider. Where this Code of Conduct states (as in Sections III-VII) that the "Provider" shall comply with certain requirements and not engage in various forms of abuse, neglect, exploitation or maltreatment, the term "Provider" also refers to the Provider's employees, volunteers and subcontractors, and others who act on the Provider's behalf or under the Provider's control or supervision.

(6) "Restraint" means the use of physical force or a mechanical device to restrict an individual's freedom of movement or an individual's normal access to his or her body. "Restraint" also includes the use of a drug that is not standard treatment for the individual and that is used to control the individual's behavior or to restrict the individual's freedom of movement.

(7) "Seclusion" means the involuntary confinement of the individual in a room or an area where the individual is physically prevented from leaving.

(8) "Written agency policy" means written policy established by the Provider. If a written agency policy contains provisions that are more lenient than the provisions of this Code of Conduct, those provisions must be approved in writing by the DHS Executive Director and the Office of Licensing.

R495-876-45. Definitions of Prohibited Abuse, Neglect, Exploitation, and Maltreatment.

[A-](1) "Abuse" includes, but is not limited to:

[1-](a) Harm or threatened harm, to the physical or emotional health and welfare of a client.

[2-](b) Unlawful confinement.

[3-](c) Deprivation of life-sustaining treatment.

[4-](d) Physical injury, such as contusion of the skin, laceration, malnutrition, burn, fracture of any bone, subdural hematoma, injury to any internal organ, any injury causing bleeding, or any physical condition which imperils a client's health or welfare.

[5-](e) Any type of unlawful hitting or corporal punishment.

[6-](f) Domestic-violence-related child abuse.

[7-](g) Any Sexual abuse and sexual exploitation including but not be limited to:

[a-](i) Engaging in sexual intercourse with any client.

[b-](ii) Touching the anus or any part of the genitals or otherwise taking indecent liberties with a client, or causing an individual to take indecent liberties with a client, with the intent to arouse or gratify the sexual desire of any person.

[e-](iii) Employing, using, persuading, inducing, enticing, or coercing a client to pose in the nude.

[d-](iv) Engaging a client as an observer or participation in sexual acts.

[e-](v) Employing, using, persuading, inducing, enticing or coercing a client to engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct. This includes displaying, distributing, possessing for the purpose of distribution, or selling material depicting nudity, or engaging in sexual or simulated sexual conduct with a client.

[f-](vi) Committing or attempting to commit acts of sodomy or molestation with a client.

[B-](2) "Neglect" includes but is not limited to:

[1-](a) Denial of sufficient nutrition.

[2-](b) Denial of sufficient sleep.

[3-](c) Denial of sufficient clothing, or bedding.

[4-](d) Failure to provide adequate client supervision; including situations where the Provider's employee or volunteer is a sleep or ill on the job, or is impaired due to the use of alcohol or drugs.

[5-](e) Failure to provide care and treatment as prescribed by the client's services, program or treatment plan, including the failure to arrange for medical or dental care or treatment as prescribed or as instructed by the client's physician or dentist, unless the client or the Provider obtains a second opinion from another physician or dentist, indicating that the originally-prescribed medical or dental care or treatment is unnecessary.

[6-](f) Denial of sufficient shelter, where shelter is part of the services the Provider is responsible for providing to the client.

[7-](g) Educational neglect (i.e. willful failure or refusal to make a good faith effort to ensure that a child in the Provider's care or custody receives an appropriate education).

[C-](3) "Exploitation" will includes but is not limited to:

[1-](a) Using a client's property without the client's consent or using a client's property in a way that is contrary to the client's best interests, such as expending a client's funds for the benefit of another.

[2-](b) Making unjust or improper use of clients or their resources.

[3-](c) Accepting [a] gifts in exchange for preferential treatment of a client or in exchange for services that the Provider is already obliged to provide to the client.

[4-](d) Using the labor of a client for personal gain.

[5-](e) Using the labor of a client without paying the client a fair wage or without providing the client with just or equivalent non-monetary compensation, except where such use is consistent with standard therapeutic practices and is authorized by DHS policy or the Provider's contract with DHS.

[a-](i) Examples:

[i-](A) It is not "exploitation" for a foster parent to assign an extra chore to a foster child who has broken a household rule, because the extra chore is reasonable discipline and teaches the child to obey the household rules.

[ii-](B) It is not "exploitation" to require clients to help serve a meal at a senior center where they receive free meals and are encouraged to socialize with other clients. The meal is a non-monetary compensation, and the interaction with other clients may serve the clients' therapeutic needs.

[iii-](C) It is usually "exploitation" to require a client to provide extensive janitorial or household services without pay, unless the services are actually an integral part of the therapeutic program, such as in "clubhouse" type programs that have been approved by DHS.

[D-](4) "Maltreatment" includes but is not limited to:

[1-](a) Physical exercises, such as running laps or performing pushups, except where such exercises are consistent with an individual's service plan and written agency policy and with the individual's health and abilities.

[2-](b) Any form of Restraint or Seclusion used by the Provider for reasons of convenience or to coerce, discipline or retaliate against a client. The Provider may use a Restraint or Seclusion only in emergency situations where such use is necessary to ensure the safety of the client or others and where less restrictive interventions would be ineffective, and only if the use is authorized by the client's service plan and administered by trained authorized personnel. Any use of Restraint or Seclusion must end immediately once the emergency safety situation is resolved. The Provider shall comply with all applicable laws about Restraints or Seclusions, including all federal and state statutes, regulations, rules and policies.

[3-](c) Assignment of unduly physically strenuous or harsh work.

[4-](d) Requiring or forcing the individual to take an uncomfortable position, such as squatting or bending, or requiring or forcing the individual to repeat physical movements as a means of punishment.

[5-](e) Group punishments for misbehaviors of individuals.

[6-](f) Emotional maltreatment, bullying, teasing, provoking or otherwise verbally or physically intimidating or agitating a client.

[7-](g) Denial of any essential program service solely for disciplinary purposes.

[8-](h) Denial of visiting or communication privileges with family or significant others solely for disciplinary purposes.

[9-](i) Requiring the individual to remain silent for long periods of time for the purpose of punishment.

[10-](j) Extensive withholding of emotional response or stimulation.

~~[44-](k)~~ Denying a current client from entering the client's residence, where such denial is for disciplinary or retaliatory purposes or for any purpose unrelated to the safety of clients or others.

R495-876-[5]6. Provider's Compliance with Conduct Requirements Imposed by Law, Contract or Other Policies.

In addition to complying with this Code of Conduct, the Provider shall comply with all applicable laws (such as statutes, rules and court decisions) and all policies adopted by the DHS Office of Licensing, by the DHS Divisions or Offices whose clients the Provider serves, and by other state and federal agencies that regulate or oversee the Provider's programs. Where the Office of Licensing or another DHS entity has adopted a policy that is more specific or restrictive than this Code of Conduct, that policy shall control. If a statute, rule or policy defines abuse, neglect, exploitation or maltreatment as including conduct that is not expressly included in this Code of Conduct, such conduct shall also constitute a violation of this Code of Conduct. See, e.g., Title 62A, Chapter 3 of the Utah Code (definition of adult abuse) and Title 78A, Chapter ~~[3a]~~6 and Title 76, Chapter 5 of the Utah Code (definitions of child abuse).

R495-876-[6]7. The Provider's Interactions with DHS Personnel and the Public.

In carrying out all DHS-related business, the Provider shall conduct itself with professionalism and shall treat DHS personnel, the members of the Provider's staff and members of the public courteously and fairly. The Provider shall not engage in criminal conduct or in any fraud or other financial misconduct.

R495-876-[7]8. Sanctions for Non-compliance.

If a Provider or its employee or volunteer fail to comply with this Code of Conduct, DHS may impose appropriate sanctions (such as corrective action, probation, suspension, disbarment from State contracts, and termination of the Provider's license or certification) and may avail itself of all legal and equitable remedies (such as money damages and termination of the Provider's contract). In imposing such sanctions and remedies, DHS shall comply with the Utah Administrative Procedures Act and applicable DHS rules. In appropriate circumstances, DHS shall also report the Provider's misconduct to law enforcement and to the Provider's clients and their families or legal representatives (e.g., a legal guardian). In all cases, DHS shall also report the Provider's misconduct to the licensing authorities, including the DHS Office of Licensing.

R495-876-[8]9. Providers' Duty to Help DHS Protect Clients.

~~[A-](1)~~ Duty to Protect Clients' Health and Safety. If the Provider becomes aware that a client has been subjected to any abuse, neglect, exploitation or maltreatment, the Provider's first duty is to protect the client's health and safety.

~~[B-](2)~~ Duty to Report Problems and Cooperate with Investigations. Providers shall document and report any abuse, neglect, exploitation or maltreatment and exploitation as outlined in this Code of Conduct, and they shall cooperate fully in any investigation conducted by DHS, law enforcement or other regulatory or monitoring agencies.

~~[+](a)~~ Except as provided in ~~[Section (B)(1)(a) and (B)(3)]~~subsection(b) below, Providers shall immediately report abuse, neglect, exploitation or maltreatment by contacting the local Regional

Office of the appropriate DHS Division or Office. During weekends and on holidays, Providers shall make such reports to the on-call worker of that Regional Office.

~~[a-](i)~~ Providers shall report any abuse or neglect of disabled or elder adults to the Adult Protective Services intake office of the Division of Aging and Adult Services.

~~[b-](ii)~~ The Provider shall make all reports and documentation about abuse, neglect, exploitation, and maltreatment available to appropriate DHS personnel and law enforcement upon request.

~~[2-](b)~~ Providers shall document any client injury (explained or unexplained) that occurs on the Providers' premises or while the client is under the Provider's care and supervision, and the Provider shall report any such injury to supervisory personnel immediately. Providers shall cooperate fully in any investigation conducted by DHS, law enforcement or other regulatory or monitoring agencies. If the client's injury is extremely minimal, the Provider has 12 hours to report the injury. The term "extremely minimal" refers to injuries that obviously do not require medical attention (beyond washing a minor wound and applying a band-aid, for example) and which cannot reasonably be expected to benefit from advice or consultation from the supervisory personnel or medical practitioners.

~~[a-](i)~~ Example: If a foster child falls off a swing and skins her knee slightly, the foster parent shall document the injury and report to the foster care worker within 12 hours.

~~[b-](ii)~~ Example: If a foster child falls off a swing and sprains or twists her ankle, the foster parent shall document the injury and report it immediately to supervisory personnel because the supervisor may want the child's ankle X-rayed or examined by a physician.

~~[C-](3)~~ Duty to Report Fatalities and Cooperate in Investigations and Fatality Reviews. If a DHS client dies while receiving services from the Provider, the Provider shall notify the supervising DHS Division or Office immediately and shall cooperate with any investigation into the client's death. In addition, some Providers are subject to the Department of Human Services' Fatality Review Policy. (See the "Eligibility" section of DHS Policy No. 05-02 for a description of the entities subject to the ~~[fatal]~~fatality review requirements. A copy of the policy is available at the DHS web site at: ~~[http://www.dhs.state.ut.us/policy.htm]~~<http://www.hspolicy.utah.gov>) If the Provider is subject to the Fatality Review Policy, it shall comply with that policy (including all reporting requirements) and the Provider shall cooperate fully with any fatality reviews and investigations concerning a client death.

~~[D-](4)~~ Duty to Display DHS Poster. The Provider shall prominently display in each facility a DHS poster that notifies employees of their responsibilities to report violations of this Provider Code of Conduct, and that gives phone numbers for the Regional Office or Intake Office of the relevant DHS Division(s). Notwithstanding the foregoing, if the Provider provides its services in a private home and if the Provider has fewer than three employees or volunteers, the Provider shall maintain this information in a readily-accessible place but it need not actually display the DHS poster. DHS shall annually provide the Provider with a copy of the current DHS poster or it shall make the poster available on the DHS web site: ~~[http://www.dhs.state.ut.us]~~http://www.hspolicy.utah.gov/pdf/poster_provider_code_of_conduct.pdf.

KEY: social services, provider conduct[*]

Date of Enactment or Last Substantive Amendment: ~~[August 15, 2004]~~2008

Notice of Continuation: August 22, 2006
Authorizing, and Implemented or Interpreted Law: 62A-1-110,
62A-1-111

◆ ————— ◆

**Human Services, Child and Family
 Services**
R512-500
Kinship Services

NOTICE OF PROPOSED RULE
 (Repeal and Reenact)
 DAR FILE No.: 31590
 FILED: 06/18/2008, 09:14

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for this rule change is to implement changes in legislation passed during the FY 2008 legislative session (H.B. 36) specific to kinship services. (DAR NOTE: H.B. 36 (2008) is found at Chapter 36, Laws of Utah 2008, and was effective 03/13/2008.)

SUMMARY OF THE RULE OR CHANGE: This rule replaces the previous rule, and establishes standards for kinship placement for a child who is in Child and Family Services custody, including Preliminary Placement, evaluation of kinship caregiver capacity for ongoing care, and background screening. (DAR NOTE: A corresponding 120-day (emergency) rule for Rule 512-500 is under DAR No. 31589 in this issue, July 15, 2008, of the Bulletin, and was effective 06/18/2008.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 62A-4a-102, 62A-4a-209, 78A-6-307, and 78A-6-307.5; the Indian Child Welfare Act (ICWA); and 25 U.S.C. Section 1903.1

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** \$147,400 cost through the loss of Federal funds. These funds were replaced through a fiscal note attached to the bill.
- ❖ **LOCAL GOVERNMENTS:** There will be no cost or savings to local government because funding for this program comes out of state and federal funds and this rule does not apply to local government.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There will be no cost or savings to small businesses and persons other than businesses because it was determined that funding for this program comes out of state and federal funds and this rule does not apply to small businesses and persons other than businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs will be minimal for affected persons. Primary caregivers in the relatives' home will be required to complete an FBI fingerprint-based check and will be charged \$10 per person for the fingerprints to be scanned. Any other adults age 18 and older

living in the home will also be required to have this fingerprint based check and to pay the \$10 fee for scanning. In addition, relatives who voluntarily care for a relative child will incur costs for caring for the child. The relatives will be given information about how to access public resources of support through Department of Workforce Services or through the Department of Human Services, if they choose to become a licensed foster parent.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no cost or savings on businesses because it was determined that this rule does not apply to businesses. Lisa-Michele Church, Executive Director

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
 Room 225
 120 N 200 W
 SALT LAKE CITY UT 84103-1500, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Miller at the above address, by phone at 801-538-4451, by FAX at 801-538-3993, or by Internet E-mail at CAROLMILLER@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 08/14/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2008

AUTHORIZED BY: Duane Betournay, Director

R512. Human Services, Child and Family Services.

~~R512-500. Kinship Services.~~

~~R512-500-1. Purpose and Authority.~~

- ~~A. The purpose of Kinship care is to:~~
- ~~1. make it possible for children who cannot remain safely at home to live with persons they may already know and trust;~~
 - ~~2. reduce the trauma children may experience when placed with a non-relative caregiver who is not known to the child;~~
 - ~~3. maintain children's family history, culture, and sense of identity;~~
 - ~~4. assist families to consider and rely on family resources and strengths; and~~
 - ~~5. support families to provide children the support they need.~~
- ~~b. Pursuant to Sections 62A-4a-209 and 78-3a-307, the Division of Child and Family Services (DCFS) is authorized to provide kinship placements and services.~~

~~R512-500-2. Qualifications.~~

- ~~A. Relatives will be considered for an emergency kinship placement when they meet the requirements of Sections 62A-4a-209 and 78-3a-307 and the following:~~

1. When the relative agrees to care for the child on an emergency basis under the following conditions:

a. The relative agrees not to allow the custodial parent or guardian to have any unauthorized contact with the child to contact law enforcement and DCFS if the custodial parent or guardian attempts to make unauthorized contact with the child;

b. The relative will agree not to talk to the child about the events that led to the removal, if the child wishes to talk about the events leading to the removal, refer to a therapist or other trusted individual who is not the relative caregiver;

c. The relative has been informed and understands that while they may be asked to be a potential long-term placement, DCFS will continue to search for other possible potential kinship placements for long-term care, if needed;

d. The relative is willing to assist the custodial parent or guardian in reunification efforts at the request of DCFS and to follow all court orders.

B. Criteria for an emergency kinship placement:

1. A relative will be considered as an emergency placement only if willing to provide the following:

a. Full names of all persons living in their household, including maiden names;

b. Social Security Numbers for all persons living in the household;

c. driver licenses or other identification for all persons living in the household, as applicable.

C. Assessment – Non-custodial Parent

1. The region in which the non-custodial parent resides will conduct an assessment of the non-custodial parent as follows:

a. home inspection that will assess space, accommodations, and safety;

b. interview of the non-custodial parent to determine the following:

i. nature and quality of the relationship between the child and non-custodial parent;

ii. ability and desire to protect the child from further abuse and neglect.

D. The DCFS worker will interview the child (when age appropriate) regarding the child's relationship and comfort level with the non-custodial parent.

E. Deciding between Relatives:

1. If more than one relative requests consideration for temporary or permanent placement of the child, the DCFS worker:

a. Will provide each relative with specific information on the methods and criteria used to assess suitability of a relative's home for the placement of the child;

b. May conduct a child and family team meeting for the purpose of assisting the relatives to come to consensus regarding which relative would be the most appropriate placement for the child;

c. Will determine which relative has the closest existing personal relationship with the child before making the recommendation to the court.

d. Will determine which placement should be made and make a recommendation to the court consistent with that determination.]

R512-500. Kinship Services. Placement and Background Screening.

R512-500-1. Purpose and Authority.

(1) The purpose of this rule is to establish standards for kinship placement for a child who is in Child and Family Services custody, including Preliminary Placement, evaluation of kinship caregiver capacity for ongoing care, and background screening.

(2) This rule is authorized by Sections 62A-4a-209, 78A-6-307, 78A-6-307.5, and the Indian Child Welfare Act (ICWA), 25 U.S.C. Sections 1901-63.

R512-500-2. Definitions.

(1) "Abuse" is defined in Section 78A-6-105.

(2) "Child" is defined in Section 62A-4a-101.

(3) "Child and Family Services" means the Division of Child and Family Services, Department of Human Services.

(4) "Friend" means an individual, other than a non-custodial parent or relative as defined in Section 78A-6-307, who is licensed as a foster parent and is designated for preference for care of a child by a custodial parent or guardian of the child in accordance with Section 62A-4a-209.

(5) "Kinship caregiver" means a non-custodial parent, relative, or friend, as defined in this section, who is selected for placement and care of a child in Child and Family Services custody.

(6) "Neglect" is defined in Section 78A-6-105.

(7) "Non-custodial parent" is a natural parent as defined in Section 78A-6-307 who is a biological or adoptive mother, an adoptive father, or a biological father who was married to the child's biological mother at the time the child was conceived or born, or who has had paternity established, who has not been granted legal custody of the child.

(8) "Non-relative" is defined in Section 62A-4a-209.

(9) "Preliminary Placement" means an out-of-home placement with a non-custodial parent or relative, or with a friend who is a licensed foster parent, which is referred to in statute as an emergency placement with a non-custodial parent or relative as authorized in Section 62A-4a-209 or a post-shelter hearing placement with a non-custodial parent or relative as authorized in Section 78A-6-307.5.

(10) "Relative" is defined in Section 78A-6-307 as the child's "grandparent, great-grandparent, aunt, great-aunt, uncle, great-uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, or sibling of the child." For an Indian child, relative also includes "extended family members" as defined by the ICWA, 25 U.S.C. Section 1901-63, which is "by the law or custom of the Indian child's tribe or, in the absence of such law or custom, shall be a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt, or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent."

(11) "severe type of child abuse or neglect" is defined in Section 62A-4a-1002.

(12) "substantiated" is defined in Section 62A-4a-101.

(13) "supported" is defined in Section 62A-4a-101.

R512-500-3. Philosophy.

(1) All children need permanency through enduring relationships that provide stability, familiarity, and support for the culture of the child; support the child's sense of self based on existing attachments; provide for the child's safety and physical care; and connect the child to their past, present, and future through continuing family relationships. First priority is to maintain a child safely at home. However, if a child cannot safely remain at home, kinship care has the potential for providing these elements of permanency by virtue of the kin's knowledge of and relationship to the family and child.

(2) All kinship work is done in the context of a Child and Family Team. Kinship care includes elements of child protection,

in-home services, family preservation, and foster care. When a child cannot safely remain home, kinship care is preferable to other out-of-home placements if the kinship caregiver can keep the child safe and appropriately meet the child's needs.

(3) The caregiver's willingness and ability to care for and keep the child safe are fundamental. The kinship caregiver must have or acquire knowledge of the child, be able to meet the child's needs, support reunification efforts, and be able to provide the child access to parents, siblings, and other family members through visits or caring for the child and siblings as a group.

(4) Ongoing assessment of the child's safety, permanence, and well-being is important to the stability and value of kinship care. Ongoing assessment of safety is based on the components of safety decision-making, which include threats of harm, vulnerabilities of the child, and protective capacities of the kinship caregiver and their support system.

(5) Providing for kinship care in the Child and Family Services spectrum of services requires active efforts to identify and locate kin families with whom children may form or continue relationships at home or in temporary or permanent placements. Support to kinship caregivers is essential to the success of the child's placement with the family and to the family's ability to respond to the needs of the child. As members of the Child and Family Team, kinship caregivers will seek support from other family members and from informal and formal supports to provide for the child.

R512-500-4. Preferences for Placement.

(1) The following order of preference applies to placement of a child in the custody of Child and Family Services, and is subject to the child's best interest:

(a) A non-custodial parent of the child in accordance with Section 78A-6-307;

(b) A relative of the child;

(c) A friend designated by the custodial parent or guardian of the child, if the friend is a licensed foster parent; and

(d) A former foster placement, shelter facility, or other foster placement designated by Child and Family Services.

(2) Preferential consideration given to kinship caregivers in Subsection 78A-6-307(18) expires 120 days from the date of the shelter hearing. Prospective kinship caregivers may be considered for placement after the 120 days has lapsed, if it is in the best interest of the child.

R512-500-5. Preliminary Placement.

(1) The requirements specified in Section 62A-4a-209 must be met for Preliminary Placement of a child with a kinship caregiver.

(2) A decision to make a Preliminary Placement of a child with a kinship caregiver will include background screening, assessment of the kinship caregiver's willingness and ability to care for a child and to keep the child safe, a limited home inspection, and background screening.

(3) A kinship caregiver must meet the background check requirements specified in R512-500-7(1).

(4) Assessment of safety will be based on safety decision-making principles, which include:

(a) Potential threats of harm;

(b) Vulnerabilities of the child; and

(c) Protective capacities of the potential kinship caregiver and their support system.

(5) The limited home inspection specified in Section 62A-4a-209 is required for a non-custodial parent or relative. The limited

home inspection is conducted in the home of the prospective kinship caregiver to determine if there are apparent safety risks in the home that present a potential threat of harm to the child. The limited home inspection determines if the following are met:

(a) The home is free from observable health and fire hazards.

(b) There are adequate sleeping arrangements to meet the specific needs of each child.

(c) Any firearms, ammunition, hazardous chemicals, and/or medications are secured and not accessible to children.

(6) References may be contacted to obtain input regarding placing the child with the potential kinship caregiver or information about other available relatives or friends who may care for the child.

R512-500-6. Evaluation of Capacity for Ongoing Care of a Child.

(1) Child and Family Services will evaluate with the family their capacity for ongoing care of the child. The components of the evaluation process include:

(a) Results of the background screening specified in R512-500-7(2).

(b) The child-specific home study, including:

(i) Physical and emotional ability of the kinship caregiver to provide adequate care for the child;

(ii) Understanding of family dynamics and how placement will impact relationships within the family;

(iii) Ability to provide for the child's safety and well-being needs and to support a plan for permanency;

(iv) Analysis of the type of resources and support needed by the kinship caregiver to care for the child.

(v) Ability of the home to meet required safety standards of the Office of Licensing.

(c) Providing information to the kinship caregiver to assist with considering options for ongoing care of the child, including:

(i) Educating the kinship caregiver of the expectations of caring for a child who is under the jurisdiction of the court.

(ii) Assessing the resources that may be available to assist the kinship caregiver in providing a stable placement for the child.

(iii) Becoming a licensed foster care placement for the child.

(iv) Requesting temporary custody and guardianship from the court.

(2) A kinship caregiver who meets the definition of friend must be licensed as a foster parent in order for a child in the custody of Child and Family Services to be placed with them.

(3) Obtain positive written references from two different people known to the kinship caregiver expressing the referent's opinion about the family's ability to care for the child.

R512-500-7. Background Screening.

(1) Background Screening Procedure for Preliminary Placements.

(a) In order for a non-custodial parent or relative to be considered for Preliminary Placement of a child, background screening must be completed that meets the requirements of Sections 62A-4a-209, 78A-6-307, and 78A-6-308. If any non-relative adults live in the household, applicable background screening requirements in Sections 62A-4a-209, 78A-6-307, and 78A-6-308 must be met.

(b) A non-custodial parent or relative and all persons 18 years of age and older living in the household must provide the following information in order for background screening to be conducted:

(i) Full first, middle, last, maiden, alias, and all previous married names.

- (ii) Social Security number, if a number has been issued.
- (iii) Proof of identity verified by a government-issued photo identification.
- (iv) Date of birth.
- (2) Background Screening Procedure for Ongoing Care of a Child.
- (a) As part of the evaluation of capacity for ongoing care of a child, in addition to background screening required for Preliminary Placement, a relative and spouse or partner must complete an FBI national criminal history records check as prospective foster or adoptive parents. A non-custodial parent will complete an FBI national criminal history check if Utah criminal history or SAFE child abuse checks result in concerns about potential threats of harm to the child or if ordered by the court.
- (b) If a non-relative 18 years of age or older is residing in the home and has lived outside of the state of Utah in the five years immediately preceding the date of the application, the individual must complete an FBI national criminal history records check.
- (c) If any person 18 years of age or older residing in the home has lived out of the state of Utah in the five years immediately preceding the date of the application, a child abuse and neglect registry check must be completed for any state in which the individual resided.
- (d) A non-custodial parent or relative and all persons 18 years of age and older living in the household must provide the following information on a form provided by Child and Family Services in order for background screening to be conducted:
- (i) Full first, middle, last, maiden, alias, and all previous married names.
- (ii) Social Security number, if a number has been issued.
- (iii) Proof of identity verified by a government-issued photo identification.
- (iv) Date of birth.
- (v) The potential kinship caregiver and applicable adults living in the household shall provide fingerprints from an authorized law enforcement agency or designated electronic scanning site.
- (vi) The child abuse registry for each state in which a potential kinship caregiver or other adult in the household has lived will be checked.

KEY: child welfare, kinship

Date of Enactment or Last Substantive Amendment: ~~September 3, 2003~~ **2008**

Authorizing, and Implemented or Interpreted Law: **62A-4a-209; [78-3a-307]78A-6-307; 78A-6-307.5**



Human Services, Services for People with Disabilities

R539-15

Time-Limited Respite Care Program

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 31593

FILED: 06/19/2008, 09:18

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to provide respite care for Persons on the Division Waiting List.

SUMMARY OF THE RULE OR CHANGE: The rule provides the standards and procedures to establish a Time-Limited Respite Care Program for persons on the Division's Waiting List. (DAR NOTE: A corresponding 120-day (emergency) rule for Rule R539-15 is under DAR No. 31594 in this issue, July 15, 2008, of the Bulletin, and was effective 07/01/2008.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-5-103

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Time-Limited Respite Care Program is funded by a legislative appropriation for fiscal year 2009.

❖ **LOCAL GOVERNMENTS:** The respite program does not affect the budgets of local governments. The agency has reviewed the programs and services provided by local governments and concluded that none of them provide respite services and this rule will not cause local governments any costs or savings.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** Small businesses will provide respite care services either as employees of the Person served or by contract with the Department of Human Services. This rule does not apply to small businesses, it only applies to the individuals eligible for respite care services.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There should be no compliance costs for affected individuals. If an individual applies for this service and is denied eligibility, they may incur the cost of appealing the decision, such as expenses to retain a lawyer to represent them.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Respite care services are provided by small businesses either as employees of the Person being served or under contract with the Department of Human Services. Lisa-Michele Church, Executive Director

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

HUMAN SERVICES
SERVICES FOR PEOPLE WITH DISABILITIES
Room 411
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Steven Bradford at the above address, by phone at 801-538-4197, by FAX at 801-538-4279, or by Internet E-mail at sbradford@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 08/14/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2008

AUTHORIZED BY: George Kelner, Director

**R539. Human Services, Services for People with Disabilities.
R539-15. Time-Limited Respite Care Program.**

R539-15-1. Purpose and Authority.

(1) The purpose of this rule is to provide:
(a) procedures and standards for the determination of eligibility for the Division's Time-Limited Respite Care Program for Persons on the Division's Waiting List as specified in R539-2-4.

(2) This rule is authorized from July 1, 2008 to June 30, 2009 by Legislative appropriation and established under Section 62A-5-103.

R539-15-2. Definitions.

(1) Terms used in this rule are defined in Section 62A-5-101, and

(2) "Person": Individual who meets eligibility requirements in Rule R539-1.

(3) "Active Status": Has a current Needs Assessment Score on the Division wait list.

(4) "Respite": A service to give relief to the Person's primary caregiver.

R539-15-3. Eligibility.

(1) A Person is eligible for the Time-Limited Respite Care Program who meets the eligibility requirements listed in Rule 539-1, provided that:

(2) the Person is not receiving ongoing services with the Division.

(3) the Person is currently in active status on the Division waiting list.

R539-15-4. Limitations.

(1) A Person who meets eligibility requirements for the Time-Limited Respite Care Program is limited to no more than \$1,000 for respite care services from July 1, 2008 to June 30, 2009.

(2) Funds are granted for 12 months. After six months, the Person must report the expenditure of funds to the Division. The use of the respite care funds will be evaluated by the Division. If there is no plan to use the funds or funds are unused, those funds may be reallocated to another eligible Person.

(3) Persons receiving ongoing services are not eligible for time-limited respite services.

R539-15-5. Priority.

(1) As of July 1, 2008, the first 250 persons who are not brought into ongoing services and who remain on the Division waiting list will receive priority for respite care services. If any of the first 250 choose not to use time-limited respite care services, then Persons will be offered this service in the order of their position on the waiting list.

R539-15-6. Respite Care Services Providers.

(1) Respite services may be provided by an employee of the Person or through an agency or program that provides respite care services.

(2) If the Person elects to hire an employee, Division requirements for a background check must be met.

(3) Payments to an employee must be made through a fiscal agent.

KEY: disabilities

**Date of Enactment or Last Substantive Amendment: 2008
Authorizing, and Implemented or Interpreted Law: 62A-5-103**



Insurance, Administration
R590-238
Captive Insurance Companies

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31649

FILED: 07/01/2008, 15:31

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes are in response to H.B. 63 from the 2008 General Session, the agency is required to change the code citations to match the recodification of Title 63, and to allow greater latitude in year-end dates and hearing requirements. (DAR NOTE: H.B. 63 (2008) is found at Chapter 382, Laws of Utah 2008, and was effective 05/05/2008.)

SUMMARY OF THE RULE OR CHANGE: In Section R590-238-4, clarifies that an actuarial opinion is required with an annual statement. In Section R590-238-6, removes the reference to a December 31 year-end since captives may have a different year end. In Section R590-238-16, allows the commissioner to waive public notice and hearings for control changes and mergers. In Section R590-238-17, updates a reference.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201 and 31A-37-106

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There will be no change in filing requirements or fees that would impact the department or the state's budget. Control changes and merger hearings for captives are very rare and would be handled by in-house staff.
- ❖ LOCAL GOVERNMENTS: This rule will have no fiscal impact on local governments since the rule deals solely with the relationship between the department and its licensees.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: A captive mainly insures a parent and/or its affiliate companies. The nature of captives does not usually require public involvement, especially in the case of mergers and acquisitions since they deal with related parties.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A captive mainly ensures a parent and/or its affiliate companies. The nature of captives does not usually require public involvement, especially in the case of mergers and acquisitions since ownership they deal with related parties.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this rule will have negligible fiscal impact on businesses. 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 08/14/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2008

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-238. Captive Insurance Companies.

R590-238-4. Annual Reporting Requirements.

(1) A captive insurance company authorized in this state shall file an annual report of its financial condition with the commissioner as required by Section 31A-37-501. The report shall be verified by oath of two of its executive officers and shall be prepared using generally accepted accounting principles ("GAAP"). The annual report may be filed electronically consistent with directions from the commissioner.

(2) An association captive insurance company, a sponsored captive insurance company, and an industrial insured captive insurance company shall observe the requirements of Section 31A-4-113 when they file an annual report on its financial condition. In addition, an industrial insured group shall observe the requirements of Section 31A-4-113.5 when it files an annual report.

(3) All captive insurance companies, except those noted in Subsection R590-238-4(2), are to use the "Captive Insurance Company Annual Statement Form."

(4) The Report of the Financial Condition shall include a statement of a qualified Actuary entitled "Statement of Actuarial Opinion," setting forth his or her opinion relating to loss and loss adjustment expense reserves.

R590-238-6. Annual Audit.

(1) All companies shall have an annual audit by an independent certified public accountant, approved by the commissioner, and shall file such audited financial report with the commissioner on or before June 30 for the preceding year [~~ending December 31~~]. Financial statements furnished under this section shall be prepared in accordance with generally accepted auditing standards as determined by the American Institute of Certified Public Accountants ("AICPA").

(2) The annual audit report shall be considered part of the company's annual report of financial condition except with respect to the date by which it must be filed with the commissioner.

(3) The annual audit shall consist of the following:

(a) Opinion of Independent Certified Public Accountant

(i) Financial statements furnished pursuant to this section shall be examined by independent certified public accountants in accordance with generally accepted auditing standards as determined by the AICPA.

(ii) The opinion of the independent certified public accountant shall cover all years presented.

(iii) The opinion shall be addressed to the company on stationery of the accountant showing the address of issuance, shall bear original manual signatures and shall be dated.

(b) Report of Evaluation of Internal Controls

(i) This report shall include an evaluation of the internal controls of the company relating to the methods and procedures used in the securing of assets and the reliability of the financial records, including but not limited to, controls as the system of authorization and approval and the separation of duties.

(ii) The review shall be conducted in accordance with generally accepted auditing standards and the report shall be filed with the commissioner.

(c) Accountant's Letter

The accountant shall furnish the company, for inclusion in the filing of the audited annual report, a letter stating:

(i) that he is independent with respect to the company and conforms to the standards of his profession as contained in the Code of Professional Ethics and pronouncements of the AICPA and pronouncements of the Financial Accounting Standards Board;

(ii) the general background and experience of the staff engaged in the audit, including their experience in auditing captive or other insurance companies;

(iii) that the accountant understands that the audited annual report and his opinions thereon will be filed in compliance with this rule.

(iv) that the accountant consents to the requirements of R590-238-10;

(v) that the accountant consents and agrees to make the work papers as defined in R590-238-3(3) available for review by the commissioner, his designee or his appointed agent; and

(vi) that the accountant is properly licensed by an appropriate state licensing authority.

(d) Financial Statements

(i) The financial statements required shall be as follows:

(A) balance sheet;

(B) statement of gain or loss from operations;

(C) statement of changes in financial position;

(D) statement of cash flow;

(E) statement of changes in capital paid up, gross paid in and contributed surplus and unassigned funds (surplus); and

(F) notes to financial statements.

(ii) The notes to financial statements shall be those required by GAAP and shall include:

(A) a reconciliation of differences, if any, between the audited financial report and the statement or form filed with the commissioner;

(B) a summary of ownership and relationship of the company and all affiliated corporations or companies insured by the captive; and

(C) a narrative explanation of all material transactions with the company. For purposes of this provision, no transaction shall be deemed material unless it involves 3% or more of a company's admitted assets as of the December 31 next preceding.

(e) Certification of Loss Reserves and Loss Expense Reserves of the company's opining actuary

(i) The annual audit shall include an actuarial opinion as to the reasonableness of the company's loss reserves and loss expense reserves, unless waived by the commissioner.

(ii) The individual who certifies as to the reasonableness of reserves shall be approved by the Commissioner and shall be a Fellow or Associate of the Casualty Actuarial Society and a member in good standing of the American Academy of Actuaries, for property and casualty companies or a Fellow or Associate of the Society of Actuaries and a member in good standing of the American Academy of Actuaries for life and health companies.

(4) Certification under Subsection R590-238-6(3)(e) shall be in such form as the commissioner deems appropriate.

R590-238-16. Acquisition of Control of or Merger with Domestic Company.

The acquisition of control of or merger of a domestic captive insurance company shall be regulated pursuant to Section 31A-16-103, notwithstanding the Commissioner may waive or modify the requirements for public notice and hearing when the Commissioner concludes the public hearing is not necessary due to limited public interest in the change of control.

R590-238-17. Suspension or Revocation.

(1) The commissioner may by order suspend or revoke the license of a company or place the same on probation on the following grounds:

(a) the company has not commenced business according to its plan of operation within two years of being licensed;

(b) the company has ceased to carry on insurance business in or from within Utah;

(c) at the request of the company; or

(d) any reason provided in Section 31A-37-505.

(2) Before the commissioner takes any action set forth under R590-238-17(1) the commissioner shall give the company notice in writing of the grounds on which the commissioner proposes to act, and shall afford the company a hearing as to such proposed action in accordance with Title 63G, Chapter 4[66], Utah Administrative Procedures Act.

KEY: captive insurance

Date of Enactment or Last Substantive Amendment: [May 25, 2007]2008

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-37-106



Insurance, Administration
R590-250
 PEO Assurance Organization
 Designation

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 31647

FILED: 07/01/2008, 14:03

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this proposed rule is to establish a process by which an assurance organization can be designated for certifying the qualifications of a professional provider organization.

SUMMARY OF THE RULE OR CHANGE: This rule establishes a process by which an assurance organization can be designated for certifying the qualifications of a professional provider organization.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-40-303

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** This rule will require no change in filings or fees to the department.

❖ **LOCAL GOVERNMENTS:** This rule will not affect local government since it deals only with the relationship between the department and its licensees.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** Assurance organization certification is an alternative qualification process for a Professional Employer Organization (PEO). PEOs choosing this method will pay fees to the assurance organization for this service.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Assurance organization certification is an alternative qualification process for a PEO. PEOs choosing this method will pay fees to the assurance organization for this service.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no mandated fiscal impact on businesses. 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 08/14/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2008

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.**R590-250. PEO Assurance Organization Designation.****R590-250-1. Authority.**

This rule is promulgated pursuant to Subsection 31A-40-303(2) wherein the commissioner is given authority to designate by rule one or more assurance organizations for certifying the qualifications of a professional employer organization.

R590-250-2. Purpose and Scope.

(1) The purpose of this rule is to establish a process by which an assurance organization can be designated for certifying the qualifications of a professional provider organization.

(2) This rule applies to any assurance organization certifying the qualifications of a professional employer organization with operations in Utah.

R590-250-3. Designation Process.

(1) An assurance organization desiring to be designated by the commissioner to certify professional employer organizations in Utah shall:

(a) apply by letter requesting designation by the commissioner;

(b) include in the letter or as an attachment to the letter:

(i) an explanation of how the assurance organization will certify each of the qualification criteria listed in Section 31A-40-303(3); and

(ii) evidence that the assurance organization is licensed by one or more states to certify the qualifications of a professional employer organization.

(2) The commissioner will designate approved assurance organizations by rule.

R590-250-4. Enforcement Date.

The commissioner will begin enforcing this rule 45 days from the rule's effective date.

R590-250-5. Severability.

If any provision of this rule or its application to any person or circumstance is, for any reason, held to be invalid, the remainder of this rule and its application to other persons and circumstances are not affected.

KEY: insurance, assurance organization designation

Date of Enactment or Last Substantive Amendment: 2008

Authorizing, and Implemented or Interpreted Law: 31A-40-303(3)



Insurance, Administration

R590-251

Preneed Life Insurance Minimum
Standards for Determining Reserve
Liabilities and Nonforfeiture Values
Rule.

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 31641

FILED: 06/30/2008, 15:32

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purposes of this rule for preneed life insurance products are to establish minimum mortality standards for reserves and nonforfeiture values, and to require the use of the 1980 Commissioners Standard Ordinary (CSO) Life Valuation Table for us in determining reserve liabilities and nonforfeiture values.

SUMMARY OF THE RULE OR CHANGE: This regulation protects the public interest by increasing necessary reserves to an appropriate level, promotes a responsible competitive environment by ensuring all insurers are acting responsibly, creates equitable value for consumers by increasing cash values, promotes the reliability, solvency and financial solidity of insurance institutions by increasing the reserve requirement on preneed policies.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-17-402, and 31A-22-408

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 2001 CSO Mortality Table, adopted by the NAIC in December 2002

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be no significant impact on filings or additional workload for insurance department employees and will create no change in the department's or state's budget.

❖ LOCAL GOVERNMENTS: This rule does not affect local governments since it deals with the relationship between the department and their life insurance licensees.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: This rule deals with reserving at the company level. It should have no fiscal impact on insurance agencies and other businesses. These increased insurer reserves for preneed policies will ensure that these policies are honored when claims are brought against them.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule will require life insurers to increase reserves on preneed policies they sell. It is very unlikely that the increased reserves will financially impact agencies selling these policies or consumers purchasing them.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have no fiscal impact on businesses in Utah. 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 08/14/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2008

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-251. Preneed Life Insurance Minimum Standards For Determining Reserve Liabilities And Nonforfeiture Values Rule.

R590-251-1. Authority.

This rule is promulgated by the commissioner of insurance pursuant to Subsections 31A-2-201(3), 31A-17-402(1), and 31A-22-408(1).

R590-251-2. Purpose and Scope.

(1) The purposes of this rule for preneed life insurance products are to:

- (a) establish minimum mortality standards for reserves and non-forfeiture values; and
- (b) require the use of the 1980 Commissioners Standard Ordinary (CSO) Life Valuation Table for use in determining:
 - (i) reserve liabilities; and
 - (ii) nonforfeiture values.

(2) This rule applies to preneed insurance contracts, as defined in Section R590-251-3, and to similar policies and certificates as determined by the commissioner.

R590-251-3. Definitions.

In addition to the definitions in 31A-1-301 the following definitions shall apply for the purposes of this rule.

(1)(a) "2001 CSO Mortality Table" means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002.

(b) The 2001 CSO Mortality Table is included in the Proceedings of the NAIC, 2nd Quarter 2002.

(c) Unless the context indicates otherwise, the 2001 CSO Mortality Table includes:

- (i) the ultimate form of that table;
- (ii) the select and ultimate form of that table;
- (iii) the smoker and nonsmoker mortality tables; and
- (iv) the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables.

(2) "Ultimate 1980 CSO" means the Commissioners' 1980 Standard Ordinary Life Valuation Mortality Tables (1980 CSO)

without ten-year (10-year) selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law approved in December 1983.

(3) Preneed insurance contract means any life insurance policy or certificate that is issued in combination with, in support of, with an assignment to, or as a guarantee for a prearrangement agreement for goods and services to be provided at the time of and immediately following the death of the insured.

(a) Goods and services may include, but are not limited to embalming, cremation, body preparation, viewing or visitation, coffin or urn, memorial stone, and transportation of the deceased.

(b) The status of the policy or contract as preneed insurance is determined at the time of issue in accordance with the policy form filing.

(4) The tables identified in Subsections R590-251-3(1) and R590-251-3(2) are hereby incorporated by reference within this rule and are available for public inspection at the Insurance Department during normal business hours.

R590-251-4. Minimum Standards.

This section sets minimum standards for determining reserve liabilities and nonforfeiture values for policies subject to the rule.

(1) Mortality. The mortality used in determining the minimum standard for valuation and the minimum standard for nonforfeiture values for both male and female insureds shall be the Ultimate 1980 CSO.

(2) Interest rates.

(a) The interest rates used in determining the minimum standard for valuation shall be the calendar year statutory valuation interest rates as defined in 31A-17-506.

(b) The interest rates used in determining the minimum standard for nonforfeiture values shall be the calendar year statutory nonforfeiture interest rates as defined in 31A-22-408.

(3) Methods.

(a) The method used in determining the minimum standard for valuation shall be the method defined in 31A-17, Part 5, Standard Valuation Law.

(b) The method used in determining the minimum standard for nonforfeiture values shall be the method defined in 31A-22-408.

R590-251-5. Transition Rules.

(1) For policies subject to this rule issued before January 1, 2012, the 2001 CSO may be used as the minimum mortality standard for valuation and minimum mortality standard for nonforfeiture values for both male and female insureds.

(2) If an insurer elects to use the 2001 CSO as a minimum mortality standard for any policy subject to this rule issued before January 1, 2012, the insurer shall provide, as a part of the actuarial opinion memorandum submitted in support of the company's asset adequacy testing, an annual written notification to the domiciliary commissioner. The notification shall include:

(a) A complete list of all policy forms that use the 2001 CSO as a minimum mortality standard;

(b) A certification signed by the appointed actuary stating that the reserve methodology employed by the company in determining reserve liabilities for the policies subject to this rule and using the 2001 CSO as a minimum mortality standard, develops adequate reserves; and

(c) Supporting information regarding the adequacy of reserves for policies subject to this rule and using the 2001 CSO as a minimum mortality standard for reserve liabilities.

(3) For the purpose of the certification required under Subsection R590-251-5(2)(b), the policies subject to this rule and using the 2001 CSO as a minimum mortality standard cannot be aggregated with any other policies.

(4) Policies subject to this rule issued on or after January 1, 2012, must use the Ultimate 1980 CSO in the calculation of minimum reserve liabilities and minimum nonforfeiture values.

R590-251-6. Effective Date.

This rule applies to policies issued on or after January 1, 2009.

R590-251-7. Penalties.

A person found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under 31A-2-308.

R590-251-8. Enforcement Date.

The commissioner will begin enforcing this rule 45 days from the rule's effective date.

R590-251-9. Severability.

If any provision of this rule or its application to any person or circumstance is, for any reason, held to be invalid, the remainder of this rule and its application to other persons and circumstances are not affected.

KEY: preneed life insurance standards

Date of Enactment or Last Substantive Amendment: 2008

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-17-402; 31A-22-408



Natural Resources, Parks and
Recreation
R651-611
Fee Schedule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31599

FILED: 06/20/2008, 12:42

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In Section R651-611-2, a \$25 fee for Pedestrian/Cyclist Permit that is good for all parks was added because of the demand for more walking and bicycle trails in our state parks and as the parks are becoming more "urbanized" as residential housing development has created this demand. In Section R651-611-4, since there is a limited number of yurts in the state park campgrounds, and the demand is very high, the state feels it necessary to increase the rental fee from \$45 to \$60. This increase will still be within the market and will generate more income for the state. Added Subsection R651-611-4(F) which is the rental of the Jordanelle Visitor Center to include weddings, business meetings, and other group functions.

SUMMARY OF THE RULE OR CHANGE: Local residents or timeshare owners are showing more interest in using walking and bicycle trails on a regular basis. This creates very little impact on facilities and use of the trail less than one hour on an average. The annual pass would be nontransferable for the individual purchaser only. Yurts are becoming so popular and demand so high, the fee is requested to be increased to \$60 per night to accommodate those and perhaps add to the number of park system yurts. The Visitor Center at Jordanelle State Park is being renovated to accommodate uses stated above. Demand from the Park City, Salt Lake, and Heber areas for these types of function is growing rapidly. The fee that is requested to be charged has come after meetings with local caterers and for large affairs, including the outside grassy area. Most events will be between \$500 and \$1,000 and the \$2,500 is a cap for utilizing the conference room, atrium, and outside grass area. Events requiring less facility and/or park staff will be negotiated with division representatives.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63-11-17(8)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: For this annual pass the purchase would be \$25 per pass; it is estimated there would be an additional \$7,500 to \$10,000 in revenue per year for all parks using the pedestrian/bicyclist paths/walkways. Any savings or cost regarding the yurts cannot be estimated at this time as the yurts are new to the park system and we have no history yet to get figures or even estimate. The average on the increase for the building and facilities rental at Jordanelle is estimated to be around \$800 and some can be lower and some large affairs up to \$2,500. Based on the average of \$800, that would be an increase in revenue of \$32,000.

❖ LOCAL GOVERNMENTS: State-owned areas for lodging, building rental, and trails and walkways for pedestrians/bicyclists should not affect local government, as this rule is for the recreating public in state parks and facilities. No costs or savings to local government since this rule is for state parks and does not involve local government. There is no costs or savings to local government unless they chose to rent a state facility for an event.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: In certain areas, businesses such as hotels and condominium associations will purchase these passes for the benefit of their users. Staff estimates these businesses will spend approximately \$5,000 per year. Part of that figure will be paid to the state. Those renting yurts will pay a fee of \$60 per night. Those renting the building/facilities at Jordanelle State Park will pay a fee to use those facilities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Individuals who use the pedestrian/bicycle paths and do not pay the fee could be warned and if it reoccurred, fined.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These rule changes should have little or no impact on businesses. Michael 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 08/14/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2008

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. \$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.

5. \$25 Pedestrian/Cyclist Permit (good at all parks)

B. Special Fun Tag - Available free to Utah residents, who are disabled, as defined by the Special Fun Tag permit affidavit.

.....

R651-611-4. Special Fees.

A. Golf Course Fees

1. Palisade rental and green fees.
 - a. Nine holes general public - weekends and holidays - \$13.00
 - b. Nine holes weekdays (except holidays) - \$11.00
 - c. Nine holes Jr/Sr weekdays (except holidays) - \$8.00
 - d. 20 round card pass - \$180.00
 - e. 20 round card pass (Jr only) - \$125.00
 - f. Promotional pass - single person (any day) - \$500.00
 - g. Promotional pass - single person (weekdays only) - \$350.00
 - h. Promotional pass - couples (any day) - \$700.00
 - i. Promotional pass - family (any day) - \$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) - \$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.

- m. Tournament fee (per player) - \$5.00
- n. Driving range - small bucket - \$2.50
- o. Driving range - large bucket - \$5.00
- p. 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 - \$160.00
- e. Promotional pass - single person (any day) - \$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) \$7.00/ft.

f. Monthly with Utilities - (Other Parks) \$5.00/ft.

- g. Monthly Off Season - \$3.00/ft
- h. Monthly (Off Season with utilities) - \$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. Waiting List - \$10.00
 D. Assessment and Assignment Fees.
 1. Duplicate Document - \$10.00
 2. Contract Assignment - \$20.00
 3. Returned checks - \$30.00
 4. Staff time - \$50.00/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. Researcher - \$5.00/hour
 7. Photo copy - \$.30/each - Black and White
 - \$1.00/each - Color
 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~~]
 F. Facility Rental Fees.
 Jordanelle Visitor Center - Up to \$2,500 per day.

KEY: parks, fees

Date of Enactment or Last Substantive Amendment: [~~March 10, 2008~~ **August 21, 2008**]

Notice of Continuation: February 13, 2006

Authorizing, and Implemented or Interpreted Law: 63-11-17(8)

◆ ————— ◆

**Natural Resources, Parks and
 Recreation
 R651-617
 Permit Violation**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31602

FILED: 06/20/2008, 13:26

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: There has been a noticeable increase in the alteration of the annual park passes by the purchasers. This rule amendment will add a permit violation if a permit is found to be intentionally altered

or changed and a fee of \$500 may be assessed. This is to halt intentional permit violations, by imposing the loss of the permit for time stated in the rule and/or a fine of \$500.

SUMMARY OF THE RULE OR CHANGE: Upon purchase of an annual pass, park staff "notches" out the month (printed on the sides of the pass), in which the pass was purchased. This notch entitles the pass holder to enter into any state park for the next 12 months. A number of pass holders have been notching a future month out, and replacing the original notch with that month, by carefully taping it into the old notch. Without careful scrutiny, the pass appears to be legitimate. The division does not currently have a rule in place that directly addresses this issue. This amendment will address the issue and we believe stop some of this altering of the park permits/passes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63-11-2

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no anticipated costs or savings to the state budget as this rule is to impose penalties on those who alter state park passes/permits. With a \$500 fine available to impose, we have no history but the impact would be little or none to the state budget.

❖ LOCAL GOVERNMENTS: This is a state park pass/permit for state parks only. Therefore it has no aggregate anticipated costs or savings to local government.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There is no costs or savings to small businesses as this is a permit violation for a state park pass to visit state parks in the system.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It could cost a person who violates a permit, the revocation or suspension of the permit and a fine of \$500 may be imposed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule should have little or no impact on businesses. Michael 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 08/14/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2008

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

R651. Natural Resources, Parks and Recreation.

R651-617. Permit Violation.

R651-617-1. Revocation or Suspension of Permit.

A permit may be revoked or suspended for a time, from a minimum of seven (7) days to a maximum of the duration of the permit by the division director or individual designated by the division director if one or more of the following actions are found to have occurred, based on their severity: (1) false or fictitious statements or qualifications were provided to obtain the permit; (2) the terms or conditions of the permit were violated; or (3) the permit holder allowed the permit to be used by an unauthorized person; or (4) the permit is found to be intentionally altered or changed. In addition, a fine of \$500 may be assessed.

KEY: parks

Date of Enactment or Last Substantive Amendment: ~~December 2, 1999~~ **August 21, 2008**

Notice of Continuation: October 23, 2003

Authorizing, and Implemented or Interpreted Law: 63-11-17(2)(b)



Natural Resources, Wildlife Resources
R657-6
Taking Upland Game

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31609

FILED: 06/24/2008, 08:43

RULE ANALYSIS

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

SUMMARY OF THE RULE OR CHANGE: The proposed revisions to the above listed rules: 1) change the sandhill crane application to online only; and 2) remove the 8:00 a.m. restriction to take pheasant and quail on the opening day of the seasons.

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

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None--This amendment changes the sandhill crane application to online only, bringing it in line with all of the other division applications, and removes the 8:00 a.m. start time for pheasant and quail on opening day. The proposed changes to the rule do not create a cost or savings

impact to the state budget or the Division of Wildlife Resources' (DWR) budget and can be carried out with current personnel and budget.

❖ **LOCAL GOVERNMENTS:** None--This amendment changes the sandhill crane application to online only and removes a 8:00 a.m. shooting restriction. The proposed change does not create any direct cost or savings impact to local governments because they are not directly affected by the rule.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** None--This amendment changes the application process for the sandhill crane drawing and removes a 8:00 a.m. shooting restriction. This change does not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment changes the application process for the sandhill crane drawing and removes a 8:00 a.m. shooting restriction on opening day for pheasant and quail. The proposed change to the rule does not create additional compliance costs.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/14/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2008

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-6. Taking Upland Game.

R657-6-5. Application Procedure for Sandhill Crane.

(1)(a) Applications will be available ~~from~~ through the Division ~~offices and license agents's~~ internet address. Applications must be ~~mailed~~ submitted online by the date prescribed in the proclamation of the Wildlife Board for taking upland game.

(b) Residents and nonresidents may apply.

(c) The application period for Sandhill Crane is published in the proclamation of the Wildlife Board for taking upland game.

(2)~~(a) Applications completed incorrectly or received after the date prescribed in the upland game proclamation may be rejected.~~

—(b)] If an error is found on the application, the applicant may be contacted for correction.

~~(3)(a) Late applications, received by the date published in the proclamation of the Wildlife Board for taking upland game, will not be considered in the drawing, but will be processed for the purpose of entering data into the Division's draw database to provide:~~

~~—(i) future pre-printed applications;~~
~~—(ii) notification by mail of late application and other draw opportunities; and~~
~~—(iii) re-evaluation of Division or third-party errors.~~

~~—(b) The handling fee will be used to process the late application. Any Utah hunting or combination license fees submitted with the application will be refunded.~~

~~—(c) Late applications, received after the date published in the proclamation of the Wildlife Board for taking upland game, shall not be processed and shall be returned to the applicant.~~

—(4)] Group applications for Sandhill Crane will not be accepted.

(~~5~~4)(a) A person may obtain only one Sandhill Crane permit each year.

(b) A person may not apply more than once annually.

(~~6~~5) Each application must include:

(a) a nonrefundable handling fee; and

(b) the hunting or combination license fee, if it has not yet been purchased.

(~~7~~6) A hunting or combination license may be purchased before applying, or the hunting or combination license will be issued upon successful drawing results. Fees must be submitted with the application.

(~~8~~7) The posting date of the drawing results is published in the proclamation of the Wildlife Board for taking upland game.

(~~9~~8) Any permits remaining after the drawing are available[~~by mail in application~~] on a first-come, first-served basis beginning on the date published in the proclamation of the Wildlife Board for taking upland game.

(~~10~~9) To apply for a resident permit or license, a person must establish residency at the time of purchase.

(~~11~~10) The posting date of the drawing shall be considered the purchase date of a permit.

(~~12~~11)(a) An applicant may withdraw their application for the Sandhill Crane Drawing by requesting such in writing by the date published in the proclamation of the Wildlife Board for taking upland game.

(b) The applicant must send their notarized signature with a statement requesting that their application be withdrawn to the Salt Lake Division office.

(c) An applicant may reapply in the Sandhill Crane Drawing provided:

(i) the original application is withdrawn;

(ii) the new application is submitted with the request to withdraw the original application;

(iii) both the new application and request to withdraw the original application are received by the initial application deadline; and

(iv) both the new application and request to withdraw the original application are submitted to the Salt Lake Division office.

(d) Handling fee will not be refunded.

(~~13~~12)(a) An applicant may amend their application for the Sandhill Crane Drawing by requesting such in writing by the initial application deadline.

(b) The applicant must send their notarized signature with a statement requesting that their application be amended to the Salt Lake Division office.

(c) The applicant must identify in their statement the requested amendment to their application.

R657-6-10. Shooting Hours.

(1)(a) Except as provided in Subsection (b), shooting hours for upland game are as follows:

(i) Band-tailed Pigeon, Mourning Dove, White-winged Dove, and Sandhill Crane may be taken only between one-half hour before official sunrise through official sunset.

(ii) Sage-grouse, Ruffed Grouse, Blue Grouse, Sharp-tailed Grouse, White-tailed Ptarmigan, Chukar Partridge, Hungarian Partridge, pheasant, quail, cottontail rabbit, and snowshoe hare may be taken only between one-half hour before official sunrise through one-half hour after official sunset.

(b) A person must add to or subtract from the official sunrise and sunset depending on the geographic location of the state. Specific times are provided in a time zone map in the proclamation of the Wildlife Board for taking upland game.

(2) [~~Pheasant and quail may not be taken prior to 8 a.m. on the opening day of the pheasant and quail seasons.~~

—(3)—]A person may not discharge a firearm on state owned lands adjacent to the Great Salt Lake, state waterfowl management areas or on federal refuges between official sunset through one-half hour before official sunrise.

KEY: wildlife, birds, rabbits, game laws

Date of Enactment or Last Substantive Change: [~~August 7, 2007~~]2008

Notice of Continuation: July 8, 2005

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



Natural Resources, Wildlife Resources **R657-16** Aquaculture and Fish Stocking

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 31611

FILED: 06/24/2008, 09:03

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted for taking public input and reviewing the division's program by which live aquatic wildlife may be possessed or transported.

SUMMARY OF THE RULE OR CHANGE: Provisions of this rule are being amended to exclude private fish ponds which are now regulated under Rule R657-59. Provisions are being amended to allow the division to take aquatic wildlife from the wild for placement in an aquarium for purposes of display or education. Other changes are being made for consistency

and clarity. (DAR NOTE: The 120-day (emergency) rule filing for Rule R657-59 is under DAR No. 31625 in this issue, July 15, 2008, of the Bulletin, and was effective 06/27/2008. The proposed new Rule R657-59 is under DAR No. 31612 in this issue of the Bulletin.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-15-9 and 23-15-10

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This amendment removes private fish ponds from the text and makes the appropriate reference to Rule R657-59. It also allows for the Division of Wildlife Resources (DWR) to take aquatic wildlife from the wild for placement in an aquarium for purposes of display or education, and makes other changes for consistency and clarity. DWR has determined that this amendment does not create a cost or savings impact to DWR's budget or the state budget.

❖ LOCAL GOVERNMENTS: None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the amendment. Nor are local governments indirectly impacted because the amendment does not create a situation requiring services from local governments.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: This amendment removes private fish ponds from the text and makes the appropriate reference to Rule R657-59. It also allows for DWR to take aquatic wildlife from the wild for placement in an aquarium for purposes of display or education, and makes other changes for consistency and clarity. DWR determines the amendment does not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment removes private fish ponds from the text and makes the appropriate reference to Rule R657-59. It also allows for DWR to take aquatic wildlife from the wild for placement in an aquarium for purposes of display or education, and makes other changes for consistency and clarity. There are not any additional compliance costs associated with this amendment.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/14/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2008

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-16. Aquaculture and Fish Stocking.

R657-16-1. Purpose and Authority.

(1) Under the authority of Sections 23-15-9 and 23-15-10 of the Utah Code, this rule provides the standards and procedures for:

- (a) institutional aquaculture;
- (b) ~~private fish ponds;~~
- ~~(e)~~ short-term fishing events;
- ~~(d)~~ private fish stocking; and
- ~~(e)~~ displaying aquaculture products or aquatic wildlife in aquaria.

(2) This rule does not cover private fish ponds as provided in R657-59, or fee fishing and commercial aquaculture as provided in Title 4, Chapter 37, Parts 2 and 3; and the Department of Agriculture Rule R58-17.

(3) A person engaging in any activity provided in Subsection (1) must also comply with the provisions set forth in Rule R657-3 and the Department of Agriculture Rule R58-17.

(4) Any violation of, or failure to comply with, any provision of this rule or any specific requirement contained in a certificate of registration issued pursuant to this rule may be grounds for revocation or suspension of the certificate of registration or denial of future certificates of registration, as determined by a division hearing officer.

R657-16-2. Definitions.

- (1) Terms used in this rule are defined in Section 23-13-2.
- (2) In addition:
 - (a) "Aquaculture" means the husbandry, production, harvest, and use of aquatic organisms under controlled, artificial conditions.
 - (b) "Aquaculture facility" means any facility used for propagating, rearing, or producing aquatic wildlife or aquaculture products. Facilities that are separated by more than 1/2 mile, or facilities that drain to, or are modified to drain to, different drainages are considered to be separate aquaculture facilities, regardless of ownership.
 - (c)(i) "Aquaculture product" means privately purchased aquatic wildlife or their gametes.
 - (ii) "Aquaculture product" does not include aquatic wildlife obtained from the wild.
 - (d) "Aquarium" means any container located in an indoor facility that is used to hold fish from which no water is discharged, except during periodic cleaning, and which discharged water is passed through a filtering system capable of removing all fish and fish eggs and is disposed of only in a septic tank approved by the county or in a municipal wastewater treatment system approved by either the state or local health department.
 - (e) "Display" means to hold live aquaculture products or aquatic wildlife in an aquarium for the purpose of viewing for commercial or noncommercial purposes.

(f) "FEMA" means Federal Emergency Management Administration.

(g) "Institutional aquaculture" means aquaculture engaged in by any institution of higher learning, school, or other educational program, or public agency.

(h) "Ornamental fish" means fish that are raised or held for their beauty rather than use, or that arouse interest for their uncommon or exotic characteristics, including tropical fish, goldfish, and koi, but not including those species listed as prohibited or controlled in Rule R657-3-34.

(i) "Private fish pond" means a pond, reservoir, or other body of water, or any fish culture system which is contained on privately owned land and used for holding or rearing fish for a private, noncommercial purpose.

(j) "Private stocking" means noncommercial stocking of live aquaculture products in waters of the state not ~~covered by a certificate of registration for~~ eligible as a private fish pond under R657-59 or other private fish facility.

(k) "Purchase" means to buy, or otherwise acquire or obtain through barter, exchange, or trade for pecuniary consideration or advantage.

(l) "Short-term fishing event" means any event where privately acquired fish are held or confined for a period not to exceed seven days for the purpose of providing fishing or recreational opportunity and where no fee is charged as a requirement to fish.

R657-16-6. Failure to Renew Certificates of Registration Annually.

(1) If an operator of an aquaculture facility, ~~or private fish pond,~~ fails to renew the certificate of registration annually, or the hearing officer suspends the certificate of registration, all live aquatic wildlife or aquaculture products permitted under the certificate of registration shall be disposed of as follows:

(a) Unless the Wildlife Board orders otherwise, all aquatic wildlife or aquaculture products must be removed within 30 days of revocation or the expiration date of the certificate of registration, or within 30 days after ice-free conditions on the water; or

(b) At the discretion of the division, aquatic wildlife or aquaculture products may remain in the waters at the facility, but shall only be taken as prescribed within Rule R657-13 for Taking Fish and Crayfish.

(2) Aquatic wildlife or aquaculture products from a facility not health approved under Section 4-37-501 may not be moved alive.

(3) Aquatic wildlife or aquaculture products from an aquatic facility infected with any of the pathogens specified in the Department of Agriculture Rule R58-17 must be disposed of as directed by the division to prevent further spread of such diseases.

R657-16-10. Private Fish Ponds.

~~[(1) A certificate of registration is required to produce, propagate, rear, or possess any aquatic wildlife or aquaculture product in a private fish pond for private, noncommercial purposes. A separate certificate of registration is required for each private fish pond as defined under aquaculture facility.~~

~~—(2) A private fish pond owner or operator may not sell, donate, or transfer live fish or live fish eggs, except approved species may be transferred to the private fish pond from an approved source.~~

~~—(3) A fishing license is not required to take fish from a certificated private fish pond.~~

~~—(4)(a) To transport dead fish without a license, a person must have a receipt which contains the following information:~~

~~—(i) species and number of fish;~~

~~—(ii) date caught;~~

~~—(iii) certificate of registration number of the private fish pond; and~~

~~—(iv) name, address, and telephone number of the owner of the private fish pond.~~

~~—(b) Any person that has a valid fishing license may transport up to a legal limit of dead fish from a private fish pond without further documentation.~~

~~—(5)(a) A certificate of registration for a private fish pond may be obtained by submitting an application and paying a fee in the amount established by the Wildlife Board.~~

~~—(b) A certificate of registration may be issued after a division representative inspects the private fish pond, and confirms that the pond:~~

~~—(i) meets all requirements stipulated in this rule and Title 23 of the Utah Code; and~~

~~—(ii) poses no identifiable adverse threat to other wildlife species or their habitat.~~

~~—(c) The following conditions apply to the stocking of nonnative fish in the Upper Colorado River Basin:~~

~~—(i) private ponds within the 50-year flood plain may be stocked with largemouth bass, bluegill, mosquitofish, or triploid grass carp provided the pond is bermed in accordance with FEMA standards; and~~

~~—(ii) outlets must be screened with 1/4 inch or smaller mesh, or other anti-escapement device acceptable to the division, to prevent the escape of fish; or~~

~~—(iii) isolated fish ponds, having no connection to the river that are above the 50-year flood plain, may be stocked with largemouth bass, bluegill, mosquitofish, or triploid grass carp; or~~

~~—(iv) isolated private ponds, having no connection to the river that are above 6,500-foot mean sea level (msl) and above the 100-year flood plain may be stocked with fathead minnow or channel catfish; and~~

~~—(v) outlets must be screened with 1/4 inch or smaller mesh, or other anti-escapement device acceptable to the division, to prevent the escape of fish.~~

~~—(d) A certificate of registration may be renewed annually for six consecutive years by submitting an application each year, paying a fee in the amount established by the Wildlife Board and submitting the records described in Subsection (6). After a period of six years, or in the event the annual renewals are not maintained for any reason, the water shall again undergo original application, inspection, and payment of a fee in the amount established by the Wildlife Board.~~

~~—(6)(a) Any person that possesses a certificate of registration for a private fish pond must submit to the division a report of all live fish purchased or acquired during the year. This report must contain the following information:~~

~~—(i) name, address, and certificate of registration number of the seller or supplier;~~

~~—(ii) number and weight, by species;~~

~~—(iii) date of sale or transfer; and~~

~~—(iv) name, address, and certificate of registration number of the receiver.~~

~~—(b) A form for this information is provided by the division.~~

~~—(c) This record must be sent to the division no later than January 30, and must be received before the certificate of registration may be renewed.]Private fish ponds are regulated under the provisions in R657-59.~~

R657-16-12. Private Stocking.

(1) An individual wishing to stock fish for private, noncommercial purposes in a body of water not ~~covered by a certificate of registration~~ eligible as a private fish pond under R657-59 must first obtain a certificate of registration for private stocking.

(2) Fish released in a state water ~~which is not covered by a certificate of registration~~ not eligible as a private fish pond under R657-59 are considered wild aquatic wildlife and may be taken only as provided in Rule R657-13 and the fishing proclamation.

(3) A water that does not qualify as a private fish pond may not be screened to contain fish stocked (pursuant to a certificate of registration for private stocking), except that a water stocked with grass carp to control aquatic weeds must be adequately screened to prevent the grass carp from escaping.

(4)(a) Private stocking is limited only to those species approved on the certificate of registration.

(b) Species approval will be based on the biological suitability of the requested species compared to the needs of the fish and other wildlife in the drainage.

(c) An amendment to the certificate of registration is required each time fish are stocked, except the division may allow a person to stock fish more than once if the request is made on the application, and is approved by the division.

(d) Fish may be acquired only from a source that has a valid fish health approval number assigned by the Department of Agriculture.

(5)(a) An application for a certificate of registration for private stocking to stock fish other than grass carp may be approved only if:

(i) on privately owned land;

(ii) the body of water is a reservoir, the reservoir is wholly contained on the land owned by the applicant; and

(iii) the body of water is not stocked or otherwise actively managed by the division.

(b) An application for a certificate of registration for private stocking of fish other than grass carp shall not be approved if:

(i) the fish to be stocked are for a commercial purpose; or

(ii) in the opinion of the division, stocking would cause harm to other species of fish or wildlife.

(6) An application for a certificate of registration for private stocking of triploid grass carp for control of aquatic weeds will be evaluated based upon:

(a) the severity of the weed problem;

(b) availability of other suitable means of weed control;

(c) adequacy of screening to contain the grass carp; and

(d) potential for conflict or detrimental interactions with other species of fish or wildlife.

(7) A certificate of registration for private stocking may be issued after review of the appropriateness of the requested species and inspection of the water to be stocked by a division representative to ensure compliance with the stipulations of this rule and the absence of any threat to other fish or wildlife species.

(8) A certificate of registration for private stocking may be obtained by submitting an application and paying a fee in the amount established by the Wildlife Board.

R657-16-14. Display.

(1)(a) A certificate of registration is required to hold live aquatic wildlife or aquaculture products in an aquarium for the purpose of viewing or displaying for commercial or noncommercial purposes, except the division may hold live aquatic wildlife or aquaculture products in an aquarium for educational viewing or

display without a certificate of registration. A certificate of registration is not required to display ornamental fish.

(b) Live aquatic wildlife or aquaculture products that are displayed must meet the health approval standards described in Section 4-37-501.

(2)(a) Aquatic wildlife taken from the wild may not be displayed or held in an aquarium.

~~(b) The division may take aquatic wildlife from the wild for placement in an aquarium for purposes of display or education.~~

(3) Live aquaculture products held in an aquarium for display may not be transferred, sold alive, released, or stocked. They may be sold as long as they are first killed and prepared for consumption.

(4)(a) A certificate of registration for display of live aquaculture products in an aquarium may be obtained by submitting an application and paying a fee in the amount established by the Wildlife Board.

(b) The certificate of registration is renewable every five years on or before the renewal date as specified on the certificate of registration by submitting an application, paying a fee in the amount established by the Wildlife Board, and submitting the records described in Subsection (5).

(5)(a) A person possessing a certificate of registration for display must submit to the division an annual report of each purchase or acquisition of live aquaculture products. This report must include the following information:

(i) name, address, certificate of registration number, and health approval number of the source; and

(ii) number and weight acquired, by species.

(b) This record must be submitted to the division no later than January 30 each year, and must be received before the certificate of registration can be renewed.

KEY: wildlife, aquaculture, fish

Date of Enactment or Last Substantive Amendment:
~~November 15, 2002~~ 2008

Notice of Continuation: October 9, 2007

Authorizing, and Implemented or Interpreted Law: 23-15-9; 23-15-10

**Natural Resources, Wildlife Resources****R657-23****Utah Hunter Education Program****NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 31613

FILED: 06/24/2008, 09:15

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended to add text to clarify the definition of "Hunter Education Registration Certificate" and to add an exemption allowed by H.B. 427 for members of the United States Armed Forces or Utah National Guard from having to complete the shooting practical test. (DAR NOTE: H.B. 427 (2008) is found at Chapter 217, Laws of Utah 2008, and was effective 05/05/2008.)

SUMMARY OF THE RULE OR CHANGE: "Hunter Education Registration Certificate" definition was revised to better reflect a valid period of 365 days. An exemption was added for members of the United States Armed Forces or Utah National Guard from having to complete the shooting practical test.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-19-11 and 23-19-12

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This rule is being amended to clarify definitions and to add an exemption for military personnel. The Division of Wildlife Resources (DWR) determines that this amendment does not create a cost or savings impact to the state budget or DWR's budget and can be implemented with current budget and personnel.

❖ LOCAL GOVERNMENTS: None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: This rule is only clarifying an existing definition and adding an exemption for military personnel. Therefore, this amendment does not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule is only clarifying an existing definition and adding an exemption for military personnel. Therefore, the division determines that there are not any additional compliance costs associated with this amendment.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/14/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2008

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-23. Utah Hunter Education Program.

R657-23-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Approved hunter education course" means any hunter education course that qualifies a person to receive a resident hunting license in the state, province, or country in which the hunter education course is offered.

(b) "Authorized division representative" means a volunteer hunter education instructor who has been approved by the division to issue duplicate blue cards.

(c) "Blue Card" means the certificate of completion issued by the division for having passed a Utah hunter education course or an approved hunter education course.

(d) "Certificate of completion" means a card, certificate, or other document issued by the wildlife agency of a state, province, or country, and signed by a hunter education instructor, verifying successful completion of an approved hunter education course.

(e) "Hunter Education Registration Certificate" means a document purchased from the division that is valid for 365 days from date of purchase which is required to sign up for and graduate from the hunter education course. This document becomes a valid hunting license upon validation of course completion by a certified hunter education instructor.

(f) "Practical exercise and testing day" means a student has successfully completed the hunter education course online and shall participate in taking a written test, a practical shooting test, and instruction on firearms safety and hunter responsibility during a minimum of five hours with a hunter education instructor.

(g) "Trainer" means a volunteer hunter education instructor or Division employee who has been certified by the division to train hunter education instructors.

(h) "Instructor" means a volunteer hunter education instructor or division employee who has been certified by the division to teach the hunter education program to students.

(i) "Online hunter education course" means a hunter education course that is completed online substituting the minimum 12 hours classroom requirement, and is taken through the division's Internet address.

(j) "Student" means a person who is registered in a hunter education course being taught by a certified hunter education instructor.

(k) "Traditional hunter education course" means a hunter education course that is a minimum of 12 classroom hours, a written test and a practical shooting test.

R657-23-3. Hunter Education Required.

(1)(a) To obtain a hunting license, any person born after December 31, 1965, must present proof of having passed a division approved hunter education course.

(b) A person may take a hunter education course offered by the division as provided in Subsection (2), (3), or (4).

(2) Completion of a traditional hunter education course requires students to:

(a) purchase a hunter education ~~[voucher]~~ registration certificate from a Division authorized licensed vendor;

(b) attend the minimum 12-hour classroom course;

(c) behave in a safe and responsible manner in class;

(d) obtain a passing score of at least 75% on a written test; and

(e) obtain a passing score of at least 50% on a shooting practical test.

(3) Completion of the online hunter education course requires students to:

(a) purchase a hunter education [~~voucher~~] registration certificate from a Division authorized licensed vendor.

(b) pre-register for the field day by contacting the instructor by mail, e-mail or telephone;

(c) comprehensively read each chapter of the online workbook, and complete and obtain a passing score of at least 80% of each quiz that is provided after each chapter of the workbook;

(d) behave in a safe and responsible manner while attending the field day;

(e) obtain a passing score of at least 75% on a written test; and

(f) obtain a passing score of at least 50% on a shooting practical test.

(4)(a) The division will issue a Blue Card to each individual who successfully completes the hunter education course.

(b) A Blue Card shall not be issued to a person who has not successfully completed the hunter education requirements.

(5) A member of the United States Armed Forces or Utah National Guard is exempt from the shooting practical test required in Subsections 2 and 3 above if they can provide a copy of their federal form 201 from the military outlining their firearms training to the hunter education instructor prior to the firearms practical test.

(6) The division shall accept other states, provinces, and countries criteria and qualifications for their respective courses, which meet or exceed the International Hunter Education Association hunter education standards.

KEY: wildlife, game laws, hunter education

Date of Enactment or Last Substantive Amendment: ~~April 7,~~ 2008

Notice of Continuation: December 6, 2007

Authorizing, and Implementing or Interpreted Law: 23-19-11



Natural Resources, Wildlife Resources

R657-55

Wildlife Convention Permits

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31608

FILED: 06/24/2008, 08:40

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife's rule pursuant to convention permits.

SUMMARY OF THE RULE OR CHANGE: The proposed revisions to the above listed rule: 1) add definition of "Special nonresident convention permit"; and 2) make technical corrections for consistency and accuracy.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This amendment defines the criteria for a nonresident permit to be awarded through the recognized convention. Since there is already an electronic system in place for the issuing of convention permits, the Division of Wildlife Resources (DWR) determines that these amendments do not create a cost or savings impact to the state budget or DWR's budget since the changes will not increase workload and can be carried out with existing budget.

❖ LOCAL GOVERNMENTS: Since this amendment only defines the criteria for an additional nonresident convention permit, this should have little to no effect on the local government. This filing does not create any direct costs or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: This amendment allows additional opportunity for nonresidents to acquire once-in-a-lifetime permits through the recognized annual convention. It has the potential to increase the cost to those sportsman wanting to participate. Therefore, the amendments have the potential to generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR determines that these amendments will create additional costs for nonresidents wishing to apply for a once-in-a-lifetime hunt in Utah at the annual convention. Participation is voluntary and the rule amendments do not create a cost or savings impact to individuals who do not participate in hunting in Utah.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule does not create an impact on businesses. Michael R. Styler, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/14/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2008

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.**R657-55. Wildlife Convention Permits.****R657-55-1. Purpose and Authority.**

(1) Under the authority of Sections 23-14-18 and 23-14-19 of the Utah Code, this rule provides the standards and requirements for issuing wildlife convention permits.

(2) Wildlife convention permits are authorized by the Wildlife Board and issued by the division to a qualified conservation organization for purposes of generating revenue to fund wildlife conservation activities and attracting a regional or national wildlife convention to Utah.

(3) The selected conservation organization will conduct a random drawing at a convention held in Utah to distribute the opportunity to receive wildlife convention permits.

(4) This rule is intended as authorization to issue one series of wildlife convention permits per year beginning in 2007 through 2011 to one qualified conservation organization.

R657-55-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Conservation organization" means a nonprofit chartered institution, corporation, foundation, or association founded for the purpose of promoting wildlife conservation.

(b) "Special nonresident convention permit" means one wildlife convention permit for each once-in-a-lifetime species that is only available to a nonresident hunter legally eligible to hunt in Utah.

(c) "Wildlife Convention" means a multi-day event held within the state of Utah that is sponsored by multiple wildlife conservation organizations as their national or regional convention or event that is open to the general public and designed to draw nationwide attendance of more than 10,000 individuals. The wildlife convention may include wildlife conservation fund raising activities, outdoor exhibits, retail marketing of outdoor products and services, public awareness programs, and other similar activities.

([e]d) "Wildlife Convention Permit" means a permit which:

(i) is authorized by the Wildlife Board to be issued to successful applicants through a drawing or random selection process conducted at a Utah wildlife convention; and

(ii) allows the permittee to hunt for the designated species on the designated unit during the respective season for each species as authorized by the Wildlife Board.

([e]e) "Wildlife Convention Permit series" means a single package of permits to be determined by the Wildlife Board for:

- (i) deer;
- (ii) elk;
- (iii) pronghorn;
- (iv) moose;
- (v) bison;
- (vi) rocky mountain goat;
- (vii) desert bighorn sheep;
- (viii) rocky mountain bighorn sheep;
- (ix) wild turkey;
- (x) cougar; or
- (xi) black bear.

([e]f) "Secured Opportunity" means the opportunity to participate in a specified hunt that is secured by an eligible applicant through the drawing process.

([e]g) "Successful Applicant" means an individual selected to receive a wildlife convention permit through the drawing process.

R657-55-3. Wildlife Convention Permit Allocation.

(1) The Wildlife Board may allocate wildlife convention permits by May 1 of the year preceding the wildlife convention.

(2) Wildlife convention permits shall be issued as a single series to one conservation organization.

(3) The number of wildlife convention permits authorized by the Wildlife Board shall be based on:

(a) the species population trend, size, and distribution to protect the long-term health of the population;

(b) the hunting and viewing opportunity for the general public, both short and long term; and

(c) a percentage of the permits available to nonresidents in the annual big game drawings matched by a proportionate number of resident permits.

(4) Wildlife convention permits, including special nonresident convention permits, shall not exceed 200 total permits.

(5) Wildlife convention permits designated for the convention each year shall be deducted from the number of public drawing permits.

R657-55-5. Hunter Application Procedures.

(1) Any hunter legally eligible to hunt in Utah may apply for a wildlife convention permit except that only a nonresident of Utah may apply for a special nonresident convention permit.

(2) Any handling fee assessed by the conservation organization to process applications shall not exceed \$5 per application submitted at the convention.

(3) Applicants must validate their application in person at the wildlife convention to be eligible to participate in the random drawing process, for wildlife convention permits, and no person may submit an application in behalf of another.

(4) Applicants may apply for each individual hunt for which they are eligible.

(5) Applicants may apply only once for each hunt, regardless of the number of permits for that hunt.

(6) Applicants must submit an application for each desired hunt.

(7) Applicants must possess a current Utah hunting or combination license in order to apply for a permit.

R657-55-6. Drawing Procedures.

(1) A random drawing or selection process must be conducted for each wildlife convention permit.

(2) No preference or bonus points shall be awarded in the drawings.

(3) Waiting periods do not apply, except any person who obtains a wildlife convention permit for a once-in-a-lifetime species is subject to the once-in-a-lifetime restrictions applicable to obtaining a subsequent permit for the same species through a division application and drawing process, as provided in Rule R657-5 and the proclamation of the Wildlife Board for taking big game.

(4) No predetermined quotas or restrictions shall be imposed in the application or selection process for wildlife convention permits between resident and nonresident applicants, except that special nonresident convention permits may only be awarded to a nonresident of Utah.

(5) Drawings will be conducted at the close of the convention.

(6) Applicants do not have to be present at the drawing to be awarded a wildlife convention permit.

(7) The conservation organization shall draw twenty five eligible alternates for each wildlife convention permit and provide

the division with a finalized list. This list will be maintained by the conservation organization until all permits are issued.

(8) The division shall contact successful applicants by phone or mail, and the conservation organization may post results on a designated website.

KEY: wildlife, wildlife permits

Date of Enactment or Last Substantive Change: ~~November 21, 2007~~ **2008**

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



Natural Resources, Wildlife Resources
R657-57
Division Variance Rule

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 31610

FILED: 06/24/2008, 08:54

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is established to provide authority, standards, and procedures for granting remedial relief to persons precluded from obtaining or using a wildlife document because of an event or condition beyond their control.

SUMMARY OF THE RULE OR CHANGE: This rule provides the standards and procedures for granting variance requests to qualified individuals. This rule outlines the authority scope of the Wildlife Board and the Division of Wildlife Resources (DWR).

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

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** This new rule will set the criteria for granting remedial relief to persons precluded from obtaining or using a wildlife document because of an event or condition beyond their control. DWR determines that these amendments do not create a cost or savings impact to the state budget or DWR's budget since the changes will not increase workload and can be carried out with existing budget.

❖ **LOCAL GOVERNMENTS:** This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** This rule outlines criteria and scope of authority used to grant remedial relief to persons precluded from obtaining or using a wildlife document because of an event or condition beyond their control. Therefore, the amendments do not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR determines that these amendments do not create a cost or savings impact to individuals who participate in wildlife related activities.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/14/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2008

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-57. Division Variance Rule.

R657-57-1. Purpose and Authority.

(1) Under authority of Sections 23-14-18 and 23-14-19 this rule is established to provide authority, standards and procedures for granting remedial relief to persons precluded from obtaining or using a wildlife document because of an event or condition beyond their control.

R657-57-2. Definitions.

(1) The terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "CWMU" means cooperative wildlife management unit, as defined in Section 23-23-2;

(b) "Event or condition" means a circumstance in a person's life beyond their control that precludes or substantially limits their ability to obtain or use a wildlife document;

(c) "Immediate family member" means a person's spouse, child, stepchild, grandchild, brother, sister, parent, stepparent, grandparent, mother-in-law, or father-in-law;

(d) "Variance" means remedial relief granted by the Division or Wildlife Board to restore a person's opportunity to obtain or use a wildlife document which is completely lost or substantially impaired because of an intervening event or condition; and

(e) "Wildlife document" means any license, permit, tag, or certificate of registration issued by the Division.

R657-57-3. Division Variance Authority.

(1) The Division may issue variances to qualified individuals, subject to the standards, limitations, requirements, and procedures in this rule.

R657-57-4. Division Variance Authority Scope.

(1)(a) The Division may grant a season extension variance extending the hunting season on an applicant's wildlife document to the same or substantially similar hunt in the following year, provided:

(i) the variance request involves a wildlife document authorized in R657-57-5;

(ii) the applicant was completely precluded during the prescribed hunting season from using a wildlife document because of a qualifying event or condition set forth in R657-57-6; and

(A) the qualifying event or condition was not the result of the applicant's willful misconduct or gross negligent acts or omissions;

(iii) the season extension is restricted to the same species, gender, unit, weapon type, and season as the original wildlife document;

(iv) any changes in unit descriptions and season dates in the extension year are applied; and

(v) the variance is otherwise requested and issued in compliance with the standards, requirements and procedures set forth in this rule.

(b) Any waiting period associated with a wildlife document for which a season extension variance is granted begins on the date the original wildlife document is obtained.

(2)(a) The Division may grant a variance by awarding a bonus or preference point to a person who filed an untimely wildlife document application in a Division administered drawing, provided:

(i) the variance request involves a wildlife document authorized in R657-57-5;

(ii) the applicant was precluded or substantially impaired from filing a timely application because of a qualifying event or condition set forth in R657-57-6;

(iii) the untimely application was rejected and a bonus or preference point was not awarded for the selected species;

(iv) the applicant would have been eligible to receive the bonus or preference point had the application been timely filed; and

(v) the variance is otherwise requested and issued in compliance with the standards, requirements and procedures set forth in this rule.

(3) A Division administered drawing for purposes of subsection (2) does not include a drawing conducted at a wildlife convention pursuant to R657-55.

R657-57-5. Eligible Wildlife Documents.

(1) The Division's authority to grant a variance consistent with the requirements of this rule extends to all resident and nonresident wildlife documents, excluding the following:

(a) hunting licenses;

(b) fishing licenses;

(c) combination licenses;

(d) waterfowl permits;

(e) sandhill crane permits;

(f) upland game permits;

(g) furbearer licenses;

(h) bobcat and marten permits;

(i) cougar harvest objective permits;

(j) cougar and bear pursuit permits; and

(k) certificates of registration.

(2) A season extension variance for a CWMU permit may not be granted without the concurrence of the CWMU operator.

R657-57-6. Qualifying Events and Conditions.

(1) The Division's authority to grant a variance consistent with the requirements of this rule is limited to persons that are completely precluded during the prescribed season from participating in the hunting activity authorized by an eligible wildlife document, or precluded or substantially impaired from filing a timely wildlife document application in a Division administered drawing because of:

(a) personal illness or injury;

(b) the death, or significant injury or illness of an immediate family member; or

(c) mobilization or deployment under orders of the United States Armed forces, a public health organization, or public safety organization in the interest of national defense or a national emergency.

R657-57-7. Variance Application.

(1) A person may request a variance pursuant to the requirements of this rule by filing an application with the Division within 200 days of the:

(a) last day of the hunting season for which a season extension variance is requested; or

(b) drawing application deadline for which a bonus or preference point variance is sought. (2) An application for a season extension variance shall contain the following information and documentation:

(a) name, address and telephone number of the applicant;

(b) a brief statement of the variance relief sought;

(c) a description of the wildlife document for which a season extension variance is sought, including the permit number, species and sex, season dates, and weapon type;

(d) the original wildlife document for which a season extension variance is sought with an undetached and unnotched tag;

(e) a statement verifying the applicant was completely precluded from participating in a qualified hunt because of:

(i) personal illness or injury;

(ii) the death, or significant injury or illness of an immediate family member; or

(iii) mobilization or deployment under orders of the United States Armed Forces, or a public health or public safety organization in the interest of national defense or a national emergency.

(f) corroborating documentation of the qualifying event or condition listed in Subsection (2)(e), in the form of:

(i) a physician's written statement describing and confirming the qualifying injury or illness of the applicant or an immediate family member;

(ii) a photocopy of the deceased immediate family member's certified death certificate; or

(iii) a photocopy of the military orders, or a letter from an employment supervisor on official public health or public safety organization letterhead stating:

(A) the branch of the United States Armed Forces, or name of the public health organization or public safety organization from which the applicant is deployed or mobilized; and

(B) the nature and length of duty while deployed or mobilized.

(3) An application for a bonus or preference point variance shall contain the following information and documentation:

- (a) name, address and telephone number of the applicant;
- (b) a brief statement of the variance relief sought;
- (c) a description of the wildlife document application and permit type for which a bonus or preference point variance is sought, including the wildlife species and sex, season dates, and weapon type;
- (d) a statement verifying the applicant was precluded or substantially impaired from submitting a wildlife document application because of:
 - (i) personal illness or injury;
 - (ii) the death, or significant injury or illness of an immediate family member; or
 - (iii) mobilization or deployment under orders of the United States Armed Forces, or a public health or public safety organization in the interest of national defense or a national emergency.
- (e) corroborating documentation of the qualifying event or condition listed in Subsection (3)(d), in the form of:
 - (i) a physician's written statement describing and confirming the qualifying injury or illness of the applicant or an immediate family member;
 - (ii) a photocopy of the deceased immediate family member's certified death certificate; or
 - (iii) a photocopy of the military orders, or a letter from an employment supervisor on official public health or public safety organization letterhead stating:
 - (A) the branch of the United States Armed Forces, or name of the public health organization or public safety organization from which the applicant is deployed or mobilized; and
 - (B) the nature and length of their duty while deployed or mobilized.
- (4) The Division may reject an application that is incomplete or that contains false or misleading information.
- (5) The Division may require the applicant to provide additional information, documentation, or clarification in conjunction with an application to determine eligibility for a variance.
- (6) The Division shall make its written decision within 30 days of receiving an application for variance and mail a copy of the decision to the applicant.

R657-57-8. Division Variance Committee.

- (1) The Division shall establish a variance committee consisting of the Wildlife Chief, Administrative Services Chief, Licensing Coordinator, and Rules Coordinator, or their designees, which shall:
 - (a) review variance applications submitted to the Division pursuant to this rule;
 - (b) determine facts relative to variance requests;
 - (c) apply the provisions of this rule to relevant facts; and
 - (d) grant or deny variance requests in accordance with this rule.
- (2) Any variance request granted or denied shall be reviewed and approved by the Division director/designee before notice of decision is provided to the variance request applicant.

R657-57-9. Variance Denial.

- (1) The variance committee and Division director shall deny a variance request where the applicant:
 - (a) fails to satisfy the variance criteria set forth in this rule;
 - (b) is under a judicial or administrative order suspending his/her Utah hunting privileges for the species at the time;

- (i) the variance request is filed or at any time during a extension season; or
- (ii) the wildlife document application period expired for a bonus or preference point variance;
- (c) was legally ineligible to receive or use the wildlife document for which a season extension variance is sought;
- (d) is legally ineligible to hunt during the extension season;
- (e) is legally ineligible to use the weapon type authorized by the wildlife document during the original hunting season or the extension season;
- (f) provides false or misleading information on a material fact in the variance request application; or
- (g) provides false or misleading information on a material fact in a previous variance request application.
- (2) The Division may deny a variance request when it is contrary to sound public policy, wildlife management objectives, Division policies and interests, or the interests sought to be served by this rule.

R657-57-10. Wildlife Board Appeals.

- (1) A person may appeal the Division's decision on a variance application to the Wildlife Board pursuant to the requirements of this rule. The appeal request must be in writing and received by the Wildlife Board within 30 calendar days of the issuance date on the Division's decision.
- (2) The appeal shall contain the following information and documentation:
 - (a) name, address and telephone number of the petitioner;
 - (b) a statement of the variance relief sought and justification for the relief;
 - (c) a description of the wildlife document for which the variance is sought, including the document number, species and sex, season dates, and weapon type;
 - (d) the original wildlife document for which the variance is sought;
 - (e) a statement describing the degree of lost opportunity because of an event or condition; and
 - (f) corroborating documentation of the event or condition listed in R657-57-7(2)(e) and (3)(d), which may include:
 - (i) a physician's written statement;
 - (ii) a certified death certificate photocopy;
 - (iii) a photocopy of the military orders;
 - (iv) a letter from an employment supervisor on official letterhead; or
 - (v) court documentation.
- (3) The Wildlife Board may reject a variance appeal that is incomplete or that contains false or misleading information.
- (4) The Wildlife Board may require the petitioner to provide additional information, documentation, or clarification in conjunction with the variance appeal.
- (5) The Wildlife Board may set a time and date for a hearing on the variance appeal where the petitioner will be given an opportunity to address the Wildlife Board concerning the appeal.
 - (a) The Wildlife Board will provide the petitioner notice of the date, time, and location of the hearing, and the petitioner or a representative shall be present at the hearing, in person or telephonically, to advance the merits of the variance appeal.
 - (b) Failure to participate in the hearing may result in dismissal of the variance appeal.
- (6) The Wildlife Board may sustain, overturn, or modify the Division's order which is the subject of the variance appeal.

provided the relief granted is consistent with the standards, limitations, requirements, and procedures in R657-57-11 through R657-57-13.

(7) The Wildlife Board will prepare a written decision on the variance appeal and mail a copy to the petitioner.

R657-57-11. Wildlife Board Variance Authority.

(1) The Wildlife Board may grant a variance to any regulation promulgated in Title R657 of the Administrative Code or in proclamation concerning the acquisition or use of a wildlife document, provided the event or condition justifying the variance:

(a) is not the result of the applicant's willful misconduct or gross negligent acts or omissions;

(b) precludes the applicant from participating in:

(i) the activity authorized by the wildlife document during a substantial portion of the authorized season; or

(ii) the application or drawing procedures for receiving a wildlife document; and

(c) is of a nature that it deprives opportunity from the applicant in a substantially more severe manner than other similarly situated individuals.

(2) The Wildlife Board is limited to considering only those variance applications on which the Division has issued a letter indicating the variance relief sought is beyond its legal authority to grant.

(3) The Wildlife Board may grant a variance that extends a wildlife document season no more than five years into the future.

(4) The Wildlife Board may award a bonus or preference point pursuant to a variance request only when the applicant would have received such a point had the event or condition not intervened.

(5) The Wildlife Board may not grant a variance in direct conflict with any provision of the Wildlife Code or elsewhere in statute.

(6) The Wildlife Board may not refund wildlife document fees, except as authorized in Sections 23-19-38 and 23-19-38.2.

R657-57-12. Variance Guidelines.

(1) The Wildlife Board may use the following guidelines in considering and deciding variance appeals and requests submitted pursuant to this rule:

(a) monetary cost of the wildlife document;

(b) degree of difficulty in obtaining the original wildlife document;

(c) future opportunity to obtain the same or similar wildlife document;

(d) extent of lost opportunity;

(e) time actually engaged in the activity authorized by the wildlife document relative to the overall season length;

(f) time available to engage in the activity authorized by the wildlife document prior to the event or condition precluding further activity;

(g) impact on wildlife management objectives;

(h) degree of difficulty in tracking and monitoring season extensions into the future;

(i) applicant's fault or contribution in failing to mitigate the degree of lost opportunity;

(j) nature of the event or condition contrasted against the advisability of attempting to insure optimal opportunity;

(k) objective of a variance is to restore lost opportunity, not provide increased opportunity; and

(l) consistency with previous variance request decisions.

(2) Nothing herein shall be construed as limiting or prohibiting the Wildlife Board from considering additional factors in its discussions and deliberations concerning variance appeals and requests.

R657-57-13. Wildlife Board Variance Denial.

(1) The Wildlife Board shall deny a variance appeal or request where the applicant:

(a) fails to satisfy the variance criteria set forth in this rule;

(b) is under a judicial or administrative order suspending his/her wildlife document privileges at the time the variance request is filed or at any time while the variance would be in effect;

(c) was legally ineligible to apply for, obtain, or use the original wildlife document for which a variance is sought;

(d) is legally ineligible to engage in the activity proposed for authorization in a variance;

(e) is legally ineligible to use the weapon type or implement authorized by a wildlife document during the original season or the proposed substitute season;

(f) provides false or misleading information on a material fact in the variance request application or the appeal; or

(g) provides false or misleading information on a material fact in a previous variance request application or appeal.

(2) The Wildlife Board may deny a variance appeal or request when it is contrary to sound public policy, wildlife management objectives, Division policies and interests, or the interests sought to be served by this rule.

R657-57-14. Fraud, Deceit, or Misrepresentation.

Any variance obtained under this rule by fraud, deceit or misrepresentation is void.

R657-57-15. Finality of Decision.

(1) The decision of the Wildlife Board on any variance appeal or request under this rule constitutes final agency action and is not subject to:

(a) further administrative review; or

(b) judicial review under Title 63G, Chapter 4 of the Utah Code, Utah Administrative Procedures Act.

(2) The variance relief authorized in this rule is discretionary and neither a right nor entitlement in form or substance. The Division and Wildlife Board shall exercise sole discretion in determining whether relief will be granted and to what extent.

KEY: wildlife, permits

Date of Enactment or Last Substantive Amendment: 2008

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



Natural Resources, Wildlife Resources
R657-59
 Private Fish Ponds

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE No.: 31612

FILED: 06/24/2008, 09:11

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This is a new rule to regulate the stocking of privately propagated fish into privately-owned ponds in the state of Utah. It is in compliance with H.B. 148 which was passed during the 2008 Utah Legislative Session. (DAR NOTE: H.B. 148 (2008) is found at Chapter 69, Laws of Utah 2008, and was effective 05/05/2008.)

SUMMARY OF THE RULE OR CHANGE: This rule provides the standards and procedures for private fishponds. (DAR NOTE: A corresponding 120-day (emergency) rule filing for Rule R657-59 is under DAR No. 31625 in this issue, July 15, 2008, of the Bulletin, and was effective 06/27/2008.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-15-9 and 23-15-10

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This new rule will regulate the stocking of privately propagated fish into privately-owned ponds. It will also simplify criteria which was previously defined in Rule R657-16. The Division of Wildlife Resources (DWR) determines that these amendments do not create a cost or savings impact to the state budget or DWR's budget since the changes will not increase workload and can be carried out with existing budget. (DAR NOTE: The proposed amendment for Rule R657-16 is under DAR No. 31611 in this issue, July 15, 2008, of the Bulletin.)

❖ LOCAL GOVERNMENTS: Since this new rule only clarifies restrictions already in place in a separate rule, this should have little to no effect on the local government. This filing does not create any direct costs or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: This rule may impose additional financial requirements on persons requesting to stock a private pond in certain areas of the state in that they would be required to pay a Certificate of Registration (COR) and inspection fee, however, other individuals who wish to stock fish in ponds not located in an area of concern will see a savings by not having to pay the COR or inspection fee.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR determines that these amendments may create a cost or savings impact to individuals who wish to stock game fish in a private pond depending on whether a COR and inspection fee will be required. Areas requiring a COR and inspection fee are areas where special concerns have been identified.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule

do not create an impact on businesses. Michael R. Styler, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Staci Coons at the above address, by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/14/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2008

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.**R657-59. Private Fish Ponds.****R657-59-1. Purpose and Authority.**

(1) Under the authority of Sections 23-15-9 and 23-15-10 of the Utah Code, this rule provides the standards and procedures for private fish ponds.

(2) This rule does not regulate fee fishing or private aquaculture as provided in Title 4, Chapter 37 of the Utah Code, and Department of Agriculture Rule R58-17.

(3) Any violation of, or failure to comply with, any provision of Title 23 of the Utah Code, this rule, or any specific requirement contained in a certificate of registration or exemption certificate issued pursuant to this rule may be grounds for suspension of the certificate or denial of future certificates, as determined by the division.

R657-59-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Aquaculture" means the husbandry, production, harvest, and use of aquatic organisms under controlled, artificial conditions.

(b) "Aquaculture facility" means any facility used for propagating, rearing, or producing aquatic wildlife or aquaculture products. Facilities that are separated by more than 1/2 mile, or facilities that drain to, or are modified to drain to, different drainages are considered to be separate aquaculture facilities, regardless of ownership.

(c)(i) "Aquaculture product" means privately purchased aquatic wildlife, or their eggs or gametes.

(ii) "Aquaculture product" does not include aquatic wildlife obtained from the wild.

(d) "Certified sterile salmonid" means any salmonid fish or gamete that originates from a health certified source and is incapable of reproduction due to triploidy or hybridization.

(i) Triploid salmonids accepted as sterile under this subsection shall originate from a source that is certified as incapable of reproduction using the following protocols:

(A) fish samples shall be collected, prepared, and submitted to a certified laboratory by an independent veterinarian, certified fish health professional, or other professional approved by the division;

(B) certified laboratories shall be limited to independent, professional laboratories capable of reliably testing fish sterility and approved by the division; and

(C) sterility shall be determined by sampling and testing 60 fish from each egg lot with procedures generally accepted in the scientific community as reliable for verifying tripoidy with a 95% or greater success rate.

(ii) An aquaculture facility that receives certified sterile salmonid aquaculture product is not required to conduct additional sterility testing prior to stocking the aquaculture product in a private fish pond, provided the sterile salmonids are kept segregated from other fertile salmonids.

(iii) Hybrid salmonid fish species accepted as sterile under this subsection are limited to splake trout (lake trout/brook trout cross) and tiger trout (brown trout/brook trout cross).

(e) "Exemption certificate" means a document issued by the division pursuant to R657-59-7 that exempts a designated private fish pond from the requirement of obtaining a certificate of registration to stock aquaculture product in the pond.

(f)(i) "HUC" or "Hydrologic Unit Code" means a cataloging system developed by the US Geological Survey and the Natural Resource Conservation Service to identify watersheds in the United States. HUCs are typically reported at the large river basin (6-digit HUC) or smaller watershed (11-digit and 14-digit HUC) scale.

(ii) HUC maps and other associated information are available at <http://water.usgs.gov/wsc/sub/1602.html>.

(g) "Ornamental fish" means fish that are raised or held for their beauty rather than use, or that arouse interest for their uncommon or exotic characteristics, including tropical fish, goldfish, and koi, but not including those species listed as prohibited or controlled in Rule R657-3-34.

(h) "Private fish pond" means a pond, reservoir, or other body of water, or any fish culture system which is contained on privately owned land and used for holding or rearing fish for a private, noncommercial purpose.

(i) "Purchase" means to buy, or otherwise acquire or obtain through barter, exchange, or trade for pecuniary consideration or advantage.

(j) "Salmonid" means any fish belonging to the trout/salmon family.

R657-59-3. Certificate of Registration Not Required.

(1) A certificate of registration is not required to receive and stock an aquaculture product in a private fish pond, provided the following conditions are satisfied:

(a) the pond is not located on a natural lake, natural flowing stream, or reservoir constructed on a natural stream channel;

(b) the pond is properly screened consistent with the requirements in R657-59-15 to prevent the movement of aquatic wildlife into the pond or the movement of any aquaculture product out of the pond;

(c) the aquaculture product is delivered to the pond by a licensed aquaculture facility as defined in Section 4-37-103;

(d) the owner, lessee, or operator of the pond obtains from the aquaculture facility delivering the aquaculture product a valid health

approval number issued by the Utah Department of Agriculture and Food pursuant to Section 4-37-501 authorizing the aquaculture facility to culture and transport the species of aquaculture product received at the pond;

(e) the species, strain, and reproductive capability of the aquaculture product received is authorized for stocking in the area where the pond is located consistent with the requirements in R657-59-16;

(f) the aquaculture product received is of sufficient size to be incapable of escaping the pond through or around the screen;

(g) the owner or operator of the private fish pond provides the aquaculture facility a signed written statement that the pond and aquaculture product received are in compliance with this section; and

(h) the owner, lessee, or operator of a private fish pond or an invitee has not previously been found in violation of any provision of Title 4, Chapter 37 or Title 23 of the Utah Code, or this rule.

R657-59-4. Aquaculture Facility Reporting Requirements.

(1) A person who owns or operates an aquaculture facility shall file an annual report with the division documenting each sale or transfer of live aquaculture product made pursuant to R657-59-3 and R657-59-7 to a private fish pond owner, lessee, or operator.

(2) The report shall contain:

(a) the name, address, and Utah health approval number of the person;

(b) the name, address, and phone number of the private fish pond's owner, lessee, or operator;

(c) the number and weight of aquaculture product by:

(i) species;

(ii) strain; and

(iii) reproductive capability;

(d) date of sale or transfer;

(e) description of the private fish pond location, including UTM coordinates; and

(f) written verification for each live sale or transfer that the private fish pond was inspected and is in compliance with the requirements of Sections 23-15-10(2) and (3) (c) and this rule.

(3) The report required in this Subsection shall be submitted to and received by the division no later than December 31.

R657-59-5. Certificate of Registration Required.

(1) A certificate of registration must be obtained from the division to receive, stock, or possess an aquaculture product in a private fish pond where:

(a) the aquaculture product is classified under R657-59-16 as an unauthorized species, strain, or reproductive capability for the area where the pond is located;

(b) the aquaculture facility does not deliver the aquaculture product directly to the private fish pond; or

(c) the owner, lessee, or operator of a private fish pond or an invitee is found in violation of any provision of Title 4, Chapter 37 or Title 23 of the Utah Code, or this rule.

(2) A separate certificate of registration is required for each private fish pond as defined under "aquaculture facility" in R657-59-2.

R657-59-6. Application for a Certificate of Registration.

(1) A person may apply to receive a certificate of registration for a private fish pond by submitting an application with the required handling and inspection fee to the Wildlife Registration Office, Utah

Division of Wildlife Resources, 1594 West North Temple, Salt Lake City, Utah 84114.

(a) Application forms are available at all division offices and at the division's internet address.

(2) A certificate of registration may be issued after a division representative inspects the private fish pond and confirms that the pond and the aquaculture products requested for stocking in the pond meet all requirements in this rule and Title 23 of the Utah Code.

(3) The application may require up to 30 days for processing.

(4) The division may deny a private fish pond application where:

(a) the application is incomplete, filled out incorrectly, or submitted without the appropriate fee;

(b) the pond is located on a natural lake, natural flowing stream, or a reservoir constructed on a natural stream channel;

(c) the pond is not screened consistent with the requirements in R657-59-15;

(d) the source of the aquaculture product is not an authorized aquaculture facility with a health approval number issued pursuant to Section 4-37-501;

(e) the applicant or its agents or invitees have previously violated of any provision of Title 4, Chapter 37 of the Utah Code, Title 23 of the Utah Code, or this rule;

(f) receiving or stocking the aquaculture product in the pond may:

(i) violate any federal, state or local law or any agreement between the state and another party;

(ii) negatively impact native wildlife species listed by the division as sensitive or by the federal government as threatened or endangered;

(iii) pose an identifiable adverse threat to other wildlife species or their habitat; or

(iv) pose an identifiable adverse impact to the division's game fish stocking regimes or wildlife management objectives;

(g) the aquaculture product received is sufficiently small to be capable of escaping the pond through or around the screen; or

(h) non-salmonid aquaculture product will be stocked in a pond within the 100 year flood plain (below 6500 feet in elevation) in the Green River and Colorado River drainages and the pond does not meet FEMA standards on construction and screening.

(5) An application for private fish pond certificate of registration may not be denied without the review and consent of the division director or a designee.

(6) A private fish pond certificate of registration shall remain effective for 5 years from the date of issuance, unless:

(a) amended by the division at the request of private fish pond owner, lessee, or operator;

(b) terminated or modified by the division pursuant to R657-59-17; or

(c) suspended by the division or a court pursuant to Section 23-19-9.

(7) Certificates of registration are renewable on or before the expiration date identified on the certificate of registration and upon payment of the prescribed handling, and inspection fees.

R657-59-7. Exemption Certificate.

(1) Upon application for a private fish pond certificate of registration and a risk assessment of the pond by the division under R657-59-6, the Division may issue an exemption certificate in lieu of a certificate of registration where the following conditions exist:

(a) The pond is eligible to receive a certificate of registration under the requirements of this chapter;

(b) The pond and species, strain and reproductive capability of aquaculture product requested present no risk to native aquatic wildlife species because:

(i) the location and configuration of the pond physically eliminate the possibility of aquaculture product escaping into the surface waters of the state;

(ii) the pond has no inflow or outflow connection with the surface waters of the state;

(iii) the pond is located in an area where escapement of aquaculture product will cause no ecological damage to native aquatic wildlife species; or

(iv) the pond is located in an area where no Tier I or II aquatic wildlife species on the division's sensitive species list or threatened or endangered species listed under the Endangered Species Act will be threatened by the risk of escapement; and

(c) the aquaculture product is delivered directly to the pond by the aquaculture facility.

(2) The exemption certificate shall have the legal effect of a certificate of registration for purposes of stocking the pond with the species, strain and reproductive capability of aquaculture product authorized in the exemption certificate.

(3) Aquaculture facilities supplying aquaculture product to private fish ponds operating under an exemption certificate shall comply with:

(a) the written terms of the exemption certificate; and

(b) the inspection and reporting requirements in R657-59-4.

(4) The exemption certificate will:

(a) designate the species, strain and reproductive capability of aquaculture product that may be stocked in the pond;

(b) identify any restrictions or conditions relative to stocking and maintaining aquaculture product in the pond;

(c) identify the owner, lessee, or operator of the private fish pond; and

(d) describe the private fish pond's location, including UTM coordinates.

(5) The private fish pond exemption certificate shall remain effective, without the requirement of renewal, for the useful life of the pond, provided:

(a) the ownership of the pond does not change;

(b) the pond, screen, and inflow and outflow structures remain in the same state that existed when inspected;

(c) the species, strain, and reproductive capability of aquaculture product stocked and maintained in the pond remains consistent with the that authorized in the exemption certificate; and

(d) the exemption certificate is not modified, terminated, or suspended by the division pursuant to Section 23-19-9, R657-59-1(3), or R657-59-17 or a court of competent jurisdiction.

(6) Any private fish pond operating under authority of an exemption certificate which is modified, terminated, or suspended pursuant to Section 23-19-9, R657-59-1(3), or R657-59-17 shall be subject to the aquaculture product depopulation requirements in R657-59-8.

R657-59-8. Failure to Renew Certificates of Registration.

(1) If an owner, lessee, or operator of a private fish pond fails to renew the certificate of registration upon expiration, or the division suspends or terminates the certificate of registration, all live aquaculture products permitted under the certificate of registration shall be disposed of as follows:

(a) Unless the Wildlife Board orders otherwise, all aquaculture products must be removed within 30 days of suspension or the expiration date of the certificate of registration, or within 30 days after ice-free conditions on the water; or

(b) At the discretion of the division, aquaculture products may remain in the waters at the facility, but shall only be taken as prescribed within Rule R657-13 for Taking Fish and Crayfish.

(2) Aquaculture products in a private fish pond may not be moved alive unless the pond has received disease testing and is issued a health approval number from the Department of Agriculture and Food pursuant to Section 4-37-501.

(3) Aquaculture products from a private fish pond infected with any pathogen specified in the Department of Agriculture Rule R58-17 must be disposed of as directed by the division to prevent further spread of such pathogen.

R657-59-9. Reporting Requirements for Private Fish Ponds Authorized by Certificate of Registration.

(1) Any person that possesses a certificate of registration for a private fish pond must submit to the division an annual report of all live aquaculture products purchased or acquired during the year. This report must contain the following information:

(a) the name, address, and phone number of the private fish pond's owner, lessee, or operator;

(b) name, address, and certificate of registration number of the seller or supplier;

(c) the number and weight of aquaculture product by:

(i) species;

(ii) strain; and

(iii) reproductive capability;

(d) date of sale or transfer;

(2) A form for this information is provided by the division.

(3) The annual report must be received by the division no later than January 30.

R657-59-10. Importation.

(1)(a) The species, strains, and reproductive capabilities of live aquaculture products that may be imported and stocked in a private fish pond without a certificate of registration are provided in R657-59-16;

(b) A certificate of registration or exemption certificate is required to import and stock all species, strains and reproductive capabilities of live aquaculture products not specifically exempted from licensure in R657-59-16.

(2) Applications to import aquaculture products are available from all division offices and must be submitted to the division's Wildlife Registration Office in Salt Lake City. Applications may require up to 30 days for action.

R657-59-11. Acquiring and Transferring Aquaculture Products.

(1) Live aquaculture products, other than ornamental fish, may be:

(a) purchased or acquired only from sources that have a valid certificate of registration from the Utah Department of Agriculture and Food to sell such products or from a person located outside Utah if that person is approved by the Utah Department of Agriculture and Food to import the particular aquaculture product; and

(b) acquired, purchased or transferred only from sources which have been health approved by the Utah Department of Agriculture and Food and assigned a fish health approval number as provided in Section 4-37-501. This also applies to separate facilities owned by

the same entity since each facility is treated separately, regardless of ownership.

(2)(a) Any person who has been issued a valid certificate of registration may transport live aquaculture products as specified on the certificate of registration to the private fish pond.

(b) All transfers or shipments of live aquaculture products must be accompanied by documentation of the source and destination of the product, including:

(i) name, address, certificate of registration number, and fish health approval number of the source;

(ii) number and weight being shipped, by species; and

(iii) name, address, and certificate of registration number, if applicable, of the destination.

R657-59-12. Inspection of Records and Facilities.

(1) The following records and information must be maintained for a period of two years and must be available for inspection by a division representative during reasonable hours:

(a) records of purchase and acquisition of aquaculture products, including records maintained in connection with the reporting requirements in R657-59-9;

(b) certificates of registration; and

(c) valid identification of stocks.

(2) The division and its authorized representatives may inspect a private fish pond at any time to verify compliance with the requirements of Title 23 of the Utah Code and this rule, and to conduct pathological testing.

R657-59-13. Prohibited Activities.

(1) A private fish pond may not be developed on a natural lake; natural flowing stream; or reservoir constructed on a natural stream channel.

(2) Live aquatic wildlife may not be collected from the wild and placed in a private fish pond.

(3) Any aquaculture product received or held in a private fish pond may not be released from the pond or transported live to another location.

(4) A private fish pond owner, lessee, or operator may not sell, donate, or transfer from the pond live aquaculture product, including gametes and eggs.

R657-59-14. Fishing License and Transportation of Dead Aquaculture Product.

(1) A fishing license is not required to take fish from a legally recognized private fish pond.

(2) A fishing license is not required to transport dead aquaculture product from a private fish pond, provided the person possesses a receipt with the following information:

(a) species and number of fish;

(b) date caught;

(c) certificate of registration number or exemption certificate number of the private fish pond, where applicable; and

(d) name, address, and telephone number of the owner, lessee, or operator of the private fish pond.

(3) Any person that has a valid fishing license may transport up to a legal limit of dead aquaculture product from a private fish pond without further documentation.

R657-59-15. Screen Requirements.

(1) All inlets and outlets of a private fish pond must be screened as follows to prevent the movement of aquatic wildlife into

the pond or the escapement of any aquaculture product from the pond:

(a) the screen shall be constructed of durable materials that are capable of maintaining integrity in a water and air environment for an extended period of time;

(b) the screen shall have no openings, seams or mesh width greater than the width of the fish being stocked;

(c) screen construction and placement shall eliminate any movement of aquaculture product into or out of the pond;

(d) screen dimensions shall be based on precluding escapement of the size of the fish being stocked;

(e) all water entering or leaving the pond, including run off and other high water events, shall flow through a screen consistent with the requirements of this subsection; and

(f) the screen shall be maintained and in place at all times while any aquaculture product remains in the pond.

(2) Ponds with no inlet or outlet to the surface waters of the state are not required to have a screen or device to restrict movement of aquaculture product.

R657-59-16. Species, Strains, and Reproductive Capabilities of Aquaculture Product Authorized by Area for Stocking in Private Fish Ponds Without a Certificate of Registration or Exemption Certificate.

(1) A certificate of registration or exemption certificate must be obtained from the division pursuant to R657-59-6 and R657-59-7 prior to stocking in any private fish pond:

(a) non-salmonid aquaculture product; or

(b) any other species or reproductive capability of aquaculture product not specifically authorized in this Section.

(2)(a) The following subsections designate areas closed to stocking aquaculture product in private fish ponds using a general area identifier such as canyon, creek, spring, or location and then followed by a specific area identifier in the form of hydrologic unit code (HUC) or township and range.

(b) The general area identifier is included for purposes of reference only and may include all or part of the associated drainage.

(c) The HUC or township and range designations constitute the legal descriptions of the actual closed areas.

(3) Certified sterile salmonid aquaculture product may be stocked without a certificate of registration or exemption certificate in any private fish pond within the state consistent with R657-59-3, except for ponds located within the following areas:

(a) Washington County - stocking is prohibited in the following areas:

(i) Ash Creek - HUC 150100080405;

(ii) Beaver Dam Wash - HUC 15010010;

(iii) Laverkin Creek - HUC 150100080302;

(iv) Leeds Creek - HUC 150100080906;

(v) Baker Dam Reservoir/Santa Clara River - HUC 150100080704;

(vi) Tobin Wash - HUC 150100080802;

(vii) Sand Cove Wash - HUC 150100080801;

(viii) Manganese Wash/Santa Clara River - HUC 150100080804;

(ix) Wittwer Canyon/Santa Clara River - HUC 150100080808;

(x) Cove Wash/Santa Clara River - HUC 150100080809;

(xi) Moody Wash - HUC 150100080603;

(xii) Upper Moody Wash - HUC 150100080602;

(xiii) Magotsu Creek - HUC 150100080704;

(xiv) South Ash Creek - HUC 150100080405) ;

(xv) Water Canyon - HUC 150100080701) ;

(xvi) Chinatown Wash/Virgin River - HUC 150100080508;

(xvii) Lower Gould Wash - HUC 150100080508;

(xviii) Grapevine Wash/Virgin River - HUC 150100080903;

(xix) Cottonwood Wash/Virgin River - HUC 150100080909;

(xx) Middleton Wash/Virgin River - HUC 150100080910;

(xxi) Lower Fort Pierce Wash - HUC 150100080605;

(xxii) Atkinville Wash - HUC 150100080303;

(xxiii) Lizard Wash - HUC 150100080302;

(xxiv) Val Wash/Virgin River - HUC 150100080307;

(xxv) Bulldog Canyon - HUC 150100080310; and

(xxvi) Fort Pierce Wash - HUC 15010009.

(4) Fertile rainbow trout may be stocked without a certificate of registration or exemption certificate in any private fish pond within the state consistent with R657-59-3, except for ponds located within the following areas and elevations:

Beaver County - stocking is prohibited in the following:

(i) North Creek - HUCs 160300070203, 160300070208; and

(ii) Pine Creek (near Sulphurdale) - HUC 160300070501.

(b) Box Elder County - stocking is prohibited in the following:

(i) Morison Creek - HUC 16020308;

(ii) Bettridge Creek - HUC 16020308;

(iii) Death Creek - HUC 16020308;

(iv) Camp Creek - HUC 16020308;

(v) Goose Creek - HUC 17040211;

(vi) Raft River - HUC 17040210;

(vii) Fat Whorled Pond Snail Springs - Township 10 North, Ranges 4 and 5 West; and

(viii) Mantua Reservoir - HUC 16010204.

(c) Cache County - stocking is prohibited in the following:

(i) Logan River - HUC 16010203;

(ii) Blacksmith Fork - HUC 16010203;

(iii) East Fork Little Bear River - HUC 16010203; and

(iv) Little Bear River - HUC 16010203.

(d) Carbon County - stocking is prohibited in any private fish pond above 7000 feet in elevation.

(e) Daggett County - stocking is prohibited in any private fish pond above 7000 feet in elevation.

(f) Davis County - no areas closed to stocking fertile rainbow trout.

(g) Duchesne County - stocking is prohibited in any private fish pond above 7000 feet in elevation.

(h) Emery County - stocking is prohibited in any private fish pond above 7000 feet in elevation.

(i) Garfield County - stocking is prohibited in the following areas:

(i) Birch Creek/Main Canyon - HUC 140700050102;

(ii) Cottonwood Creek - HUC 160300020406;

(iii) East Fork of Boulder Creek/ West Fork Boulder Creek - HUC 140700050206; and

(iv) Ranch Creek (East Fork Sevier River drainage) - HUC 160300020405.

(j) Grand County - stocking is prohibited in any private fish pond above 7000 feet in elevation.

(k) Iron County - no areas closed to stocking fertile rainbow trout.

(l) Juab County - stocking is prohibited in the following areas:

(i) Sulphur Wash - HUC 160203011303;

(ii) Middle Pleasant Valley Draw - HUC 160203011402;

(iii) Lower Pleasant Valley Draw - HUC 160203011403;

(iv) Cookscomb Ridge - HUC 160203011501;

(v) Outlet Salt Marsh Lake - HUC 160203011502;
 (vi) Deep Creek Range - HUC 160203011503;
 (vii) Snake Valley - HUC 160203011504;
 (viii) Little Red Cedar Wash - HUC 160203011505;
 (ix) Trout Creek - HUC 160203060101;
 (x) Smelter Knolls - HUC 160203060104;
 (xi) Toms Creek - HUC 160203060201;
 (xii) Goshute Canyon - HUC 160203060202;
 (xiii) Indian Farm Creek - HUC 160203060204;
 (xiv) Spring Creek - HUC 160203060803;
 (xv) Fifteenmile Creek - HUC 160203060804;
 (xvi) East Creek/East Deep Creek - HUC 160203060805;
 (xvii) East Creek/East Deep Creek - HUC 160203060806;
 (xviii) West Deep Creek - HUC 160203060808;
 (xix) Horse Valley - HUC 160203060304;
 (xx) Starvation Canyon - HUC 160203060305;
 (xxi) Cane Springs - HUC 160203060307;
 (xxii) Fish Springs Range - HUC 160203060308;
 (xxiii) Middle Fish Springs Wash - HUC 160203060309;
 (xxiv) Lower Fish Springs Wash - HUC 160203060403;
 (xxv) Fish Springs - HUC 160203060405;
 (xxvi) Wilson Health Springs - HUC 160203060407;
 (xxvii) Vernon Creek - HUC 160203040102;
 (xxviii) Outlet Chicken Creek - HUC 160300050206;
 (xxix) Little Valley/Sevier River - HUC 160300050403;
 (xxx) Pole Creek/Salt Creek - HUC 160202010104; and
 (xxxi) West Creek/Current Creek - HUC 160202010107.
 (m) Kane County - no areas closed to stocking fertile rainbow trout.
 (n) Millard County - stocking is prohibited in the following areas:
 (i) Outlet Salt Marsh Lake - HUC 160203011502;
 (ii) Sulphur Wash - HUC 160203011303;
 (iii) Cockscomb Ridge - HUC 160203011501;
 (iv) Tungstonia Wash - HUC 160203011302;
 (v) Salt Marsh Lake - HUC 160203011304;
 (vi) Indian George Wash - HUC 160203011301;
 (vii) Outlet Bishop Springs - HUC 160203011203;
 (viii) Warm Creek - HUC 160203011204;
 (ix) Headwaters Bishop Springs - HUC 160203011202;
 (x) Indian Pass - HUC 160203011107;
 (xi) Chevron Ridge - HUC 160203011110;
 (xii) Petes Knoll - HUC 160203011109;
 (xiii) Red Gulch - HUC 160203011102;
 (xiv) Horse Canyon - HUC 160203011106;
 (xv) Hampton Creek - HUC 160203011105;
 (xvi) Knoll Springs - HUC 160203011103;
 (xvii) Browns Wash - HUC 160203011101;
 (xviii) Outlet Baker Creek - HUC 160203011004;
 (xix) Outlet Old Mans Canyon - HUC 160203011003;
 (xx) Hendrys Creek - HUC 160203011104;
 (xxi) Headwaters Old Mans Canyon - HUC 160203011002;
 (xxii) Rock Canyon - HUC 160203011001;
 (xxiii) Silver Creek - Baker Creek - HUC 160203010806;
 (xxiv) Outlet Weaver Creek - HUC 160203010804;
 (xxv) Conger Spring - HUC 160203010702; and
 (xxvi) Sheepmens Little Valley - HUC 160203010607.
 (o) Morgan County - stocking is prohibited in the following areas:
 (i) Weber River - HUC 16020102;
 (ii) East Canyon Creek - HUC 16020102; and

(iii) Lost Creek - HUC 16020101.
 (p) Piute County - stocking is prohibited in the following areas:
 (i) Manning Creek - HUC 160300030203.
 (q) Rich County - stocking is prohibited in the following areas:
 (i) Bear Lake including all its tributaries - HUC 16010201;
 (ii) Big Creek - HUC 16010101;
 (iii) Woodruff Creek - HUC 16010101; and
 (iv) Home Canyon and Meachum Canyon (Deseret Ranch) - HUC 16010101.
 (r) Salt Lake County - stocking is prohibited in the following areas:
 (i) Big Cottonwood Canyon Creek - HUC 160202040201;
 (ii) Little Cottonwood Canyon Creek - HUC 160202040202;
 (iii) Mill Creek - HUC 160202040301;
 (iv) Parleys Creek - HUC 160202040302;
 (v) Emigration Creek - HUC 160202040303;
 (vi) City Creek - HUC 160202040304; and
 (vii) Red Butte Creek/Emigration Creek - HUC 160202040306.
 (s) San Juan County - stocking is prohibited in any private fish pond above 7000 feet in elevation.
 (t) Sanpete County:
 (i) stocking is prohibited in the following areas west of the Manti Mountain Range divide:
 (A) Dry Creek/San Pitch River - HUC 160300040201;
 (B) Oak Creek/San Pitch River - HUC 160300040202;
 (C) Cottonwood Canyon/San Pitch River - HUC 160300040203;
 (D) Birch Creek/San Pitch River - HUC 160300040204;
 (E) Pleasant Creek - HUC 160300040205;
 (F) Dublin Wash/San Pitch River - HUC 160300040206;
 (G) Cedar Creek - HUC 160300040207;
 (H) Spring Hollow/San Pitch River - HUC 160300040208;
 (I) Upper Oak Creek - HUC 160300040302;
 (J) Petes Canyon/San Pitch River - HUC 160300040306;
 (K) Uinta Gulch - HUC 160202020201;
 (L) Upper Thistle Creek - HUC 160202020202;
 (M) Nebo Creek - HUC 160202020203;
 (N) Middle Thistle Creek - HUC 160202020204;
 (O) Dry Canyon/San Pitch River - HUC 160300040308;
 (P) Maple Canyon/San Pitch River - HUC 160300040309;
 (Q) Gunnison Reservoir/San Pitch River - HUC 160300040503;
 (R) Outlet San Pitch River - HUC 160300040505;
 (S) Beaver Creek - HUC 140700020201;
 (T) Box Canyon/Muddy Creek - HUC 140700020203;
 (U) Skumpah Creek-Salina Creek - HUC 160300030402; and
 (V) Headwaters Twelvemile Creek - HUC 160300040402.
 (ii) stocking is prohibited in any private fish pond above 7000 feet in elevation east of the Manti Mountain Range divide.
 (u) Sevier County - stocking is prohibited in the following areas:
 (i) Pole Creek (tributary to Clear Creek) - HUC 160300030103;
 (ii) Salina Creek - HUC 160300030402; and
 (iii) U M Creek - HUC 140700030101.
 (v) Summit County - stocking is prohibited in the following areas:
 (i) Bear River and all tributaries - HUC 16010101;
 (ii) Mill Creek and all tributaries - HUC 16010101;
 (iii) Muddy Creek and Van Tassel Creek - HUC 14040108;

- (iv) Little West Fork/Blacks Fork - HUC 14040107;
 (v) Black Fork - HUC 14040107;
 (vi) Archie Creek - HUC 14040107;
 (vii) West Fork Smiths Fork - HUC 14040107;
 (viii) Gilbert Creek - HUC 14040107;
 (ix) East Fork Smiths Fork - HUC 14040107;
 (x) Dahalgreen Creek - HUC 14040106;
 (xi) Henrys Fork - HUC 14040106;
 (xii) Spring Creek and Poison Creek - HUC 14040106;
 (xiii) West Fork Beaver Creek - HUC 14040106;
 (xiv) Middle Fork Beaver Creek - HUC 14040106;
 (xv) Echo Creek - HUC 16020101;
 (xvi) Chalk Creek - HUC 16020101;
 (xvii) Silver Creek - HUC 16020101;
 (xviii) Weber River - HUC 16020101;
 (xix) Beaver Creek - HUC 16020101;
 (xx) Provo River - HUC 16020101;
 (xxi) Kimball Creek - HUC 160201020101;
 (xxii) Big Dutch Hollow/East Canyon Creek - HUC 160201020103;
 (xxiii) Silver Creek - HUC 160201010403; and
 (xxiv) Toll Canyon/East Canyon Creek - HUC 160201020102.
 (w) Tooele County - stocking is prohibited in the following areas:
 (i) Toms Creek - HUC 160203060201;
 (ii) Goshute Canyon - HUC 160203060202;
 (iii) Eightmile Wash - HUC 160203060203;
 (iv) Indian Farm Creek - HUC 160203060204;
 (v) Willow Spring Wash HUC 160203060205;
 (vi) Willow Canyon - HUC 160203080104;
 (vii) Bettridge Creek - HUC 160203080106;
 (viii) East Creek/East Deep Creek - HUC 160203060806;
 (ix) East Deep Creek - HUC 160203060807;
 (x) West Deep Creek - HUC 160203060808;
 (xi) Gullmette Gulch/Deep Creek - HUC 160203060902;
 (xii) Pony Express Canyon/Deep Creek - HUC 160203060904;
 (xiii) Badlands - HUC 160203060905;
 (xiv) White Sage Flat/Deep Creek - HUC 160203060907;
 (xv) Lower Fish Springs Wash - HUC 160203060403;
 (xvi) Fish Springs - HUC 160203060405;
 (xvii) Wilson Health Springs - HUC 160203060407;
 (xviii) East Government Creek - HUC 160203040101;
 (xix) Vernon Creek - HUC 160203040102; and
 (xx) Faust Creek - HUC 160203040105.
 (x) Uintah County - stocking is prohibited in any private fish pond above 7000 feet in elevation.
 (y) Utah County - stocking is prohibited in the following areas:
 (i) Starvation Creek - HUC 160202020101;
 (ii) Upper Soldier Creek - HUC 160202020102;
 (iii) Tie Fork - HUC 160202020103;
 (iv) Middle Soldier Creek - HUC 160202020105;
 (v) Lake Fork - HUC 160202020106;
 (vi) Lower Soldier Creek - HUC 160202020107;
 (vii) Upper Thistle Creek - HUC 160202020202;
 (viii) Nebo Creek - HUC 160202020203;
 (ix) Middle Thistle Creek - HUC 160202020204;
 (x) Lower Thistle Creek - HUC 160202020205;
 (xi) Sixth Water Creek - HUC 160202020301;
 (xii) Cottonwood Canyon - HUC 160202020302;
 (xiii) Fifth Water Creek - HUC 160202020303;
 (xiv) Upper Diamond Fork - HUC 160202020304;
 (xv) Wanrhodes Canyon - HUC 160202020305;
 (xvi) Middle Diamond Fork - HUC 160202020306;
 (xvii) Lower Diamond Fork - HUC 160202020307;
 (xviii) Headwaters Left Fork Hobble Creek - HUC 160202020401;
 (xix) Headwaters Right Fork Hobble Creek - HUC 160202020402;
 (xx) Outlet Left Fork Hobble Creek - HUC 160202020403;
 (xxi) Outlet Right Fork Hobble Creek - HUC 160202020404;
 (xxii) Upper Spanish Fork Creek - HUC 160202020501;
 (xxiii) Middle Spanish Fork Creek - HUC 160202020502;
 (xxiv) Peteetneet Creek - HUC 160202020601;
 (xxv) Spring Creek - HUC 160202020602;
 (xxvi) Beer Creek - HUC 160202020603;
 (xxvii) Big Spring Hollow/South Fork Provo River - HUC 160202030502;
 (xxviii) Pole Creek/Salt Creek - HUC 160202010104;
 (xxix) Middle American Fork Canyon - HUC 160202010802;
 (xxx) Mill Fork - HUC 160202020104; and
 (xxxi) Upper American Fork Canyon - HUC 160202010801.
 (z) Wasatch County - stocking is prohibited in the following areas:
 (i) Willow Creek/Strawberry River - HUC 140600040101;
 (ii) Clyde Creek/Strawberry River - HUC 140600040102;
 (iii) Indian Creek - HUC 140600040104;
 (iv) Trout Creek/Strawberry River - HUC 140600040105;
 (v) Soldier Creek/Strawberry River - HUC 140600040106;
 (vi) Willow Creek - HUC 140600040301;
 (vii) Current Creek Reservoir - HUC 140600040401;
 (viii) Little Red Creek - HUC 140600040402;
 (ix) Outlet Current Creek - HUC 140600040403;
 (x) Water Hollow/Current Creek - HUC 140600040404;
 (xi) Headwaters West Fork Duchesne River - HUC 140600030101;
 (xii) Little South Fork Provo River - HUC 160202030201;
 (xiii) Bench Creek/Provo River - HUC 160202030202;
 (xiv) Lady Long Hollow/Provo River - HUC 160202030203;
 (xv) Charcoal Canyon/Provo River - HUC 160202030204;
 (xvi) Drain Tunnel Creek - HUC 160202030301;
 (xvii) Lake Creek - HUC 160202030302;
 (xviii) Center Creek - HUC 160202030303;
 (xix) Cottonwood Canyon/Provo River - HUC 160202030304;
 (xx) Snake Creek - HUC 160202030305;
 (xxi) Spring Creek/Provo River - HUC 160202030306;
 (xxii) Daniels Creek - HUC 160202030401;
 (xxiii) Upper Main Creek - HUC 160202030403;
 (xxiv) Lower Main Creek - HUC 160202030404;
 (xxv) Deer Creek Reservoir-Provo River - HUC 160202030405;
 (xxvi) Provo Deer Creek - HUC 160202030501;
 (xxvii) Little Hobble Creek - HUC 160202030402;
 (xxviii) Mill Hollow/South Fork Provo River - HUC 160202030104; and
 (xxix) Mud Creek - HUC 140600040103.
 (aa) Washington County - stocking is prohibited in the following areas:
 (i) Ash Creek - HUC 150100080405;
 (ii) Beaver Dam Wash - HUC 15010010;
 (iii) Laverkin Creek - HUC 150100080302;
 (iv) Leeds Creek - HUC 150100080906;

(v) Baker Dam Reservoir/Santa Clara River - HUC 150100080704;

(vi) Tobin Wash - HUC 150100080802;

(vii) Sand Cove Wash - HUC 150100080801;

(viii) Manganese Wash/Santa Clara River - HUC 150100080804;

(ix) Wittwer Canyon/Santa Clara River - HUC 150100080808;

(x) Cove Wash/Santa Clara River - HUC 150100080809;

(xi) Moody Wash - HUC 150100080603;

(xii) Upper Moody Wash - HUC 150100080602;

(xiii) Magotsu Creek - HUC 150100080704;

(xiv) South Ash Creek - HUC 150100080405) ;

(xv) Water Canyon - HUC 150100080701) ;

(xvi) Chinatown Wash/Virgin River - HUC 150100080508;

(xvii) Lower Gould Wash - HUC 150100080508;

(xviii) Grapevine Wash/Virgin River - HUC 150100080903;

(xix) Cottonwood Wash/Virgin River - HUC 150100080909;

(xx) Middleton Wash/Virgin River - HUC 150100080910;

(xxi) Lower Fort Pierce Wash - HUC 150100080605;

(xxii) Atkinville Wash - HUC 150100080303;

(xxiii) Lizard Wash - HUC 150100080302;

(xxiv) Val Wash/Virgin River - HUC 150100080307;

(xxv) Bulldog Canyon - HUC 150100080310; and

(xxvi) Fort Pierce Wash - HUC 15010009.

(bb) Wayne County - no areas closed to stocking fertile rainbow trout.

(cc) Weber County - stocking is prohibited in the following areas:

(i) North Fork Ogden River - HUC 16020102;

(ii) Middle Fork Ogden River and Gertsen Creek - HUC 16020102; and

(iii) South Fork Ogden River and Gertsen Creek - HUC 16020102.

R657-59-17. Division Authority to Restrict Private Fish Ponds.

(1)(a) Stocking and maintaining aquaculture products in private fish ponds pursuant to this rule is a conditional privilege that is subject to unilateral modification or termination by the division or other competent legal authority.

(b) Those who establish and maintain private fish ponds under this rule do so with the understanding that the laws and regulations governing private fish ponds are subject to change and that such changes may require:

(i) discontinuation of stocking particular species, strains, or reproductive capabilities of aquaculture product in the pond;

(ii) partial or complete depopulation of the aquaculture product in the pond;

(iii) modifications in screen requirements and other structural elements associated with the pond; or

(iv) new restrictions and requirements in connection with operating the pond and maintaining the aquaculture product within it.

(2) The division may unilaterally restrict a private fish pond operating with or without a certificate of registration or exemption certificate from receiving or possessing particular species, strains and reproductive capabilities of aquaculture product previously authorized when stocking or continued possession of the product in the pond:

(a) violates any federal, state or local law or any agreement between the state and another party;

(b) negatively impacts native wildlife species listed by the division as sensitive or by the federal government as threatened or endangered;

(c) poses an identifiable adverse threat to other wildlife species or their habitat; or

(d) poses an identifiable adverse impact to the division's game fish stocking regimes or wildlife management objectives.

(3) Any costs or losses incurred as the result of future modifications to this rule or the operational status of a private fish pond made pursuant to this section, including terminations and depopulations, shall be borne exclusively by the owner, lessee or operator of the private fish pond.

KEY: wildlife, aquaculture, fish

Date of Enactment or Last Substantive Amendment: 2008

Authorizing, and Implemented or Interpreted Law: 23-15-9; 23-15-10

◆ ————— ◆

Natural Resources, Wildlife Resources

R657-60

Aquatic Invasive Species Interdiction

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 31623

FILED: 06/26/2008, 09:07

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to define procedures and regulations designed to prevent and control the spread of aquatic invasive species within the State of Utah.

SUMMARY OF THE RULE OR CHANGE: This rule sets the guidelines and regulations designed to prevent and control the spread of Dreissena mussels in Utah. (DAR NOTE: A 120-day (emergency) rule filing for Rule R657-60 is under DAR No. 31624 in this issue, July 15, 2008, of the Bulletin, and was effective 06/27/2008.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-27-401, 23-14-18, and 23-14-19

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Division of Wildlife Resources (DWR) determines that these amendments do create a cost impact to the state budget or DWR's budget. The 2008 Utah Legislative Session appropriated \$2,500,000 to aid in the implementation costs associated with this rule.

❖ **LOCAL GOVERNMENTS:** This rule does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** This rule may create a cost impact to boat owners and other water enthusiasts in Utah in that if Dreissena Mussels are

found in Utah the cost to decontaminate boats and other conveyances will be at the expense of the owner.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR determines that this rule may create a cost impact to individuals who own water vessels and boat in infested waters, because they would be required to decontaminate the conveyance.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Staci Coons at the above address, by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/14/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2008

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-60. Aquatic Invasive Species Interdiction.

R657-60-1. Purpose and Authority.

(1) The purpose of this rule is to define procedures and regulations designed to prevent and control the spread of aquatic invasive species within the State of Utah.

(2) This rule is promulgated pursuant to authority granted to the Wildlife Board in Sections 23-27-401, 23-14-18, and 23-14-19.

R657-60-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2 and 23-27-101.

(2) In addition:

(a) "Conveyance" means a terrestrial or aquatic vehicle, including a vessel, or a vehicle part that may carry or contain a Dreissena mussel.

(b) "Decontaminate" means to:

(i) Self-decontaminate equipment or a conveyance that has been in an infested water in the previous 30 days by:

(A) removing all plants, fish, mussels and mud from the equipment or conveyance;

(B) draining all water from the equipment or conveyance, including water held in ballast tanks, bilges, livewells, and motors; and

(C) drying the equipment or conveyance for no less than 7 days in June, July and August; 18 days in September, October, November, March, April and May; 30 days in December, January and February; or expose the equipment or conveyance to sub-freezing temperatures for 72 consecutive hours; or

(ii) Professionally decontaminate equipment or a conveyance that has been in an infested water in the previous 30 days by:

(A) Using a professional decontamination service approved by the division to apply scalding water (140 degrees Fahrenheit) to completely wash the equipment or conveyance and flush any areas where water is held, including ballast tanks, bilges, livewells, and motors.

(c) "Dreissena mussel" means a mussel of the genus Dreissena at any life stage, including a zebra mussel, a quagga mussel and a Conrad's false mussel.

(d) "Controlling entity" means the owner, operator, or manager of a water body, facility, or a water supply system.

(e) "Equipment" means an article, tool, implement, or device capable of carrying or containing water or Dreissena mussel.

(f) "Facility" means a structure that is located within or adjacent to a water body

(g) "Infested water" includes all the following:

(i) lower Colorado River between Lake Mead and the Gulf of California;

(ii) Lake Mead in Nevada and Arizona;

(iii) Lake Mohave in Nevada and Arizona;

(iv) Lake Havasu in California and Arizona;

(v) Lake Pueblo in Colorado;

(vi) Lake Pleasant in Arizona;

(vii) San Justo Reservoir in California;

(viii) Southern California inland waters in Orange, Riverside, San Diego, Imperial, and San Bernardino counties;

(ix) coastal and inland waters east of the 100th Meridian in North America; and

(x) other waters established by the Wildlife Board and published on the DWR website.

(h) "Vessel" means every type of watercraft used or capable of being used as a means of transportation on water.

(i) "Water body" means natural or impounded surface water, including a stream, river, spring, lake, reservoir, pond, wetland, tank, and fountain.

(j) "Water supply system" means a system that treats, conveys, or distributes water for irrigation, industrial, wastewater treatment, or culinary use, including a pump, canal, ditch or pipeline.

(i) "Water supply system" does not include a water body.

R657-60-3. Possession of Dreissena Mussels.

(1) Except as provided in Subsections R657-60-3(2) and R657-60-5(2), a person may not possess, import, ship, or transport any Dreissena mussel.

(2) Dreissena mussels may be imported into and possessed within the state of Utah with prior written approval of the Director of the Division of Wildlife Resources or a designee.

R657-60-4. Reporting of Invasive Species Required.

(1) A person who discovers a Dreissena mussel within this state or has reason to believe a Dreissena mussel may exist at a specific location shall immediately report the discovery to the division.

(2) The report shall include the following information:

(a) location of the Dreissena mussels;

- (b) date of discovery;
- (c) identification of any conveyance or equipment in which mussels may be held or attached; and
- (d) identification of the reporting party with their contact information.
- (3) The report shall be made in person or in writing:
 - (a) at any division regional or headquarters office or;
 - (b) to the division's toll free hotline at 1-800-662-3337; or
 - (c) on the division's website at www.wildlife.utah.gov/law/hsp/pf.php.

R657-60-5. Transportation of Equipment and Conveyances That Have Been in Infested Waters.

- (1) The owner, operator, or possessor of any equipment or conveyance that has been in an infested water shall:
 - (a) immediately drain all water from the equipment or conveyance at the take out site, including water held in ballast tanks, bilges, livewells, motors, and other areas of containment; and
 - (b) immediately inspect the interior and exterior of the equipment or conveyance at the take out site for the presence of Dreissena mussels.
- (2) If all water in the equipment or conveyance is drained and the inspection undertaken pursuant to Subsection (1)(b) reveals the equipment and conveyance are free from mussels or shelled organisms, fish, plants and mud, the equipment and conveyance may be transported in or through the state directly from the take out site to the location where it will be:
 - (a) professionally decontaminated; or
 - (b) stored and self-decontaminated.
- (3) If all the water in the equipment or conveyance is not drained or the inspection undertaken pursuant to Subsection (1)(b) reveals the equipment or conveyance has attached mussels or shelled organisms, fish, plants, or mud, the equipment and conveyance shall not be moved from the take out site until the division is contacted and written or electronic authorization received to move the equipment or conveyance to a designated location for professional decontamination.
- (4) A person shall not place any equipment or conveyance that has been in an infested water in the previous 30 days into any other water body or water supply system in the state without first decontaminating the equipment or conveyance.

R657-60-6. Certification of Decontamination.

- (1) The owner, operator or possessor of a vessel desiring to launch on a water body in Utah must:
 - (a) verify the vessel and any launching device have not been in an infested water in the previous 30 days; or
 - (b) certify the vessel and launching device have been decontaminated.
- (2) Certification of decontamination is satisfied by:
 - (a) previously completing self-decontamination since the vessel and launching device were last in an infested water and completely filling out and dating a decontamination certification form which can be obtained from the division; or
 - (b) providing a signed and dated certificate by a division approved professional decontamination service verifying the vessel and launching device were professionally decontaminated since the vessel and launching device were last in an infested water.
- (3) Both the decontamination certification form and the professional decontamination certificate, where applicable, must be

signed and placed in open view in the window of the launching vehicle prior to launching or placing the vessel in a body of water.

(4) It is unlawful under Section 76-8-504 to knowingly falsify a decontamination certification form.

R657-60-7. Wildlife Board Designations of Infested Waters.

(1) The Wildlife Board may designate a geographic area, water body, facility, or water supply system as infested with Dreissena mussels pursuant to Section 23-27-102 and 23-27-401 without taking the proposal to or receiving recommendations from the regional advisory councils.

R657-60-8. Closure Order for a Water Body, Facility, or Water Supply System.

- (1)(a) If the division detects or suspects a Dreissena mussel is present in a water body, facility, or water supply system, the division director or designee may, with the concurrence of the executive director, issue an order closing the water body, facility, or water supply system to the introduction or removal of conveyances or equipment.
 - (b) The director shall consult with the controlling entity of the water body, facility, or water supply system when determining the scope, duration, level and type of closure that will be imposed in order to avoid or minimize disruption of economic and recreational activities.
 - (2)(a) A closure order issued pursuant to Subsection (1) shall be in writing and identify the:
 - (i) water body, facility, or water supply system subject to the closure order;
 - (ii) nature and scope of the closure or restrictions;
 - (iii) reasons for the closure or restrictions;
 - (iv) conditions upon which the order may be terminated or modified; and
 - (v) sources for receiving updated information on the status of infestation and closure order.
 - (b) The closure order shall be mailed, electronically transmitted, or hand delivered to:
 - (i) the controlling entity of the water body, facility, or water supply system; and
 - (ii) any governmental agency or private entity known to have economic, political, or recreational interests significantly impacted by the closure order; and
 - (iii) any person or entity requesting a copy of the order.
 - (c) The closure order or its substance shall further be:
 - (i) posted on the division's web page; and
 - (ii) published in a newspaper of general circulation in the state of Utah or the affected area.
 - (3) If a closure order lasts longer than seven days, the division shall provide the controlling entity and post on its web page a written update every 10 days on its efforts to address the Dreissena mussel infestation.
 - (a) The 10 day update notice cycle will continue for the duration of the closure order.
 - (4)(a) Notwithstanding the closure authority in Subsection (1), the division may not unilaterally close or restrict a water supply system infested with Dreissena mussels where the controlling entity has prepared and implemented a control plan in cooperation with the division that effectively eradicates or controls the spread of Dreissena mussels from the water supply system.
 - (b) The control plan shall comply with the requirements in R657-60-9.

R657-60-9. Control Plan Required.

(1) The controlling entity of a water body, facility, or water supply system may develop and implement a control plan in cooperation with the division prior to infestation designed to:

(a) avoid the infestation of Dreissena mussels; and
(b) control or eradicate an infestation of Dreissena mussels that might occur in the future.

(2) A pre-infestation control plan developed consistent with the requirements in Subsection (3) and approved by the division will eliminate or minimize the duration and impact of a closure order issued pursuant to Section 23-27-303 and R657-60-8.

(3) Upon detection of a Dreissena mussel and issuance of a division closure order involving a water body, facility, or water supply system without an approved control plan, the controlling entity shall cooperate with the division in developing and implementing a control plan to address the:

(a) scope and extent of the infestation;
(b) actions proposed to control the pathways of spread of the infestation;
(c) actions proposed to control or eradicate the infestation;
(d) methods to decontaminate the water body, facility, or water supply system, if possible;
(e) actions required to systematically monitor the level and extent of the infestation; and
(f) requirements and methods to update and revise the plan with scientific advances.

(4) Any post-infestation control plan prepared pursuant to Subsection (3) shall be approved by the Division before implementation.

R657-60-10. Procedure for Establishing a Memorandum of Understanding with the Utah Department of Transportation.

(1) The division director or designee shall negotiate an agreement with the Utah Department of Transportation for use of ports of entry for detection and interdiction of Dreissena Mussels illegally transported into and within the state. Both the Division of Wildlife Resources and the Department of Transportation must agree upon all aspects of Dreissena Mussel interdiction at ports of entry.

(2) The Memorandum shall include the following:
(a) methods and protocols for reimbursing the department for costs associated with Dreissena Mussel interdiction;
(b) identification of ports of entry suitable for interdiction operations;
(c) identification of locations at a specific port of entry suitable for interdiction operations;
(d) methods and protocols for disposing of wastewater associated with decontamination of equipment and conveyances;
(e) dates and time periods suitable for interdiction efforts at specific ports of entry;
(f) signage notifying motorists of the vehicles that must stop at the port of entry for inspection;
(g) priorities of use during congested periods between the department's port responsibilities and the division's interdiction activities;
(h) methods for determining the length, location and dates of interdiction;
(i) training responsibilities for personnel involved in interdiction activities; and
(j) methods for division regional personnel to establish interdiction efforts at ports within each region.

R657-60-11. Penalty for Violation.

A violation of any provision of this rule is punishable as provided in Section 23-13-11.

KEY: fish, wildlife, wildlife law

Date of Enactment or Last Substantive Amendment: 2008

Authorizing, and Implemented or Interpreted Law: 23-27-401; 23-14-18; 23-14-19



Public Service Commission,
 Administration
R746-349
 Competitive Entry and Reporting
 Requirements

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31628

FILED: 06/26/2008, 16:27

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Numerous Competitive Local Exchange Carriers (CLECs) have entered into the Utah market since the passage, in 1995, of statutory changes in Utah's telecommunications regulatory scheme. With the influx of additional carriers, mergers, acquisitions, and consolidations of telecommunications service providers have increased. Requests have been made to the Public Service Commission (PSC) to outline a simple procedural process for merger and acquisition proceedings before the PSC. The PSC proposes Section R746-349-7 to provide guidance on how the PSC will address simple CLEC mergers and acquisitions.

SUMMARY OF THE RULE OR CHANGE: Section R746-349-7 adds provisions addressing the procedural process to be followed for simple CLEC mergers and acquisitions through informal adjudication. Additional changes are included to conform rule definition to statutory definitions and clean up the style/format of the rule's language.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 54-4-1, 54-4-28, 54-4-29, and 54-4-30

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There will be no cost or savings to state government agency budgets as the rule amendment simply addresses procedural aspects of agency actions already performed under Title 54 provisions.
- ❖ LOCAL GOVERNMENTS: No costs or savings impact will occur to local government entities as the rule amendment does not cover or affect any local government activity.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The PSC is not aware of any CLECs operating in the state that have fewer than 50 employees, so it believes there will be no cost or savings effect on any "Small Business" from the

proposed rule amendment. For CLECs whose mergers or acquisitions could be affected through the rule amendment, the PSC anticipates some cost savings could be realized as the rule amendment provides a simple procedural process the PSC will follow for simple unopposed CLEC mergers or acquisitions. As the rule amendment allows these CLECs to provide information and documentation which they have already prepared for federal and other states' regulatory entities, rather than require items unique for proceedings in Utah, some savings could be realized by CLEC mergers or acquisitions affected by the rule amendment. Quantification of the specific dollar amounts is difficult as the PSC has no information concerning costs incurred by CLECs for their past mergers or acquisitions and obtaining such information to estimate possible savings amount is considered to be more costly than the savings that could result from the rule amendment.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There should be no additional costs incurred as a result from the rule amendment. Sections 54-4-28, 54-4-29, and 54-4-30 require utilities to obtain PSC approval of their mergers and acquisitions. The rule amendment simply outlines the procedural process through which the PSC will make its rules to comply with these statutory provisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As explained in the analysis provided above, the PSC does not anticipate there will be any fiscal impact on businesses that could possibly be affected by the rule amendment. Any effect is anticipated to be a slight reduction in CLEC costs of complying with statutory requirements to obtain PSC approval of a merger, acquisition, or consolidation. Ted Boyer, Chairman

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sheri Bintz at the above address, by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@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 08/14/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2008

AUTHORIZED BY: Sandy Mooy, Legal Counsel

R746. Public Service Commission, Administration.

R746-349. Competitive Entry and Reporting Requirements.

R746-349-1. Applicability.

These rules shall be applicable to each telecommunications corporation applying to be a [~~competitor in providing~~provider of local exchange services or other public telecommunications services in all or part of the service territory of an incumbent telephone corporation.

R746-349-2. Definitions.

As used in [~~these~~this rule[s]:

A. "CLEC" means [~~competitive local exchange carrier~~]a public telecommunications service provider that did not hold a certificate to provide public telecommunications service as of May 1, 1995.

B. "Division" means the Division of Public Utilities.

C. "GAAP" means generally accepted accounting principles.

D. "ILEC" means a telephone corporation which held a certificate to provide public teleocmmunications service as of May 1, 1995.

R746-349-3. Filing Requirements.

A. In addition to any other requirements of the Commission or of 63-46b and pursuant to 54-8b-2.1, each applicant for a certificate shall file, in addition to its application:

1. testimony and exhibits in support of the company's technical, financial, and managerial abilities to provide the telecommunications services applied for and a showing that the granting of a certificate is in the public interest. Informational requirements made elsewhere in these rules can be included in testimony and exhibits;

2. proof of a bond in the amount of \$100,000. This bond is to provide security for customer deposits or other liabilities to telecommunications customers of the telecommunications corporation or liabilities to the Utah Public Telecommunications Service Support Fund, 54-8b-15, or the Hearing and Speech Impaired Fund, 54-8b-10. An applicant may request a waiver of this requirement from the Commission if it can show that adequate provisions exist to protect customer deposits or other customer and state fund liabilities;

3. a statement as to whether the telecommunications corporation intends to construct its own facilities or acquire use of facilities from other than the incumbent local exchange carrier, or whether it intends to resell an incumbent local exchange carrier's and other telecommunications corporation's services;

4. a statement regarding the services to be offered including:

- which classes of customer the applicant intends to serve,
- the locations where the applicant intends to provide service,
- the types of services to be offered;

5. a statement explaining how the applicant will provide access to ordinary intralata and interlata message toll calling, operator services, directory assistance, directory listings and emergency services such as 911 and E911;

6. an implementation schedule pursuant to 47 U.S.C. 252(c)(3) of the Telecommunications Act of 1996 which shall include the date local exchange service for residential and business customers will begin;

7. summaries of the professional experience and education of all managerial personnel who will have responsibilities for the applicant's proposed Utah operations;

8. an organization chart listing all the applicant's employees currently working or that plan to be working in or for Utah operations and their job titles;

9. a chart of accounts that includes account numbers, names and brief descriptions;

10. financial statements that at a minimum include:

a. the most recent balance sheet, income statement and cash flow statement and any accompanying notes, prepared according to GAAP,

b. a letter from management attesting to their accuracy, integrity and objectivity, and that the statements were prepared in accordance with GAAP,

c. if the applicant is a start-up company, a balance sheet following the above principles must be filed,

d. if the applicant is a subsidiary of another corporation, financial statements following the above principles must also be filed for the parent corporation;

11. financial statements to demonstrate sufficient financial ability on the part of the applicant. At a minimum, the applicant's statements must show:

a. positive net worth for the applicant CLEC,

b. sufficient projected and verifiable cash flow to meet cash needs as shown in a five-year projection of expected operations,

c. proof of bond as specified in R746-349-3(A)(2);

12. a five-year projection of expected operations including the following:

a. proforma income statements and proforma cash flow statements,

b. when applicable, a technical description of the types of technology to be deployed in Utah including types of switches and transmission facilities,

c. when applicable, detailed maps of proposed locations of facilities including a description of the specific facilities and services to be deployed at each location;

13. an implementation schedule pursuant to 47 U.S.C. 252(c)(3) of the Telecommunications Act of 1996 which shall include the date local exchange service for residential and business customers will begin;

14. evidence of sufficient managerial and technical ability to provide the public telecommunications services contemplated by the application must be demonstrated by a showing of at least the following:

a. proof of certification in other jurisdictions; and that service is currently being offered in other jurisdictions by the applicant,

b. or the corporation has had at least two years of recent experience in providing telecommunications services related to the type of services the CLEC intends to provide;

15. a statement as to why entry by the applicant is in the public interest;

16. proof of authority to conduct business in Utah;

17. a statement regarding complaints or investigations of unauthorized switching, otherwise known as slamming, or other illegal activities of the applicant or any of its affiliates in any jurisdiction. This statement should include the following:

a. sanctions imposed against the applicant for any of these activities,

b. copies of any written documents related to these complaints, investigations, or sanctions, including: orders or other materials from the FCC or state commissions, any courts, or other government bodies, and any complaint letters or other documents from any non-government entities or persons,

c. the applicant's responses to any of these issues;

18. statement about the applicant's written policies regarding the solicitation of new customers and a description of efforts made by the applicant's to prevent unauthorized switching of Utah local service by the applicant, its employees or its agents.

B. Additional questions relating to the technical, financial, and managerial capabilities of the applicant and public interest issues may be submitted by the Division or other parties in accordance with R746-100-8, Discovery.

R746-349-4. Reporting Requirements.

A. When a telecommunications corporation files a request for negotiation with another telecommunications corporation for interconnection, unbundling or resale, the requesting telecommunications corporation shall file a copy of the request with the Commission.

B. Each certificated telecommunications corporation shall file an updated chart of accounts by March 31, of each year.

C. Each certificated telecommunications corporation with facilities located in Utah shall maintain network route maps that include all areas where the corporation is providing or offering to provide service in Utah. These maps will, at a minimum, include central office locations, types of switches, hub locations, ring configurations, and facility routes, accompanied by detailed written explanations. These route maps will be provided to the Division or the Commission upon request.

D. Each certificated telecommunications corporation shall file a map with the Division that identifies the areas within the state where the corporation is offering service. The map should separately identify areas being served primarily through resale and by facilities owned by the carrier. This map shall be updated within 10 days after changes to the service territory occur. The map shall be made available for public inspection.

E. At least five days before offering any telecommunications service through pricing flexibility, a telecommunications corporation shall file with the Commission [a] its proposed price list or if ordered by the Commission, the prices, terms, and conditions of a competitive contract. Each filing may be made electronically and shall:

1. describe the public telecommunications services being offered;

2. set forth the terms and conditions upon which the public telecommunications service is being offered;

3. list the prices to be charged for the telecommunications service or the basis on which the service will be priced; and

4. be made available to the public through the Division.

F. The certificated CLEC shall file an annual report with the Division on or before March 31 for the preceding year, unless the CLEC requests and obtains an extension from the Commission. The annual report shall contain the following information, unless specific forms are provided by the Division:

1. annual revenues from operations attributable to Utah by major service categories. That information would be provided on a "Total Utah" and "Utah Intrastate" basis. "Total Utah" will consist of the total of interstate and intrastate revenues. "Utah Intrastate" will reflect only revenues derived from intrastate tariffs, price lists, or contracts. Both Total Utah and Utah Intrastate revenues shall be reported according to at least the following classes of service:

a. private line and special access,

b. business local exchange,

c. residential local exchange,

d. measured interexchange,
 e. vertical services,
 f. business local exchange, residential local exchange and vertical service revenue will be reported by geographic area, to the extent feasible;

2. annual expenses and estimated taxes attributed to operations in Utah;

3. year-end balances by account for property, plant, equipment, annual depreciation, and accumulated depreciation for telecommunications investment in Utah. The actual depreciation rates which were applied in developing the annual and accumulated depreciation figures shall also be shown;

4. financial statements prepared in accordance with GAAP. These financial statements shall, at a minimum, include an income statement, balance sheet and statement of cash flows and include a letter from management attesting to their accuracy, integrity and objectivity and that the statements follow GAAP;

5. list of services offered to customers and the geographic areas in which those services are offered. This list shall be current and shall be updated whenever a new service is offered or a new area is served;

6. number of access lines in service by geographic area, segregated between business and residential customers;

7. number of messages and minutes of services for measured services billed to end users;

8. list of officers and responsible contact personnel updated annually;

9. a report of gross revenue on a form supplied by the Division. This report shall be used in calculating the Public Utility Regulation Fee owed by the CLEC.

G. The annual report and the report of gross revenue filed by a CLEC ~~[shall]~~ may be considered protected documents under the Government Records Access Management Act, if the CLEC complies with the requirements of that act. ~~[The CLEC shall prominently mark in red each report with the word "Confidential."]~~

R746-349-6. CLEC and ILEC Subject to Pricing Flexibility Exemptions.

A. Unless otherwise ordered by the Commission either in the CLEC's ~~[or ILEC's]~~ certificate proceeding or in a proceeding instituted by an ILEC, the Commission or other party, a CLEC or ILEC subject to pricing flexibility pursuant to 54-8b-2.3 is exempt from the following statutes and rules. All other rules of the Commission and all other duties of public utilities not specifically exempted by these rules or by a Commission order apply to a CLEC or ILEC subject to pricing flexibility pursuant to 54-8b-2.3.

1. Exemptions from Title 54:

54-3-8, 54-3-19 -- Prohibitions of discrimination

54-7-12 -- Rate increases or decreases

54-4-21 -- Establishment of property values

54-4-24 -- Depreciation rates

54-4-26 -- Approval of expenditures

2. Exemptions from Commission rules:

R746-340-2 (D) -- Uniform System of Accounts (47 CFR 32)

R746-340-2 (E) (1) -- Tariff filings required

R746-340-2 (E) (2) -- Exchange Maps

R746-341 -- Lifeline (CLEC with ETC status)

R746-344 -- Rate case filing requirements

R746-401 -- Reporting of construction, acquisition and disposition of assets

R746-405 -- Tariff formats

R746-600 -- Accounting for post-retirement benefits

3. The CLEC will be exempted from the Lifeline rule, R746-341, only until the Commission establishes Lifeline rules that may include the CLEC or until the CLEC begins to provide residential local exchange service. The ILEC will not be exempted from the R746-341. Lifeline Rule.

R746-349-7. Informal Adjudication of Certain CLEC Merger and Acquisition Transactions.

A. A CLEC may obtain approval of a transaction subject to 54-4-28 (merger, consolidation or combination), 54-4-29 (acquiring voting stock or securities), and 54-4-30 (acquiring properties) in the following manner. Such adjudicative proceedings are designated as informal adjudicative proceedings pursuant to 63-46b-5 unless converted to formal adjudicative proceedings.

1. The CLEC shall submit an application which includes, but is not limited to:

a. identification that it is not an ILEC,

b. identification that it seeks approval of the application pursuant to this rule,

c. a reasonably detailed description of the transaction for which approval is sought,

d. a copy of any filings required by the Federal Communications Commission or any other state utility regulatory agency in connection with the transaction, and

e. copies of any notices, correspondence or orders from any federal agency or any other state utility regulatory agency reviewing the transaction which is the subject of the application.

2. Upon receipt of the CLEC's application, the Commission will issue a public notice stating that the application has been filed, that any interested party may submit comments on the application within 14 days following public notice and may submit reply comments within 21 days following public notice, and provide notice of the date and time for a hearing on the application, which shall be scheduled to occur within 30 days following the issuance of the public notice.

3. If no objection to the proposed transaction is submitted in any filed comments or reply comments, the Commission will presume that approval of the transaction is in the public interest and use the information contained in the application and accompanying documents as evidence to support a Commission order.

4. The Commission may convert the proceeding on an application into a formal adjudicative proceeding based upon an objection made in comments or reply comments, evidence submitted, other reasonable basis, which may include failure of the transaction to qualify for streamlined treatment from a federal agency, or its own motion and may continue the hearing on the application as needed.

R746-349-8. CLEC's Obligations with Respect to Provision of Services.

A. The CLEC agrees to provide service within specified geographic areas upon reasonable request and subject to the following conditions:

1. the CLEC's obligation to furnish service to customers is dependent on the availability of suitable facilities on its network at company-designated locations as identified in its annual network route map filing;

2. the CLEC will only be responsible for the installation, operation, and maintenance of services that it provides;

3. the CLEC will furnish service if it is able to obtain, retain and maintain suitable access rights and facilities, without unreasonable expense, and to provide for the installation of those facilities required incident to the furnishing and maintenance of that service;

4. at its option, the CLEC may require payment of construction or line-extension charges by the customer ordering telephone service. Those charges will be in addition to the normal rates and charges applicable to the service being provided;

5. when potential customers are so located that it is necessary or desirable to use private or government right-of-way to furnish service, those potential customers may be required, at the CLEC's option, to provide or pay the cost of providing the right-of-way in addition to any other charges;

6. all construction of facilities will be undertaken at the discretion of the CLEC, consistent with budgetary responsibilities and consideration for the impact on the CLEC's other customers and contractual responsibilities.

R746-349-9. Pricing Flexibility Revocation, Conditions, or Restrictions.

A. The Commission may initiate~~], or the Division, the Committee,~~ or any interested person may request agency action for the Commission to initiate, a proceeding to revoke or impose conditions or restrictions on a telecommunications corporation's pricing flexibility as authorized by ~~[section-]~~54-8b-2.3(8).

1. A request to initiate any proceeding pursuant to this rule shall:

a. Identify the telecommunications corporation or corporations and the public telecommunications service or services whose pricing flexibility the requesting party believes may be subject to revocation or imposition of conditions or restrictions;

b. The basis for the belief; and

c. The relief sought.

2. A request to initiate a proceeding shall be served upon the telecommunications corporation or corporations the requesting party has identified in the request, the Division and the Committee.

3. The telecommunications corporation or corporations against whom the request is directed and any other interested party may respond to the request in accordance with the Commission's procedural rules and standard practices.

4. If a proceeding is initiated, an interested party may request to review confidential information retained by the Commission or the Division that is reasonably related to any potential grounds for revocation, conditioning or restriction under section 54-8b-2.3(8). The party shall certify that it seeks to review that confidential information solely for purposes of determining whether a sufficient factual basis exists to and that the confidential information will not be used for any other purpose or disclosed to any persons who may be able to use the confidential information in business decisions to any party's competitive advantage. Prior to disclosing any confidential information, the Commission or the Division:

a. Shall require the requesting party to execute an appropriate nondisclosure agreement;

b. Shall notify any telecommunications corporation whose company-specific information would be disclosed of the request at least 14 calendar days before the planned date for disclosing such information; and

c. Shall not disclose the company-specific information of any telecommunications corporation that objects to disclosure of its confidential information, if such telecommunications corporation files with the Commission or Division and serves upon other parties an objection to the disclosure of such confidential information within 10 calendar days after receiving the notice required by 349-9.4.b. The Commission shall conduct a hearing at which the telecommunications corporation whose confidential information may be disclosed is given the opportunity to present its objections or request terms and conditions for disclosure and during which other parties may respond to the telecommunications corporation whose confidential information is sought to be disclosed.

5. In any proceeding conducted, the Commission will enter an appropriate protective order to ensure protection for confidential, proprietary, and competitively sensitive information that has been or is provided to the Commission, the Division, the Committee, or another party to the proceeding.

6. Nothing in this rule limits the ability of any party or the Commission to raise or address any issue in any other proceeding or as permitted by law.

KEY: essential facilities, imputation, public utilities, telecommunications

Date of Enactment or Last Substantive Amendment: ~~[October 11, 2005]~~2008

Notice of Continuation: March 8, 2007

Authorizing, and Implemented or Interpreted Law: 54-7-25 through 28; 54-8b-2; 54-8b-3.3; 63G-4~~[6b]~~



Public Service Commission, Administration **R746-800** Working 4 Utah Operations

NOTICE OF PROPOSED RULE (New Rule)

DAR FILE NO.: 31642

FILED: 06/30/2008, 15:32

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to provide direction for filing of documents and procedural processes while state agencies are participating in the Working 4 Utah Initiative with state offices closed on Fridays.

SUMMARY OF THE RULE OR CHANGE: The rule provides directions on how to compute time periods and to how submit documents to the Public Service Commission and serve them on other parties while the PSC participates in the Working 4 Utah Initiative with offices closed on Fridays.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 54-3-21, 54-3-22, 54-4-1, and 54-4-2

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The rule only addresses how to submit documents and calculate time periods to determine action dates. No state agency activity is changed.
- ❖ LOCAL GOVERNMENTS: None--The rule provisions have no application to local government activities or actions, it addresses only proceedings before the PSC.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--The rule only addresses how to submit documents and calculate time periods to determine action dates. No business activities will be affected beyond a possible change in a date on which they otherwise may have taken an action.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--If a person were going to file a document with the PSC prior to the rule's effective date, the rule provisions only indicate the time a document may be filed or to calculate the date upon which a document would be filed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impacts from the rule as it only directs how to determine a date upon which an action would be due under existing statutes, rules or orders, or designates how and when to file documents during state agency office hours under the Working 4 Utah Initiative. Ted Boyer, Chairman

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sandy Mooy at the above address, by phone at 801-530-6708, by FAX at 801-530-6796, or by Internet E-mail at smooy@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 08/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/23/2008

AUTHORIZED BY: Sandy Mooy, Legal Counsel

R746. Public Service Commission, Administration.**R746-800. Working 4 Utah Operations.****R746-800-1. Purpose.**

The Working 4 Utah Initiative is an office-hour schedule effective August 3, 2008. While Working 4 Utah is in effect, state offices and agencies will be open 7 a.m. through 6 p.m., Monday through Thursday and will be closed all day Friday. This rule addresses how the Commission will operate and how documents are to be submitted to the Commission and served upon other parties to

comply with other Commission rules or statutory provisions when state offices are closed on a Friday which is not a legal holiday.

R746-800-2. Requests for Agency Action or Other Initiatory Documents.

The paper original, required paper copies and electronic document versions of a Request for Agency Action, other documents which initiate administrative proceedings or which are initial documents submitted to the Commission will only be received during the Working 4 Utah office hours on Mondays through Thursdays; they will not be accepted on a Friday.

R746-800-3. Motions, Response Documents and Other Similar Documents.

Documents which would not initiate agency proceedings or which are to be submitted or served during the pendency of a Commission proceeding, e.g., comments, motions, responses or replies to previously filed documents, etc., and whose filing date or service date fall on a Friday should be filed or served as follows.

A. Fridays which are a legal holiday. If the Friday is a legal holiday under state law, documents are to be filed with the Commission and may be served upon parties on the first subsequent week-day (likely the following Monday or Tuesday) which is not a legal holiday.

B. Fridays which are not a legal holiday. If the Friday is not a legal holiday but is a Friday on which the Commission's office is closed under the Working 4 Utah Initiative, the electronic document version should be submitted to the Commission's electronic filing email address before 11:59 p.m. of that Friday, and the paper original and required paper copies are to be filed with the Commission on the first subsequent week-day (likely Monday or Tuesday) which is not a legal holiday. Service of a paper copy or electronic document version of a document required to be made upon other persons shall continue to be made as governed by statute, rule or order.

R746-800-4. Commission Action Falling on a Friday.

If Commission action required by a statute, rule or order is to occur on a date which falls on or from a time period which ends on a Friday which is not a legal holiday, the Commission action will still be required on such Friday, even though it is a Work 4 Utah Friday on which the Commission's office is closed.

KEY: utilities, office hours, filing

Date of Enactment or Last Substantive Amendment: 2008

Authorizing, and Implemented or Interpreted Law: 54-3-21; 54-3-22; 54-4-1; 54-4-2



Tax Commission, Administration

R861-1A-16

Utah State Tax Commission
Management Plan Pursuant to Utah
Code Ann. Section 59-1-207

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31633

FILED: 06/27/2008, 14:05

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment updates statutory references that have changed through legislation, and updates Tax Commission structure.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment updates statutory citations in light of H.B. 63 (2008), reflects that Technology Management is no longer a division of the Tax Commission, and that the executive director shall oversee service agreements from other departments. (DAR NOTE: H.B. 63 (2008) is found at Chapter 382, Laws of Utah 2008, and was effective 05/05/2008.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-1-207

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The proposed amendment updates statutory references and divisions within the Tax Commission.
- ❖ LOCAL GOVERNMENTS: None--The proposed amendment updates statutory references and divisions within the Tax Commission.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--The proposed amendment updates statutory references and divisions within the Tax Commission.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The proposed amendment reflects changes in the Tax Commission structure.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no fiscal impacts. D'Arcy Dixon, Commissioner

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

TAX COMMISSION
ADMINISTRATION
210 N 1950 W
SALT LAKE CITY UT 84134-0002, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@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 08/14/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2008

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R861. Tax Commission, Administration.**R861-1A. Administrative Procedures.****R861-1A-16. Utah State Tax Commission Management Plan Pursuant to Utah Code Ann. Section 59-1-207.**

~~[A-](1)~~ The executive director reports to the commission. The executive director shall meet with the commission periodically to report on the status and progress of this agreement, update the commission on the affairs of the agency and seek policy guidance. The chairman of the commission shall designate a liaison of the commission to coordinate with the executive director in the execution of this agreement.

~~[B-](2)~~ The structure of the agency is as follows:

~~[1-](a)~~ The Office of the Commission, including the commissioners and the following units that report to the commission:

- ~~[a-](i)~~ Internal Audit;
- ~~[b-](ii)~~ Appeals;
- ~~[e-](iii)~~ Economic and Statistical; and
- ~~[d-](iv)~~ Public Information.

~~[2-](b)~~ The Office of the Executive Director, including the executive director's staff and the following divisions that report to the executive director:

- ~~[a-](i)~~ Administration;
- ~~[b-](ii)~~ Taxpayer Services;
- ~~[e-](iii)~~ Motor Vehicle;
- ~~[d-](iv)~~ Auditing;
- ~~[e-](v)~~ Property Tax;
- ~~[f-]~~ Technology Management;

~~[g-](vi)~~ Processing; and

~~[h-](vii)~~ Motor Vehicle Enforcement.

(3) The Executive Director shall oversee service agreements from other departments, including the Department of Human Resources and the Department of Technology Services.

~~[C-](4)~~ The commission hereby delegates full authority for the following functions to the executive director:

~~[1-](a)~~ general supervision and management of the day to day management of the operations and business of the agency conducted through the Office of the Executive Director and through the divisions set out in ~~[B-2]~~ Subsection (2)(b);

~~[2-](b)~~ management of the day to day relationships with the customers of the agency;

~~[3-](c)~~ all original assessments, including adjustments to audit, assessment, and collection actions, except as provided in ~~[C-4]~~ Subsections (4)(d) and [D](5);

~~[4-](d)~~ waivers of penalty and interest or offers in compromise agreements in amounts under \$10,000, in conformance with standards established by the commission;

~~[5-](e)~~ except as provided in ~~[D-7]~~ Subsection (5)(g), voluntary disclosure agreements with companies, including multilevel marketers;

~~[6-](f)~~ determination of whether a county or taxing entity has satisfied its statutory obligations with respect to taxes and fees administered by the ~~[Tax Commission]~~ commission;

~~[7-](g)~~ human resource management functions, including employee relations, final agency action on employee grievances, and development of internal policies and procedures; and

[8-](h) administration of Title [63]63G, Chapter 2, Government Records Access and Management Act.

[D-](5) The executive director shall prepare and, upon approval by the commission, implement the following actions, agreements, and documents:

- [1-](a) the agency budget;
- [2-](b) the strategic plan of the agency;
- [3-](c) administrative rules and bulletins;
- [4-](d) waivers of penalty and interest in amounts of \$10,000 or more as per the waiver of penalty and interest policy;
- [5-](e) offer in compromise agreements that abate tax, penalty and interest over \$10,000 as per the offer in compromise policy;
- [6-](f) stipulated or negotiated agreements that dispose of matters on appeal; and
- [7-](g) voluntary disclosure agreements that meet the following criteria:

[a-](i) the company participating in the agreement is not licensed in Utah and does not collect or remit Utah sales or corporate income tax; and

[b-](ii) the agreement forgives a known past tax liability of \$10,000 or more.

[E-](6) The commission shall retain authority for the following functions:

- [1-](a) rulemaking;
- [2-](b) adjudicative proceedings;
- [3-](c) private letter rulings issued in response to requests from individual taxpayers for guidance on specific facts and circumstances;
- [4-](d) internal audit processes;
- [5-](e) liaison with the governor's office;
- [a-](i) Correspondence received from the governor's office relating to tax policy will be directed to the Office of the Commission for response. Correspondence received from the governor's office that relates to operating issues of the agency will be directed to the Office of the Executive Director for research and appropriate action. The executive director shall prepare a timely response for the governor with notice to the commission as appropriate.

[b-](ii) The executive director and staff may have other contact with the governor's office upon appropriate notice to the commission; and

[6-](f) liaison with the Legislature.

[a-](i) The commission will set legislative priorities and communicate those priorities to the executive director.

[b-](ii) Under the direction of the executive director, staff may be assigned to assist the commission and the executive director in monitoring legislative meetings and assisting legislators with policy issues relating to the agency.

[E-](7) Correspondence that has been directed to the commission or individual commissioners that relates to matters delegated to the executive director shall be forwarded to a staff member of the Office of the Executive Director for research and appropriate action. A log shall be maintained of all correspondence and periodically the executive director will review with the commission the volume, nature, and resolution of all correspondence from all sources.

[G-](8) The executive director's staff may occasionally act as support staff to the commission for purposes of conducting research or making recommendations on tax issues.

[1-](a) Official communications or assignments from the commission or individual commissioners to the staff reporting to the executive director shall be made through the executive director.

[2-](b) The commissioners and the Office of the Commission staff reserve the right to contact agency staff directly to facilitate a

collegial working environment and maintain communications within the agency. These contacts will exclude direct commands, specific policy implementation guidance, or human resource administration.

[H-](9) The commission shall meet with the executive director periodically for the purpose of exchanging information and coordinating operations.

[1-](a) The commission shall discuss with the executive director all policy decisions, appeal decisions or other commission actions that affect the day to day operations of the agency.

[2-](b) The executive director shall keep the commission apprised of significant actions or issues arising in the course of the daily operation of the agency.

[3-](c) When confronted with circumstances that are not covered by established policy or by instances of real or potential conflicts of interest, the executive director shall refer the matter to the commission.

KEY: developmentally disabled, grievance procedures, taxation, disclosure requirements

Date of Enactment or Last Substantive Amendment: [February 25], 2008

Notice of Continuation: March 20, 2007

Authorizing, and Implemented or Interpreted Law: 59-1-207



Tax Commission, Administration
R861-1A-23
 Designation of Adjudicative
 Proceedings Pursuant to Utah Code
 Ann. Section 63-46b-4

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE NO.: 31634
 FILED: 06/27/2008, 14:27

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment updates statutory references that have changed through legislation, and updates appeal procedures.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment updates statutory citations in light of H.B. 63 (2008), and deletes "prehearing" and inserts "status" conference to match recent commission changes to practice. (DAR NOTE: H.B. 63 (2008) is found at Chapter 382, Laws of Utah 2008, and was effective 05/05/2008.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63G-4-202

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** None--The proposed amendment reflects changes to the appeals procedures.
- ❖ **LOCAL GOVERNMENTS:** None--The proposed amendment reflects changes to the appeals procedures.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** None--The proposed amendment reflects changes to the appeals procedures.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The amendment reflects changes to the appeals procedures.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no fiscal impacts with this procedural update. D'Arcy Dixon, Commissioner

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

TAX COMMISSION
ADMINISTRATION
210 N 1950 W
SALT LAKE CITY UT 84134-0002, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@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 08/14/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2008

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R861. Tax Commission, Administration.

R861-1A. Administrative Procedures.

R861-1A-23. Designation of Adjudicative Proceedings Pursuant to Utah Code Ann. Section ~~63-46b-4~~63G-4-202.

~~[A-](1)~~ All matters shall be designated as formal proceedings and set for a ~~prehearing conference,~~ an initial hearing, a status conference, or a scheduling conference pursuant to R861-1A-26.

~~[B-](2)~~ A matter may be diverted to a mediation process pursuant to R861-1A-32 upon agreement of the parties and the presiding officer.

KEY: developmentally disabled, grievance procedures, taxation, disclosure requirements

Date of Enactment or Last Substantive Amendment: ~~February 25, 2008~~

Notice of Continuation: March 20, 2007

Authorizing, and Implemented or Interpreted Law: ~~63-46b-4~~63G-4-202

◆ ————— ◆

Tax Commission, Administration
R861-1A-26
Procedures for Formal Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-501 and 63-46b 6 through 63-46b-11

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 31635

FILED: 06/27/2008, 16:17

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment updates statutory references that have changed through legislation, and updates appeals procedures.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment updates statutory citations in light of H.B. 63 (2008), and deletes reference to a pre-hearing conference since the commission no longer holds pre-hearing conferences. (DAR NOTE: H.B. 63 (2008) is found at Chapter 382, Laws of Utah 2008, and was effective 05/05/2008.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 63G-4-204 through 63G-4-209

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None--The proposed amendment reflects changes to the appeals procedures.

❖ **LOCAL GOVERNMENTS:** None--The proposed amendment reflects changes to the appeals procedures.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** None--The proposed amendment reflects changes to the appeals procedures.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The amendment reflects changes made to the appeals procedures.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no impacts with this procedural update. D'Arcy Dixon, Commissioner

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

TAX COMMISSION
ADMINISTRATION
210 N 1950 W
SALT LAKE CITY UT 84134-0002, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@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 08/14/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2008

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R861. Tax Commission, Administration.

R861-1A. Administrative Procedures.

R861-1A-26. Procedures for Formal Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-501 and ~~63-46b-6 through 63-46b-11~~ 63G-4-204 through 63G-4-209.

(1) A ~~prehearing~~ scheduling or status conference may be held.

- (a) At the conference, the parties and the presiding officer may:
 - (i) establish deadlines and procedures for discovery;
 - (ii) discuss scheduling;
 - (iii) clarify other issues;
 - (iv) determine whether to refer the action to a mediation process;

and

- (v) determine whether the initial hearing will be waived.

(b) The ~~prehearing~~ scheduling or status conference may be converted to an initial hearing upon agreement of the parties.

(2) Notice of Hearing. At least ten days prior to a hearing date, the Commission shall notify the petitioning party or the petitioning party's representative by mail, e-mail, or facsimile of the date, time and place of any hearing or proceeding.

(3) Proceedings Conducted by Telephone. Any proceeding may be held with one or more of the parties on the telephone if the presiding officer determines that it will be more convenient or expeditious for one or more of the parties and does not unfairly prejudice the rights of any party. Each party to the proceeding is responsible for notifying the presiding officer of the telephone number where contact can be made for purposes of conducting the hearing.

- (4) Representation.

(a) A party may pursue an appeal before the commission without assistance of legal counsel or other representation. However, a party may be represented by legal counsel or other representation at every stage of adjudication. Failure to obtain legal representation shall not be grounds for complaint at a later stage in the adjudicative proceeding or for relief on appeal from an order of the commission.

(i) For appeals concerning Utah corporate franchise and income taxes or Utah individual income taxes, legal counsel must file a power of attorney or the taxpayer must submit a signed petition for redetermination (Tax Commission form TC-738) on which the taxpayer has authorized legal counsel to represent him or her in the appeal. For all other appeals, legal counsel may, as an alternative, submit an entry of appearance.

(ii) Any representative other than legal counsel must submit a signed power of attorney authorizing the representative to act on the party's behalf and binding the party by the representative's action, unless the taxpayer submits a signed petition for redetermination (Tax Commission form TC-738) on which the taxpayer has authorized the representative to represent him or her in the appeal.

(iii) If a party is represented by legal counsel or other representation, all documents will be directed to the party's representative. Documents will be mailed to the representative's street or other address as shown in documents submitted by the

representative. Documents may also be transmitted by facsimile number, e-mail address or other electronic means. A request by a party that documents be transmitted by e-mail shall constitute a waiver of confidentiality of any confidential information disclosed in that e-mail.

(b) Any division of the commission named as party to the proceeding may be represented by the Attorney General's Office upon an attorney of that office submitting an entry of appearance.

- (5) Subpoena Power.

(a) Issuance. Subpoenas may be issued to secure the attendance of witnesses or the production of evidence.

(i) If all parties are represented by counsel, an attorney admitted to practice law in Utah may issue and sign the subpoena.

(ii) In all other cases, the party requesting the subpoena must prepare it and submit it to the presiding officer for review and, if appropriate, signature. The presiding officer may inform a party of its rights under the Utah Rules of Civil Procedure.

(b) Service. Service of the subpoena shall be made by the party requesting it in a manner consistent with the Utah Rules of Civil Procedure.

- (6) Motions.

(a) Consolidation. The presiding officer has discretion to consolidate cases when the same tax assessment, series of assessments, or issues are involved in each, or where the fact situations and the legal questions presented are virtually identical.

(b) Continuance. A continuance may be granted at the discretion of the presiding officer.

- (i) In the absence of a scheduling order:

(A) Each party to an appeal may receive one continuance, upon request, prior to the initial hearing.

(B) If the initial hearing is waived or a formal hearing is timely requested after an initial hearing decision is issued, each party may receive one continuance, upon request, prior to the formal hearing.

(C) A request must be submitted no later than ten days prior to the proceeding for which the continuance is requested and may be denied if a party is prejudiced by the continuance.

(ii) If a scheduling order has been issued or the requesting party has already been granted a continuance, a continuance request must be submitted in writing to the presiding officer. The request must set forth specific reasons for the continuance. After reviewing the request with one or more commissioners, the presiding officer shall grant the request only if the presiding officer determines that adequate cause has been shown and that no other party or parties will be unduly prejudiced.

(c) Default. The presiding officer may enter an order of default against a party in accordance with Section ~~63-46b-11~~ 63G-4-209.

(i) The default order shall include a statement of the grounds for default and shall be delivered to all parties.

(ii) A defaulted party may seek to have the default set aside according to procedures set forth in the Utah Rules of Civil Procedure.

(d) Ruling on Motions. Motions may be made during the hearing or by written motion.

(i) Each motion shall include the grounds upon which it is based and the relief or order sought. Copies of written motions shall be served upon all other parties to the proceeding.

- (ii) Upon the filing of any motion, the presiding officer may:

(A) grant or deny the motion; or

(B) set the matter for briefing, hearing, or further proceedings.

(iii) If a hearing on a motion is held that may dispose of all or a portion of the appeal or any claim or defense in the appeal, the commission shall make a record of the proceeding, which may include a written record or an audio recording of the proceeding.

(e) Requests to Withdraw Locally-Assessed Property Tax Appeals.

(i) A party who appeals a county board of equalization decision to the commission may unilaterally withdraw its appeal if:

(A) it submits a written request to withdraw the appeal 20 or more days prior to:

(I) the initial hearing; or

(II) the formal hearing, if the parties waived the initial hearing or participated in a mediation conference in lieu of the initial hearing; and

(B) no other party has filed a timely appeal of the county board of equalization decision.

(ii) A party who appeals an initial hearing decision issued by the commission may unilaterally withdraw its appeal if:

(A) it submits a written request to withdraw 20 or more days prior to the formal hearing, regardless of whether the party who appealed the initial hearing order is also the party who appealed the county board of equalization decision; and

(B) no other party has filed a timely appeal of the initial hearing decision.

KEY: developmentally disabled, grievance procedures, taxation, disclosure requirements

Date of Enactment or Last Substantive Amendment: ~~February 25, 2008~~

Notice of Continuation: March 20, 2007

Authorizing, and Implemented or Interpreted Law: 59-1-501; ~~63-46b-6 through 63-46b-11~~ 63G-4-204 through 63G-4-209



Tax Commission, Administration
R861-1A-27
 Discovery Pursuant to Utah Code Ann.
 Section 63-46b-7

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31638

FILED: 06/27/2008, 16:48

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment updates statutory references that have changed through legislation, and updates discovery procedures to match changes in practice.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment updates statutory citations in light of H.B. 63 (2008), and deletes "prehearing" and adds "status" conference to match recent changes to Tax Commission practice. (DAR NOTE: H.B. 63 (2008) is found at Chapter 382, Laws of Utah 2008, and was effective 05/05/2008.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63G-4-205

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--The proposed amendment reflects changes to the appeals procedures.

❖ LOCAL GOVERNMENTS: None--The proposed amendment reflects changes to the appeals procedures.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--The proposed amendment reflects changes to the appeals procedures.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The amendments reflect changes made to the appeals procedures.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no impacts with this procedural update. D'Arcy Dixon, Commissioner

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

TAX COMMISSION
 ADMINISTRATION
 210 N 1950 W
 SALT LAKE CITY UT 84134-0002, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@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 08/14/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2008

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R861. Tax Commission, Administration.

R861-1A. Administrative Procedures.

R861-1A-27. Discovery Pursuant to Utah Code Ann. Section ~~63-46b-7~~ 63G-4-205.

~~[A-](1)~~ Discovery procedures in formal proceedings shall be established during the ~~[prehearing and]~~ scheduling and status conference in accordance with the Utah Rules of Civil Procedure and other applicable statutory authority.

~~[B-](2)~~ The party requesting information or documents may be required to pay in advance the costs of obtaining or reproducing such information or documents.

KEY: developmentally disabled, grievance procedures, taxation, disclosure requirements

Date of Enactment or Last Substantive Amendment: ~~February 25, 2008~~

Notice of Continuation: March 20, 2007

Authorizing, and Implemented or Interpreted Law: ~~63-46b-7~~ 63G-4-205



Tax Commission, Auditing
R865-6F-8

**Allocation and Apportionment of Net
Income (Uniform Division of Income for
Tax Purposes Act) Pursuant to Utah
Code Ann. Sections 59-7-302 through
59-7-321**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31632

FILED: 06/27/2008, 13:37

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendments are necessary to match changes to the model rule this rule is based on.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment of a model Multistate Tax Commission (MTC) rule updates the definition of business income and unitary business in accordance with changes to the MTC model rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-7-302 through 59-7-321

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--These amendments codify the state's practice.
- ❖ LOCAL GOVERNMENTS: None--These amendments codify the state's practice.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--These amendments codify the state's practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The proposed amendments reflect current Tax Commission practice.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated impacts. D'Arcy Dixon, Commissioner

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

TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clec@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 08/14/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2008

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R865. Tax Commission, Auditing.

R865-6F. Franchise Tax.

R865-6F-8. Allocation and Apportionment of Net Income (Uniform Division of Income for Tax Purposes Act) Pursuant to Utah Code Ann. Sections 59-7-302 through 59-7-321.

~~[(1) Business and Nonbusiness Income Defined. Section 59-7-302 defines business income as income arising from transactions and activity in the regular course of the taxpayer's trade or business operations. In essence, all income that arises from the conduct of trade or business operations of a taxpayer is business income. For purposes of administration of the Uniform Division of Income for Tax Purposes Act (UDITPA), the income of the taxpayer is business income unless clearly classifiable as nonbusiness income.~~

~~—(a) Nonbusiness income means all income other than business income and shall be narrowly construed.~~

~~—(b) The classification of income by the labels occasionally used, such as manufacturing income, compensation for services, sales income, interest, dividends, rents, royalties, gains, operating income, and nonoperating income, is of no aid in determining whether income is business or nonbusiness income. Income of any type or class and from any source is business income if it arises from transactions and activity occurring in the regular course of a trade or business. Accordingly, the critical element in determining whether income is business income or nonbusiness income is the identification of the transactions and activity that are the elements of a particular trade or business. In general, all transactions and activities of the taxpayer that are dependent upon or contribute to the operation of the taxpayer's economic enterprise as a whole constitute the taxpayer's trade or business and will be transactions and activity arising in the regular course of business, and will constitute integral parts of a trade or business.~~

~~—(c) Business and Nonbusiness Income. Application of Definitions. The following are rules for determining whether particular income is business or nonbusiness income:~~

~~—(i) Rents from real and tangible personal property. Rental income from real and tangible property is business income if the property with respect to which the rental income was received is used in the taxpayer's trade or business or is incidental thereto and therefore is includable in the property factor under Subsection (7)(a)(i).~~

~~—(ii) Gains or Losses from Sales of Assets. Gain or loss from the sale, exchange or other disposition of real or tangible or intangible personal property constitutes business income if the property while owned by the taxpayer was used in the taxpayer's trade or business. However, if the property was utilized for the production of nonbusiness income the gain or loss will constitute nonbusiness income. See Subsection (7)(a)(ii).~~

~~—(iii) Interest. Interest income is business income where the intangible with respect to which the interest was received arises out of or was created in the regular course of the taxpayer's trade or business~~

operations or where the purpose for acquiring and holding the intangible is related to or incidental to trade or business operations.

— (iv) Dividends. Dividends are business income where the stock with respect to which the dividends are received arises out of or was acquired in the regular course of the taxpayer's trade or business operations or where the purpose for acquiring and holding the stock is related to or incidental to the trade or business operations. Because of the regularity with which most corporate taxpayers engage in investment activities, because the source of capital for those investments arises in the ordinary course of a taxpayer's business, because the income from those investments is utilized in the ordinary course of the taxpayer's business and because those investment assets are used for general credit purposes, income arising from the ownership or sale or other disposition of investments is presumptively business income. This presumption may be rebutted if the taxpayer can prove that the investment is unrelated to the regular trade or business activities.

— (v) Proration of Deductions. In most cases an allowable deduction of a taxpayer will be applicable only to the business income arising from the trade or business or to a particular item of nonbusiness income. In some cases an allowable deduction may be applicable to the business income and to nonbusiness income. In those cases the deduction shall be prorated among the business and nonbusiness income in a manner that fairly distributes the deduction among the classes of income to which it is applicable.

— (vi) A schedule must be submitted with the return showing:

— (A) the gross income from each class of income being allocated;

— (B) the amount of each class of applicable expenses, together with explanation or computations showing how amounts were arrived at;

— (C) the total amount of the applicable expenses for each income class; and

— (D) the net income of each income class. The schedules should provide appropriate columns as set forth above for items allocated to this state and for items allocated outside this state.

— (vii) In filing returns with this state, if the taxpayer departs from or modifies the manner of prorating any such deduction used in returns for prior years, the taxpayer shall disclose in the return for the current year the nature and extent of the modification.

— (viii) If the returns or reports filed by a taxpayer with all states to which the taxpayer reports under UDITPA are not uniform in the application or proration of any deduction, the taxpayer shall disclose in its return to this state the nature and extent of the variance.

— (2)(1) Definitions.

(a) ["Taxpayer," for purposes of this rule, is as defined in Section 59-7-101]"Allocation" means the assignment of nonbusiness income to a particular state.

(b) "Apportionment" means the division of business income between states by the use of a formula containing apportionment factors.

(c) ["Allocation" means the assignment of nonbusiness income to a particular state]"Base of operations" means the place of more or less permanent nature from which the employee starts work and to which the employee customarily returns in order to receive instructions from the taxpayer or communications from customers or other persons, or to replenish stock or other materials, repair equipment, or perform any other function necessary to the exercise of his trade or profession at some other point or points.

(d) "Business activity" refers to the transactions and [activity]activities occurring in the regular course of [the]a particular trade or business of a taxpayer, or to the acquisition, management, and

disposition of property that constitute integral parts of the taxpayer's regular trade or business operations.

— (e) "Business income" means income of any type or class, and from any activity, that meets the relationship described in Subsection (2)(b), the transactional test, or Subsection (2)(c), the functional test. The classification of income by the labels occasionally used, such as manufacturing income, compensation for services, sales income, interest, dividends, rents, royalties, gains, operating income, and nonoperating income is of no aid in determining whether income is business or nonbusiness income.

— (f) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services.

— (g) "Employee" means an:

— (i) officer of a corporation; or

— (ii) individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee.

[~~(e)~~](h) "Gross receipts" are the gross amounts realized (the sum of money and the fair market value of other property or services received) on the sale or exchange of property, the performance of services, or the use of property or capital (including rents, royalties, interest and dividends) in a transaction that produces business income, in which the income or loss is recognized (or would be recognized if the transaction were in the United States) under the Internal Revenue Code. Amounts realized on the sale or exchange of property are not reduced for the cost of goods sold or the basis of property sold.

(i) Gross receipts, even if business income, do not include such items as, for example:

(A) repayment, maturity, or redemption of the principal of a loan, bond, or mutual fund or certificate of deposit or similar marketable instrument;

(B) the principal amount received under a repurchase agreement or other transaction properly characterized as a loan;

(C) proceeds from issuance of the taxpayer's own stock or from sale of treasury stock;

(D) damages and other amounts received as the result of litigation;

(E) property acquired by an agent on behalf of another;

(F) tax refunds and other tax benefit recoveries;

(G) pension reversions;

(H) contributions to capital (except for sales of securities by securities dealers);

(I) income from forgiveness of indebtedness; or

(J) amounts realized from exchanges of inventory that are not recognized by the Internal Revenue Code.

(ii) Exclusion of an item from the definition of "gross receipts" is not determinative of its character as business or nonbusiness income. Nothing in this definition shall be construed to modify, impair or supersede any provision of [§]Subsection (11).

— (i) "Nonbusiness income" means all income other than business income.

— (j) "Place from which the service is directed or controlled" means the place from which the power to direct or control is exercised by the taxpayer.

— (k) "Taxpayer" means a corporation as defined in Section 59-7-101.

(l) "To contribute materially" includes being used operationally in the taxpayer's trade or business. Whether property contributes materially is not determined by reference to the property's value or percentage of use. If an item of property contributes materially to the taxpayer's trade or business, the attributes, rights, or components of that

property are also operationally used in that business. However, property that is held for mere financial betterment is not operationally used in the taxpayer's trade or business.

(m) "Trade or business" means the unitary business of the taxpayer, part of which is conducted within Utah.

(2) Business and Nonbusiness Income.

(a) Apportionment and Allocation. Section 59-7-303 requires that every item of income be classified as either business income or nonbusiness income. Income for purposes of classification as business or nonbusiness includes gains and losses. Business income is apportioned among jurisdictions by use of a formula. Nonbusiness income is specifically assigned or allocated to one or more specific jurisdictions pursuant to express rules. An item of income is classified as business income if it falls within the definition of business income. An item of income is nonbusiness income only if it does not meet the definitional requirements for being classified as business income.

(b) Transactional Test. Business income includes income arising from transactions and activity in the regular course of the taxpayer's trade or business.

(i) If the transaction or activity is in the regular course of the taxpayer's trade or business, part of which trade or business is conducted within the state, the resulting income of the transaction or activity is business income for Utah purposes. Income may be business income even though the actual transaction or activity that gives rise to the income does not occur in this state.

(ii) For a transaction or activity to be in the regular course of the taxpayer's trade or business, the transaction or activity need not be one that frequently occurs in the trade or business. Most, but not all, frequently occurring transactions or activities will be in the regular course of that trade or business and will, therefore, satisfy the transactional test. It is sufficient to classify a transaction or activity as being in the regular course of a trade or business if it is reasonable to conclude transactions of that type are customary in the kind of trade or business being conducted, or are within the scope of what that kind of trade or business does. However, even if a taxpayer frequently or customarily engages in investment activities, if those activities are for the taxpayer's mere financial betterment rather than for the operations of the trade or business, those activities do not satisfy the transactional test. The transactional test includes income from sales of inventory, property held for sale to customers, and services commonly sold by the trade or business. The transactional test also includes income from the sale of property used in the production of business income of a kind that is sold and replaced with some regularity, even if replaced less frequently than once a year.

(c) Functional Test. Business income also includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations.

(i) The following definitions apply to this Subsection (2)(c).

(A) "Acquisition" means the act of obtaining an interest in property.

(B) "Disposition" means the act, or the power, of relinquishing or transferring an interest in or control over property to another, either in whole or in part.

(C) "Integral part" means property that constitutes a part of the composite whole of the trade or business, each part of which gives value to every other part, in a manner that materially contributes to the production of business income.

(D) "Management" means the oversight, direction, or control, whether directly or by delegation, of the property for the use or benefit of the trade or business.

(E) "Property" includes an interest in, control over, or use of property, whether the interest is held directly, beneficially, by contract, or otherwise, that materially contributes to the production of business income.

(ii) Under the functional test, business income need not be derived from transactions or activities that are in the regular course of the taxpayer's own particular trade or business. It is sufficient, if the property from which the income is derived is or was an integral, functional, or operative component used in the taxpayer's trade or business operations, or otherwise materially contributed to the production of business income of the trade or business, part of which trade or business is or was conducted within the state. Property that has been converted to nonbusiness use through the passage of a sufficiently lengthy period of time, generally five years, or that has been removed as an operational asset and is instead held by the taxpayer's trade or business exclusively for investment purposes, has lost its character as a business asset and is not subject to this subsection. Property that was an integral part of the trade or business is not considered converted to investment purposes merely because it is placed for sale.

(iii) Income that is derived from isolated sales, leases, assignments, licenses, and other infrequently occurring dispositions, transfers, or transactions involving property, including transactions made in liquidation or the winding-up of business, is business income if the property is or was used in the taxpayer's trade or business operations.

(A) Property that has been converted to nonbusiness use has lost its character as a business asset and is not subject to Subsection (2)(c)(iii).

(B) Income from the licensing of an intangible asset, such as a patent, copyright, trademark, service mark, know-how, trade secrets, or the like, that was developed or acquired for use by the taxpayer in its trade or business operations, constitutes business income whether or not the licensing itself constituted the operation of a trade or business, and whether or not the taxpayer remains in the same trade or business from or for which the intangible asset was developed or acquired.

(iv) Under the functional test, income from intangible property is business income when the intangible property serves an operational function as opposed to solely an investment function. The relevant inquiry focuses on whether the property is or was held in furtherance of the taxpayer's trade or business, that is, on the objective characteristics of the intangible property's use or acquisition and its relation to the taxpayer and the taxpayer's activities. The functional test is not satisfied where the holding of the property is limited to solely an investment function as is the case where the holding of the property is limited to mere financial betterment of the taxpayer in general.

(v) If the property is or was held in furtherance of the taxpayer's trade or business beyond mere financial betterment, income from that property may be business income even though the actual transaction or activity involving the property that gives rise to the income does not occur in this state.

(vi) If with respect to an item of property a taxpayer takes a deduction from business income that is apportioned to this state, or includes the original cost in the property factor, it is presumed that the item of property is or was integral to the taxpayer's trade or business operations. No presumption arises from the absence of any of these actions.

(vii) Application of the functional test is generally unaffected by the form of the property, whether tangible or intangible, real or personal. Income arising from an intangible interest, for example, corporate stock or other intangible interest in a business or a group of assets, is business income when the intangible itself or the property

underlying or associated with the intangible is or was an integral, functional, or operative component of the taxpayer's trade or business operations.

(A) Property that has been converted to nonbusiness use has lost its character as a business asset and is not subject to this Subsection (2)(c)(vii).

(B) While apportionment of income derived from transactions involving intangible property as business income may be supported by a finding that the issuer of the intangible property and the taxpayer are engaged in the same trade or business, that is, the same unitary business, establishment of that relationship is not the exclusive basis for concluding that the income is subject to apportionment.

(C) It is sufficient to support the finding of apportionable income if the holding of the intangible interest served an operational rather than an investment function of mere financial betterment.

(d) Relationship of Transactional Test and Functional Tests to the United States Constitution.

(i) The due process clause and the commerce clause of the United States Constitution restrict states from apportioning income as business income that has no rational relationship with the taxing state. The protection against extra-territorial state taxation afforded by these clauses is often described as the unitary business principle. The unitary business principle requires apportionable income to be derived from the same unitary business that is being conducted as least in part in the state.

(ii) The unitary business conducted in this state includes both a unitary business that the taxpayer alone may be conducting and a unitary business the taxpayer may conduct with any other person. Satisfaction of either the transactional test or the functional test complies with the unitary business principle, because each test requires that the transaction or activity, in the case of the transactional test, or the property, in the case of the functional test, to be tied to the same trade or business that is conducted within the state. Determination of the scope of the unitary business conducted in the state is without regard to the extent to which this state requires or permits combined reporting.

(e) Business and Nonbusiness Income Application of Definitions.

(i) Rents From Real and Tangible Personal Property. Rental income from real and tangible property is business income if the property with respect to which the rental income was received is or was used in the taxpayer's trade or business and therefore is includable in the property factor under Subsection (8)(a)(i). Property that has been converted to nonbusiness use has lost its character as a business asset and is not subject to this subsection.

(ii) Gains or Losses From Sales of Assets. Gain or loss from the sale, exchange, or other disposition of real property or of tangible or intangible personal property constitutes business income if the property while owned by the taxpayer was used in, or was otherwise included in the property factor of the taxpayer's trade or business. However, if the property was utilized for the production of nonbusiness income or it was previously included in the property factor and later removed from the property factor before its sale, exchange, or other disposition, the gain or loss constitutes nonbusiness income. See Subsection (8)(a)(ii).

(iii) Interest. Interest income is business income where the intangible with respect to which the interest was received arises out of or was created in the regular course of the taxpayer's trade or business operations, or where the purpose for acquiring and holding the intangible is an integral, functional, or operative component of the taxpayer's trade or business operations, or otherwise materially contributes to the production of business income of the trade or business operations.

(iv) Dividends. Dividends are business income where the stock with respect to which the dividends were received arose out of or was acquired in the regular course of the taxpayer's trade or business operations or where the acquiring and holding of the stock is an integral, functional, or operative component of the taxpayer's trade or business operations, or otherwise materially contributes to the production of business income of the trade or business operations.

(v) Patent and Copyright Royalties. Patent and copyright royalties are business income where the patent or copyright with respect to which the royalties were received arose out of or was created in the regular course of the taxpayer's trade or business operations or where the acquiring and holding of the patent or copyright is an integral, functional, or operational component of the taxpayer's trade or business operations, or otherwise materially contributes to the production of business income of the trade or business operations.

(vi) Proration of Deductions. In most cases, an allowable deduction of a taxpayer will be applicable only to the business income arising from a particular trade or business or to a particular item of nonbusiness income. In some cases, an allowable deduction may be applicable to the business incomes of more than one trade or business or several items of nonbusiness income. In those cases, the deduction shall be prorated among those trades or businesses and those items of nonbusiness income in a manner that fairly distributes the deduction among the classes of income to which it is applicable.

(f)(i) A schedule must be submitted with the return showing the:

- (A) gross income from each class of income being allocated;
- (B) amount of each class of applicable expenses, together with explanation or computations showing how amounts were arrived at;
- (C) total amount of the applicable expenses for each income class; and
- (D) net income of each income class.

(ii) The schedule shall indicate items of income and expenses allocated both to the state and outside the state.

(g) Year to Year Consistency. In filing returns with the state, if the taxpayer departs from or modifies the manner of prorating any deduction used in returns for prior years in a material way, the taxpayer shall disclose in the return for the current year the nature and extent of the modification.

(h) State to State Consistency. If the returns or reports filed by a taxpayer with all states to which the taxpayer reports under the Uniform Division of Income for Tax Purposes Act are not uniform in the application or proration of any deduction, the taxpayer shall disclose in its return to this state the nature and extent of any material variance.

(3) Unitary Business.

(a) Unitary Business Principle.

(i) The Concept of a Unitary Business. A unitary business is a single economic enterprise that is made up of either separate parts of a single business entity or a group of business entities related through common ownership that are sufficiently interdependent, integrated and interrelated through their activities so as to provide a synergy and mutual benefit that produces a sharing or exchange of value among them and a significant flow of value to the separate parts. This flow of value to a business entity located in this state that comes from being part of a unitary business conducted both within and without the state is what provides the constitutional due process definite link and minimum connection necessary for the state to apportion business income of the unitary business, even if that income arises in part form activities conducted outside the state. The business income of the unitary business is then apportioned to this state using an apportionment percentage provided by Section 59-7-311. This sharing or exchange of value may also be described as requiring that the operation of one part

of the business be dependent upon, or contribute to, the operation of another part of the business. Phrased in the disjunctive, the foregoing means that if the activities of one business either contribute to the activities of another business or are dependent upon the activities of another business, those businesses are part of a unitary business.

(ii) Constitutional Requirement for a Unitary Business. The sharing or exchange of value described in Subsection (3)(a)(i) that defines the scope of a unitary business requires more than the mere flow of funds arising out of a passive investment or from the financial strength contributed by a distinct business undertaking that has no operational relationship to the unitary business. In this state, the unitary business principle shall be applied to the fullest extent allowed by the United States Constitution. The unitary business principle shall not be applied to result in the combination of business activities or entities under circumstances where, if it were adverse to the taxpayer, the combination of those activities or entities would not be allowed by the United States Constitution.

(iii) Separate Trades or Businesses Conducted Within a Single Entity. A single entity may have more than one unitary business. In those cases, it is necessary to determine the business, or apportionable, income attributable to each separate unitary business as well as its nonbusiness income, which is specifically allocated. The business income of each unitary business is then apportioned by a formula that takes into consideration the in-state and out-of-state factors that relate to the respective unitary business whose income is being apportioned.

(iv) Unitary Business Unaffected by Formal Business Organization. A unitary business may exist within a single business entity or among a group of business entities related through common ownership, as defined in Section 59-7-101.

(b) Determination of a Unitary Business.

(i) A unitary business is characterized by significant flows of value evidenced by factors such as those described in *Mobil Oil Corp. v. Vermont*, 445 US 425 (1980): functional integration, centralization of management, and economies of scale. These factors provide evidence of whether the business activities operate as an integrated whole or exhibit substantial mutual interdependence. Facts suggesting the presence of the factors mentioned above should be analyzed in combination for their cumulative effect and not in isolation. A particular characteristic of a business operation may be suggestive of one or more of the factors mentioned above.

(ii) Description and Illustration of Functional Integration, Centralization of Management, and Economies of Scale.

(A) Functional Integration. Functional integration refers to transfers between, or pooling among, business activities that significantly affect the operation of the business activities. Functional integration includes transfers or pooling with respect to the unitary business's products or services, technical information, marketing information, distribution systems, purchasing, and intangibles such as patents, trademarks, service marks, copyrights, trade secrets, know-how, formulas, and processes. There is no specific type of functional integration that must be present. The following is a list of examples of business operations that support the finding of functional integration. The order of the list does not establish a hierarchy of importance.

(I) Sales, Exchanges, or Transfers. Sales, exchanges, or transfers (collectively "sales") of products, services, and intangibles between business activities provide evidence of functional integration. The significance of the intercompany sales to the finding of functional integration will be affected by the character of what is sold and the percentage of total sales or purchases represented by the intercompany sales. For example, sales among business entities that are part of a vertically integrated unitary business are indicative of functional

integration. Functional integration is not negated by the use of a readily determinable market price to effect the intercompany sales, because those sales can represent an assured market for the seller or an assured source of supply for the purchaser.

(II) Common Marketing. The sharing of common marketing features among business entities is an indication of functional integration when the marketing results in significant mutual advantage. Common marketing exists when a substantial portion of the business entities' products, services, or intangibles are distributed or sold to a common customer, when the business entities use a common trade name or other common identification, or when the business entities seek to identify themselves to their customers as a member of the same enterprise. The use of a common advertising agency or a commonly owned or controlled in-house advertising office does not by itself establish common marketing that is suggestive of functional integration. That activity, however, is relevant to determining the existence of economies of scale and centralization of management.

(III) Transfer or Pooling of Technical Information or Intellectual Property. Transfers or pooling of technical information or intellectual property, such as patents, copyrights, trademarks and service marks, trade secrets, processes or formulas, know-how, research, or development provide evidence of functional integration when the matter transferred is significant to the businesses' operations.

(IV) Common Distribution System. Use of a common distribution system by the business entities, under which inventory control and accounting, storage, trafficking, or transportation are controlled through a common network provides evidence of functional integration.

(V) Common Purchasing. Common purchasing of substantial quantities of products, services, or intangibles from the same source by the business entities, particularly where the purchasing results in significant cost savings and is significant to each entity's operations or sales, provides evidence of functional integration.

(VI) Common or Intercompany Financing. Significant common or intercompany financing, including the guarantee by, or the pledging of the credit of, one or more business entities for the benefit of another business entity or entities provides evidence of functional integration, if the financing activity serves an operational purpose of both borrower and lender. Lending that serves an investment purpose of the lender does not necessarily provide evidence of functional integration.

(B) Centralization of Management. Centralization of management exists when directors, officers, and other management employees jointly participate in the management decisions that affect the respective business activities and that may also operate to the benefit of the entire economic enterprise. Centralization of management can exist whether the centralization is effected from a parent entity to a subsidiary entity, from a subsidiary entity to a parent entity, from one subsidiary entity to another, from one division within a single business entity to another division within a business entity, or from any combination of the foregoing. Centralization of management may exist even when day-to-day management responsibility and accountability has been decentralized, so long as the management has an ongoing operational role with respect to the business activities. An operational role may be effected through mandates, consensus building, or an overall operational strategy of the business, or any other mechanism that establishes joint management.

(I) Facts Providing Evidence of Centralization of Management. Evidence of centralization of management is provided when common officers participate in the decisions relating to the business operations of the different segments. Centralization of management may exist when management shares or applies knowledge and expertise among

the parts of the business. Existence of common officers and directors, while relevant to a showing of centralization of management, does not alone provide evidence of centralization of management. Common officers are more likely to provide evidence of centralization of management than are common directors.

(II) Stewardship Distinguished. Centralized efforts to fulfill stewardship oversight are not evidence of centralization of management. Stewardship oversight consists of those activities that any owner would take to review the performance of or safeguard an investment. Stewardship oversight is distinguished from those activities that an owner may take to enhance value by integrating one or more significant operating aspects of one business activity with the other business activities of the owner. For example, implementing reporting requirements or mere approval of capital expenditures may evidence only stewardship oversight.

(C) Economies of Scale. Economies of scale refers to a relation among and between business activities resulting in a significant decrease in the average per unit cost of operational or administrative functions due to the increase in operational size. Economies of scale may exist from the inherent cost savings that arise from the presence of functional integration or centralization of management. The following are examples of business operations that support the finding of economies of scale. The order of the list does not establish a hierarchy of importance.

(I) Centralized Purchasing. Centralized purchasing designed to achieve savings due to the volume of purchases, the timing of purchases, or the interchangeability of purchased items among the parts of the business engaging in the purchasing provides evidence of economies of scale.

(II) Centralized Administrative Functions. The performance of traditional corporate administrative functions, such as legal services, payroll services, pension and other employee benefit administration, in common among the parts of the business may result in some degree of economies of scale. A business entity that secures savings in the performance of corporate administrative services due to its affiliation with other business entities that it would not otherwise reasonably be able to secure on its own because of its size, financial resources, or available market provides evidence of economies of scale.

(c) Indicators of a Unitary Business.

(i) Business activities that are in the same general line of business generally constitute a single unitary business, as for example, a multistate grocery chain.

(ii) Business activities that are part of different steps in a vertically structured business almost always constitute a single unitary business. For example, a business engaged in the exploration, development, extraction, and processing of a natural resource and the subsequent sale of a product based upon the extracted natural resource, is engaged in a single unitary business, regardless of the fact that the various steps in the process are operated substantially independently of each other with only general supervision from the business's executive offices.

(iii) Business activities that might otherwise be considered as part of more than one unitary business may constitute one unitary business when the factors outlined in Subsection (3)(b) are present. For example, some businesses conducting diverse lines of business may properly be considered as engaged in only one unitary business when the central executive officers are actively involved in the operations of the various business activities and there are centralized offices that perform for the business the normal matters a truly independent business would perform for itself, such as personnel, purchasing, advertising, or financing.

~~(3)~~(4) Apportionment and Allocation.

(a)(i) If the business activity with respect to the trade or business of a taxpayer occurs both within and without this state, and if by reason of that business activity the taxpayer is taxable in another state, the portion of the net income (or net loss) arising from the trade or business derived from sources within this state shall be determined by apportionment in accordance with Sections 59-7-311 to 59-7-319.

(ii) For purposes of determining the fraction by which business income shall be apportioned to this state under Section 59-7-311:

(A) Except as provided in Subsection ~~(3)~~(4)(a)(ii)(B), if a taxpayer does not make an election to double weight the sales factor under Subsection 59-7-311(3) and one or more of the factors listed in Subsection 59-7-311(2)(a) is missing, the fraction by which business income shall be apportioned to the state shall be determined by adding the factors present and dividing that sum by the number of factors present.

(B) If a taxpayer has made an election to double weight the sales factor under Section 59-7-311(3) and if the sales factor is present, the denominator of the fraction described in Subsection ~~(3)~~(4)(a)(ii)(A) shall be increased by one.

(b) Allocation. Any taxpayer subject to the taxing jurisdiction of this state shall allocate all of its nonbusiness income or loss within or without this state in accordance with Sections 59-7-306 to 59-7-310.

~~(4)~~(5) Consistency and Uniformity in Reporting. In filing returns with this state, if the taxpayer departs from or modifies the manner in which income has been classified as business income or nonbusiness income in returns for prior years, the taxpayer shall disclose in the return for the current year the nature and extent of the modification. If the returns or reports filed by a taxpayer for all states to which the taxpayer reports under UDITPA are not uniform in the classification of income as business or nonbusiness income, the taxpayer shall disclose in its return to this state the nature and extent of the variance.

~~(5)~~(6) Taxable in Another State.

(a) In General. Under Section 59-7-303 the taxpayer is subject to the allocation and apportionment provisions of UDITPA if it has income from business activity that is taxable both within and without this state. A taxpayer's income from business activity is taxable without this state if the taxpayer, by reason of business activity (i.e., the transactions and activity occurring in the regular course of the trade or business), is taxable in another state within the meaning of Section 59-7-305. A taxpayer is taxable within another state if it meets either one of two tests:

(i) if by reason of business activity in another state the taxpayer is subject to one of the types of taxes specified in Section 59-7-305(1), namely: a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(ii) if by reason of business activity another state has jurisdiction to subject the taxpayer to a net income tax, regardless of whether the state imposes that tax on the taxpayer. A taxpayer is not taxable in another state with respect to the trade or business merely because the taxpayer conducts activities in that state pertaining to the production of nonbusiness income or business activities relating to a separate trade or business.

(b) When a Taxpayer Is Subject to a Tax Under Section 59-7-305. A taxpayer is subject to one of the taxes specified in Section 59-7-305(1) if it carries on business activity in a state and that state imposes such a tax thereon. Any taxpayer that asserts that it is subject to one of the taxes specified in Section 59-7-305(1) in another state shall furnish to the Tax Commission, upon its request,

evidence to support that assertion. The Tax Commission may request that the evidence include proof that the taxpayer has filed the requisite tax return in the other state and has paid any taxes imposed under the law of the other state. The taxpayer's failure to produce that proof may be taken into account in determining whether the taxpayer is subject to one of the taxes specified in Section 59-7-305(1) in the other state. If the taxpayer voluntarily files and pays one or more taxes when not required to do so by the laws of that state or pays a minimal fee for qualification, organization, or for the privilege of doing business in that state, but

(i) does not actually engage in business activity in that state, or
 (ii) does actually engage in some business activity, not sufficient for nexus, and the minimum tax bears no relation to the taxpayer's business activity within that state, the taxpayer is not subject to one of the taxes specified within the meaning of Section 59-7-305(1).

(c) When a State Has Jurisdiction to Subject a Taxpayer to a Net Income Tax. The second test, that of Section 59-7-305(2), applies if the taxpayer's business activity is sufficient to give the state jurisdiction to impose a net income tax by reason of business activity under the Constitution and statutes of the United States. Jurisdiction to tax is not present where the state is prohibited from imposing the tax by reason of the provisions of Public Law 86-272, 15 U. S. C. A. Sec. 381-385 (P.L. 86-272). In the case of any state as defined in Section 59-7-302(6), other than a state of the United States or political subdivision of a state, the determination of whether a state has jurisdiction to subject the taxpayer to a net income tax shall be made as though the jurisdictional standards applicable to a state of the United States applied in that state. If jurisdiction is otherwise present, the state is not considered as without jurisdiction by reason of the provisions of a treaty between that state and the United States.

~~[(6)](7)~~ Apportionment Formula. All business income of the taxpayer shall be apportioned to this state by use of the apportionment formula set forth in Section 59-7-311. The elements of the apportionment formula are the property factor, see Subsection ~~[(7)](8)~~, the payroll factor, see Subsection ~~[(8)](9)~~, and the sales factor, see Subsection ~~[(9)](10)~~ of the trade or business of the taxpayer. For exceptions see Subsection ~~[(10)](11)~~.

~~[(7)](8)~~ Property Factor.

(a) In General.

(i) The property factor of the apportionment formula shall include all real and tangible personal property owned or rented by the taxpayer and used during the tax period in the regular course of its trade or business. Real and tangible personal property includes land, buildings, machinery, stocks of goods, equipment, and other real and tangible personal property but does not include coin or currency.

(ii) Property used in connection with the production of nonbusiness income shall be excluded from the property factor. Property used both in the regular course of the taxpayer's trade or business and in the production of nonbusiness income shall be included in the factor only to the extent the property is used in the regular course of the taxpayer's trade or business. The method of determining the portion of the value to be included in the factor will depend upon the facts of each case.

(iii) The property factor shall reflect the average value of property includable in the factor. Refer to Subsection ~~[(7)](8)~~~~(g)~~.

(b) Property Used for the Production of Business Income. Property shall be included in the property factor if it is actually used or is available for or capable of being used during the tax period in the

regular course of the trade or business of the taxpayer. Property held as reserves or standby facilities or property held as a reserve source of materials shall be included in the factor. For example, a plant temporarily idle or raw material reserves not currently being processed are includable in the factor. Property or equipment under construction during the tax period, except inventoriable goods in process, shall be excluded from the factor until the property is actually used in the regular course of the trade or business of the taxpayer. If the property is partially used in the regular course of the trade or business of the taxpayer while under construction, the value of the property to the extent used shall be included in the property factor. Property used in the regular course of the trade or business of the taxpayer shall remain in the property factor until its permanent withdrawal is established by an identifiable event such as its conversion to the production of nonbusiness income, its sale, or the lapse of an extended period of time, normally five years, during which the property is no longer held for use in the trade or business.

(c) Consistency in Reporting. In filing returns with this state, if the taxpayer departs from or modifies the manner of valuing property, or of excluding or including property in the property factor, used in returns for prior years, the taxpayer shall disclose in the return for the current year the nature and extent of the modification. If the returns or reports filed by the taxpayer with all states to which the taxpayer reports under UDITPA are not uniform in the valuation of property and in the exclusion or inclusion of property in the property factor, the taxpayer shall disclose in its return to this state the nature and extent of the variance.

(d) Property Factor Numerator. The numerator of the property factor shall include the average value of the real and tangible personal property owned or rented by the taxpayer and used in this state during the tax period in the regular course of the trade or business of the taxpayer. Property in transit between locations of the taxpayer to which it belongs shall be considered to be at the destination for purposes of the property factor. Property in transit between a buyer and seller that is included by a taxpayer in the denominator of its property factor in accordance with its regular accounting practices shall be included in the numerator according to the state of destination. The value of mobile or movable property such as construction equipment, trucks, or leased electronic equipment that are located within and without this state during the tax period shall be determined for purposes of the numerator of the factor on the basis of total time within the state during the tax period. An automobile assigned to a traveling employee shall be included in the numerator of the factor of the state to which the employee's compensation is assigned under the payroll factor or in the numerator of the state in which the automobile is licensed.

(e) Valuation of Owned Property.

(i) Property owned by the taxpayer shall be valued at its original cost. As a general rule original cost is deemed to be the basis of the property for state franchise or income tax purposes (prior to any adjustments) at the time of acquisition by the taxpayer and adjusted by subsequent capital additions or improvements thereto and partial disposition thereof, by reasons including sale, exchange, and abandonment. However, capitalized intangible drilling and development costs shall be included in the property factor whether or not they have been expensed for either federal or state tax purposes.

(ii) Inventory of stock of goods shall be included in the factor in accordance with the valuation method used for state tax purposes.

(iii) Property acquired by gift or inheritance shall be included in the factor at its basis for determining depreciation.

(f) Valuation of Rented Property.

(i) Property rented by the taxpayer is valued at eight times its net annual rental rate. The net annual rental rate for any item of rented property is the annual rental rate paid by the taxpayer for the property, less the aggregate annual subrental rates paid by subtenants of the taxpayer. See Subsection ~~[(10)]~~(11)(b) for special rules where the use of the net annual rental rate produces a negative or clearly inaccurate value or where property is used by the taxpayer at no charge or rented at a nominal rental rate.

(ii) Subrents are not deducted when the subrents constitute business income because the property that produces the subrents is used in the regular course of the trade or business of the taxpayer when it is producing the income. Accordingly there is no reduction in its value.

(iii) Annual rental rate is the amount paid as rental for property for a 12-month period; i.e., the amount of the annual rent. Where property is rented for less than a 12-month period, the rent paid for the actual period of rental shall constitute the annual rental rate for the tax period. However, where a taxpayer has rented property for a term of 12 or more months and the current tax period covers a period of less than 12 months (due, for example, to a reorganization or change of accounting period), the rent paid for the short tax period shall be annualized. If the rental term is for less than 12 months, the rent shall not be annualized beyond its term. Rent shall not be annualized because of the uncertain duration when the rental term is on a month to month basis.

(iv) Annual rent is the actual sum of money or other consideration payable, directly or indirectly, by the taxpayer or for its benefit for the use of the property and includes:

(A) Any amount payable for the use of real or tangible personal property, or any part thereof, whether designated as a fixed sum of money or as a percentage of sales, profits or otherwise.

(B) Any amount payable as additional rent or in lieu of rents, such as interest, taxes, insurance, repairs or any other items that are required to be paid by the terms of the lease or other arrangement, not including amounts paid as service charges, such as utilities, and janitor services. If a payment includes rent and other charges unsegregated, the amount of rent shall be determined by consideration of the relative values of the rent and other items.

(v) Annual rent does not include:

(A) incidental day-to-day expenses such as hotel or motel accommodations, or daily rental of automobiles;

(B) royalties based on extraction of natural resources, whether represented by delivery or purchase. For this purpose, a royalty includes any consideration conveyed or credited to a holder of an interest in property that constitutes a sharing of current or future production of natural resources from that property, irrespective of the method of payment or how that consideration may be characterized, whether as a royalty, advance royalty, rental, or otherwise.

(vi) Leasehold improvements shall, for the purposes of the property factor, be treated as property owned by the taxpayer regardless of whether the taxpayer is entitled to remove the improvements or the improvements revert to the lessor upon expiration of the lease. Hence, the original cost of leasehold improvements shall be included in the factor.

(g) Averaging Property Values. As a general rule, the average value of property owned by the taxpayer shall be determined by averaging the values at the beginning and end of the tax period. However, the Tax Commission may require or allow averaging by monthly values if that method of averaging is required to properly reflect the average value of the taxpayer's property for the tax period.

(i) Averaging by monthly values will generally be applied if substantial fluctuations in the values of the property exist during the tax period or where property is acquired after the beginning of the tax period or disposed of before the end of the tax period.

(ii) Example: The monthly value of the taxpayer's property was as follows:

TABLE

January	\$ 2,000
February	2,000
March	3,000
April	3,500
May	4,500
June	10,000
July	15,000
August	17,000
September	23,000
October	25,000
November	13,000
December	2,000
Total	\$120,000

The average value of the taxpayer's property includable in the property factor for the income year is determined as follows:

$$\$120,000 / 12 = \$10,000$$

(iii) Averaging with respect to rented property is achieved automatically by the method of determining the net annual rental rate of the property as set forth in Subsection ~~[(7)(f)(i)]~~(8)(g).

~~[(8)]~~(9) Payroll Factor.

(a) The payroll factor of the apportionment formula shall include the total amount paid by the taxpayer in the regular course of its trade or business for compensation during the tax period.

(b) The total amount paid to employees is determined upon the basis of the taxpayer's accounting method. If the taxpayer has adopted the accrual method of accounting, all compensation properly accrued shall be deemed to have been paid. Notwithstanding the taxpayer's method of accounting, at the election of the taxpayer, compensation paid to employees may be included in the payroll factor by use of the cash method if the taxpayer is required to report compensation under that method for unemployment compensation purposes. The compensation of any employee on account of activities that are connected with the production of nonbusiness income shall be excluded from the factor.

(c) ~~[The term "compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services.]~~ Payments made to an independent contractor or any other person not properly classifiable as an employee are excluded from the payroll factor. Only amounts paid directly to employees are included in the payroll factor. Amounts considered paid directly include the value of board, rent, housing, lodging, and other benefits or services furnished to employees by the taxpayer in return for personal services.

~~(i) The term "employee" means:~~

~~(A) any officer of a corporation; or~~

~~(B) any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee.]~~

(d) Generally, a person will be considered to be an employee if he is included by the taxpayer as an employee for purposes of the payroll taxes imposed by the Federal Insurance Contributions Act. However, since certain individuals are included within the term employees in the Federal Insurance Contributions Act who would not be employees under the usual common law rules, it may be established that a person who is included as an employee for

purposes of the Federal Insurance Contributions Act is not an employee for purposes of this rule.

~~[(4)](c)(A)~~ In filing returns with this state, if the taxpayer departs from or modifies the treatment of compensation paid used in returns for prior years, the taxpayer shall disclose in the return for the current year the nature and extent of the modification.

(B) If the returns or reports filed by the taxpayer with all states to which the taxpayer reports under UDITPA are not uniform in the treatment of compensation paid, the taxpayer shall disclose in its return to this state the nature and extent of the variance.

~~[(4)](f)~~ Denominator. The denominator of the payroll factor is the total compensation paid everywhere during the tax period. Accordingly, compensation paid to employees whose services are performed entirely in a state where the taxpayer is immune from taxation, for example, by P.L. 86-272, are included in the denominator of the payroll factor.

~~[(4)](g)~~ Numerator. The numerator of the payroll factor is the total amount paid in this state during the tax period by the taxpayer for compensation. The tests in Section 59-7-316 to be applied in determining whether compensation is paid in this state are derived from the Model Unemployment Compensation Act. Accordingly, if compensation paid to employees is included in the payroll factor by use of the cash method of accounting or if the taxpayer is required to report compensation under that method for unemployment compensation purposes, it shall be presumed that the total wages reported by the taxpayer to this state for unemployment compensation purposes constitute compensation paid in this state except for compensation excluded under ~~[(4)](h)~~ this Subsection (9). The presumption may be overcome by satisfactory evidence that an employee's compensation is not properly reportable to this state for unemployment compensation purposes.

~~[(4)](h)~~ Compensation Paid in this State. Compensation is paid in this state if any one of the following tests applied consecutively are met:

- (i) The employee's service is performed entirely within the state.
- (ii) The employee's service is performed ~~entirely~~ both within and without the state, but the service performed without the state is incidental to the employee's service within the state. The word incidental means any service that is temporary or transitory in nature, or that is rendered in connection with an isolated transaction.
- (iii) If the employee's services are performed both within and without this state, the employee's compensation will be attributed to this state:

(A) if the employee's base of operations is in this state; or

(B) if there is no base of operations in any state in which some part of the service is performed, but the place from which the service is directed or controlled is in this state; or

(C) if the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed but the employee's residence is in this state. [

~~(iv) The term "base of operations" is the place of more or less permanent nature from which the employee starts his work and to which he customarily returns in order to receive instructions from the taxpayer or communications from his customers or other persons or to replenish stock or other materials, repair equipment, or perform any other functions necessary to the exercise of his trade or profession at some other point or points. The term "place from which the service is directed or controlled" means the place from which the power to direct or control is exercised by the taxpayer.]~~

~~[(9)](10)~~ Sales Factor. In General.

(a) Section 59-7-302(5) defines the term "sales" to mean all gross receipts of the taxpayer not allocated under Section 59-7-306 through 59-7-310. Thus, for purposes of the sales factor of the apportionment formula for the trade or business of the taxpayer, the term sales means all gross receipts derived by the taxpayer from transactions and activity in the regular course of the trade or business. The following are rules determining sales in various situations.

(i) In the case of a taxpayer engaged in manufacturing and selling or purchasing and reselling goods or products, sales includes all gross receipts from the sales of goods or products (or other property of a kind that would properly be included in the inventory of the taxpayer if on hand at the close of the tax period) held by the taxpayer primarily for sale to customers in the ordinary course of its trade or business. Gross receipts for this purpose means gross sales, less returns and allowances and includes all interest income, service charges, carrying charges, or time-price differential charges incidental to sales. Federal and state excise taxes (including sales taxes) shall be included as part of receipts if taxes are passed on to the buyer or included as part of the selling price of the product.

(ii) In the case of cost plus fixed fee contracts, such as the operation of a government-owned plant for a fee, sales includes the entire reimbursed cost, plus the fee.

(iii) In the case of a taxpayer engaged in providing services, such as the operation of an advertising agency, or the performance of equipment service contracts, or research and development contracts, sales includes the gross receipts from the performance of services including fees, commissions, and similar items.

(iv) In the case of a taxpayer engaged in renting real or tangible property, sales includes the gross receipts from the rental, lease or licensing of the use of the property.

(v) In the case of a taxpayer engaged in the sale, assignment, or licensing of intangible personal property such as patents and copyrights, sales includes the gross receipts therefrom.

(vi) If a taxpayer derives receipts from the sale of equipment used in its business, those receipts constitute sales. For example, a truck express company owns a fleet of trucks and sells its trucks under a regular replacement program. The gross receipts from the sales of the trucks are included in the sales factor.

(vii) In some cases certain gross receipts should be disregarded in determining the sales factor in order that the apportionment formula will operate fairly to apportion to this state the income of the taxpayer's trade or business. See Subsection ~~[(40)](11)(c)~~.

(viii) In filing returns with this state, if the taxpayer departs from or modifies the basis for excluding or including gross receipts in the sales factor used in returns for prior years, the taxpayer shall disclose in the return for the current year the nature and extent of the modification.

(ix) If the returns or reports filed by the taxpayer with all states to which the taxpayer reports under UDITPA are not uniform in the inclusion or exclusion of gross receipts, the taxpayer shall disclose in its return to this state the nature and extent of the variance.

(b) Denominator. The denominator of the sales factor shall include the total gross receipts derived by the taxpayer from transactions and activity in the regular course of its trade or business, except receipts excluded under Subsection ~~[(40)](11)(c)~~.

(c) Numerator. The numerator of the sales factor shall include gross receipts attributable to this state and derived by the taxpayer from transactions and activity in the regular course of its trade or business. All interest income, service charges, carrying charges, or time-price differential charges incidental to gross receipts shall be included

regardless of the place where the accounting records are maintained or the location of the contract or other evidence of indebtedness.

(d) Sales of Tangible Personal Property in this State.

(i) Gross receipts from the sales of tangible personal property (except sales to the United States government; see Subsection ~~[(9)](10)~~(e) are in this state:

(A) if the property is delivered or shipped to a purchaser within this state regardless of the f.o.b. point or other conditions of sale; or

(B) if the property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the taxpayer is not taxable in the state of the purchaser.

(ii) Property shall be deemed to be delivered or shipped to a purchaser within this state if the recipient is located in this state, even though the property is ordered from outside this state.

(iii) Property is delivered or shipped to a purchaser within this state if the shipment terminates in this state, even though the property is subsequently transferred by the purchaser to another state.

(iv) The term "purchaser within this state" shall include the ultimate recipient of the property if the taxpayer in this state, at the designation of the purchaser, delivers to or has the property shipped to the ultimate recipient within this state.

(v) When property being shipped by a seller from the state of origin to a consignee in another state is diverted while en route to a purchaser in this state, the sales are in this state.

(vi) If the taxpayer is not taxable in the state of the purchaser, the sale is attributed to this state if the property is shipped from an office, store, warehouse, factory, or other place of storage in this state.

(vii) If a taxpayer whose salesman operates from an office located in this state makes a sale to a purchaser in another state in which the taxpayer is not taxable and the property is shipped directly by a third party to the purchaser, the following rules apply:

(A) If the taxpayer is taxable in the state from which the third party ships the property, then the sale is in that state.

(B) If the taxpayer is not taxable in the state from which the property is shipped, the sale is in this state.

(e)(i) Sales of Tangible Personal Property to United States Government in this state.

(ii) Gross receipts from the sales of tangible personal property to the United States government are in this state if the property is shipped from an office, store, warehouse, factory, or other place of storage in this state. For purposes of this rule, only sales for which the United States government makes direct payment to the seller pursuant to the terms of a contract constitute sales to the United States government. Thus, as a general rule, sales by a subcontractor to the prime contractor, the party to the contract with the United States government, do not constitute sales to the United States government.

(f) Sales Other than Sales of Tangible Personal Property in this State.

(i) In general, Section 59-7-319(1) provides for the inclusion in the numerator of the sales factor of gross receipts from transactions other than sales of tangible personal property (including transactions with the United States government). Under Section 59-7-319(1), gross receipts are attributed to this state if the income producing activity that gave rise to the receipts is performed wholly within this state. Also, gross receipts are attributed to this state if, with respect to a particular item of income, the income producing activity is performed within and without this state but the greater proportion of the income producing activity is performed in this state, based on costs of performance.

(ii) The term "income producing activity" applies to each separate item of income and means the transactions and activity directly

engaged in by the taxpayer in the regular course of its trade or business for the ultimate purpose of obtaining gains or profit. Income producing activity does not include transactions and activities performed on behalf of a taxpayer, such as those conducted on its behalf by an independent contractor. Accordingly, the income producing activity includes the following:

(A) the rendering of personal services by employees or the utilization of tangible and intangible property by the taxpayer in performing a service;

(B) the sale, rental, leasing, or licensing or other use of real property;

(C) the rental, leasing, licensing or other use of intangible personal property; or

(D) the sale, licensing or other use of intangible personal property. The mere holding of intangible personal property is not, of itself, an income producing activity.

(iii) The term "costs of performance" means direct costs determined in a manner consistent with generally accepted accounting principles and in accordance with accepted conditions or practices in the trade or business of the taxpayer.

(iv) Receipts (other than from sales of tangible personal property) in respect to a particular income producing activity are in this state if:

(A) the income producing activity is performed wholly within this state; or

(B) the income producing activity is performed both in and outside this state and a greater proportion of the income producing activity is performed in this state than in any other state, based on costs of performance.

(v) The following are special rules for determining when receipts from the income producing activities described below are in this state:

(A) Gross receipts from the sale, lease, rental or licensing of real property are in this state if the real property is located in this state.

(B) Gross receipts from the rental, lease, or licensing of tangible personal property are in this state if the property is located in this state. The rental, lease, licensing or other use of tangible personal property in this state is a separate income producing activity from the rental, lease, licensing or other use of the same property while located in another state. Consequently, if the property is within and without this state during the rental, lease or licensing period, gross receipts attributable to this state shall be measured by the ratio that the time the property was physically present or was used in this state bears to the total time or use of the property everywhere during the period.

(C) Gross receipts for the performance of personal services are attributable to this state to the extent services are performed in this state. If services relating to a single item of income are performed partly within and partly without this state, the gross receipts for the performance of services shall be attributable to this state only if a greater portion of the services were performed in this state, based on costs of performance. Usually where services are performed partly within and partly without this state, the services performed in each state will constitute a separate income producing activity. In that case, the gross receipts for the performance of services attributable to this state shall be measured by the ratio that the time spent in performing services in this state bears to the total time spent in performing services everywhere. Time spent in performing services includes the amount of time expended in the performance of a contract or other obligation that gives rise to gross receipts. Personal service not directly connected with the performance of the contract or other obligations, as for example, time expended in negotiating the contract, is excluded from the computations.

~~[(40)](11)~~ Special Rules:

(a) Section 59-7-320 provides that if the allocation and apportionment provisions of UDITPA do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for, or the tax administrator may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

- (i) separate accounting;
- (ii) the exclusion of any one or more of the factors;
- (iii) the inclusion of one or more additional factors that will fairly represent the taxpayer's business activity in this state; or
- (iv) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

(b) Property Factor.

The following special rules are established in respect to the property factor of the apportionment formula:

(i) If the subrents taken into account in determining the net annual rental rate under ~~[G.6.b)]~~ Subsection ~~(8)(f)(ii)~~ produce a negative or clearly inaccurate value for any item of property, another method that will properly reflect the value of rented property may be required by the Tax Commission or requested by the taxpayer. In no case however, shall the value be less than an amount that bears the same ratio to the annual rental rate paid by the taxpayer for property as the fair market value of that portion of property used by the taxpayer bears to the total fair market value of the rented property.

(ii) If property owned by others is used by the taxpayer at no charge or rented by the taxpayer for a nominal rate, the net annual rental rate for the property shall be determined on the basis of a reasonable market rental rate for that property.

(c) Sales Factors.

The following special rules are established in respect to the sales factor of the apportionment formula:

(i) Where substantial amounts of gross receipts arise from an incidental or occasional sale of a fixed asset used in the regular course of the taxpayer's trade or business, those gross receipts shall be excluded from the sales factor. For example, gross receipts from the sale of a factory or plant will be excluded.

(ii) Insubstantial amounts of gross receipts arising from incidental or occasional transactions or activities may be excluded from the sales factor unless exclusion would materially affect the amount of income apportioned to this state. For example, the taxpayer ordinarily may include or exclude from the sales factor gross receipts from such transactions as the sale of office furniture, and business automobiles.

(iii) Where the income producing activity in respect to business income from intangible personal property can be readily identified, that income is included in the denominator of the sales factor and, if the income producing activity occurs in this state, in the numerator of the sales factor as well. For example, usually the income producing activity can be readily identified in respect to interest income received on deferred payments on sales of tangible property, see Subsection ~~[(9)](10)(a)(i)~~, and income from the sale, licensing or other use of intangible personal property, see Subsection ~~[(9)](10)(f)(ii)(D)~~.

(A) Where business income from intangible property cannot readily be attributed to any particular income producing activity of the taxpayer, the income cannot be assigned to the numerator of the sales factor for any state and shall be excluded from the denominator of the sales factor. For example, where business income in the form of dividends received on stock, royalties received on patents or copyrights, or interest received on bonds, debentures or government securities results from the mere holding of the intangible personal

property by the taxpayer, such dividends and interest shall be excluded from the denominator of the sales factor.

(B) Exclude from the denominator of the sales factor, receipts from the sales of securities unless the taxpayer is a dealer therein.

(iv) Where gains and losses on the sale of liquid assets are not excluded from the sales factor by other provisions under Subsections ~~[(40)](11)(c)(i)~~ through (iii), such gains or losses shall be treated as provided in this Subsection ~~[(40)](11)(c)(iv)~~. This Subsection ~~[(40)](11)(c)(iv)~~ does not provide rules relating to the treatment of other receipts produced from holding or managing such assets.

(A) If a taxpayer holds liquid assets in connection with one or more treasury functions of the taxpayer, and the liquid assets produce business income when sold, exchanged or otherwise disposed, the overall net gain from those transactions for each treasury function for the tax period is included in the sales factor. For purposes of this Subsection ~~[(40)](11)(c)(iv)~~, each treasury function will be considered separately.

(B) For purposes of this Subsection ~~[(40)](11)(c)(iv)~~, a liquid asset is an asset (other than functional currency or funds held in bank accounts) held to provide a relatively immediate source of funds to satisfy the liquidity needs of the trade or business. Liquid assets include:

(I) foreign currency (and trading positions therein) other than functional currency used in the regular course of the taxpayer's trade or business;

(II) marketable instruments (including stocks, bonds, debentures, options, warrants, futures contracts, etc.); and

(III) mutual funds which hold such liquid assets.

(C) An instrument is considered marketable if it is traded in an established stock or securities market and is regularly quoted by brokers or dealers in making a market. Stock in a corporation which is unitary with the taxpayer, or which has a substantial business relationship with the taxpayer, is not considered marketable stock.

(D) For purposes of this ~~[(3-4)]~~ Subsection ~~(11)(c)(iv)(D)~~, a treasury function is the pooling and management of liquid assets for the purpose of satisfying the cash flow needs of the trade or business, such as providing liquidity for a taxpayer's business cycle, providing a reserve for business contingencies, business acquisitions, etc. A taxpayer principally engaged in the trade or business of purchasing and selling instruments or other items included in the definition of liquid assets set forth herein is not performing a treasury function with respect to income so produced.

(E) Overall net gain refers to the total net gain from all transactions incurred at each treasury function for the entire tax period, not the net gain from a specific transaction.

(d) Domestic International Sales Corporation (DISC). In any case in which a corporation, subject to the income tax jurisdiction of Utah, owns 50 percent or more of the voting power of the stock of a corporation classified as a DISC under the provisions of Sec. 992 Internal Revenue Code, a combined filing with the DISC corporation is required.

(e) Partnership or Joint Venture Income. Income or loss from partnership or joint venture interests shall be included in income and apportioned to Utah through application of the three-factor formula consisting of property, payroll and sales. For apportionment purposes, the portion of partnership or joint venture property, payroll and sales to be included in the corporation's property, payroll and sales factors shall be computed on the basis of the corporation's ownership interest in the partnership or joint venture, and otherwise in accordance with other applicable provisions of this rule.

KEY: taxation, franchises, historic preservation, trucking industries
Date of Enactment or Last Substantive Amendment: [March 14], 2008
Notice of Continuation: March 8, 2007
Authorizing, and Implemented or Interpreted Law: 59-7-302 through 59-7-321

◆ ————— ◆

Transportation, Administration **R907-40** External Relations

NOTICE OF PROPOSED RULE

(Repeal)
 DAR FILE NO.: 31591
 FILED: 06/18/2008, 12:08

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is repealed because it no longer serves a substantial purpose.

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

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 72-1-201 and 72-1-204

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The information-sharing principles outlined in Rule R907-40 are already addressed in other parts of statute, rule, and department policy. As a result, the repeal of Rule R907-40 will have no substantive effect on the state budget.

❖ **LOCAL GOVERNMENTS:** The information-sharing principles outlined in Rule R907-40 are already addressed in other parts of statute, rule, and department policy. As a result, the repeal of Rule R907-40 will have no substantive effect on local government.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The information-sharing principles outlined in Rule R907-40 are already addressed in other parts of statute, rule, and department policy. As a result, the repeal of Rule R907-40 will have no substantive effect on small businesses or persons other than businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The information-sharing principles outlined in Rule R907-40 are already addressed in other parts of statute, rule, and department policy. As a result, the repeal of Rule R907-40 will have no substantive effect on affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This repeal will have no fiscal impact on businesses. John Njord, Executive Director

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

TRANSPORTATION
 ADMINISTRATION
 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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/02/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 09/09/2008

AUTHORIZED BY: John R. Njord, Executive Director

R907. Transportation, Administration.

~~[R907-40. External Relations.~~

~~R907-40-1. Informing Citizens, Government Agencies, Nondiscrimination.~~

~~— The citizens of the State of Utah shall be kept informed by the Office of Community Relations of the plans and programs of the Utah Department of Transportation and the Department's progress in accomplishing these plans and programs.~~

~~— Other government agencies, officials, interested citizens and citizen groups affected by the Department's plans and programs shall be informed and consulted with through the Office of Community Relations to insure a high degree of coordination by all parties interested in the development of Utah's highway system.~~

~~— Particular effort shall be taken by the Office of Community Relations to notify and involve minority groups. The Department shall insure that its programs do not have the purpose or effect of excluding persons from or denying them the benefits of departmental programs on the grounds of race, color, creed, national origin, age or disability.~~

~~**KEY:** public information, government information resources~~

~~**Date of Enactment or Last Substantive Amendment:** 1987~~

~~**Notice of Continuation:** November 4, 2003~~

~~**Authorizing, and Implemented or Interpreted Law:** 72-1-201; 72-1-204]~~

◆ ————— ◆

Transportation, Program Development **R926-9** Establishment Designation and Operation of Hot Lanes or Toll Lanes on State Highways

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31636

FILED: 06/27/2008, 16:41

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment provides the basis to establish tollways in Utah in greater specificity.

SUMMARY OF THE RULE OR CHANGE: The changes provides how tollways are designated, how the Utah Department of Transportation (UDOT) and the Transportation Commission work together, and how tollway revenue is handled by UDOT.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 72-1-201 and 72-6-118

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: No costs or savings are anticipated with this rule change. No new requirements were created with this rule change that impact the state budget. Any UDOT and/or Transportation Commission responsibilities will be administered by existing staff within existing budget.
- ❖ LOCAL GOVERNMENTS: No costs or savings are anticipated with this rule change. No new requirements were created with this rule change that impact local government.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: No costs or savings are anticipated with this rule change. No new requirements were created with this rule change that impact small businesses or persons other than businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance cost here.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no significant fiscal impact on businesses. John Njord, Executive Director

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

TRANSPORTATION
PROGRAM DEVELOPMENT
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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/02/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 09/09/2008

AUTHORIZED BY: John R. Njord, Executive Director

R926. Transportation, Program Development.**R926-9. Establishment Designation and Operation of [HOT Lanes or Toll Lanes on State High]Tollways.****R926-9-1. Definitions.**

(1) "Commission" means the Transportation Commission, which is created in Utah Code Section 72-1-301[-];

(2) "Department" means the Utah Department of Transportation;

(3) "Executive Director" means the Executive Director of the Utah Department of Transportation;

(4) "HOT Lane" ~~means a High Occupancy Vehicle lane designated under Utah Code Ann. Section 41-6a-702 that may be used by an operator of a vehicle carrying less than the number of persons specified for the high occupancy vehicle lane if the operator of the vehicle pays a toll or fee;~~ has the meaning described in Utah Code Ann. Section 72-6-118 for "High occupancy toll lane";

(5) "HOV Lane" means a lane that has been designated for the use of high occupancy vehicles pursuant to Utah Code Ann. Section 41-6a-702;

(6) "Toll" means the toll or user fees [or charge assessed for the use of a HOT Lane or Toll Lane]that the operator of a motor vehicle must pay for the privilege of driving on a tollway, including the toll or user fees that the operator of a single occupant motor vehicle must pay for the privilege of driving on a HOT Lane;[-]

(7) "Toll Lane" ~~means a designated new highway or additional lane capacity that is constructed, operated, or maintained for which a toll is charged for its use;~~ has the meaning described in Utah Code Ann. Section 72-6-118;

(8) "Tollway" has the meaning described in Utah Code Ann. Section 72-6-118. Tollways include, but are not limited to, HOT Lanes and Toll Lanes; and

(9) "Tollway development agreement" has the meaning described in Utah Code Ann. Section 72-6-202.

R926-9-2. [Establishment]Designation of [a—HOT Lane]Tollways.

(1) The Department may consider designating tollways including, but not limited to, the designation of existing HOV Lanes as HOT Lanes or may widen existing highways to add [a]one or more Toll Lane(s). In deciding whether to designate a ~~[HOT Lane or add a Toll Lane]~~ tollway, the Department may evaluate whether:

(a) ~~[a HOT Lane or Toll Lane]~~ the tollway would make the specific highway or the highway system more efficient;

(b) the designation or addition would increase available funds, reduce operational costs, or expedite project delivery; and

(c) the project will be consistent with the overall policies, strategies, and actions of the Department, including those strategies that are developed through the regular transportation planning process.

(2) Commission approval is required for designation of HOT Lanes on existing state highways and establishment of tollways on new state highways or additional capacity lanes. Legislative

approval is required prior to designation of any other types of tollways provided the Commission may provide interim approvals to establish such tollways, between sessions of the Legislature, subject to approval or disapproval by the Legislature during the subsequent session.

(3) ~~If [F]he Department wishes to designate a tollway, it shall submit its recommendations to the Commission and request approval.~~

(~~3~~4) The Commission will evaluate the recommendations and make a final ~~approval~~ decision.

(~~4~~5) The Commission will issue its decision in a public meeting.

(~~5~~6) ~~[HOT Lanes and] Tollways [Lanes]~~ shall comply with all design and construction standards and specifications normally applicable to Department projects, except as may be otherwise agreed to by the Department in writing.

(~~6~~7) Automatic tolling systems used for the collection of tolls shall meet or exceed the minimum criteria established by the United States Department of Transportation pursuant to United States Public Law 105-59, Section 1604, Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) if procured and deployed after the adoption of such criteria.

(~~7~~8) The Commission will set Tolls in ~~[administrative rule]~~ accordance with Utah Admin. Code R940-1 and [as allowed by] Utah Code Ann. Section 72-6-118.

R926-9-3. ~~[Use of] Tollway Restricted Revenue Fund - Enforcement.~~

(1) ~~[Monies collected from tolls shall be deposited in the account established in Utah Code Annotated Section 72-2-120. The Commission may use funds from that account to:~~

~~— (a) Pay the annual cost of enforcement, operation, maintenance, snow removal, and improvement of the highway where the fund is generated; or~~

~~— (b) Add capacity or purchase right of way within the corridor served by the HOT Lane or Toll Lane where the funds are generated.] Pursuant to state law, tolls collected by the Department and certain funds received by the Department through a tollway development agreement are deposited in the Tollway Restricted Special Revenue Fund established in Utah Code Ann. Section 72-2-120.~~

(2) ~~[The costs of enforcement that are eligible for payment with money from this account include:~~

~~— (a) costs incurred to enforce compliance on HOT Lanes and Toll Lanes of generally applicable laws and ordinances; and~~

~~— (b) costs incurred to collect unpaid Tolls from people who drive on a HOT Lane or Toll Lane without having paid.] Monies from the fund may be used to establish and operate tollways and related facilities, including design, construction, reconstruction, operation (including snow removal), maintenance, enforcement, impacts from tollways, and acquisition of right-of-way, pursuant to Utah Code Ann. Section 72-2-120.~~

KEY: transportation, tolls, highways, tollways

Date of Enactment or Last Substantive Amendment: ~~[April 20, 2006] 2008~~

Authorizing, and Implemented or Interpreted Law: 72-2-120; 72-6-118



Transportation Commission, Administration **R940-1** Establishment of HOT Lane Toll Rates

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31637

FILED: 06/27/2008, 16:46

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for the change is to clarify and update the responsibilities of the Transportation Commission in regards to toll roads.

SUMMARY OF THE RULE OR CHANGE: The rule defines tollway to correspond with Utah statute, sets forth the criteria used by the Transportation Commission to set toll rates, HOT lanes, and generally set for Transportation Commission responsibilities in regards to tolling.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 72-6-118, 72-6-202, and 72-1-201

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** No costs or savings are anticipated with this rule change. No new requirements were created with this rule change that impact the state budget. Any UDOT and/or Transportation Commission responsibilities will be administered by existing staff within existing budget.

❖ **LOCAL GOVERNMENTS:** No costs or savings are anticipated with this rule change. No new requirements were created with this rule change that impact local government.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** No costs or savings are anticipated with this rule change. No new requirements were created with this rule change that impact small businesses or persons other than businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance cost here.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no substantial fiscal impacts on businesses. John Njord, Executive Director

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

TRANSPORTATION COMMISSION
ADMINISTRATION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119, 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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/02/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 09/09/2008

AUTHORIZED BY: John R. Njord, Executive Director

R940. Transportation Commission, Administration.

R940-1. Establishment of ~~[HOT Lane]~~ Toll Rates.

R940-1-1. Definitions.

(1) "Commission" means the Transportation Commission, which is created in Utah Code Ann. Section 72-1-301;

(2) "Department" means the Utah Department of Transportation, which is created in Utah Code Ann. Section 72-1-101;

(3) "HOT Lane" means a High Occupancy Vehicle Lane as designated pursuant to Utah Code Ann. Section 41-6a-702 and Utah Admin. Code R926-9.

(4) "Toll" means the toll or user fees ~~[or charge]~~ that the operator of a motor vehicle must pay for the privilege of driving on a tollway, including the toll or user fees that the operator of a single-occupant motor vehicle must pay for the privilege of driving on a HOT Lane.

(5) "Tollway" has the meaning described in Utah Code Ann. Section 72-6-118.

(6) "Tollway development agreement" has the meaning described in Utah Code Ann. Section 72-6-202.

R940-1-2. ~~[Factors To Be Used in Setting Tolls]~~Setting Toll Rates.

~~[In deciding what Toll is appropriate, the Commission balances the need to obtain revenue for enforcement and maintenance of the HOT Lane against the effect that a certain Toll amount will have on demand. The goal is to set a price that encourages optimal use of the HOT Lane.]~~ (1) The Commission shall be responsible for setting toll rates on state highways as specified in this Section R940-1.

(2) Toll rates for facilities included in a tollway development agreement shall be set in accordance with the terms and conditions of the tollway development agreement. Terms and conditions relating to toll rates are required to be presented to the Commission in connection with award of the tollway development agreement, and any modifications to such terms and conditions will be considered a substantial modification or amendment requiring Commission approval under Section R941-1-5.

(3) The Commission may, in its sole discretion, increase the

toll rates for a facility subject to a tollway development agreement above the amount allowed under the tollway development agreement.

R940-1-3. Base Toll Rate and Range for HOT Lanes.

(1) In deciding what Toll is appropriate for HOT Lanes that are not subject to tollway development agreements, the Commission balances the need to obtain revenue against the effect that a certain Toll amount will have on demand. The goal is to set a price that encourages optimal use of the HOT Lane.

(2) For HOT Lanes that are not subject to a tollway development agreement t[he] initial [Toll] toll for the HOT Lane is \$50 per month.

~~(2) With the Commission's approval, the Department may increase the [Toll] toll described in subsection (2) from \$50 per month [to an amount not to exceed \$100 per month-] if it finds that demand on the HOT Lane is too high and needs to be reduced in order to keep the lane freely flowing. Evidence of demand can be shown by traffic counts and evidence of traffic congestion.~~

(4) Toll rates for HOT Lanes that are subject to a tollway development agreement shall be set in the tollway development agreement.

R940-1-4. ~~[Use of Toll Revenues]~~Tollway Restricted Special Revenue Fund.

(1) Pursuant to state law, ~~[T]olls collected by the department and certain funds received by the department through a tollway development agreement are deposited in the Tollway Restricted Special Revenue Fund established in Utah Code Ann. Section 72-2-120.~~

~~(2) Monies from the fund may be used to establish and operate tollways and related facilities, including [for acquisition of right of way and the] design, construction, reconstruction, operation, maintenance, [and-]enforcement, impacts from tollways, and acquisition of right-of-way, [of transportation facilities within the corridor served by the HOT Lane-] pursuant to Utah Code Ann. Section 72-[6]2-[418]120.~~

KEY: transportation, tolls, HOT Lanes, ~~[motor vehicles]~~tollways

Date of Enactment or Last Substantive Amendment: ~~[June 22, 2006]~~2008

Authorizing, and Implemented or Interpreted Law: 72-2-120, 72-6-118

◆ ————— ◆

End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive public comment that requires the PROPOSED RULE to be altered before it goes into effect. A CHANGE IN PROPOSED RULE allows an agency to respond to comments it receives.

As with a PROPOSED RULE, a CHANGE IN PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the CHANGE IN PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the CHANGE IN PROPOSED RULE is usually printed. The text shows only those changes made since the PROPOSED RULE was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [example]). A row of dots in the text between paragraphs (· · · · ·) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends August 14, 2008. At its option, the agency may hold public hearings.

From the end of the waiting period through November 12, 2008, the agency may notify the Division of Administrative Rules that it wants to make the CHANGE IN PROPOSED RULE effective. When an agency submits a NOTICE OF EFFECTIVE DATE for a CHANGE IN PROPOSED RULE, the PROPOSED RULE as amended by the CHANGE IN PROPOSED RULE becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by Section 63G-3-303; and Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

The Changes in Proposed Rules Begin on the Following Page.

Insurance, Administration
R590-245
Self-Service Storage Insurance

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 31081
 Filed: 07/01/2008, 16:12

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are being made to this proposed rule as a result of comments received during the original comment period and hearing.

SUMMARY OF THE RULE OR CHANGE: One major change is being made to this rule: the elimination of the requirement to have a licensed insurance agent to sell, solicit, or negotiate insurance at each self-service storage location. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed new rule that was published in the April 15, 2008, issue of the Utah State Bulletin, on page 28. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike out indicates text that has been deleted. You must view the change in proposed rule and the proposed new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-23a-106, 31A-23a-104, and 31A-23a-111

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Deleting the requirement for a licensed agent at each storage location will reduce the initial revenue to the department and state budget by \$87 per license per location, which includes \$15 for fingerprinting. The total number of storage locations throughout the state is unknown to the department.
- ❖ LOCAL GOVERNMENTS: This rule deals solely with the relationship between the department and their licensees, in this case, self-service storage insurance licensees. It will have no impact on local governments.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Self-service storage businesses will incur a reduced fiscal impact as a result of the elimination of the requirement to pay \$72 to license and \$34.25 to fingerprint an individual for each self-service storage location.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Self-service storage businesses will incur a reduced fiscal impact as a result of the elimination of the requirement to pay \$72 to license and \$34.25 to fingerprint an individual for each self-service storage location.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this rule will reduce fiscal impact to self-service storage business owners in the state of Utah. Instead of licensing an individual for each

of their storage locations, they will just need one licensed agent per agency. 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 08/14/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2008

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
R590-245. Self-Service Storage Insurance.

.....

R590-245-4. Licensing and Renewal.

- (1) All persons and entities involved in the sale, solicitation, or negotiation of self-service storage insurance must be licensed in accordance with Chapter 31A-23a, applicable department rules regarding individual and agency licensing, and this rule.
- (2) A self-service storage insurance license is issued for a two-year license period and requires no examination or continuing education.
- (3) A self-service storage insurance license must be renewed at the end of the two-year licensing period in accordance with Chapter 31A-23a and any applicable department rules regarding license renewal.
- (4) A self-service storage insurance license may be held by an individual or by an agency, such as a self-service storage facility or franchisee of a self-service storage facility.
- (5) An individual licensed under this rule must either be appointed by an insurance company underwriting the insurance policy the individual sells, or be designated to act by an agency licensed under this rule.
- (6) An agency licensed under this rule must:
 - (a) be appointed by an insurance company underwriting the insurance policies the agency sells;
 - (b) designate a licensed individual to be responsible for the regulatory compliance of the agency in Utah, ~~and~~
 - ~~(c) designate at least one licensed individual at each location to sell, solicit, or negotiate self-service storage insurance.]~~
- (7) An agency licensed under this rule may employ non-licensed personnel employed as self-service storage counter sales

representatives to sell, solicit, or negotiate self-service storage insurance. Such non-licensed employees must:

(a) be trained and supervised in the sale of self-service storage insurance products; and

(b) be responsible to a licensed individual designated by the agency. ~~at each location where these insurance products are sold, solicited, or negotiated.~~

(8) No self-service storage facility, or franchisee of a self-service storage facility, may offer or sell self-service storage insurance unless it has complied with the requirements of this rule and has been issued a license by the commissioner.

.....

KEY: self-service storage, insurance
Date of Enactment or Last Substantive Amendment: 2008
Authorizing, and Implemented or Interpreted Law: 31A-2-201, 31A-23a-104, 31A-23a-106, 31A-23a-110, 31A-23a-111, 31A-1-301 and 31A-23a-102



End of the Notices of Changes in Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a 120-DAY (EMERGENCY) RULE when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a PROPOSED RULE, a 120-DAY RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the 120-DAY RULE including the name of a contact person, justification for filing a 120-DAY RULE, anticipated cost impact of the rule, and legal cross-references. A row of dots in the text (· · · · ·) indicates that unaffected text was removed to conserve space.

A 120-DAY RULE is effective at the moment the Division of Administrative Rules receives the filing, or on a later date designated by the agency. A 120-DAY RULE is effective for 120 days or until it is superseded by a permanent rule.

Because 120-DAY RULES are effective immediately, the law does not require a public comment period. However, when an agency files a 120-DAY RULE, it usually files a PROPOSED RULE at the same time, to make the requirements permanent. Comment may be made on the proposed rule. Emergency or 120-DAY RULES are governed by Section 63G-3-304; and Section R15-4-8.

Administrative Services, Facilities Construction and Management **R23-22** General Procedures For Acquisition and Selling of Real Property

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE No.: 31607
FILED: 06/23/2008, 17:05

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to define procedures for the acquisition and selling of real property.

SUMMARY OF THE RULE OR CHANGE: H.B. 354, 2008 General Session, requires procedures be defined for the acquisition and selling of real property. This is to ensure that the value is congruent with the proposed price and other terms of this purchase, sale, or exchange. This rule defines these procedures. (DAR NOTES: H.B. 354 (2008) is found at Chapter 203, Laws of Utah 2008, and was effective 05/05/2008. A corresponding proposed new Rule R23-22 is under DAR No. 31606 in this issue, July 15, 2008, of the Bulletin.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63A-5-103(1)(e), and Chapter 203, Laws of Utah 2008

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** This rule should assist the state budget by assuring proper values for real estate transactions.
- ❖ **LOCAL GOVERNMENTS:** In accordance with H.B. 354, this

rule defines and codifies procedures DFCM will follow in assessing property value. There will be no effect on local governments because many of the procedures are already DFCM's practice. Therefore, the rule has no affect on costs for these entities.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** Again, in accordance with H.B. 354, this rule defines and codifies procedures DFCM will follow in assessing property value. There will be no effect on small businesses and persons other than businesses because many of the procedures are already DFCM's practice. Therefore, the rule has no affect on costs for these entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule defines procedures only and does not have any financial impact.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will assure fair and equitable DFCM real estate practices. Kimberly K. Hood, Executive Director

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

H.B. 354 requires rules be established for the Division of Facilities Construction and Management (DFCM) real estate transactions. The bill went into effect on 05/05/2008. DFCM was advised by the Division of Administrative Rules that prior to DFCM being able to sell, purchase, or exchange real property, that it needed to establish rules implementing this statute. As there are required transactions pending, it is necessary that this rule be in effect immediately.

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

ADMINISTRATIVE SERVICES
FACILITIES CONSTRUCTION AND MANAGEMENT

Room 4110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Priscilla Anderson at the above address, by phone at 801-538-9595, by FAX at 801-538-3378, or by Internet E-mail at phanderson@utah.gov

THIS RULE IS EFFECTIVE ON: 06/25/2008

AUTHORIZED BY: D. Gregg Buxton, Director

R23. Administrative Services, Facilities Construction and Management.

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

R23-22-1. Purpose.

This rule defines the procedures of the Division of Facilities Construction and Management for acquisition, selling and the exchanging of real property. This rule also affects donations of real property as so specified.

R23-22-2. Authority.

This rule is authorized under Subsection 63A-5-103(1)(e), which directs the Building Board to make rules necessary for the discharge of the duties of the Division of Facilities Construction and Management (hereinafter referred to as the "Division") as well as pursuant to H.B. 354 of the 2008 General Session of the Utah Legislature.

R23-22-3. Policy.

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

R23-22-4. Scope of This Rule.

This Rule shall apply to all purchases, sales, donations and exchanges of DFCM, as applicable in this Rule, except as otherwise allowed by the Utah Code. The requirements of this Rule shall also not apply to a contract or other written agreement prior to May 5, 2008; or to any contract or to any purchase, sale or exchange of real property where the value is determined to be less than \$100,000 as estimated by DFCM.

R23-22-5. Requirements for Purchase or Exchanges of Real Property.

DFCM shall comply with the following in regard to the purchase or exchange of real property that is subject to this Rule:

(1) DFCM must find that all necessary approvals have been obtained from State and other applicable authorities. DFCM will assist other State agencies in obtaining these approvals when it is deemed by DFCM to be in the interest of the State.

(2) DFCM shall coordinate as required any necessary financing requirements through the State Building Ownership Authority, or other relevant bonding authority, as authorized by the Legislature.

(3) DFCM shall assist other State agencies in accordance with DFCM's governing statutes, through financial analysis and other appropriate means, in selecting the appropriate or particular real property to be purchased and/or exchanged.

(4) DFCM shall, in accordance with DFCM's governing statutes, negotiate, draft and execute the applicable Real Estate Contract with due consideration to the State agency's comments. The State agency may be required by DFCM to be a signatory to the Contract.

(5) DFCM shall obtain and review the following documents when such is determined by DFCM to be customary in the industry for the size and type of transaction or if required by another provision of this Rule or State law:

- a. a title insurance commitment;
- b. an environmental assessment;
- c. an engineering assessment;
- d. a code review;
- e. an appraisal;
- f. an analysis of past maintenance and operational expenses, when available and relevant;
- g. the situs, zoning and planning information;
- h. an ALTA land survey; and
- i. other requirements determined necessary by DFCM, this Rule or State law.

(6) DFCM shall review, approve and execute when in the interest of the State, closing documents as prepared by the selected title company.

(7) DFCM may use boiler plate documents approved as to form by the Utah Attorney General or shall consult with the Utah Attorney General regarding provisions of the sale or significant changes to the boiler plate documents approved as to the form by the Utah Attorney General.

(8) DFCM shall endeavor to monitor the distribution of closing documents.

R23-22-6. Additional Requirements Regarding R23-22-5(5).

DFCM shall comply with the provisions below. None of the provisions below shall restrict the Director from requiring or not requiring any of the following if in the Director's opinion such is advantageous to the State or if such is required or allowed by State law:

(1) Title insurance commitment. The following applies to real property that may become State property by purchase, donation or exchange: DFCM shall obtain an Owner's Policy of Title Insurance for real property valued by DFCM at \$500,000 or above. For real property valued by DFCM at less than \$500,000, DFCM shall obtain a title report and may obtain an Owner's Policy of Title Insurance if, in the judgment of DFCM, title insurance is advantageous to the State.

(2) Phase I Environmental Assessment or Greater. The following applies to real property that may become State property by purchase, donation or exchange: A Phase I or greater Environmental Assessment may be required by DFCM prior to a purchase or exchange of real property when the property considered to become State property has a use and/or occupancy history which in the opinion of DFCM indicates the possibility of environmental issues that would materially affect the DFCM's purchase of the property or the State agency's use of the property.

(3) Engineering Assessment. The following applies to real property that may become State property by purchase, donation or exchange: For all improved real property valued by DFCM at

\$250,000 or above, DFCM shall obtain an engineering assessment of mechanical systems and structural integrity of improvements located on the property. An engineering assessment may be waived by the DFCM Director if an engineering assessment has already been performed within the past 12 months or if the land is unimproved. The State may perform an engineering assessment for real property valued at less than \$250,000 if, in the judgment of the Director, such an assessment is advantageous to the State.

(4) Code and Requirements Review. DFCM shall review the real property that may potentially become State property through purchase, donation or exchange to ascertain its suitability under all applicable codes and requirements, including any applicable provisions of State law.

(5) Appraisal. For real property that may potentially become State property through purchase or exchange, the State shall arrive at a fair market valuation of the property prior to purchase that is agreeable to the seller and the State. The fair market value determination used by DFCM in the negotiation shall be based upon an appraisal completed by an appraiser that specializes in the type of the subject real property and is a state-certified general appraiser under Section 61-2B-2 or by a State of Utah licensed MAI appraiser who also has such a certificate, except as follows:

(a) When this rule is not applicable under its scope;

(b) When State law otherwise provides that DFCM does not have to use fair market value; or

(c) When the Director has determined by a writing filed with DFCM, that the cost of obtaining the appraisal is not justified in the economic interest of the State of Utah.

(6) Past maintenance and operational expenses. DFCM shall endeavor to obtain, past maintenance and operational expense histories attached to any real property that may be acquired by the State, including real property that is acquired by purchase, donation or exchange, unless it is determined by the Director that the obtaining of such records is not justified in the economic interest of the State of Utah.

(7) Situs, zoning and planning information. DFCM shall endeavor to obtain preexisting situs, zoning and planning information regarding the real property that may be acquired by purchase, donation or exchange when required by State law, or if the Director determines that the obtaining of such information is advantageous to the State.

(8) ALTA land survey. For all real property acquired by DFCM through purchase, donation or exchange, and the property to become State property is valued by DFCM at \$250,000 or above, DFCM shall obtain an ALTA/ACSM Land Title Survey, current revision, of the subject property. An ALTA survey shall not be required if an ALTA survey has already been performed within the past 12 months unless otherwise determined by the Director. The State may perform an ALTA survey for real property valued less than \$250,000 if the Director determines that such a survey is in the interest of the State.

R23-22-6. Requirements for the Disposition of Real Property by DFCM.

In addition to the policy of R23-22-3, it is the policy of this Board to efficiently and economically dispose of real property that is determined by DFCM or the State to be surplus in accordance with State law. In accordance with State law, DFCM may recommend to the Board that certain real property be declared as surplus. After the appropriate determination is made that the real property is surplus,

then DFCM shall endeavor to sell the surplus real property on the open market, unless such property is to be conveyed to another State agency or public entity in accordance with Utah law. If there is such a sale, it shall be as follows:

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

(2) Unless otherwise allowed by State law or as otherwise provided in this Rule, DFCM shall obtain at least fair market value for the real property to be sold. This shall be accomplished by the following:

(a) DFCM shall determine a fair market valuation of the property prior to the offer for sale. The fair market value determination used by DFCM in offer for sale shall be based upon an appraisal completed by an appraiser that specializes in the type of the subject real property and is a state-certified general appraiser under Section 61-2B-2, or by a Utah licensed MAI appraiser who also has such a certificate, except as follows:

(i) When this rule is not applicable under its scope;

(ii) When State law otherwise provides that DFCM does not have to use fair market value; or

(iii) When the Director has determined by a writing filed with DFCM, that the cost of obtaining the appraisal is not justified in the economic interest of the State of Utah.

(b) DFCM shall establish a listing price based on the appraisal obtained under this Rule or, if there is no appraisal based on the above, based upon DFCM's knowledge of prevailing market conditions and other circumstances customarily used in the industry for such sales.

(c) DFCM shall advertise the property for sale in such a manner that is commercially reasonable in the discretion of the Director. DFCM may set a time deadline for the submission of bids for the real property based upon the economic conditions at the time of the sale.

(d) DFCM shall endeavor to enter into a contract for sale to the highest reasonable bidder, unless the DFCM Director files a written justification statement as to why a lower bidder is more advantageous to the State or if there is a sole bidder, that such bid is unreasonable. If after a reasonable timeline set by the Director of public advertisement, no acceptable bid is submitted, then DFCM may sell the property through a private negotiated sale, provided that any sale below the fair market value initially established by DFCM for the subject property is accompanied by a written justification statement filed by the Director and a copy of which is provided to the Board prior to execution of the contract for sale.

(e) DFCM shall, in accordance with DFCM's governing statutes, negotiate, draft and execute the applicable Real Estate Contract, with due consideration to the comments of the affected State agency. The affected State agency may be required by DFCM to be a signatory to the Contract.

(f) DFCM shall review, approve, and execute when appropriate, closing documents as prepared by the selected title company.

(g) DFCM may use boiler plate documents approved as to form by the Utah Attorney General or shall consult with the Utah Attorney General regarding provisions of the sale or significant changes to the boiler plate documents approved as to the form by the Utah Attorney General.

(h) DFCM shall endeavor to monitor the distribution of the closing documents.

KEY: real estate, property transactions**Date of Enactment or Last Substantive Amendment: June 25, 2008****Authorizing, and Implemented or Interpreted Law: 63A-5-103(1)(e); Chapter 203, Laws of Utah 2008****Human Services, Child and Family Services****R512-500****Kinship Services****NOTICE OF 120-DAY (EMERGENCY) RULE**DAR FILE NO.: 31589
FILED: 06/18/2008, 09:07**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for this rule change is to implement changes in legislation passed during the FY 2008 legislative session (H.B. 36) specific to kinship services. (DAR NOTE: H.B. 36 (2008) is found at Chapter 36, Laws of Utah 2008, and was effective 03/13/2008.)

SUMMARY OF THE RULE OR CHANGE: This rule replaces the previous rule, and establishes standards for kinship placement for a child who is in Child and Family Services custody, including Preliminary Placement, evaluation of kinship caregiver capacity for ongoing care, and background screening. (DAR NOTE: A corresponding proposed repeal and reenactment for Rule R512-500 is under DAR No. 31590 in this issue, July 15, 2008, of the Bulletin.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 62A-4a-102, 62A-4a-209, 78A-6-307, and 78A-6-307.5; the Indian Child Welfare Act (ICWA); and 25 U.S.C. Section 1903.1

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: \$147,400 cost through the loss of Federal funds. These funds were replaced through a fiscal note attached to the bill.

❖ LOCAL GOVERNMENTS: There will be no costs or savings to local government because funding for this program comes out of state and federal funds and this rule does not apply to local government.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There will be no costs or savings to small businesses and persons other than businesses because it was determined that funding for this program comes out of state and federal funds and this rule does not apply to small businesses and persons other than businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs will be minimal for affected persons. Primary caregivers in the relatives' home will be required to complete an FBI fingerprint-

based check and will be charged \$10 per person for the fingerprints to be scanned. Any other adults age 18 and older living in the home will also be required to have this fingerprint-based check and to pay the \$10 fee for scanning. In addition, relatives who voluntarily care for a relative child will incur costs for caring for the child. The relatives will be given information about how to access public resources of support through Department of Workforce Services or through the Department of Human Services, if they choose to become a licensed foster parent.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no cost or savings on businesses because it was determined that this rule does not apply to businesses. Lisa-Michele Church, Executive Director

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

H.B. 36 passed during the 2008 legislative session became effective on 03/13/2008. This emergency filing is needed to bring the agency into compliance with state law.

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
Room 225
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Miller at the above address, by phone at 801-538-4451, by FAX at 801-538-3993, or by Internet E-mail at CAROLMILLER@utah.gov

THIS RULE IS EFFECTIVE ON: 06/18/2008

AUTHORIZED BY: Duane Betournay, Director

R512. Human Services, Child and Family Services.**[R512-500. Kinship Services.****~~R512-500-1. Purpose and Authority.~~**

~~— A. The purpose of Kinship care is to:~~

~~— 1. make it possible for children who cannot remain safely at home to live with persons they may already know and trust;~~

~~— 2. reduce the trauma children may experience when placed with a non-relative caregiver who is not known to the child;~~

~~— 3. maintain children's family history, culture, and sense of identity;~~

~~— 4. assist families to consider and rely on family resources and strengths; and~~

~~— 5. support families to provide children the support they need.~~

~~— b. Pursuant to Sections 62A-4a-209 and 78-3a-307, the Division of Child and Family Services (DCFS) is authorized to provide kinship placements and services.~~

R512-500-2. Qualifications.

A. Relatives will be considered for an emergency kinship placement when they meet the requirements of Sections 62A-4a-209 and 78-3a-307 and the following:

1. When the relative agrees to care for the child on an emergency basis under the following conditions:

a. The relative agrees not to allow the custodial parent or guardian to have any unauthorized contact with the child to contact law enforcement and DCFS if the custodial parent or guardian attempts to make unauthorized contact with the child;

b. The relative will agree not to talk to the child about the events that led to the removal, if the child wishes to talk about the events leading to the removal, refer to a therapist or other trusted individual who is not the relative caregiver;

c. The relative has been informed and understands that while they may be asked to be a potential long-term placement, DCFS will continue to search for other possible potential kinship placements for long-term care, if needed;

d. The relative is willing to assist the custodial parent or guardian in reunification efforts at the request of DCFS and to follow all court orders.

B. Criteria for an emergency kinship placement:

1. A relative will be considered as an emergency placement only if willing to provide the following:

a. Full names of all persons living in their household, including maiden names;

b. Social Security Numbers for all persons living in the household;

c. driver licenses or other identification for all persons living in the household, as applicable.

C. Assessment - Non-custodial Parent

1. The region in which the non-custodial parent resides will conduct an assessment of the non-custodial parent as follows:

a. home inspection that will assess space, accommodations, and safety;

b. interview of the non-custodial parent to determine the following:

i. nature and quality of the relationship between the child and non-custodial parent;

ii. ability and desire to protect the child from further abuse and neglect.

D. The DCFS worker will interview the child (when age appropriate) regarding the child's relationship and comfort level with the non-custodial parent.

E. Deciding between Relatives:

1. If more than one relative requests consideration for temporary or permanent placement of the child, the DCFS worker:

a. Will provide each relative with specific information on the methods and criteria used to assess suitability of a relative's home for the placement of the child;

b. May conduct a child and family team meeting for the purpose of assisting the relatives to come to consensus regarding which relative would be the most appropriate placement for the child;

c. Will determine which relative has the closest existing personal relationship with the child before making the recommendation to the court.

d. Will determine which placement should be made and make a recommendation to the court consistent with that determination.]

R512-500. Kinship Services. Placement and Background Screening.**R512-500-1. Purpose and Authority.**

(1) The purpose of this rule is to establish standards for kinship placement for a child who is in Child and Family Services custody, including Preliminary Placement, evaluation of kinship caregiver capacity for ongoing care, and background screening.

(2) This rule is authorized by Sections 62A-4a-209, 78A-6-307, 78A-6-307.5, and the Indian Child Welfare Act (ICWA), 25 U.S.C. Sections 1901-63.

R512-500-2. Definitions.

(1) "Abuse" is defined in Section 78A-6-105.

(2) "Child" is defined in Section 62A-4a-101.

(3) "Child and Family Services" means the Division of Child and Family Services, Department of Human Services.

(4) "Friend" means an individual, other than a non-custodial parent or relative as defined in Section 78A-6-307, who is licensed as a foster parent and is designated for preference for care of a child by a custodial parent or guardian of the child in accordance with Section 62A-4a-209.

(5) "Kinship caregiver" means a non-custodial parent, relative, or friend, as defined in this section, who is selected for placement and care of a child in Child and Family Services custody.

(6) "Neglect" is defined in Section 78A-6-105.

(7) "Non-custodial parent" is a natural parent as defined in Section 78A-6-307 who is a biological or adoptive mother, an adoptive father, or a biological father who was married to the child's biological mother at the time the child was conceived or born, or who has had paternity established, who has not been granted legal custody of the child.

(8) "Non-relative" is defined in Section 62A-4a-209.

(9) "Preliminary Placement" means an out-of-home placement with a non-custodial parent or relative, or with a friend who is a licensed foster parent, which is referred to in statute as an emergency placement with a non-custodial parent or relative as authorized in Section 62A-4a-209 or a post-shelter hearing placement with a non-custodial parent or relative as authorized in Section 78A-6-307.5.

(10) "Relative" is defined in Section 78A-6-307 as the child's "grandparent, great-grandparent, aunt, great-aunt, uncle, great-uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, or sibling of the child." For an Indian child, relative also includes "extended family members" as defined by the ICWA, 25 U.S.C. Section 1901-63, which is "by the law or custom of the Indian child's tribe or, in the absence of such law or custom, shall be a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt, or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent."

(11) "severe type of child abuse or neglect" is defined in Section 62A-4a-1002.

(12) "substantiated" is defined in Section 62A-4a-101.

(13) "supported" is defined in Section 62A-4a-101.

R512-500-3. Philosophy.

(1) All children need permanency through enduring relationships that provide stability, familiarity, and support for the

culture of the child; support the child's sense of self based on existing attachments; provide for the child's safety and physical care; and connect the child to their past, present, and future through continuing family relationships. First priority is to maintain a child safely at home. However, if a child cannot safely remain at home, kinship care has the potential for providing these elements of permanency by virtue of the kin's knowledge of and relationship to the family and child.

(2) All kinship work is done in the context of a Child and Family Team. Kinship care includes elements of child protection, in-home services, family preservation, and foster care. When a child cannot safely remain home, kinship care is preferable to other out-of-home placements if the kinship caregiver can keep the child safe and appropriately meet the child's needs.

(3) The caregiver's willingness and ability to care for and keep the child safe are fundamental. The kinship caregiver must have or acquire knowledge of the child, be able to meet the child's needs, support reunification efforts, and be able to provide the child access to parents, siblings, and other family members through visits or caring for the child and siblings as a group.

(4) Ongoing assessment of the child's safety, permanence, and well-being is important to the stability and value of kinship care. Ongoing assessment of safety is based on the components of safety decision-making, which include threats of harm, vulnerabilities of the child, and protective capacities of the kinship caregiver and their support system.

(5) Providing for kinship care in the Child and Family Services spectrum of services requires active efforts to identify and locate kin families with whom children may form or continue relationships at home or in temporary or permanent placements. Support to kinship caregivers is essential to the success of the child's placement with the family and to the family's ability to respond to the needs of the child. As members of the Child and Family Team, kinship caregivers will seek support from other family members and from informal and formal supports to provide for the child.

R512-500-4. Preferences for Placement.

(1) The following order of preference applies to placement of a child in the custody of Child and Family Services, and is subject to the child's best interest:

(a) A non-custodial parent of the child in accordance with Section 78A-6-307;

(b) A relative of the child;

(c) A friend designated by the custodial parent or guardian of the child, if the friend is a licensed foster parent; and

(d) A former foster placement, shelter facility, or other foster placement designated by Child and Family Services.

(2) Preferential consideration given to kinship caregivers in Subsection 78A-6-307(18) expires 120 days from the date of the shelter hearing. Prospective kinship caregivers may be considered for placement after the 120 days has lapsed, if it is in the best interest of the child.

R512-500-5. Preliminary Placement.

(1) The requirements specified in Section 62A-4a-209 must be met for Preliminary Placement of a child with a kinship caregiver.

(2) A decision to make a Preliminary Placement of a child with a kinship caregiver will include background screening, assessment of the kinship caregiver's willingness and ability to care for a child and to keep the child safe, a limited home inspection, and background screening.

(3) A kinship caregiver must meet the background check requirements specified in R512-500-7(1).

(4) Assessment of safety will be based on safety decision-making principles, which include:

(a) Potential threats of harm;

(b) Vulnerabilities of the child; and

(c) Protective capacities of the potential kinship caregiver and their support system.

(5) The limited home inspection specified in Section 62A-4a-209 is required for a non-custodial parent or relative. The limited home inspection is conducted in the home of the prospective kinship caregiver to determine if there are apparent safety risks in the home that present a potential threat of harm to the child. The limited home inspection determines if the following are met:

(a) The home is free from observable health and fire hazards.

(b) There are adequate sleeping arrangements to meet the specific needs of each child.

(c) Any firearms, ammunition, hazardous chemicals, and/or medications are secured and not accessible to children.

(6) References may be contacted to obtain input regarding placing the child with the potential kinship caregiver or information about other available relatives or friends who may care for the child.

R512-500-6. Evaluation of Capacity for Ongoing Care of a Child.

(1) Child and Family Services will evaluate with the family their capacity for ongoing care of the child. The components of the evaluation process include:

(a) Results of the background screening specified in R512-500-7(2).

(b) The child-specific home study, including:

(i) Physical and emotional ability of the kinship caregiver to provide adequate care for the child;

(ii) Understanding of family dynamics and how placement will impact relationships within the family;

(iii) Ability to provide for the child's safety and well-being needs and to support a plan for permanency;

(iv) Analysis of the type of resources and support needed by the kinship caregiver to care for the child.

(v) Ability of the home to meet required safety standards of the Office of Licensing.

(c) Providing information to the kinship caregiver to assist with considering options for ongoing care of the child, including:

(i) Educating the kinship caregiver of the expectations of caring for a child who is under the jurisdiction of the court.

(ii) Assessing the resources that may be available to assist the kinship caregiver in providing a stable placement for the child.

(iii) Becoming a licensed foster care placement for the child.

(iv) Requesting temporary custody and guardianship from the court.

(2) A kinship caregiver who meets the definition of friend must be licensed as a foster parent in order for a child in the custody of Child and Family Services to be placed with them.

(3) Obtain positive written references from two different people known to the kinship caregiver expressing the referent's opinion about the family's ability to care for the child.

R512-500-7. Background Screening.

(1) Background Screening Procedure for Preliminary Placements.

(a) In order for a non-custodial parent or relative to be considered for Preliminary Placement of a child, background screening must be completed that meets the requirements of Sections 62A-4a-209, 78A-6-307, and 78A-6-308. If any non-relative adults live in the household, applicable background screening requirements in Sections 62A-4a-209, 78A-6-307, and 78A-6-308 must be met.

(b) A non-custodial parent or relative and all persons 18 years of age and older living in the household must provide the following information in order for background screening to be conducted:

(i) Full first, middle, last, maiden, alias, and all previous married names.

(ii) Social Security number, if a number has been issued.

(iii) Proof of identity verified by a government-issued photo identification.

(iv) Date of birth.

(2) Background Screening Procedure for Ongoing Care of a Child.

(a) As part of the evaluation of capacity for ongoing care of a child, in addition to background screening required for Preliminary Placement, a relative and spouse or partner must complete an FBI national criminal history records check as prospective foster or adoptive parents. A non-custodial parent will complete an FBI national criminal history check if Utah criminal history or SAFE child abuse checks result in concerns about potential threats of harm to the child or if ordered by the court.

(b) If a non-relative 18 years of age or older is residing in the home and has lived outside of the state of Utah in the five years immediately preceding the date of the application, the individual must complete an FBI national criminal history records check.

(c) If any person 18 years of age or older residing in the home has lived out of the state of Utah in the five years immediately preceding the date of the application, a child abuse and neglect registry check must be completed for any state in which the individual resided.

(d) A non-custodial parent or relative and all persons 18 years of age and older living in the household must provide the following information on a form provided by Child and Family Services in order for background screening to be conducted:

(i) Full first, middle, last, maiden, alias, and all previous married names.

(ii) Social Security number, if a number has been issued.

(iii) Proof of identity verified by a government-issued photo identification.

(iv) Date of birth.

(v) The potential kinship caregiver and applicable adults living in the household shall provide fingerprints from an authorized law enforcement agency or designated electronic scanning site.

(vi) The child abuse registry for each state in which a potential kinship caregiver or other adult in the household has lived will be checked.

KEY: child welfare, kinship

Date of Enactment or Last Substantive Amendment: June 18, 2008

Authorizing, and Implemented or Interpreted Law: 62A-4a-209, [78-3a-307]78A-6-307, 78A-6-307.5

◆ ————— ◆

Human Services, Services for People with Disabilities **R539-15** Time-Limited Respite Care Program

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 31594

FILED: 06/19/2008, 09:39

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to provide respite care for Persons on the Division Waiting List.

SUMMARY OF THE RULE OR CHANGE: The rule provides the standards and procedures to establish a Time-Limited Respite Care Program for Persons on the Division Waiting List. (DAR NOTE: A corresponding proposed new Rule R539-15 is under DAR No. 31593 in this issue, July 15, 2008, of the Bulletin.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-5-103

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The cost to the state budget will be the \$500,000 appropriated by the Legislature for this program.

❖ LOCAL GOVERNMENTS: The program does not affect the budgets of local governments. The agency has reviewed the programs and services provided by local governments and concluded that none of them provide respite services and this rule will not cause local governments any costs or savings.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Small businesses will provide respite care services either as employees of the Person served or by contract with the Department of Human Services. This rule does not apply to small businesses, it only applies to the individuals eligible for respite care services.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There should be no compliance costs for affected individuals. If an individual applies for this service and is denied eligibility, they may incur the cost of appealing the decision, such as expenses to retain a lawyer to represent them.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Respite care services are provided by small businesses either as employees of the Person or by contract with the Department of Human Services. This will bring more business to providers of respite care services. Lisa-Michele Church, Executive Director

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD CAUSE AN IMMINENT BUDGET REDUCTION BECAUSE OF BUDGET RESTRAINTS OR FEDERAL REQUIREMENTS.

The Legislature appropriated funds for this program only for fiscal year 2009 with the expectation that the funds would be spent for services beginning 07/01/2008.

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

HUMAN SERVICES
SERVICES FOR PEOPLE WITH DISABILITIES
Room 411
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Steven Bradford at the above address, by phone at 801-538-4197, by FAX at 801-538-4279, or by Internet E-mail at sbradford@utah.gov

THIS RULE IS EFFECTIVE ON: 07/01/2008

AUTHORIZED BY: Georgia Baddley, Acting Director

R539. Human Services, Services for People with Disabilities.

R539-15. Time-Limited Respite Care Program.

R539-15-1. Purpose and Authority.

(1) The purpose of this rule is to provide:

(a) procedures and standards for the determination of eligibility for the Division's Time-Limited Respite Care Program for Persons on the Division's Waiting List as specified in R539-2-4.

(2) This rule is authorized from July 1, 2008 to June 30, 2009 by Legislative appropriation and established under Section 62A-5-103.

R539-15-2. Definitions.

(1) Terms used in this rule are defined in Section 62A-5-101, and

(2) "Person": Individual who meets eligibility requirements in Rule R539-1.

(3) "Active Status": Has a current Needs Assessment Score on the Division wait list.

(4) "Respite": A service to give relief to the Person's primary caregiver.

R539-15-3. Eligibility.

(1) A Person is eligible for the Time-Limited Respite Care Program who meets the eligibility requirements listed in Rule 539-1, provided that:

(2) the Person is not receiving ongoing services with the Division.

(3) the Person is currently in active status on the Division waiting list.

R539-15-4. Limitations.

(1) A Person who meets eligibility requirements for the Time-Limited Respite Care Program is limited to no more than \$1,000 for respite care services from July 1, 2008 to June 30, 2009.

(2) Funds are granted for 12 months. After six months, the Person must report the expenditure of funds to the Division. The use of the respite care funds will be evaluated by the Division. If there

is no plan to use the funds or funds are unused, those funds may be reallocated to another eligible Person.

(3) Persons receiving ongoing services are not eligible for time-limited respite services.

R539-15-5. Priority.

(1) As of July 1, 2008, the first 250 persons who are not brought into ongoing services and who remain on the Division waiting list will receive priority for respite care services. If any of the first 250 choose not to use time-limited respite care services, then Persons will be offered this service in the order of their position on the waiting list.

R539-15-6. Respite Care Services Providers.

(1) Respite services may be provided by an employee of the Person or through an agency or program that provides respite care services.

(2) If the Person elects to hire an employee, Division requirements for a background check must be met.

(3) Payments to an employee must be made through a fiscal agent.

KEY: disabilities

Date of Enactment or Last Substantive Amendment: July 1, 2008

Authorizing, and Implemented or Interpreted Law: 62A-5-103



Labor Commission, Adjudication

R602-4

Procedures for Termination of
Temporary Total Disability
Compensation Pursuant to
Reemployment under Section 34A-2-
410.5

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 31643

FILED: 06/30/2008, 16:41

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule implements H.B. 384, effective 07/01/2008, which added Section 34A-2-410.5 to the Utah Workers' Compensation Act. Section 34A-2-410.5 requires the Labor Commission to accept and adjudicate employer and insurance company requests to terminate or reduce temporary disability compensation payments in cases of alleged employee misconduct. (DAR NOTE: H.B. 384 (2008) is found at Chapter 349, Laws of Utah 2008, and was effective 07/01/2008.)

SUMMARY OF THE RULE OR CHANGE: The rule defines terms and establishes the process by which employers or insurance carriers can institute proceedings to request permission to terminate or reduce temporary disability compensation. The rule establishes alternative methods by which the employer or

insurance carrier can notify the injured worker of proceedings to terminate or reduce benefits. The rule also establishes standards for discovery, hearings, and decisions. In particular, the rule implements Section 34A-2-410.5's requirement that administrative law judges issue decisions in these cases within 45 days after the employer or insurance carrier has filed its request with the Labor Commission.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 34A-1-104(1) et seq., and Section 34A-2-410.5

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This rule implements a new Section 34A-2-410.5 that allow employers and insurance carriers to request Labor Commission permission to reduce or terminate temporary disability benefits in cases of employee misconduct. The Labor Commission believes there will be a relatively small number of these requests and that the costs of adjudicating them can be absorbed with existing resources and without any impact on the state budget.

❖ LOCAL GOVERNMENTS: Section 34A-2-410.5 permits, but does not require, local governments in their capacity as employers to request permission in cases of employee misconduct to terminate or reduce temporary disability compensation otherwise payable to the employee. By providing simplified procedures for adjudicating such requests, the Labor Commission anticipates that this rule will reduce costs that local governments would otherwise incur if more formal procedures were applied to these proceedings.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Section 34A-2-410.5 permits, but does not require, small businesses to request permission in cases of employee misconduct to terminate or reduce temporary disability compensation otherwise payable to the employees. By providing simplified procedures for adjudicating such requests, the Labor Commission anticipates that this rule will reduce costs that small businesses would otherwise incur if more formal procedures were applied to these proceedings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule establishes simple, expedited procedures for filing and adjudicating employer/insurance carrier requests to terminate or reduce temporary disability compensation payments in cases of employee misconduct. By eliminating or modifying the procedural and evidentiary standards that would otherwise apply, the Labor Commission anticipates that compliance costs such as personnel and attorney expenses will be reduced.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Section 34A-2-410.5 of the Utah Workers' Compensation Act, and this rule implementing that statutory provision, provide businesses with a practical means to reduce or terminate temporary disability payments to workers who are unemployed due to work-related misconduct. While businesses will incur some costs in proving that such benefits payments should be reduced or terminated, I anticipate that the procedures established by this rule will allow the Commission to resolve these cases fairly and efficiently. However, at this time it is uncertain whether

businesses will experience a net fiscal benefit from this new procedure. Sherrie Hayashi, Commissioner

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD PLACE THE AGENCY IN VIOLATION OF FEDERAL OR STATE LAW.

H.B. 384 creates a new right for employers and insurance carriers to assert that certain disability benefits should be terminated to injured employees who have been guilty of work-related misconduct. The statute requires the Labor Commission to adopt such procedural and adjudicative standards as are necessary to implement these new proceedings.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Richard M. Lajeunesse at the above address, by phone at 801-536-7928, by FAX at 801-530-6333, or by Internet E-mail at rlajeunesse@utah.gov

THIS RULE IS EFFECTIVE ON: 07/01/2008

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R602. Labor Commission, Adjudication.

R602-4. Procedures for Termination of Temporary Total Disability Compensation Pursuant to Reemployment Under Section 34A-2-410.5.

R602-4-1. Purpose, Authority and Scope.

Section 34A-2-410.5 allows an employer or its insurance carrier ("employer" hereafter) to request Labor Commission permission to reduce or terminate an employee's temporary disability compensation. Under authority of section 34A-2-410.5(7), the Commission establishes these rules to govern the adjudication of such requests. This rule supersedes the provisions of R602-2, 602-3, R602-5, R602-7 and R602-8 R602-4-3 as to any actions brought pursuant to section 34A-2-410.5.

R602-4-2. Commission Permission Required.

An employer shall not terminate or reduce an employee's temporary disability compensation pursuant to section 34A-2-410.5 prior to issuance of a final order by the Commission ordering the reduction or termination.

R602-4-3. Mediation.

Prior to filing a request to terminate or reduce temporary disability compensation pursuant to section 34A-2-410.5, the parties are encouraged to request assistance from the Mediation Unit of the Commission's Industrial Accidents Division.

R602-4-4. Pleadings and Discovery.**A. Definitions.**

1. "Application" means an Application for Hearing for Termination or Reduction of Compensation (Adjudication Form 402), all supporting documents, proof of service and Notice of Request for Termination or Reduction of Compensation (Adjudication Form 404) which together constitute the request for agency action regarding termination or reduction of benefits pursuant to Section 34A-2-410.5.

2. "Supporting medical documentation" means any medical provider's report or treatment note that addresses the employee's medical condition or functional restrictions.

3. "Supporting documents" means supporting medical documentation, Persons with Knowledge List (Adjudication Form 403), any documents related to reasons for the requested termination or reduction, and any documents describing the employee's work duties.

4. "Proof of Service" means any of the following: 1) the employee's signed and dated acceptance of service of the Application and all supporting documents; 2) a certificate of service of the Application and all supporting documents signed by the employer or insurer's counsel and accompanied by a return receipt signed by the employee; or 3) a return of service showing personal service of the Application and all supporting documents on the employee according to Utah Rule of Civil Procedure 4(d)(1).

5. "Persons with Knowledge List" (Adjudication Form 403) means a party's list of all persons who have material knowledge regarding the reasons for the request to terminate or reduce compensation. The list must specify the full name of the person, a summary of the knowledge possessed by the person, and a statement whether the party will produce the person as a witness at hearing.

6. "Notice of Request for Termination or Reduction of Compensation" means Adjudication Form 404.

B. Application for Hearing.

1. An employer may request Commission approval to terminate or reduce an employee's temporary disability compensation under section 34A-2-410.5 by filing an Application with the Commission's Adjudication Division.

2. An Application is not deemed filed with the Division until the employer submits a completed Application with all required documentation.

C. Discovery.

1. At least 15 days prior to a hearing on an Application, each party shall mail or otherwise serve on the opposing party a list of all witnesses that party will produce at the hearing. Because it is presumed that the employee will appear at the hearing, the employee is not required to list himself or herself on the list. The employer will also mail to or otherwise serve on the employee a copy of all exhibits the employer intends to submit at the hearing.

2. Testimony of witnesses and exhibits not disclosed as required by this Rule shall not be admitted into evidence at the hearing. A party's failure to subpoena or otherwise produce an individual previously identified by that party as an intended witness may give rise to an inference that the individual's testimony would have been adverse to the party failing to produce the witness.

3. Other than disclosures required by this rule and voluntary exchanges of information, the parties may not engage in any other discovery procedures.

4. Subpoenas may be used only to compel attendance of witnesses at hearing, and not for obtaining documents or compelling

attendance at depositions. All subpoenas shall be signed by an administrative law judge.

D. Defaults and Motions.

1. Defaults shall only be issued at the time of hearing based on nonattendance of a party. Motions will only be considered at the time of hearing.

R602-4-5. Hearings.**A. Scheduling and Notice.**

A hearing will be held within 30 days after an Application is filed with the Commission's Adjudication Division. The Division will send notice of hearings by regular mail to the addresses of the employer and employee set forth on the Application. A party must immediately notify the Division of any change or correction of the addresses listed on the Application. The Division will also mail notice to the address of any party's attorney as disclosed on the Application or by an Appearance of Counsel filed with the Division. Notice by the Division to a party's attorney is considered notice to the party itself.

B. Hearings.

Each hearing pursuant to section 34A-2-410.5 shall be conducted by an administrative law judge as a formal evidentiary hearing. The evidentiary record shall be deemed closed at the conclusion of the hearing, and no additional evidence will be accepted thereafter. After hearing, the administrative law judge shall issue a decision within 45 days from the date the Application was filed.

C. Motions for Review.

Commission review of an administrative law judge's decision is subject to the provisions of section 63G-4-301, section 34A-1-303, and R602-2.M.

KEY: worker's compensation, administrative procedures, hearings, settlements

Date of Enactment or Last Substantive Amendment: July 1, 2008

Authorizing, Implemented, or Interpreted Law: 34A-1-104(1) et seq.; 34A-2-410.5

◆ ————— ◆

Natural Resources, Wildlife Resources **R657-59** Private Fish Ponds

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 31625

FILED: 06/26/2008, 10:23

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this proposed new emergency rule is to provide the standards and procedures required to stock and maintain privately-owned aquatic animals in a private fish pond.

SUMMARY OF THE RULE OR CHANGE: This rule provides the standards and procedures for private fishponds. (DAR NOTE: A corresponding proposed new Rule R657-59 is under DAR No. 31612 in this issue, July 15, 2008, of the Bulletin.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-15-9 and 23-15-10

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This new rule will regulate the stocking of privately propagated fish into privately-owned ponds, it will simplify criteria which was previously defined in Rule R657-16. DWR determines that these amendments do not create a cost or savings impact to the state budget or DWR's budget since the changes will not increase workload and can be carried out with existing budget. (DAR NOTE: The proposed amendment for Rule R657-16 is under DAR No. 31611 in this issue, July 15, 2008, of the Bulletin.)
- ❖ LOCAL GOVERNMENTS: Since this new rule only clarifies restrictions already in place in a separate rule, this should have little to no effect on the local government. This filing does not create any direct costs or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: This rule may impose additional financial requirements on persons requesting to stock a private pond in certain areas of the state.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR determines that these amendments may create a cost or savings impact to individuals who wish to stock game fish in a private pond.

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

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES would cause an imminent peril to the public health, safety, or welfare. place the agency in violation of federal or state law.

H.B. 148 eliminated the requirement of a certificate of registration (COR) for private fish ponds to receive and maintain privately-owned aquatic animals provided the pond and aquatic animals satisfy the criteria established by the Wildlife Board in rule. H.B. 148 became effective on 05/05/2008 and charged the Division of Wildlife Resources (DWR) and the Wildlife Board to promulgate an administrative rule to: 1) establish pond screening requirements; 2) define geographic areas where privately-owned aquatic animals may be stocked in private fish ponds without first obtaining a COR; and 3) delineate species, strain, and reproductive capability of aquatic animals that may be stocked in defined areas without a COR. The rule took considerable effort and time to create and is represented in the Private Fish Pond rule submitted herewith for emergency rulemaking. Without emergency rulemaking and immediate implementation of the rule, public welfare will be placed in imminent peril and DWR will be in violation of H.B. 148. The earliest possible effective date for the rule under traditional rulemaking is 08/21/2008. The aquaculture industry has produced fish and solicited private pond customers for delivery in early summer. The aquaculture industry did not anticipate rulemaking to be so

protracted. The ideal time to stock salmonid fish is early summer while water temperatures are cooler and private pond owners anxious to receive fish for summer fishing activities. By late August, the demand for fish will have dissipated greatly leaving aquaculture facilities with product they cannot sell. This will cause a significant economic impact on aquaculture facilities that may imperil fiscal viability. This impact presents an immediate threat to public welfare. The bill eliminated the requirement of a COR for private fish ponds under specified circumstances. The bill remains effective but without application until the rule is in place. This creates confusion for the public with an increased possibility of constructing ponds and stocking fish in violation of criteria defined in the rule. DWR will then be caught between the mandates of H.B. 148 and the pending rule waiting to become effective. Public confusion on private pond regulations will likely result in illicit fish stocking in areas of the state that present an imminent threat to sensitive and endangered species of native aquatic wildlife. Hybridization, competition, and predation with non-native fish are frequently the primary contributing factors leading to native fish population declines. Extirpation and extinction of native fish species is harmful to public welfare, as is native species listing under the Endangered Species Act. (DAR NOTE: H.B. 148 (2008) is found at Chapter 69, Laws of Utah 2008, and was effective 05/05/2008.)

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

THIS RULE IS EFFECTIVE ON: 06/27/2008

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-59. Private Fish Ponds.

R657-59-1. Purpose and Authority.

(1) Under the authority of Sections 23-15-9 and 23-15-10 of the Utah Code, this rule provides the standards and procedures for private fish ponds.

(2) This rule does not regulate fee fishing or private aquaculture as provided in Title 4, Chapter 37 of the Utah Code, and Department of Agriculture Rule R58-17.

(3) Any violation of, or failure to comply with, any provision of Title 23 of the Utah Code, this rule, or any specific requirement contained in a certificate of registration or exemption certificate issued pursuant to this rule may be grounds for suspension of the certificate or denial of future certificates, as determined by the division.

R657-59-2. Definitions.

- (1) Terms used in this rule are defined in Section 23-13-2.
- (2) In addition:
- (a) "Aquaculture" means the husbandry, production, harvest, and use of aquatic organisms under controlled, artificial conditions.
- (b) "Aquaculture facility" means any facility used for propagating, rearing, or producing aquatic wildlife or aquaculture products. Facilities that are separated by more than 1/2 mile, or facilities that drain to, or are modified to drain to, different drainages are considered to be separate aquaculture facilities, regardless of ownership.
- (c)(i) "Aquaculture product" means privately purchased aquatic wildlife, or their eggs or gametes.
- (ii) "Aquaculture product" does not include aquatic wildlife obtained from the wild.
- (d) "Certified sterile salmonid" means any salmonid fish or gamete that originates from a health certified source and is incapable of reproduction due to triploidy or hybridization.
- (i) Triploid salmonids accepted as sterile under this subsection shall originate from a source that is certified as incapable of reproduction using the following protocols:
- (A) fish samples shall be collected, prepared, and submitted to a certified laboratory by an independent veterinarian, certified fish health professional, or other professional approved by the division;
- (B) certified laboratories shall be limited to independent, professional laboratories capable of reliably testing fish sterility and approved by the division; and
- (C) sterility shall be determined by sampling and testing 60 fish from each egg lot with procedures generally accepted in the scientific community as reliable for verifying triploidy with a 95% or greater success rate.
- (ii) An aquaculture facility that receives certified sterile salmonid aquaculture product is not required to conduct additional sterility testing prior to stocking the aquaculture product in a private fish pond, provided the sterile salmonids are kept segregated from other fertile salmonids.
- (iii) Hybrid salmonid fish species accepted as sterile under this subsection are limited to splake trout (lake trout/brook trout cross) and tiger trout (brown trout/brook trout cross) .
- (e) "Exemption certificate" means a document issued by the division pursuant to R657-59-7 that exempts a designated private fish pond from the requirement of obtaining a certificate of registration to stock aquaculture product in the pond.
- (f)(i) "HUC" or "Hydrologic Unit Code" means a cataloging system developed by the US Geological Survey and the Natural Resource Conservation Service to identify watersheds in the United States. HUCs are typically reported at the large river basin (6-digit HUC) or smaller watershed (11-digit and 14-digit HUC) scale.
- (ii) HUC maps and other associated information are available at <http://water.usgs.gov/wsc/sub/1602.html>.
- (g) "Ornamental fish" means fish that are raised or held for their beauty rather than use, or that arouse interest for their uncommon or exotic characteristics, including tropical fish, goldfish, and koi, but not including those species listed as prohibited or controlled in Rule R657-3-34.
- (h) "Private fish pond" means a pond, reservoir, or other body of water, or any fish culture system which is contained on privately owned land and used for holding or rearing fish for a private, noncommercial purpose.

(i) "Purchase" means to buy, or otherwise acquire or obtain through barter, exchange, or trade for pecuniary consideration or advantage.

(j) "Salmonid" means any fish belonging to the trout/salmon family.

R657-59-3. Certificate of Registration Not Required.

- (1) A certificate of registration is not required to receive and stock an aquaculture product in a private fish pond, provided the following conditions are satisfied:
- (a) the pond is not located on a natural lake, natural flowing stream, or reservoir constructed on a natural stream channel;
- (b) the pond is properly screened consistent with the requirements in R657-59-15 to prevent the movement of aquatic wildlife into the pond or the movement of any aquaculture product out of the pond;
- (c) the aquaculture product is delivered to the pond by a licensed aquaculture facility as defined in Section 4-37-103;
- (d) the owner, lessee, or operator of the pond obtains from the aquaculture facility delivering the aquaculture product a valid health approval number issued by the Utah Department of Agriculture and Food pursuant to Section 4-37-501 authorizing the aquaculture facility to culture and transport the species of aquaculture product received at the pond;
- (e) the species, strain, and reproductive capability of the aquaculture product received is authorized for stocking in the area where the pond is located consistent with the requirements in R657-59-16;
- (f) the aquaculture product received is of sufficient size to be incapable of escaping the pond through or around the screen;
- (g) the owner or operator of the private fish pond provides the aquaculture facility a signed written statement that the pond and aquaculture product received are in compliance with this section; and
- (h) the owner, lessee, or operator of a private fish pond or an invitee has not previously been found in violation of any provision of Title 4, Chapter 37 or Title 23 of the Utah Code, or this rule.

R657-59-4. Aquaculture Facility Reporting Requirements.

- (1) A person who owns or operates an aquaculture facility shall file an annual report with the division documenting each sale or transfer of live aquaculture product made pursuant to R657-59-3 and R657-59-7 to a private fish pond owner, lessee, or operator.
- (2) The report shall contain:
- (a) the name, address, and Utah health approval number of the person;
- (b) the name, address, and phone number of the private fish pond's owner, lessee, or operator;
- (c) the number and weight of aquaculture product by:
- (i) species;
- (ii) strain; and
- (iii) reproductive capability;
- (d) date of sale or transfer;
- (e) description of the private fish pond location, including UTM coordinates; and
- (f) written verification for each live sale or transfer that the private fish pond was inspected and is in compliance with the requirements of Sections 23-15-10(2) and (3) (c) and this rule.
- (3) The report required in this Subsection shall be submitted to and received by the division no later than December 31.

R657-59-5. Certificate of Registration Required.

(1) A certificate of registration must be obtained from the division to receive, stock, or possess an aquaculture product in a private fish pond where:

(a) the aquaculture product is classified under R657-59-16 as an unauthorized species, strain, or reproductive capability for the area where the pond is located;

(b) the aquaculture facility does not deliver the aquaculture product directly to the private fish pond; or

(c) the owner, lessee, or operator of a private fish pond or an invitee is found in violation of any provision of Title 4, Chapter 37 or Title 23 of the Utah Code, or this rule.

(2) A separate certificate of registration is required for each private fish pond as defined under "aquaculture facility" in R657-59-2.

R657-59-6. Application for a Certificate of Registration.

(1) A person may apply to receive a certificate of registration for a private fish pond by submitting an application with the required handling and inspection fee to the Wildlife Registration Office, Utah Division of Wildlife Resources, 1594 West North Temple, Salt Lake City, Utah 84114.

(a) Application forms are available at all division offices and at the division's internet address.

(2) A certificate of registration may be issued after a division representative inspects the private fish pond and confirms that the pond and the aquaculture products requested for stocking in the pond meet all requirements in this rule and Title 23 of the Utah Code.

(3) The application may require up to 30 days for processing.

(4) The division may deny a private fish pond application where:

(a) the application is incomplete, filled out incorrectly, or submitted without the appropriate fee;

(b) the pond is located on a natural lake, natural flowing stream, or a reservoir constructed on a natural stream channel;

(c) the pond is not screened consistent with the requirements in R657-59-15;

(d) the source of the aquaculture product is not an authorized aquaculture facility with a health approval number issued pursuant to Section 4-37-501;

(e) the applicant or its agents or invitees have previously violated of any provision of Title 4, Chapter 37 of the Utah Code, Title 23 of the Utah Code, or this rule;

(f) receiving or stocking the aquaculture product in the pond may:

(i) violate any federal, state or local law or any agreement between the state and another party;

(ii) negatively impact native wildlife species listed by the division as sensitive or by the federal government as threatened or endangered;

(iii) pose an identifiable adverse threat to other wildlife species or their habitat; or

(iv) pose an identifiable adverse impact to the division's game fish stocking regimes or wildlife management objectives;

(g) the aquaculture product received is sufficiently small to be capable of escaping the pond through or around the screen; or

(h) non-salmonid aquaculture product will be stocked in a pond within the 100 year flood plain (below 6500 feet in elevation) in the Green River and Colorado River drainages and the pond does not meet FEMA standards on construction and screening.

(5) An application for private fish pond certificate of registration may not be denied without the review and consent of the division director or a designee.

(6) A private fish pond certificate of registration shall remain effective for 5 years from the date of issuance, unless:

(a) amended by the division at the request of private fish pond owner, lessee, or operator;

(b) terminated or modified by the division pursuant to R657-59-17; or

(c) suspended by the division or a court pursuant to Section 23-19-9.

(7) Certificates of registration are renewable on or before the expiration date identified on the certificate of registration and upon payment of the prescribed handling, and inspection fees.

R657-59-7. Exemption Certificate.

(1) Upon application for a private fish pond certificate of registration and a risk assessment of the pond by the division under R657-59-6, the Division may issue an exemption certificate in lieu of a certificate of registration where the following conditions exist:

(a) The pond is eligible to receive a certificate of registration under the requirements of this chapter;

(b) The pond and species, strain and reproductive capability of aquaculture product requested present no risk to native aquatic wildlife species because:

(i) the location and configuration of the pond physically eliminate the possibility of aquaculture product escaping into the surface waters of the state;

(ii) the pond has no inflow or outflow connection with the surface waters of the state;

(iii) the pond is located in an area where escapement of aquaculture product will cause no ecological damage to native aquatic wildlife species; or

(iv) the pond is located in an area where no Tier I or II aquatic wildlife species on the division's sensitive species list or threatened or endangered species listed under the Endangered Species Act will be threatened by the risk of escapement; and

(c) the aquaculture product is delivered directly to the pond by the aquaculture facility.

(2) The exemption certificate shall have the legal effect of a certificate of registration for purposes of stocking the pond with the species, strain and reproductive capability of aquaculture product authorized in the exemption certificate.

(3) Aquaculture facilities supplying aquaculture product to private fish ponds operating under an exemption certificate shall comply with:

(a) the written terms of the exemption certificate; and

(b) the inspection and reporting requirements in R657-59-4.

(4) The exemption certificate will:

(a) designate the species, strain and reproductive capability of aquaculture product that may be stocked in the pond;

(b) identify any restrictions or conditions relative to stocking and maintaining aquaculture product in the pond;

(c) identify the owner, lessee, or operator of the private fish pond; and

(d) describe the private fish pond's location, including UTM coordinates.

(5) The private fish pond exemption certificate shall remain effective, without the requirement of renewal, for the useful life of the pond, provided:

(a) the ownership of the pond does not change;

(b) the pond, screen, and inflow and outflow structures remain in the same state that existed when inspected;

(c) the species, strain, and reproductive capability of aquaculture product stocked and maintained in the pond remains consistent with that authorized in the exemption certificate; and

(d) the exemption certificate is not modified, terminated, or suspended by the division pursuant to Section 23-19-9, R657-59-1(3), or R657-59-17 or a court of competent jurisdiction.

(6) Any private fish pond operating under authority of an exemption certificate which is modified, terminated, or suspended pursuant to Section 23-19-9, R657-59-1(3), or R657-59-17 shall be subject to the aquaculture product depopulation requirements in R657-59-8.

R657-59-8. Failure to Renew Certificates of Registration.

(1) If an owner, lessee, or operator of a private fish pond fails to renew the certificate of registration upon expiration, or the division suspends or terminates the certificate of registration, all live aquaculture products permitted under the certificate of registration shall be disposed of as follows:

(a) Unless the Wildlife Board orders otherwise, all aquaculture products must be removed within 30 days of suspension or the expiration date of the certificate of registration, or within 30 days after ice-free conditions on the water; or

(b) At the discretion of the division, aquaculture products may remain in the waters at the facility, but shall only be taken as prescribed within Rule R657-13 for Taking Fish and Crayfish.

(2) Aquaculture products in a private fish pond may not be moved alive unless the pond has received disease testing and is issued a health approval number from the Department of Agriculture and Food pursuant to Section 4-37-501.

(3) Aquaculture products from a private fish pond infected with any pathogen specified in the Department of Agriculture Rule R58-17 must be disposed of as directed by the division to prevent further spread of such pathogen.

R657-59-9. Reporting Requirements for Private Fish Ponds Authorized by Certificate of Registration.

(1) Any person that possesses a certificate of registration for a private fish pond must submit to the division an annual report of all live aquaculture products purchased or acquired during the year. This report must contain the following information:

(a) the name, address, and phone number of the private fish pond's owner, lessee, or operator;

(b) name, address, and certificate of registration number of the seller or supplier;

(c) the number and weight of aquaculture product by:

(i) species;

(ii) strain; and

(iii) reproductive capability;

(d) date of sale or transfer.

(2) A form for this information is provided by the division.

(3) The annual report must be received by the division no later than January 30.

R657-59-10. Importation.

(1)(a) The species, strains, and reproductive capabilities of live aquaculture products that may be imported and stocked in a private fish pond without a certificate of registration are provided in R657-59-16;

(b) A certificate of registration or exemption certificate is required to import and stock all species, strains and reproductive capabilities of live aquaculture products not specifically exempted from licensure in R657-59-16.

(2) Applications to import aquaculture products are available from all division offices and must be submitted to the division's Wildlife Registration Office in Salt Lake City. Applications may require up to 30 days for action.

R657-59-11. Acquiring and Transferring Aquaculture Products.

(1) Live aquaculture products, other than ornamental fish, may be:

(a) purchased or acquired only from sources that have a valid certificate of registration from the Utah Department of Agriculture and Food to sell such products or from a person located outside Utah if that person is approved by the Utah Department of Agriculture and Food to import the particular aquaculture product; and

(b) acquired, purchased or transferred only from sources which have been health approved by the Utah Department of Agriculture and Food and assigned a fish health approval number as provided in Section 4-37-501. This also applies to separate facilities owned by the same entity since each facility is treated separately, regardless of ownership.

(2)(a) Any person who has been issued a valid certificate of registration may transport live aquaculture products as specified on the certificate of registration to the private fish pond.

(b) All transfers or shipments of live aquaculture products must be accompanied by documentation of the source and destination of the product, including:

(i) name, address, certificate of registration number, and fish health approval number of the source;

(ii) number and weight being shipped, by species; and

(iii) name, address, and certificate of registration number, if applicable, of the destination.

R657-59-12. Inspection of Records and Facilities.

(1) The following records and information must be maintained for a period of two years and must be available for inspection by a division representative during reasonable hours:

(a) records of purchase and acquisition of aquaculture products, including records maintained in connection with the reporting requirements in R657-59-9;

(b) certificates of registration; and

(c) valid identification of stocks.

(2) The division and its authorized representatives may inspect a private fish pond at any time to verify compliance with the requirements of Title 23 of the Utah Code and this rule, and to conduct pathological testing.

R657-59-13. Prohibited Activities.

(1) A private fish pond may not be developed on a natural lake; natural flowing stream; or reservoir constructed on a natural stream channel.

(2) Live aquatic wildlife may not be collected from the wild and placed in a private fish pond.

(3) Any aquaculture product received or held in a private fish pond may not be released from the pond or transported live to another location.

(4) A private fish pond owner, lessee, or operator may not sell, donate, or transfer from the pond live aquaculture product, including gametes and eggs.

R657-59-14. Fishing License and Transportation of Dead Aquaculture Product.

(1) A fishing license is not required to take fish from a legally recognized private fish pond.

(2) A fishing license is not required to transport dead aquaculture product from a private fish pond, provided the person possesses a receipt with the following information:

- (a) species and number of fish;
- (b) date caught;
- (c) certificate of registration number or exemption certificate number of the private fish pond, where applicable; and
- (d) name, address, and telephone number of the owner, lessee, or operator of the private fish pond.

(3) Any person that has a valid fishing license may transport up to a legal limit of dead aquaculture product from a private fish pond without further documentation.

R657-59-15. Screen Requirements.

(1) All inlets and outlets of a private fish pond must be screened as follows to prevent the movement of aquatic wildlife into the pond or the escapement of any aquaculture product from the pond:

(a) the screen shall be constructed of durable materials that are capable of maintaining integrity in a water and air environment for an extended period of time;

(b) the screen shall have no openings, seams or mesh width greater than the width of the fish being stocked;

(c) screen construction and placement shall eliminate any movement of aquaculture product into or out of the pond;

(d) screen dimensions shall be based on precluding escapement of the size of the fish being stocked;

(e) all water entering or leaving the pond, including run off and other high water events, shall flow through a screen consistent with the requirements of this subsection; and

(f) the screen shall be maintained and in place at all times while any aquaculture product remains in the pond.

(2) Ponds with no inlet or outlet to the surface waters of the state are not required to have a screen or device to restrict movement of aquaculture product.

R657-59-16. Species, Strains, and Reproductive Capabilities of Aquaculture Product Authorized by Area for Stocking in Private Fish Ponds Without a Certificate of Registration or Exemption Certificate.

(1) A certificate of registration or exemption certificate must be obtained from the division pursuant to R657-59-6 and R657-59-7 prior to stocking in any private fish pond:

- (a) non-salmonid aquaculture product; or
- (b) any other species or reproductive capability of aquaculture product not specifically authorized in this Section.

(2)(a) The following subsections designate areas closed to stocking aquaculture product in private fish ponds using a general area identifier such as canyon, creek, spring, or location and then followed by a specific area identifier in the form of hydrologic unit code (HUC) or township and range.

(b) The general area identifier is included for purposes of reference only and may include all or part of the associated drainage.

(c) The HUC or township and range designations constitute the legal descriptions of the actual closed areas.

(3) Certified sterile salmonid aquaculture product may be stocked without a certificate of registration or exemption certificate

in any private fish pond within the state consistent with R657-59-3, except for ponds located within the following areas:

(a) Washington County - stocking is prohibited in the following areas:

- (i) Ash Creek - HUC 150100080405;
- (ii) Beaver Dam Wash - HUC 1501001010;
- (iii) Laverkin Creek - HUC 150100080302;
- (iv) Leeds Creek - HUC 150100080906;
- (v) Baker Dam Reservoir/Santa Clara River - HUC 150100080704;
- (vi) Tobin Wash - HUC 150100080802;
- (vii) Sand Cove Wash - HUC 150100080801;
- (viii) Manganese Wash/Santa Clara River - HUC 150100080804;

(ix) Wittwer Canyon/Santa Clara River - HUC 150100080808;

(x) Cove Wash/Santa Clara River - HUC 150100080809;

(xi) Moody Wash - HUC 150100080603;

(xii) Upper Moody Wash - HUC 150100080602;

(xiii) Magotsu Creek - HUC 150100080704;

(xiv) South Ash Creek - HUC 150100080405) ;

(xv) Water Canyon - HUC 150100080701) ;

(xvi) Chinatown Wash/Virgin River - HUC 150100080508;

(xvii) Lower Gould Wash - HUC 150100080508;

(xviii) Grapevine Wash/Virgin River - HUC 150100080903;

(xix) Cottonwood Wash/Virgin River - HUC 150100080909;

(xx) Middleton Wash/Virgin River - HUC 150100080910;

(xxi) Lower Fort Pierce Wash - HUC 150100080605;

(xxii) Atkinville Wash - HUC 150100080303;

(xxiii) Lizard Wash - HUC 150100080302;

(xxiv) Val Wash/Virgin River - HUC 150100080307;

(xxv) Bulldog Canyon - HUC 150100080310; and

(xxvi) Fort Pierce Wash - HUC 15010009.

(4) Fertile rainbow trout may be stocked without a certificate of registration or exemption certificate in any private fish pond within the state consistent with R657-59-3, except for ponds located within the following areas and elevations:

Beaver County - stocking is prohibited in the following:

(i) North Creek - HUCs 160300070203, 160300070208; and

(ii) Pine Creek (near Sulphurdale) - HUC 160300070501.

(b) Box Elder County - stocking is prohibited in the following:

(i) Morison Creek - HUC 16020308;

(ii) Bettridge Creek - HUC 16020308;

(iii) Death Creek - HUC 16020308;

(iv) Camp Creek - HUC 16020308;

(v) Goose Creek - HUC 17040211;

(vi) Raft River - HUC 17040210;

(vii) Fat Whorled Pond Snail Springs - Township 10 North, Ranges 4 and 5 West; and

(viii) Mantua Reservoir - HUC 16010204.

(c) Cache County - stocking is prohibited in the following:

(i) Logan River - HUC 16010203;

(ii) Blacksmith Fork - HUC 16010203;

(iii) East Fork Little Bear River - HUC 16010203; and

(iv) Little Bear River - HUC 16010203.

(d) Carbon County - stocking is prohibited in any private fish pond above 7000 feet in elevation.

(e) Daggett County - stocking is prohibited in any private fish pond above 7000 feet in elevation.

(f) Davis County - no areas closed to stocking fertile rainbow trout.

(g) Duchesne County - stocking is prohibited in any private fish pond above 7000 feet in elevation.

(h) Emery County - stocking is prohibited in any private fish pond above 7000 feet in elevation.

(i) Garfield County - stocking is prohibited in the following areas:

(i) Birch Creek/Main Canyon - HUC 140700050102;

(ii) Cottonwood Creek - HUC 160300020406;

(iii) East Fork of Boulder Creek/ West Fork Boulder Creek - HUC 140700050206; and

(iv) Ranch Creek (East Fork Sevier River drainage) - HUC 160300020405.

(j) Grand County - stocking is prohibited in any private fish pond above 7000 feet in elevation.

(k) Iron County - no areas closed to stocking fertile rainbow trout.

(l) Juab County - stocking is prohibited in the following areas:

(i) Sulphur Wash - HUC 160203011303;

(ii) Middle Pleasant Valley Draw - HUC 160203011402;

(iii) Lower Pleasant Valley Draw - HUC 160203011403;

(iv) Cookscomb Ridge - HUC 160203011501;

(v) Outlet Salt Marsh Lake - HUC 160203011502;

(vi) Deep Creek Range - HUC 160203011503;

(vii) Snake Valley - HUC 160203011504;

(viii) Little Red Cedar Wash - HUC 160203011505;

(ix) Trout Creek - HUC 160203060101;

(x) Smelter Knolls - HUC 160203060104;

(xi) Toms Creek - HUC 160203060201;

(xii) Goshute Canyon - HUC 160203060202;

(xiii) Indian Farm Creek - HUC 160203060204;

(xiv) Spring Creek - HUC 160203060803;

(xv) Fifteenmile Creek - HUC 160203060804;

(xvi) East Creek/East Deep Creek - HUC 160203060805;

(xvii) East Creek/East Deep Creek - HUC 160203060806;

(xviii) West Deep Creek - HUC 160203060808;

(xix) Horse Valley - HUC 160203060304;

(xx) Starvation Canyon - HUC 160203060305;

(xxi) Cane Springs - HUC 160203060307;

(xxii) Fish Springs Range - HUC 160203060308;

(xxiii) Middle Fish Springs Wash - HUC 160203060309;

(xxiv) Lower Fish Springs Wash - HUC 160203060403;

(xxv) Fish Springs - HUC 160203060405;

(xxvi) Wilson Health Springs - HUC 160203060407;

(xxvii) Vernon Creek - HUC 160203040102;

(xxviii) Outlet Chicken Creek - HUC 160300050206;

(xxix) Little Valley/Sevier River - HUC 160300050403;

(xxx) Pole Creek/Salt Creek - HUC 160202010104; and

(xxxi) West Creek/Current Creek - HUC 160202010107.

(m) Kane County - no areas closed to stocking fertile rainbow trout.

(n) Millard County - stocking is prohibited in the following areas:

(i) Outlet Salt Marsh Lake - HUC 160203011502;

(ii) Sulphur Wash - HUC 160203011303;

(iii) Cookscomb Ridge - HUC 160203011501;

(iv) Tungstonia Wash - HUC 160203011302;

(v) Salt Marsh Lake - HUC 160203011304;

(vi) Indian George Wash - HUC 160203011301

(vii) Outlet Bishop Springs - HUC 160203011203;

(viii) Warm Creek - HUC 160203011204;

(ix) Headwaters Bishop Springs - HUC 160203011202;

(x) Indian Pass - HUC 160203011107;

(xi) Chevron Ridge - HUC 160203011110;

(xii) Petes Knoll - HUC 160203011109;

(xiii) Red Gulch - HUC 160203011102;

(xiv) Horse Canyon - HUC 160203011106;

(xv) Hampton Creek - HUC 160203011105;

(xvi) Knoll Springs - HUC 160203011103;

(xvii) Browns Wash - HUC 160203011101;

(xviii) Outlet Baker Creek - HUC 160203011004;

(xix) Outlet Old Mans Canyon - HUC 160203011003;

(xx) Hendrys Creek - HUC 160203011104;

(xxi) Headwaters Old Mans Canyon - HUC 160203011002;

(xxii) Rock Canyon - HUC 160203011001

(xxiii) Silver Creek - Baker Creek - HUC 160203010806;

(xxiv) Outlet Weaver Creek - HUC 160203010804;

(xxv) Conger Spring - HUC 160203010702; and

(xxvi) Sheepmens Little Valley - HUC 160203010607.

(o) Morgan County - stocking is prohibited in the following areas:

(i) Weber River - HUC 16020102;

(ii) East Canyon Creek - HUC 16020102; and

(iii) Lost Creek - HUC 16020101.

(p) Piute County - stocking is prohibited in the following areas:

(i) Manning Creek - HUC 160300030203.

(q) Rich County - stocking is prohibited in the following areas:

(i) Bear Lake including all its tributaries - HUC 16010201;

(ii) Big Creek - HUC 16010101;

(iii) Woodruff Creek - HUC 16010101; and

(iv) Home Canyon and Meachum Canyon (Deseret Ranch) - HUC 16010101.

(r) Salt Lake County - stocking is prohibited in the following areas:

(i) Big Cottonwood Canyon Creek - HUC 160202040201;

(ii) Little Cottonwood Canyon Creek - HUC 160202040202;

(iii) Mill Creek - HUC 160202040301;

(iv) Parleys Creek - HUC 160202040302;

(v) Emigration Creek - HUC 160202040303;

(vi) City Creek - HUC 160202040304; and

(vii) Red Butte Creek/Emigration Creek - HUC 160202040306.

(s) San Juan County - stocking is prohibited in any private fish pond above 7000 feet in elevation.

(t) Sanpete County:

(i) stocking is prohibited in the following areas west of the Manti Mountain Range divide:

(A) Dry Creek/San Pitch River - HUC 160300040201;

(B) Oak Creek/San Pitch River - HUC 160300040202;

(C) Cottonwood Canyon/San Pitch River - HUC 160300040203;

(D) Birch Creek/San Pitch River - HUC 160300040204;

(E) Pleasant Creek - HUC 160300040205;

(F) Dublin Wash/San Pitch River - HUC 160300040206;

(G) Cedar Creek - HUC 160300040207;

(H) Spring Hollow/San Pitch River - HUC 160300040208;

(I) Upper Oak Creek - HUC 160300040302;

(J) Petes Canyon/San Pitch River - HUC 160300040306;

(K) Uinta Gulch - HUC 160202020201;

(L) Upper Thistle Creek - HUC 160202020202;

(M) Nebo Creek - HUC 160202020203;

(N) Middle Thistle Creek - HUC 160202020204;

(O) Dry Canyon/San Pitch River - HUC 160300040308;

- (P) Maple Canyon/San Pitch River - HUC 160300040309;
(Q) Gunnison Reservoir/San Pitch River - HUC 160300040503;
(R) Outlet San Pitch River - HUC 160300040505;
(S) Beaver Creek - HUC 140700020201;
(T) Box Canyon/Muddy Creek - HUC 140700020203;
(U) Skumpah Creek-Salina Creek - HUC 160300030402; and
(V) Headwaters Twelvemile Creek - HUC 160300040402.
(ii) stocking is prohibited in any private fish pond above 7000 feet in elevation east of the Manti Mountain Range divided.
(u) Sevier County - stocking is prohibited in the following areas:
(i) Pole Creek (tributary to Clear Creek) - HUC 160300030103;
(ii) Salina Creek - HUC 160300030402; and
(iii) U M Creek - HUC 140700030101.
(v) Summit County - stocking is prohibited in the following areas:
(i) Bear River and all tributaries - HUC 16010101;
(ii) Mill Creek and all tributaries - HUC 16010101;
(iii) Muddy Creek and Van Tassel Creek - HUC 14040108;
(iv) Little West Fork/Blacks Fork - HUC 14040107;
(v) Black Fork - HUC 14040107;
(vi) Archie Creek - HUC 14040107;
(vii) West Fork Smiths Fork - HUC 14040107;
(viii) Gilbert Creek - HUC 14040107;
(ix) East Fork Smiths Fork - HUC 14040107;
(x) Dahalgreen Creek - HUC 14040106;
(xi) Henrys Fork - HUC 14040106;
(xii) Spring Creek and Poison Creek - HUC 14040106;
(xiii) West Fork Beaver Creek - HUC 14040106;
(xiv) Middle Fork Beaver Creek - HUC 14040106;
(xv) Echo Creek - HUC 16020101;
(xvi) Chalk Creek - HUC 16020101;
(xvii) Silver Creek - HUC 16020101;
(xviii) Weber River - HUC 16020101;
(xix) Beaver Creek - HUC 16020101;
(xx) Provo River - HUC 16020101;
(xxi) Kimball Creek - HUC 160201020101;
(xxii) Big Dutch Hollow/East Canyon Creek - HUC 160201020103;
(xxiii) Silver Creek - HUC 160201010403; and
(xxiv) Toll Canyon/East Canyon Creek - HUC 160201020102.
(w) Tooele County - stocking is prohibited in the following areas:
(i) Toms Creek - HUC 160203060201;
(ii) Goshute Canyon - HUC 160203060202;
(iii) Eightmile Wash - HUC 160203060203;
(iv) Indian Farm Creek - HUC 160203060204;
(v) Willow Spring Wash HUC 160203060205;
(vi) Willow Canyon - HUC 160203080104;
(vii) Bettridge Creek - HUC 160203080106;
(viii) East Creek/East Deep Creek - HUC 160203060806;
(ix) East Deep Creek - HUC 160203060807;
(x) West Deep Creek - HUC 160203060808;
(xi) Gullmette Gulch/Deep Creek - HUC 160203060902;
(xii) Pony Express Canyon/Deep Creek - HUC 160203060904;
(xiii) Badlands - HUC 160203060905;
(xiv) White Sage Flat/Deep Creek - HUC 160203060907;
(xv) Lower Fish Springs Wash - HUC 160203060403;
(xvi) Fish Springs - HUC 160203060405;
(xvii) Wilson Health Springs - HUC 160203060407;
(xviii) East Government Creek - HUC 160203040101;
(xix) Vernon Creek - HUC 160203040102; and
(xx) Faust Creek - HUC 160203040105.
(x) Uintah County - stocking is prohibited in any private fish pond above 7000 feet in elevation.
(y) Utah County - stocking is prohibited in the following areas:
(i) Starvation Creek - HUC 160202020101;
(ii) Upper Soldier Creek - HUC 160202020102;
(iii) Tie Fork - HUC 160202020103;
(iv) Middle Soldier Creek - HUC 160202020105;
(v) Lake Fork - HUC 160202020106;
(vi) Lower Soldier Creek - HUC 160202020107;
(vii) Upper Thistle Creek - HUC 160202020202;
(viii) Nebo Creek - HUC 160202020203;
(ix) Middle Thistle Creek - HUC 160202020204;
(x) Lower Thistle Creek - HUC 160202020205;
(xi) Sixth Water Creek - HUC 160202020301;
(xii) Cottonwood Canyon - HUC 160202020302;
(xiii) Fifth Water Creek - HUC 160202020303;
(xiv) Upper Diamond Fork - HUC 160202020304;
(xv) Wanrhodes Canyon - HUC 160202020305;
(xvi) Middle Diamond Fork - HUC 160202020306;
(xvii) Lower Diamond Fork - HUC 160202020307;
(xviii) Headwaters Left Fork Hobble Creek - HUC 160202020401;
(xix) Headwaters Right Fork Hobble Creek - HUC 160202020402;
(xx) Outlet Left Fork Hobble Creek - HUC 160202020403;
(xxi) Outlet Right Fork Hobble Creek - HUC 160202020404;
(xxii) Upper Spanish Fork Creek - HUC 160202020501;
(xxiii) Middle Spanish Fork Creek - HUC 160202020502;
(xxiv) Peteetneet Creek - HUC 160202020601;
(xxv) Spring Creek - HUC 160202020602;
(xxvi) Beer Creek - HUC 160202020603;
(xxvii) Big Spring Hollow/South Fork Provo River - HUC 160202030502;
(xxviii) Pole Creek/Salt Creek - HUC 160202010104;
(xxix) Middle American Fork Canyon - HUC 160202010802;
(xxx) Mill Fork - HUC 160202020104; and
(xxxi) Upper American Fork Canyon - HUC 160202010801.
(z) Wasatch County - stocking is prohibited in the following areas:
(i) Willow Creek/Strawberry River - HUC 140600040101;
(ii) Clyde Creek/Strawberry River - HUC 140600040102;
(iii) Indian Creek - HUC 140600040104;
(iv) Trout Creek/Strawberry River - HUC 140600040105;
(v) Soldier Creek/Strawberry River - HUC 140600040106;
(vi) Willow Creek - HUC 140600040301;
(vii) Current Creek Reservoir - HUC 140600040401;
(viii) Little Red Creek - HUC 140600040402;
(ix) Outlet Current Creek - HUC 140600040403;
(x) Water Hollow/Current Creek - HUC 140600040404;
(xi) Headwaters West Fork Duchesne River - HUC 140600030101;
(xii) Little South Fork Provo River - HUC 160202030201;
(xiii) Bench Creek/Provo River - HUC 160202030202;
(xiv) Lady Long Hollow/Provo River - HUC 160202030203;
(xv) Charcoal Canyon/Provo River - HUC 160202030204;
(xvi) Drain Tunnel Creek - HUC 160202030301;
(xvii) Lake Creek - HUC 160202030302;

(xviii) Center Creek - HUC 160202030303;
(xix) Cottonwood Canyon/Provo River - HUC 160202030304;
(xx) Snake Creek - HUC 160202030305;
(xxi) Spring Creek/Provo River - HUC 160202030306;
(xxii) Daniels Creek - HUC 160202030401;
(xxiii) Upper Main Creek - HUC 160202030403;
(xxiv) Lower Main Creek - HUC 160202030404;
(xxv) Deer Creek Reservoir-Provo River - HUC 160202030405;
(xxvi) Provo Deer Creek - HUC 160202030501;
(xxvii) Little Hobble Creek - HUC 160202030402;
(xxviii) Mill Hollow/South Fork Provo River - HUC 160202030104; and
(xxix) Mud Creek - HUC 140600040103.
(aa) Washington County - stocking is prohibited in the following areas:
(i) Ash Creek - HUC 150100080405;
(ii) Beaver Dam Wash - HUC 15010010;
(iii) Laverkin Creek - HUC 150100080302;
(iv) Leeds Creek - HUC 150100080906;
(v) Baker Dam Reservoir/Santa Clara River - HUC 150100080704;
(vi) Tobin Wash - HUC 150100080802;
(vii) Sand Cove Wash - HUC 150100080801;
(viii) Manganese Wash/Santa Clara River - HUC 150100080804;
(ix) Wittwer Canyon/Santa Clara River - HUC 150100080808;
(x) Cove Wash/Santa Clara River - HUC 150100080809;
(xi) Moody Wash - HUC 150100080603;
(xii) Upper Moody Wash - HUC 150100080602;
(xiii) Magotsu Creek - HUC 150100080704;
(xiv) South Ash Creek - HUC 150100080405);
(xv) Water Canyon - HUC 150100080701);
(xvi) Chinatown Wash/Virgin River - HUC 150100080508;
(xvii) Lower Gould Wash - HUC 150100080508;
(xviii) Grapevine Wash/Virgin River - HUC 150100080903;
(xix) Cottonwood Wash/Virgin River - HUC 150100080909;
(xx) Middleton Wash/Virgin River - HUC 150100080910;
(xxi) Lower Fort Pierce Wash - HUC 150100080605;
(xxii) Atkinville Wash - HUC 150100080303;
(xxiii) Lizard Wash - HUC 150100080302;
(xxiv) Val Wash/Virgin River - HUC 150100080307;
(xxv) Bulldog Canyon - HUC 150100080310; and
(xxvi) Fort Pierce Wash - HUC 15010009.
(bb) Wayne County - no areas closed to stocking fertile rainbow trout.
(cc) Weber County - stocking is prohibited in the following areas:
(i) North Fork Ogden River - HUC 16020102;
(ii) Middle Fork Ogden River and Gertsen Creek - HUC 16020102; and
(iii) South Fork Ogden River and Gertsen Creek - HUC 16020102.

R657-59-17. Division Authority to Restrict Private Fish Ponds.

(1)(a) Stocking and maintaining aquaculture products in private fish ponds pursuant to this rule is a conditional privilege that is subject to unilateral modification or termination by the division or other competent legal authority.

(b) Those who establish and maintain private fish ponds under this rule do so with the understanding that the laws and regulations

governing private fish ponds are subject to change and that such changes may require:

(i) discontinuation of stocking particular species, strains, or reproductive capabilities of aquaculture product in the pond;

(ii) partial or complete depopulation of the aquaculture product in the pond;

(iii) modifications in screen requirements and other structural elements associated with the pond; or

(iv) new restrictions and requirements in connection with operating the pond and maintaining the aquaculture product within it.

(2) The division may unilaterally restrict a private fish pond operating with or without a certificate of registration or exemption certificate from receiving or possessing particular species, strains and reproductive capabilities of aquaculture product previously authorized when stocking or continued possession of the product in the pond:

(a) violates any federal, state or local law or any agreement between the state and another party;

(b) negatively impacts native wildlife species listed by the division as sensitive or by the federal government as threatened or endangered;

(c) poses an identifiable adverse threat to other wildlife species or their habitat; or

(d) poses an identifiable adverse impact to the division's game fish stocking regimes or wildlife management objectives.

(3) Any costs or losses incurred as the result of future modifications to this rule or the operational status of a private fish pond made pursuant to this section, including terminations and depopulations, shall be borne exclusively by the owner, lessee or operator of the private fish pond.

KEY: wildlife, aquaculture, fish

Date of Enactment or Last Substantive Amendment: June 27, 2008

Authorizing, and Implemented or Interpreted Law: 23-15-9; 23-15-10



Natural Resources, Wildlife Resources R657-60 Aquatic Invasive Species Interdiction

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 31624

FILED: 06/26/2008, 10:12

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This purpose of this rule is to define procedures and regulations to prevent and control the spread of aquatic invasive species within the State of Utah.

SUMMARY OF THE RULE OR CHANGE: This rule sets the guidelines and regulations designed to prevent and control the spread of Dreissena mussels in Utah. (DAR NOTE: A corresponding proposed new Rule R657-60 is under DAR No. 31623 in this issue, July 15, 2008, of the Bulletin.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-27-401, 23-14-18, and 23-14-19

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: DWR determines that these amendments do create a cost impact to the state budget or DWR's budget. The 2008 Utah Legislative Session appropriated \$2,500,000 to aid in the implementation costs associated with this rule.

❖ LOCAL GOVERNMENTS: This rule does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: This rule may create a cost impact to boat owners and other water enthusiasts in Utah in that if Dreissena Mussels are found in Utah the cost to decontaminate boats and other conveyances will be at the expense of the owner.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR determines that this rule may create a cost impact to individuals who own water vessels and boat in infested waters because they would be required to decontaminate the conveyance.

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

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD cause an imminent peril to the public health, safety, or welfare.

Dreissena mussels, specifically Quagga and Zebra mussels, are invasive aquatic wildlife species from the European continent. The two species became established in the Eastern United States a decade ago by transatlantic ocean liners taking on ballast water in European ports and then discharging the water in North American ports. Since then the species have spread throughout the Mississippi River basin causing millions of dollars in damage each year to hydroelectric facilities, heavy industry, irrigation companies, and wild fisheries. The mussels attach to solid objects in the water and colonize by building layer upon layer of shells. Their prolific reproduction and colonization characteristics plug water lines in reservoirs, hydroelectric plants, industrial facilities, boat engines, irrigation systems, etc. The mussels spread from one water to another primarily by attaching to boats. Last year, lower Colorado River reservoirs, such as Lake Mead and Lake Havasu, were found infested with Quagga mussels. Many recreationists that boat in these waters also boat in Utah waters which presents an imminent threat to Utah's industrial and agricultural infrastructure that uses and transports water through pipeline. S.B. 238 was passed into law during the 2008 General Legislative Session which makes it unlawful to transport a boat from an infested water without first decontaminating it and gives the state specialized interdiction tools to prevent the spread of the mussels into Utah waters. S.B. 238 charges the Division of Wildlife Resources (DWR) to promulgate administrative rules designating the waters that are considered infested for

purposes of boat decontamination and to establish decontamination requirements and procedures. Without these regulatory components in rule, S.B. 238 is largely unenforceable. Given the recreational boat traffic between Lower Colorado River waters and Utah waters, the threat of Quagga mussels spreading to Utah is imminent without the rule's interdiction elements that give S.B. 238 traction to move forward and fulfill its purpose. Emergency rulemaking is necessary to effectively protect Utah waters from Quagga mussel infestation and the imminent peril infestation presents to public health, safety, and welfare. (DAR NOTE: S.B. 238 (2008) is found at Chapter 284, Laws of Utah 2008, and was effective 05/05/2008.)

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

THIS RULE IS EFFECTIVE ON: 06/27/2008

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-60. Aquatic Invasive Species Interdiction.

R657-60-1. Purpose and Authority.

(1) The purpose of this rule is to define procedures and regulations designed to prevent and control the spread of aquatic invasive species within the State of Utah.

(2) This rule is promulgated pursuant to authority granted to the Wildlife Board in Sections 23-27-401, 23-14-18, and 23-14-19.

R657-60-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2 and 23-27-101.

(2) In addition:

(a) "Conveyance" means a terrestrial or aquatic vehicle, including a vessel, or a vehicle part that may carry or contain a Dreissena mussel.

(b) "Decontaminate" means to:

(i) Self-decontaminate equipment or a conveyance that has been in an infested water in the previous 30 days by:

(A) removing all plants, fish, mussels and mud from the equipment or conveyance;

(B) draining all water from the equipment or conveyance, including water held in ballast tanks, bilges, livewells, and motors; and

(C) drying the equipment or conveyance for no less than 7 days in June, July and August; 18 days in September, October, November, March, April and May; 30 days in December, January

and February; or expose the equipment or conveyance to sub-freezing temperatures for 72 consecutive hours; or

(ii) Professionally decontaminate equipment or a conveyance that has been in an infested water in the previous 30 days by:

(A) Using a professional decontamination service approved by the division to apply scalding water (140 degrees Fahrenheit) to completely wash the equipment or conveyance and flush any areas where water is held, including ballast tanks, bilges, livewells, and motors.

(c) "Dreissena mussel" means a mussel of the genus Dreissena at any life stage, including a zebra mussel, a quagga mussel and a Conrad's false mussel.

(d) "Controlling entity" means the owner, operator, or manager of a water body, facility, or a water supply system.

(e) "Equipment" means an article, tool, implement, or device capable of carrying or containing water or Dreissena mussel.

(f) "Facility" means a structure that is located within or adjacent to a water body

(g) "Infested water" includes all the following:

(i) lower Colorado River between Lake Mead and the Gulf of California;

(ii) Lake Mead in Nevada and Arizona;

(iii) Lake Mohave in Nevada and Arizona;

(iv) Lake Havasu in California and Arizona;

(v) Lake Pueblo in Colorado;

(vi) Lake Pleasant in Arizona;

(vii) San Justo Reservoir in California;

(viii) Southern California inland waters in Orange, Riverside, San Diego, Imperial, and San Bernardino counties;

(ix) coastal and inland waters east of the 100th Meridian in North America; and

(x) other waters established by the Wildlife Board and published on the DWR website.

(h) "Vessel" means every type of watercraft used or capable of being used as a means of transportation on water.

(i) "Water body" means natural or impounded surface water, including a stream, river, spring, lake, reservoir, pond, wetland, tank, and fountain.

(j) "Water supply system" means a system that treats, conveys, or distributes water for irrigation, industrial, wastewater treatment, or culinary use, including a pump, canal, ditch or pipeline.

(i) "Water supply system" does not include a water body.

R657-60-3. Possession of Dreissena Mussels.

(1) Except as provided in Subsections R657-60-3(2) and R657-60-5(2), a person may not possess, import, ship, or transport any Dreissena mussel.

(2) Dreissena mussels may be imported into and possessed within the state of Utah with prior written approval of the Director of the Division of Wildlife Resources or a designee.

R657-60-4. Reporting of Invasive Species Required.

(1) A person who discovers a Dreissena mussel within this state or has reason to believe a Dreissena mussel may exist at a specific location shall immediately report the discovery to the division.

(2) The report shall include the following information:

(a) location of the Dreissena mussels;

(b) date of discovery;

(c) identification of any conveyance or equipment in which mussels may be held or attached; and

(d) identification of the reporting party with their contact information.

(3) The report shall be made in person or in writing:

(a) at any division regional or headquarters office or;

(b) to the division's toll free hotline at 1-800-662-3337; or

(c) on the division's website at www.wildlife.utah.gov/law/hsp/pf.php.

R657-60-5. Transportation of Equipment and Conveyances That Have Been in Infested Waters.

(1) The owner, operator, or possessor of any equipment or conveyance that has been in an infested water shall:

(a) immediately drain all water from the equipment or conveyance at the take out site, including water held in ballast tanks, bilges, livewells, motors, and other areas of containment; and

(b) immediately inspect the interior and exterior of the equipment or conveyance at the take out site for the presence of Dreissena mussels.

(2) If all water in the equipment or conveyance is drained and the inspection undertaken pursuant to Subsection (1)(b) reveals the equipment and conveyance are free from mussels or shelled organisms, fish, plants and mud, the equipment and conveyance may be transported in or through the state directly from the take out site to the location where it will be:

(a) professionally decontaminated; or

(b) stored and self-decontaminated.

(3) If all the water in the equipment or conveyance is not drained or the inspection undertaken pursuant to Subsection (1)(b) reveals the equipment or conveyance has attached mussels or shelled organisms, fish, plants, or mud, the equipment and conveyance shall not be moved from the take out site until the division is contacted and written or electronic authorization received to move the equipment or conveyance to a designated location for professional decontamination.

(4) A person shall not place any equipment or conveyance that has been in an infested water in the previous 30 days into any other water body or water supply system in the state without first decontaminating the equipment or conveyance.

R657-60-6. Certification of Decontamination.

(1) The owner, operator or possessor of a vessel desiring to launch on a water body in Utah must:

(a) verify the vessel and any launching device have not been in an infested water in the previous 30 days; or

(b) certify the vessel and launching device have been decontaminated.

(2) Certification of decontamination is satisfied by:

(a) previously completing self-decontamination since the vessel and launching device were last in an infested water and completely filling out and dating a decontamination certification form which can be obtained from the division; or

(b) providing a signed and dated certificate by a division approved professional decontamination service verifying the vessel and launching device were professionally decontaminated since the vessel and launching device were last in an infested water.

(3) Both the decontamination certification form and the professional decontamination certificate, where applicable, must be signed and placed in open view in the window of the launching vehicle prior to launching or placing the vessel in a body of water.

(4) It is unlawful under Section 76-8-504 to knowingly falsify a decontamination certification form.

R657-60-7. Wildlife Board Designations of Infested Waters.

(1) The Wildlife Board may designate a geographic area, water body, facility, or water supply system as infested with Dreissena mussels pursuant to Section 23-27-102 and 23-27-401 without taking the proposal to or receiving recommendations from the regional advisory councils.

R657-60-8. Closure Order for a Water Body, Facility, or Water Supply System.

(1)(a) If the division detects or suspects a Dreissena mussel is present in a water body, facility, or water supply system, the division director or designee may, with the concurrence of the executive director, issue an order closing the water body, facility, or water supply system to the introduction or removal of conveyances or equipment.

(b) The director shall consult with the controlling entity of the water body, facility, or water supply system when determining the scope, duration, level and type of closure that will be imposed in order to avoid or minimize disruption of economic and recreational activities.

(2)(a) A closure order issued pursuant to Subsection (1) shall be in writing and identify the:

(i) water body, facility, or water supply system subject to the closure order;

(ii) nature and scope of the closure or restrictions;

(iii) reasons for the closure or restrictions;

(iv) conditions upon which the order may be terminated or modified; and

(v) sources for receiving updated information on the status of infestation and closure order.

(b) The closure order shall be mailed, electronically transmitted, or hand delivered to:

(i) the controlling entity of the water body, facility, or water supply system; and

(ii) any governmental agency or private entity known to have economic, political, or recreational interests significantly impacted by the closure order; and

(iii) any person or entity requesting a copy of the order.

(c) The closure order or its substance shall further be:

(i) posted on the division's web page; and

(ii) published in a newspaper of general circulation in the state of Utah or the affected area.

(3) If a closure order lasts longer than seven days, the division shall provide the controlling entity and post on its web page a written update every 10 days on its efforts to address the Dreissena mussel infestation.

(a) The 10 day update notice cycle will continue for the duration of the closure order.

(4)(a) Notwithstanding the closure authority in Subsection (1), the division may not unilaterally close or restrict a water supply system infested with Dreissena mussels where the controlling entity has prepared and implemented a control plan in cooperation with the division that effectively eradicates or controls the spread of Dreissena mussels from the water supply system.

(b) The control plan shall comply with the requirements in R657-60-9.

R657-60-9. Control Plan Required

(1) The controlling entity of a water body, facility, or water supply system may develop and implement a control plan in cooperation with the division prior to infestation designed to:

(a) avoid the infestation of Dreissena mussels; and

(b) control or eradicate an infestation of Dreissena mussels that might occur in the future.

(2) A pre-infestation control plan developed consistent with the requirements in Subsection (3) and approved by the division will eliminate or minimize the duration and impact of a closure order issued pursuant to Section 23-27-303 and R657-60-8.

(3) Upon detection of a Dreissena mussel and issuance of a division closure order involving a water body, facility, or water supply system without an approved control plan, the controlling entity shall cooperate with the division in developing and implementing a control plan to address the:

(a) scope and extent of the infestation;

(b) actions proposed to control the pathways of spread of the infestation;

(c) actions proposed to control or eradicate the infestation;

(d) methods to decontaminate the water body, facility, or water supply system, if possible;

(e) actions required to systematically monitor the level and extent of the infestation; and

(f) requirements and methods to update and revise the plan with scientific advances.

(4) Any post-infestation control plan prepared pursuant to Subsection (3) shall be approved by the Division before implementation.

R657-60-10. Procedure for Establishing a Memorandum of Understanding with the Utah Department of Transportation.

(1) The division director or designee shall negotiate an agreement with the Utah Department of Transportation for use of ports of entry for detection and interdiction of Dreissena Mussels illegally transported into and within the state. Both the Division of Wildlife Resources and the Department of Transportation must agree upon all aspects of Dreissena Mussel interdiction at ports of entry.

(2) The Memorandum shall include the following:

(a) methods and protocols for reimbursing the department for costs associated with Dreissena Mussel interdiction;

(b) identification of ports of entry suitable for interdiction operations;

(c) identification of locations at a specific port of entry suitable for interdiction operations;

(d) methods and protocols for disposing of wastewater associated with decontamination of equipment and conveyances;

(e) dates and time periods suitable for interdiction efforts at specific ports of entry;

(f) signage notifying motorists of the vehicles that must stop at the port of entry for inspection;

(g) priorities of use during congested periods between the department's port responsibilities and the division's interdiction activities;

(h) methods for determining the length, location and dates of interdiction;

(i) training responsibilities for personnel involved in interdiction activities; and

(j) methods for division regional personnel to establish interdiction efforts at ports within each region.

R657-60-11. Penalty for Violation.

A violation of any provision of this rule is punishable as provided in Section 23-13-11.

KEY: fish, wildlife, wildlife law

Date of Enactment or Last Substantive Amendment: June 27, 2008

Authorizing, and Implemented or Interpreted Law: 23-27-401; 23-14-18; 23-14-19



End of the Notices of 120-Day (Emergency) 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 Section 63G-3-305.

Natural Resources, Parks and Recreation **R651-630** Unsupervised Children

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 31601
FILED: 06/20/2008, 13:20

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 63-11-17 allows the board to make rules for the governing of the state park system and for public safety issues as well. This rule prohibits children under the age of 16 to go unsupervised in the state park system.

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: For safety reasons for children under the age of 16 who could be lost or could be hurt and for those children under the age of 16 who could be creating mischief or damage to natural and cultural resources, this rule should be continued to define that any child under the age of 16 must be supervised.

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: Mark Forbes, Deputy Director (Legislation)

EFFECTIVE: 06/20/2008



Public Safety, Peace Officer Standards and Training **R728-501** Career Development Courses

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 31648
FILED: 07/01/2008, 15:08

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 Subsection 53-6-105(k) which gives authority to the director to make rules for Peace Officer Standards and Training (POST).

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 submitted to POST in the last five years in support or opposition 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 outlines career development courses and requirements that are beyond the basic training provided by POST. These courses allow officers to enhance their careers and prepare them for management positions. This rule outlines the available courses, and minimum requirements to pass off the courses.

This rule is important for POST to provide these courses to all agencies. Therefore, this rule should be continued.

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

PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
410 W 9800 S
SANDY UT 84070, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Steve Winward at the above address, by phone at 801-256-2326, by FAX at 801-256-0600, or by Internet E-mail at swinward@utah.gov

AUTHORIZED BY: Scott T Duncan, Commissioner

EFFECTIVE: 07/01/2008

◆ ————— ◆

**Public Service Commission,
Administration
R746-110
Uncontested Matters to be Adjudicated
Informally**

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

DAR FILE NO.: 31620
FILED: 06/24/2008, 16:07

**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: Section 54-4-1 gives the Public Service Commission (PSC) general jurisdiction to regulate every public utility in Utah and to supervise all of the business of every such public utility in Utah, and to do all things necessary or convenient in the exercise of that power and jurisdiction. Section 63-46b-5 requires the PSC to enact rules designating one or more categories of adjudicative proceedings as informal adjudicative proceedings, and to, by rule, prescribe procedures for informal adjudicative proceedings.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued so the PSC can continue to comply with Sections 54-4-1 and 63G-4-203.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sheri Bintz at the above address, by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

AUTHORIZED BY: Sandy Mooy, Legal Counsel

EFFECTIVE: 06/24/2008

◆ ————— ◆

**Public Service Commission,
Administration
R746-210
Utility Service Rules Applicable Only to
Electric Utilities**

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

DAR FILE NO.: 31617
FILED: 06/24/2008, 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: Sections 113 and 115 of the Public Utility Regulatory Policy Act (PURPA) 16 USCA standards for Master Metered Multiple Tenancy Dwellings make it necessary for the Public Service Commission (PSC) to set the standards and exemptions in this rule. Sections 54-4-1 and 54-3-1 direct the Commission and utilities to provide "just and reasonable service" which includes reduction of periodic variations in demand and encouraging conservation of resources and energy.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The standards in this rule, for master metered multiple tenancy dwellings, continue to be relevant and necessary to the Commission's duty to supervise and regulate electric utility companies in Utah so the rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sheri Bintz at the above address, by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

AUTHORIZED BY: Sandy Mooy, Legal Counsel

EFFECTIVE: 06/24/2008

◆ ————— ◆

**Public Service Commission,
Administration
R746-240
Telecommunication Service Rules**

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

DAR FILE No.: 31619
FILED: 06/24/2008, 15:33

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 54-4-1 authorizes the Public Service Commission (PSC) to regulate every public utility in Utah and supervise the business of those public utilities necessary to accomplish that regulation and supervision. Section 54-4-7 requires that the PSC provide rules to ensure that utility service and equipment is just, safe, proper, and adequate. Subsection 54-4-18(10) states that, "the commission may promulgate rules: (a) necessary to implement this section; (b) consistent with any rules promulgated by the Federal Communications Commission; and (c) in a nondiscriminatory and competitively neutral manner." Subsection 54-4-37(23) states, "The commission is granted authority to: (a) enforce this section; and (b) implement rules to carry out the requirements of the section."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: In November 2003, the Division of Public Utilities (DUP) made the comment that the rule should be amended to provide specific guidelines as to what would be considered in commission approval of a customer statement. The recommendation by DUP was made that the rule be amended to include certain basic specifications that must be contained in each company's statement in order to be approved by the PSC. The comment

was taken under consideration, but no rule amendment was made by the PSC in order to allow each utility to fashion their customer statements to each company's possible unique circumstances.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule remains necessary to provide guidelines for telecommunication service and resolution of customer complaints and should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sheri Bintz at the above address, by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

AUTHORIZED BY: Sandy Mooy, Legal Counsel

EFFECTIVE: 06/24/2008

◆ ————— ◆

**Public Service Commission,
Administration
R746-340
Service Quality for Telecommunications
Corporations**

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

DAR FILE No.: 31618
FILED: 06/24/2008, 15:28

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 54-4-1 gives the Public Service Commission (PSC) general jurisdiction to regulate every public utility in Utah and to supervise all of the business of every such public utility in Utah, and to do all things necessary or convenient in the exercise of that power and jurisdiction. Section 54-4-14 authorizes the PSC to make rules that require every public utility to construct, maintain, and operate its line, plant, system, equipment, apparatus, tracks and premises that promote and safeguard the health and safety of its employees, customers, and the public, and the installation, use, maintenance, and operation of appropriate safety or other devices or appliances and to

establish standards of construction and equipment, and to require the performance of any other acts which the health or safety of its employees, customers, or the public may demand. Section 54-4-23 authorizes the PSC to establish a system of accounts to be kept by public utilities subject to its jurisdiction and to determine the manner in which such accounts shall be kept. It may also, in its discretion, prescribe the forms of accounts, records, and memoranda to be kept by such public utilities and any forms, records, and memoranda which in the judgment of the commission may be necessary to comply with the provisions of this section.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received in the last five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary to ensure that adequate and satisfactory service

will be rendered to the public by telecommunications utilities under the jurisdiction of the PSC and should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Sheri Bintz at the above address, by phone at 801-530-6714,
by FAX at 801-530-6796, or by Internet E-mail at
sbintz@utah.gov

AUTHORIZED BY: Sandy Mooy, Legal Counsel

EFFECTIVE: 06/24/2008



End of the Five-Year Notices of Review and Statements of Continuation 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 63G-3-301(9).

Abbreviations

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

Administrative Services

Finance

No. 31320 (AMD): R25-7. Travel-Related Reimbursements for State Employees.
 Published: May 15, 2008
 Effective: July 1, 2008

No. 31321 (AMD): R25-8. Meal Allowance.
 Published: May 15, 2008
 Effective: July 1, 2008

Risk Management

No. 31347 (AMD): R37-2. Risk Management State Workers' Compensation Insurance Administration.
 Published: May 15, 2008
 Effective: June 23, 2008

No. 31150 (R&R): R37-4. Adjusted Utah Governmental Immunity Act Limitations on Judgments.
 Published: May 1, 2008
 Effective: July 1, 2008

Alcoholic Beverage Control

Administration

No. 31254 (AMD): R81-1-2. Definitions.
 Published: May 15, 2008
 Effective: June 27, 2008

No. 31273 (AMD): R81-1-9. Liquor Dispensing Systems.
 Published: May 15, 2008
 Effective: June 27, 2008

No. 31275 (AMD): R81-1-10. Wine Dispensing.
 Published: May 15, 2008
 Effective: June 27, 2008

No. 31279 (AMD): R81-1-11. Multiple-Licensed Facility Storage and Service.
 Published: May 15, 2008
 Effective: June 27, 2008

No. 31289 (AMD): R81-1-26. Criminal History Background Checks.

Published: May 15, 2008

Effective: June 27, 2008

No. 31291 (AMD): R81-3-1. Definitions.

Published: May 15, 2008

Effective: June 27, 2008

No. 31328 (AMD): R81-3-9. Promotion and Listing of Products.

Published: May 15, 2008

Effective: June 27, 2008

No. 31329 (AMD): R81-3-13. Operational Restrictions.

Published: May 15, 2008

Effective: June 27, 2008

No. 31330 (AMD): R81-3-14. Type 5 Package Agencies.

Published: May 15, 2008

Effective: June 27, 2008

No. 31287 (AMD): R81-5-11. Price Lists.

Published: May 15, 2008

Effective: June 27, 2008

No. 31332 (AMD): R81-7-1. Application Guidelines.

Published: May 15, 2008

Effective: June 27, 2008

No. 31334 (NEW): R81-10. Off-Premise Beer Retailers.

Published: May 15, 2008

Effective: June 27, 2008

Commerce

Occupational and Professional Licensing

No. 31288 (AMD): R156-1. General Rules of the Division of Occupational and Professional Licensing.

Published: May 15, 2008

Effective: June 23, 2008

No. 31156 (AMD): R156-31b. Nurse Practice Act Rules.

Published: May 15, 2008

Effective: June 23, 2008

No. 31292 (AMD): R156-55a. Utah Construction Trades Licensing Act Rule.

Published: May 15, 2008

Effective: June 24, 2008

No. 31139 (AMD): R156-56. Utah Uniform Building Standard Act Rules.
Published: May 1, 2008
Effective: July 1, 2008

No. 31142 (AMD): R156-56-701. Specific Editions of Uniform Building Standards.
Published: May 1, 2008
Effective: July 1, 2008

Real Estate

No. 31277 (AMD): R162-9. Continuing Education.
Published: May 15, 2008
Effective: June 23, 2008

No. 31278 (AMD): R162-208. Continuing Education.
Published: May 15, 2008
Effective: June 23, 2008

Community and Culture

History

No. 31290 (R&R): R212-4. Archaeological Permits.
Published: May 15, 2008
Effective: June 25, 2008

Health

Children's Health Insurance Program

No. 31357 (AMD): R382-10. Eligibility.
Published: May 15, 2008
Effective: July 1, 2008

Community and Family Health Services, Children with Special Health Care Needs

No. 31350 (AMD): R398-1. Newborn Screening.
Published: May 15, 2008
Effective: June 25, 2008

Health Care Financing, Coverage and Reimbursement Policy

No. 31359 (AMD): R414-1-5. State Plan.
Published: May 15, 2008
Effective: July 1, 2008

No. 31360 (AMD): R414-27. Medicare Nursing Home Certification.
Published: May 15, 2008
Effective: July 1, 2008

No. 31135 (R&R): R414-40. Nursing Service.
Published: May 1, 2008
Effective: June 23, 2008

No. 31356 (AMD): R414-310. Medicaid Primary Care Network Demonstration Waiver.
Published: May 15, 2008
Effective: July 1, 2008

No. 31358 (AMD): R414-320. Medicaid Health Insurance Flexibility and Accountability Demonstration

Waiver.
Published: May 15, 2008
Effective: July 1, 2008

No. 31362 (AMD): R414-504. Nursing Facility Payments.
Published: May 15, 2008
Effective: July 1, 2008

No. 31361 (NEW): R414-508. Requirements for Transfer of Bed Licenses.
Published: May 15, 2008
Effective: July 1, 2008

Health Systems Improvement, Emergency Medical Services

No. 30954 (AMD): R426-15-203. Vehicle Supply Requirements.
Published: March 1, 2008
Effective: June 24, 2008

Human Resource Management

Administration

No. 31186 (AMD): R477-1. Definitions.
Published: May 15, 2008
Effective: July 1, 2008

No. 31187 (AMD): R477-2. Administration.
Published: May 15, 2008
Effective: July 1, 2008

No. 31188 (AMD): R477-3. Classification.
Published: May 15, 2008
Effective: July 1, 2008

No. 31189 (AMD): R477-4. Filling Positions.
Published: May 15, 2008
Effective: July 1, 2008

No. 31190 (AMD): R477-5. Employee Status and Probation.
Published: May 15, 2008
Effective: July 1, 2008

No. 31191 (AMD): R477-6. Compensation.
Published: May 15, 2008
Effective: July 1, 2008

No. 31192 (AMD): R477-7. Leave.
Published: May 15, 2008
Effective: July 1, 2008

No. 31193 (AMD): R477-8. Working Conditions.
Published: May 15, 2008
Effective: July 1, 2008

No. 31194 (AMD): R477-9. Employee Conduct.
Published: May 15, 2008
Effective: July 1, 2008

NOTICES OF RULE EFFECTIVE DATES

No. 31195 (AMD): R477-10. Employee Development.
Published: May 15, 2008
Effective: July 1, 2008

No. 31209 (AMD): R477-11. Discipline.
Published: May 15, 2008
Effective: July 1, 2008

No. 31210 (AMD): R477-12. Separations.
Published: May 15, 2008
Effective: July 1, 2008

No. 31208 (AMD): R477-15. Unlawful Harassment
Policy and Procedure.
Published: May 15, 2008
Effective: July 1, 2008

Human Services

Recovery Services

No. 31152 (NEW): R527-260. Driver License
Suspension for Failure to Pay Support.
Published: May 1, 2008
Effective: July 1, 2008

No. 31163 (AMD): R527-302. Income Withholding Fees.
Published: May 15, 2008
Effective: June 25, 2008

No. 31162 (AMD): R527-475. State Tax Refund
Intercept.
Published: May 15, 2008
Effective: June 25, 2008

No. 31159 (NEW): R527-920. Mandatory Disbursement
to Obligee through Electronic Funds Transfer.
Published: May 15, 2008
Effective: June 27, 2008

Insurance

Administration

No. 31335 (NEW): R590-247. Universal Individual
Health Insurance Application Rule.
Published: May 15, 2008
Effective: June 30, 2008

Labor Commission

Industrial Accidents

No. 31333 (AMD): R612-2-5. Regulation of Medical
Practitioner Fees.
Published: May 15, 2008
Effective: July 1, 2008

Tax Commission

Auditing

No. 31258 (AMD): R865-19S-105. Procedures for
Refund of Sales and Use Taxes Paid on Food Donated
to a Qualified Emergency Food Agency Pursuant to Utah
Code Ann. Section 59-12-902.
Published: May 15, 2008
Effective: July 1, 2008

Motor Vehicle

No. 31264 (AMD): R873-22M-41. Issuance of Salvage
Certificate in Certain Circumstances Pursuant to Utah
Code Ann. Section 41-1a-1005.
Published: May 15, 2008
Effective: June 27, 2008

Motor Vehicle Enforcement

No. 31255 (AMD): R877-23V-19. Disclosure of Vehicles
Initially Delivered for Sale in a Country Other than the
United States Pursuant to Utah Code Ann. Section 41-
1a-712.
Published: May 15, 2008
Effective: June 27, 2008

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, 2008, including notices of effective date received through July 1, 2008, the effective dates of which are no later than July 15, 2008. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

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

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

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Administrative Services					
<u>Administration</u>					
R13-1	Public Petitions for Declaratory Orders	31342	NSC	05/05/2008	Not Printed
R13-2	Access to Records	31343	NSC	05/05/2008	Not Printed
<u>Administrative Rules</u>					
R15-1	Administrative Rule Hearings	31143	NSC	05/05/2008	Not Printed
R15-2	Public Petitioning for Rulemaking	31144	NSC	05/05/2008	Not Printed
R15-3	Definitional Clarification of Administrative Rule	31145	NSC	05/05/2008	Not Printed
R15-4	Administrative Rulemaking Procedures	31146	NSC	05/05/2008	Not Printed
R15-5	Administrative Rules Adjudicative Proceedings	31147	NSC	05/05/2008	Not Printed
<u>Facilities Construction and Management</u>					
R23-13	State of Utah Parking Rules for Facilities Managed by the Division of Facilities Construction and Management	31063	5YR	03/17/2008	2008-8/50

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R23-14	Management of Roofs on State Buildings	31064	5YR	03/17/2008	2008-8/50
R23-22	General Procedures For Acquisition and Selling of Real Property	31607	EMR	06/25/2008	2008-14/122
<u>Finance</u>					
R25-2	Finance Adjudicative Proceedings	31318	NSC	05/05/2008	Not Printed
R25-5	Payment of Per Diem to Boards	31317	5YR	04/29/2008	2008-10/143
R25-6	Relocation Reimbursement	31316	5YR	04/29/2008	2008-10/143
R25-7	Travel-Related Reimbursements for State Employees	31319	5YR	04/29/2008	2008-10/144
R25-7	Travel-Related Reimbursements for State Employees	31320	AMD	07/01/2008	2008-10/4
R25-8	Meal Allowance	31321	AMD	07/01/2008	2008-10/7
R25-14	Payment of Attorneys' Fees in Death Penalty Cases	31363	EMR	05/05/2008	2008-10/140
<u>Fleet Operations</u>					
R27-3	Vehicle Use Standards	31137	AMD	06/17/2008	2008-9/3
R27-4	Vehicle Replacement and Expansion of State Fleet	30618	AMD	03/06/2008	2007-22/9
<u>Fleet Operations, Surplus Property</u>					
R28-3	Utah State Agency for Surplus Property Adjudicative Proceedings	31117	5YR	04/04/2008	2008-9/52
<u>Purchasing and General Services</u>					
R33-1	Utah State Procurement Rules Definitions	31477	NSC	06/18/2008	Not Printed
R33-2-101	Delegation of Authority of the Chief Procurement Officer	31478	NSC	06/18/2008	Not Printed
R33-3	Source Selection and Contract Formation	31479	NSC	06/18/2008	Not Printed
R33-4	Specifications	31480	NSC	06/18/2008	Not Printed
R33-5	Construction and Architect-Engineer Selection	31481	NSC	06/18/2008	Not Printed
R33-7	Cost Principles	31482	NSC	06/18/2008	Not Printed
R33-8-101	Quality Assurance, Inspection, and Testing	31483	NSC	06/18/2008	Not Printed
<u>Risk Management</u>					
R37-2	Risk Management State Workers' Compensation Insurance Administration	31347	AMD	06/23/2008	2008-10/8
R37-4	Adjusted Utah Governmental Immunity Act Limitations on Judgments	31150	R&R	07/01/2008	2008-9/5
Agriculture and Food					
<u>Conservation and Resource Management</u>					
R64-2	Utah Conservation Commission Electronic Meetings	31079	NEW	06/03/2008	2008-8/4
<u>Marketing and Development</u>					
R65-2	Utah Cherry Marketing Order	31007	5YR	02/15/2008	2008-5/38
R65-5	Utah Red Tart and Sour Cherry Marketing Order	31008	5YR	02/15/2008	2008-5/38
<u>Plant Industry</u>					
R68-5	Grain Inspection	31006	5YR	02/15/2008	2008-5/39
R68-7	Utah Pesticide Control Act	30611	AMD	01/07/2008	2007-22/11
R68-8-2	Noxious Weed Seeds and Weed Seed Restrictions	31127	AMD	07/02/2008	2008-9/7
R68-9	Utah Noxious Weed Act	31544	5YR	06/09/2008	2008-13/147
R68-9	Utah Noxious Weed Act	31128	AMD	07/02/2008	2008-9/8
R68-14	Quarantine Pertaining to Gypsy Moth - Lymantria Dispar	31125	5YR	04/04/2008	2008-9/52

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R68-16	Utah Quarantine Pertaining to Pine Shoot Beetle, Tomicus Piniperda	31543	5YR	06/09/2008	2008-13/147
R68-16	Quarantine Pertaining to Pine Shoot Beetle, Tomicus piniperda	31126	AMD	07/02/2008	2008-9/11
R68-17	Quarantine Pertaining to Necrotic Strain of the Potato Virus Y	31009	REP	04/11/2008	2008-5/4

Alcoholic Beverage Control

Administration

R81-1-2	Definitions	31254	AMD	06/27/2008	2008-10/10
R81-1-9	Liquor Dispensing Systems	31273	AMD	06/27/2008	2008-10/11
R81-1-10	Wine Dispensing	31275	AMD	06/27/2008	2008-10/13
R81-1-11	Multiple-Licensed Facility Storage and Service	31279	AMD	06/27/2008	2008-10/14
R81-1-26	Criminal History Background Checks	31289	AMD	06/27/2008	2008-10/16
R81-3-1	Definitions	31291	AMD	06/27/2008	2008-10/18
R81-3-9	Promotion and Listing of Products	31328	AMD	06/27/2008	2008-10/19
R81-3-13	Operational Restrictions	31329	AMD	06/27/2008	2008-10/20
R81-3-14	Type 5 Package Agencies	31330	AMD	06/27/2008	2008-10/21
R81-4C	Limited Restaurant Licenses	31154	NSC	05/01/2008	Not Printed
R81-4D	On-Premise Banquet License	31155	NSC	05/01/2008	Not Printed
R81-5-11	Price Lists	31287	AMD	06/27/2008	2008-10/25
R81-7-1	Application Guidelines	31332	AMD	06/27/2008	2008-10/26
R81-10	Off-Premise Beer Retailers	31334	NEW	06/27/2008	2008-10/27

Auditor

Administration

R123-3-1	Definitions	31257	NSC	05/05/2008	Not Printed
R123-3-2	Designation	31260	NSC	05/05/2008	Not Printed
R123-3-3	Adjudicative Proceedings	31261	NSC	05/05/2008	Not Printed
R123-4-1	Authority	31262	NSC	05/05/2008	Not Printed
R123-4-2	Definitions	31263	NSC	05/05/2008	Not Printed
R123-4-5	Intervention	31265	NSC	05/05/2008	Not Printed
R123-4-6	Petition Review and Disposition	31266	NSC	05/05/2008	Not Printed
R123-4-7	Administrative Review	31267	NSC	05/05/2008	Not Printed

Capitol Preservation Board (State)

Administration

R131-1	Procurement of Architectural and Engineering Services	30591	AMD	02/29/2008	2007-21/11
R131-4	Procurement of Construction	30590	R&R	02/29/2008	2007-21/13

Career Service Review Board

Administration

R137-2	Government Records Access and Management Act	31473	5YR	05/21/2008	2008-12/50
--------	--	-------	-----	------------	------------

Commerce

Administration

R151-2	Government Records Access and Management Act Rule	31345	NSC	05/05/2008	Not Printed
R151-2-4	Forms	31385	AMD	07/08/2008	2008-11/49
R151-3-1	Authority and Purpose	31346	NSC	05/05/2008	Not Printed

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R151-14-3	Adjudicative Proceedings	31354	NSC	05/05/2008	Not Printed
R151-35-3	Adjudicative Proceedings	31355	NSC	05/05/2008	Not Printed
<u>Consumer Protection</u>					
R152-1	Utah Division of Consumer Protection: "Buyer Beware List"	31184	NSC	05/05/2008	Not Printed
R152-11	Utah Consumer Sales Practices Act Rules	31213	NSC	05/05/2008	Not Printed
R152-15-2	Filing Requirements. Filing Fees	31214	NSC	05/05/2008	Not Printed
R152-20	New Motor Vehicle Warranties Rules	31215	NSC	05/05/2008	Not Printed
R152-22-9	Grounds for Denial, Suspension or Revocation Procedure	31216	NSC	05/05/2008	Not Printed
R152-23-1	Authority	31217	NSC	05/05/2008	Not Printed
R152-34-10	Rules Relating to Suspension, Termination or Refusal to Register under Section 13-34-111	31218	NSC	05/05/2008	Not Printed
<u>Corporations and Commercial Code</u>					
R154-10	Utah Digital Signatures Act Rules	30642	REP	03/03/2008	2007-22/16
<u>Occupational and Professional Licensing</u>					
R156-1	General Rules of the Division of Occupational and Professional Licensing	31288	AMD	06/23/2008	2008-10/30
R156-1-102a	Global Definitions of Levels of Supervision	30655	AMD	01/08/2008	2007-23/3
R156-3a-303	Qualifications for Licensure - Examination Requirements	30935	AMD	03/27/2008	2008-4/5
R156-11a	Barber, Cosmetologist/Barber, Esthetician, Electrology, and Nail Technician Licensing Act Rule	30953	AMD	04/10/2008	2008-5/5
R156-11a-601	Standards for Accreditation	31174	NSC	05/05/2008	Not Printed
R156-22-305	Inactive Status	31175	NSC	05/05/2008	Not Printed
R156-26a	Certified Public Accountant Licensing Act Rules	30715	AMD	03/31/2008	2007-23/4
R156-26a	Certified Public Accountant Licensing Act Rules	30715	CPR	03/31/2008	2008-4/35
R156-28	Veterinary Practice Act Rules	31396	AMD	07/10/2008	2008-11/56
R156-31b	Nurse Practice Act Rules	31094	5YR	04/01/2008	2008-8/51
R156-31b	Nurse Practice Act Rules	31156	AMD	06/23/2008	2008-10/34
R156-38a	Residence Lien Restriction and Lien Recovery Fund Rules	30654	AMD	01/07/2008	2007-23/14
R156-38a-105a	Adjudicative Proceedings	31176	NSC	05/05/2008	Not Printed
R156-38b-703	SCR Record Classification	31177	NSC	05/05/2008	Not Printed
R156-40-302e	Qualifications for Temporary License as a TRS - Supervision Required	31178	NSC	05/05/2008	Not Printed
R156-46b	Division Utah Administrative Procedures Act Rules	31179	NSC	05/05/2008	Not Printed
R156-47b	Massage Therapy Practice Act Rules	30853	AMD	02/21/2008	2008-2/4
R156-49	Dietitian Certification Act Rules	31073	5YR	03/24/2008	2008-8/52
R156-49	Dietitian Certification Act Rules	31180	NSC	05/05/2008	Not Printed
R156-53	Landscape Architect Licensing Act Rules	31074	5YR	03/24/2008	2008-8/52
R156-55a	Utah Construction Trades Licensing Act Rule	30892	AMD	03/11/2008	2008-3/3
R156-55a	Utah Construction Trades Licensing Act Rule	31292	AMD	06/24/2008	2008-10/42
R156-55d	Utah Construction Trades Licensing Act Burglar Alarm Licensing Rules	31181	NSC	05/05/2008	Not Printed
R156-56	Utah Uniform Building Standard Act Rules	30574	AMD	01/01/2008	2007-21/38
R156-56	Utah Uniform Building Standard Act Rules	31139	AMD	07/01/2008	2008-9/23
R156-56-420	Administration of Building Code Training Fund	30573	AMD	01/01/2008	2007-21/57
R156-56-701	Specific Editions of Uniform Building Standards	31142	AMD	07/01/2008	2008-9/30

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R156-61	Psychologist Licensing Act Rules	30915	CPR	05/08/2008	2008-7/55
R156-61	Psychologist Licensing Act Rules	30915	AMD	05/08/2008	2008-3/6
R156-63	Security Personnel Licensing Act Rule	31182	NSC	05/05/2008	Not Printed
R156-67	Utah Medical Practice Act Rules	31183	NSC	05/05/2008	Not Printed
R156-68	Utah Osteopathic Medical Practice Act Rules	31083	5YR	03/27/2008	2008-8/53
R156-68	Utah Osteopathic Medical Practice Act Rules	31185	NSC	05/05/2008	Not Printed
R156-69	Dentist and Dental Hygienist Practice Act Rules	31136	AMD	06/09/2008	2008-9/35
R156-71	Naturopathic Physician Practice Act Rules	30854	AMD	07/08/2008	2008-2/6
R156-71	Naturopathic Physician Practice Act Rules	30854	CPR	07/08/2008	2008-11/121
R156-76	Professional Geologist Licensing Act Rules	30694	AMD	01/08/2008	2007-23/17
R156-78A	Prelitigation Panel Review Rules	31055	NSC	03/26/2008	Not Printed
Real Estate					
R162-2-2	Licensing Procedure	31003	AMD	04/07/2008	2008-5/7
R162-8-4	School Conduct and Standards of Practice	31001	AMD	04/07/2008	2008-5/10
R162-9	Continuing Education	31277	AMD	06/23/2008	2008-10/48
R162-12	Utah Housing Opportunity Restricted Account	31000	NEW	04/07/2008	2008-5/11
R162-207-6	Determining Fitness for Renewal	31002	AMD	04/07/2008	2008-5/12
R162-208	Continuing Education	31278	AMD	06/23/2008	2008-10/50
R162-210-4	Rules of Conduct for Certified Schools	31004	AMD	04/07/2008	2008-5/13
Community and Culture					
Home Energy Assistance Target (HEAT)					
R195-1	Energy Assistance: General Provisions	31331	NSC	05/05/2008	Not Printed
Housing and Community Development					
R199-8	Permanent Community Impact Fund Board Review and Approval of Applications for Funding Assistance	30451	AMD	01/01/2008	2007-19/6
History					
R212-4	Archaeological Permits	31290	R&R	06/25/2008	2008-10/52
Corrections					
Administration					
R251-112	Americans With Disabilities Act Implementation and Complaint Process	30713	AMD	03/11/2008	2007-23/19
R251-114	Offender Long-Term Health Care - Notice	30803	NEW	03/11/2008	2008-1/6
R251-304	Contract Procedures	30952	5YR	02/05/2008	2008-5/39
R251-304	Contract Procedures	30980	AMD	05/20/2008	2008-5/15
Crime Victim Reparations					
Administration					
R270-1	Award and Reparation Standards	31322	NSC	05/05/2008	Not Printed
R270-1-11	Collateral Source	30593	AMD	01/02/2008	2007-22/33
R270-1-22	Sexual Assault Forensic Examinations	31013	AMD	05/19/2008	2008-6/3
R270-2	Crime Victim Reparations Adjudicative Proceedings	31323	NSC	05/05/2008	Not Printed
R270-4	Government Records Access and Management Act	31324	NSC	05/05/2008	Not Printed

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Education					
<u>Administration</u>					
R277-104	USOE ADA Compliant Procedure	31517	5YR	06/02/2008	2008-12/50
R277-109	One-time Signing Bonuses	31439	NEW	07/08/2008	2008-11/67
R277-113	One-time Performance-based Compensation Program	31440	NEW	07/08/2008	2008-11/69
R277-423	Delivery of Flow Through Money	30845	AMD	02/07/2008	2008-1/8
R277-436	Gang Prevention and Intervention Programs in the Schools	31518	5YR	06/02/2008	2008-12/51
R277-460	Distribution of Substance Abuse Prevention Account	31519	5YR	06/02/2008	2008-12/51
R277-469	Instructional Materials Commission Operating Procedures	30781	AMD	01/22/2008	2007-24/4
R277-469	Instructional Materials Commission Operating Procedures	31035	5YR	03/03/2008	2008-7/62
R277-470-7	Timelines - Charter School Starting Date	30846	AMD	02/07/2008	2008-1/9
R277-471	Oversight of School Inspections	31441	AMD	07/08/2008	2008-11/70
R277-483	Persistently Dangerous Schools	31036	5YR	03/03/2008	2008-7/62
R277-484	Data Standards	31005	AMD	04/11/2008	2008-5/17
R277-484	Data Standards	31520	5YR	06/02/2008	2008-12/52
R277-485	Loss of Enrollment	31037	5YR	03/03/2008	2008-7/63
R277-488	Critical Languages Pilot Program	31442	AMD	07/08/2008	2008-11/72
R277-490	Beverly Taylor Sorenson Elementary Arts Learning Program	31443	NEW	07/08/2008	2008-11/74
R277-502	Educator Licensing and Data Retention	30944	AMD	03/24/2008	2008-4/6
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	31444	AMD	07/08/2008	2008-11/77
R277-508	Employment of Substitute Teachers	31038	5YR	03/03/2008	2008-7/63
R277-515-3	Educator as a Role Model of Civic and Societal Responsibility	30976	NSC	02/27/2008	Not Printed
R277-518	Applied Technology Education Licenses	30878	5YR	01/08/2008	2008-3/72
R277-525	Special Educator Stipends	31445	NEW	07/08/2008	2008-11/82
R277-600	Student Transportation Standards and Procedures	30879	5YR	01/08/2008	2008-3/72
R277-605	Coaching Standards and Athletic Clinics	30880	5YR	01/08/2008	2008-3/73
R277-609	Standards for School District Discipline Plans	30847	AMD	02/07/2008	2008-1/10
R277-609-5	Parent/Guardian Notification and Court Referral	30958	NSC	02/29/2008	Not Printed
R277-610	Released-Time Classes for Religious Instruction	30881	5YR	01/08/2008	2008-3/73
R277-700	The Elementary and Secondary School Core Curriculum	30882	5YR	01/08/2008	2008-3/74
R277-702	Procedures for the Utah General Educational Development Certificate	30883	5YR	01/08/2008	2008-3/74
R277-703-6	Funding Provisions	30977	NSC	02/27/2008	Not Printed
R277-709	Education Programs Serving Youth in Custody	30884	5YR	01/08/2008	2008-3/75
R277-718	Utah Career Teaching Scholarship Program	30885	5YR	01/08/2008	2008-3/75
R277-719	Standards for Selling Foods Outside of the Reimbursable Meal in Schools	30848	NEW	02/07/2008	2008-1/12
R277-721	Deadline for CACFP Sponsor Participation in Food Distribution Program	30886	5YR	01/08/2008	2008-3/76
R277-721	Deadline for CACFP Sponsor Participation in Food Distribution Program	31014	REP	04/21/2008	2008-6/5

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R277-722	Withholding Payments and Commodities in the CACFP	30887	5YR	01/08/2008	2008-3/76
R277-722	Withholding Payments and Commodities in the CACFP	31015	REP	04/21/2008	2008-6/6
R277-730	Alternative High School Curriculum	30888	5YR	01/08/2008	2008-3/77
R277-746	Driver Education Programs for Utah Schools	31039	5YR	03/03/2008	2008-7/64
R277-747	Private School Student Driver Education	31040	5YR	03/03/2008	2008-7/64
R277-751	Special Education Extended School Year	31041	5YR	03/03/2008	2008-7/65
<u>Rehabilitation</u>					
R280-200	Rehabilitation	31042	5YR	03/03/2008	2008-7/65
Environmental Quality					
<u>Administration</u>					
R305-3	Emergency Meetings	30766	REP	02/15/2008	2007-24/6
R305-3	Emergency Meeting (5YR EXTENSION)	30506	NSC	02/15/2008	Not Printed
<u>Air Quality</u>					
R307-101	General Requirements	30697	AMD	02/08/2008	2007-23/21
R307-101	General Requirements	30959	5YR	02/08/2008	2008-5/40
R307-102	General Requirements: Broadly Applicable Requirements	30960	5YR	02/08/2008	2008-5/40
R307-102	General Requirements: Broadly Applicable Requirements	31462	NSC	06/18/2008	Not Printed
R307-103	Administrative Procedures	31461	NSC	06/18/2008	Not Printed
R307-115	General Conformity	30698	AMD	02/08/2008	2007-23/28
R307-115	General Conformity	30961	5YR	02/08/2008	2008-5/41
R307-121-3	Procedures for OEM Vehicles	30889	NSC	01/30/2008	Not Printed
R307-170	Continuous Emission Monitoring Program	30962	5YR	02/08/2008	2008-5/41
R307-170-7	Performance Specification Audits	30699	AMD	02/08/2008	2007-23/29
R307-202	Emission Standards: General Burning	30963	5YR	02/08/2008	2008-5/42
R307-203	Emission Standards: Sulfur Content of Fuels	30964	5YR	02/08/2008	2008-5/43
R307-214	National Emission Standards for Hazardous Air Pollutants	30895	5YR	01/11/2008	2008-3/77
R307-214	National Emission Standards for Hazardous Air Pollutants	30430	AMD	01/11/2008	2007-19/12
R307-215	Acid Rain Requirements	30700	REP	02/08/2008	2007-23/31
R307-220	Emission Standards: Plan for Designated Facilities	30965	5YR	02/08/2008	2008-5/43
R307-221	Emission Standards: Emission Controls for Existing Municipal Solid Waste Landfills	30701	AMD	02/08/2008	2007-23/32
R307-221	Emission Standards: Emission Controls for Existing Municipal Solid Waste Landfills	30966	5YR	02/08/2008	2008-5/44
R307-221-2	Definitions and References	30832	NSC	02/08/2008	Not Printed
R307-222	Emission Standards: Existing Incinerators for Hospital, Medical, Infectious Waste	30967	5YR	02/08/2008	2008-5/44
R307-222	Emission Standards: Existing Incinerators for Hospital, Medical, Infectious Waste	30702	AMD	02/08/2008	2007-23/36
R307-222-1	Purpose and Applicability	30833	NSC	02/08/2008	Not Printed
R307-223	Existing Incinerators for Hospital, Medical, Infectious Waste	30703	AMD	02/08/2008	2007-23/38
R307-223	Emission Standards: Existing Small Municipal Waste Combustion Units	30968	5YR	02/08/2008	2008-5/45
R307-224	Mercury Emission Standards: Coal-Fired Electric Generating Units	30969	5YR	02/08/2008	2008-5/45
R307-224-2	Emission Guidelines and Compliance Times for Coal-Fired Electric Generating Units	30704	AMD	02/08/2008	2007-23/39

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R307-250	Western Backstop Sulfur Dioxide Trading Program	30970	5YR	02/08/2008	2008-5/46
R307-310	Salt Lake County: Trading of Emission Budgets for Transportation Conformity	30971	5YR	02/08/2008	2008-5/46
R307-310-2	Definitions	30705	AMD	02/08/2008	2007-23/40
R307-401-14	Used Oil Fuel Burned for Energy Recovery	30709	AMD	02/08/2008	2007-23/42
R307-405	Permits: Major Sources in Attainment or Unclassified Areas (PSD)	30431	AMD	01/11/2008	2007-19/15
R307-417	Acid Rain Sources	30706	AMD	02/08/2008	2007-23/43
R307-801	Asbestos	30707	AMD	02/08/2008	2007-23/45
R307-801	Asbestos	30972	5YR	02/08/2008	2008-5/47
R307-840	Lead-Based Paint Accreditation, Certification and Work Practice Standards	30708	AMD	02/08/2008	2007-23/48
R307-840	Lead-Based Paint Accreditation, Certification and Work Practice Standards	30973	5YR	02/08/2008	2008-5/47
<u>Drinking Water</u>					
R309-352	Capacity Development Program	31157	5YR	04/18/2008	2008-10/144
<u>Environmental Response and Remediation</u>					
R311-200	Underground Storage Tanks: Definitions	31486	NSC	06/18/2008	Not Printed
R311-201	Underground Storage Tanks: Certification Programs	31487	NSC	06/18/2008	Not Printed
R311-210	Administrative Procedures for Underground Storage Tank Act Adjudicative Proceedings	31488	NSC	06/18/2008	Not Printed
R311-401-2	Utah Hazardous Substances Priority List	30567	AMD	01/02/2008	2007-21/59
<u>Radiation Control</u>					
R313-12-1	Authority	31170	NSC	05/05/2008	Not Printed
R313-12-111	Submission of Electronic Copies	30774	AMD	04/11/2008	2007-24/8
R313-12-111	Submission of Electronic Copies	30774	CPR	04/11/2008	2008-5/34
R313-15	Standards for Protection Against Radiation	30865	AMD	03/17/2008	2008-2/10
R313-17	Administrative Procedures	31171	NSC	05/05/2008	Not Printed
<u>Solid and Hazardous Waste</u>					
R315-2	General Requirements - Identification and Listing of Hazardous Waste	31377	NSC	05/05/2008	Not Printed
R315-3	Application and Permit Procedures for Hazardous Waste Treatment, Storage, and Disposal Facilities	31065	NSC	04/11/2008	Not Printed
R315-12	Administrative Procedures	31376	NSC	05/05/2008	Not Printed
R315-15-1	Applicability, Prohibitions, and Definitions	30907	AMD	03/13/2008	2008-3/16
R315-15-10	Liability/Financial Requirements	30908	AMD	03/13/2008	2008-3/19
R315-15-11	Closure	30909	AMD	03/13/2008	2008-3/21
R315-15-12	Reclamation Surety	30910	AMD	03/13/2008	2008-3/23
R315-15-17	Wording of Financial Assurance Mechanisms	30911	AMD	03/13/2008	2008-3/29
R315-301	Solid Waste Authority, Definitions, and General Requirements	30990	5YR	02/14/2008	2008-5/48
R315-302	Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements	30986	5YR	02/14/2008	2008-5/49
R315-303	Landfilling Standards	30992	5YR	02/14/2008	2008-5/49
R315-305	Class IV and VI Landfill Requirements	30991	5YR	02/14/2008	2008-5/50
R315-306	Incinerator Standards	30985	5YR	02/14/2008	2008-5/51
R315-307	Landtreatment Disposal Standards	30993	5YR	02/14/2008	2008-5/51
R315-308	Ground Water Monitoring Requirements	30995	5YR	02/14/2008	2008-5/52
R315-309	Financial Assurance	30994	5YR	02/14/2008	2008-5/52

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R315-310	Permit Requirements for Solid Waste Facilities	30996	5YR	02/14/2008	2008-5/53
R315-311	Permit Approval For Solid Waste Disposal, Waste Tire Storage, Energy Recovery, And Incinerator Facilities	30983	5YR	02/14/2008	2008-5/53
R315-312	Recycling and Composting Facility Standards	30997	5YR	02/14/2008	2008-5/54
R315-313	Transfer Stations and Drop Box Facilities	30998	5YR	02/14/2008	2008-5/54
R315-314	Facility Standards for Piles Used for Storage and Treatment	30999	5YR	02/14/2008	2008-5/55
R315-315	Special Waste Requirements	30989	5YR	02/14/2008	2008-5/55
R315-316	Infectious Waste Requirements	30988	5YR	02/14/2008	2008-5/56
R315-317	Other Processes, Variances, Violations, and Petition for Rule Change	30984	5YR	02/14/2008	2008-5/57
R315-318	Permit by Rule	30987	5YR	02/14/2008	2008-5/57
<u>Water Quality</u>					
R317-1-4	Utilization and Isolation of Domestic Wastewater Treatment Works Effluent	30639	AMD	02/04/2008	2007-22/52
R317-3-11	Land Application of Wastewater Effluents	30638	AMD	02/04/2008	2007-22/57
R317-9	Administrative Procedures	30948	5YR	02/01/2008	2008-4/42
R317-13	Approvals and Permits for a Water Reuse Project	30637	NEW	02/04/2008	2007-22/61
R317-14	Approval in Change in Point of Discharge of POTW	30636	NEW	02/04/2008	2007-22/62
R317-101	Utah Wastewater Project Assistance Program	31103	5YR	04/02/2008	2008-9/53
Financial Institutions					
<u>Administration</u>					
R331-20	Designation of Adjudicative Proceedings as Informal	31256	NSC	05/05/2008	Not Printed
R331-22-1	Authority, Scope, and Purpose	31315	NSC	05/05/2008	Not Printed
Governor					
<u>Economic Development</u>					
R357-2	Rural Broadband Service Fund	30788	NEW	01/30/2008	2007-24/9
R357-2-7	Ranking and Approval of Applications	30859	NSC	01/30/2008	Not Printed
R357-3	Refundable Economic Development Tax Credit	31153	NEW	06/18/2008	2008-9/37
Health					
<u>Administration</u>					
R380-1	Petitions for Department Declaratory Orders	31281	NSC	05/05/2008	Not Printed
R380-5	Petitions for Declaratory Orders on Orders Issued by Committees	31282	NSC	05/05/2008	Not Printed
R380-10	Informal Adjudicative Proceedings	31283	NSC	05/05/2008	Not Printed
R380-20	Government Records Access and Management	31284	NSC	05/05/2008	Not Printed
R380-100	Americans with Disabilities Act Grievance Procedures	31285	NSC	05/05/2008	Not Printed
R380-200	Patient Safety Sentinel Event Reporting	31286	NSC	05/05/2008	Not Printed
R380-210-6	Penalties	31280	NSC	05/05/2008	Not Printed
R380-250	HIPAA Privacy Rule Implementation	31455	5YR	05/19/2008	2008-12/52
<u>Children's Health Insurance Program</u>					
R382-1	Benefits and Administration	31503	5YR	05/30/2008	2008-12/53
R382-10	Eligibility	31454	5YR	05/19/2008	2008-12/53
R382-10	Eligibility	31357	AMD	07/01/2008	2008-10/55

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Epidemiology and Laboratory Services, Epidemiology</u>					
R386-702-12	Official References	31099	AMD	06/11/2008	2008-8/5
<u>Epidemiology and Laboratory Services, Environmental Services</u>					
R392-302	Design, Construction, and Operation of Public Pools	31097	AMD	05/22/2008	2008-8/6
R392-700	Indoor Tanning Bed Sanitation	30612	NEW	05/16/2008	2007-22/65
R392-700	Indoor Tanning Bed Sanitation	30612	CPR	05/16/2008	2008-7/58
<u>Community and Family Health Services, Children with Special Health Care Needs</u>					
R398-1	Newborn Screening	31350	AMD	06/25/2008	2008-10/60
R398-2	Newborn Hearing Screening	31651	5YR	07/02/2008	Not Printed
R398-5	Birth Defects Reporting	31070	AMD	07/03/2008	2008-8/16
<u>Health Care Financing</u>					
R410-14-17	Agency Review	30981	EMR	02/15/2008	2008-5/36
R410-14-17	Agency Review	31129	AMD	06/09/2008	2008-9/38
<u>Health Care Financing, Coverage and Reimbursement Policy</u>					
R414-1-5	State Plan	31359	AMD	07/01/2008	2008-10/64
R414-5	Reduction in Hospital Payments	31424	5YR	05/13/2008	2008-11/125
R414-6	Reduction in Certain Targeted Case Management Services	31169	5YR	04/21/2008	2008-10/145
R414-21	Physical and Occupational Therapy	30653	R&R	01/10/2008	2007-23/50
R414-27	Medicare Nursing Home Certification	30920	5YR	01/17/2008	2008-4/42
R414-27	Medicare Nursing Home Certification	31046	NSC	03/25/2008	Not Printed
R414-27	Medicare Nursing Home Certification	31360	AMD	07/01/2008	2008-10/65
R414-40	Nursing Service	31135	R&R	06/23/2008	2008-9/39
R414-51	Dental, Orthodontia	31452	5YR	05/19/2008	2008-12/53
R414-52	Optometry Services	30775	AMD	02/01/2008	2007-24/12
R414-52	Optometry Services	31453	5YR	05/19/2008	2008-12/54
R414-53	Eyeglasses Services	30776	AMD	02/01/2008	2007-24/13
R414-53	Eyeglasses Services	31528	5YR	06/05/2008	2008-13/148
R414-71	Medical Supplies -- Parenteral, Enteral, and IV Therapy	30378	AMD	03/31/2008	2007-18/40
R414-71	Medical Supplies - Parenteral, Enteral, and IV Therapy	30378	CPR	03/31/2008	2008-3/66
R414-301	Medicaid General Provisions	30936	5YR	01/31/2008	2008-4/43
R414-302	Eligibility Requirements	30921	5YR	01/25/2008	2008-4/43
R414-303	Coverage Groups	30925	5YR	01/25/2008	2008-4/44
R414-304	Income and Budgeting	30924	5YR	01/25/2008	2008-4/44
R414-304	Income and Budgeting	30652	AMD	01/28/2008	2007-23/54
R414-305	Resources	30937	5YR	01/31/2008	2008-4/45
R414-305	Resources	30945	AMD	04/01/2008	2008-4/9
R414-306	Program Benefits	30922	5YR	01/25/2008	2008-4/45
R414-308	Application, Eligibility Determinations and Improper Medical Assistance	30938	5YR	01/31/2008	2008-4/46
R414-308-7	Change Reporting and Benefit Changes	30927	AMD	04/01/2008	2008-4/16
R414-310	Medicaid Primary Care Network Demonstration Waiver	31356	AMD	07/01/2008	2008-10/66
R414-320	Medicaid Health Insurance Flexibility and Accountability Demonstration Waiver	31358	AMD	07/01/2008	2008-10/68
R414-504	Nursing Facility Payments	31362	AMD	07/01/2008	2008-10/71

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R414-508	Requirements for Transfer of Bed Licenses	31361	NEW	07/01/2008	2008-10/78
R414-510	Intermediate Care Facility for Individuals with Mental Retardation Transition Program	30917	AMD	03/10/2008	2008-3/30
<u>Health Systems Improvement, Emergency Medical Services</u>					
R426-5-3	Trauma Center Categorization Guidelines	31068	AMD	06/04/2008	2008-8/17
R426-6	Emergency Medical Services Competitive Grants Program Rules	30758	AMD	02/07/2008	2007-24/14
R426-8-4	Application and Award Formula	31096	AMD	06/05/2008	2008-8/22
R426-15-203	Vehicle Supply Requirements	30954	AMD	06/24/2008	2008-5/19
<u>Center for Health Data, Health Care Statistics</u>					
R428-11	Health Data Authority Ambulatory Surgical Data Reporting Rule	31167	5YR	04/21/2008	2008-10/146
R428-11	Health Data Authority Ambulatory Surgical Data Reporting Rule (5YR EXTENSION)	31021	NSC	04/21/2008	Not Printed
R428-13	Health Data Authority, Audit and Reporting of HMO Performance Measures	31168	5YR	04/21/2008	2008-10/146
R428-13	Health Data Authority, Audit and Reporting of HMO Performance Measures (5YR EXTENSION)	31022	NSC	04/21/2008	Not Printed
R428-13-4	Submission of Performance Measures	30956	AMD	05/16/2008	2008-5/25
<u>Health Systems Improvement, Child Care Licensing</u>					
R430-4	General Certificate Provisions	31537	5YR	06/06/2008	2008-13/148
R430-50	Residential Certificate Child Care Standards	31538	5YR	06/06/2008	2008-13/149
R430-60	Hourly Child Care Center	31539	5YR	06/06/2008	2008-13/149
R430-90	Licensed Family Child Care	31540	5YR	06/06/2008	2008-13/150
<u>Health Systems Improvement, Licensing</u>					
R432-16	Hospice Inpatient Facility Construction	30975	5YR	02/11/2008	2008-5/58
R432-35	Background Screening	31489	5YR	05/27/2008	2008-12/54
Human Resource Management					
<u>Administration</u>					
R477-1	Definitions	31186	AMD	07/01/2008	2008-10/79
R477-2	Administration	31187	AMD	07/01/2008	2008-10/84
R477-3	Classification	31188	AMD	07/01/2008	2008-10/87
R477-4	Filling Positions	31189	AMD	07/01/2008	2008-10/88
R477-5	Employee Status and Probation	31190	AMD	07/01/2008	2008-10/90
R477-6	Compensation	31191	AMD	07/01/2008	2008-10/91
R477-7	Leave	31192	AMD	07/01/2008	2008-10/95
R477-8	Working Conditions	31193	AMD	07/01/2008	2008-10/101
R477-8-5	Overtime	30778	AMD	01/22/2008	2007-24/16
R477-9	Employee Conduct	31194	AMD	07/01/2008	2008-10/104
R477-10	Employee Development	31195	AMD	07/01/2008	2008-10/106
R477-11	Discipline	31209	AMD	07/01/2008	2008-10/108
R477-12	Separations	31210	AMD	07/01/2008	2008-10/110
R477-13	Volunteer Programs	31211	NSC	06/19/2008	Not Printed
R477-15	Unlawful Harassment Policy and Procedure	31208	AMD	07/01/2008	2008-10/112
Human Services					
<u>Administration</u>					
R495-810	Government Records Access and Management Act	31368	NSC	05/05/2008	Not Printed

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R495-861	Requirements for Local Discretionary Social Services Block Grant Funds	30773	AMD	01/30/2008	2007-24/18
R495-878	Department of Human Services Civil Rights Complaint Procedure	31367	NSC	05/05/2008	Not Printed
R495-878	Department of Human Services Civil Rights Complaint Procedure	31067	AMD	06/13/2008	2008-8/23
R495-879	Parental Support for Children in Care	31465	NSC	06/18/2008	Not Printed
R495-881	Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule Implementation	31484	5YR	05/27/2008	2008-12/55
<u>Administration, Administrative Services, Licensing</u>					
R501-16	Intermediate Secure Treatment Programs for Minors	31017	5YR	02/22/2008	2008-6/25
R501-17	Adult Foster Care	31026	5YR	02/27/2008	2008-6/25
<u>Aging and Adult Services</u>					
R510-105	"Out and About" Homebound Transportation Assistance Fund Rules	31027	5YR	02/27/2008	2008-6/26
R510-110-5	Monitoring by the State Division of Aging and Adult Services	31378	NSC	05/05/2008	Not Printed
R510-200-3	Local LTCO Program Administrative Standards	31379	NSC	05/05/2008	Not Printed
<u>Child and Family Services</u>					
R512-20	Protective Payee for Recipients of Cash Assistance from the Department of Workforce Services (5YR EXTENSION)	30720	NSC	01/07/2008	Not Printed
R512-20	Protective Payee for Recipients of Cash Assistance from the Department of Workforce Services	30716	REP	01/07/2008	2007-23/58
R512-50	Fee Collection for Clients Served by Pre-School Day Treatment Contract (5YR EXTENSION)	30721	NSC	01/07/2008	Not Printed
R512-50	Fee Collection for Clients Served by Pre-School Day Treatment Contract	30718	REP	01/07/2008	2007-23/60
R512-204	Child Protective Services, New Caseworker Training	31043	NEW	05/08/2008	2008-7/31
R512-500	Kinship Services	31589	EMR	06/18/2008	2008-14/125
<u>Substance Abuse and Mental Health</u>					
R523-1	Procedures (5YR EXTENSION)	30767	NSC	03/31/2008	Not Printed
R523-1	Procedures	31089	5YR	03/31/2008	2008-8/53
R523-22-9	Redress Procedures for Programs or Instructors	31352	NSC	05/05/2008	Not Printed
R523-23-13	Procedure for Denial, Suspension, or Revocation	31351	NSC	05/05/2008	Not Printed
R523-24-13	Procedure for Denial, Suspension, or Revocation	31353	NSC	05/05/2008	Not Printed
<u>Substance Abuse and Mental Health, State Hospital</u>					
R525-2	Patient Rights	31450	5YR	05/19/2008	2008-12/55
R525-3	Medication Treatment of Patients	31449	5YR	05/19/2008	2008-12/56
R525-4	Visitors	31447	5YR	05/19/2008	2008-12/56
R525-5	Background Checks	31448	5YR	05/19/2008	2008-12/57
R525-6	Prohibited Items and Devices	31031	NEW	05/01/2008	2008-6/7
R525-6	Prohibited Items and Devices (EXPIRED - Legislative Nonreauthorization)	31348	NSC	05/01/2008	Not Printed
R525-7	Complaints/Suggestions/Concerns	31451	5YR	05/19/2008	2008-12/57
<u>Recovery Services</u>					
R527-34	Non-IV-A Services	31151	AMD	06/09/2008	2008-9/43
R527-39	Applicant/Recipient Cooperation	30891	5YR	01/10/2008	2008-3/78
R527-39-2	Request for Review	31498	NSC	06/18/2008	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R527-56	In-Kind support	30939	5YR	01/31/2008	2008-4/46
R527-56	In-Kind Support	31134	AMD	06/09/2008	2008-9/44
R527-231	Review and Adjustment of Child Support Order	31061	AMD	05/15/2008	2008-7/32
R527-257	Enforcing Child Support When the Obligor is Incarcerated	31133	REP	06/09/2008	2008-9/45
R527-258	Enforcing Child Support When the Obligor is an Ex-Prisoner or in a Treatment Program	31054	AMD	05/14/2008	2008-7/33
R527-260	Driver License Suspension for Failure to Pay Support	31152	NEW	07/01/2008	2008-9/46
R527-302	Income Withholding Fees	31160	5YR	04/21/2008	2008-10/147
R527-302	Income Withholding Fees	31163	AMD	06/25/2008	2008-10/120
R527-305	High-Volume, Automated Administrative Enforcement in Interstate Child Support Cases	30978	5YR	02/12/2008	2008-5/58
R527-305	High-Volume, Automated Administrative Enforcement in Interstate Child Support Cases	31025	AMD	04/21/2008	2008-6/8
R527-430	Administrative Notice of Lien-Levy Procedures	30905	5YR	01/14/2008	2008-3/78
R527-475	State Tax Refund Intercept	31161	5YR	04/21/2008	2008-10/147
R527-475	State Tax Refund Intercept	31162	AMD	06/25/2008	2008-10/121
R527-920	Mandatory Disbursement to Oblgee through Electronic Funds Transfer	31159	NEW	06/27/2008	2008-10/122
R527-928	Lost Checks	30982	AMD	04/07/2008	2008-5/26
<u>Services for People with Disabilities</u>					
R539-1-8	Non-Waiver Services for People with Brain Injury	30926	EMR	01/28/2008	2008-4/38
R539-1-8	Non-Waiver Services for People with Brain Injury	30877	AMD	04/01/2008	2008-3/32
R539-9	Supported Employment Pilot Program	31084	AMD	05/22/2008	2008-8/26
R539-15	Time-Limited Respite Care Program	31594	EMR	07/01/2008	2008-14/128
Insurance					
<u>Administration</u>					
R590-91	Credit Life Insurance and Credit Accident and Health Insurance	31059	AMD	05/29/2008	2008-7/35
R590-94	Rule Permitting Smoker/Nonsmoker Mortality Tables for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits	31132	5YR	04/09/2008	2008-9/53
R590-154	Unfair Marketing Practices Rule	31131	5YR	04/09/2008	2008-9/54
R590-157	Surplus Lines Insurance Premium Tax and Stamping Fee	30890	5YR	01/10/2008	2008-3/79
R590-164	Uniform Health Billing Rule	31030	AMD	05/08/2008	2008-6/10
R590-167-11	Individual, Small Employer, and Group Health Benefit Plan Rule	30462	CPR	05/20/2008	2008-3/68
R590-167-11	Actuarial Certification and Additional Filing Requirements	30462	AMD	05/20/2008	2007-20/23
R590-175	Basic Health Care Plan Rule	30508	AMD	02/08/2008	2007-20/24
R590-191	Unfair Life Insurance Claims Settlement Practices Rule	31077	AMD	05/29/2008	2008-8/27
R590-218	Permitted Language for Reservation of Discretion Clauses	30897	5YR	01/11/2008	2008-3/80
R590-219	Credit Scoring	31525	5YR	06/04/2008	2008-13/150
R590-222	Viatical Settlements	31523	5YR	06/02/2008	2008-12/58
R590-223	Rule to Recognize the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits	31552	5YR	06/12/2008	2008-13/151
R590-243	Commercial Motor Vehicle Insurance Coverage	30490	NEW	01/11/2008	2007-20/28
R590-247	Universal Individual Health Insurance Application Rule	31335	NEW	06/30/2008	2008-10/124

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Labor Commission					
<u>Administration</u>					
R600-1	Declaratory Orders	31232	5YR	04/28/2008	2008-10/148
R600-1	Declaratory Orders	31237	NSC	05/05/2008	Not Printed
<u>Adjudication</u>					
R602-1	General Provisions	31250	NSC	05/05/2008	Not Printed
R602-2-1	Pleadings and Discovery	31236	NSC	05/05/2008	Not Printed
R602-2-4	Attorney Fees	30811	AMD	02/07/2008	2008-1/14
R602-3	Procedure and Standards for Approval of Assignment of Benefits	31238	NSC	05/05/2008	Not Printed
R602-3-3	Procedure for Requesting Approval	30810	AMD	02/07/2008	2008-1/16
R602-4	Procedures for Termination of Temporary Total Disability Compensation Pursuant to Reemployment under Section 34A-2-410.5	31643	EMR	07/01/2008	2008-14/129
<u>Antidiscrimination and Labor, Antidiscrimination</u>					
R606-1	Antidiscrimination	31241	NSC	05/05/2008	Not Printed
R606-2	Pre-Employment Inquiry Guide	31242	NSC	05/05/2008	Not Printed
<u>Antidiscrimination and Labor, Fair Housing</u>					
R608-1	Utah Fair Housing Rules	31240	NSC	05/05/2008	Not Printed
<u>Antidiscrimination and Labor, Labor</u>					
R610-1	Minimum Wage, Clarify Tip Credit, and Enforcement	31247	NSC	05/05/2008	Not Printed
R610-1-4	Tips, Gratuities, and Commissions	31149	AMD	06/13/2008	2008-9/48
R610-2	Employment of Minors	31245	NSC	05/05/2008	Not Printed
R610-2-6	Filing Procedure and Commencement of Agency Action	30942	AMD	03/24/2008	2008-4/19
R610-3	Filing, Investigation, and Resolution of Wage Claims	31243	NSC	05/05/2008	Not Printed
R610-3-4	Filing Procedure and Commencement of Agency Action	30876	EMR	01/03/2008	2008-3/70
R610-3-4	Filing Procedure and Commencement of Agency Action	30941	AMD	03/24/2008	2008-4/20
R610-3-10	Attorney Fees	31148	AMD	06/13/2008	2008-9/50
R610-4	Employment Agency Licensing	31239	NSC	05/05/2008	Not Printed
R610-4	Employment Agency Licensing	31438	REP	07/08/2008	2008-11/101
<u>Industrial Accidents</u>					
R612-1	Workers' Compensation Rules - Procedures	31235	NSC	05/05/2008	Not Printed
R612-2	Workers' Compensation Rules-Health Care Providers	31234	5YR	04/28/2008	2008-10/148
R612-2-5	Regulation of Medical Practitioner Fees	31333	AMD	07/01/2008	2008-10/130
R612-3	Workers' Compensation Rules - Self Insurance	31230	5YR	04/28/2008	2008-10/149
R612-4-2	Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund	30594	AMD	01/01/2008	2007-22/76
R612-5	Employee Leasing Company Workers' Compensation Insurance Policy Endorsements	31229	5YR	04/28/2008	2008-10/149
R612-7	Impairment Ratings for Industrial Injuries and Diseases	31231	5YR	04/28/2008	2008-10/150
R612-9-1	Authority	31251	NSC	05/05/2008	Not Printed
R612-10	HIV, Hepatitis B and C Testing and Reporting for Emergency Medical Services Providers	31252	NSC	05/05/2008	Not Printed
<u>Occupational Safety and Health</u>					
R614-1	General Provisions	31244	NSC	05/05/2008	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R614-1-4	Incorporation of Federal Standards	31102	AMD	05/22/2008	2008-8/30
R614-3-1	Authority, Method of Adoption, and Effective Date	31248	NSC	05/05/2008	Not Printed
<u>Safety</u>					
R616-1	Coal, Gilsonite, or other Hydrocarbon Mining Certification	31233	5YR	04/28/2008	2008-10/150
R616-1	Coal, Gilsonite, or other Hydrocarbon Mining Certification	31249	NSC	05/05/2008	Not Printed
R616-2	Boiler and Pressure Vessel Rules	31246	NSC	05/05/2008	Not Printed
R616-3	Elevator Rules	31253	NSC	05/05/2008	Not Printed
R616-3-3	Safety Codes for Elevators	30943	AMD	03/24/2008	2008-4/21
Natural Resources					
<u>Administration</u>					
R634-1	Americans With Disabilities Complaint Procedure	30923	5YR	01/25/2008	2008-4/47
R634-1	Americans with Disabilities Complaint Procedure (5YR EXTENSION)	30875	NSC	01/25/2008	Not Printed
<u>Geological Survey</u>					
R638-2-6	Investment Tax Credit, Eligible Costs for Commercial and Residential Systems, Active Solar Thermal	30902	AMD	03/10/2008	2008-3/35
<u>Oil, Gas and Mining Board</u>					
R641-100	General Provisions	31196	NSC	05/05/2008	Not Printed
R641-104-100	Pleadings Enumerated	31197	NSC	05/05/2008	Not Printed
R641-112	Rulemaking	31198	NSC	05/05/2008	Not Printed
R641-114	Exhaustion of Administrative Remedies	31199	NSC	05/05/2008	Not Printed
R641-115	Deadline for Judicial Review	31200	NSC	05/05/2008	Not Printed
R641-116	Judicial Review of Formal Adjudicative Proceedings	31201	NSC	05/05/2008	Not Printed
<u>Oil, Gas and Mining: Administration</u>					
R642-100	Records of the Division and Board of Oil, Gas and Mining	31202	NSC	05/05/2008	Not Printed
R642-200	Applicability	31203	NSC	05/05/2008	Not Printed
<u>Oil, Gas and Mining: Coal</u>					
R645-100-200	Definitions	30932	AMD	03/26/2008	2008-4/23
R645-100-500	Petition to Initiate Rulemaking	31204	NSC	05/05/2008	Not Printed
R645-102	Exemption for Coal Extraction Incidental to Government-Financed Highway or Other Construction	31509	5YR	06/02/2008	2008-12/58
R645-300-100	Review, Public Participation, and Approval or Disapproval of Permit Applications and Permit Terms and Conditions	30934	AMD	03/26/2008	2008-4/24
R645-301	Coal Mine Permitting: Permit Application Requirements	30933	AMD	03/26/2008	2008-4/25
<u>Oil, Gas and Mining: Non-Coal</u>					
R647-1	Minerals Regulatory Program	31510	5YR	06/02/2008	2008-12/59
R647-1-106	Definitions	31205	NSC	05/05/2008	Not Printed
R647-2	Exploration	31511	5YR	06/02/2008	2008-12/59
R647-3	Small Mining Operations	31512	5YR	06/02/2008	2008-12/60
R647-4	Large Mining Operations	31513	5YR	06/02/2008	2008-12/60
R647-5	Administrative Procedures	31206	NSC	05/05/2008	Not Printed
R647-5	Administrative Procedures	31514	5YR	06/02/2008	2008-12/61

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Oil, Gas and Mining: Oil and Gas</u>					
R649-10-3	Commencement of Informal Adjudicative Proceedings	31207	NSC	05/05/2008	Not Printed
<u>Parks and Recreation</u>					
R651-205-17	Cutler Reservoir	30900	AMD	03/10/2008	2008-3/36
R651-301	State Recreation Fiscal Assistance Programs	30899	AMD	03/10/2008	2008-3/37
R651-407	Off-Highway Vehicle Advisory Council	31690	5YR	07/07/2008	Not Printed
R651-408	Off-Highway Vehicle Education Curriculum Standards	31691	5YR	07/07/2008	Not Printed
R651-601	Definitions as Used in These Rules	31661	5YR	07/07/2008	Not Printed
R651-602	Aircraft and Powerless Flight	31662	5YR	07/07/2008	Not Printed
R651-603	Animals	31663	5YR	07/07/2008	Not Printed
R651-604	Audio Devices	31664	5YR	07/07/2008	Not Printed
R651-605	Begging and Soliciting	31665	5YR	07/07/2008	Not Printed
R651-606	Camping	31666	5YR	07/07/2008	Not Printed
R651-607	Disorderly Conduct	31667	5YR	07/07/2008	Not Printed
R651-608	Events of Special Uses	31668	5YR	07/07/2008	Not Printed
R651-609	Explosives and Fireworks	31669	5YR	07/07/2008	Not Printed
R651-610	Expulsion	31670	5YR	07/07/2008	Not Printed
R651-611	Fee Schedule	30621	AMD	01/01/2008	2007-22/80
R651-611	Fee Schedule	30898	AMD	03/10/2008	2008-3/39
R651-612	Firearms, Traps and Other Weapons	31012	NSC	03/10/2008	Not Printed
R651-612	Firearms, Traps and Other Weapons	30901	AMD	03/10/2008	2008-3/42
R651-612	Firearms, Traps and Other Weapons	31671	5YR	07/07/2008	Not Printed
R651-613	Fires	31672	5YR	07/07/2008	Not Printed
R651-614	Fishing, Hunting and Trapping	31673	5YR	07/07/2008	Not Printed
R651-615	Motor Vehicle Use	31674	5YR	07/07/2008	Not Printed
R651-616	Organized Sports	31675	5YR	07/07/2008	Not Printed
R651-617	Permit Violation	31676	5YR	07/07/2008	Not Printed
R651-618	Picnicking	31677	5YR	07/07/2008	Not Printed
R651-619	Possession of Alcoholic Beverages or Controlled Substances	31678	5YR	07/07/2008	Not Printed
R651-620	Protection of Resources Park System Property	31679	5YR	07/07/2008	Not Printed
R651-621	Reports of Injury or Damage	31680	5YR	07/07/2008	Not Printed
R651-622	Rock Climbing	31681	5YR	07/07/2008	Not Printed
R651-623	Sale or Distribution of Printed Material	31682	5YR	07/07/2008	Not Printed
R651-624	Sanitation	31683	5YR	07/07/2008	Not Printed
R651-625	Shirts and Shoes	31684	5YR	07/07/2008	Not Printed
R651-626	Skating, Skateboards and Motorized Transportation Devices	31660	5YR	07/07/2008	Not Printed
R651-627	Swimming	31685	5YR	07/07/2008	Not Printed
R651-628	Trails and Walks	31686	5YR	07/07/2008	Not Printed
R651-629	Unattended Property	31687	5YR	07/07/2008	Not Printed
R651-630	Unsupervised Children	31601	5YR	06/20/2008	2008-14/144
R651-631	Winter Sports	31688	5YR	07/07/2008	Not Printed
R651-632	Enforcement	31689	5YR	07/07/2008	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Forestry, Fire and State Lands</u>					
R652-6	Government Records Access and Management	31259	NSC	05/05/2008	Not Printed
R652-7	Public Petitions for Declaratory Orders	31268	NSC	05/05/2008	Not Printed
R652-8	Adjudicative Proceedings	31269	NSC	05/05/2008	Not Printed
R652-9-100	Authority	31110	NSC	05/01/2008	Not Printed
R652-30-500	Application Procedures	31270	NSC	05/05/2008	Not Printed
R652-60-1000	Records	31271	NSC	05/05/2008	Not Printed
R652-120	Wildland Fire	31112	NSC	05/01/2008	Not Printed
R652-121	Wildland Fire Suppression Fund	31108	NSC	05/01/2008	Not Printed
R652-122-100	Authority	31109	NSC	05/01/2008	Not Printed
R652-123	Exemptions to Wildland Fire Suppression Fund	31111	NSC	05/01/2008	Not Printed
<u>Water Resources</u>					
R653-2	Financial Assistance from the Board of Water Resources	30855	NEW	02/25/2008	2008-2/20
R653-2	Financial Assistance from the Board of Water Resources	30940	NSC	02/25/2008	Not Printed
<u>Water Rights</u>					
R655-5	Maps Submitted to the Division of Water Rights	31130	5YR	04/08/2008	2008-9/54
R655-7	Administrative Procedures for Notifying the State Engineer of Sewage Effluent Use or Change in the Point of Discharge for Sewage Effluent	30947	5YR	02/01/2008	2008-4/47
R655-14	Administrative Procedures for Enforcement Proceedings Before the Division of Water Rights	31431	AMD	07/08/2008	2008-11/104
<u>Wildlife Resources</u>					
R657-2	Adjudicative Proceedings	31219	NSC	05/05/2008	Not Printed
R657-3	Collection, Importation, Transportation, and Possession of Zoological Animals	31047	5YR	03/11/2008	2008-7/65
R657-3	Collection, Importation, Transportation, and Possession of Zoological Animals	31220	NSC	05/05/2008	Not Printed
R657-3	Collection, Importation, Transportation, and Possession of Zoological Animals	31053	AMD	05/08/2008	2008-7/45
R657-5	Taking Big Game	30829	AMD	02/07/2008	2008-1/18
R657-12	Hunting and Fishing Accommodations for Disabled People	30777	AMD	01/22/2008	2007-24/19
R657-12-1	Purpose and Authority	31221	NSC	05/05/2008	Not Printed
R657-13	Taking Fish and Crayfish	30676	AMD	01/07/2008	2007-23/61
R657-13-3	Fishing License Requirements and Free Fishing Day	31048	AMD	05/08/2008	2008-7/47
R657-13-4	Fishing Contests	30904	AMD	03/10/2008	2008-3/43
R657-22-1	Purpose and Authority	31222	NSC	05/05/2008	Not Printed
R657-23	Utah Hunter Education Program	30828	AMD	02/07/2008	2008-1/25
R657-23-5	Hunter Education Instructor Training	30955	AMD	04/07/2008	2008-5/31
R657-26	Adjudicative Proceedings for a License, Permit or Certificate of Registration	31223	NSC	05/05/2008	Not Printed
R657-27-11	Revocation of License Agent Authorization	31224	NSC	05/05/2008	Not Printed
R657-29	Government Records Access Management Act	31225	NSC	05/05/2008	Not Printed
R657-33	Taking Bear	30906	AMD	03/10/2008	2008-3/44
R657-34	Procedures for Confirmation of Ordinances on Hunting Closures	31398	5YR	05/08/2008	2008-11/125
R657-37	Cooperative Wildlife Management Units for Big Game or Turkey	31401	5YR	05/08/2008	2008-11/126

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R657-42	Fees, Exchanges, Surrenders, Refunds and Reallocation of Wildlife Documents	31400	5YR	05/08/2008	2008-11/126
R657-42-8	Accepted Payment of Fees	31049	AMD	05/08/2008	2008-7/48
R657-45	Wildlife License, Permit, and Certificate of Registration Forms	31399	5YR	05/08/2008	2008-11/127
R657-45-2	Information Listed on the License, Permit, and Certificate of Registration Forms	31050	AMD	05/08/2008	2008-7/49
R657-48-7	Wildlife Species of Concern Designation Process	31226	NSC	05/05/2008	Not Printed
R657-52-6	Certificate of Registration Renewal	31227	NSC	05/05/2008	Not Printed
R657-53	Amphibian and Reptile Collection, Importation, Transportation and Possession	31228	NSC	05/05/2008	Not Printed
R657-53	Amphibian and Reptile Collection, Importation, Transportation, and Possession	31051	AMD	05/08/2008	2008-7/50
R657-53	Amphibian and Reptile Collection, Importation, Transportation, and Possession	31508	5YR	06/02/2008	2008-12/61
R657-58	Fishing Contests and Clinics	30903	NEW	03/10/2008	2008-3/47
R657-58	Fishing Contests and Clinics	31052	NSC	03/26/2008	Not Printed
R657-59	Private Fish Ponds	31625	EMR	06/27/2008	2008-14/131
R657-60	Aquatic Invasive Species Interdiction	31624	EMR	06/27/2008	2008-14/139

Pardons (Board Of)

Administration

R671-403	Restitution	30949	5YR	02/04/2008	2008-5/59
R671-509	Parole Progress/Violation Reports	31656	5YR	07/03/2008	Not Printed
R671-510	Evidence for Issuance of Warrants	31658	5YR	07/03/2008	Not Printed
R671-512	Execution of the Warrant	31657	5YR	07/03/2008	Not Printed
R671-514	Waiver and Pleas of Guilt	31654	5YR	07/03/2008	Not Printed
R671-515	Timeliness of Parole Revocation Hearings	31659	5YR	07/03/2008	Not Printed
R671-516	Parole Revocation Hearings	31655	5YR	07/03/2008	Not Printed

Professional Practices Advisory Commission

Administration

R686-100	Professional Practices Advisory Commission, Rules of Procedure: Complaints and Hearings	30951	5YR	02/04/2008	2008-5/59
R686-101	Alcohol Related Offenses	31521	5YR	06/02/2008	2008-12/62
R686-102	Drug Related Offenses	31522	5YR	06/02/2008	2008-12/62
R686-103	Professional Practices and Conduct for Utah Educators	31016	REP	04/21/2008	2008-6/12

Public Safety

Driver License

R708-2-25	Grounds for Revocation, Probation or Refusal to Issue or Renew Instructor License, Operator License, or School License	31105	NSC	05/05/2008	Not Printed
R708-3-2	Authority	31106	NSC	05/05/2008	Not Printed
R708-10	Classified License System	31436	AMD	07/08/2008	2008-11/116
R708-14	Adjudicative Proceedings For Driver License Actions Involving Alcohol and Drugs	31107	NSC	05/05/2008	Not Printed
R708-16	Pedestrian Vehicle Rule	31437	AMD	07/08/2008	2008-11/117
R708-18-1	Authority	31113	NSC	05/05/2008	Not Printed
R708-22	Commercial Driver License Administrative Proceedings	31114	NSC	05/05/2008	Not Printed
R708-30-14	Revocation	31115	NSC	05/05/2008	Not Printed
R708-34	Medical Waivers for Intrastate Commercial Driving Privileges	31116	NSC	05/05/2008	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R708-35	Adjudicative Proceedings For Driver License Offenses Not Involving Alcohol or Drug Actions Purpose	31118	NSC	05/05/2008	Not Printed
R708-36-1		31119	NSC	05/05/2008	Not Printed
R708-37-11	Refusal to Certify, Grounds for Cancellation, Suspension, or Probation of a Tester's Certification	31120	NSC	05/05/2008	Not Printed
R708-38	Anatomical Gift	31124	NSC	05/01/2008	Not Printed
R708-42-4	Procedures	31121	NSC	05/05/2008	Not Printed
R708-43	YES or NO Notification	31122	NSC	05/05/2008	Not Printed
R708-44-4	Procedures	31123	NSC	05/05/2008	Not Printed
<u>Fire Marshal</u>					
R710-1-4	Certificates of Registration	31076	AMD	05/23/2008	2008-8/31
R710-2-4	Indoor Sales	30918	AMD	03/10/2008	2008-3/50
R710-2-7	Importer, Wholesaler, Display or Special Effects Operator Licenses	31078	AMD	05/23/2008	2008-8/34
R710-5	Automatic Fire Sprinkler System Inspecting and Testing	31088	5YR	03/28/2008	2008-8/54
R710-5-1	Adoption, Title, Purpose, and Prohibitions	30896	AMD	03/10/2008	2008-3/51
R710-5-3	Certificates of Registration	31080	AMD	05/23/2008	2008-8/35
R710-6	Liquefied Petroleum Gas Rules	30862	AMD	02/21/2008	2008-2/22
R710-6-4	LP Gas Certificates	31082	AMD	05/23/2008	2008-8/37
R710-7	Concerns Servicing Automatic Fire Suppression Systems	31085	AMD	05/23/2008	2008-8/40
R710-9-6	Amendments and Additions	30919	AMD	03/10/2008	2008-3/52
R710-10	Rules Pursuant to Fire Service Training, Education, and Certification	30894	AMD	03/10/2008	2008-3/56
R710-11-3	Certificates of Registration	31086	AMD	05/23/2008	2008-8/42
R710-12	Hazardous Materials Training and Certification	30893	NEW	03/10/2008	2008-3/58
R710-12-4	Training	31087	AMD	05/23/2008	2008-8/44
<u>Criminal Investigations and Technical Services, Criminal Identification</u>					
R722-300	Concealed Firearm Permit Rule (5YR EXTENSION)	30928	NSC	05/01/2008	Not Printed
R722-300	Concealed Firearm Permit Rule (EXPIRED - Legislative Nonreauthorization)	31349	NSC	05/01/2008	Not Printed
R722-320	Undercover Identification (5YR EXTENSION)	30929	NSC	05/14/2008	Not Printed
R722-320	Undercover Identification	31434	5YR	05/14/2008	2008-11/127
R722-340	Emergency Vehicles (5YR EXTENSION)	30930	NSC	05/14/2008	Not Printed
R722-340	Emergency Vehicles	31433	5YR	05/14/2008	2008-11/128
<u>Peace Officer Standards and Training</u>					
R728-501	Career Development Courses	31648	5YR	07/01/2008	2008-14/144
Public Service Commission					
<u>Administration</u>					
R746-100	Practice and Procedure Governing Formal Hearings	31373	NSC	05/05/2008	Not Printed
R746-101-4	Petition Review and Disposition	31372	NSC	05/05/2008	Not Printed
R746-110	Uncontested Matters to be Adjudicated Informally	31369	NSC	05/05/2008	Not Printed
R746-110	Uncontested Matters to be Adjudicated Informally	31620	5YR	06/24/2008	2008-14/145
R746-210	Utility Service Rules Applicable Only to Electric Utilities	31617	5YR	06/24/2008	2008-14/145
R746-240	Telecommunication Service Rules	31619	5YR	06/24/2008	2008-14/146

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R746-330	Rules for Water and Sewer Utilities Operating in Utah	31044	5YR	03/07/2008	2008-7/66
R746-331	Determination of Exemption of Mutual Water Corporations	31095	5YR	04/01/2008	2008-8/55
R746-332	Depreciation Rates for Water Utilities	31091	5YR	04/01/2008	2008-8/55
R746-340	Service Quality for Telecommunications Corporations	31618	5YR	06/24/2008	2008-14/147
R746-342	Rule on One-Way Paging	31092	5YR	04/01/2008	2008-8/56
R746-347	Extended Area Service (EAS)	31045	5YR	03/07/2008	2008-7/66
R746-349-3	Filing Requirements	31374	NSC	05/05/2008	Not Printed
R746-400-7	Confidentiality	31371	NSC	05/05/2008	Not Printed
R746-402	Rules Governing Reports of Accidents by Electric, Gas, Telephone, and Water Utilities	31093	5YR	04/01/2008	2008-8/56
R746-405	Filing of Tariffs for Gas, Electric, Telephone, and Water Utilities	31101	5YR	04/01/2008	2008-8/57
R746-440	Significant Energy Resource Solicitation	31072	NSC	04/11/2008	Not Printed
R746-500	Americans With Disabilities Act Complaint Procedure	31370	NSC	05/05/2008	Not Printed
R746-510	Funding for Speech and Hearing Impaired Certified Interpreter Training	31375	NSC	05/05/2008	Not Printed
Regents (Board Of)					
<u>Administration</u>					
R765-134	Informal Adjudicative Procedures Under the Utah Administrative Procedures Act	31325	NSC	05/05/2008	Not Printed
R765-136	Language Proficiency in the Utah System of Higher Education	31326	NSC	05/05/2008	Not Printed
R765-136	Language Proficiency in the Utah System of Higher Education	31490	5YR	05/27/2008	2008-12/63
R765-254	Secure Area Hearing Rooms	31492	5YR	05/27/2008	2008-12/63
R765-555	Policy on Colleges and Universities Providing Facilities, Goods and Services in Competition with Private Enterprise (5YR EXTENSION)	31104	NSC	06/02/2008	Not Printed
R765-555	Policy on Colleges and Universities Providing Facilities, Goods and Services in Competition with Private Enterprise	31515	5YR	06/02/2008	2008-12/64
R765-605	Utah Centennial Opportunity Program for Education	31402	5YR	05/09/2008	2008-11/128
R765-606	Utah Leveraging Educational Assistance Partnership Program	31405	5YR	05/09/2008	2008-11/129
R765-607	Utah Higher Education Tuition Assistance Program	30957	5YR	02/08/2008	2008-5/60
R765-993	Records Access and Management	31327	NSC	05/05/2008	Not Printed
<u>Salt Lake Community College</u>					
R784-1	Government Records Access and Management Act Rules	31344	NSC	05/05/2008	Not Printed
<u>University of Utah, Administration</u>					
R805-2	Government Records Access and Management Act Procedures	31340	NSC	05/05/2008	Not Printed
<u>University of Utah, Parking and Transportation Services</u>					
R810-1	University of Utah Parking Regulations	30712	AMD	03/06/2008	2007-23/65
R810-2	Parking Meters	30722	AMD	03/06/2008	2007-23/67
R810-3	Visitor Parking	30727	REP	03/06/2008	2007-24/21
R810-4	Registration Policies	30728	REP	03/06/2008	2007-24/22
R810-5	Permit Types, Eligibility and Designated Parking Areas	30779	AMD	03/06/2008	2007-24/23
R810-6	Permit Prices and Refunds	30809	AMD	03/06/2008	2008-1/26
R810-7	Nonresidents and Out-of-State Plates	30831	REP	03/06/2008	2008-1/27

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R810-8	Vendor Regulations	30834	AMD	03/06/2008	2008-1/28
R810-9	Contractors and Their Employees	30836	AMD	03/06/2008	2008-1/29
R810-10	Enforcement System	30839	AMD	03/06/2008	2008-1/30
R810-11	Appeals System	30840	AMD	03/06/2008	2008-1/31
R810-12	Bicycles, Skateboards and Other Toy Vehicles	30843	NEW	03/06/2008	2008-1/32
Sports Authority (Utah)					
<u>Pete Suazo Utah Athletic Commission</u>					
R859-1	Pete Suazo Utah Athletic Commission Act Rule	31028	AMD	05/01/2008	2008-6/15
R859-1-102	Definitions	31172	NSC	06/18/2008	Not Printed
R859-1-302	Renewal Cycle - Procedure	31029	AMD	05/01/2008	2008-6/16
Tax Commission					
<u>Administration</u>					
R861-1A-20	Time of Appeal Pursuant to Utah Code Ann. Sections 59-1-301, 59-1-501, 59-2-1007, 59-7-517, 59-10-532, 9-10-533, 59-10-535, 59-12-114, 59-13-210, 63-46b-3, 63-46b-14	30688	AMD	01/11/2008	2007-23/68
R861-1A-24	Formal Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-502.5, 63-46b-8, and 63-46b-10	30589	AMD	01/11/2008	2007-21/69
R861-1A-26	Procedures for Formal Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-501 and 63-46b-6 and 63-46b-11	30717	AMD	01/11/2008	2007-23/69
R861-1A-40	Waiver of Requirement to Post Security Prior to Judicial Review Pursuant to Utah Code Ann. Section 59-1-611	30838	AMD	02/25/2008	2008-1/32
R861-1A-42	Waiver of Penalty and Interest for Reasonable Cause Pursuant to Utah Code Ann. Section 59-1-401	30835	AMD	02/25/2008	2008-1/33
R861-1A-43	Electronic Meetings Pursuant to Utah Code Ann. Section 52-4-207	30780	AMD	01/25/2008	2007-24/24
<u>Auditing</u>					
R865-6F-28	Enterprise Zone Corporate Franchise Tax Credits Pursuant to Utah Code Ann. Sections 9-2-401 through 9-2-415	30913	AMD	03/14/2008	2008-3/61
R865-6F-37	Disclosure of Reportable Transactions and Material Advisor List Pursuant to Utah Code Ann. Sections 59-1-1301 through 59-1-1309	30842	AMD	02/25/2008	2008-1/35
R865-9I-37	Enterprise Zone Individual Income Tax Credits Pursuant to Utah Code Ann. Sections 63-38f-401 through 63-38f-414	30916	AMD	03/14/2008	2008-3/63
R865-9I-53	Disclosure of Reportable Transactions and Material Advisor List Pursuant to Utah Code Ann. Sections 59-1-1301 through 59-1-1309	30849	AMD	02/25/2008	2008-1/36
R865-19S-99	Sales and Use Taxes on Vehicles Purchased in Another State Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-104(26), (28)	31272	NSC	06/23/2008	Not Printed
R865-19S-105	Procedures for Refund of Sales and Use Taxes Paid on Food Donated to a Qualified Emergency Food Agency Pursuant to Utah Code Ann. Section 59-12-902	31258	AMD	07/01/2008	2008-10/132
R865-19S-121	Sales and Use Tax Exemptions for Certain Purchases by a Mining Facility Pursuant to Utah Code Ann. Section 59-12-104	30841	AMD	02/25/2008	2008-1/37
<u>Motor Vehicle</u>					
R873-22M-34	Rule for Denial of Personalized License Plate Requests Pursuant to Utah Code Ann. Sections 41-1a-104 and 41-1a-411	30844	AMD	02/25/2008	2008-1/38

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R873-22M-41	Issuance of Salvage Certificate in Certain Circumstances Pursuant to Utah Code Ann. Section 41-1a-1005	31264	AMD	06/27/2008	2008-10/133
<u>Motor Vehicle Enforcement</u>					
R877-23V-19	Disclosure of Vehicles Initially Delivered for Sale in a Country Other than the United States Pursuant to Utah Code Ann. Section 41-1a-712	31255	AMD	06/27/2008	2008-10/135
<u>Property Tax</u>					
R884-24P-62	Valuation of State Assessed Unitary Properties Pursuant to Utah Code Ann. Section 59-2-201	30931	AMD	03/28/2008	2008-4/30
R884-24P-62	Valuation of State Assessed Unitary Properties Pursuant to Utah Code Ann. Section 59-2-201	31274	NSC	06/23/2008	Not Printed
Transportation					
<u>Motor Carrier</u>					
R909-1-1	Adoption of Federal Regulations	30783	AMD	02/15/2008	2007-24/25
R909-19	Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operations and Certification	30785	AMD	02/12/2008	2007-24/26
R909-75	Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Wastes	31090	AMD	05/27/2008	2008-8/45
<u>Preconstruction</u>					
R930-5	Establishment and Regulation of At-Grade Railroad Crossings	31066	AMD	06/10/2008	2008-8/46
Treasurer					
<u>Unclaimed Property</u>					
R966-1-2	Proof Requirements and Bonds	30596	AMD	01/07/2008	2007-22/87
Workforce Services					
<u>Employment Development</u>					
R986-200	Family Employment Program	31032	AMD	05/01/2008	2008-6/18
R986-200-214	Assistance for Specified Relatives	30864	AMD	02/26/2008	2008-2/25
R986-200-240	Additional Payments Available Under Certain Circumstances	31365	AMD	07/02/2008	2008-10/135
R986-300-303	Eligibility, Income Standards, and Amount of Assistance	31060	AMD	05/20/2008	2008-7/52
R986-400-406	Failure to Comply with the Requirements of an Employment Plan	31034	AMD	05/01/2008	2008-6/20
R986-700	Child Care Assistance	31033	AMD	05/01/2008	2008-6/21
R986-700	Child Care Assistance	31364	AMD	07/02/2008	2008-10/136
<u>Unemployment Insurance</u>					
R994-106-106	Non-Monetary Eligibility Determination	31075	AMD	05/30/2008	2008-8/48
R994-201	Definition of Terms in Employment Security Act	31467	5YR	05/20/2008	2008-12/64
R994-202	Employing Units	31468	5YR	05/20/2008	2008-12/65
R994-208	Wages	31469	5YR	05/20/2008	2008-12/65
R994-306	Charging Benefit Costs to Employers	31547	5YR	06/10/2008	2008-13/151
R994-307	Social Costs -- Relief of Charges	31548	5YR	06/10/2008	2008-13/152
R994-315	Centralized New Hire Registry Reporting	31549	5YR	06/10/2008	2008-13/152
R994-508	Appeal Procedures	30771	AMD	02/15/2008	2007-24/30
R994-508	Appeal Procedures	31546	5YR	06/10/2008	2008-13/153
R994-508-117	Failure to Participate in the Hearing and Reopening the Hearing After the Hearing Has Been Concluded	31020	NSC	03/11/2008	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R994-508-118	What Constitutes Grounds to Reopen a Hearing	31071	NSC	04/14/2008	Not Printed

RULES INDEX - BY KEYWORD (SUBJECT)

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	

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>access</u>					
Crime Victim Reparations, Administration	31324	R270-4	NSC	05/05/2008	Not Printed
<u>access to information</u>					
Administrative Services, Administration	31343	R13-2	NSC	05/05/2008	Not Printed
<u>accountants</u>					
Commerce, Occupational and Professional Licensing	30715	R156-26a	AMD	03/31/2008	2007-23/4
	30715	R156-26a	CPR	03/31/2008	2008-4/35
<u>accreditation</u>					
Education, Administration	31444	R277-504	AMD	07/08/2008	2008-11/77
<u>acid rain</u>					
Environmental Quality, Air Quality	30700	R307-215	REP	02/08/2008	2007-23/31
	30706	R307-417	AMD	02/08/2008	2007-23/43
<u>adjudicative procedures</u>					
Regents (Board Of), Administration	31325	R765-134	NSC	05/05/2008	Not Printed
<u>adjudicative proceedings</u>					
Natural Resources, Forestry, Fire and State Lands	31269	R652-8	NSC	05/05/2008	Not Printed
Public Safety, Driver License	31107	R708-14	NSC	05/05/2008	Not Printed
	31118	R708-35	NSC	05/05/2008	Not Printed
<u>administrative law</u>					
Administrative Services, Administrative Rules	31143	R15-1	NSC	05/05/2008	Not Printed
	31144	R15-2	NSC	05/05/2008	Not Printed
	31145	R15-3	NSC	05/05/2008	Not Printed
	31146	R15-4	NSC	05/05/2008	Not Printed
	31147	R15-5	NSC	05/05/2008	Not Printed
Human Services, Recovery Services	31133	R527-257	REP	06/09/2008	2008-9/45
	31054	R527-258	AMD	05/14/2008	2008-7/33

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>administrative penalties</u>					
Natural Resources, Water Rights	31431	R655-14	AMD	07/08/2008	2008-11/104
<u>administrative procedures</u>					
Administrative Services, Administration	31342	R13-1	NSC	05/05/2008	Not Printed
Administrative Services, Administrative Rules	31147	R15-5	NSC	05/05/2008	Not Printed
Auditor, Administration	31257	R123-3-1	NSC	05/05/2008	Not Printed
	31260	R123-3-2	NSC	05/05/2008	Not Printed
	31261	R123-3-3	NSC	05/05/2008	Not Printed
Commerce, Occupational and Professional Licensing	31179	R156-46b	NSC	05/05/2008	Not Printed
Crime Victim Reparations, Administration	31323	R270-2	NSC	05/05/2008	Not Printed
Environmental Quality, Air Quality	31461	R307-103	NSC	06/18/2008	Not Printed
Environmental Quality, Radiation Control	31171	R313-17	NSC	05/05/2008	Not Printed
Environmental Quality, Water Quality	30948	R317-9	5YR	02/01/2008	2008-4/42
Health, Administration	31281	R380-1	NSC	05/05/2008	Not Printed
	31282	R380-5	NSC	05/05/2008	Not Printed
	31283	R380-10	NSC	05/05/2008	Not Printed
	31188	R477-3	AMD	07/01/2008	2008-10/87
	31210	R477-12	AMD	07/01/2008	2008-10/110
	31208	R477-15	AMD	07/01/2008	2008-10/112
Labor Commission, Adjudication	31250	R602-1	NSC	05/05/2008	Not Printed
	31236	R602-2-1	NSC	05/05/2008	Not Printed
	30811	R602-2-4	AMD	02/07/2008	2008-1/14
	31238	R602-3	NSC	05/05/2008	Not Printed
	30810	R602-3-3	AMD	02/07/2008	2008-1/16
	31643	R602-4	EMR	07/01/2008	2008-14/129
Labor Commission, Industrial Accidents	31235	R612-1	NSC	05/05/2008	Not Printed
	31252	R612-10	NSC	05/05/2008	Not Printed
Natural Resources, Oil, Gas and Mining Board	31196	R641-100	NSC	05/05/2008	Not Printed
	31197	R641-104-100	NSC	05/05/2008	Not Printed
	31198	R641-112	NSC	05/05/2008	Not Printed
	31199	R641-114	NSC	05/05/2008	Not Printed
	31200	R641-115	NSC	05/05/2008	Not Printed
	31201	R641-116	NSC	05/05/2008	Not Printed
Natural Resources, Forestry, Fire and State Lands	31268	R652-7	NSC	05/05/2008	Not Printed
	31269	R652-8	NSC	05/05/2008	Not Printed
	31110	R652-9-100	NSC	05/01/2008	Not Printed
	31270	R652-30-500	NSC	05/05/2008	Not Printed
	31112	R652-120	NSC	05/01/2008	Not Printed
	31108	R652-121	NSC	05/01/2008	Not Printed
	31111	R652-123	NSC	05/01/2008	Not Printed
Natural Resources, Wildlife Resources	31219	R657-2	NSC	05/05/2008	Not Printed
<u>administrative proceedings</u>					
Public Safety, Driver License	31114	R708-22	NSC	05/05/2008	Not Printed

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>administrative responsibility</u> Human Resource Management, Administration	31187	R477-2	AMD	07/01/2008	2008-10/84
<u>administrative rules</u> Human Resource Management, Administration	31211	R477-13	NSC	06/19/2008	Not Printed
<u>adult education</u> Education, Administration	30883	R277-702	5YR	01/08/2008	2008-3/74
<u>advertising</u> Commerce, Consumer Protection	31213	R152-11	NSC	05/05/2008	Not Printed
<u>agency</u> Human Services, Aging and Adult Services	31378	R510-110-5	NSC	05/05/2008	Not Printed
<u>air pollution</u> Environmental Quality, Air Quality	30697	R307-101	AMD	02/08/2008	2007-23/21
	30959	R307-101	5YR	02/08/2008	2008-5/40
	30960	R307-102	5YR	02/08/2008	2008-5/40
	31462	R307-102	NSC	06/18/2008	Not Printed
	31461	R307-103	NSC	06/18/2008	Not Printed
	30698	R307-115	AMD	02/08/2008	2007-23/28
	30961	R307-115	5YR	02/08/2008	2008-5/41
	30889	R307-121-3	NSC	01/30/2008	Not Printed
	30962	R307-170	5YR	02/08/2008	2008-5/41
	30699	R307-170-7	AMD	02/08/2008	2007-23/29
	30963	R307-202	5YR	02/08/2008	2008-5/42
	30964	R307-203	5YR	02/08/2008	2008-5/43
	30430	R307-214	AMD	01/11/2008	2007-19/12
	30895	R307-214	5YR	01/11/2008	2008-3/77
	30965	R307-220	5YR	02/08/2008	2008-5/43
	30701	R307-221	AMD	02/08/2008	2007-23/32
	30966	R307-221	5YR	02/08/2008	2008-5/44
	30832	R307-221-2	NSC	02/08/2008	Not Printed
	30702	R307-222	AMD	02/08/2008	2007-23/36
	30967	R307-222	5YR	02/08/2008	2008-5/44
	30833	R307-222-1	NSC	02/08/2008	Not Printed
	30703	R307-223	AMD	02/08/2008	2007-23/38
	30968	R307-223	5YR	02/08/2008	2008-5/45
	30969	R307-224	5YR	02/08/2008	2008-5/45
	30704	R307-224-2	AMD	02/08/2008	2007-23/39
	30970	R307-250	5YR	02/08/2008	2008-5/46
	30971	R307-310	5YR	02/08/2008	2008-5/46
	30705	R307-310-2	AMD	02/08/2008	2007-23/40
	30709	R307-401-14	AMD	02/08/2008	2007-23/42
	30431	R307-405	AMD	01/11/2008	2007-19/15
	30972	R307-801	5YR	02/08/2008	2008-5/47
	30707	R307-801	AMD	02/08/2008	2007-23/45

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	30973	R307-840	5YR	02/08/2008	2008-5/47
	30708	R307-840	AMD	02/08/2008	2007-23/48
<u>air quality</u>					
Environmental Quality, Air Quality	30700	R307-215	REP	02/08/2008	2007-23/31
	30706	R307-417	AMD	02/08/2008	2007-23/43
<u>air travel</u>					
Administrative Services, Finance	31319	R25-7	5YR	04/29/2008	2008-10/144
	31320	R25-7	AMD	07/01/2008	2008-10/4
<u>aircraft</u>					
Tax Commission, Motor Vehicle	30844	R873-22M-34	AMD	02/25/2008	2008-1/38
	31264	R873-22M-41	AMD	06/27/2008	2008-10/133
<u>alarm company</u>					
Commerce, Occupational and Professional Licensing	31181	R156-55d	NSC	05/05/2008	Not Printed
<u>alcoholic beverages</u>					
Alcoholic Beverage Control, Administration	31254	R81-1-2	AMD	06/27/2008	2008-10/10
	31273	R81-1-9	AMD	06/27/2008	2008-10/11
	31275	R81-1-10	AMD	06/27/2008	2008-10/13
	31279	R81-1-11	AMD	06/27/2008	2008-10/14
	31289	R81-1-26	AMD	06/27/2008	2008-10/16
	31291	R81-3-1	AMD	06/27/2008	2008-10/18
	31328	R81-3-9	AMD	06/27/2008	2008-10/19
	31329	R81-3-13	AMD	06/27/2008	2008-10/20
	31330	R81-3-14	AMD	06/27/2008	2008-10/21
	31154	R81-4C	NSC	05/01/2008	Not Printed
	31155	R81-4D	NSC	05/01/2008	Not Printed
	31287	R81-5-11	AMD	06/27/2008	2008-10/25
	31332	R81-7-1	AMD	06/27/2008	2008-10/26
	31334	R81-10	NEW	06/27/2008	2008-10/27
<u>allegation</u>					
Pardons (Board Of), Administration	31654	R671-514	5YR	07/03/2008	Not Printed
<u>allowance</u>					
Administrative Services, Finance	31321	R25-8	AMD	07/01/2008	2008-10/7
<u>alternative fuels</u>					
Environmental Quality, Air Quality	30889	R307-121-3	NSC	01/30/2008	Not Printed
<u>alternative school</u>					
Education, Administration	30888	R277-730	5YR	01/08/2008	2008-3/77
<u>Americans with Disabilities Act 1992</u>					
Human Services, Administration	31067	R495-878	AMD	06/13/2008	2008-8/23
	31367	R495-878	NSC	05/05/2008	Not Printed
<u>amphibians</u>					
Natural Resources, Wildlife Resources	31051	R657-53	AMD	05/08/2008	2008-7/50

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	31508	R657-53	5YR	06/02/2008	2008-12/61
	31228	R657-53	NSC	05/05/2008	Not Printed
<u>anatomical gift</u>					
Public Safety, Driver License	31124	R708-38	NSC	05/01/2008	Not Printed
<u>ancient human remains</u>					
Community and Culture, History	31290	R212-4	R&R	06/25/2008	2008-10/52
<u>animal protection</u>					
Natural Resources, Wildlife Resources	31047	R657-3	5YR	03/11/2008	2008-7/65
	31053	R657-3	AMD	05/08/2008	2008-7/45
<u>animal protections</u>					
Natural Resources, Wildlife Resources	31220	R657-3	NSC	05/05/2008	Not Printed
<u>appellate procedures</u>					
Administrative Services, Administration	31342	R13-1	NSC	05/05/2008	Not Printed
Administrative Services, Fleet Operations, Surplus Property	31117	R28-3	5YR	04/04/2008	2008-9/52
Auditor, Administration	31257	R123-3-1	NSC	05/05/2008	Not Printed
	31260	R123-3-2	NSC	05/05/2008	Not Printed
	31261	R123-3-3	NSC	05/05/2008	Not Printed
	31323	R270-2	NSC	05/05/2008	Not Printed
Workforce Services, Unemployment Insurance	30771	R994-508	AMD	02/15/2008	2007-24/30
	31546	R994-508	5YR	06/10/2008	2008-13/153
	31020	R994-508-117	NSC	03/11/2008	Not Printed
	31071	R994-508-118	NSC	04/14/2008	Not Printed
<u>application</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	30938	R414-308	5YR	01/31/2008	2008-4/46
	30927	R414-308-7	AMD	04/01/2008	2008-4/16
<u>applications</u>					
Natural Resources, Water Rights	31130	R655-5	5YR	04/08/2008	2008-9/54
<u>applied technology education</u>					
Education, Administration	30878	R277-518	5YR	01/08/2008	2008-3/72
<u>appraisals</u>					
Tax Commission, Property Tax	31274	R884-24P-62	NSC	06/23/2008	Not Printed
	30931	R884-24P-62	AMD	03/28/2008	2008-4/30
<u>approval orders</u>					
Environmental Quality, Air Quality	30709	R307-401-14	AMD	02/08/2008	2007-23/42
<u>aquaculture</u>					
Natural Resources, Wildlife Resources	31625	R657-59	EMR	06/27/2008	2008-14/131
<u>archaeology</u>					
Community and Culture, History	31290	R212-4	R&R	06/25/2008	2008-10/52

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>architects</u>					
Capitol Preservation Board (State), Administration	30591	R131-1	AMD	02/29/2008	2007-21/11
Commerce, Occupational and Professional Licensing	30935	R156-3a-303	AMD	03/27/2008	2008-4/5
<u>area</u>					
Human Services, Aging and Adult Services	31378	R510-110-5	NSC	05/05/2008	Not Printed
<u>arts program</u>					
Education, Administration	31443	R277-490	NEW	07/08/2008	2008-11/74
<u>asbestos</u>					
Environmental Quality, Air Quality	30972	R307-801	5YR	02/08/2008	2008-5/47
	30707	R307-801	AMD	02/08/2008	2007-23/45
<u>asbestos hazard emergency response</u>					
Environmental Quality, Air Quality	30972	R307-801	5YR	02/08/2008	2008-5/47
	30707	R307-801	AMD	02/08/2008	2007-23/45
<u>assistance</u>					
Natural Resources, Parks and Recreation	30899	R651-301	AMD	03/10/2008	2008-3/37
<u>attorneys</u>					
Administrative Services, Finance	31363	R25-14	EMR	05/05/2008	2008-10/140
<u>audiologist</u>					
Health, Community and Family Health Services, Children with Special Health Care Needs	31651	R398-2	5YR	07/02/2008	Not Printed
<u>auditing</u>					
Auditor, Administration	31257	R123-3-1	NSC	05/05/2008	Not Printed
	31260	R123-3-2	NSC	05/05/2008	Not Printed
	31261	R123-3-3	NSC	05/05/2008	Not Printed
<u>automatic fire sprinklers</u>					
Public Safety, Fire Marshal	31088	R710-5	5YR	03/28/2008	2008-8/54
	30896	R710-5-1	AMD	03/10/2008	2008-3/51
	31080	R710-5-3	AMD	05/23/2008	2008-8/35
<u>automobile repair</u>					
Commerce, Consumer Protection	31215	R152-20	NSC	05/05/2008	Not Printed
<u>automobiles</u>					
Commerce, Administration	31354	R151-14-3	NSC	05/05/2008	Not Printed
Commerce, Consumer Protection	31215	R152-20	NSC	05/05/2008	Not Printed
<u>background checks</u>					
Human Services, Substance Abuse and Mental Health, State Hospital	31448	R525-5	5YR	05/19/2008	2008-12/57
<u>bait and switch</u>					
Commerce, Consumer Protection	31213	R152-11	NSC	05/05/2008	Not Printed
<u>banks and banking</u>					
Human Services, Recovery Services	30982	R527-928	AMD	04/07/2008	2008-5/26

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>bear</u> Natural Resources, Wildlife Resources	30906	R657-33	AMD	03/10/2008	2008-3/44
<u>bed allocations</u> Human Services, Substance Abuse and Mental Health	31089	R523-1	5YR	03/31/2008	2008-8/53
	30767	R523-1	NSC	03/31/2008	Not Printed
<u>benefits</u> Health, Health Care Financing, Coverage and Reimbursement Policy	30921	R414-302	5YR	01/25/2008	2008-4/43
Labor Commission, Industrial Accidents	31230	R612-3	5YR	04/28/2008	2008-10/149
<u>big game seasons</u> Natural Resources, Wildlife Resources	30829	R657-5	AMD	02/07/2008	2008-1/18
<u>birth defect reporting</u> Health, Community and Family Health Services, Children with Special Health Care Needs	31070	R398-5	AMD	07/03/2008	2008-8/16
<u>birth defects</u> Health, Community and Family Health Services, Children with Special Health Care Needs	31070	R398-5	AMD	07/03/2008	2008-8/16
<u>board meetings</u> Environmental Quality, Administration	30506	R305-3	NSC	02/15/2008	Not Printed
	30766	R305-3	REP	02/15/2008	2007-24/6
<u>boards</u> Administrative Services, Finance	31317	R25-5	5YR	04/29/2008	2008-10/143
<u>boating</u> Natural Resources, Parks and Recreation	30900	R651-205-17	AMD	03/10/2008	2008-3/36
<u>boilers</u> Labor Commission, Safety	31246	R616-2	NSC	05/05/2008	Not Printed
<u>bonds</u> Treasurer, Unclaimed Property	30596	R966-1-2	AMD	01/07/2008	2007-22/87
<u>boxing</u> Sports Authority (Utah), Pete Suazo Utah Athletic Commission	31028	R859-1	AMD	05/01/2008	2008-6/15
	31172	R859-1-102	NSC	06/18/2008	Not Printed
	31029	R859-1-302	AMD	05/01/2008	2008-6/16
<u>breaks</u> Human Resource Management, Administration	31193	R477-8	AMD	07/01/2008	2008-10/101
	30778	R477-8-5	AMD	01/22/2008	2007-24/16
<u>brine shrimp</u> Natural Resources, Wildlife Resources	31227	R657-52-6	NSC	05/05/2008	Not Printed
<u>broadband</u> Governor, Economic Development	30788	R357-2	NEW	01/30/2008	2007-24/9
	30859	R357-2-7	NSC	01/30/2008	Not Printed

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>budgeting</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	30652	R414-304	AMD	01/28/2008	2007-23/54
	30924	R414-304	5YR	01/25/2008	2008-4/44
<u>building codes</u>					
Commerce, Occupational and Professional Licensing	30574	R156-56	AMD	01/01/2008	2007-21/38
	31139	R156-56	AMD	07/01/2008	2008-9/23
	30573	R156-56-420	AMD	01/01/2008	2007-21/57
	31142	R156-56-701	AMD	07/01/2008	2008-9/30
<u>building inspection</u>					
Commerce, Occupational and Professional Licensing	30574	R156-56	AMD	01/01/2008	2007-21/38
	31139	R156-56	AMD	07/01/2008	2008-9/23
	30573	R156-56-420	AMD	01/01/2008	2007-21/57
	31142	R156-56-701	AMD	07/01/2008	2008-9/30
<u>burglar alarms</u>					
Commerce, Occupational and Professional Licensing	31181	R156-55d	NSC	05/05/2008	Not Printed
<u>burns</u>					
Natural Resources, Forestry, Fire and State Lands	31112	R652-120	NSC	05/01/2008	Not Printed
<u>capacity development</u>					
Environmental Quality, Drinking Water	31157	R309-352	5YR	04/18/2008	2008-10/144
<u>capital punishment</u>					
Administrative Services, Finance	31363	R25-14	EMR	05/05/2008	2008-10/140
<u>capitol preservation</u>					
Capitol Preservation Board (State), Administration	30591	R131-1	AMD	02/29/2008	2007-21/11
<u>career development courses</u>					
Public Safety, Peace Officer Standards and Training	31648	R728-501	5YR	07/01/2008	2008-14/144
<u>career education</u>					
Education, Administration	30885	R277-718	5YR	01/08/2008	2008-3/75
<u>case</u>					
Human Services, Aging and Adult Services	31378	R510-110-5	NSC	05/05/2008	Not Printed
<u>case management</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	31169	R414-6	5YR	04/21/2008	2008-10/145
<u>caseworker training</u>					
Human Services, Child and Family Services	31043	R512-204	NEW	05/08/2008	2008-7/31
<u>CERCLA</u>					
Environmental Quality, Environmental Response and Remediation	30567	R311-401-2	AMD	01/02/2008	2007-21/59

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>certification</u>					
Labor Commission, Safety	31253	R616-3	NSC	05/05/2008	Not Printed
<u>certificate of registration</u>					
Natural Resources, Wildlife Resources	31399	R657-45	5YR	05/08/2008	2008-11/127
	31050	R657-45-2	AMD	05/08/2008	2008-7/49
<u>certification</u>					
Labor Commission, Safety	31233	R616-1	5YR	04/28/2008	2008-10/150
	31249	R616-1	NSC	05/05/2008	Not Printed
	31246	R616-2	NSC	05/05/2008	Not Printed
	30943	R616-3-3	AMD	03/24/2008	2008-4/21
<u>certification of instructors</u>					
Human Services, Substance Abuse and Mental Health	31352	R523-22-9	NSC	05/05/2008	Not Printed
<u>certifications</u>					
Transportation, Motor Carrier	30785	R909-19	AMD	02/12/2008	2007-24/26
<u>charities</u>					
Commerce, Consumer Protection	31216	R152-22-9	NSC	05/05/2008	Not Printed
Tax Commission, Auditing	31272	R865-19S-99	NSC	06/23/2008	Not Printed
	31258	R865-19S-105	AMD	07/01/2008	2008-10/132
	30841	R865-19S-121	AMD	02/25/2008	2008-1/37
<u>charter schools</u>					
Education, Administration	30846	R277-470-7	AMD	02/07/2008	2008-1/9
<u>child abuse</u>					
Human Services, Child and Family Services	30720	R512-20	NSC	01/07/2008	Not Printed
	30716	R512-20	REP	01/07/2008	2007-23/58
	31043	R512-204	NEW	05/08/2008	2008-7/31
<u>child care</u>					
Workforce Services, Employment Development	31364	R986-700	AMD	07/02/2008	2008-10/136
	31033	R986-700	AMD	05/01/2008	2008-6/21
<u>child care facilities</u>					
Health, Health Systems Improvement, Child Care Licensing	31537	R430-4	5YR	06/06/2008	2008-13/148
	31538	R430-50	5YR	06/06/2008	2008-13/149
	31539	R430-60	5YR	06/06/2008	2008-13/149
	31540	R430-90	5YR	06/06/2008	2008-13/150
<u>child support</u>					
Human Services, Administration	31465	R495-879	NSC	06/18/2008	Not Printed
Human Services, Recovery Services	31151	R527-34	AMD	06/09/2008	2008-9/43
	30891	R527-39	5YR	01/10/2008	2008-3/78
	31498	R527-39-2	NSC	06/18/2008	Not Printed
	30939	R527-56	5YR	01/31/2008	2008-4/46
	31134	R527-56	AMD	06/09/2008	2008-9/44

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	31061	R527-231	AMD	05/15/2008	2008-7/32
	31133	R527-257	REP	06/09/2008	2008-9/45
	31054	R527-258	AMD	05/14/2008	2008-7/33
	31152	R527-260	NEW	07/01/2008	2008-9/46
	31163	R527-302	AMD	06/25/2008	2008-10/120
	30978	R527-305	5YR	02/12/2008	2008-5/58
	31025	R527-305	AMD	04/21/2008	2008-6/8
	30905	R527-430	5YR	01/14/2008	2008-3/78
	31161	R527-475	5YR	04/21/2008	2008-10/147
	31162	R527-475	AMD	06/25/2008	2008-10/121
	31159	R527-920	NEW	06/27/2008	2008-10/122
<u>child welfare</u>					
Human Services, Child and Family Services	30720	R512-20	NSC	01/07/2008	Not Printed
	30716	R512-20	REP	01/07/2008	2007-23/58
	31043	R512-204	NEW	05/08/2008	2008-7/31
	31589	R512-500	EMR	06/18/2008	2008-14/125
<u>children's health benefits</u>					
Health, Children's Health Insurance Program	31503	R382-1	5YR	05/30/2008	2008-12/53
	31357	R382-10	AMD	07/01/2008	2008-10/55
	31454	R382-10	5YR	05/19/2008	2008-12/53
<u>childs support</u>					
Human Services, Recovery Services	31160	R527-302	5YR	04/21/2008	2008-10/147
<u>CHIP</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	31358	R414-320	AMD	07/01/2008	2008-10/68
<u>chronically ill</u>					
Corrections, Administration	30803	R251-114	NEW	03/11/2008	2008-1/6
<u>citation monitoring service</u>					
Public Safety, Driver License	31123	R708-44-4	NSC	05/05/2008	Not Printed
<u>civil rights</u>					
Natural Resources, Administration	30875	R634-1	NSC	01/25/2008	Not Printed
	30923	R634-1	5YR	01/25/2008	2008-4/47
<u>Civil Rights Act 1964</u>					
Human Services, Administration	31067	R495-878	AMD	06/13/2008	2008-8/23
	31367	R495-878	NSC	05/05/2008	Not Printed
<u>Class I area</u>					
Environmental Quality, Air Quality	30431	R307-405	AMD	01/11/2008	2007-19/15
<u>classified license</u>					
Public Safety, Driver License	31436	R708-10	AMD	07/08/2008	2008-11/116
<u>client rights</u>					
Community and Culture, Home Energy Assistance Target (HEAT)	31331	R195-1	NSC	05/05/2008	Not Printed

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
Health, Health Care Financing, Coverage and Reimbursement Policy	30936	R414-301	5YR	01/31/2008	2008-4/43
<u>coal mines</u>					
Natural Resources, Oil, Gas and Mining; Coal	30932	R645-100-200	AMD	03/26/2008	2008-4/23
	31204	R645-100-500	NSC	05/05/2008	Not Printed
	31509	R645-102	5YR	06/02/2008	2008-12/58
	30934	R645-300-100	AMD	03/26/2008	2008-4/24
	30933	R645-301	AMD	03/26/2008	2008-4/25
<u>colleges</u>					
Regents (Board Of), Administration	31325	R765-134	NSC	05/05/2008	Not Printed
	31515	R765-555	5YR	06/02/2008	2008-12/64
	31104	R765-555	NSC	06/02/2008	Not Printed
	31327	R765-993	NSC	05/05/2008	Not Printed
<u>commerce</u>					
Commerce, Corporations and Commercial Code	30642	R154-10	REP	03/03/2008	2007-22/16
<u>commercial motor vehicle insurance</u>					
Insurance, Administration	30490	R590-243	NEW	01/11/2008	2007-20/28
<u>commercialization</u>					
Natural Resources, Wildlife Resources	31227	R657-52-6	NSC	05/05/2008	Not Printed
<u>communicable diseases</u>					
Health, Epidemiology and Laboratory Services, Epidemiology	31099	R386-702-12	AMD	06/11/2008	2008-8/5
<u>complaint procedures</u>					
Corrections, Administration	30713	R251-112	AMD	03/11/2008	2007-23/19
<u>complaints</u>					
Education, Administration	31517	R277-104	5YR	06/02/2008	2008-12/50
Human Services, Substance Abuse and Mental Health, State Hospital	31451	R525-7	5YR	05/19/2008	2008-12/57
Public Service Commission, Administration	31370	R746-500	NSC	05/05/2008	Not Printed
<u>concealed firearm permit</u>					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	31349	R722-300	NSC	05/01/2008	Not Printed
	30928	R722-300	NSC	05/01/2008	Not Printed
<u>concerns</u>					
Human Services, Substance Abuse and Mental Health, State Hospital	31451	R525-7	5YR	05/19/2008	2008-12/57
<u>conduct</u>					
Professional Practices Advisory Commission, Administration	30951	R686-100	5YR	02/04/2008	2008-5/59
<u>confidentiality of information</u>					
Administrative Services, Administration	31343	R13-2	NSC	05/05/2008	Not Printed
Community and Culture, Home Energy Assistance Target (HEAT)	31331	R195-1	NSC	05/05/2008	Not Printed
Environmental Quality, Air Quality	30960	R307-102	5YR	02/08/2008	2008-5/40
	31462	R307-102	NSC	06/18/2008	Not Printed

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
Human Resource Management, Administration	31187	R477-2	AMD	07/01/2008	2008-10/84
<u>conflict of interest</u>					
Human Resource Management, Administration	31194	R477-9	AMD	07/01/2008	2008-10/104
<u>consumer protection</u>					
Commerce, Consumer Protection	31184	R152-1	NSC	05/05/2008	Not Printed
	31213	R152-11	NSC	05/05/2008	Not Printed
	31214	R152-15-2	NSC	05/05/2008	Not Printed
	31215	R152-20	NSC	05/05/2008	Not Printed
	31216	R152-22-9	NSC	05/05/2008	Not Printed
	31217	R152-23-1	NSC	05/05/2008	Not Printed
<u>contamination</u>					
Environmental Quality, Radiation Control	30865	R313-15	AMD	03/17/2008	2008-2/10
<u>contests</u>					
Sports Authority (Utah), Pete Suazo Utah Athletic Commission	31172	R859-1-102	NSC	06/18/2008	Not Printed
<u>continuing education</u>					
Commerce, Real Estate	31277	R162-9	AMD	06/23/2008	2008-10/48
<u>continuing professional education</u>					
Commerce, Occupational and Professional Licensing	30715	R156-26a	AMD	03/31/2008	2007-23/4
	30715	R156-26a	CPR	03/31/2008	2008-4/35
<u>continuous monitoring</u>					
Environmental Quality, Air Quality	30962	R307-170	5YR	02/08/2008	2008-5/41
	30699	R307-170-7	AMD	02/08/2008	2007-23/29
<u>contractors</u>					
Commerce, Occupational and Professional Licensing	30654	R156-38a	AMD	01/07/2008	2007-23/14
	31176	R156-38a-105a	NSC	05/05/2008	Not Printed
	31292	R156-55a	AMD	06/24/2008	2008-10/42
	30892	R156-55a	AMD	03/11/2008	2008-3/3
	30574	R156-56	AMD	01/01/2008	2007-21/38
	31139	R156-56	AMD	07/01/2008	2008-9/23
	30573	R156-56-420	AMD	01/01/2008	2007-21/57
	31142	R156-56-701	AMD	07/01/2008	2008-9/30
<u>contracts</u>					
Capitol Preservation Board (State), Administration	30590	R131-4	R&R	02/29/2008	2007-21/13
	30952	R251-304	5YR	02/05/2008	2008-5/39
	30980	R251-304	AMD	05/20/2008	2008-5/15
<u>cooperative agreement</u>					
Natural Resources, Forestry, Fire and State Lands	31109	R652-122-100	NSC	05/01/2008	Not Printed
<u>cooperative wildlife management unit</u>					
Natural Resources, Wildlife Resources	31401	R657-37	5YR	05/08/2008	2008-11/126

<u>KEYWORD AGENCY</u>	<u>FILE NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE DATE</u>	<u>BULLETIN ISSUE/PAGE</u>
<u>corrections</u>					
Corrections, Administration	30952	R251-304	5YR	02/05/2008	2008-5/39
	30980	R251-304	AMD	05/20/2008	2008-5/15
<u>cosmetologists/barbers</u>					
Commerce, Occupational and Professional Licensing	30953	R156-11a	AMD	04/10/2008	2008-5/5
	31174	R156-11a-601	NSC	05/05/2008	Not Printed
<u>costs</u>					
Administrative Services, Finance	31316	R25-6	5YR	04/29/2008	2008-10/143
Financial Institutions, Administration	31315	R331-22-1	NSC	05/05/2008	Not Printed
<u>coverage groups</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	30925	R414-303	5YR	01/25/2008	2008-4/44
<u>covered-at-work</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	31356	R414-310	AMD	07/01/2008	2008-10/66
<u>credit scoring</u>					
Insurance, Administration	31525	R590-219	5YR	06/04/2008	2008-13/150
<u>criminal investigation</u>					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	30929	R722-320	NSC	05/14/2008	Not Printed
	31434	R722-320	5YR	05/14/2008	2008-11/127
<u>critical languages</u>					
Education, Administration	31442	R277-488	AMD	07/08/2008	2008-11/72
<u>cultural resources</u>					
Natural Resources, Forestry, Fire and State Lands	31271	R652-60-1000	NSC	05/05/2008	Not Printed
<u>curricula</u>					
Education, Administration	30882	R277-700	5YR	01/08/2008	2008-3/74
	30977	R277-703-6	NSC	02/27/2008	Not Printed
<u>custody of children</u>					
Human Services, Administration	31465	R495-879	NSC	06/18/2008	Not Printed
<u>data standards</u>					
Education, Administration	31520	R277-484	5YR	06/02/2008	2008-12/52
	31005	R277-484	AMD	04/11/2008	2008-5/17
<u>deadlines</u>					
Education, Administration	31520	R277-484	5YR	06/02/2008	2008-12/52
	31005	R277-484	AMD	04/11/2008	2008-5/17
<u>declaratory orders</u>					
Auditor, Administration	31262	R123-4-1	NSC	05/05/2008	Not Printed
	31263	R123-4-2	NSC	05/05/2008	Not Printed
	31265	R123-4-5	NSC	05/05/2008	Not Printed
	31266	R123-4-6	NSC	05/05/2008	Not Printed
	31267	R123-4-7	NSC	05/05/2008	Not Printed

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	31281	R380-1	NSC	05/05/2008	Not Printed
	31282	R380-5	NSC	05/05/2008	Not Printed
	31232	R600-1	5YR	04/28/2008	2008-10/148
	31237	R600-1	NSC	05/05/2008	Not Printed
<u>definitions</u>					
Environmental Quality, Air Quality	30697	R307-101	AMD	02/08/2008	2007-23/21
	30959	R307-101	5YR	02/08/2008	2008-5/40
Environmental Quality, Radiation Control	31170	R313-12-1	NSC	05/05/2008	Not Printed
	30774	R313-12-111	AMD	04/11/2008	2007-24/8
	30774	R313-12-111	CPR	04/11/2008	2008-5/34
Human Resource Management, Administration	31186	R477-1	AMD	07/01/2008	2008-10/79
	31211	R477-13	NSC	06/19/2008	Not Printed
Workforce Services, Unemployment Insurance	31467	R994-201	5YR	05/20/2008	2008-12/64
<u>demonstration</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	31356	R414-310	AMD	07/01/2008	2008-10/66
<u>dental</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	31452	R414-51	5YR	05/19/2008	2008-12/53
<u>dental hygienists</u>					
Commerce, Occupational and Professional Licensing	31136	R156-69	AMD	06/09/2008	2008-9/35
<u>dentists</u>					
Commerce, Occupational and Professional Licensing	31136	R156-69	AMD	06/09/2008	2008-9/35
<u>developmentally disabled</u>					
Commerce, Administration	31346	R151-3-1	NSC	05/05/2008	Not Printed
	31067	R495-878	AMD	06/13/2008	2008-8/23
	31367	R495-878	NSC	05/05/2008	Not Printed
	30688	R861-1A-20	AMD	01/11/2008	2007-23/68
	30589	R861-1A-24	AMD	01/11/2008	2007-21/69
	30717	R861-1A-26	AMD	01/11/2008	2007-23/69
	30838	R861-1A-40	AMD	02/25/2008	2008-1/32
	30835	R861-1A-42	AMD	02/25/2008	2008-1/33
	30780	R861-1A-43	AMD	01/25/2008	2007-24/24
<u>dietitians</u>					
Commerce, Occupational and Professional Licensing	31180	R156-49	NSC	05/05/2008	Not Printed
	31073	R156-49	5YR	03/24/2008	2008-8/52
<u>digital signature</u>					
Commerce, Corporations and Commercial Code	30642	R154-10	REP	03/03/2008	2007-22/16
<u>disabilities</u>					
Human Services, Services for People with Disabilities	30877	R539-1-8	AMD	04/01/2008	2008-3/32
	30926	R539-1-8	EMR	01/28/2008	2008-4/38

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	31084	R539-9	AMD	05/22/2008	2008-8/26
	31594	R539-15	EMR	07/01/2008	2008-14/128
<u>disabled persons</u>					
Corrections, Administration	30713	R251-112	AMD	03/11/2008	2007-23/19
	31517	R277-104	5YR	06/02/2008	2008-12/50
	31285	R380-100	NSC	05/05/2008	Not Printed
Natural Resources, Wildlife Resources	30777	R657-12	AMD	01/22/2008	2007-24/19
	31221	R657-12-1	NSC	05/05/2008	Not Printed
Public Service Commission, Administration	31370	R746-500	NSC	05/05/2008	Not Printed
<u>disables</u>					
Human Services, Aging and Adult Services	31027	R510-105	5YR	02/27/2008	2008-6/26
<u>discharge</u>					
Environmental Quality, Water Quality	30636	R317-14	NEW	02/04/2008	2007-22/62
<u>disciplinary actions</u>					
Education, Administration	30847	R277-609	AMD	02/07/2008	2008-1/10
	30958	R277-609-5	NSC	02/29/2008	Not Printed
	31521	R686-101	5YR	06/02/2008	2008-12/62
	31522	R686-102	5YR	06/02/2008	2008-12/62
	31016	R686-103	REP	04/21/2008	2008-6/12
<u>disciplinary problems</u>					
Education, Administration	31518	R277-436	5YR	06/02/2008	2008-12/51
<u>discipline of employees</u>					
Human Resource Management, Administration	31209	R477-11	AMD	07/01/2008	2008-10/108
<u>disclosure requirements</u>					
Tax Commission, Administration	30688	R861-1A-20	AMD	01/11/2008	2007-23/68
	30589	R861-1A-24	AMD	01/11/2008	2007-21/69
	30717	R861-1A-26	AMD	01/11/2008	2007-23/69
	30838	R861-1A-40	AMD	02/25/2008	2008-1/32
	30835	R861-1A-42	AMD	02/25/2008	2008-1/33
	30780	R861-1A-43	AMD	01/25/2008	2007-24/24
<u>discretion clauses</u>					
Insurance, Administration	30897	R590-218	5YR	01/11/2008	2008-3/80
<u>discrimination</u>					
Labor Commission, Antidiscrimination and Labor, Antidiscrimination	31241	R606-1	NSC	05/05/2008	Not Printed
	31242	R606-2	NSC	05/05/2008	Not Printed
Labor Commission, Antidiscrimination and Labor, Fair Housing	31240	R608-1	NSC	05/05/2008	Not Printed
<u>dismissal of employees</u>					
Human Resource Management, Administration	31209	R477-11	AMD	07/01/2008	2008-10/108
<u>disruptive students</u>					
Education, Administration	30958	R277-609-5	NSC	02/29/2008	Not Printed

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>diversion programs</u>					
Commerce, Occupational and Professional Licensing	31288	R156-1	AMD	06/23/2008	2008-10/30
	30655	R156-1-102a	AMD	01/08/2008	2007-23/3
<u>drinking water</u>					
Environmental Quality, Drinking Water	31157	R309-352	5YR	04/18/2008	2008-10/144
<u>driver address record</u>					
Public Safety, Driver License	31121	R708-42-4	NSC	05/05/2008	Not Printed
<u>driver education</u>					
Education, Administration	31039	R277-746	5YR	03/03/2008	2008-7/64
	31040	R277-747	5YR	03/03/2008	2008-7/64
Public Safety, Driver License	31105	R708-2-25	NSC	05/05/2008	Not Printed
	31113	R708-18-1	NSC	05/05/2008	Not Printed
<u>driver license</u>					
Human Services, Recovery Services	31152	R527-260	NEW	07/01/2008	2008-9/46
Public Safety, Driver License	31119	R708-36-1	NSC	05/05/2008	Not Printed
	31123	R708-44-4	NSC	05/05/2008	Not Printed
<u>driver license verification</u>					
Public Safety, Driver License	31122	R708-43	NSC	05/05/2008	Not Printed
<u>driver training</u>					
Public Safety, Driver License	31120	R708-37-11	NSC	05/05/2008	Not Printed
<u>dual employment</u>					
Human Resource Management, Administration	31193	R477-8	AMD	07/01/2008	2008-10/101
	30778	R477-8-5	AMD	01/22/2008	2007-24/16
<u>due process</u>					
Human Services, Substance Abuse and Mental Health	31089	R523-1	5YR	03/31/2008	2008-8/53
	30767	R523-1	NSC	03/31/2008	Not Printed
<u>DUI programs</u>					
Human Services, Substance Abuse and Mental Health	31352	R523-22-9	NSC	05/05/2008	Not Printed
<u>economic development</u>					
Governor, Economic Development	31153	R357-3	NEW	06/18/2008	2008-9/37
<u>education</u>					
Commerce, Consumer Protection	31218	R152-34-10	NSC	05/05/2008	Not Printed
Education, Administration	30846	R277-470-7	AMD	02/07/2008	2008-1/9
	30884	R277-709	5YR	01/08/2008	2008-3/75
	30885	R277-718	5YR	01/08/2008	2008-3/75
	30888	R277-730	5YR	01/08/2008	2008-3/77
<u>education finance</u>					
Education, Administration	30845	R277-423	AMD	02/07/2008	2008-1/8

<u>KEYWORD AGENCY</u>	<u>FILE NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE DATE</u>	<u>BULLETIN ISSUE/PAGE</u>
<u>educational facilities</u> Education, Administration	31441	R277-471	AMD	07/08/2008	2008-11/70
<u>educational policy</u> Regents (Board Of), Administration	31515	R765-555	5YR	06/02/2008	2008-12/64
	31104	R765-555	NSC	06/02/2008	Not Printed
<u>educational testing</u> Education, Administration	30883	R277-702	5YR	01/08/2008	2008-3/74
<u>educational tuition</u> Human Resource Management, Administration	31195	R477-10	AMD	07/01/2008	2008-10/106
<u>educator</u> Education, Administration	30976	R277-515-3	NSC	02/27/2008	Not Printed
<u>educator licensing</u> Education, Administration	30944	R277-502	AMD	03/24/2008	2008-4/6
	30878	R277-518	5YR	01/08/2008	2008-3/72
<u>educators</u> Professional Practices Advisory Commission, Administration	31016	R686-103	REP	04/21/2008	2008-6/12
<u>effluent standards</u> Environmental Quality, Water Quality	30639	R317-1-4	AMD	02/04/2008	2007-22/52
	30637	R317-13	NEW	02/04/2008	2007-22/61
<u>eldercare</u> Human Services, Aging and Adult Services	31378	R510-110-5	NSC	05/05/2008	Not Printed
<u>elderly</u> Human Services, Aging and Adult Services	31379	R510-200-3	NSC	05/05/2008	Not Printed
<u>electric generating unit</u> Environmental Quality, Air Quality	30965	R307-220	5YR	02/08/2008	2008-5/43
	30969	R307-224	5YR	02/08/2008	2008-5/45
	30704	R307-224-2	AMD	02/08/2008	2007-23/39
<u>electric utility industries</u> Public Service Commission, Administration	31617	R746-210	5YR	06/24/2008	2008-14/145
<u>electrologists</u> Commerce, Occupational and Professional Licensing	30953	R156-11a	AMD	04/10/2008	2008-5/5
	31174	R156-11a-601	NSC	05/05/2008	Not Printed
<u>electronic commerce</u> Commerce, Corporations and Commercial Code	30642	R154-10	REP	03/03/2008	2007-22/16
<u>electronic communication</u> Commerce, Corporations and Commercial Code	30642	R154-10	REP	03/03/2008	2007-22/16
<u>electronic funds transfer</u> Human Services, Recovery Services	31159	R527-920	NEW	06/27/2008	2008-10/122

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>electronic meetings</u>					
Agriculture and Food, Conservation and Resource Management	31079	R64-2	NEW	06/03/2008	2008-8/4
<u>electronic preliminary lien filing</u>					
Commerce, Occupational and Professional Licensing	31177	R156-38b-703	NSC	05/05/2008	Not Printed
<u>elevators</u>					
Labor Commission, Safety	31253	R616-3	NSC	05/05/2008	Not Printed
	30943	R616-3-3	AMD	03/24/2008	2008-4/21
<u>eligibility</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	30938	R414-308	5YR	01/31/2008	2008-4/46
	30927	R414-308-7	AMD	04/01/2008	2008-4/16
Human Services, Child and Family Services	30721	R512-50	NSC	01/07/2008	Not Printed
	30718	R512-50	REP	01/07/2008	2007-23/60
<u>emergency medical services</u>					
Health, Health Systems Improvement, Emergency Medical Services	31068	R426-5-3	AMD	06/04/2008	2008-8/17
	30758	R426-6	AMD	02/07/2008	2007-24/14
	31096	R426-8-4	AMD	06/05/2008	2008-8/22
	30954	R426-15-203	AMD	06/24/2008	2008-5/19
<u>emergency meetings</u>					
Environmental Quality, Administration	30506	R305-3	NSC	02/15/2008	Not Printed
	30766	R305-3	REP	02/15/2008	2007-24/6
<u>emergency vehicles</u>					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	31433	R722-340	5YR	05/14/2008	2008-11/128
	30930	R722-340	NSC	05/14/2008	Not Printed
<u>employee benefit plans</u>					
Human Resource Management, Administration	31191	R477-6	AMD	07/01/2008	2008-10/91
<u>employee performance evaluations</u>					
Human Resource Management, Administration	31195	R477-10	AMD	07/01/2008	2008-10/106
<u>employee productivity</u>					
Human Resource Management, Administration	31195	R477-10	AMD	07/01/2008	2008-10/106
<u>employees' rights</u>					
Human Resource Management, Administration	31210	R477-12	AMD	07/01/2008	2008-10/110
<u>employer</u>					
Labor Commission, Industrial Accidents	31229	R612-5	5YR	04/28/2008	2008-10/149
<u>employment</u>					
Human Resource Management, Administration	31189	R477-4	AMD	07/01/2008	2008-10/88
	31190	R477-5	AMD	07/01/2008	2008-10/90

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
Labor Commission, Antidiscrimination and Labor, Antidiscrimination	31241	R606-1	NSC	05/05/2008	Not Printed
	31242	R606-2	NSC	05/05/2008	Not Printed
Workforce Services, Unemployment Insurance	31468	R994-202	5YR	05/20/2008	2008-12/65
<u>employment agencies</u>					
Labor Commission, Antidiscrimination and Labor, Labor	31438	R610-4	REP	07/08/2008	2008-11/101
	31239	R610-4	NSC	05/05/2008	Not Printed
<u>endangered species</u>					
Natural Resources, Forestry, Fire and State Lands	31112	R652-120	NSC	05/01/2008	Not Printed
<u>energy</u>					
Natural Resources, Geological Survey	30902	R638-2-6	AMD	03/10/2008	2008-3/35
<u>energy utility</u>					
Public Service Commission, Administration	31072	R746-440	NSC	04/11/2008	Not Printed
<u>enforcement</u>					
Natural Resources, Water Rights	31431	R655-14	AMD	07/08/2008	2008-11/104
<u>engineers</u>					
Capitol Preservation Board (State), Administration	30591	R131-1	AMD	02/29/2008	2007-21/11
Commerce, Occupational and Professional Licensing	31175	R156-22-305	NSC	05/05/2008	Not Printed
<u>English proficiency</u>					
Regents (Board Of), Administration	31490	R765-136	5YR	05/27/2008	2008-12/63
	31326	R765-136	NSC	05/05/2008	Not Printed
<u>enrollment</u>					
Education, Administration	31037	R277-485	5YR	03/03/2008	2008-7/63
<u>enterprise zones</u>					
Tax Commission, Auditing	30916	R865-91-37	AMD	03/14/2008	2008-3/63
	30849	R865-91-53	AMD	02/25/2008	2008-1/36
<u>environmental protection</u>					
Environmental Quality, Air Quality	30698	R307-115	AMD	02/08/2008	2007-23/28
	30961	R307-115	5YR	02/08/2008	2008-5/41
<u>essential facilities</u>					
Public Service Commission, Administration	31374	R746-349-3	NSC	05/05/2008	Not Printed
<u>estheticians</u>					
Commerce, Occupational and Professional Licensing	30953	R156-11a	AMD	04/10/2008	2008-5/5
	31174	R156-11a-601	NSC	05/05/2008	Not Printed
<u>exceptional children</u>					
Education, Administration	31041	R277-751	5YR	03/03/2008	2008-7/65
<u>exemptions</u>					
Environmental Quality, Radiation Control	31170	R313-12-1	NSC	05/05/2008	Not Printed
	30774	R313-12-111	AMD	04/11/2008	2007-24/8

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	30774	R313-12-111	CPR	04/11/2008	2008-5/34
<u>exemptions to wildland fire suppression fund</u>					
Natural Resources, Forestry, Fire and State Lands	31111	R652-123	NSC	05/01/2008	Not Printed
<u>expelled</u>					
Education, Administration	31036	R277-483	5YR	03/03/2008	2008-7/62
<u>extended area service</u>					
Public Service Commission, Administration	31045	R746-347	5YR	03/07/2008	2008-7/66
<u>extinguishers</u>					
Public Safety, Fire Marshal	31076	R710-1-4	AMD	05/23/2008	2008-8/31
<u>extracurricular activities</u>					
Education, Administration	30880	R277-605	5YR	01/08/2008	2008-3/73
<u>eyeglasses</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	30776	R414-53	AMD	02/01/2008	2007-24/13
	31528	R414-53	5YR	06/05/2008	2008-13/148
<u>facility notice</u>					
Corrections, Administration	30803	R251-114	NEW	03/11/2008	2008-1/6
<u>fair employment practices</u>					
Human Resource Management, Administration	31187	R477-2	AMD	07/01/2008	2008-10/84
	31189	R477-4	AMD	07/01/2008	2008-10/88
<u>fair housing</u>					
Labor Commission, Antidiscrimination and Labor, Fair Housing	31240	R608-1	NSC	05/05/2008	Not Printed
<u>family employment program</u>					
Workforce Services, Employment Development	31032	R986-200	AMD	05/01/2008	2008-6/18
	30864	R986-200-214	AMD	02/26/2008	2008-2/25
	31365	R986-200-240	AMD	07/02/2008	2008-10/135
<u>fees</u>					
Administrative Services, Finance	31363	R25-14	EMR	05/05/2008	2008-10/140
Human Services, Child and Family Services	30721	R512-50	NSC	01/07/2008	Not Printed
	30718	R512-50	REP	01/07/2008	2007-23/60
Human Services, Substance Abuse and Mental Health	31089	R523-1	5YR	03/31/2008	2008-8/53
	30767	R523-1	NSC	03/31/2008	Not Printed
Labor Commission, Industrial Accidents	31234	R612-2	5YR	04/28/2008	2008-10/148
	31333	R612-2-5	AMD	07/01/2008	2008-10/130
Natural Resources, Parks and Recreation	30621	R651-611	AMD	01/01/2008	2007-22/80
	30898	R651-611	AMD	03/10/2008	2008-3/39
Public Safety, Driver License	31113	R708-18-1	NSC	05/05/2008	Not Printed
<u>filing deadlines</u>					
Labor Commission, Adjudication	31250	R602-1	NSC	05/05/2008	Not Printed
Labor Commission, Industrial Accidents	31235	R612-1	NSC	05/05/2008	Not Printed

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>filing requirements</u>					
Public Service Commission, Administration	31072	R746-440	NSC	04/11/2008	Not Printed
<u>finance</u>					
Administrative Services, Finance	31318	R25-2	NSC	05/05/2008	Not Printed
	31316	R25-6	5YR	04/29/2008	2008-10/143
	31321	R25-8	AMD	07/01/2008	2008-10/7
<u>financial aid</u>					
Regents (Board Of), Administration	31402	R765-605	5YR	05/09/2008	2008-11/128
	30957	R765-607	5YR	02/08/2008	2008-5/60
<u>financial disclosures</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	30652	R414-304	AMD	01/28/2008	2007-23/54
	30924	R414-304	5YR	01/25/2008	2008-4/44
<u>financial institutions</u>					
Financial Institutions, Administration	31256	R331-20	NSC	05/05/2008	Not Printed
	31315	R331-22-1	NSC	05/05/2008	Not Printed
<u>fire alarm systems</u>					
Public Safety, Fire Marshal	31086	R710-11-3	AMD	05/23/2008	2008-8/42
<u>fire marshal</u>					
Environmental Quality, Air Quality	30963	R307-202	5YR	02/08/2008	2008-5/42
<u>fire prevention</u>					
Public Safety, Fire Marshal	31076	R710-1-4	AMD	05/23/2008	2008-8/31
	31085	R710-7	AMD	05/23/2008	2008-8/40
	30919	R710-9-6	AMD	03/10/2008	2008-3/52
<u>fire training</u>					
Public Safety, Fire Marshal	30894	R710-10	AMD	03/10/2008	2008-3/56
<u>firearms</u>					
Natural Resources, Parks and Recreation	30901	R651-612	AMD	03/10/2008	2008-3/42
<u>fireworks</u>					
Public Safety, Fire Marshal	30918	R710-2-4	AMD	03/10/2008	2008-3/50
	31078	R710-2-7	AMD	05/23/2008	2008-8/34
<u>fiscal</u>					
Natural Resources, Parks and Recreation	30899	R651-301	AMD	03/10/2008	2008-3/37
<u>fish</u>					
Natural Resources, Wildlife Resources	30676	R657-13	AMD	01/07/2008	2007-23/61
	31048	R657-13-3	AMD	05/08/2008	2008-7/47
	30904	R657-13-4	AMD	03/10/2008	2008-3/43
	30903	R657-58	NEW	03/10/2008	2008-3/47
	31052	R657-58	NSC	03/26/2008	Not Printed
	31625	R657-59	EMR	06/27/2008	2008-14/131
	31624	R657-60	EMR	06/27/2008	2008-14/139

RULES INDEX

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>fishing</u>					
Natural Resources, Wildlife Resources	30676	R657-13	AMD	01/07/2008	2007-23/61
	31048	R657-13-3	AMD	05/08/2008	2008-7/47
	30904	R657-13-4	AMD	03/10/2008	2008-3/43
	30903	R657-58	NEW	03/10/2008	2008-3/47
	31052	R657-58	NSC	03/26/2008	Not Printed
<u>fleet expansion</u>					
Administrative Services, Fleet Operations	30618	R27-4	AMD	03/06/2008	2007-22/9
<u>food aid programs</u>					
Education, Administration	30886	R277-721	5YR	01/08/2008	2008-3/76
	31014	R277-721	REP	04/21/2008	2008-6/5
	30887	R277-722	5YR	01/08/2008	2008-3/76
	31015	R277-722	REP	04/21/2008	2008-6/6
<u>foods</u>					
Education, Administration	30848	R277-719	NEW	02/07/2008	2008-1/12
<u>franchises</u>					
Commerce, Administration	31354	R151-14-3	NSC	05/05/2008	Not Printed
	31355	R151-35-3	NSC	05/05/2008	Not Printed
Commerce, Consumer Protection	31214	R152-15-2	NSC	05/05/2008	Not Printed
Tax Commission, Auditing	30913	R865-6F-28	AMD	03/14/2008	2008-3/61
	30842	R865-6F-37	AMD	02/25/2008	2008-1/35
<u>fraud</u>					
Human Services, Recovery Services	30982	R527-928	AMD	04/07/2008	2008-5/26
<u>free enterprise</u>					
Regents (Board Of), Administration	31104	R765-555	NSC	06/02/2008	Not Printed
<u>freedom of information</u>					
Administrative Services, Administration	31343	R13-2	NSC	05/05/2008	Not Printed
	31345	R151-2	NSC	05/05/2008	Not Printed
	31385	R151-2-4	AMD	07/08/2008	2008-11/49
Natural Resources, Wildlife Resources	31225	R657-29	NSC	05/05/2008	Not Printed
<u>fuel composition</u>					
Environmental Quality, Air Quality	30964	R307-203	5YR	02/08/2008	2008-5/43
<u>fuel oil</u>					
Environmental Quality, Air Quality	30964	R307-203	5YR	02/08/2008	2008-5/43
<u>funding</u>					
Environmental Quality, Drinking Water	31157	R309-352	5YR	04/18/2008	2008-10/144
<u>game birds</u>					
Natural Resources, Wildlife Resources	31222	R657-22-1	NSC	05/05/2008	Not Printed
<u>game laws</u>					
Natural Resources, Wildlife Resources	30829	R657-5	AMD	02/07/2008	2008-1/18
	30828	R657-23	AMD	02/07/2008	2008-1/25

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	30955	R657-23-5	AMD	04/07/2008	2008-5/31
	30906	R657-33	AMD	03/10/2008	2008-3/44
	31398	R657-34	5YR	05/08/2008	2008-11/125
<u>gangs</u>					
Education, Administration	31518	R277-436	5YR	06/02/2008	2008-12/51
<u>general assistance</u>					
Workforce Services, Employment Development	31034	R986-400-406	AMD	05/01/2008	2008-6/20
<u>general conformity</u>					
Environmental Quality, Air Quality	30698	R307-115	AMD	02/08/2008	2007-23/28
	30961	R307-115	5YR	02/08/2008	2008-5/41
<u>geology</u>					
Commerce, Occupational and Professional Licensing	30694	R156-76	AMD	01/08/2008	2007-23/17
<u>good cause</u>					
Pardons (Board Of), Administration	31659	R671-515	5YR	07/03/2008	Not Printed
<u>government documents</u>					
Commerce, Administration	31345	R151-2	NSC	05/05/2008	Not Printed
	31385	R151-2-4	AMD	07/08/2008	2008-11/49
	31284	R380-20	NSC	05/05/2008	Not Printed
	31368	R495-810	NSC	05/05/2008	Not Printed
Natural Resources, Forestry, Fire and State Lands	31259	R652-6	NSC	05/05/2008	Not Printed
Natural Resources, Wildlife Resources	31225	R657-29	NSC	05/05/2008	Not Printed
<u>government ethics</u>					
Human Resource Management, Administration	31194	R477-9	AMD	07/01/2008	2008-10/104
<u>government hearings</u>					
Administrative Services, Administrative Rules	31143	R15-1	NSC	05/05/2008	Not Printed
Administrative Services, Finance	31318	R25-2	NSC	05/05/2008	Not Printed
Commerce, Occupational and Professional Licensing	31179	R156-46b	NSC	05/05/2008	Not Printed
Financial Institutions, Administration	31256	R331-20	NSC	05/05/2008	Not Printed
	31209	R477-11	AMD	07/01/2008	2008-10/108
	30949	R671-403	5YR	02/04/2008	2008-5/59
	31373	R746-100	NSC	05/05/2008	Not Printed
	31372	R746-101-4	NSC	05/05/2008	Not Printed
<u>government purchasing</u>					
Administrative Services, Purchasing and General Services	31477	R33-1	NSC	06/18/2008	Not Printed
	31478	R33-2-101	NSC	06/18/2008	Not Printed
	31479	R33-3	NSC	06/18/2008	Not Printed
	31480	R33-4	NSC	06/18/2008	Not Printed
	31481	R33-5	NSC	06/18/2008	Not Printed
	31482	R33-7	NSC	06/18/2008	Not Printed
	31483	R33-8-101	NSC	06/18/2008	Not Printed

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>government records</u>					
Crime Victim Reparations, Administration	31324	R270-4	NSC	05/05/2008	Not Printed
<u>governmental immunity act caps</u>					
Administrative Services, Risk Management	31150	R37-4	R&R	07/01/2008	2008-9/5
<u>graduation requirements</u>					
Education, Administration	30977	R277-703-6	NSC	02/27/2008	Not Printed
<u>GRAMA</u>					
Health, Administration	31284	R380-20	NSC	05/05/2008	Not Printed
Natural Resources, Forestry, Fire and State Lands	31259	R652-6	NSC	05/05/2008	Not Printed
Regents (Board Of), Salt Lake Community College	31344	R784-1	NSC	05/05/2008	Not Printed
Regents (Board Of), University of Utah, Administration	31340	R805-2	NSC	05/05/2008	Not Printed
<u>grants</u>					
Community and Culture, Housing and Community Development	30451	R199-8	AMD	01/01/2008	2007-19/6
Education, Administration	31443	R277-490	NEW	07/08/2008	2008-11/74
<u>grievance procedures</u>					
Health, Administration	31285	R380-100	NSC	05/05/2008	Not Printed
	30688	R861-1A-20	AMD	01/11/2008	2007-23/68
	30589	R861-1A-24	AMD	01/11/2008	2007-21/69
	30717	R861-1A-26	AMD	01/11/2008	2007-23/69
	30838	R861-1A-40	AMD	02/25/2008	2008-1/32
	30835	R861-1A-42	AMD	02/25/2008	2008-1/33
	30780	R861-1A-43	AMD	01/25/2008	2007-24/24
<u>grievances</u>					
Human Resource Management, Administration	31188	R477-3	AMD	07/01/2008	2008-10/87
	31209	R477-11	AMD	07/01/2008	2008-10/108
	31210	R477-12	AMD	07/01/2008	2008-10/110
<u>habitat designation</u>					
Natural Resources, Wildlife Resources	31226	R657-48-7	NSC	05/05/2008	Not Printed
<u>halfway houses</u>					
Human Services, Recovery Services	31133	R527-257	REP	06/09/2008	2008-9/45
<u>Hatch Act</u>					
Human Resource Management, Administration	31194	R477-9	AMD	07/01/2008	2008-10/104
<u>hazardous air pollutant</u>					
Environmental Quality, Air Quality	30430	R307-214	AMD	01/11/2008	2007-19/12
	30895	R307-214	5YR	01/11/2008	2008-3/77
<u>hazardous materials</u>					
Public Safety, Fire Marshal	30893	R710-12	NEW	03/10/2008	2008-3/58
	31087	R710-12-4	AMD	05/23/2008	2008-8/44

<u>KEYWORD AGENCY</u>	<u>FILE NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE DATE</u>	<u>BULLETIN ISSUE/PAGE</u>
<u>hazardous materials transportation</u> Transportation, Motor Carrier	31090	R909-75	AMD	05/27/2008	2008-8/45
<u>hazardous substances</u> Environmental Quality, Environmental Response and Remediation	31487	R311-201	NSC	06/18/2008	Not Printed
Transportation, Motor Carrier	31090	R909-75	AMD	05/27/2008	2008-8/45
<u>hazardous substances priority list</u> Environmental Quality, Environmental Response and Remediation	30567	R311-401-2	AMD	01/02/2008	2007-21/59
<u>hazardous waste</u> Environmental Quality, Solid and Hazardous Waste	31377	R315-2	NSC	05/05/2008	Not Printed
	31065	R315-3	NSC	04/11/2008	Not Printed
	31376	R315-12	NSC	05/05/2008	Not Printed
	30907	R315-15-1	AMD	03/13/2008	2008-3/16
	30908	R315-15-10	AMD	03/13/2008	2008-3/19
	30909	R315-15-11	AMD	03/13/2008	2008-3/21
	30910	R315-15-12	AMD	03/13/2008	2008-3/23
	30911	R315-15-17	AMD	03/13/2008	2008-3/29
Transportation, Motor Carrier	31090	R909-75	AMD	05/27/2008	2008-8/45
<u>health</u> Health, Center for Health Data, Health Care Statistics	31167	R428-11	5YR	04/21/2008	2008-10/146
	31021	R428-11	NSC	04/21/2008	Not Printed
	31168	R428-13	5YR	04/21/2008	2008-10/146
	31022	R428-13	NSC	04/21/2008	Not Printed
	30956	R428-13-4	AMD	05/16/2008	2008-5/25
<u>health administration</u> Health, Administration	31283	R380-10	NSC	05/05/2008	Not Printed
<u>health care</u> Health, Community and Family Health Services, Children with Special Health Care Needs	31350	R398-1	AMD	06/25/2008	2008-10/60
<u>health care facilities</u> Health, Health Systems Improvement, Licensing	31489	R432-35	5YR	05/27/2008	2008-12/54
<u>health facilities</u> Health, Health Systems Improvement, Licensing	30975	R432-16	5YR	02/11/2008	2008-5/58
<u>health insurance</u> Insurance, Administration	30462	R590-167-11	AMD	05/20/2008	2007-20/23
	30462	R590-167-11	CPR	05/20/2008	2008-3/68
<u>health planning</u> Health, Center for Health Data, Health Care Statistics	31167	R428-11	5YR	04/21/2008	2008-10/146
	31021	R428-11	NSC	04/21/2008	Not Printed
	31168	R428-13	5YR	04/21/2008	2008-10/146

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	31022	R428-13	NSC	04/21/2008	Not Printed
	30956	R428-13-4	AMD	05/16/2008	2008-5/25
<u>health policy</u>					
Health, Center for Health Data, Health Care Statistics	31021	R428-11	NSC	04/21/2008	Not Printed
	31168	R428-13	5YR	04/21/2008	2008-10/146
	31022	R428-13	NSC	04/21/2008	Not Printed
	30956	R428-13-4	AMD	05/16/2008	2008-5/25
<u>health spas</u>					
Commerce, Consumer Protection	31217	R152-23-1	NSC	05/05/2008	Not Printed
<u>hearing</u>					
Health, Community and Family Health Services, Children with Special Health Care Needs	31651	R398-2	5YR	07/02/2008	Not Printed
<u>hearing impaired</u>					
Public Service Commission, Administration	31375	R746-510	NSC	05/05/2008	Not Printed
<u>hearings</u>					
Community and Culture, Home Energy Assistance Target (HEAT)	31331	R195-1	NSC	05/05/2008	Not Printed
Environmental Quality, Air Quality	31461	R307-103	NSC	06/18/2008	Not Printed
Environmental Quality, Water Quality	30948	R317-9	5YR	02/01/2008	2008-4/42
Labor Commission, Adjudication	31236	R602-2-1	NSC	05/05/2008	Not Printed
	30811	R602-2-4	AMD	02/07/2008	2008-1/14
	31238	R602-3	NSC	05/05/2008	Not Printed
	30810	R602-3-3	AMD	02/07/2008	2008-1/16
	31643	R602-4	EMR	07/01/2008	2008-14/129
Pardons (Board Of), Administration	31655	R671-516	5YR	07/03/2008	Not Printed
	30951	R686-100	5YR	02/04/2008	2008-5/59
<u>higher education</u>					
Regents (Board Of), Administration	31325	R765-134	NSC	05/05/2008	Not Printed
	31490	R765-136	5YR	05/27/2008	2008-12/63
	31326	R765-136	NSC	05/05/2008	Not Printed
	31515	R765-555	5YR	06/02/2008	2008-12/64
	31104	R765-555	NSC	06/02/2008	Not Printed
	31402	R765-605	5YR	05/09/2008	2008-11/128
	30957	R765-607	5YR	02/08/2008	2008-5/60
	31327	R765-993	NSC	05/05/2008	Not Printed
Regents (Board Of), University of Utah, Administration	31340	R805-2	NSC	05/05/2008	Not Printed
<u>higher education assistance</u>					
Regents (Board Of), Administration	31405	R765-606	5YR	05/09/2008	2008-11/129
<u>HIPAA</u>					
Health, Administration	31455	R380-250	5YR	05/19/2008	2008-12/52
	31484	R495-881	5YR	05/27/2008	2008-12/55

<u>KEYWORD AGENCY</u>	<u>FILE NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE DATE</u>	<u>BULLETIN ISSUE/PAGE</u>
<u>hiring practices</u> Human Resource Management, Administration	31189	R477-4	AMD	07/01/2008	2008-10/88
<u>historic preservation</u> Tax Commission, Auditing	30913	R865-6F-28	AMD	03/14/2008	2008-3/61
	30842	R865-6F-37	AMD	02/25/2008	2008-1/35
	30916	R865-9I-37	AMD	03/14/2008	2008-3/63
	30849	R865-9I-53	AMD	02/25/2008	2008-1/36
<u>holidays</u> Human Resource Management, Administration	31192	R477-7	AMD	07/01/2008	2008-10/95
<u>hospital</u> Health, Administration	31286	R380-200	NSC	05/05/2008	Not Printed
	31280	R380-210-6	NSC	05/05/2008	Not Printed
Health, Health Care Financing, Coverage and Reimbursement Policy	31424	R414-5	5YR	05/13/2008	2008-11/125
<u>hospital policy</u> Health, Center for Health Data, Health Care Statistics	31167	R428-11	5YR	04/21/2008	2008-10/146
<u>hospitals</u> Environmental Quality, Air Quality	30702	R307-222	AMD	02/08/2008	2007-23/36
	30967	R307-222	5YR	02/08/2008	2008-5/44
	30833	R307-222-1	NSC	02/08/2008	Not Printed
<u>hostile work environment</u> Human Resource Management, Administration	31208	R477-15	AMD	07/01/2008	2008-10/112
<u>housing</u> Labor Commission, Antidiscrimination and Labor, Fair Housing	31240	R608-1	NSC	05/05/2008	Not Printed
<u>human services</u> Human Services, Administration, Administrative Services, Licensing	31017	R501-16	5YR	02/22/2008	2008-6/25
	31026	R501-17	5YR	02/27/2008	2008-6/25
Human Services, Services for People with Disabilities	30877	R539-1-8	AMD	04/01/2008	2008-3/32
	30926	R539-1-8	EMR	01/28/2008	2008-4/38
<u>hunter education</u> Natural Resources, Wildlife Resources	30828	R657-23	AMD	02/07/2008	2008-1/25
	30955	R657-23-5	AMD	04/07/2008	2008-5/31
<u>hunting closures</u> Natural Resources, Wildlife Resources	31398	R657-34	5YR	05/08/2008	2008-11/125
<u>impairment ratings</u> Labor Commission, Industrial Accidents	31231	R612-7	5YR	04/28/2008	2008-10/150
<u>implements of husbandry</u> Transportation, Motor Carrier	30783	R909-1-1	AMD	02/15/2008	2007-24/25

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>import restrictions</u>					
Natural Resources, Wildlife Resources	31047	R657-3	5YR	03/11/2008	2008-7/65
	31220	R657-3	NSC	05/05/2008	Not Printed
	31053	R657-3	AMD	05/08/2008	2008-7/45
	31051	R657-53	AMD	05/08/2008	2008-7/50
	31508	R657-53	5YR	06/02/2008	2008-12/61
	31228	R657-53	NSC	05/05/2008	Not Printed
<u>imputation</u>					
Public Service Commission, Administration	31374	R746-349-3	NSC	05/05/2008	Not Printed
<u>in-service training</u>					
Public Safety, Peace Officer Standards and Training	31648	R728-501	5YR	07/01/2008	2008-14/144
<u>incident</u>					
Pardons (Board Of), Administration	31656	R671-509	5YR	07/03/2008	Not Printed
<u>incinerators</u>					
Environmental Quality, Air Quality	30965	R307-220	5YR	02/08/2008	2008-5/43
<u>income</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	30921	R414-302	5YR	01/25/2008	2008-4/43
	30925	R414-303	5YR	01/25/2008	2008-4/44
	30652	R414-304	AMD	01/28/2008	2007-23/54
	30924	R414-304	5YR	01/25/2008	2008-4/44
<u>income distribution</u>					
Human Services, Child and Family Services	30720	R512-20	NSC	01/07/2008	Not Printed
	30716	R512-20	REP	01/07/2008	2007-23/58
<u>income tax</u>					
Tax Commission, Auditing	30916	R865-9I-37	AMD	03/14/2008	2008-3/63
	30849	R865-9I-53	AMD	02/25/2008	2008-1/36
<u>income withholding fees</u>					
Human Services, Recovery Services	31163	R527-302	AMD	06/25/2008	2008-10/120
	31160	R527-302	5YR	04/21/2008	2008-10/147
<u>independent foster care adolescent</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	30925	R414-303	5YR	01/25/2008	2008-4/44
<u>industrial waste</u>					
Environmental Quality, Water Quality	30639	R317-1-4	AMD	02/04/2008	2007-22/52
	30637	R317-13	NEW	02/04/2008	2007-22/61
<u>infectious waste</u>					
Environmental Quality, Air Quality	30702	R307-222	AMD	02/08/2008	2007-23/36
	30967	R307-222	5YR	02/08/2008	2008-5/44
	30833	R307-222-1	NSC	02/08/2008	Not Printed

<u>KEYWORD AGENCY</u>	<u>FILE NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE DATE</u>	<u>BULLETIN ISSUE/PAGE</u>
<u>informal adjudicative proceedings</u>					
Labor Commission, Industrial Accidents	31251	R612-9-1	NSC	05/05/2008	Not Printed
<u>injury prevention</u>					
Health, Administration	31280	R380-210-6	NSC	05/05/2008	Not Printed
<u>inspections</u>					
Agriculture and Food, Plant Industry	31006	R68-5	5YR	02/15/2008	2008-5/39
	30611	R68-7	AMD	01/07/2008	2007-22/11
	31127	R68-8-2	AMD	07/02/2008	2008-9/7
Environmental Quality, Radiation Control	31170	R313-12-1	NSC	05/05/2008	Not Printed
	30774	R313-12-111	AMD	04/11/2008	2007-24/8
	30774	R313-12-111	CPR	04/11/2008	2008-5/34
<u>instructional materials</u>					
Education, Administration	30781	R277-469	AMD	01/22/2008	2007-24/4
	31035	R277-469	5YR	03/03/2008	2008-7/62
<u>insurance</u>					
Human Resource Management, Administration	31191	R477-6	AMD	07/01/2008	2008-10/91
	31131	R590-154	5YR	04/09/2008	2008-9/54
	30508	R590-175	AMD	02/08/2008	2007-20/24
	30897	R590-218	5YR	01/11/2008	2008-3/80
	31525	R590-219	5YR	06/04/2008	2008-13/150
	31523	R590-222	5YR	06/02/2008	2008-12/58
Labor Commission, Industrial Accidents	31229	R612-5	5YR	04/28/2008	2008-10/149
<u>insurance fee</u>					
Insurance, Administration	30890	R590-157	5YR	01/10/2008	2008-3/79
<u>insurance law</u>					
Insurance, Administration	31059	R590-91	AMD	05/29/2008	2008-7/35
	31132	R590-94	5YR	04/09/2008	2008-9/53
	31030	R590-164	AMD	05/08/2008	2008-6/10
	31077	R590-191	AMD	05/29/2008	2008-8/27
<u>insurance reserves and nonforfeitures</u>					
Insurance, Administration	31552	R590-223	5YR	06/12/2008	2008-13/151
<u>interpreters</u>					
Public Service Commission, Administration	31375	R746-510	NSC	05/05/2008	Not Printed
<u>interstate</u>					
Human Services, Recovery Services	30978	R527-305	5YR	02/12/2008	2008-5/58
	31025	R527-305	AMD	04/21/2008	2008-6/8
<u>interstate compacts</u>					
Workforce Services, Unemployment Insurance	31075	R994-106-106	AMD	05/30/2008	2008-8/48
<u>intrastate driver license waivers</u>					
Public Safety, Driver License	31116	R708-34	NSC	05/05/2008	Not Printed

RULES INDEX

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>job creation</u>					
Governor, Economic Development	30788	R357-2	NEW	01/30/2008	2007-24/9
	30859	R357-2-7	NSC	01/30/2008	Not Printed
<u>job descriptions</u>					
Human Resource Management, Administration	31188	R477-3	AMD	07/01/2008	2008-10/87
<u>jobs</u>					
Governor, Economic Development	31153	R357-3	NEW	06/18/2008	2008-9/37
<u>juvenile courts</u>					
Education, Administration	30884	R277-709	5YR	01/08/2008	2008-3/75
<u>kinship</u>					
Human Services, Child and Family Services	31589	R512-500	EMR	06/18/2008	2008-14/125
<u>labor</u>					
Labor Commission, Antidiscrimination and Labor, Labor	31247	R610-1	NSC	05/05/2008	Not Printed
	31149	R610-1-4	AMD	06/13/2008	2008-9/48
	31245	R610-2	NSC	05/05/2008	Not Printed
	30942	R610-2-6	AMD	03/24/2008	2008-4/19
	31243	R610-3	NSC	05/05/2008	Not Printed
	30876	R610-3-4	EMR	01/03/2008	2008-3/70
	30941	R610-3-4	AMD	03/24/2008	2008-4/20
	31148	R610-3-10	AMD	06/13/2008	2008-9/50
Labor Commission, Safety	31233	R616-1	5YR	04/28/2008	2008-10/150
	31249	R616-1	NSC	05/05/2008	Not Printed
<u>labor commission</u>					
Labor Commission, Administration	31232	R600-1	5YR	04/28/2008	2008-10/148
	31237	R600-1	NSC	05/05/2008	Not Printed
<u>landfills</u>					
Environmental Quality, Air Quality	30965	R307-220	5YR	02/08/2008	2008-5/43
<u>landscape architects</u>					
Commerce, Occupational and Professional Licensing	31074	R156-53	5YR	03/24/2008	2008-8/52
<u>language proficiency</u>					
Regents (Board Of), Administration	31490	R765-136	5YR	05/27/2008	2008-12/63
	31326	R765-136	NSC	05/05/2008	Not Printed
<u>law</u>					
Public Safety, Fire Marshal	30919	R710-9-6	AMD	03/10/2008	2008-3/52
<u>law enforcement</u>					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	30929	R722-320	NSC	05/14/2008	Not Printed
	31434	R722-320	5YR	05/14/2008	2008-11/127
<u>law enforcement officers</u>					
Public Safety, Peace Officer Standards and Training	31648	R728-501	5YR	07/01/2008	2008-14/144

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>lead-based paint</u>					
Environmental Quality, Air Quality	30973	R307-840	5YR	02/08/2008	2008-5/47
	30708	R307-840	AMD	02/08/2008	2007-23/48
<u>LEAP</u>					
Regents (Board Of), Administration	31405	R765-606	5YR	05/09/2008	2008-11/129
<u>leases</u>					
Natural Resources, Forestry, Fire and State Lands	31270	R652-30-500	NSC	05/05/2008	Not Printed
<u>leave benefits</u>					
Human Resource Management, Administration	31192	R477-7	AMD	07/01/2008	2008-10/95
<u>liberties</u>					
Natural Resources, Administration	30875	R634-1	NSC	01/25/2008	Not Printed
	30923	R634-1	5YR	01/25/2008	2008-4/47
<u>license</u>					
Natural Resources, Wildlife Resources	31399	R657-45	5YR	05/08/2008	2008-11/127
	31050	R657-45-2	AMD	05/08/2008	2008-7/49
<u>license plates</u>					
Tax Commission, Motor Vehicle	30844	R873-22M-34	AMD	02/25/2008	2008-1/38
	31264	R873-22M-41	AMD	06/27/2008	2008-10/133
<u>licensing</u>					
Commerce, Occupational and Professional Licensing	31288	R156-1	AMD	06/23/2008	2008-10/30
	30655	R156-1-102a	AMD	01/08/2008	2007-23/3
	30935	R156-3a-303	AMD	03/27/2008	2008-4/5
	30715	R156-26a	AMD	03/31/2008	2007-23/4
	30715	R156-26a	CPR	03/31/2008	2008-4/35
	31396	R156-28	AMD	07/10/2008	2008-11/56
	31156	R156-31b	AMD	06/23/2008	2008-10/34
	31094	R156-31b	5YR	04/01/2008	2008-8/51
	30654	R156-38a	AMD	01/07/2008	2007-23/14
	31176	R156-38a-105a	NSC	05/05/2008	Not Printed
	31178	R156-40-302e	NSC	05/05/2008	Not Printed
	30853	R156-47b	AMD	02/21/2008	2008-2/4
	31180	R156-49	NSC	05/05/2008	Not Printed
	31073	R156-49	5YR	03/24/2008	2008-8/52
	31074	R156-53	5YR	03/24/2008	2008-8/52
	31292	R156-55a	AMD	06/24/2008	2008-10/42
	30892	R156-55a	AMD	03/11/2008	2008-3/3
	31181	R156-55d	NSC	05/05/2008	Not Printed
	30574	R156-56	AMD	01/01/2008	2007-21/38
	31139	R156-56	AMD	07/01/2008	2008-9/23
	30573	R156-56-420	AMD	01/01/2008	2007-21/57
	31142	R156-56-701	AMD	07/01/2008	2008-9/30
	30915	R156-61	AMD	05/08/2008	2008-3/6

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	30915	R156-61	CPR	05/08/2008	2008-7/55
	31182	R156-63	NSC	05/05/2008	Not Printed
	31183	R156-67	NSC	05/05/2008	Not Printed
	31083	R156-68	5YR	03/27/2008	2008-8/53
	31185	R156-68	NSC	05/05/2008	Not Printed
	31136	R156-69	AMD	06/09/2008	2008-9/35
	30854	R156-71	CPR	07/08/2008	2008-11/121
	30854	R156-71	AMD	07/08/2008	2008-2/6
	30694	R156-76	AMD	01/08/2008	2007-23/17
Human Services, Administration, Administrative Services, Licensing	31017	R501-16	5YR	02/22/2008	2008-6/25
	31026	R501-17	5YR	02/27/2008	2008-6/25
Labor Commission, Antidiscrimination and Labor, Labor	31438	R610-4	REP	07/08/2008	2008-11/101
	31239	R610-4	NSC	05/05/2008	Not Printed
Natural Resources, Wildlife Resources	31224	R657-27-11	NSC	05/05/2008	Not Printed
Public Safety, Driver License	31436	R708-10	AMD	07/08/2008	2008-11/116
	31113	R708-18-1	NSC	05/05/2008	Not Printed
Sports Authority (Utah), Pete Suazo Utah Athletic Commission	31028	R859-1	AMD	05/01/2008	2008-6/15
	31172	R859-1-102	NSC	06/18/2008	Not Printed
	31029	R859-1-302	AMD	05/01/2008	2008-6/16
<u>liens</u>					
Commerce, Occupational and Professional Licensing	30654	R156-38a	AMD	01/07/2008	2007-23/14
	31176	R156-38a-105a	NSC	05/05/2008	Not Printed
<u>limitation on judgments</u>					
Administrative Services, Risk Management	31150	R37-4	R&R	07/01/2008	2008-9/5
<u>liquefied petroleum gas</u>					
Public Safety, Fire Marshal	30862	R710-6	AMD	02/21/2008	2008-2/22
	31082	R710-6-4	AMD	05/23/2008	2008-8/37
<u>loans</u>					
Environmental Quality, Water Quality	31103	R317-101	5YR	04/02/2008	2008-9/53
<u>LTCO</u>					
Human Services, Aging and Adult Services	31379	R510-200-3	NSC	05/05/2008	Not Printed
<u>MACT</u>					
Environmental Quality, Air Quality	30430	R307-214	AMD	01/11/2008	2007-19/12
	30895	R307-214	5YR	01/11/2008	2008-3/77
<u>maps</u>					
Natural Resources, Water Rights	31130	R655-5	5YR	04/08/2008	2008-9/54
<u>market trading program</u>					
Environmental Quality, Air Quality	30970	R307-250	5YR	02/08/2008	2008-5/46
<u>marketing</u>					
Commerce, Consumer Protection	31214	R152-15-2	NSC	05/05/2008	Not Printed

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>massage therapy</u>					
Commerce, Occupational and Professional Licensing	30853	R156-47b	AMD	02/21/2008	2008-2/4
<u>match requirement</u>					
Human Services, Administration	30773	R495-861	AMD	01/30/2008	2007-24/18
<u>Medicaid</u>					
Health, Health Care Financing	30981	R410-14-17	EMR	02/15/2008	2008-5/36
	31129	R410-14-17	AMD	06/09/2008	2008-9/38
Health, Health Care Financing, Coverage and Reimbursement Policy	31359	R414-1-5	AMD	07/01/2008	2008-10/64
	31424	R414-5	5YR	05/13/2008	2008-11/125
	31169	R414-6	5YR	04/21/2008	2008-10/145
	30653	R414-21	R&R	01/10/2008	2007-23/50
	31046	R414-27	NSC	03/25/2008	Not Printed
	30920	R414-27	5YR	01/17/2008	2008-4/42
	31360	R414-27	AMD	07/01/2008	2008-10/65
	31135	R414-40	R&R	06/23/2008	2008-9/39
	31452	R414-51	5YR	05/19/2008	2008-12/53
	30775	R414-52	AMD	02/01/2008	2007-24/12
	31453	R414-52	5YR	05/19/2008	2008-12/54
	30776	R414-53	AMD	02/01/2008	2007-24/13
	31528	R414-53	5YR	06/05/2008	2008-13/148
	30378	R414-71	CPR	03/31/2008	2008-3/66
	30378	R414-71	AMD	03/31/2008	2007-18/40
	30936	R414-301	5YR	01/31/2008	2008-4/43
30937	R414-305	5YR	01/31/2008	2008-4/45	
30945	R414-305	AMD	04/01/2008	2008-4/9	
30938	R414-308	5YR	01/31/2008	2008-4/46	
30927	R414-308-7	AMD	04/01/2008	2008-4/16	
31356	R414-310	AMD	07/01/2008	2008-10/66	
31358	R414-320	AMD	07/01/2008	2008-10/68	
31362	R414-504	AMD	07/01/2008	2008-10/71	
31361	R414-508	NEW	07/01/2008	2008-10/78	
30917	R414-510	AMD	03/10/2008	2008-3/30	
<u>medical incinerator</u>					
Environmental Quality, Air Quality	30702	R307-222	AMD	02/08/2008	2007-23/36
	30967	R307-222	5YR	02/08/2008	2008-5/44
	30833	R307-222-1	NSC	02/08/2008	Not Printed
<u>medical malpractice</u>					
Commerce, Occupational and Professional Licensing	31055	R156-78A	NSC	03/26/2008	Not Printed
<u>medical practitioner</u>					
Labor Commission, Industrial Accidents	31234	R612-2	5YR	04/28/2008	2008-10/148
	31333	R612-2-5	AMD	07/01/2008	2008-10/130

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>medical transportation</u> Health, Health Care Financing, Coverage and Reimbursement Policy	30922	R414-306	5YR	01/25/2008	2008-4/45
<u>medication treatment</u> Human Services, Substance Abuse and Mental Health, State Hospital	31449	R525-3	5YR	05/19/2008	2008-12/56
<u>mercury</u> Environmental Quality, Air Quality	30969	R307-224	5YR	02/08/2008	2008-5/45
	30704	R307-224-2	AMD	02/08/2008	2007-23/39
<u>minerals reclamation</u> Natural Resources, Oil, Gas and Mining; Non-Coal	31510	R647-1	5YR	06/02/2008	2008-12/59
	31205	R647-1-106	NSC	05/05/2008	Not Printed
	31511	R647-2	5YR	06/02/2008	2008-12/59
	31512	R647-3	5YR	06/02/2008	2008-12/60
	31513	R647-4	5YR	06/02/2008	2008-12/60
	31514	R647-5	5YR	06/02/2008	2008-12/61
	31206	R647-5	NSC	05/05/2008	Not Printed
<u>minimum standards</u> Natural Resources, Forestry, Fire and State Lands	31109	R652-122-100	NSC	05/01/2008	Not Printed
<u>mining</u> Labor Commission, Safety	31233	R616-1	5YR	04/28/2008	2008-10/150
	31249	R616-1	NSC	05/05/2008	Not Printed
<u>minors</u> Labor Commission, Antidiscrimination and Labor, Labor	31247	R610-1	NSC	05/05/2008	Not Printed
	31149	R610-1-4	AMD	06/13/2008	2008-9/48
	31245	R610-2	NSC	05/05/2008	Not Printed
	30942	R610-2-6	AMD	03/24/2008	2008-4/19
	31243	R610-3	NSC	05/05/2008	Not Printed
	30876	R610-3-4	EMR	01/03/2008	2008-3/70
	30941	R610-3-4	AMD	03/24/2008	2008-4/20
	31148	R610-3-10	AMD	06/13/2008	2008-9/50
<u>monitoring</u> Environmental Quality, Air Quality	30962	R307-170	5YR	02/08/2008	2008-5/41
	30699	R307-170-7	AMD	02/08/2008	2007-23/29
<u>motor vehicle record</u> Public Safety, Driver License	31119	R708-36-1	NSC	05/05/2008	Not Printed
	31123	R708-44-4	NSC	05/05/2008	Not Printed
<u>motor vehicles</u> Commerce, Administration	31354	R151-14-3	NSC	05/05/2008	Not Printed
Commerce, Consumer Protection	31215	R152-20	NSC	05/05/2008	Not Printed
Environmental Quality, Air Quality	30889	R307-121-3	NSC	01/30/2008	Not Printed
Tax Commission, Motor Vehicle	30844	R873-22M-34	AMD	02/25/2008	2008-1/38

<u>KEYWORD AGENCY</u>	<u>FILE NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE DATE</u>	<u>BULLETIN ISSUE/PAGE</u>
	31264	R873-22M-41	AMD	06/27/2008	2008-10/133
Tax Commission, Motor Vehicle Enforcement	31255	R877-23V-19	AMD	06/27/2008	2008-10/135
<u>motorcycle rider training schools</u>					
Public Safety, Driver License	31115	R708-30-14	NSC	05/05/2008	Not Printed
<u>motorcycles</u>					
Commerce, Administration	31355	R151-35-3	NSC	05/05/2008	Not Printed
<u>municipal landfills</u>					
Environmental Quality, Air Quality	30701	R307-221	AMD	02/08/2008	2007-23/32
	30966	R307-221	5YR	02/08/2008	2008-5/44
	30832	R307-221-2	NSC	02/08/2008	Not Printed
<u>municipal waste incinerator</u>					
Environmental Quality, Air Quality	30703	R307-223	AMD	02/08/2008	2007-23/38
	30968	R307-223	5YR	02/08/2008	2008-5/45
<u>mutual water corporations</u>					
Public Service Commission, Administration	31095	R746-331	5YR	04/01/2008	2008-8/55
<u>nail technicians</u>					
Commerce, Occupational and Professional Licensing	30953	R156-11a	AMD	04/10/2008	2008-5/5
	31174	R156-11a-601	NSC	05/05/2008	Not Printed
<u>naturopathic physician</u>					
Commerce, Occupational and Professional Licensing	30854	R156-71	CPR	07/08/2008	2008-11/121
	30854	R156-71	AMD	07/08/2008	2008-2/6
<u>naturopaths</u>					
Commerce, Occupational and Professional Licensing	30854	R156-71	CPR	07/08/2008	2008-11/121
	30854	R156-71	AMD	07/08/2008	2008-2/6
<u>new hire registry</u>					
Workforce Services, Unemployment Insurance	31549	R994-315	5YR	06/10/2008	2008-13/152
<u>newborn screening</u>					
Health, Community and Family Health Services, Children with Special Health Care Needs	31350	R398-1	AMD	06/25/2008	2008-10/60
	31651	R398-2	5YR	07/02/2008	Not Printed
<u>notice of commencement</u>					
Commerce, Occupational and Professional Licensing	31177	R156-38b-703	NSC	05/05/2008	Not Printed
<u>notice of completion</u>					
Commerce, Occupational and Professional Licensing	31177	R156-38b-703	NSC	05/05/2008	Not Printed
<u>nurses</u>					
Commerce, Occupational and Professional Licensing	31156	R156-31b	AMD	06/23/2008	2008-10/34
	31094	R156-31b	5YR	04/01/2008	2008-8/51

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>nutrition</u> Education, Administration	30848	R277-719	NEW	02/07/2008	2008-1/12
<u>occupational licensing</u> Commerce, Occupational and Professional Licensing	31288	R156-1	AMD	06/23/2008	2008-10/30
	30655	R156-1-102a	AMD	01/08/2008	2007-23/3
	31179	R156-46b	NSC	05/05/2008	Not Printed
	31292	R156-55a	AMD	06/24/2008	2008-10/42
	30892	R156-55a	AMD	03/11/2008	2008-3/3
<u>off road vehicles</u> Commerce, Administration	31355	R151-35-3	NSC	05/05/2008	Not Printed
<u>off-premise</u> Human Services, Substance Abuse and Mental Health	31353	R523-24-13	NSC	05/05/2008	Not Printed
<u>OHV</u> Natural Resources, Parks and Recreation	31690	R651-407	5YR	07/07/2008	Not Printed
	31691	R651-408	5YR	07/07/2008	Not Printed
<u>oil and gas law</u> Natural Resources, Oil, Gas and Mining; Oil and Gas	31207	R649-10-3	NSC	05/05/2008	Not Printed
<u>ombudsman</u> Human Services, Aging and Adult Services	31379	R510-200-3	NSC	05/05/2008	Not Printed
<u>one-time signing bonuses</u> Education, Administration	31439	R277-109	NEW	07/08/2008	2008-11/67
<u>open burning</u> Environmental Quality, Air Quality	30963	R307-202	5YR	02/08/2008	2008-5/42
<u>operating permits</u> Environmental Quality, Air Quality	30700	R307-215	REP	02/08/2008	2007-23/31
	30706	R307-417	AMD	02/08/2008	2007-23/43
<u>optometry</u> Health, Health Care Financing, Coverage and Reimbursement Policy	30775	R414-52	AMD	02/01/2008	2007-24/12
	31453	R414-52	5YR	05/19/2008	2008-12/54
<u>orders</u> Environmental Quality, Radiation Control	31171	R313-17	NSC	05/05/2008	Not Printed
<u>orthodontia</u> Health, Health Care Financing, Coverage and Reimbursement Policy	31452	R414-51	5YR	05/19/2008	2008-12/53
<u>osteopathic physician</u> Commerce, Occupational and Professional Licensing	31083	R156-68	5YR	03/27/2008	2008-8/53
	31185	R156-68	NSC	05/05/2008	Not Printed
<u>osteopaths</u> Commerce, Occupational and Professional Licensing	31083	R156-68	5YR	03/27/2008	2008-8/53

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	31185	R156-68	NSC	05/05/2008	Not Printed
<u>overtime</u>					
Human Resource Management, Administration	31193	R477-8	AMD	07/01/2008	2008-10/101
	30778	R477-8-5	AMD	01/22/2008	2007-24/16
<u>paint</u>					
Environmental Quality, Air Quality	30973	R307-840	5YR	02/08/2008	2008-5/47
	30708	R307-840	AMD	02/08/2008	2007-23/48
<u>parking facilities</u>					
Administrative Services, Facilities Construction and Management Regents (Board Of), University of Utah, Parking and Transportation Services	31063	R23-13	5YR	03/17/2008	2008-8/50
	30712	R810-1	AMD	03/06/2008	2007-23/65
	30722	R810-2	AMD	03/06/2008	2007-23/67
	30727	R810-3	REP	03/06/2008	2007-24/21
	30728	R810-4	REP	03/06/2008	2007-24/22
	30779	R810-5	AMD	03/06/2008	2007-24/23
	30809	R810-6	AMD	03/06/2008	2008-1/26
	30831	R810-7	REP	03/06/2008	2008-1/27
	30834	R810-8	AMD	03/06/2008	2008-1/28
	30836	R810-9	AMD	03/06/2008	2008-1/29
	30839	R810-10	AMD	03/06/2008	2008-1/30
	30840	R810-11	AMD	03/06/2008	2008-1/31
	30843	R810-12	NEW	03/06/2008	2008-1/32
<u>parks</u>					
Natural Resources, Parks and Recreation	30900	R651-205-17	AMD	03/10/2008	2008-3/36
	31690	R651-407	5YR	07/07/2008	Not Printed
	31691	R651-408	5YR	07/07/2008	Not Printed
	31661	R651-601	5YR	07/07/2008	Not Printed
	31662	R651-602	5YR	07/07/2008	Not Printed
	31663	R651-603	5YR	07/07/2008	Not Printed
	31664	R651-604	5YR	07/07/2008	Not Printed
	31665	R651-605	5YR	07/07/2008	Not Printed
	31666	R651-606	5YR	07/07/2008	Not Printed
	31667	R651-607	5YR	07/07/2008	Not Printed
	31668	R651-608	5YR	07/07/2008	Not Printed
	31669	R651-609	5YR	07/07/2008	Not Printed
	31670	R651-610	5YR	07/07/2008	Not Printed
	30621	R651-611	AMD	01/01/2008	2007-22/80
	30898	R651-611	AMD	03/10/2008	2008-3/39
	31012	R651-612	NSC	03/10/2008	Not Printed
	31671	R651-612	5YR	07/07/2008	Not Printed
	30901	R651-612	AMD	03/10/2008	2008-3/42
	31672	R651-613	5YR	07/07/2008	Not Printed
	31673	R651-614	5YR	07/07/2008	Not Printed
	31674	R651-615	5YR	07/07/2008	Not Printed

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	31675	R651-616	5YR	07/07/2008	Not Printed
	31676	R651-617	5YR	07/07/2008	Not Printed
	31677	R651-618	5YR	07/07/2008	Not Printed
	31678	R651-619	5YR	07/07/2008	Not Printed
	31679	R651-620	5YR	07/07/2008	Not Printed
	31680	R651-621	5YR	07/07/2008	Not Printed
	31681	R651-622	5YR	07/07/2008	Not Printed
	31682	R651-623	5YR	07/07/2008	Not Printed
	31683	R651-624	5YR	07/07/2008	Not Printed
	31684	R651-625	5YR	07/07/2008	Not Printed
	31660	R651-626	5YR	07/07/2008	Not Printed
	31685	R651-627	5YR	07/07/2008	Not Printed
	31686	R651-628	5YR	07/07/2008	Not Printed
	31687	R651-629	5YR	07/07/2008	Not Printed
	31601	R651-630	5YR	06/20/2008	2008-14/144
	31688	R651-631	5YR	07/07/2008	Not Printed
	31689	R651-632	5YR	07/07/2008	Not Printed
<u>parole</u>					
Pardons (Board Of), Administration	30949	R671-403	5YR	02/04/2008	2008-5/59
	31656	R671-509	5YR	07/03/2008	Not Printed
	31658	R671-510	5YR	07/03/2008	Not Printed
	31657	R671-512	5YR	07/03/2008	Not Printed
	31654	R671-514	5YR	07/03/2008	Not Printed
	31659	R671-515	5YR	07/03/2008	Not Printed
	31655	R671-516	5YR	07/03/2008	Not Printed
<u>patient rights</u>					
Human Services, Substance Abuse and Mental Health, State Hospital	31450	R525-2	5YR	05/19/2008	2008-12/55
<u>patient safety</u>					
Health, Administration	31286	R380-200	NSC	05/05/2008	Not Printed
	31280	R380-210-6	NSC	05/05/2008	Not Printed
<u>paving standards</u>					
Public Service Commission, Administration	31092	R746-342	5YR	04/01/2008	2008-8/56
<u>PCN</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	31358	R414-320	AMD	07/01/2008	2008-10/68
<u>peer review</u>					
Commerce, Occupational and Professional Licensing	30715	R156-26a	AMD	03/31/2008	2007-23/4
	30715	R156-26a	CPR	03/31/2008	2008-4/35
<u>penalties</u>					
Labor Commission, Industrial Accidents	31251	R612-9-1	NSC	05/05/2008	Not Printed
<u>per diem allowance</u>					
Administrative Services, Finance	31317	R25-5	5YR	04/29/2008	2008-10/143

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>per diem allowances</u>					
Administrative Services, Finance	31319	R25-7	5YR	04/29/2008	2008-10/144
	31320	R25-7	AMD	07/01/2008	2008-10/4
<u>performance-based compensation program</u>					
Education, Administration	31440	R277-113	NEW	07/08/2008	2008-11/69
<u>permit</u>					
Natural Resources, Wildlife Resources	31399	R657-45	5YR	05/08/2008	2008-11/127
	31050	R657-45-2	AMD	05/08/2008	2008-7/49
<u>permits</u>					
Environmental Quality, Air Quality	30709	R307-401-14	AMD	02/08/2008	2007-23/42
Natural Resources, Forestry, Fire and State Lands	31112	R652-120	NSC	05/01/2008	Not Printed
Natural Resources, Wildlife Resources	31400	R657-42	5YR	05/08/2008	2008-11/126
	31049	R657-42-8	AMD	05/08/2008	2008-7/48
<u>permitting authority</u>					
Environmental Quality, Air Quality	30700	R307-215	REP	02/08/2008	2007-23/31
	30706	R307-417	AMD	02/08/2008	2007-23/43
<u>persistently dangerous schools</u>					
Education, Administration	31036	R277-483	5YR	03/03/2008	2008-7/62
<u>personal property</u>					
Tax Commission, Property Tax	31274	R884-24P-62	NSC	06/23/2008	Not Printed
	30931	R884-24P-62	AMD	03/28/2008	2008-4/30
<u>personnel management</u>					
Human Resource Management, Administration	31186	R477-1	AMD	07/01/2008	2008-10/79
	31190	R477-5	AMD	07/01/2008	2008-10/90
	31191	R477-6	AMD	07/01/2008	2008-10/91
	31194	R477-9	AMD	07/01/2008	2008-10/104
	31211	R477-13	NSC	06/19/2008	Not Printed
<u>petroleum</u>					
Environmental Quality, Environmental Response and Remediation	31486	R311-200	NSC	06/18/2008	Not Printed
	31487	R311-201	NSC	06/18/2008	Not Printed
	31488	R311-210	NSC	06/18/2008	Not Printed
<u>physically handicapped persons</u>					
Commerce, Administration	31346	R151-3-1	NSC	05/05/2008	Not Printed
<u>physicians</u>					
Commerce, Occupational and Professional Licensing	31183	R156-67	NSC	05/05/2008	Not Printed
<u>pleas</u>					
Pardons (Board Of), Administration	31654	R671-514	5YR	07/03/2008	Not Printed
<u>PM10</u>					
Environmental Quality, Air Quality	30971	R307-310	5YR	02/08/2008	2008-5/46

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	30705	R307-310-2	AMD	02/08/2008	2007-23/40
<u>point-system</u> Public Safety, Driver License	31106	R708-3-2	NSC	05/05/2008	Not Printed
<u>pools</u> Health, Epidemiology and Laboratory Services, Environmental Services	31097	R392-302	AMD	05/22/2008	2008-8/6
<u>position classifications</u> Human Resource Management, Administration	31188	R477-3	AMD	07/01/2008	2008-10/87
<u>post-conviction</u> Administrative Services, Finance	31363	R25-14	EMR	05/05/2008	2008-10/140
<u>postsecondary proprietary school</u> Commerce, Consumer Protection	31218	R152-34-10	NSC	05/05/2008	Not Printed
<u>POTW</u> Environmental Quality, Water Quality	30636	R317-14	NEW	02/04/2008	2007-22/62
<u>powersport vehicles</u> Commerce, Administration	31355	R151-35-3	NSC	05/05/2008	Not Printed
<u>preenterprise</u> Regents (Board Of), Administration	31515	R765-555	5YR	06/02/2008	2008-12/64
<u>preliminary notice</u> Commerce, Occupational and Professional Licensing	31177	R156-38b-703	NSC	05/05/2008	Not Printed
<u>prelitigation</u> Commerce, Occupational and Professional Licensing	31055	R156-78A	NSC	03/26/2008	Not Printed
<u>primary care</u> Health, Health Care Financing, Coverage and Reimbursement Policy	31356	R414-310	AMD	07/01/2008	2008-10/66
<u>privacy</u> Health, Administration	31455	R380-250	5YR	05/19/2008	2008-12/52
	31484	R495-881	5YR	05/27/2008	2008-12/55
Public Safety, Driver License	31119	R708-36-1	NSC	05/05/2008	Not Printed
<u>private schools</u> Education, Administration	31040	R277-747	5YR	03/03/2008	2008-7/64
<u>private security officers</u> Commerce, Occupational and Professional Licensing	31182	R156-63	NSC	05/05/2008	Not Printed
<u>probable cause</u> Pardons (Board Of), Administration	31658	R671-510	5YR	07/03/2008	Not Printed
<u>procedures</u> Public Service Commission, Administration	31617	R746-210	5YR	06/24/2008	2008-14/145
	31619	R746-240	5YR	06/24/2008	2008-14/146
	31618	R746-340	5YR	06/24/2008	2008-14/147

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>procurement</u>					
Capitol Preservation Board (State), Administration	30591	R131-1	AMD	02/29/2008	2007-21/11
	30590	R131-4	R&R	02/29/2008	2007-21/13
<u>professional</u>					
Education, Administration	30976	R277-515-3	NSC	02/27/2008	Not Printed
<u>professional competency</u>					
Education, Administration	30944	R277-502	AMD	03/24/2008	2008-4/6
	31038	R277-508	5YR	03/03/2008	2008-7/63
<u>professional education</u>					
Education, Administration	31444	R277-504	AMD	07/08/2008	2008-11/77
	30878	R277-518	5YR	01/08/2008	2008-3/72
<u>professional engineers</u>					
Commerce, Occupational and Professional Licensing	31175	R156-22-305	NSC	05/05/2008	Not Printed
<u>professional geologists</u>					
Commerce, Occupational and Professional Licensing	30694	R156-76	AMD	01/08/2008	2007-23/17
<u>professional land surveyors</u>					
Commerce, Occupational and Professional Licensing	31175	R156-22-305	NSC	05/05/2008	Not Printed
<u>program benefits</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	30922	R414-306	5YR	01/25/2008	2008-4/45
<u>prohibited items and devices</u>					
Human Services, Substance Abuse and Mental Health	31089	R523-1	5YR	03/31/2008	2008-8/53
	30767	R523-1	NSC	03/31/2008	Not Printed
Human Services, Substance Abuse and Mental Health, State Hospital	31031	R525-6	NEW	05/01/2008	2008-6/7
<u>promotions</u>					
Agriculture and Food, Marketing and Development	31007	R65-2	5YR	02/15/2008	2008-5/38
	31008	R65-5	5YR	02/15/2008	2008-5/38
<u>proof</u>					
Natural Resources, Water Rights	31130	R655-5	5YR	04/08/2008	2008-9/54
<u>property claims</u>					
Treasurer, Unclaimed Property	30596	R966-1-2	AMD	01/07/2008	2007-22/87
<u>property tax</u>					
Tax Commission, Property Tax	31274	R884-24P-62	NSC	06/23/2008	Not Printed
	30931	R884-24P-62	AMD	03/28/2008	2008-4/30
<u>property transactions</u>					
Administrative Services, Facilities Construction and Management	31607	R23-22	EMR	06/25/2008	2008-14/122
<u>PSD</u>					
Environmental Quality, Air Quality	30431	R307-405	AMD	01/11/2008	2007-19/15

RULES INDEX

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>psychologists</u>					
Commerce, Occupational and Professional Licensing	30915	R156-61	AMD	05/08/2008	2008-3/6
	30915	R156-61	CPR	05/08/2008	2008-7/55
<u>public assistance programs</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	30938	R414-308	5YR	01/31/2008	2008-4/46
	30927	R414-308-7	AMD	04/01/2008	2008-4/16
Human Services, Recovery Services	30982	R527-928	AMD	04/07/2008	2008-5/26
<u>public buildings</u>					
Administrative Services, Facilities Construction and Management	31064	R23-14	5YR	03/17/2008	2008-8/50
Capitol Preservation Board (State), Administration	30590	R131-4	R&R	02/29/2008	2007-21/13
<u>public comments</u>					
Environmental Quality, Radiation Control	31171	R313-17	NSC	05/05/2008	Not Printed
<u>public hearings</u>					
Environmental Quality, Radiation Control	31171	R313-17	NSC	05/05/2008	Not Printed
<u>public information</u>					
Administrative Services, Administration	31343	R13-2	NSC	05/05/2008	Not Printed
	31187	R477-2	AMD	07/01/2008	2008-10/84
<u>public petitions</u>					
Natural Resources, Forestry, Fire and State Lands	31268	R652-7	NSC	05/05/2008	Not Printed
<u>public records</u>					
Career Service Review Board, Administration	31473	R137-2	5YR	05/21/2008	2008-12/50
	31345	R151-2	NSC	05/05/2008	Not Printed
	31385	R151-2-4	AMD	07/08/2008	2008-11/49
	31284	R380-20	NSC	05/05/2008	Not Printed
Natural Resources, Oil, Gas and Mining; Administration	31202	R642-100	NSC	05/05/2008	Not Printed
	31203	R642-200	NSC	05/05/2008	Not Printed
Natural Resources, Forestry, Fire and State Lands	31259	R652-6	NSC	05/05/2008	Not Printed
Natural Resources, Wildlife Resources	31225	R657-29	NSC	05/05/2008	Not Printed
<u>public schools</u>					
Education, Administration	31518	R277-436	5YR	06/02/2008	2008-12/51
	31519	R277-460	5YR	06/02/2008	2008-12/51
	31443	R277-490	NEW	07/08/2008	2008-11/74
<u>public utilities</u>					
Public Service Commission, Administration	31373	R746-100	NSC	05/05/2008	Not Printed
	31372	R746-101-4	NSC	05/05/2008	Not Printed
	31620	R746-110	5YR	06/24/2008	2008-14/145
	31369	R746-110	NSC	05/05/2008	Not Printed
	31044	R746-330	5YR	03/07/2008	2008-7/66
	31095	R746-331	5YR	04/01/2008	2008-8/55

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	31091	R746-332	5YR	04/01/2008	2008-8/55
	31092	R746-342	5YR	04/01/2008	2008-8/56
	31045	R746-347	5YR	03/07/2008	2008-7/66
	31374	R746-349-3	NSC	05/05/2008	Not Printed
	31371	R746-400-7	NSC	05/05/2008	Not Printed
	31093	R746-402	5YR	04/01/2008	2008-8/56
	31101	R746-405	5YR	04/01/2008	2008-8/57
<u>quality improvement</u>					
Health, Administration	31286	R380-200	NSC	05/05/2008	Not Printed
	31280	R380-210-6	NSC	05/05/2008	Not Printed
<u>quarantine</u>					
Agriculture and Food, Plant Industry	31125	R68-14	5YR	04/04/2008	2008-9/52
	31543	R68-16	5YR	06/09/2008	2008-13/147
	31126	R68-16	AMD	07/02/2008	2008-9/11
	31009	R68-17	REP	04/11/2008	2008-5/4
Health, Epidemiology and Laboratory Services, Epidemiology	31099	R386-702-12	AMD	06/11/2008	2008-8/5
<u>rabies</u>					
Health, Epidemiology and Laboratory Services, Epidemiology	31099	R386-702-12	AMD	06/11/2008	2008-8/5
<u>radioactive material</u>					
Environmental Quality, Radiation Control	30865	R313-15	AMD	03/17/2008	2008-2/10
<u>railroads</u>					
Transportation, Preconstruction	31066	R930-5	AMD	06/10/2008	2008-8/46
<u>rates</u>					
Administrative Services, Finance	31317	R25-5	5YR	04/29/2008	2008-10/143
	31321	R25-8	AMD	07/01/2008	2008-10/7
Labor Commission, Industrial Accidents	30594	R612-4-2	AMD	01/01/2008	2007-22/76
Workforce Services, Unemployment Insurance	31547	R994-306	5YR	06/10/2008	2008-13/151
	31548	R994-307	5YR	06/10/2008	2008-13/152
<u>real estate</u>					
Administrative Services, Facilities Construction and Management	31607	R23-22	EMR	06/25/2008	2008-14/122
<u>real estate business</u>					
Commerce, Real Estate	31003	R162-2-2	AMD	04/07/2008	2008-5/7
	31001	R162-8-4	AMD	04/07/2008	2008-5/10
<u>reclamation</u>					
Natural Resources, Oil, Gas and Mining; Coal	30932	R645-100-200	AMD	03/26/2008	2008-4/23
	31204	R645-100-500	NSC	05/05/2008	Not Printed
	31509	R645-102	5YR	06/02/2008	2008-12/58
	30934	R645-300-100	AMD	03/26/2008	2008-4/24
	30933	R645-301	AMD	03/26/2008	2008-4/25

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>records</u> Regents (Board Of), University of Utah, Administration	31340	R805-2	NSC	05/05/2008	Not Printed
<u>records access</u> Career Service Review Board, Administration	31473	R137-2	5YR	05/21/2008	2008-12/50
	31327	R765-993	NSC	05/05/2008	Not Printed
<u>records management</u> Regents (Board Of), Administration	31327	R765-993	NSC	05/05/2008	Not Printed
<u>recreation</u> Natural Resources, Parks and Recreation	30899	R651-301	AMD	03/10/2008	2008-3/37
<u>recreation therapy</u> Commerce, Occupational and Professional Licensing	31178	R156-40-302e	NSC	05/05/2008	Not Printed
<u>recreational therapy</u> Commerce, Occupational and Professional Licensing	31178	R156-40-302e	NSC	05/05/2008	Not Printed
<u>recreational vehicles</u> Commerce, Administration	31354	R151-14-3	NSC	05/05/2008	Not Printed
<u>refugee resettlement program</u> Workforce Services, Employment Development	31060	R986-300-303	AMD	05/20/2008	2008-7/52
<u>regionalization</u> Environmental Quality, Drinking Water	31157	R309-352	5YR	04/18/2008	2008-10/144
<u>registration</u> Commerce, Consumer Protection	31218	R152-34-10	NSC	05/05/2008	Not Printed
<u>rehabilitation</u> Education, Rehabilitation	31042	R280-200	5YR	03/03/2008	2008-7/65
<u>Rehabilitation Act 1973</u> Human Services, Administration	31067	R495-878	AMD	06/13/2008	2008-8/23
	31367	R495-878	NSC	05/05/2008	Not Printed
<u>reimbursements</u> Administrative Services, Finance	31316	R25-6	5YR	04/29/2008	2008-10/143
<u>religious activities</u> Tax Commission, Auditing	31272	R865-19S-99	NSC	06/23/2008	Not Printed
	31258	R865-19S-105	AMD	07/01/2008	2008-10/132
	30841	R865-19S-121	AMD	02/25/2008	2008-1/37
<u>religious education</u> Education, Administration	30881	R277-610	5YR	01/08/2008	2008-3/73
<u>relocation benefits</u> Administrative Services, Finance	31316	R25-6	5YR	04/29/2008	2008-10/143
<u>renewable</u> Natural Resources, Geological Survey	30902	R638-2-6	AMD	03/10/2008	2008-3/35

<u>KEYWORD AGENCY</u>	<u>FILE NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE DATE</u>	<u>BULLETIN ISSUE/PAGE</u>
<u>reporting</u>					
Health, Health Systems Improvement, Emergency Medical Services	31068	R426-5-3	AMD	06/04/2008	2008-8/17
Labor Commission, Industrial Accidents	31252	R612-10	NSC	05/05/2008	Not Printed
<u>reports</u>					
Education, Administration	31520	R277-484	5YR	06/02/2008	2008-12/52
	31005	R277-484	AMD	04/11/2008	2008-5/17
	31371	R746-400-7	NSC	05/05/2008	Not Printed
<u>reptiles</u>					
Natural Resources, Wildlife Resources	31051	R657-53	AMD	05/08/2008	2008-7/50
	31228	R657-53	NSC	05/05/2008	Not Printed
	31508	R657-53	5YR	06/02/2008	2008-12/61
<u>residential mortgage loan origination</u>					
Commerce, Real Estate	31002	R162-207-6	AMD	04/07/2008	2008-5/12
	31278	R162-208	AMD	06/23/2008	2008-10/50
	31004	R162-210-4	AMD	04/07/2008	2008-5/13
<u>resource decision</u>					
Public Service Commission, Administration	31072	R746-440	NSC	04/11/2008	Not Printed
<u>restitution</u>					
Pardons (Board Of), Administration	30949	R671-403	5YR	02/04/2008	2008-5/59
<u>retirement</u>					
Human Resource Management, Administration	31210	R477-12	AMD	07/01/2008	2008-10/110
<u>revocation</u>					
Pardons (Board Of), Administration	31655	R671-516	5YR	07/03/2008	Not Printed
<u>right of petition</u>					
Natural Resources, Forestry, Fire and State Lands	31110	R652-9-100	NSC	05/01/2008	Not Printed
<u>risk management</u>					
Administrative Services, Risk Management	31347	R37-2	AMD	06/23/2008	2008-10/8
	31150	R37-4	R&R	07/01/2008	2008-9/5
<u>roofs</u>					
Administrative Services, Facilities Construction and Management	31064	R23-14	5YR	03/17/2008	2008-8/50
<u>rules</u>					
Public Service Commission, Administration	31617	R746-210	5YR	06/24/2008	2008-14/145
<u>rules and procedures</u>					
Health, Administration	31281	R380-1	NSC	05/05/2008	Not Printed
	31282	R380-5	NSC	05/05/2008	Not Printed
Health, Epidemiology and Laboratory Services, Epidemiology	31099	R386-702-12	AMD	06/11/2008	2008-8/5
Human Resource Management, Administration	31186	R477-1	AMD	07/01/2008	2008-10/79
	31211	R477-13	NSC	06/19/2008	Not Printed
Natural Resources, Wildlife Resources	31224	R657-27-11	NSC	05/05/2008	Not Printed

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
Public Safety, Driver License	31105	R708-2-25	NSC	05/05/2008	Not Printed
Public Service Commission, Administration	31373	R746-100	NSC	05/05/2008	Not Printed
	31372	R746-101-4	NSC	05/05/2008	Not Printed
	31620	R746-110	5YR	06/24/2008	2008-14/145
	31369	R746-110	NSC	05/05/2008	Not Printed
	31091	R746-332	5YR	04/01/2008	2008-8/55
	31092	R746-342	5YR	04/01/2008	2008-8/56
	31371	R746-400-7	NSC	05/05/2008	Not Printed
	31093	R746-402	5YR	04/01/2008	2008-8/56
	31101	R746-405	5YR	04/01/2008	2008-8/57
<u>Rural Broadband Service Fund</u>					
Governor, Economic Development	30788	R357-2	NEW	01/30/2008	2007-24/9
	30859	R357-2-7	NSC	01/30/2008	Not Printed
<u>rural economic development</u>					
Governor, Economic Development	30788	R357-2	NEW	01/30/2008	2007-24/9
	30859	R357-2-7	NSC	01/30/2008	Not Printed
<u>safety</u>					
Environmental Quality, Radiation Control	30865	R313-15	AMD	03/17/2008	2008-2/10
Labor Commission, Occupational Safety and Health	31244	R614-1	NSC	05/05/2008	Not Printed
	31102	R614-1-4	AMD	05/22/2008	2008-8/30
	31248	R614-3-1	NSC	05/05/2008	Not Printed
Labor Commission, Safety	31246	R616-2	NSC	05/05/2008	Not Printed
	31253	R616-3	NSC	05/05/2008	Not Printed
	30943	R616-3-3	AMD	03/24/2008	2008-4/21
Transportation, Preconstruction	31066	R930-5	AMD	06/10/2008	2008-8/46
<u>safety regulations</u>					
Transportation, Motor Carrier	30785	R909-19	AMD	02/12/2008	2007-24/26
	31090	R909-75	AMD	05/27/2008	2008-8/45
<u>salaries</u>					
Human Resource Management, Administration	31191	R477-6	AMD	07/01/2008	2008-10/91
<u>sales tax</u>					
Tax Commission, Auditing	31272	R865-19S-99	NSC	06/23/2008	Not Printed
	31258	R865-19S-105	AMD	07/01/2008	2008-10/132
	30841	R865-19S-121	AMD	02/25/2008	2008-1/37
<u>salons</u>					
Health, Epidemiology and Laboratory Services, Environmental Services	30612	R392-700	CPR	05/16/2008	2008-7/58
	30612	R392-700	NEW	05/16/2008	2007-22/65
<u>sanitation</u>					
Health, Epidemiology and Laboratory Services, Environmental Services	30612	R392-700	CPR	05/16/2008	2008-7/58
	30612	R392-700	NEW	05/16/2008	2007-22/65

<u>KEYWORD AGENCY</u>	<u>FILE NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE DATE</u>	<u>BULLETIN ISSUE/PAGE</u>
<u>school buses</u> Education, Administration	30879	R277-600	5YR	01/08/2008	2008-3/72
<u>school choice</u> Education, Administration	31036	R277-483	5YR	03/03/2008	2008-7/62
<u>school personnel</u> Education, Administration	31038	R277-508	5YR	03/03/2008	2008-7/63
<u>school transportation</u> Education, Administration	30879	R277-600	5YR	01/08/2008	2008-3/72
<u>school year</u> Education, Administration	31041	R277-751	5YR	03/03/2008	2008-7/65
<u>schools</u> Education, Administration	30848	R277-719	NEW	02/07/2008	2008-1/12
Environmental Quality, Air Quality	30972	R307-801	5YR	02/08/2008	2008-5/47
	30707	R307-801	AMD	02/08/2008	2007-23/45
Public Safety, Driver License	31105	R708-2-25	NSC	05/05/2008	Not Printed
<u>secure area hearing rooms</u> Regents (Board Of), Administration	31492	R765-254	5YR	05/27/2008	2008-12/63
<u>secure areas</u> Human Services, Substance Abuse and Mental Health, State Hospital	31031	R525-6	NEW	05/01/2008	2008-6/7
<u>security</u> Administrative Services, Facilities Construction and Management	31064	R23-14	5YR	03/17/2008	2008-8/50
<u>security guards</u> Commerce, Occupational and Professional Licensing	31182	R156-63	NSC	05/05/2008	Not Printed
<u>self insurance plans</u> Labor Commission, Industrial Accidents	31230	R612-3	5YR	04/28/2008	2008-10/149
<u>seminars</u> Human Services, Substance Abuse and Mental Health	31353	R523-24-13	NSC	05/05/2008	Not Printed
<u>seniors</u> Human Services, Aging and Adult Services	31027	R510-105	5YR	02/27/2008	2008-6/26
<u>sentinel event</u> Health, Administration	31286	R380-200	NSC	05/05/2008	Not Printed
<u>server training</u> Human Services, Substance Abuse and Mental Health	31351	R523-23-13	NSC	05/05/2008	Not Printed
<u>settlements</u> Labor Commission, Adjudication	31236	R602-2-1	NSC	05/05/2008	Not Printed
	30811	R602-2-4	AMD	02/07/2008	2008-1/14
	31238	R602-3	NSC	05/05/2008	Not Printed
	30810	R602-3-3	AMD	02/07/2008	2008-1/16

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
Labor Commission, Industrial Accidents	31643	R602-4	EMR	07/01/2008	2008-14/129
	31252	R612-10	NSC	05/05/2008	Not Printed
<u>sewage effluent use</u>					
Natural Resources, Water Rights	30947	R655-7	5YR	02/01/2008	2008-4/47
<u>sewage treatment</u>					
Environmental Quality, Water Quality	31103	R317-101	5YR	04/02/2008	2008-9/53
<u>sewerage</u>					
Public Service Commission, Administration	31044	R746-330	5YR	03/07/2008	2008-7/66
<u>skills tests</u>					
Public Safety, Driver License	31120	R708-37-11	NSC	05/05/2008	Not Printed
<u>SLCC</u>					
Regents (Board Of), Salt Lake Community College	31344	R784-1	NSC	05/05/2008	Not Printed
<u>SLEAP</u>					
Regents (Board Of), Administration	31405	R765-606	5YR	05/09/2008	2008-11/129
<u>social security numbers</u>					
Human Services, Services for People with Disabilities	30877	R539-1-8	AMD	04/01/2008	2008-3/32
	30926	R539-1-8	EMR	01/28/2008	2008-4/38
<u>social services</u>					
Human Services, Administration	30773	R495-861	AMD	01/30/2008	2007-24/18
Human Services, Child and Family Services	30721	R512-50	NSC	01/07/2008	Not Printed
	30718	R512-50	REP	01/07/2008	2007-23/60
<u>solar</u>					
Natural Resources, Geological Survey	30902	R638-2-6	AMD	03/10/2008	2008-3/35
<u>solicitations</u>					
Commerce, Consumer Protection	31216	R152-22-9	NSC	05/05/2008	Not Printed
<u>solid waste management</u>					
Environmental Quality, Solid and Hazardous Waste	30990	R315-301	5YR	02/14/2008	2008-5/48
	30986	R315-302	5YR	02/14/2008	2008-5/49
	30992	R315-303	5YR	02/14/2008	2008-5/49
	30991	R315-305	5YR	02/14/2008	2008-5/50
	30985	R315-306	5YR	02/14/2008	2008-5/51
	30993	R315-307	5YR	02/14/2008	2008-5/51
	30995	R315-308	5YR	02/14/2008	2008-5/52
	30994	R315-309	5YR	02/14/2008	2008-5/52
	30996	R315-310	5YR	02/14/2008	2008-5/53
	30983	R315-311	5YR	02/14/2008	2008-5/53
	30997	R315-312	5YR	02/14/2008	2008-5/54
	30998	R315-313	5YR	02/14/2008	2008-5/54
	30999	R315-314	5YR	02/14/2008	2008-5/55
	30989	R315-315	5YR	02/14/2008	2008-5/55

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	30988	R315-316	5YR	02/14/2008	2008-5/56
	30984	R315-317	5YR	02/14/2008	2008-5/57
	30987	R315-318	5YR	02/14/2008	2008-5/57
<u>spas</u> Health, Epidemiology and Laboratory Services, Environmental Services	31097	R392-302	AMD	05/22/2008	2008-8/6
<u>special educators</u> Education, Administration	31445	R277-525	NEW	07/08/2008	2008-11/82
<u>special use</u> Natural Resources, Parks and Recreation	31668	R651-608	5YR	07/07/2008	Not Printed
<u>species of concern</u> Natural Resources, Wildlife Resources	31226	R657-48-7	NSC	05/05/2008	Not Printed
<u>speech impaired</u> Public Service Commission, Administration	31375	R746-510	NSC	05/05/2008	Not Printed
<u>standards</u> Education, Administration	30976	R277-515-3	NSC	02/27/2008	Not Printed
<u>state employees</u> Administrative Services, Finance	31317	R25-5	5YR	04/29/2008	2008-10/143
	31319	R25-7	5YR	04/29/2008	2008-10/144
	31320	R25-7	AMD	07/01/2008	2008-10/4
	31321	R25-8	AMD	07/01/2008	2008-10/7
Human Resource Management, Administration	31190	R477-5	AMD	07/01/2008	2008-10/90
<u>state hospital</u> Human Services, Substance Abuse and Mental Health, State Hospital	31031	R525-6	NEW	05/01/2008	2008-6/7
<u>state vehicle use</u> Administrative Services, Fleet Operations	31137	R27-3	AMD	06/17/2008	2008-9/3
<u>stipends</u> Education, Administration	31445	R277-525	NEW	07/08/2008	2008-11/82
<u>stocks</u> Treasurer, Unclaimed Property	30596	R966-1-2	AMD	01/07/2008	2007-22/87
<u>student</u> Education, Administration	31037	R277-485	5YR	03/03/2008	2008-7/63
<u>student competency</u> Education, Administration	30883	R277-702	5YR	01/08/2008	2008-3/74
<u>student financial aid</u> Education, Administration	30885	R277-718	5YR	01/08/2008	2008-3/75
<u>students</u> Education, Administration	30884	R277-709	5YR	01/08/2008	2008-3/75
<u>students at risk</u> Education, Administration	31518	R277-436	5YR	06/02/2008	2008-12/51

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>substance abuse</u> Human Services, Substance Abuse and Mental Health	31351	R523-23-13	NSC	05/05/2008	Not Printed
<u>substance abuse prevention</u> Education, Administration	31519	R277-460	5YR	06/02/2008	2008-12/51
<u>suggestions</u> Human Services, Substance Abuse and Mental Health, State Hospital	31451	R525-7	5YR	05/19/2008	2008-12/57
<u>sulfur dioxide</u> Environmental Quality, Air Quality	30970	R307-250	5YR	02/08/2008	2008-5/46
<u>superfund</u> Environmental Quality, Environmental Response and Remediation	30567	R311-401-2	AMD	01/02/2008	2007-21/59
<u>supervision</u> Commerce, Occupational and Professional Licensing	31288	R156-1	AMD	06/23/2008	2008-10/30
	30655	R156-1-102a	AMD	01/08/2008	2007-23/3
<u>supported employment</u> Human Services, Services for People with Disabilities	31084	R539-9	AMD	05/22/2008	2008-8/26
<u>surplus property</u> Administrative Services, Fleet Operations, Surplus Property	31117	R28-3	5YR	04/04/2008	2008-9/52
<u>surveyors</u> Commerce, Occupational and Professional Licensing	31175	R156-22-305	NSC	05/05/2008	Not Printed
<u>suspensions</u> Natural Resources, Wildlife Resources	31223	R657-26	NSC	05/05/2008	Not Printed
<u>systems</u> Public Safety, Fire Marshal	31085	R710-7	AMD	05/23/2008	2008-8/40
<u>tanning beds</u> Health, Epidemiology and Laboratory Services, Environmental Services	30612	R392-700	CPR	05/16/2008	2008-7/58
	30612	R392-700	NEW	05/16/2008	2007-22/65
<u>tariffs</u> Public Service Commission, Administration	31101	R746-405	5YR	04/01/2008	2008-8/57
<u>tax credit</u> Governor, Economic Development	31153	R357-3	NEW	06/18/2008	2008-9/37
<u>tax credits</u> Environmental Quality, Air Quality	30889	R307-121-3	NSC	01/30/2008	Not Printed
Natural Resources, Geological Survey	30902	R638-2-6	AMD	03/10/2008	2008-3/35
<u>tax exemptions</u> Tax Commission, Auditing	31272	R865-19S-99	NSC	06/23/2008	Not Printed
	31258	R865-19S-105	AMD	07/01/2008	2008-10/132
	30841	R865-19S-121	AMD	02/25/2008	2008-1/37

<u>KEYWORD AGENCY</u>	<u>FILE NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE DATE</u>	<u>BULLETIN ISSUE/PAGE</u>
<u>tax returns</u>					
Tax Commission, Auditing	30916	R865-9I-37	AMD	03/14/2008	2008-3/63
	30849	R865-9I-53	AMD	02/25/2008	2008-1/36
<u>taxation</u>					
Tax Commission, Administration	30688	R861-1A-20	AMD	01/11/2008	2007-23/68
	30589	R861-1A-24	AMD	01/11/2008	2007-21/69
	30717	R861-1A-26	AMD	01/11/2008	2007-23/69
	30838	R861-1A-40	AMD	02/25/2008	2008-1/32
	30835	R861-1A-42	AMD	02/25/2008	2008-1/33
	30780	R861-1A-43	AMD	01/25/2008	2007-24/24
Tax Commission, Auditing	30913	R865-6F-28	AMD	03/14/2008	2008-3/61
	30842	R865-6F-37	AMD	02/25/2008	2008-1/35
Tax Commission, Motor Vehicle	30844	R873-22M-34	AMD	02/25/2008	2008-1/38
	31264	R873-22M-41	AMD	06/27/2008	2008-10/133
Tax Commission, Motor Vehicle Enforcement	31255	R877-23V-19	AMD	06/27/2008	2008-10/135
Tax Commission, Property Tax	31274	R884-24P-62	NSC	06/23/2008	Not Printed
	30931	R884-24P-62	AMD	03/28/2008	2008-4/30
<u>taxes</u>					
Human Services, Recovery Services	31162	R527-475	AMD	06/25/2008	2008-10/121
Insurance, Administration	30890	R590-157	5YR	01/10/2008	2008-3/79
<u>teacher licensing</u>					
Education, Administration	31444	R277-504	AMD	07/08/2008	2008-11/77
	30951	R686-100	5YR	02/04/2008	2008-5/59
<u>teachers</u>					
Education, Administration	31038	R277-508	5YR	03/03/2008	2008-7/63
	31521	R686-101	5YR	06/02/2008	2008-12/62
	31522	R686-102	5YR	06/02/2008	2008-12/62
<u>telecommunications</u>					
Public Service Commission, Administration	31619	R746-240	5YR	06/24/2008	2008-14/146
	31618	R746-340	5YR	06/24/2008	2008-14/147
	31092	R746-342	5YR	04/01/2008	2008-8/56
	31045	R746-347	5YR	03/07/2008	2008-7/66
	31374	R746-349-3	NSC	05/05/2008	Not Printed
<u>telecommuting</u>					
Human Resource Management, Administration	31193	R477-8	AMD	07/01/2008	2008-10/101
	30778	R477-8-5	AMD	01/22/2008	2007-24/16
<u>telephone utility regulations</u>					
Public Service Commission, Administration	31618	R746-340	5YR	06/24/2008	2008-14/147
<u>telephones</u>					
Public Service Commission, Administration	31619	R746-240	5YR	06/24/2008	2008-14/146

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>terminally ill</u>					
Corrections, Administration	30803	R251-114	NEW	03/11/2008	2008-1/6
<u>time</u>					
Labor Commission, Adjudication	31250	R602-1	NSC	05/05/2008	Not Printed
Labor Commission, Antidiscrimination and Labor, Antidiscrimination	31241	R606-1	NSC	05/05/2008	Not Printed
	31242	R606-2	NSC	05/05/2008	Not Printed
Labor Commission, Antidiscrimination and Labor, Fair Housing	31240	R608-1	NSC	05/05/2008	Not Printed
Labor Commission, Antidiscrimination and Labor, Labor	31247	R610-1	NSC	05/05/2008	Not Printed
	31149	R610-1-4	AMD	06/13/2008	2008-9/48
	31245	R610-2	NSC	05/05/2008	Not Printed
	30942	R610-2-6	AMD	03/24/2008	2008-4/19
	31243	R610-3	NSC	05/05/2008	Not Printed
	30876	R610-3-4	EMR	01/03/2008	2008-3/70
	30941	R610-3-4	AMD	03/24/2008	2008-4/20
	31148	R610-3-10	AMD	06/13/2008	2008-9/50
Labor Commission, Industrial Accidents	31235	R612-1	NSC	05/05/2008	Not Printed
<u>timeliness</u>					
Pardons (Board Of), Administration	31659	R671-515	5YR	07/03/2008	Not Printed
<u>towing</u>					
Transportation, Motor Carrier	30785	R909-19	AMD	02/12/2008	2007-24/26
<u>traffic regulations</u>					
Public Safety, Driver License	31437	R708-16	AMD	07/08/2008	2008-11/117
<u>traffic violations</u>					
Public Safety, Driver License	31106	R708-3-2	NSC	05/05/2008	Not Printed
<u>training</u>					
Human Services, Substance Abuse and Mental Health	31353	R523-24-13	NSC	05/05/2008	Not Printed
Public Service Commission, Administration	31375	R746-510	NSC	05/05/2008	Not Printed
<u>training programs</u>					
Human Resource Management, Administration	31195	R477-10	AMD	07/01/2008	2008-10/106
<u>transportation</u>					
Administrative Services, Finance	31319	R25-7	5YR	04/29/2008	2008-10/144
	31320	R25-7	AMD	07/01/2008	2008-10/4
Human Services, Aging and Adult Services	31027	R510-105	5YR	02/27/2008	2008-6/26
Transportation, Preconstruction	31066	R930-5	AMD	06/10/2008	2008-8/46
<u>transportation conformity</u>					
Environmental Quality, Air Quality	30971	R307-310	5YR	02/08/2008	2008-5/46
	30705	R307-310-2	AMD	02/08/2008	2007-23/40
<u>transportation law</u>					
Administrative Services, Facilities Construction and Management	31063	R23-13	5YR	03/17/2008	2008-8/50

<u>KEYWORD AGENCY</u>	<u>FILE NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE DATE</u>	<u>BULLETIN ISSUE/PAGE</u>
<u>transportation safety</u> Transportation, Motor Carrier	30783	R909-1-1	AMD	02/15/2008	2007-24/25
<u>trauma</u> Health, Health Systems Improvement, Emergency Medical Services	31068	R426-5-3	AMD	06/04/2008	2008-8/17
<u>trucking industries</u> Tax Commission, Auditing	30913	R865-6F-28	AMD	03/14/2008	2008-3/61
	30842	R865-6F-37	AMD	02/25/2008	2008-1/35
<u>trucks</u> Transportation, Motor Carrier	30783	R909-1-1	AMD	02/15/2008	2007-24/25
	30785	R909-19	AMD	02/12/2008	2007-24/26
<u>ultraviolet light safety</u> Health, Epidemiology and Laboratory Services, Environmental Services	30612	R392-700	CPR	05/16/2008	2008-7/58
	30612	R392-700	NEW	05/16/2008	2007-22/65
<u>unarmed combat</u> Sports Authority (Utah), Pete Suazo Utah Athletic Commission	31028	R859-1	AMD	05/01/2008	2008-6/15
	31029	R859-1-302	AMD	05/01/2008	2008-6/16
<u>undercover identification</u> Public Safety, Criminal Investigations and Technical Services, Criminal Identification	30929	R722-320	NSC	05/14/2008	Not Printed
	31434	R722-320	5YR	05/14/2008	2008-11/127
<u>underground storage tanks</u> Environmental Quality, Environmental Response and Remediation	31486	R311-200	NSC	06/18/2008	Not Printed
	31487	R311-201	NSC	06/18/2008	Not Printed
	31488	R311-210	NSC	06/18/2008	Not Printed
<u>unemployment compensation</u> Workforce Services, Unemployment Insurance	31075	R994-106-106	AMD	05/30/2008	2008-8/48
	31467	R994-201	5YR	05/20/2008	2008-12/64
	31468	R994-202	5YR	05/20/2008	2008-12/65
	31469	R994-208	5YR	05/20/2008	2008-12/65
	31547	R994-306	5YR	06/10/2008	2008-13/151
	31548	R994-307	5YR	06/10/2008	2008-13/152
	30771	R994-508	AMD	02/15/2008	2007-24/30
	31546	R994-508	5YR	06/10/2008	2008-13/153
	31020	R994-508-117	NSC	03/11/2008	Not Printed
	31071	R994-508-118	NSC	04/14/2008	Not Printed
<u>uninsured employers</u> Labor Commission, Industrial Accidents	31251	R612-9-1	NSC	05/05/2008	Not Printed
<u>units</u> Environmental Quality, Radiation Control	31170	R313-12-1	NSC	05/05/2008	Not Printed
	30774	R313-12-111	AMD	04/11/2008	2007-24/8

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	30774	R313-12-111	CPR	04/11/2008	2008-5/34
<u>universal individual health application</u> Insurance, Administration	31335	R590-247	NEW	06/30/2008	2008-10/124
<u>used oil</u> Environmental Quality, Solid and Hazardous Waste	30907	R315-15-1	AMD	03/13/2008	2008-3/16
	30908	R315-15-10	AMD	03/13/2008	2008-3/19
	30909	R315-15-11	AMD	03/13/2008	2008-3/21
	30910	R315-15-12	AMD	03/13/2008	2008-3/23
	30911	R315-15-17	AMD	03/13/2008	2008-3/29
<u>Utah Housing Opportunity Restricted Account</u> Commerce, Real Estate	31000	R162-12	NEW	04/07/2008	2008-5/11
<u>utility regulation</u> Public Service Commission, Administration	31101	R746-405	5YR	04/01/2008	2008-8/57
<u>vacations</u> Human Resource Management, Administration	31192	R477-7	AMD	07/01/2008	2008-10/95
<u>variances</u> Environmental Quality, Air Quality	30960	R307-102	5YR	02/08/2008	2008-5/40
	31462	R307-102	NSC	06/18/2008	Not Printed
<u>vehicle replacement</u> Administrative Services, Fleet Operations	30618	R27-4	AMD	03/06/2008	2007-22/9
<u>vending machines</u> Education, Administration	30848	R277-719	NEW	02/07/2008	2008-1/12
<u>veterinary medicine</u> Commerce, Occupational and Professional Licensing	31396	R156-28	AMD	07/10/2008	2008-11/56
<u>viatical</u> Insurance, Administration	31523	R590-222	5YR	06/02/2008	2008-12/58
<u>victim compensation</u> Crime Victim Reparations, Administration	31322	R270-1	NSC	05/05/2008	Not Printed
	30593	R270-1-11	AMD	01/02/2008	2007-22/33
	31013	R270-1-22	AMD	05/19/2008	2008-6/3
<u>victims of crime</u> Crime Victim Reparations, Administration	31322	R270-1	NSC	05/05/2008	Not Printed
<u>victims of crimes</u> Crime Victim Reparations, Administration	30593	R270-1-11	AMD	01/02/2008	2007-22/33
	31013	R270-1-22	AMD	05/19/2008	2008-6/3
<u>violations</u> Natural Resources, Wildlife Resources	31223	R657-26	NSC	05/05/2008	Not Printed
<u>visitors</u> Human Services, Substance Abuse and Mental Health, State Hospital	31447	R525-4	5YR	05/19/2008	2008-12/56

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>vocational education</u>					
Education, Rehabilitation	31042	R280-200	5YR	03/03/2008	2008-7/65
<u>wages</u>					
Labor Commission, Antidiscrimination and Labor, Labor	31247	R610-1	NSC	05/05/2008	Not Printed
	31149	R610-1-4	AMD	06/13/2008	2008-9/48
	31245	R610-2	NSC	05/05/2008	Not Printed
	30942	R610-2-6	AMD	03/24/2008	2008-4/19
	31243	R610-3	NSC	05/05/2008	Not Printed
	30876	R610-3-4	EMR	01/03/2008	2008-3/70
	30941	R610-3-4	AMD	03/24/2008	2008-4/20
	31148	R610-3-10	AMD	06/13/2008	2008-9/50
Workforce Services, Unemployment Insurance	31469	R994-208	5YR	05/20/2008	2008-12/65
<u>warrants</u>					
Pardons (Board Of), Administration	31658	R671-510	5YR	07/03/2008	Not Printed
	31657	R671-512	5YR	07/03/2008	Not Printed
<u>waste disposal</u>					
Environmental Quality, Radiation Control	30865	R313-15	AMD	03/17/2008	2008-2/10
Environmental Quality, Solid and Hazardous Waste	30990	R315-301	5YR	02/14/2008	2008-5/48
	30986	R315-302	5YR	02/14/2008	2008-5/49
	30992	R315-303	5YR	02/14/2008	2008-5/49
	30991	R315-305	5YR	02/14/2008	2008-5/50
	30985	R315-306	5YR	02/14/2008	2008-5/51
	30993	R315-307	5YR	02/14/2008	2008-5/51
	30995	R315-308	5YR	02/14/2008	2008-5/52
	30994	R315-309	5YR	02/14/2008	2008-5/52
	30996	R315-310	5YR	02/14/2008	2008-5/53
	30983	R315-311	5YR	02/14/2008	2008-5/53
	30997	R315-312	5YR	02/14/2008	2008-5/54
	30999	R315-314	5YR	02/14/2008	2008-5/55
	30989	R315-315	5YR	02/14/2008	2008-5/55
	30988	R315-316	5YR	02/14/2008	2008-5/56
	30984	R315-317	5YR	02/14/2008	2008-5/57
	30987	R315-318	5YR	02/14/2008	2008-5/57
Environmental Quality, Water Quality	30639	R317-1-4	AMD	02/04/2008	2007-22/52
	30637	R317-13	NEW	02/04/2008	2007-22/61
<u>waste to energy plant</u>					
Environmental Quality, Air Quality	30703	R307-223	AMD	02/08/2008	2007-23/38
	30968	R307-223	5YR	02/08/2008	2008-5/45
<u>wastewater</u>					
Environmental Quality, Water Quality	30638	R317-3-11	AMD	02/04/2008	2007-22/57
	30636	R317-14	NEW	02/04/2008	2007-22/62
	31103	R317-101	5YR	04/02/2008	2008-9/53

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>water</u>					
Public Service Commission, Administration	31044	R746-330	5YR	03/07/2008	2008-7/66
	31095	R746-331	5YR	04/01/2008	2008-8/55
	31091	R746-332	5YR	04/01/2008	2008-8/55
<u>water funding</u>					
Natural Resources, Water Resources	30855	R653-2	NEW	02/25/2008	2008-2/20
	30940	R653-2	NSC	02/25/2008	Not Printed
<u>water pollution</u>					
Environmental Quality, Water Quality	30639	R317-1-4	AMD	02/04/2008	2007-22/52
	30638	R317-3-11	AMD	02/04/2008	2007-22/57
	30948	R317-9	5YR	02/01/2008	2008-4/42
	30637	R317-13	NEW	02/04/2008	2007-22/61
<u>water quality</u>					
Environmental Quality, Water Quality	30638	R317-3-11	AMD	02/04/2008	2007-22/57
	31103	R317-101	5YR	04/02/2008	2008-9/53
Public Service Commission, Administration	31044	R746-330	5YR	03/07/2008	2008-7/66
<u>water rights</u>					
Natural Resources, Water Rights	31130	R655-5	5YR	04/08/2008	2008-9/54
	31431	R655-14	AMD	07/08/2008	2008-11/104
<u>waterslides</u>					
Health, Epidemiology and Laboratory Services, Environmental Services	31097	R392-302	AMD	05/22/2008	2008-8/6
<u>weapons</u>					
Human Services, Substance Abuse and Mental Health, State Hospital	31031	R525-6	NEW	05/01/2008	2008-6/7
	31348	R525-6	NSC	05/01/2008	Not Printed
Natural Resources, Parks and Recreation	31012	R651-612	NSC	03/10/2008	Not Printed
<u>weed control</u>					
Agriculture and Food, Plant Industry	31544	R68-9	5YR	06/09/2008	2008-13/147
	31128	R68-9	AMD	07/02/2008	2008-9/8
<u>white-collar contests</u>					
Sports Authority (Utah), Pete Suazo Utah Athletic Commission	31028	R859-1	AMD	05/01/2008	2008-6/15
	31029	R859-1-302	AMD	05/01/2008	2008-6/16
<u>wildland fire fund</u>					
Natural Resources, Forestry, Fire and State Lands	31108	R652-121	NSC	05/01/2008	Not Printed
<u>wildland urban interface</u>					
Natural Resources, Forestry, Fire and State Lands	31109	R652-122-100	NSC	05/01/2008	Not Printed
<u>wildlife</u>					
Natural Resources, Wildlife Resources	31219	R657-2	NSC	05/05/2008	Not Printed
	31047	R657-3	5YR	03/11/2008	2008-7/65
	31220	R657-3	NSC	05/05/2008	Not Printed

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	31053	R657-3	AMD	05/08/2008	2008-7/45
	30829	R657-5	AMD	02/07/2008	2008-1/18
	30777	R657-12	AMD	01/22/2008	2007-24/19
	31221	R657-12-1	NSC	05/05/2008	Not Printed
	30676	R657-13	AMD	01/07/2008	2007-23/61
	31048	R657-13-3	AMD	05/08/2008	2008-7/47
	30904	R657-13-4	AMD	03/10/2008	2008-3/43
	31222	R657-22-1	NSC	05/05/2008	Not Printed
	30828	R657-23	AMD	02/07/2008	2008-1/25
	30955	R657-23-5	AMD	04/07/2008	2008-5/31
	31223	R657-26	NSC	05/05/2008	Not Printed
	31224	R657-27-11	NSC	05/05/2008	Not Printed
	30906	R657-33	AMD	03/10/2008	2008-3/44
	31398	R657-34	5YR	05/08/2008	2008-11/125
	31401	R657-37	5YR	05/08/2008	2008-11/126
	31400	R657-42	5YR	05/08/2008	2008-11/126
	31049	R657-42-8	AMD	05/08/2008	2008-7/48
	31051	R657-53	AMD	05/08/2008	2008-7/50
	31508	R657-53	5YR	06/02/2008	2008-12/61
	31228	R657-53	NSC	05/05/2008	Not Printed
	30903	R657-58	NEW	03/10/2008	2008-3/47
	31052	R657-58	NSC	03/26/2008	Not Printed
	31625	R657-59	EMR	06/27/2008	2008-14/131
	31624	R657-60	EMR	06/27/2008	2008-14/139
<u>wildlife law</u>					
Natural Resources, Wildlife Resources	30777	R657-12	AMD	01/22/2008	2007-24/19
	31221	R657-12-1	NSC	05/05/2008	Not Printed
	30676	R657-13	AMD	01/07/2008	2007-23/61
	31048	R657-13-3	AMD	05/08/2008	2008-7/47
	30904	R657-13-4	AMD	03/10/2008	2008-3/43
	31222	R657-22-1	NSC	05/05/2008	Not Printed
	31224	R657-27-11	NSC	05/05/2008	Not Printed
	30903	R657-58	NEW	03/10/2008	2008-3/47
	31052	R657-58	NSC	03/26/2008	Not Printed
	31624	R657-60	EMR	06/27/2008	2008-14/139
<u>witness fees</u>					
Labor Commission, Adjudication	31250	R602-1	NSC	05/05/2008	Not Printed
<u>workers' compensation</u>					
Administrative Services, Risk Management	31347	R37-2	AMD	06/23/2008	2008-10/8
Labor Commission, Adjudication	31236	R602-2-1	NSC	05/05/2008	Not Printed
	30811	R602-2-4	AMD	02/07/2008	2008-1/14
	31238	R602-3	NSC	05/05/2008	Not Printed
	30810	R602-3-3	AMD	02/07/2008	2008-1/16
	31643	R602-4	EMR	07/01/2008	2008-14/129

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
Labor Commission, Industrial Accidents	31235	R612-1	NSC	05/05/2008	Not Printed
	31234	R612-2	5YR	04/28/2008	2008-10/148
	31333	R612-2-5	AMD	07/01/2008	2008-10/130
	31230	R612-3	5YR	04/28/2008	2008-10/149
	30594	R612-4-2	AMD	01/01/2008	2007-22/76
	31229	R612-5	5YR	04/28/2008	2008-10/149
	31231	R612-7	5YR	04/28/2008	2008-10/150
	31251	R612-9-1	NSC	05/05/2008	Not Printed
	31252	R612-10	NSC	05/05/2008	Not Printed
 <u>working toward employment</u>					
Workforce Services, Employment Development	31034	R986-400-406	AMD	05/01/2008	2008-6/20
 <u>youth</u>					
Human Services, Administration, Administrative Services, Licensing	31017	R501-16	5YR	02/22/2008	2008-6/25
 <u>zoological animals</u>					
Natural Resources, Wildlife Resources	31047	R657-3	5YR	03/11/2008	2008-7/65
	31220	R657-3	NSC	05/05/2008	Not Printed
	31053	R657-3	AMD	05/08/2008	2008-7/45