

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
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Kenneth A. Hansen, Director  
Nancy L. Lancaster, Editor

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Division of Administrative Rules, Salt Lake City 84114

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## NOTICES OF PROPOSED RULES

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A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between June 16, 2004, 12:00 a.m., and July 1, 2004, 11:59 p.m. are included in this, the July 15, 2004, 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 Rules being repealed are completely struck out.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 (· · · · ·) indicates that unaffected text was removed to conserve space. 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 16, 2004. The agency may accept comment beyond this date and will list the last day the agency will accept comment in the RULE ANALYSIS. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency to hold a hearing on a specific PROPOSED RULE. Section 63-46a-5 (1987) 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, 2004, 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 31 days 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 *Utah Code* Section 63-46a-4 (2001); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

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

**Commerce, Real Estate**  
**R162-103**  
**Appraisal Education Requirements**

**NOTICE OF PROPOSED RULE**  
 (Amendment)

DAR FILE No.: 27241  
 FILED: 06/16/2004, 15:12

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The Appraisal Subcommittee has notified the Division of Real Estate that Rule R162-103 needs to be amended to comply with the Appraisal Foundation's Appraisal Qualifications Board (AQB) criteria for appraisal education courses.

**SUMMARY OF THE RULE OR CHANGE:** The provision stating that distance education courses are acceptable if approved by the American Council on Education's Program on Non-collegiate Sponsored Instruction (PONSI) is changed to replace PONSI with the International Distance Education Certification Center (IDECC). The provisions involving certification of instructors for courses on the Uniform Standards of Professional Appraisal Practice (USPAP) are changed to reflect that the instructors for USPAP courses must have been certified by the AQB.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 61-2b-6(1)(l)

**ANTICIPATED COST OR SAVINGS TO:**

- ❖ **THE STATE BUDGET:** None--Two national education organizations approve distance education courses for appraisers, and certify instructors of USPAP courses, neither costs nor saves the State of Utah.
- ❖ **LOCAL GOVERNMENTS:** None--It is not anticipated that the change from one course approval organization to another or the change in how USPAP course instructors are certified will have any impact on local government.
- ❖ **OTHER PERSONS:** None--The only persons who could be affected by this change are providers of appraisal education. It is unknown whether the change from PONSI approval to IDECC approval of appraisal courses and whether the change to AQB certification of USPAP instructors would have any financial impact on course providers.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** It is unknown whether the change from PONSI approval to IDECC approval of appraisal courses and whether the change to AQB certification of USPAP instructors would have any financial impact on course providers. However, if there is an increased cost of IDECC approval that is unacceptable to course providers, they have the option of having their courses approved under the AQB Course Approval Program instead.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule amendment modifies the education requirements for licensure to comply with national standards, replacing the organization that approves

certain educational requirements and identifying the required certification for instructors. The amendments could result in some costs to current instructors and to the organization that currently approved educational requirements. However, the exact impact is difficult to determine.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Shelley Wismer at the above address, by phone at 801-530-6761, by FAX at 801-530-6749, or by Internet E-mail at swismer@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 08/16/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 08/17/2004

AUTHORIZED BY: Dexter Bell, Director

**R162. Commerce, Real Estate.**  
**R162-103. Appraisal Education Requirements.**  
**R162-103-3. Course Certification.**

103.3.1 Each school requesting approval of a course designed to meet the education requirements of licensure or certification shall make application for approval on a form prescribed by the Division and shall pay the applicable fee. The application shall include, and the Board may consider, the following information in determining eligibility for approval:

- (a) A course outline including a description of the course, the length of time to be spent on each subject area broken into segments of no more than 30 minutes each, and three to five learning objectives for every three hours;
- (b) Indication of any method of instruction other than lecture method including: a slide presentation, cassette, video tape, movie, home study, or other.
- (c) A copy of the three final examinations of the course and the answer keys which are used to determine if the student has passed the course;
- (d) An explanation of what the school procedure is for maintaining the security of the final exams and the answer keys;
- (e) A list of the titles, authors and publishers of all required textbooks;
- (f) A list of the instructors and evidence of their certification by the Division, and a list of any guest lecturers to be used and evidence of their qualifications as an instructor for a specific course; and
- (g) Days, times, and location of classes.

103.3.2 Upon approval by the Board, a course will be issued certification. All certifications expire January 1.

103.3.3 Each course of study will meet the minimum standards set forth in the State Approved Course Outline provided for each approved course. The school may alter the sequence of presentation of the required topics. Specific nonappraisal courses being used to satisfy the educational requirements shall have prior approval as to their applicability.

103.3.4 All courses of study will meet the minimum hourly requirement of that course. A credit hour is defined as 50 minutes of supervised contact by a certified instructor within a 60-minute time period. A 10-minute break will be given for each 50 minutes in class. Registration or certification credit will be limited to a maximum of eight credit hours per day. The limitation applies only to the credit a student may receive and is not intended to limit the number of classroom hours offered.

103.3.5 A public school or institution may use any faculty member to teach an approved course provided the individual demonstrates to the satisfaction of the Division and the Board academic training or appraisal experience qualifying him to teach the course.

103.3.6 Distance education is defined as any educational process based on the geographical separation of instructor and student (e.g., CD ROM, On-line learning, correspondence courses, video conferencing, etc.). Distance education courses must provide interaction between the learner and instructor and must include testing. A distance education course may be acceptable to meet the classroom hour requirement or its equivalent providing each course meets the following conditions:

103.3.6.1 The course (a) has been presented by an accredited college or university which offers distance education programs in other disciplines and where accreditation has been made by the Commission on Colleges or a regional accreditation association; or (b) has received approval for college credit by the ~~American Council on Education's Program on Non-collegiate Sponsored Instruction, also known as PONSI~~ International Distance Education Certification Center, also known as IDECC; or (c) has been approved under the AQB Course Approval Program.

(a) The learner must successfully complete a written examination personally proctored by an official approved by the college or university or by the presenting entity; and

(b) The course must meet the requirements established by the AQB and be equivalent to the minimum of 15 classroom hours.

103.3.7 A maximum of 10% of the required class time may be spent in testing, including review test and final examination. A student cannot challenge a course or any part of a course of study by taking an exam in lieu of attendance.

103.3.7.1 If a student fails a school final examination, he will not be allowed to retest for a minimum of three days. The student will not be allowed to retake the same final exam, but will be given a new exam with different questions.

103.3.7.2 If the student fails the final exam a second time, he will not be allowed to retest for a minimum of two weeks at which time he will be given an entirely new exam with completely new questions. If the student fails this third exam, he will fail the course.

103.3.8 All texts, workbooks, supplement pamphlets and any other materials shall be appropriate and current in their application to the required course outline.

103.3.9 Within 15 calendar days after the occurrence of any material change in a course which could affect approval, the school shall give the Division written notice of the change.

#### **R162-103-4. Education Credit for Noncertified Courses.**

103.4.1 Education credit will be granted towards licensure or certification for an appraisal education course which has been taken and which has not been previously certified in Utah for prelicensing education credit, and has been provided by a school which meets the criteria as outlined in 103.1.

103.4.1.1 The course content shall have met the minimum standards set forth in the Utah State Approved Course Outline.

103.4.1.2 A course must be at least 15 hours in duration, including the examination. An hour is defined as 50 minutes of supervised contact by a certified instructor within a 60-minute time period.

103.4.1.3 A final examination will be administered at the end of each course pertinent to that education offering.

103.4.2 Credit will not be granted for a course taken in which the applicant obtained credit from the course provider by challenge examination without having attended the course.

103.4.3 Credit will not be given for duplicate or highly comparable classes. Each course must represent a progression in which the appraiser's knowledge is increased.

103.4.4 There is no time limit regarding when education credit must have been obtained.

103.4.5 Hourly credit for a course taken from a professional appraisal organization will be granted based upon the Division approved list which verifies hours for these courses.

103.4.6 Credit will only be granted for a course that has been successfully completed. Successful completion of a course means that the applicant has attended a minimum of 90% of the scheduled class hours, has completed all required exercises and assignments, and has achieved a passing score on a course final examination. The final examination shall not be an open book examination.

103.4.7 Submission for Education Approval.

103.4.7.1 Courses that have not been previously certified for prelicensing credit will be reviewed by the Education Review Committee. It is the responsibility of the applicant to establish that a particular education offering will qualify to meet the education requirement for licensing or certification.

103.4.7.2 The applicant shall submit on a form provided by the Division a list of the courses that documents the course title, the name of the sponsoring organization, the number of classroom hours, and the date the course was completed.

103.4.7.3 The applicant will attest on a notarized affidavit that the courses have been completed as documented.

103.4.7.4 The applicant will support the claim for education credit if requested by the Division by providing proof of completion of the courses in the form of certificates, transcripts, report cards, letters of verification, or similar proof.

103.4.7.5 Applicants having appraisal education in categories other than those in the State Approved Course Outline may petition the Board on an individual basis for evaluation and approval of their education as being substantially equivalent to that required for licensing or certification.

#### **R162-103-5. Instructor Application for Certification.**

103.5.1 Each instructor requesting approval to be certified as an instructor to teach the education requirements of appraisal licensure or certification shall make application for approval on a form prescribed by the Division and shall submit the applicable fees.

The application shall include, and the Board may consider, the following information in determining the instructor's eligibility for approval:

103.5.1.1 Attestation to upstanding moral character, including whether the individual:

(a) has had a license or certification to practice in the appraisal profession, or any other profession or occupation, denied, restricted, suspended, or revoked.

(b) has been permitted to resign or surrender an appraiser license or certification, or has ever allowed an appraiser license or certification to expire while the individual was under investigation, or while action was pending against the individual by an appraiser licensing or any other agency.

(c) has any action now pending by any appraiser licensing or other agency.

(d) is currently under investigation for, or charged with, or has ever pled guilty or no contest to, or been convicted of, a misdemeanor or felony, excluding minor traffic offenses.

(e) has ever been placed on probation in connection with any criminal offense or a licensing action.

103.5.2 The instructor will demonstrate evidence of knowledge of the subject matter by the following:

103.5.2.1 A minimum of five years active experience in appraising, or

103.5.2.2 Evidence of having completed college or other appropriate courses specific to the topic he proposes to teach, or

103.5.2.3 Evidence of other qualifications of experience, education, or credentials which are acceptable to the Board; and

103.5.2.4 Evidence of having passed an examination designed to test knowledge of the subject matter he proposes to teach.

103.5.3 An applicant to teach the course on USPAP shall conform to all of the above criteria and in addition ~~shall have been certified by the Appraisal Qualifications Board (AOB) of the Appraisal Foundation as an AOB Certified USPAP instructor.~~

~~103.5.3.1 The applicant shall be a licensed or state certified appraiser, and shall have seven years of experience as a full-time appraiser within the past 15 years, and~~

~~103.5.3.2 Shall be able to provide evidence of having completed a USPAP course within the last two years, which course and accompanying exam have been approved by the Board.~~

103.5.4 Upon approval by the Board, an applicant will be issued certification. All certifications expire January 1 of each even numbered year. Conditions of renewal of certification include providing proof of the following:

103.5.4.1 Must have taught at least 20 hours of in-class instruction in a certified course during the preceding two years; and

103.5.4.2 Must have attended a real estate instructor development workshop sponsored or approved by the Division during the preceding two years.

103.5.5 Within 15 calendar days after the occurrence of any of the events listed in Section 103.5.1, an applicant or instructor shall give written notice to the Division of that event.

**KEY: real estate appraisal, education**

**[June 1, 2000] 2004**

**Notice of Continuation June 3, 2002**

**61-2b-8**



## Education, Administration **R277-444** Distribution of Funds to Arts and Sciences Organizations

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27271

FILED: 07/01/2004, 17:12

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is amended to provide for: professional outreach programs; eligibility of organizations, application, and amendments to requirements for funding; and reporting requirements for arts and science organizations providing services to Utah public schools as required by the S.B. 1 from the 2004 Legislative General Session. (DAR NOTE: S.B. 1 is found at UT L 2004 Ch 256, and was effective 07/01/2004.)

**SUMMARY OF THE RULE OR CHANGE:** The rule provides new definitions, provides criteria for eligibility of participating arts and sciences organizations, changes to application and funding provisions, and changes to accountability provisions.

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

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** The amended rule requires no additional state expenditures. It merely sets clearer criteria for the organizations eligible for funding and provides a better accountability process.

❖ **LOCAL GOVERNMENTS:** There are no additional costs or savings for school districts. Art and science programs will continue to be available for students. The amendments to this rule try to make programs available to a greater number of students and to make the programs more widely available throughout the state.

❖ **OTHER PERSONS:** The amendments to this rule do not increase or decrease costs for art and science programs for individuals. Some programs, in secondary grades, require some financial participation by individuals.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The amendments to this rule to not have additional compliance costs for individuals. Participation by students in art and science programs may require participants to subsidize the programs offered by eligible groups.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/16/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 08/17/2004

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

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

### **R277-444. Distribution of Funds to Arts and Sciences Organizations.**

#### **R277-444-1. Definitions.**

A. "Arts organization (organization)" means a non-profit professional artistic organization that provides artistic (dance, music, drama, art) services, performances or instruction to the Utah community.

B. "Arts and science subsidy program" means groups that have participated in the RFP program and have been determined by the Board to be providing valuable services in the schools. They do not qualify as professional outreach programs.

~~[B]~~C. "Board" means the Utah State Board of Education.

~~[C]~~D. "Hands-on activities" means activities that include active involvement of students with presenters, ideally with materials provided by the organization.

~~[D]~~E. "Non-profit organization" means an organization no part of the income of which is distributable to its members, directors or officers; a corporation organized for other than profit-making purposes.

F. "Professional outreach programs in the schools" means those established arts and sciences organizations which previously received line item funding from the Utah State Legislature.

~~[E]~~G. "Request for proposal (RFP)" means a competitive application process used to identify programs that best meet requirements established by the Board.

H. "RFP program" means arts and science organizations that receive one-time funding through application to the USOE.

~~[F]~~I. "School visits" means performances, lecture demonstrations/presentations, in-depth instructional workshops, residencies, side-by-side mentoring, and exhibit tours by professional arts and science groups in the community.

~~[G]~~J. "Science organization (organization)" means a non-profit professional science organization that provides science-related services, performances or instruction to the Utah community.

~~[H]~~K. "State Core Curriculum" means those standards of learning that are essential for all Utah students, as well as the ideas,

concepts, and skills that provide a foundation on which subsequent learning may be built, as established by the Board.

~~[I]~~L. "USOE" means the Utah State Office of Education.

#### **R277-444-2. Authority and Purpose.**

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of the public school system under the Board and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

~~B.~~ The purpose of the arts and science program is to provide opportunities for students to develop and use the knowledge, skills, and appreciation contained in the arts and sciences Core curricula through in-depth school instructional services, performances or presentations in school and theatres, or arts or science museum tours.

~~[B]~~C. ~~[The purpose of t]~~This rule also ~~[is to]~~ provides criteria for the distribution of funds appropriated by the Utah Legislature ~~[to enhance the State Core Curriculum through school visits]~~for this program.

#### **R277-444-3. Eligibility of Organizations.**

A. Established professional outreach program in the schools (POPS) organizations shall be eligible for funding under the POPS program applications and funding criteria and not eligible to apply for the RFP or subsidy programs.

B. Non-profit professional arts and science organizations that have existed for at least three years prior to application with a track record of proven fiscal responsibility, of demonstrated excellence in their discipline, and with the ability to share their discipline creatively and effectively in educational settings shall be eligible to apply for RFP funding.

C. Documentation of an organization's non-profit status, professional excellence or educational effectiveness may be required by the USOE prior to receipt of application from these organizations.

D. RFP organizations that can demonstrate successful participation in the RFP Program for three years, have an education staff, and the capacity to reach out statewide may apply to the Board to become a POPS organization.

E. The completed application shall be submitted prior to June 1 of the year in which the application is to be considered.

F. The Board shall request new money for a new POPS organization from the Utah State Legislature if the application is approved, prior to providing funds to the organization.

G. Arts and science organizations meeting the subsidy criteria may apply for the arts and science subsidy program, but may not also apply for RFP funding.

H. Arts and science organizations qualifying for POPS or RFP funding may not charge schools for services funded under those programs.

I. Scientists, artists, or entities hired/sponsored for services in the schools, directly or indirectly through coordinating organizations, shall be subject to the same review and approval process.

#### **R277-444-4. Applications and Funding.**

A. Applications shall be provided by the USOE.

~~[C]~~B. Every four years, beginning in July 1998, all ~~[line item]~~POPS organizations shall reapply to the USOE to reestablish their ~~[line item status]~~continuation and amount of funding.

Applications shall include a plan for participating with all similar arts or science groups to reach all designated schools.

[B]C. Organizations funded through an RFP process [at the direction of the Legislature] shall submit applications to the USOE [Fine Arts and Science Specialist].

D. The designated USOE specialist shall make final funding recommendations to the USOE Finance Committee by August 31 of the school year in which the money is available.

E. Every four years, beginning in 2006, all arts and science subsidy program organizations shall reapply to the USOE to reestablish the continuation and amount of funding.

[D]E. The USOE may require additional evaluation or audit procedures from organizations to demonstrate use of funds consistent with the law and this rule.

G. When there are changes in the program funding from the Utah State Legislature, allocations shall be at the discretion of the Board.

H. Funds shall be distributed annually beginning in August.

#### **R277-444-5. Accountability.**

A. Organizations may be visited by USOE staff prior to funding or at school presentations during the funding cycle to evaluate the effectiveness and preparation of the organization.

B. Organizations that receive arts/science funding shall submit an annual evaluation report to the USOE by July 1.

C. The year-end report shall include:

(1) a budget expenditure report and income source report using a form provided by the USOE;

(2) a narrative description of all services provided by the organization;

(3) documentation of collaboration in planning content related to the State Core Curriculum and visit preparation/follow up with the USOE and school communities;

(4) documentation that all school districts and schools have been offered opportunities for participation with the organization over a three year period to the extent practicable.

(5) copies of any and all materials developed, as requested;

(6) record of the dates and places of all services rendered, the number of instruction/performance hours per district and school, and the number of students and teachers served; and

(7) examples of individual and overall program impact on school science or art programs or curricula.

(8) a report and accounting of fees charged, if any, to recipient schools, districts, or organizations.

D. The USOE may require additional evaluation or audit procedures from the grant recipient to demonstrate use of funds consistent with the law and Board rules. (1) a budget expenditure report and income source report using a form provided by the USOE, including a report and accounting of fees charged, if any, to recipient schools, districts, or organizations; and

(2) record of the dates and places of all services rendered, the number of instruction and performance hours per district, school, and classroom service, as applicable, with the number of students and teachers served, including:

(a) documentation that all school districts and schools have been offered opportunities for participation with all organizations over a three year period consistent with the arts and science organizations' plans and to the extent possible; and

(b) documentation of collaboration with the USOE and school communities in planning visit preparation/follow up and content that is related to the state Core curriculum; and

(3) a brief description of services provided by the organizations through the fine arts and sciences POPS, RFP, or subsidy programs, and if requested, copies of any and all materials developed; and

(4) a summary of organization's evaluation of:

(a) cost-effectiveness;

(b) procedural efficiency;

(c) collaborative practices;

(d) program quality, including impact of services on students, teachers, school science or art programs or curricula; and

(e) the resultant goals, plans, or both, for continued evaluation and improvement.

#### **R277-444-6. Variations or Waivers.**

A. No deviations from the approved and funded proposal shall be permitted without prior approval from the appropriate USOE specialist or his designee.

B. The USOE may require requests for variations to be submitted in writing.

C. The nature and justification for any deviation or variation from the approved proposal shall be reported in the year-end report.

D. Any variation shall be consistent with law and the purposes of this rule.

**KEY: arts, science, curricula**

~~April 15, 2004~~

**Notice of Continuation October 13, 2000**

**Art X Sec 3**

**53A-1-401(3)**



## Education, Administration **R277-503** Licensing Routes

### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE No.: 27270

FILED: 07/01/2004, 17:01

#### **RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide for changes to criteria and eligibility requirements for teacher licensing routes.

SUMMARY OF THE RULE OR CHANGE: The changes to the rule include: adding the National Council for Accreditation of Teacher Education (NCATE) and the Teachers Education Accreditation Council (TEAC) as institutions of higher education accreditation and regionally-accredited competency-based programs; modifications to alternative routes to licensure; additions and changes in definitions; and changes and additions to licensing eligibility and licensing and endorsement routes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-1-402(1)(a)

## ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The amended rule attempts to bring related areas of licensing rules together in one rule. One change in this rule allows regionally-accredited colleges to have their graduates approved for licensing in Utah. If this change results in a significant increase in applicants for Utah educator licenses, there could be a significant increase in Utah State Office of Education staff costs to review applications and respond to applicants. The potential increased costs are uncertain and speculative at this time.

❖ LOCAL GOVERNMENTS: The amendments provide clarification about the alternative routes to licensure (ARL) process which requires school district participation. Cooperation has been good in the past and costs to school districts has been very minimal.

❖ OTHER PERSONS: The amended rule clarifies the ARL process which can require an ARL applicant who would be an "affected person under this rule" to take additional higher education classes or in-service courses. The intent and effort of all involved is to keep costs for prospective teachers minimal. Federal law, however, requires teachers to have specific levels of training and education. It is the State Board's intent to keep compliance costs for individual prospective licenses as minimal as possible.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amended rule clarifies the ARL process which can require an ARL applicant to take additional higher education classes or in-service courses. The intent and effort of all involved is to keep compliance costs for prospective teachers minimal. Federal law, however, requires teachers to have specific levels of training and education. It is the State Board's intent to keep compliance costs for individual prospective licenses as minimal as possible.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/16/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 08/17/2004

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

**R277. Education, Administration.****R277-503. ~~[Alternative]~~Licensing Routes.****R277-503-1. Definitions.**

A. "Alternative Routes to Licensure (ARL) advisors" mean a USOE specialist with specific professional development and educator licensing expertise, and a USOE-designated curriculum specialist.

~~[A]~~B. "Board" means the Utah State Board of Education.

~~[B. "Consortium" means a committee comprised of a USOE staff member, a school district representative and an institution of higher education representative who shall act jointly to adapt a licensing program to the needs of a licensing applicant, supervise the applicant as the applicant completes the program, evaluate the applicant's performance and, if appropriate, recommend the applicant for final licensing.]~~C. "Competency-based" means a teacher training approach structured for an individual to master and demonstrate content and teaching skills and knowledge at the individual's own pace and sometimes in alternative settings.

D. "Educational Testing Service (ETS)" is a worldwide educational testing and measurement organization.

~~[E]~~E. "Endorsement" means a qualification based on content area mastery obtained through a higher education major or minor or through a state-approved endorsement program.

~~[D]~~F. "Letter of authorization" means a ~~[temporary license or approval issued to a district for an individual, such as a student teacher or a person hired to perform professional services, who has not completed the requirements for a Level 1 license, but is working toward licensing. Letters of authorization are valid for periods consistent with Section 53A-6-104(3)(a)]~~ formal approval given to an individual such as an out-of-state candidate or a first year ARL candidate who is employed by a school district/charter school in a position requiring a professional educator license who has not completed the requirements for an ARL license or a Level 1, 2, or 3 license or who has not completed necessary endorsement requirements. A teacher working under a letter of authorization cannot be designated highly qualified under R277-520-1G.

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

H. "Level 2 license" means a Utah professional educator license issued after satisfaction of all requirements for a Level 1 license and:

(1) requirements established by law or rule;

(2) three years of successful education experience within a five-year period; and

(3) satisfaction of requirements under R277-522 for teachers employed after January 1, 2003.

I. "Level 3 license" means a Utah professional educator license issued to an educator who holds a current Utah Level 2 license and has also received National Board Certification or a doctorate in education or in a field related to a content area in a unit of the public education system or an accredited private school.

J. "National Association of State Directors of Teacher Education and Certification (NASDTEC)" is an educator information clearinghouse that maintains an interstate reciprocity agreement and database for its members regarding educators whose licenses have been suspended or revoked.

[F]K. "National Council for Accreditation of Teacher Education (NCATE)[- or NCATE partnership]" [means a working relationship between the National Council for Accreditation of Teacher Education (NCATE) and the USOE to conduct concurrent reviews of educator preparation programs. Members of the NCATE team and the USOE team may conduct program reviews simultaneously to minimize program disruption.]is a nationally recognized organization which accredits the education units providing baccalaureate and graduate degree programs for the preparation of teachers and other professional personnel for elementary and secondary schools.

[G]L. "Pedagogical knowledge" means practices and strategies of teaching, classroom management, preparation and planning that go beyond an educator's content knowledge of an academic discipline.

M. "Praxis II - Principles of Learning and Teaching" is a standards-based test provided by ETS and designed to assess a beginning teacher's pedagogical knowledge. This test is used by many states as part of their teacher licensing process. Colleges and universities may use this test as an exit exam from teacher education programs. All Utah Level 1 license holders employed or reemployed after January 1, 2003 shall pass this test prior to the issuance of a Level 2 professional educator license consistent with R277-522-1H(3).

N. "Regional accreditation" means formal approval of a school that has met standards considered to be essential for the operation of a quality school program by the following organizations:

- (1) Middle States Commission on Higher Education;
- (2) New England Association of Schools and Colleges;
- (3) North Central Association Commission on Accreditation and School Improvement;
- (4) Northwest Commission on Colleges and Universities;
- (5) Southern Association of Colleges and Schools; and
- (6) Western Association of Schools and colleges: Senior College Commission.

O. "Restricted endorsement" means a qualification based on content area knowledge obtained through a USOE-approved program of study or test and shall be available only to teachers in necessarily existent small school settings and teachers in youth in custody programs.

[H]P. "State-approved Endorsement Plan (SAEP)" means a plan in place developed between the USOE and a licensed educator to direct the completion of endorsement requirements by the educator.

Q. "Teacher Education Accreditation Council (TEAC)" is a nationally recognized organization which provides accreditation of professional teacher education programs in institutions offering baccalaureate and graduate degrees for the preparation of K-12 teachers.

[F]R. "USOE" means the Utah State Office of Education.

#### **R277-503-2. Authority and Purpose.**

A. This rule is authorized by Article X, Section 3 of the Utah Constitution, which places general control and supervision of the public schools under the Board, Section 53A-1-402(1)(a) which directs the Board to establish rules and minimum standards for the

qualification and licensing of educators and ancillary personnel who provide direct student services, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to [increase the numbers of eligible, qualified and prepared teachers by providing alternate routes to professional educator licensing in addition to traditional college/university training and to increase the number of teachers adequately prepared in subject specific endorsement areas by providing alternate routes.]provide minimum eligibility requirements for applicants for teacher licenses and to provide explanation and criteria of various teacher licensing routes. The rule also provides criteria and procedures for licensing teachers to earn endorsements and the requirement for all applicants for licenses to have and pass criminal background checks.

#### **R277-503-3. USOE Licensing Eligibility.**

A. Traditional college/university license - A license applicant shall have completed an approved college/university teacher preparation program, been recommended for licensing, and shall have satisfied all other requirements for educator licensing required by law; or

##### B. Alternative Licensing Route

(1) A license applicant shall have a bachelors degree or higher from an accredited higher education institution in an area related to the position he seeks; and

[C-](2) A license applicant shall have skills, talents or abilities, as evaluated by the employing entity, making the applicant [suited]appropriate for a licensed teaching position and eligible to participate in an ARL program.

[D-](3) While [completing]beginning an alternative licensing [route]program, an applicant shall be approved for employment under a letter of authorization for a maximum of [four]one school year[s - consistent with Section 53A-6-104(3)(a)] and may be employed under an ARL license for an additional two years. An ARL program may not exceed three school years. ARL candidates who receive ARL licensure status may be designated highly qualified under R277-520-1G.

C. All Level 1 license applicants seeking a Utah educator license after July 1, 2005 shall take a USOE-designated content test prior to the issuance of a license.

(1) Early childhood (K-3) and elementary major (1-8) are required to take the appropriate content test.

(2) Secondary teachers are required to take an appropriate content test, as designated by USOE.

(3) An applicant shall qualify for a Level 2 license by earning a USOE designated passing score.

D. The credentials and documentation of experience of applicants for Level 2 and 3 professional educator licenses shall be evaluated by the USOE to determine the appropriate license level.

#### **R277-503-4. Licensing Routes.**

[A. Traditional university/college licensing route, under R277-503-3A.]Applicants who seek Utah licenses shall successfully complete accredited programs or legislatively mandated programs consistent with this rule.

A. Institution of higher education teacher preparation programs shall be:

(1) Nationally accredited by:

(a) NCATE; or

(b) TEAC; or

(2) Regionally accredited competency-based teacher preparation programs as provided under R277-503-1L.

B. USOE Alternative Routes to Licensure (ARL)

(1) To be eligible to begin the ARL program, an applicant for an elementary or early childhood school position shall have a bachelors degree and at least 27 semester hours of applicable content courses distributed among elementary curriculum areas. Elementary curriculum areas are provided under R277-700-4. To proceed from temporary license status, an ARL applicant shall submit a score on the ETS Praxis II Elementary Education Content Knowledge Examination (0014) to be used as a diagnostic tool and as part of the development of a professional plan and the issuance of the ARL license.

(2) To be eligible to begin the ARL program, applicants for secondary school positions shall hold a degree major or major equivalent directly related to the assignment. To proceed from temporary license status an ARL license applicant shall submit a score on the ETS Praxis II Applicable Content Knowledge test(s) to be used as a diagnostic tool and as part of the development of a professional plan and the issuance of the ARL license.

[B-](3) Licensing by Agreement

(1)a An individual employed by [A]a school district [employs an individual] shall satisfy the minimum requirements of R277-503-3 as a teacher with appropriate skills, training or ability for an identified licensed teaching position in the district[who satisfies the minimum requirements of R277-503-3].

(2)b An applicant shall obtain an [USOE approved]ARL application for licensing [by agreement] from the [employing school district]USOE or USOE web site.

(3) The license applicant, with assistance from the school district, shall identify a consortium, defined under R277-503-1B, to supervise the Agreement process.

(4)c [The consortium shall identify the]After evaluation of candidate transcript(s), and USOE designated content test score, the USOE ARL advisors and the candidate shall determine the specific content knowledge and pedagogical knowledge required of the license applicant to satisfy the requirements for licensing.

(5)d The [consortium]USOE ARL advisors may identify institution of higher education courses, district inservice classes, Board-approved training, or Board-approved competency tests to prepare or indicate content, content-specific, and developmentally-appropriate pedagogical knowledge required for licensing.

(6)e The employing school district shall assign a trained mentor to work with the applicant for licensing by agreement.

(7)f The school district shall supervise and assess the license applicant's classroom performance during a minimum one school year full-time employment experience. The district may request assistance from a institution of higher education or the USOE in the monitoring and assessment.

(8)g The school district shall assess the license applicant's disposition as a teacher following a minimum one school year full-time teaching experience. The district may request assistance in this assessment; and

(9)h The USOE ARL advisors shall annually review and evaluate [the consortium's assessment and recommendation of]the license applicant following training, assessments or course work, [assigned by the consortium,]and the full-time teaching experience and evaluation by the school district.

(10)i Consistent with evidence and documentation received[ from the consortium], the USOE ARL advisor may recommend the license applicant to the Board for a Level 1 educator license.

[C-](4) USOE Licensing by Competency

(1)a A school district employs an individual as a teacher with appropriate skills, training or ability for an identified licensed teaching position in the district who satisfies the minimum requirements of R277-503-3.

(2)b An employing school district, in consultation with the applicant and the USOE, shall identify Board-approved content knowledge and pedagogical knowledge examinations. The applicant shall pass designated examinations demonstrating the applicant's adequate preparation and readiness for licensing.

(3)c The employing school district shall assign a trained mentor to work with the applicant for licensing by competency.

(4)d The school district shall monitor and assess the license applicant's classroom performance during a minimum one-year full-time teaching experience.

(5)e The school district shall assess the license applicant's disposition for teaching following a minimum one-year full-time teaching experience.

(6)f The school district may request assistance in the monitoring or assessment of a license applicant's classroom performance or disposition for teaching.

(7)g Following the one-year training period, the school district and USOE shall verify all aspects of preparation (content knowledge, pedagogical knowledge, classroom performance skills, and disposition for teaching) to the USOE.

(8)h If all evidence/documentation is complete, the USOE shall recommend the applicant for a Level 1 educator license.

(5) USOE ARL candidates under R277-503-4B(3) and (4) may teach under a letter of authorization for a maximum of one year. The letter of authorization shall expire after the first year on June 30 when the ARL candidate submits documentation of progress in the program, and the candidate shall be issued an ARL license.

(6) The ARL license may be extended annually for two subsequent school years with documentation of progress in the ARL program.

(7) Documentation shall include, specifically, a copy of the supervisor's successful end-of-year evaluation, copies of transcripts and test results or both showing completion of required coursework, verification of working with a trained mentor, and satisfaction of the full-time full year experience.

C. School district/charter school specific competency-based licenses:

(1) A local board/charter school board may apply to the Board for a letter of authorization to fill a position in the district.

(2) The employing school district/charter school shall request a letter of authorization no later than 60 days after the date of the individual's first day of employment.

(3) The application for the letter of authorization from the local board/charter school board for an individual to teach one or more core academic subjects shall provide documentation of:

(a) the individual's bachelors degree; and

(b) for a K-6 grade teacher, the satisfactory results of the rigorous state test including subject knowledge and teaching skills in the required core academic subjects under Section 53A-6-104.5(3)(ii) as approved by the Board; or

(c) for the teacher in grades 7-12, demonstration of a high level of competency in each of the core academic subjects in which the teacher teaches by completion of an academic major, a graduate degree, course work equivalent to an undergraduate academic major, advanced certification or credentialing, results or scores of a rigorous state core academic subject test, similar to the test required

under R277-503-3E, in each of the core academic subjects in which the teacher teaches.

(4) The application for the letter of authorization from the local board/charter school board for non-core teachers in grades K-12 shall provide documentation of:

(a) a bachelors degree, associates degree or skill certification; and

(b) skills, talents or abilities specific to the teaching assignment, as determined by the local board/charter school board.

(5) Following receipt of documentation and consistent with Section 53A-6-104.5(2), the USOE shall approve a district/charter school specific competency-based license.

(6) If an individual with a district/charter school specific competency-based license leaves the district before the end of the employment period, the district shall notify the USOE Licensing Section regarding the end-of-employment date.

(7) The individual's district/charter school specific competency-based license shall be valid only in the district/charter school that originally requested the letter of authorization and for the individual originally employed under the letter of authorization or district/charter school specific competency-based license.

(8) The written copy of the district/charter school specific competency-based license shall prominently state the name of the school district/charter school followed by DISTRICT/CHARTER SCHOOL SPECIFIC COMPETENCY-BASED LICENSE.

(9) A school district/charter school may change the assignment of a school district/charter school specific competency-based license holder but notice to USOE shall be required and additional competency-based documentation may be required for the teacher to remain qualified or highly qualified.

(10) School district/charter school specific competency-based license holders are at-will employees consistent with Section 53A-8-106(5).

#### **R277-503-5. Endorsement Routes.**

A. An applicant shall successfully complete one of the following for endorsement:

(1) a USOE-approved institution of higher education educator preparation program with endorsement(s); or

(2) ~~[successful]~~assessment, approval and recommendation by a designated and subject-appropriate USOE specialist under a SAEP. The USOE shall be responsible for final recommendation and approval; or

(3) ~~[successful completion of]~~USOE-approved examination(s) assessing content knowledge and content-specific pedagogical knowledge. The USOE is responsible for final review and approval; or

(4) ~~[successful completion of]~~a USOE-approved Utah institution of higher education or Utah school district-sponsored endorsement program which includes content knowledge and content-specific pedagogical knowledge approved by ~~[NCATE/]~~the USOE. The university or school district shall be responsible for final review and recommendation. The USOE shall be responsible for final approval.

B. A restricted endorsement shall be available and limited to teachers in necessarily existent small schools as determined under R277-445, and teachers in youth in custody programs. Teacher qualifications shall include at least nine semester hours of USOE-approved university-level courses in each course taught by the teacher holding a restricted endorsement.

~~[B]C.~~ All provisions that directly affect the health and safety of students required for endorsements, such as prerequisites for drivers education teachers or coaches, shall apply to applicants seeking endorsements through all routes under this rule.

~~[C]D.~~ Prior to an ~~[applicant]~~individual taking courses, exams or seeking a recommendation in the ARL licensing program, the ~~[applicant]~~individual shall have school district/charter school and USOE authorization.

#### **R277-503-6. Additional Provisions.**

A. All programs or assessments used in applicant preparation shall meet national professional educator standards such as those developed by NCATE, [applicant performance standards]TEAC or competency-based regional accreditation.

B. All educators licensed under this rule shall also:

(1) complete the background check required under Section 53A-6-401;

(2) satisfy the professional development requirements of R277-502; and

(3) be subject to all Utah licensing requirements and professional standards.[]

~~C.~~ All costs of testing, evaluation, and course work shall be borne by the applicant unless other arrangements are agreed to in advance by the employing school district.[]

~~[D]C.~~ An applicant may satisfy the student teaching/clinical experience requirement for licensing through successful completion of either the licensing by agreement or by competency route.

**KEY: teachers, alternative licensing**

~~[April 22, 2002]~~2004

Notice of Continuation April 15, 2002

Art X Sec 3

53A-1-402(1)(a)

53A-1-401(3)



## Environmental Quality, Drinking Water **R309-302** (Changed to R309-305) Required Certification Rules for Backflow Technicians in the State of Utah

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27252

FILED: 06/29/2004, 14:35

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule change is to update terminology, formatting, and to clarify Class titles, and technician responsibilities. The change also clarifies the renewal criteria for a Class 3 technician.

SUMMARY OF THE RULE OR CHANGE: The rule is being renumbered from Rule R309-302 to Rule R309-305 and the title is changed. In addition, the rule change clarifies the Class titles, the renewal criteria for a Class 3 backflow certification, and updates the format to coincide with other Division of Drinking Water rules. The rule also lists the responsibilities of a backflow technician for which they will be held accountable and clarifies the required length for certification and recertification classes. A similar rule change was proposed and has been allowed to lapse, this change has incorporated comments received during that rule change process. (DAR NOTE: The previous proposed amendment for Rule R309-302 that lapsed is under DAR No. 26931 and was published in the February 15, 2004, Bulletin.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-4-104(4)(a)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: No impact--The rule change clarifies and updates portions of the rule and does not add any additional requirements.
- ❖ LOCAL GOVERNMENTS: No impact--The rule change clarifies and updates portions of the rule and does not add any additional requirements.
- ❖ OTHER PERSONS: No impact--The rule change clarifies and updates portions of the rule and does not add any additional requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance costs for affected persons will not change as a result of this rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department of Environmental Quality agrees with the comments listed under the Cost or Savings statements and the Compliance costs for affected persons above.

Dianne R. Nielson, Ph.D., Executive Director

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

ENVIRONMENTAL QUALITY  
DRINKING WATER  
150 N 1950 W  
SALT LAKE CITY UT 84116-3085, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Patti Fauver or Ken Bousfield at the above address, by phone at 801-536-4196 or 801-536-4207, by FAX at 801-536-4211 or 801-536-4211, or by Internet E-mail at pfauver@utah.gov or kbousfield@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 08/16/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 08/17/2004

AUTHORIZED BY: Kevin Brown, Director

**R309. Environmental Quality, Drinking Water.**  
~~[R309-302.]~~**[R309-305. [Required--] Certification Rules for Backflow Technicians--in the State of Utah].**  
~~[R309-302-1. Objectives.]~~**[R309-305-1. Purpose.**

These [certification] rules are established:

- (1) in order to promote the use of trained, experienced professional personnel in protecting the public's health; ~~and~~[-]
- (2) To establish standards for training, examination, ~~(examining,)~~ and certification of those personnel involved with cross connection control program administration, testing, maintenance, and repair of backflow prevention assemblies. In addition to establishing standards for[-, ~~and~~] the instruction of Backflow Technicians.

~~[R309-302-2.]~~**[R309-305-2. Authority.**

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(4)(a) of the Utah Code and in accordance with 63-46a of the same, known as the Administrative Rulemaking Act. ~~[The Backflow Technician certification program is authorized by Utah Code Annotated, Section 19-4-104(4)(a)].~~

~~[R309-302-3.]~~**[R309-305-3. Extent of Coverage.**

These rules shall apply to all personnel who will be:

- (1) ~~[a-]~~ directly involved with the administration or enforcement of any cross connection control program being administered by a drinking water system; or
- (2) ~~[b-]~~ testing, maintaining and/or repairing any backflow prevention assembly; or
- (3) ~~[c-]~~ instructors within the certification program, regardless of institution or program.

~~[R309-302-4.]~~**[R309-305-4. Definitions.**

Definitions for certain terms used in this rule are given in R309-110 but may be further clarified herein. ~~[Cross Connection Control Subcommittee means the duly constituted advisory subcommittee appointed by the Safe Drinking Water Committee to advise the Safe Drinking Water Committee on Backflow Technician Certification and the Cross Connection Control Program of Utah. The Subcommittee will review the qualifications of applicants and make recommendations to the Safe Drinking Water Committee for certification of those individuals.~~

~~— Bureau of Drinking Water/Sanitation means that Bureau within the Department of Health which regulates public drinking water systems.~~

~~— Cross Connection Control Program means the program administered by the public water system in which cross connections are either eliminated or controlled.~~

~~— Executive Secretary means the Executive Secretary to the Utah Safe Drinking Water Committee.~~

~~— Class means the level of certification of Backflow Prevention Technician (Class I, II and III).]~~

- (1) Backflow Technician - An individual who has met the requirements and successfully completed the course of instruction and certification requirements for Class I, II or III backflow technician certification as outlined herein.

(a) Class I Backflow Technician is a Cross Connection Control Program Administrator.

(b) Class II Backflow Technician is a Backflow Assembly Tester.

(c) Class III Backflow Technician is a Backflow Instructor Trainer.

(2) Class - means the level of certification of a Backflow Technician (Class I, II or III).

(3) Performance Examination - means a closed book hands on demonstration of an individuals ability to conduct a field test on backflow prevention assemblies.

(4) Proctor - means a Class III Technician authorized to administer the written or the performance examination. ~~Public Drinking Water Supply means a system, either publicly or privately owned, providing water for human consumption and other domestic uses which has at least 15 service connections, or regularly serves an average of at least 25 individuals daily for at least 60 days out of the year.~~

(5) Renewal Course - means a course of instruction, approved by the ~~Commission~~ Subcommittee, which is a prerequisite to the renewal of a Backflow Technician's Certificate.

(6) Secretary to the ~~Commission~~ Subcommittee - means that individual appointed by the Executive Secretary to conduct the business of the Commission and to make recommendations to the Executive Secretary regarding backflow technician certification Subcommittee.

~~Utah Safe Drinking Water Committee means the duly constituted Committee appointed by the Governor, and responsible for the promulgation, interpretation and enforcement of public drinking water regulations within Utah.~~ (7) Written Examination - means the examination for record used to determine the competency and ability of applicants in understanding of the required course of instruction.

#### **R309-302-5, R309-305-5. General Policies.**

(1) ~~5-1~~ Certification Application: Any individual may apply for certification.

(2) ~~5-2~~ Certification Classes: The classes of certificates shall ~~will~~ be: Class I, Class II, and Class III.

(a) ~~5-2-1~~ Class I ~~[-]~~ Backflow Technician - Cross Connection Control Program Administrator: This certificate shall ~~will~~ be issued to those individuals who are directly involved in administering a cross connection control program, who have demonstrated their knowledge and ability by passing the certification examination.

(i) These individuals may NOT test, maintain or repair any backflow prevention assembly for record (except to insure proper testing techniques are being utilized within their jurisdiction).

(ii) These individuals may conduct plan/design reviews, hazard assessment investigations, compliance inspections, and enforce local laws, codes, ~~(including the Utah Plumbing Code as it applies to cross connection control and backflow prevention),~~ rules and regulations and policies within their jurisdictions, and offer technical assistance as needed.

(b) ~~5-2-2~~ Class II ~~[-]~~ Backflow Technician - Backflow Assembly Tester: This certificate shall ~~will~~ be issued to those individuals who ~~meet the criteria for Class I~~ have demonstrated their knowledge and ability by passing the written and performance certification examinations and in addition having proven qualified and competent to test, maintain, and/or repair (see R309-305-5(3)(b) ~~[Section 5-3-3]~~) backflow prevention assemblies

(commercially as well as within their jurisdiction) by passing the practical examination.

(c) ~~5-2-3~~ Class III ~~[-]~~ Backflow Technician - Backflow Instructor Trainer: This certificate shall ~~will~~ be issued to those individuals who have successfully completed a 3 year renewal cycle as ~~a~~ meet the criteria for Class II Technician and in addition have proven qualified and competent to instruct approved Backflow Technician Certification classes by participating in and passing an approved Class III certification ~~["Train The Trainers"]~~ course.

(3) ~~5-3~~ Certification Requirements: Those individuals seeking certification as a Backflow Technician must participate in an approved Technician's course of instruction and pass the examination required per class of certification.

~~5-3-1 All individuals who hold a valid Backflow Technician's license issued prior to the initiation of these rules will be issued a Class II - Backflow Technician certificate.~~

(a) ~~5-3-2~~ All individuals who instruct Backflow Technician training courses must hold a current Class III - Backflow Technician certificate.

(b) ~~5-3-3~~ The issuance of a Backflow Technician certificate (Class I, II or III) does NOT authorize that individual to install or replace any backflow prevention assembly. The installation replacement or repair of assemblies must be made by a ~~licensed Journeyman Plumber (Title 58, Chapter 54, Utah Code Annotated)~~ tester having appropriate licensure from the Department of Commerce, Division of Occupational and Professional Licensing, except when the Backflow Technician is an agent of the assembly owner.

#### **R309-305-6. Technician Responsibilities.**

(1) All technicians shall notify the Division of Drinking Water, local health department and the appropriate public water system of any backflow incident as soon as possible, but within eight hours. The Division can be reached during business hours at 801-536-4200 or after hours at 801-536-4123;

(2) All technicians shall notify the appropriate public water system of a failing backflow prevention assembly within five days;

(3) All technicians shall ensure that acceptable procedures are used for testing, repairing and maintaining any backflow prevention assembly;

(4) All technicians shall report the backflow prevention assembly test results to the appropriate public water system within 30 days;

(5) All technicians shall include, on the test report form, any materials or replacement parts used to effect a repair or to perform maintenance on a backflow prevention assembly;

(6) All technicians shall ensure that any replacement part is equal in quality to parts originally supplied within the backflow prevention assembly and are supplied only by the manufacturer or their agent;

(7) All technicians shall not change the design, material, or operational characteristics of the assembly during any repair or maintenance;

(8) All technicians shall perform each test and shall be responsible for the competency and accuracy of all testing and reports thereof;

(9) All technicians shall ensure the status of their technician certification is current; and

(10) All technicians shall be equipped with and competent in the use of all tools, gauges, and equipment necessary to properly test, repair and maintain a backflow prevention assembly.

**[R309-302-6.]R309-305-7. Examinations.**

(1)[6-1] Exam Issuance: The examination recognized by the Commission[Subcommittee] for certification shall[will] be issued through the Division of Drinking Water[Bureau of Drinking Water/Sanitation] for both initial certification and renewal of certification[renewals to those certified instructors teaching a course approved by the Cross Connection Control Subcommittee].

If an individual fails an examination, the individual[he] may file another application for reexamination on the next available test date.

(a)[6-1-1] Examinations (both written and performance[practical]) that are used to determine competency and ability shall[will] be approved by the Cross Connection Control Commission[Subcommittee] prior to being issued.

(b)[6-1-2] Oral examinations may be administered[with approval from the Cross Connection Control Subcommittee, on a case by case basis,] to an individual who has failed to pass at least two consecutive written examinations. The oral examination shall be administered by at least one Commission member and two Class III Backflow Technicians. If the individual fails the examination, he shall be given written notification of those areas deficient.

(2)[6-2] Exam Scoring: Class I, Class II and Class III Technician's must successfully complete a written exam with a score of 70% or higher. Class II Technician's must also successfully demonstrate competence and ability in the performance[practical] examination, for the testing of [the]a Pressure [Atmospheric] Vacuum Breaker Assembly, a Spill-Resistant Pressure Vacuum Breaker Assembly, a Double Check Valve Assembly, and a Reduced Pressure [Zone—]Principal Backflow Prevention Assembly[Assemblies].

(a)[6-2-1] The performance[practical] examination shall[will] be conducted by a minimum of two Class III Technicians.

(b)[6-2-2] Each candidate must demonstrate competence and shall[will] be evaluated by a proctor[all proctors] and assessed a pass or fail grade in each of the following areas.

- (i)[4] Properly identify backflow assembly
- (ii)[2] Properly identify test equipment needed
- (iii)[3] Properly connect test equipment
- (iv)[4] Test assembly
- (v)[5] Identify inaccuracies
- (vi)[6] Properly diagnose assembly problems
- (vii)[7] Properly record test results

The candidate must receive a pass grade from the[each] proctor in all areas listed above for each assembly tested in order to pass the performance[practical] examination.

(c)[6-2-3] An individual may apply for reexamination of either portion of the examination a maximum of two times. After a third failing grade, the individual must register for and complete another technician's course prior to any further[the] reexamination.

(3)[6-3] Class III Exam: Class III Technicians must participate in, and pass, a Class III Certification["train the trainers"] course, approved by the Cross Connection Control [Subcommittee]Commission, in addition to the successful completion of the Class II Technician's certification course.

**[R309-302-7.]R309-305-8. Certificates.**

(1)[7-1] Certificate Issuance: For a certificate to be issued, the individual must complete a Technician's training course and pass with a minimum score of 70% the written examination. For Class II and III certificates, passing marks on the performance[practical] portion of the] examination shall[will] also be required.

(2)[7-2] Certificate Renewal: The Backflow Technician's certificate is issued by the Executive Secretary and shall[will] expire December 31, three years from the year of issuance.

(a) Backflow Technician certificates shall[will] be issued by the Commission[Subcommittee's] Secretary, by delegated authority from the [Safe] Drinking Water Board[Committee].

(b)[7-2-1] The Backflow Technician's certificate may be renewed up to six months in advance of the expiration date.

(c)[7-2-2] To renew a Class I or II Technician[Technician's] certificate, the Technician must register and participate in an approved[a] backflow prevention renewal course, and pass the renewal examination (minimum score of 70%) which shall[will] include a performance[practical] portion for Class II[and III] Certification.

(d)[7-2-3] To renew a Class III Technician certificate, the following criteria shall be met:

(i) In the 3 year certification period a total of three events from the following list shall be obtained in any combination:

(A) Instruction at a Commission approved backflow technician certification or renewal course.

(B) Serve as a proctor for the performance examination at a Commission approved backflow technician certification or renewal course.

(ii) Attendance at a minimum of two of the annual Class III coordination meetings or receive a meeting update from the Commission Secretary.

(iii) Attendance and successful review at a Class III renewal course, as approved by the Cross Connection Control Commission. The course would consist of presentation of a randomly picked topic in backflow prevention before a peer group of other Class III technicians, and a demonstration of knowledge of all the testing equipment available by a random selection of test equipment for the technician to perform the performance exam. [that was issued prior to December 31, 1989, the Technician must register and attend a one day renewal course and pass a renewal written exam (minimum 70%) only. (There will not be a practical portion included in the renewal courses until 1992.)]

(e)[7-2-4] Should the applicant fail the renewal written examination (minimum score of 70%), renewal of that existing license shall[will] not be allowed until a passing score is obtained. If the applicant fails to pass the test after three attempts, the applicant shall[will] be required to participate in an approved Backflow Technician's course before retaking the written and [practical] performance examinations. (Class I Technicians [would] only need to pass the written examination.)

(3)[7-3—] Certification Revocation: The Executive Secretary[Subcommittee's Secretary is authorized to] may suspend or revoke a Backflow Technician's certification, for good cause, including any of the following: [upon recommendation of the Subcommittee if, following a hearing of the Subcommittee, it is found that:]

(a)[a-] The certified person has acted in disregard for[There is evidence that a disregard of] public health or safety; [and safety has occurred.]

(b)[b-] [There is evidence that a violation of] The certified person has engaged in activities beyond the scope of their licensure through the Department of Commerce, Division of Professional Licensing (i.e. installation, or replacement of assemblies); [the Plumber's Law (Title 58 Chapter 54), that prohibits installation or replacement of assemblies, has occurred.]

~~(c)[e-] [There is evidence that a misrepresentation or falsification of]The certified person has misrepresented or falsified figures or reports concerning backflow prevention assembly or test results.[ has occurred.]~~

~~(d)[e-] [There is evidence that a failure to notify the proper authorities of a failing backflow prevention assembly within five days has occurred.]The certified person has failed to notify proper authorities of a failing backflow prevention assembly within five days, as required by R309-305-6(2);~~

~~(e)[e-] [There is evidence that a failure to notify the proper authorities of a backflow incident for which the technician had personal knowledge has occurred.]The certified person has failed to notify proper authorities of a backflow incident for which the technician had personal knowledge, as required by R309-305-6(1);~~

~~(f)[f-] [There is evidence that a]The certified person has implemented a change of the design, material or operational characteristics of a backflow prevention assembly that is in use, and which has not been authorized by the Executive Secretary; or[ has occurred.]~~

~~(g) [7.3.1 Suspension or revocation of a Technician's certificate will be in writing and will state the reasons for such actions and available appeal procedures.]Disasters or "Acts of God", which could not be reasonably anticipated or prevented, shall[will] not be grounds for suspension or revocation actions.[~~

~~— 7.4 Appeal Procedures: Any individual who receives a notice of suspension or revocation may, within 30 days of receipt, make a written request for an appeal to the Executive Secretary of the Safe Drinking Water Committee for a hearing before that Committee. The Committee shall follow the procedures for such a hearing as set forth in the Utah State Code.]~~

#### **R309-302-8;R309-305-9. Fees.**

~~(1)[8-1] Fees: The fees for certification shall[will] be submitted in accordance with Section 63-38-3.2[63-38-3].~~

~~(2) All fees shall[will] be deposited in a special account to defray the costs of administering the Cross Connection Control and Certification programs.~~

~~(3)[8-2] Renewal Fees: The renewal fee for all classes of Technicians shall[will] be in accordance with Section 63-38-3.2[63-38-3].~~

~~(4)[8-3] All fees shall[will] be deposited in a special account to defray the cost of the program.~~

~~(5)[8-4] All fees are non-refundable.~~

#### **R309-302-9;R309-305-10. Training.**

~~(1)[9-1] Training: Minimum training course curriculum, written tests and performance tests shall[will] be established by the Commission[Subcommittee] and implemented by the Secretary of the Commission[Subcommittee] for both the Technician Class I and Class II courses[Technicians course] and the renewal courses[short course].~~

~~(a) The length of the initial certification course for a Class I cross connection control program administrator shall be a minimum of 32 hours including examination.~~

~~(b) The length of the initial certification course for a Class II backflow assembly tester shall be a minimum of 32 hours excluding examination.~~

~~(c)[9-1-1] The length of each[the] renewal course shall be a minimum of 16 hours[not exceed two days] including the renewal examination (both written and performance examinations["hands on"]).~~

#### **R309-302-10;R309-305-11. Cross Connection Control Commission[Subcommittee].**

~~(1)[4-1] Appointment of Members: A Cross Connection Control Commission[Subcommittee] shall[will] be appointed by the [Safe-]Drinking Water Board[Committee] from nominations made by cooperating agencies.~~

~~(2)[4-2] Responsibility: The Commission[Subcommittee] is charged with the responsibility of conducting all work necessary to promote the cross connection program as well as recommending qualified individuals for certification, and overseeing the maintenance of necessary records.~~

~~(3)[4-3] Representative Agencies: The Commission[Subcommittee] shall consist of seven[five] members:~~

~~(a)[4-] One member (nominated by the League of Cities and Towns) shall represent a community drinking water supply.~~

~~(b)[2-] One member (nominated by the Utah Pipes Trades Education Program) shall represent the plumbing trade and must be a licensed Journeyman Plumber[and Class II or III Backflow Technician].~~

~~(c)[3-] One member (nominated by the Utah Mechanical Contractors Association) shall represent the mechanical trade contractors.~~

~~(d)[4-] One member (nominated by the [Safe-]Drinking Water Board[Committee]) shall represent the [Safe-]Drinking Water Board[Committee].~~

~~(e)[5-] One member (nominated by the Rural Water Association of Utah) shall represent small water systems.~~

~~(f) One member (nominated by the Utah Chapter American Backflow Prevention Association) shall represent Class II Backflow Technicians and shall be a Class II or III Backflow Technician.~~

~~(g) One member (nominated by the Utah Association of Plumbing and Mechanical Officials) shall represent plumbing inspection officials and shall be a licensed plumbing inspector.~~

~~(4)[4-4] Term: Each member shall serve a two year term. At the initial meeting of the Commission[Subcommittee], lots shall[will] be drawn corresponding to two one and three two year terms. Thereafter, all Commission[Subcommittee] members' terms shall[will] be on a staggered basis.~~

~~(5)[4-5] Nominations of Members: All nominations of Commission[Subcommittee] members shall[will] be presented to the [Safe-]Drinking Water Board[Committee], which reserves the right to refuse any nomination.~~

~~(6)[4-6] Unexpired Term: An appointment to succeed a Commission[Subcommittee] member who is unable to complete his full term shall be for the unexpired term only, and shall be nominated to, and appointed by, the [Safe-]Drinking Water Board[Committee] in accordance with R309-305-11(1).[R309-302-40-1.]~~

~~(7)[4-7] Quorum: At least four Commission[three Subcommittee] members shall be required to constitute a quorum to conduct the Commission's[Subcommittee's] business.~~

~~(8)[4-8] Officers: Each year the Commission[Subcommittee] shall[will] elect officers as needed to conduct its business.~~

~~(a)[4-8-1] The Commission[Subcommittee] shall meet at least once a year.~~

~~(b)[4-8-2] All actions taken by the Commission[Subcommittee] shall[will] require a minimum of four[three] affirmative votes.~~

**R309-302-11, R309-305-12. Secretary of the Commission [Subcommittee].**

(1)[1-1] Appointment: The Executive Secretary of the [Safe] Drinking Water Board[Committee] shall[will] appoint, with the consent of the Commission[Subcommittee], a staff member to function as the Secretary to the Commission[Subcommittee]. This Secretary shall[will] serve to coordinate the business of the Commission[Subcommittee] and to bring issues before the Commission[Subcommittee].

(2)[1-2] Duties: The Secretary's duties shall[will] be to:

(a)[a-] act as a liaison between the Commission[Subcommittee], certified Technicians, public water suppliers, and the public at large;

(b)[b-] maintain records necessary to implement and enforce these rules;

(c)[c-] notify sponsor agencies of Commission[Subcommittee] nominations as needed;

(d)[d-] coordinate and review all cross connection control programs, certification training and the certification of Backflow Technicians;

(e)[e-] serve as a source of public information for Certified Technicians, water purveyors, and the public at large;

(f)[f-] receive and process applications for certification;

(g)[g-] investigate and verify all complaints against or concerning certified Backflow Prevention Technicians, and advise the Executive Secretary of the [Safe—]Drinking Water Board[Committee] regarding any enforcement actions that are being recommended by the Commission[Subcommittee as outlined in Section R309-302-7.4];

(h)[h-] develop and administer examinations;

(i)[i-] review and correct examinations.

(3) The Secretary to the Commission is also responsible for making recommendations to the Executive Secretary regarding backflow technician certification as provided in these rules.

**KEY: drinking water, cross connection control, backflow assembly tester[environmental protection, administrative procedure]**

**[1999]2004**

Notice of Continuation April 10, 2000

19-4-104(4)(a)

63-46b-4

▼ ————— ▼

**Health, Health Systems Improvement,  
Child Care Licensing  
R430-100  
Child Care Center**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 27244

FILED: 06/22/2004, 14:00

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: S.B. 44 passed the 2004 Legislative Session and requires the Bureau of Licensing to adopt rules permitting a variance to the group

size requirements and a phase-in schedule for the upgrade of existing playgrounds. (DAR NOTE: S.B. 44 is found at UT L 2004 Ch 136, and was effective 05/03/2004.)

SUMMARY OF THE RULE OR CHANGE: This rule adopts the variance approval for centers constructed prior to January 1, 2004, that maintain care giver to child ratios and have adequate square footage. In addition, the centers not in compliance with playground standards are provided a five-year phase in for compliance.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 39

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no costs associated with this rulemaking. If a state-owned center is not in compliance with the playground safety standards, it will be permitted a five-year phase in period.

❖ LOCAL GOVERNMENTS: There are no costs associated with this rulemaking. If a local government-owned center is not in compliance with the playground safety standards, they will be permitted a five-year phase in period. Some centers may experience a savings due to variance requests, but the amount is impossible to calculate.

❖ OTHER PERSONS: It is estimated that 80 facilities will request a phase-in schedule for compliance. There is no cost associated with this rulemaking as it allows more time to come into compliance with existing rule requirements. Some centers may experience a savings due to variance requests, but the amount is impossible to calculate.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs associated with this rulemaking as it allows more time for centers to come into compliance.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: S.B. 44 (2004) requires the Bureau of Licensing to adopt rules permitting a variance to the group size requirements and a phase-in schedule for the upgrade of existing playgrounds. This rule change should have a positive impact on businesses. Scott D. Williams, MD

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

HEALTH  
HEALTH SYSTEMS IMPROVEMENT,  
CHILD CARE LICENSING  
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:

Debra Wynkoop at the above address, by phone at 801-538-6152, by FAX at 801-538-6325, or by Internet E-mail at debwynkoop@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 08/16/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 08/17/2004

AUTHORIZED BY: Scott D. Williams, Executive Director

### R430. Health, Health Systems Improvement, Child Care Licensing.

#### R430-100. Child Care Center.

##### R430-100-9. Care Giver to Child Ratio.

(1) The licensee must maintain minimum care giver to child ratios as provided in Tables 1 and 2.

TABLE 1  
Minimum Care Giver to Child Ratios

Staff	Number of Children	Group Size	Ages
1	4	8	0 to 12 months
1	4	8	13 to 24 months
1	7	14	2 year old
1	12	24	3 year old
1	15	30	4 year old
1	20	35	5 years and over

(2) There shall be at least two care givers at the center at all times when there are more than six children present or more than two infants present;

(3) Centers may maintain mixed age groups, and shall comply with Table 2 requirements and the following ratio requirements:

(a) Ratios and group size for mixed age groups shall be determined by averaging the ratios of the ages represented in the group;

(b) The ratio for the youngest children shall be utilized if more than half of the group is composed of children in the youngest age group.

TABLE 2  
Minimum Care Giver to Child Ratios - Mixed Age Groups

Ages	Ratio	Group Size
Two Ages Mixed		
Infant and Toddlers	1:4	8
Toddlers and two year olds	1:5	10
Two and three year olds	1:9	18
Three and four year olds	1:14	25
Four years and older	1:18	25
Three Ages Mixed		
Toddlers, two and three year olds	1:7	14
Two, three and four year olds	1:11	22
Three, four and school age	1:16	25
Four Ages Mixed		
Toddlers, two, three and four year olds	1:9	18
Two, three, four and school age	1:13	25

(4) During nap time the child ratio may double for not more than two hours for children 24 months and older, if the children are in a restful or non-activity state and, if a means of communication is maintained with another care giver who is also on-site.

(5) A child of an employee or owner age four or older will not be counted for determining care giver to child ratios.

(6) If child to care giver ratios are maintained an exception is granted to group size requirements when a center program has a planned activity and during transition times not to exceed two hours daily.

(7) ~~[A variance may be requested as required by R430-100-5 for programs who were licensed prior to July 1997.]~~ A child care center constructed prior to January 1, 2004, and licensed and

operated as a child care center continuously since January 1, 2004, may apply for a variance from the department for group size restrictions, if the child to care giver ratios are maintained and adequate square footage is maintained for the specific classroom. A variance granted under (7) is transferrable to subsequent licensed operators at the center if a licensed center is continuously maintained at the center.

##### R430-100-12. Activities.

(1) The director and care givers shall develop and follow a daily activity plan that is designed for the age, health, safety and welfare of the children. No activity plan is required for infant or toddler groups. The toys and equipment needed to carry out the plan shall be present.

(2) The activity plan shall be posted for parent and care giver review.

(3) There shall be areas for indoor play.

(a) Indoor play areas shall have at least 35 square feet per child of usable play space for each child utilizing the play area at any specific time. The space requirement includes licensee and care giver children who are not counted in the ratios. Usable floor space includes space used for furniture, fixtures, or equipment if the furniture, fixture, or equipment is used by children, for the care of children, or to store classroom materials.

(b) Bathrooms, closets, lockers, staff desks, stationary storage units, hallways, corridors, alcoves, vestibules, kitchens or offices may not be included in calculating indoor play space.

(i) Play space does not include areas which are designated as a napping room.

(ii) Centers licensed prior to the effective date of the rule change 2001, may request a permanent variance to this rule as required by R430-100-5. The exception or variance will be assumable if a change of ownership occurs and the license is not interrupted.

(c) All indoor playground equipment, for example slides and climbers, shall be surrounded by cushioning materials, such as mats, in a six foot fall zone. The cushioning material shall meet the standards of the American Society for Testing and Materials (ASTM), current edition for all equipment over three feet.

(d) If children between the ages of three and six have access to indoor play equipment then the maximum height of any piece of indoor playground equipment shall not exceed five and one-half feet. If children under age three have access to indoor play equipment, then the maximum height of the equipment may not exceed three feet.

(4) Daily activities shall include outdoor play if weather permits.

(5) Outdoor play areas shall:

(a) have at least 40 square feet for each child, which may include space used for furniture, fixtures, or equipment if the furniture, fixture, or equipment is used by children, for the care of children, or to store classroom materials to accommodate at least 33 percent of the licensed capacity at one time;

(b) be directly adjacent to the building;

(c) be enclosed with a four foot high fence, or have a natural barrier that provides protection from unsafe areas including water hazards;

(i) gaps in the fence shall not be more than three and one half inches.

(ii) the bottom edge of the fence shall not be more than three and one-half inches above the ground.

(d) be free of animal excrement and harmful objects such as trash, broken toys and equipment with rusty or sharp edges, glass, tools and standing water;

(e) have a shaded area to protect children from excessive sun and heat; and

(f) have a source of drinking water in the play area during play time when the outside air temperature is 75 degrees or higher.

(6) Outdoor play equipment shall:

(a) be surrounded by a resilient surface of loose cushioning consistent with the guidelines of the Consumer Product Safety Commission and standards of ASTM; and

(b) have a six foot fall zone surrounding all playground equipment. [~~For facilities licensed prior to July 1997, a variance may be requested to allow time for the licensee to replace or remodel the equipment as required by R430-100-5.~~]

(c) All variances granted to any facility granting relief from compliance with the Consumer Product Safety Commission Playground Safety guidelines or the ASTM standards expire by operation of this rule on December 31, 2004. A facility not in compliance with the Consumer Product Safety Commission Playground Safety guidelines or the ASTM standards of as December 31, 2004, shall submit a written phase-in plan to the Department by December 31, 2004.

(i) The facility phase-in plan must provide that some part of the playground come into compliance by June 30, 2005, and establish a plan for an orderly progression toward remediation of all out-of-compliance equipment and grounds by May 30, 2009.

(ii) The facility must submit verification of its compliance with its plan annually by June 1.

(7) Any particulate cushioning material, such as sand or gravel, within the fall zone of playground equipment shall be checked for packing due to rain or snow, and if compressed, weather permitting, shall be loosened to a depth of nine inches. If the cushioning material cannot be loosened, children shall not play on the equipment.

(8) If off-site activities are offered, care giver ratios must be maintained and:

(a) at least one of the care givers shall have a current first aid and CPR course completion;

(b) written parental consent shall be obtained for each type of activity in advance;

(c) the director shall notify the parents of any schedule changes;

(d) care givers shall take with them the emergency numbers and emergency treatment releases for each of the children in the group;

(e) children shall wear or carry with them the name and phone number of the center;

(f) children's names shall not be used on name tags;

(g) care givers shall provide a way for children to wash hands.

(9) If swimming activities are scheduled, care givers shall remain with the children during the activity. Lifeguards and pool personnel may not be counted towards care giver to child ratios.

**KEY: child care facilities**

**[May 31, 2002]2004**

**Notice of Continuation January 15, 2003  
26-39**



## Health, Health Systems Improvement, Licensing **R432-32** Licensing Exemption for Non-Profit Volunteer End-of-Life Care

### NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 27250

FILED: 06/29/2004, 09:17

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In 2004, S.B. 70 was passed which authorizes the Utah Department of Health to exempt certain end-of-life care facilities from the licensing and inspections of Title 26, Chapter 21. (DAR NOTE: S.B. 70 is found at UT L 2004 Ch 141, and was effective 05/03/2004.)

SUMMARY OF THE RULE OR CHANGE: This rule establishes criteria for exempting a facility providing 24-hour care that does not employ direct care staff and in which the residents of the facility contract with a licensed hospice agency to receive end-of-life palliative care.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 26-21-7(6)

#### ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The cost to print the modifications and distribute to licensed health care facilities is minimal and will be absorbed by the existing budget.

❖ LOCAL GOVERNMENTS: No cost increase or decrease is anticipated since this is an exemption from licensure as provided in state statute.

❖ OTHER PERSONS: No cost increase or decrease is anticipated since this is an optional service for a license-exempt facility owned or operated by a privately-owned facility.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no cost associated with this rule as it establishes an optional service that is exempt from licensure.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: S.B. 70 (2004) passed which authorizes the Utah Department of Health to exempt certain end-of-life health care facilities from the licensing and inspections of Title 26, Chapter 21, by administrative rule. This rule implements the exemptions permitted by S.B. 70. As a result, qualifying businesses will be exempted from the cost of licensing. Scott D. Williams, MD

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

HEALTH  
HEALTH SYSTEMS IMPROVEMENT, LICENSING  
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:  
Debra Wynkoop at the above address, by phone at 801-538-6152, by FAX at 801-538-6325, or by Internet E-mail at debwynkoop@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 08/31/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 09/01/2004

AUTHORIZED BY: Scott D. Williams, Executive Director

**R432. Health, Health Systems Improvement, Licensing.**  
**R432-32. Licensing Exemption for Non-Profit Volunteer End-of-Life Care.**

**R432-32-1. Purpose and Authority.**

This rule establishes the exemption from licensure requirements for non-profit facilities that provide volunteer end-of-life care pursuant to Utah Code Section 26-21-7(6).

**R432-32-2. Requirements for Designation as a Non-Profit Facility Providing End-of-Life Care Using Only Volunteers.**

A non-profit facility that provides end-of-life care using only volunteers is exempt from licensure if it meets all of the following requirements:

- (1) The facility operates as a non-profit facility with a board of trustees to oversee its direction and operation.
- (2) No more than six unrelated individuals reside in the facility.
- (3) The residents of the facility do not pay for room or board.
- (4) Each facility resident has a terminal illness and contracts with a licensed hospice agency to receive medical care.
- (5) There is no direct compensation for direct care staff at the facility; however, administrative staff to coordinate volunteer staff may be compensated.
- (6) Each resident signs an admission agreement that:
  - (a) indicates the level of service to be provided by volunteers;
  - (b) provides notice that the facility is not a regulated health care facility under Title 26, Chapter 21.
  - (c) provides procedures to report grievances to the Board of Directors
- (8) The facility screens each staff, including volunteer staff, for criminal convictions through the Department of Public Safety and no staff serves who has a conviction for any of the crimes identified in R432-35-4.
- (9) The facility provides in-service training on the reporting requirements for adult abuse, neglect and exploitation to each staff, including volunteer staff.
- (10) Each resident has a self-directed medical care plan for end-of-life treatment decisions.
- (11) The facility provides each resident a form for a Physician Order for Life-Sustaining Treatment.
- (12) The facility complies with local zoning, health and fire inspection requirements.

(13) The facility offers adult immunizations for staff and residents as required in R432-40.

(14) The facility has an infection control program, which includes universal precautions, reporting communicable diseases, and OSHA standards.

**KEY: health care facilities**

**2004**

**26-21-7(6)**

Human Services, Aging and Adult  
Services

**R510-107**

Title V Senior Community Service  
Employment Program Standards and  
Procedures

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 27249

FILED: 06/29/2004, 09:16

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The United States Department of Labor enacted new regulations that are significantly different than the current rule.

SUMMARY OF THE RULE OR CHANGE: Under the new regulations, the reporting requirements change, eligibility changes, treatment plans change, host agencies assume a bigger role, there is more client tracking, and there is more federal reporting. (DAR NOTE: A corresponding 120-day (emergency) rule is under DAR No. 27248 in this issue, and was effective 07/01/2004.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-3-107

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 20 CFR 641 (April 9, 2004)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The State appropriations will not change. This program has been in existence for several decades. The process for implementing the program will change but there are no cost involved.

❖ LOCAL GOVERNMENTS: Local government appropriations will not change. This program has been in existence for several decades. The process for implementing the program will change but there are no costs involved.

❖ OTHER PERSONS: Host agencies may experience a minimal increase in cost due to required participation in a survey, but the cost remains unknown.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Host agencies may experience a minimal increase in cost due to required participation in a survey, but the cost remains unknown.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Title V program is designed to provide skills training and job placement for low-income seniors. The program has been operational for a considerable amount of time. The new procedures will have no affect on business costs because their role does not change with the proposed changes.

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

HUMAN SERVICES  
AGING AND ADULT SERVICES  
Room 325  
120 N 200 W  
SALT LAKE CITY UT 84103-1500, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Mike Bednarek at the above address, by phone at 801-538-3922, by FAX at 801-538-4395, or by Internet E-mail at [mjbednarek@utah.gov](mailto:mjbednarek@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 08/16/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 08/17/2004

AUTHORIZED BY: Robin Arnold-Williams, Executive Director

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

### **R510-107. Title V Senior Community Service Employment Program Standards and Procedures.**

#### **R510-107-1. Purpose.**

~~[4-]~~<sup>(1)</sup> Provide useful part-time community service employment for persons with low incomes who are 55 years old or older and provide useful community services.

#### **~~[R510-107-2. Definitions.~~**

~~2.1 The following definitions apply to all sections of this part:~~

~~A. Eligible Individuals means a person who is 55 years of age or older and who has a low income as defined in this section.~~

~~B. Eligible Organization means an organization which is legally capable of receiving and using Federal Funds under Title V of the Older Americans Act.~~

~~C. Enrollment and Training Programs means publicly funded efforts designed to offer training and/or placement services which enhance an individuals employability. The term is used in this part to include but not be limited to the Job Training Partnership Act or similar successor legislation and state or local programs of a similar nature.~~

~~D. Enrollee means an individual who is eligible, receives services, and is paid wages for engaging in community service employment under a project.~~

~~E. Contract Agreement means a legally binding agreement in document form which is a contract entered into between the Utah State Division of Aging and Adult Services and an eligible organization and which awards Federal Funds and provides for authorized activities under Title V of the Older Americans Act.~~

~~F. Host Agency means a public agency or a private nonprofit organization, other than a political party, exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954, which provides a work site and supervision for an enrollee.~~

~~G. Low Income means, for purposes of this part, an income which, during the preceding 6 months on an annualized basis or the actual income during the preceding 12 months, whichever is more beneficial to the applicant, is not more than 125 percent of the poverty levels established and periodically updated by the U.S. Department of Health and Human Services. In addition, an individual who receives or is a member of a family which receives regular cash welfare payments shall be deemed to have a low income for purposes of this part.~~

~~H. Project means an undertaking by a project sponsor pursuant to a grant agreement between the Department of Labor and a project sponsor which provides for the employment of eligible individuals and the delivery of associated services.~~

~~I. Project Sponsor means an eligible organization which has entered into a grant agreement with the Department of Labor.~~

~~J. Project Year means the 12 month period covered by a grant agreement.~~

~~K. Reallocation means the redistribution of Title V funds as proposed by the Department of Labor from one State to another State(s) or from one project sponsor to another project sponsors(s).~~

~~L. SCSEP means Senior Community Service Employment Program as authorized under Title V of the Older Americans Act.~~

~~M. State Agency on Aging means the Utah State Division of Aging and Adult Services.~~

~~N. Subproject Agreement or Contract means an agreement entered into between a project sponsor and an organization which provides for the transfer of Federal Funds to the organization for the purpose of carrying out activities authorized in the grant agreement.~~

~~O. Subproject Sponsor means an organization which has entered into a subproject agreement or contract with the Utah State Division of Aging and Adult Services.~~

~~P. Temporary Position means an enrollment opportunity in addition to the authorized positions made available during a project year when a portion of project funds is not being used as planned in the grant agreement.~~

#### **R510-107-3. Responsibilities.**

~~3.1 Subproject sponsor/host agency responsibilities are to provide enrollees:~~

~~A. Opportunities for skill acquisition or skill enhancement.~~

~~B. Annual physical examinations or signed waiver.~~

~~C. Personal and employment related counseling.~~

~~D. Assistance in transition to unsubsidized employment where it is feasible.~~

~~E. Recruitment and selection of enrollees.~~

~~F. Agency orientation.~~

~~G. Assessment on suitability of job assignment.~~

~~H. Annual determination of eligibility for SCSEP.~~

~~I. Assistance in transition to unsubsidized employment where feasible.~~

~~J. Select community service employment occupational categories and work assignments for enrollees.~~

~~3.2 State Agency Responsibilities~~

~~A. Develop an annual pre application grant for Title V to be approved by the Department of Labor in order to establish and operate a Title V program within the State of Utah.~~

~~B. Develop a grant disclosing Utah's proposed method to implement Title V Senior Community Service Employment Program and serve in the capacity of project sponsor.~~

~~C. Take the leading role in the coordination of statewide activity with other national sponsors (i.e., Green Thumb and Forest Service).~~

~~D. Develop an annual equitable distribution report with Green Thumb and Forest Service.~~

~~E. Select eligible organizations and develop subproject contracts or agreements with said agencies in order to implement the Title V program for a project year.~~

~~F. Annually monitor and assure case file compliance and fiscal accountability.~~

~~G. Provide quarterly reports to the Department of Labor on progress toward statewide grant objectives.~~

~~H. Complete an annual close out report for the Department of Labor and any other relevant report or informational request.~~

~~I. Assure to the extent feasible that the Title V statewide program enroll minorities and limited English speaking eligible individuals in proportion to their number in the State.~~

~~J. Enforce federal Laws and regulations relevant to this program.~~

~~K. Cooperate with agencies providing services to elderly persons and with agencies providing employment and training services, including activities conducted under the Job Training Partnership Act.~~

~~L. Select subproject sponsor and host agencies to provide a variety of community service opportunities for enrollees, and produce a variety of services which respond to the community's total needs.~~

~~M. Continue pre-existing coordinating relationships with Area Agencies on Aging, and work with State employment security agencies.~~

~~N. Disseminate relevant program information to subproject sponsors and provide technical assistance when needed or upon request.~~

**R510-107-4. Recruitment and Selection of Enrollee.**

~~4.1 Each subproject sponsor shall use methods of recruitment and selection which will assure that the maximum number of eligible individuals have an opportunity to participate in the project. Recruitment efforts shall be designed to assure equitable participation of minority groups and limited English speaking eligible individuals.~~

~~4.2 To facilitate recruitment activities, subproject sponsor shall develop a fact sheet. In addition to promoting recruitment, the fact sheet can also include the following information:~~

~~A. Provide information to the public and the potential employers about the goals of the program and how it operates.~~

~~B. Seek the cooperation of prospective employers to expand employment opportunities for older workers in both the private and public sectors.~~

~~C. Increase public awareness of the needs of the older workers and the contributions they make to local communities and economies.~~

~~4.3 The subproject sponsor shall assure participants fair, equitable treatment and access to the Title V Program. The following methods shall be considered by a subproject sponsor when activating recruitment procedures for an enrollee slot:~~

~~A. Contacting the local State Job Service offices, Area Agencies on Aging, Social Security offices, JTPA sponsors, AARP program.~~

~~B. Utilization of mass media (newspapers, radio, and television for free public service announcements) including local bi-lingual media, newspapers, and other community resources.~~

~~C. Have announcements made by civic, labor, religious, business organizations, organizations of older people, and agencies serving older people; and~~

~~D. Arrange for the display of posters announcing the availability of Title V Senior Community Service Employment Program in public buildings, business places, senior centers, nutrition project sites, and in other places where these will be seen by older people.~~

**R510-107-5. Eligibility Determination.**

~~5.1 Subproject sponsors shall be responsible for assuring and documenting the eligibility of all applicants for participation in the program in accordance with the following criteria:~~

~~A. Age: Prior to the date of actual enrollment for participation in the program, the individual must have reached 55 years of age or older. Priority will be given to those individuals who are 60 years of age and older. There is no maximum age limitation and no person shall be determined ineligible solely because of advanced age.~~

~~B. Residency: The individual must live in Utah. There is no length of residency required except that the person live in the state during the time of participation in the program.~~

~~C. Income: The income of an individual or of the family of which the individual is a member shall not exceed the low income standards defined by U.S. Department of Health and Human Services (which are periodically up dated) and shall be applied to:~~

~~1. Each individual seeking initial enrollment.~~

~~2. Each individual seeking reenrollment after termination from SCSEP.~~

~~3. Each enrollee seeking certification for continued enrollment.~~

~~D. Family (for the purpose of determining income): Is defined as one or more persons living in a single residence who are related to each other by blood, marriage, or adoption. A step child or step parent shall be considered to be related by marriage. Anyone claimed as a dependent on the applicant's Federal Income Tax return for the previous year shall be presumed to be part of the applicant's family for the current year unless otherwise demonstrated. Except as provided above, an individual 18 years or older who receives less than 50% of his/her support from the family, and who is not the principal earner or the spouse of the principal earner, shall not be considered as a member of the family.~~

~~E. Inclusions to income: For purposes of determining wages or salary the total gross earnings received for work performed as an employee. Use the amount paid before deductions for income taxes, social security, bond purchases, union dues, etc. Wages and salaries received for by individuals through public service employment and on-the-job training under JTPA are to be counted as income.~~

~~1. If an applicant, or an enrollee who is being recertified, has other family members who are currently enrolled in SCSEP, the SCSEP earning of the other family member(s) must be included as income.~~

~~2. Self employment income: Net money income (gross receipts minus operating expenses) from a business firm, farm or other enterprise in which a person is engaged on his or her own account must be counted.~~

~~3. Other income: Net money income (gross receipts minus operating expenses) received from such other sources as net rents, Social Security benefits, pensions, alimony, military retirement pay, periodic income from insurance policy annuities that is not for a fixed~~

term and other cash income not specifically excluded below must be counted.

— 5.2 Exclusions from income: The following types of income shall not be counted for the purpose of determining annual family income for SCSEP:

— A. Non-cash income: Such as food stamps and compensation received in the form of food, housing, or other non-cash compensation or gifts.

— B. Public assistance payments: Includes all types of local, state, or federal cash welfare such as AFDC, SSI, and disability payments from Social Security and Black Lung programs.

— C. Employment programs: Payments made to participants in employment and training programs such as allowance payments for classroom training, transportation, and dependents allowances, wages for work experience, wages earned under SCSEP by the applicant or person being recertified, and stipends earned from programs such as Foster Grandparents. (Wages earned under OJT and PSE employment programs are countable).

— D. Recertification/reenrollment: For persons who are being recertified for continued enrollment, or those persons applying for reenrollment whose previous termination was due to illness or acceptance of unsubsidized employment, five hundred dollars (\$500) of otherwise includable income shall be excluded from the individual's family income.

— E. Capital gains or losses.

— F. Federal, state, or local employment benefits.

— G. One-time unearned income: Such as the following examples: Payments received for a limited fixed term under income maintenance programs and supplemental unemployment benefit plans; one-time or fixed-term scholarship and fellowship grants; accident, health and casualty insurance proceeds; disability and death payments, including fixed term (but not life time) life insurance annuities and death benefits; one-time awards and gifts; inheritance, including fixed term annuities; fixed-term worker's compensation awards; terminal leave payments; soil bank and other agriculture crop stabilization payments.

— H. Payments for child support.

— I. Veteran's compensation payments: All benefit payments to veterans except military retirement pay shall be excluded for SCSEP income eligibility purposes.

— J. Interest income.

— K. Foster grandparent and senior companion stipends.

— This list is not intended to be all inclusive, but is intended to provide the conceptual framework of one-time unearned income.

— 5.3 Computation: For all persons who are applying for an enrollment for the first time or re-applying for enrollment, and for currently enrollees who are being recertified:

— A. The income eligibility shall be computed by either taking their countable family income during the preceding 6 months and annualizing it (multiply by 2) or by taking the total includable income for the past 12 months. The method used of these two shall be the one that results in the lower annual family income.

— B. The figure arrived at by the above process is then entered on the eligibility certification form, which is then compared to the poverty levels to determine if the individual meets the income eligibility criteria.

— 5.4 If a person is found to be ineligible:

— A. Through providing false information at the time of interview or recertification, the person shall be terminated immediately.

— B. Through no fault of his/her own, such as income increasing to a level higher than the maximum allowable or inability of the Program Coordinator to find constructive and productive work for the person's

capability, or because of a error on the part of the interviewer, the individual shall be given 30 days notice before termination in writing. To the extent possible, such individuals shall also be provided assistance to obtain other employment.

— C. Persons found ineligible shall be informed of their appeal rights in accordance with the local subproject sponsor grievance procedures. If they are enrolled at the time of determination, a termination form must be completed and inserted in their file.

— Subproject sponsors shall not impose any additional condition or requirement for enrollment eligibility. Also, all intake information should be obtained by personal interviews and verified by the dated signature of the interviewer and the applicant.

#### **R510-107-6. Selection/Enrollment Priorities.**

— In selecting individuals from the eligible applicants for actual enrollment to fill available vacancies, the subproject sponsor shall apply the following priorities:

— A. First priority: Subproject sponsors that have temporary enrollees shall give them first consideration for permanent enrollment.

— B. Second priority: shall be given to those individuals who are 60 years of age or older.

— C. Third priority: shall be given to individuals who are applying for reenrollment whose termination was due to extended illness or placement into unsubsidized employment.

— D. Fourth priority: shall be given to the remaining applicants according to economic need.

#### **R510-107-7. Physical Examinations.**

— 7.1 The physical exam is a benefit of the program, not an eligibility requirement.

— 7.2 Subproject sponsors shall insure that each enrollee receives a physical examination or signs a written waiver of the exam prior to enrollment on the program. No applicant shall be paid wages for any activity prior to receiving a physical exam or signing a waiver.

— 7.3 The purpose of the examination is to determine the type of work the individual can do. The physical may be received up to 30 days prior to application for participation in the program. Physical received prior to application shall not be paid for with program funds. If the subproject sponsor is unable to find or to develop an employment opportunity for the person within his/her physical capability, the individual shall be informed and a written and signed statement detailing the situation shall be completed by the subproject sponsor and attached to the intake form. The applicant adversely affected shall be informed and assisted to exercise all of his /her due process appeal rights.

— 7.4 Each temporary and permanent enrollee shall be provided with a physical examination at least once every 12 months to determine his/her capability to continue in his/her current job assignment unless the individual voluntarily declines to take the physical and signs a waiver to that effect.

— 7.5 Subproject sponsors shall make all efforts to obtain physical examinations at reduced rate or at no cost from local health departments, clinics, hospitals or other sources. Where no other sources exist, the physical examinations will be paid for from program funds. The cost allowed for physical examinations shall be in accordance with prevailing local rates. Except for physicals received prior to application, the applicant/enrollee may not be required to pay for the physical examination themselves.

— 7.6 All physical examinations must be completed by the examining physician and a copy of all exams and waivers must be retained by the subproject sponsor and placed in the enrollee's

personnel file. The original of the exam form or waiver is to be maintained within the enrollee's personnel file for documentation and accountability purposes.

**R510-107-8. Waiting List.**

8.1 If applications are received when all slots are filled, the subproject sponsor shall retain the intake form for review when vacancies exist.

**R510-107-9. Types of Appointment.**

9.1 Permanent enrollees shall be all those enrollees enrolled up to the number of authorized slots as designated in the contract.

9.2 Temporary enrollees shall be all those enrollees over the number of authorized slots.

**R510-107-10. Orientation.**

10.1 Each enrollee who is accepted for enrollment will receive orientation training as soon as practical prior to or after actually starting work at a host agency. Such orientation is designed to inform the enrollee of the purpose and goals of the program, to explain the benefits and services available, to discuss job placement goals, and to explain the participants' rights and responsibilities as an enrollee of the program. Topics to be discussed shall include, but not necessarily be limited to:

- A. Hours of work.
- B. Safe working habits.
- C. Fringe benefits.
- D. Host agency philosophy.
- E. Unsubsidized placement policy.
- F. Enrollee responsibilities.
- G. State agency responsibility.
- H. Host agency responsibility.
- I. Grievance procedures.
- J. Supportive services.
- K. Code of conduct and ethics.
- L. Standards of performance.

10.2 Time spent by enrollees in orientation and pre-job training shall be considered as enrollment for which they shall receive pay.

**R510-107-11. Enrollee Policy.**

11.1 Enrollee wages: Enrollees are to be provided an hourly amount that correspond to the highest of:

- A. The federal minimum wage.
- B. The state minimum wage.
- C. The prevailing local wage for the type of work the enrollee is engaged in, if funding is available.

11.2 Hours of work:

A. Enrollees are not to be paid for more than 1300 hours during a twelve month period. This includes pay from the program for any purpose such as: orientation, training, sick leave, annual leave, holiday pay, etc. If an enrollee is transferred from another Title V SCSEP sponsor, the hours worked for the previous sponsor shall be carried over and counted toward the enrollee's 1300 hour limit for the current year.

B. A work schedule shall be established for each enrollee and maintained on file at the local project site office. Project sponsors shall attempt to ensure that enrollees work during normal business hours.

C. A project sponsor shall not offer an enrollee an average of fewer than 20 hours of paid participation per week; however, shorter periods may be authorized by written agreement between an enrollee and a project sponsor.

D. A subproject sponsor shall not require an enrollee to participate more than 20 hours during one week.

11.3 Duration of enrollment: There shall be no time limited placed on any permanent enrollee's participation in the program. Time limits may be placed on the participation of a temporary enrollee. However, such limitations are to be made a part of the enrollee's official file at the time of employment.

11.4 Enrollee fringe benefits: Project sponsors shall ensure that enrollees receive all Fringe Benefits required by law.

A. Fringe Benefits shall be administered uniformly to all permanent and temporary enrollees. All enrollees must be provided with the following:

- 1. Worker's compensation.
- 2. F.I.C.A. tax payments.
- 3. Unemployment Insurance.

B. Additional fringe benefits may be provided for enrollees in accordance with the practice of the subproject sponsor for its own employees:

- 1. Annual leave.
- 2. Sick Leave.
- 3. Holiday pay.

11.5 Enrollee transportation.

A. Subproject sponsors are authorized to provide payment for transportation only when such travel is performed by the enrollees in the direct performance of their employment related activities. Payment with project funds for travel to and from home and work is to be authorized only in hardship cases as determined by the subproject sponsors:

B. Whenever possible, payment for work related travel shall be obtained from the host agency or other local resources.

C. When transportation is paid with project funds, the travel shall be documented and the records shall include the purpose of the trip(s), odometer reading (if required by the agency policy), and the location(s) travel from and to.

D. Reimbursement for travel shall not exceed the current federal mileage rate for personal automobile usage.

E. Enrollees utilizing their private vehicle in the performance of assigned duties must show proof of liability insurance coverage required by state law.

F. Records containing the name of the insurer, the coverage limits, and the expiration date shall be maintained for all enrollees who receive payment for travel costs.

G. If an enrollee's job requires driving a vehicle owned by the Host Agency, the owner shall assume full responsibility for the liability and injury insurance coverage.

11.6 Host agency selection: SCSEP work sites may be developed with any organization that meets the following criteria:

A. The agency must be either:

1. A public agency — this is any organization or entity that is established by authorization of local, state, or federal statute, law or executive order.

2. A non-profit organization — that has a 501(c)3 tax exempt status from the Internal Revenue Service.

B. The activity the enrollees are involved in must be open to the general public without regard to language, race, religion, political or handicapped status.

C. Each Host Agency shall be provided with information concerning the SCSEP program that includes the following:

- 1. The kind of supervision expected from the agency.
- 2. The responsibility the agency has to assist the enrollee to obtain unsubsidized employment.

— 3. The in-kind (non-federal contribution) requirements (if applicable).

— 4. The responsibility of the agency to provide a safe working environment.

— 5. Department of Labor's enrollee policies relating to hours of work, pay, fringe benefits, accident reporting, performance standards, EEO/Affirmative Action policies, etc.

— 11.7 Subproject sponsors shall have no inherent right to any positions and Utah State Division of Aging and Adult Services reserves the right to reassign enrollees and/or position as the needs of the enrollees, community (equitable distribution), and state of Utah dictate.

— 11.8 Assessment:

— A. After an applicant has been accepted for enrollment the program coordinator shall conduct an assessment of the individual's capabilities and interests to determine a suitable work assignment that will eventually lead to the placement of the enrollee into unsubsidized employment. In making the assessment, the following items shall be taken into consideration:

— 1. The information provided on:

- a. the intake form;
- b. the physical examination;
- c. the self-evaluation form;
- d. the employability plan.

— 2. The individual's interests and job preferences.

— 3. The person's work history.

— 4. The geographical location the enrollee can reasonably commute to.

— B. The assessment must be documented and recorded in the enrollee's file.

— 11.9 Pre-placement training

— A. When it is necessary to prepare the enrollee for an assignment, pre-placement training may be provided by the program coordinator. Such training may be conducted in any manner that is appropriate to the enrollee's needs, and although the training may be paid for with grant funds, the program coordinator should make all possible attempts to obtain the training at no cost or reduce cost through local resources.

— B. Time spent by enrollees in training shall be considered enrollment and the enrollees shall be paid at the state or federal minimum wage whichever is highest or the prevailing rate of the job position.

— C. Pre-placement training and orientation combined shall not exceed a total of 80 hours per individual enrollee and should be conducted in the first 2 weeks unless extended periods are authorized by the State Office.

— 11.10 Enrollee work assignment

— A. As soon as possible after enrollment, orientation, assessment and pre-placement training, each enrollee shall be placed in a community service placement. This job shall be developed in consultation with a Host Agency and shall meet the following criteria:

— 1. Must contribute to the improvement and general welfare of the community.

— 2. Must result in an increase in employment opportunities over those which would otherwise be available.

— 3. Must not result in the displacement of currently employed enrollees or fill positions of persons on layoff, including partial displacement such as a reduction in hours of non-overtime work, wages or employment benefits.

— 4. Shall not impair existing contracts for service or result in the substitution of federal funds for other funds in connection with work that would otherwise be performed.

— 5. Shall not substitute project jobs for existing federally assisted

jobs:

— 6. Shall provide good public recognition for the enrollee's skills and abilities.

— 7. Shall serve as many people as possible.

— 8. Shall provide opportunities for learning new skills.

— 9. Shall have a positive impact on community self image.

— 10. Shall create new community services or expand existing services.

— 11. Shall provide an opportunity for unsubsidized placement after a reasonable amount of time.

— 11.11 Special limitations which apply to all SCSEP work assignments

— A. Enrollees shall not be assigned to projects involved in the construction and building of highways and other projects which inures primarily to the benefit of private profit making organizations.

— B. Enrollees shall not be involved in projects connected with construction, repair, painting, rehabilitation, operation or maintenance of any facility used, or to be used as, a place of sectarian religious worship or instruction.

— C. No project or activity in SCSEP shall involve partisan political activities, and enrollees, project employees, or funds shall not be used for any activities under this section.

— D. No SCSEP funds shall be expended directly or indirectly for the purchase, erection or repair of any building except for:

— 1. Minor remodeling of a public building necessary to make it suitable for use by project administrators.

— 2. Minor repair and rehabilitation of private residences performed in conjunction with local public housing programs intended to benefit low-income families or individuals.

— 3. Minor repair and rehabilitation of publicly used facilities performed to beautify, improve, or restore the facilities for the general betterment of the community.

— 11.12 Monitoring and supervision

— A. Subproject sponsor shall provide all administrative supervision functions which includes:

— 1. Hiring.

— 2. Disciplinary action.

— 3. Setting wages.

— 4. Fringe benefit policies.

— B. Host agencies shall be required to provide the supervision necessary for safe, productive and effective work.

— C. To ensure that the program objectives are being met, the subproject sponsor shall monitor each project on-site at least once a quarter.

— 11.13 Safety

— A. No enrollee shall be permitted to work in building or surroundings under working conditions which are unsanitary, hazardous or dangerous to his/her health or safety or which are contrary to federal and state occupational health and safety administration laws and regulations.

— B. No enrollee shall be permitted to continue or begin work on premises that have been restricted under official occupational safety and health regulations and/or under regulation promulgated under the Clean Water Acts and the Consumer Production Program. This point shall be agreed to with any prospective host agency prior to assignment of enrollees to a work site.

— 11.14 Enrollee training

— A. Training shall be provided to enrollees during their enrollment on the program to develop self confidence, to teach new job skills, to update old skills and to motivate enrollees to seek and obtain employment in the regular competitive job market.

— B. Subproject sponsors shall, whenever possible, obtain training services through locally available resources at no cost or reduced cost to the program.

— C. Time spent by enrollees in training shall be considered a part of the enrollment time, and the individual shall be paid at his/her established rate of pay. Such payment for participation in training shall not exceed 260 hours during a program year.

— 11.15 Unsubsidized placement

— A. Subproject sponsors are required to place 20% of their allotted slots into unsubsidized employment each grant year.

— B. Unsubsidized employment may be with either public or private employers, and includes any job that is not directly subsidized by a federal employment program such as JTPA, etc.

— C. All orientation, work experience, training, counseling, etc., given to enrollees during their participation in the program should be aimed at achieving the final goal of unsubsidized employment. Subproject sponsors are encouraged to engage in a wide spectrum of activities designed to achieve the transition of enrollees to unsubsidized employment.

— D. After an enrollee is placed into an unsubsidized job, subproject sponsors shall follow up on the progress of the individual in their new job sometime between 30 and 90 days after termination from the program. If the enrollee is unable to continue in the job, he/she is eligible to return to SCSEP employment on a priority basis.

— E. All unsubsidized placements shall be documented on the termination form and subproject sponsors shall maintain records of the follow ups completed for placed enrollees.

— 11.16 Supportive services

— A. When needed by an enrollee for successful participation in the program, supportive services may be provided by the subproject sponsors. Such services may be paid for with the project funds if other resources are not available. Supportive services for enrollees may include but are not limited to:

— 1. Referral to appropriate public agencies to address problems of the enrollee or her/his family;

— 2. Incidental needs for the job assignment such as safety clothing, work clothing, eyeglasses, etc.

— 3. Preparation of resumes for job search activities.

— 4. Transportation to service agencies.

— 11.17 Termination procedures

— A. The participation of an enrollee in the program may be terminated for the following reasons:

— 1. Placement into employment;

— 2. Voluntary resignation by the enrollee;

— 3. Failure to continue to meet the eligibility requirements;

— 4. Extended illness;

— 5. Transfer to another SCSEP project; and,

— 6. Misconduct which may include any of the following but is not limited to:

— a. gross negligence, physical violence, and other disorderly or disgraceful conduct;

— b. theft and/or fraud;

— c. repeated and unjustifiable tardiness and absenteeism;

— d. misuse of annual or sick leave;

— e. giving false statements on application or recertification forms;

— f. falsifying reports, e.g. time sheets, travel vouchers, etc.;

— g. violation of safety rules;

— h. ineffectiveness, demonstrated inability or incompetence to carry out duties of assigned job;

— i. refusal to obey legitimate instructions of a supervisor;

— j. reporting to work under the influence of intoxicating beverages or habit forming drugs or the use of such on the work site;

— k. sleeping during working hours; and,

— l. refusal to attend an unsubsidized job interview without just cause.

— B. In cases where an enrollee is terminated because of misconduct, the subproject sponsor must inform the enrollee of his/her right to file a grievance. Use the due process procedures spelled out in your local agency. Whenever an enrollee is terminated for any reason, a termination notice must be completed and maintained in the enrollee file for state review.

**R510-107-12. Program Files.**

— A. Each enrollee shall have an individual personnel file which shall contain the following information:

— 1. Intake form.

— 2. Documentation of eligibility.

— 3. Physical examinations and/or waivers.

— 4. Assessment/employability forms.

— 5. W 4 forms.

— 6. Recertification forms.

— 7. Job descriptions.

— 8. Termination documents.

— 9. Correspondence and other documents pertaining to the individual enrollee.

— 10. Certification of income.

— 11. Staff Training Record.

— 12. Leave Records.

— 13. Sign time and attendance reports.

— 14. Title V Statement of Understanding—signed or temporary enrollment agreement (when applicable).

— B. Subproject sponsors files, which shall contain:

— 1. Subproject sponsor and host agency agreements.

— 2. Documentation of 501(c)3 tax status if appropriate.

— 3. Copies of monitoring reports related to the agency.

— C. Other documents, correspondence, and material, such as monitoring reports pertaining to program operations.

— D. The program files are to be retained five years after an enrollee or host agency has been terminated from the program.

**R510-107-13. Quarterly Progress Report.**

— 13.1 Subproject sponsors must submit a "Quarterly Progress Report" to the state agency office at the end of each quarter of the calendar year.

— 13.2 The Quarterly Progress Report is due to the state agency office by the 15th working day after the end of the quarter.

**R510-107-14. Private Sector Experimental Demonstration Project.**

— 14.1 Under the Private Sector Experimental Demonstration Project, the subproject sponsor can develop on-the-job training arrangements with businesses in the private sector. The basic purpose of the project is to provide an opportunity for older workers to enter the private job market on a trial basis and demonstrate their value to employers.

— 14.2 The employer must operate a business in the private sector and must have an actual job opening to place the older worker in if the trial period is successful. A written agreement must be made between the subproject sponsor and the employer before any enrollee is assigned to work at the business. Priority will be placed with small and minority owned businesses.

—14.3 The work can be for any number of hours per week, up to 40 hours; it can be for a period of up to 6 weeks. During the project period, the subproject sponsor will pay wages and benefits as specified in the agreement.

—14.4 It is expected that if the older worker completes the trial period agreement without problems being expressed by the employer, the employer will offer the position to the enrollee on a permanent basis. If it becomes obvious to the employer during the trial period that the enrollee will not be able to satisfactorily perform the job, the subproject sponsor will either provide additional enrollees for the employer to choose from or if the employer so desires, the subproject sponsor will simply cancel the agreement.

—14.5 Upon cancellation of the agreement at anytime, there will be no obligation to the employer except that the subproject sponsor shall not place additional positions with the employer.

—14.6 All enrollees placed in the demonstration program must meet all the eligibility requirements for Title V. An enrollee already on the program can be transferred to the position with no additional paperwork except that the agreement and notification is placed in the enrollee file for documentation purposes acknowledging job change assignment.

**~~R510-107-15. Non-Federal and State Status of Enrollees.~~**

—15.1 Enrollees who are employed in any project funded under the Older Americans Act are not federal or state employees as a result of such employment.

**~~R510-107-16. Temporary Positions.~~**

—16.1 Where a portion of project funds is not being used as planned in the contract agreement, the project sponsor may use those funds during the period of the agreement to enroll additional eligible individuals in temporary positions. The number of temporary positions may not exceed 20 percent of the total number of authorized positions established under the agreement without the written approval of the Department of Labor. Payments to or on behalf of enrollees in temporary positions shall not exceed the amount of the unused funds available. Each individual enrolled in a temporary position shall be informed in writing that the employment is of a temporary nature and may be terminated. Project sponsors first shall seek to maintain full enrollment in authorized positions and shall seek to schedule all enrollments and terminations to avoid excessive terminations at the end of the project period.

**~~R510-107-17. Maintenance of Effort.~~**

—17.1 Employment of enrollees funded under the Older Americans Act (Act) shall be only in addition to employment which would otherwise be funded by the subproject sponsor, and the host agencies without assistance under the Act.

—17.2 Projects funded under the Act:

—A. Shall result in an increase in employment opportunities in addition to those which would otherwise be available;

—B. Shall not result in the displacement of currently employed workers, including partial displacement such as a reduction in hours of non-overtime work, wages, or employment benefits;

—C. Shall not impair existing contracts for service or result in the substitution of federal funds for other funds in connection with work that would otherwise be performed;

—D. Shall not substitute project jobs for existing federally assisted jobs; and

—E. Shall not employ or continue to employ any enrollee to perform work which is the same or substantially the same as that performed by any other person who is on layoff.]

**R510-107-2. Program Standards and Procedures.**

(1) The Division's standards and procedures for this program are incorporated by reference to be 20 CFR Part 641 as published April 9, 2004.

**KEY: elderly, employment**

**[1988]2004**

**Notice of Continuation November 1, 2002**

**62A-3-104**



**Human Services, Mental Health  
R523-1-22  
Rural Mental Health Therapist  
Scholarship and Grants**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 27257

FILED: 06/30/2004, 10:26

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 62A-13-105 requires that the Division of Substance Abuse and Mental Health establish rules for the administration of the Rural Mental Health Therapist Grant and Scholarships.

SUMMARY OF THE RULE OR CHANGE: The proposed section establishes an application process, eligibility and selection criteria, and educational requirements to receive funding from the Rural Mental Health Scholarship and Grant Act, Title 62A, Chapter 13. It also, establishes the eligibility requirements to determine underserved rural areas, which recipients may fulfill their service obligations as required by Subsection 62A-13-105(2).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 62A-13-105(2)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: none

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Funds for the Mental Health Scholarship Grant Act is funded through a separate line item appropriation and funding is based on that budget per Section 62A-13-109, so no new cost to the state budget is anticipated.

❖ LOCAL GOVERNMENTS: Some rural local mental health authorities may benefit by gaining a mental health therapist through this program. They still would be required to pay the salary if they decided to hire that therapist. But the benefit

would be in helping to recruit mental health professionals in areas that traditionally have had a difficult time recruiting therapists. The actual dollar benefits are not possible to calculate.

❖ OTHER PERSONS: People who are either licensed mental health professionals or those who are working toward a degree as a licensed mental health professional could benefit up to a total of \$5,000 to help defray the educational costs toward that degree under this program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There would be no compliance costs if the person fulfills the terms of the contract, if they do not complete the required service obligation, then they would be subject to the re-payment and or penalty listed under Section 62A-13-108.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Local Authorities in some areas of the State contract with private not-for-profit entities to provide mental health services for residents in their catchment area, some of those entities in rural areas may gain an employee who would work at their center through the scholarship or grant program. They would still be required to pay the salary and so the benefit would be in helping to recruit mental health professionals in areas that traditionally have had a difficult time recruiting those employees. The actual dollar benefits are not possible to calculate.

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

HUMAN SERVICES  
MENTAL HEALTH  
120 N 200 W 4TH FL  
SALT LAKE CITY UT 84103-1500, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Janina Chilton at the above address, by phone at 801-538-4072, by FAX at 801-538-3993, or by Internet E-mail at jchilton@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 08/16/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 08/17/2004

AUTHORIZED BY: Robin Arnold-Williams, Executive Director

### **R523. Human Services, Mental Health.**

#### **R523-1. The Division of Substance Abuse and Mental Health Procedures.**

#### **R523-1-22. Rural Mental Health Scholarship and Grants.**

The State Division of Substance Abuse and Mental Health hereby establish by rule an eligibility criteria and application process for the recipients of rural mental health scholarship funds, pursuant to the requirements of Section 62A-15-103.

(1) Eligibility criteria. The following criteria must be met by an applicant to qualify for this program.

(a) An applicant must be a current employee at an eligible Employment Site or have a firm commitment from an Eligible Employment Site for full time employment. Any sites that provide questionable or controversial mental health and/or substance abuse treatment methodologies will not be approved as eligible employment sites. Eligible Employment sites must be one of the following:

(i) Primary Employment Sites are community mental health centers and/or substance abuse providers that receive federal funds through a contract with the Division to provide mental health or substance treatment services.

(ii) Secondary Employment Sites are mental health or substance abuse providers that are licensed to provide mental health/substance treatment services by the Utah Division of Occupational and Professional Licensing, and serve more than 75% of Utah residents in their programs.

(b) An applicant must also agree to work in a designated eligible underserved rural area. Underserved rural areas must be classified as a Health Professional Shortage Areas (HPSA). The State Division of Substance Abuse and Mental Health can be contacted for a current list of HPSA sites.

(c) For Scholarship Grants: show registration in a course leading to a degree from a educational institution in the United States or Canada that will qualify them to receive licensure in Utah as a Mental Health Therapist s defined in Section 62A-13-102(4).

(d) For Loan Repayment Grants: show the amount of loans needing repayment, verify that the loans are all current, licensure as a Mental Health Therapist as defined in Section 62A-13-102(4).

(2) Grants. Two types of grants are available to eligible applicants.

(a) A loan Repayment Grant is to repay bona fide loans for educational expenses at an institution that provided training toward an applicant's degree, or to pay for the completion of specified additional course work that meets the educational requirements necessary for licensure as a Mental Health Therapist.

(b) A Scholarship is to pay for current educational expenses from an Educational Program that meets the educational requirements necessary for licensure as a Mental Health Therapist, at a school within the United States.

(3) Funding. Grants for applicants will be based upon the availability of funding the matching of community needs (i.e., how critical the shortage of Mental Health Therapists), the applicant's field of practice, and requested employment site. Primary employment sites are given priority over secondary employment sites.

(a) The award for each applicant may not exceed \$5,000 per person. The Division will notify the grantee of the award amount. Exceptions in the amount of the award may be made due to unique circumstances as determined by the Division.

(b) An applicant may receive multiple awards, as long as the total awards do not exceed the recommended amount of \$5,000, unless the Division approves an exception.

(4) Grantee obligation.

(a) The service obligation for applicants consists of 24 continuous months of full time (40) hours per week) employment as a Mental Health Therapist at an approved eligible employment site. The Division may change this service obligation if the Division Director determines that due to unforeseen circumstances, the completion of the obligation would be unfair to the recipient.

(b) Failure to finish the education program or complete the service obligation results in a repayment of grant funds according to Section-62A13-108.

(5) Application forms and instructions for grants or scholarships can be obtained from the Division of Substance Abuse and Mental Health, 120 North 200 West, Room 209, Salt Lake City, Utah. Only complete applications supported by all necessary documents will be considered. All applicants will be notified in writing of application disposition within 60 days. A written appeal may be made to the Division Director within 30 days from the date of notification.

**KEY: bed allocations, due process, prohibited items and devices, fees**

**2004**

**Notice of Continuation December 11, 2002**

**62A-12-102**

**62A-12-104**

**62A-12-209.6(2)**

**62A-12-283.1(3)(a)(i)**

**62A-12-283.1(3)(a)(ii)**

**62A-15-612(2)**



## Public Safety, Driver License **R708-2** Commercial Driver Training Schools

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27246

FILED: 06/23/2004, 09:01

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The 2004 legislature in S.B. 1 changed the licensing fees for Commercial Driver Training Schools. They also changed the age requirement in H.B. 343 for getting an instruction permit. The purpose of this rule is to make changes in the rule to be consistent with the changes made by the legislature, as well as clarifying some of the language in the rule. (DAR NOTES: S.B. 1 is found at UT L 2004 Ch 256, and was effective 07/01/2004. H.B. 343 is found at UT L 2004 Ch 222, and was effective 07/01/2004.)

SUMMARY OF THE RULE OR CHANGE: An original Commercial Driver Training School license fee was increased from \$80 to \$100. The annual fee for renewal of a license increased from \$50 to \$100. The annual fee for a renewal of a branch license increased from \$20 to \$30 and a duplicate license fee increased from \$5 to \$10. The age for issuing instruction permits was also changed from 15 years and 9 months to 15 years and 6 months. The fee increases were necessary to help pay for regulating and administering the Commercial Driver Training School Program. (DAR NOTE: A

corresponding 120-day (emergency) rule is under DAR No. 27245 in this issue, and was effective 07/01/2004.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-3-505

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Any costs or savings in the state budget would have been addressed by the legislature in its discussion of S.B. 1.

❖ LOCAL GOVERNMENTS: No impact--Local government does not regulate or administer the Commercial Driver Training School Program.

❖ OTHER PERSONS: The only cost to Commercial Driver Training Schools will be fee increases for the licenses. An original Commercial Driver Training School license fee was increased from \$80 to \$100. The annual fee for renewal of a license increased from \$50 to \$100. The annual fee for a renewal of a branch license increased from \$20 to \$30 and a duplicate license fee increased from \$5 to \$10.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Individuals who receive services from Commercial Driver Training Schools will not be impacted by these rule change unless the owners decide to pass on their fee increases to their students.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The only fiscal impact on businesses will be the fee increases. An original Commercial Driver Training School license fee was increased from \$80 to \$100. The annual fee for renewal of a license increased from \$50 to \$100. The annual fee for a renewal of a branch license increased from \$20 to \$30 and a duplicate license fee increased from \$5 to \$10.

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

PUBLIC SAFETY  
DRIVER LICENSE  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W 3RD FL  
SALT LAKE CITY UT 84119-5595, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Vinn Roos at the above address, by phone at 801-965-4456, by FAX at 801-964-4482, or by Internet E-mail at [vroos@utah.gov](mailto:vroos@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 08/16/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 08/17/2004

AUTHORIZED BY: Judy Hamaker Mann, Director

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**R708. Public Safety, Driver License.****R708-2. Commercial Driver Training Schools.****R708-2-4. Licensing Requirement for a Commercial Driver Training School.**

(1) Every corporation, partnership or person who owns a commercial driver training school shall obtain a school license from the division. School license applications may be obtained from the Driver License Division at 4501 South 2700 West, Salt Lake City, Utah. Applicants are also responsible for obtaining any business licenses required by the municipality or county in which they are located. School and business licenses must be conspicuously displayed in the licensee's principal place of business and branch offices. Each school shall be inspected by a division representative before it can be licensed.

(2) A license is valid for the calendar year and expires on December 31 of the year issued. The ~~annual~~ fee for an original license is ~~[\$80]~~\$100. The annual fee for a renewal license is ~~[\$50]~~\$100. The annual fee for each branch license is ~~[\$20]~~\$30. Fees shall be payable to the Department of Public Safety. If a license is revoked, or refused issuance or reinstatement, no part of the fee will be refunded.

(3) Licenses are not transferable.

(4) If a license is lost or destroyed, a duplicate will be issued upon payment of a fee of ~~[\$5]~~\$10. A notarized affidavit setting forth the date the license was lost or destroyed and the circumstances of such loss or destruction must be provided.

(5) Whenever any school or branch office is discontinued, the school or branch office license must be surrendered to the division within five days. In such cases, the licensee shall state in writing the reason for such surrender.

(6) Any branch office or classroom facility in a location other than the school's principal place of business shall be separately licensed. A branch office shall meet the same requirements as the school's principal place of business and shall be similarly equipped and perform substantially the same services. Application for a branch office license shall be made on an application form provided by the division. Branch offices shall be inspected by a division representative before they can be licensed.

(7) Each school must employ a licensed operator to operate the school and each branch office before it may become licensed. The current licensed operator must be identified on the application maintained by the division for each school or branch office. It is permissible for a single operator to operate multiple branch offices of the same school. If at any time the operator discontinues employment with the school, a new operator must be employed before continuation of operation of the school, including any branch offices for which the individual has been identified as the operator, may occur.

(a) It is not permissible for an individual to maintain employment with more than one commercial driver training school or testing only school at a time.

(8) Only one school may be operated from a branch office or a classroom facility. It is not permissible for two or more schools owned by separate individuals and owned under different school names to operate from the same facility or office space unless one school has been designated by the division as a testing only school. One commercial driver training school and one testing only school may be operated from the same school or branch office. A clear separation of the schools must be identified, and each school must comply with standards set forth in R708-2.

(9) Each school or classroom facility must be posted with signage that will identify the school by name as the school is listed on the school certification.

**R708-2-5. Licensing Requirement for a Testing Only School.**

(1) Every corporation, partnership or person who owns a testing only school shall obtain a school license from the division. School license applications may be obtained from the Driver License Division at 4501 South 2700 West, Salt Lake City, Utah. Applicants are also responsible for obtaining any business licenses required by the municipality or county in which they are located. School and business licenses must be conspicuously displayed in the licensee's principal place of business and branch offices. Each school shall be inspected by a division representative before it can be licensed.

(2) A license is valid for the calendar year and expires on December 31 of the year issued. The ~~annual~~ fee for an original license is ~~[\$80]~~\$100. The annual fee for a renewal license is ~~[\$50]~~\$100. The annual fee for each branch license is ~~[\$20]~~\$30. Fees shall be payable to the Department of Public Safety. If a license is revoked, or refused issuance or reinstatement, no part of the fee will be refunded.

(3) Licenses are not transferable.

(4) If a license is lost or destroyed, a duplicate will be issued upon payment of a fee of ~~[\$5]~~\$10. A notarized affidavit setting forth the date the license was lost or destroyed and the circumstances of such loss or destruction must be provided.

(5) Whenever any school or branch office is discontinued, the school or branch office license must be surrendered to the division within five days. In such cases, the licensee shall state in writing the reason for such surrender.

(6) Any branch office in a location other than the school's principal place of business shall be separately licensed. A branch office shall meet the same requirements as the school's principal place of business and shall be similarly equipped and perform substantially the same services. Application for a branch office license shall be made on an application form provided by the division. Branch offices shall be inspected by a division representative before they can be licensed.

(7) It is not permissible for an individual to maintain employment with more than one commercial driver training school or testing only school at a time.

(8) Only one school may be operated from a branch office. It is not permissible for two schools owned by separate individuals and owned under different school names to operate from the same facility or office space unless one school has been designated by the division as a testing only school. One commercial driver training school and one testing only school may be operated from the same school or branch office. A clear separation of the schools must be identified, and each school must comply with standards set forth in R708-2.

(9) Each school must be posted with signage that will identify the school by name as the school is listed on the school certification.

(10) It is not required that a testing only school maintain a classroom facility in the school or branch office location. It is required that the testing only school location or branch office have a designated area in which to maintain required files and records.

**R708-2-7. Application Requirements for a Commercial Driver Training School Instructor License.**

(1) Every person who serves as an instructor in a commercial driver training school, including the owner, operator, partner or

corporate officer of the licensee, substitute or part-time instructor, shall obtain an instructor's license from the division. Such license shall be valid only for the specific driver training school listed on the license.

(2) A license is valid for the calendar year and expires on December 31 of the year issued. The [~~annual~~] fee for an original license is [~~\$15~~]\$30. The annual fee for a renewal license is [~~\$10~~]\$20. Fees shall be payable to the Department of Public Safety. If a license is revoked or refused issuance, or refused renewed, no part of the fee will be refunded.

(3) Licenses are not transferable.

(4) If an instructor license is lost or destroyed, a duplicate will be issued upon payment of a fee of [~~\$3~~]\$6. A notarized affidavit setting forth the date the license was lost or destroyed and the circumstances of such loss or destruction must be provided.

#### **R708-2-9. Additional Requirements for Commercial Driver Training School Instructors.**

(1) In addition to obtaining a license, a commercial driver training school instructor must:

(a) have a valid Utah driver license;

(b) be at least twenty one years of age;

(c) have at least three years of driving experience in the United States, Canada, or a country with which the state of Utah has established a license reciprocity agreement;

(d) have a driving record free of conviction for a moving violation or chargeable accident resulting in suspension or revocation of the driver license for the two year period immediately prior to application and during employment and be checked to determine if there is an unsatisfactory driving record in any state;

(e) be in acceptable physical condition as required by Section 10 of this rule;

(f) complete specialized professional preparation in driver safety education consisting of not less than 21 quarter hours, or 14 semester hours of credit as approved by the division. Of the 21 quarter hours or 14 semester hours, one class must be in teaching methodology and another class must include basic driver training instruction or organization and administration of driver training instruction;

(g) pass a written test given by the division. The test may cover commercial driver training school rules, traffic laws, safe driving practices, motor vehicle operation, teaching methods and techniques, statutes pertaining to commercial driver training schools, business ethics, office procedures and record keeping, financial responsibility, no fault insurance, procedures involved in suspension or revocation of an individual's driving privilege, material contained in the "Utah Driver Handbook", and traffic safety education programs;

(h) pass a practical driving test;

(i) pass the same standard eye test that is given to applicants who apply for a Utah operator or commercial driver license; and

(j) submit a fingerprint record for a criminal history record check.

(2) Instructors shall be sponsored by a commercial driver training school which shall be responsible for controlling and supervising the actions of the instructors. No school may knowingly employ any person as an instructor or in any other capacity if such person has been convicted of a felony or any crime involving moral turpitude.

(3) The instructor's license must be in the possession of the instructor at all times while providing behind-the-wheel or classroom instruction.

#### **R708-2-10. Application and Medical Requirements for a Commercial Driver Training School Instructor License.**

(1) Application for an original or renewal instructor's license must be made on forms provided by the division, signed by the applicant in front of a division employee authorized to administer oaths. Applications must be submitted at least 30 days prior to licensing. The original and each yearly renewal application must be accompanied by a medical profile form provided by the division and completed by a health care professional as defined in Subsection 53-3-302(2).

(2) The medical profile form shall indicate any physical or mental impairments which may preclude service as a commercial driver training school instructor. The physical examinations must take place no more than three months prior to application.

(3) The commercial driver training school desiring to employ the applicant as an instructor must sign the application verifying that the applicant will be employed by the school.

(4) When deemed necessary by the division, an applicant seeking to renew an instructor's permit may be required to take a driving skills test.

#### **R708-2-15. Instruction Permits.**

(1) A commercial driver training school must obtain from the division an instruction permit for each student enrolled in the school for the purpose of meeting licensing requirements as set forth in Section 53-3-204 (1). An instruction permit provides proof that the student is enrolled in a driver training course and is licensed to receive behind-the-wheel instruction with a licensed instructor. Instruction permits shall be retained by the instructor and shall be available in the vehicle at all times while the student is driving. Information shall be included on the instruction permit in a manner specified by the division.

(a) It is the responsibility of the school to ensure that the instruction permit application contains the correct name and date of birth of the student, by means of a birth certificate or other official form of identification.

(b) Application for an instruction permit must be typed or printed in ink. Duplicate instruction permits may not be issued unless the student's name and date of birth are the same as those on the original application.

(c) Instruction permits shall not be issued for persons under the age of 15 years and [~~nine~~]six months.

(d) All unused instruction permits issued between January 1 and September 30 of each year shall be returned to the division prior to December 31 of that year. Unused permits issued during October, November, and December shall be submitted with the unused permits of the following year.

(2) Upon completion of the requirements of the driver training course, the commercial driver training school shall release to the student a form consisting of an instruction permit, a certificate of training which must be signed by the student, and a certificate of completion which must be signed by the instructor and the school owner.

(3) The student shall present the certificate of completion to the division when the student makes application for a driver license.

(4) Duplicate certificates of completion may be obtained for \$5.

(5) Following notice of intent to take agency action, suspension of issuance of instruction permits to a school or instructor may occur whenever the division has reason to believe that a school or instructor is in non-compliance with this rule.

(6) After notice of intent to take agency action is sent to a school, and after allowing sufficient time for the school to have received the notice, the division will no longer issue instruction permits to the school.

(7) Suspension of issuance of instruction permits will remain in effect until such times as the school, operator or instructor is in compliance with requirements as stipulated in the notice of intent to take agency action and reinstatement of the school license, instructor license, and /or operator license has occurred. The subject of intended action may request a hearing regarding the agency's intent to take action. If a hearing is requested, suspension of issuance of instruction permits will remain in effect pending the outcome of the hearing.

(8) After a school has received notice from the division of intent for agency action to occur, it is a violation of this rule for the school to allow students to enroll in a driver training course at the school or to accept money from students for whom the school will be unable to obtain an instruction permit or for whom the school will be unable to provide a completion slip if the school license is revoked or refused renewal or reinstatement following a hearing as requested by the school.

(9) In the event that a school license is revoked or refused renewal, all incomplete instruction permits shall be returned to the division.

#### **R708-2-21. Records.**

(1) Every commercial driver training school shall maintain the following records:

(a) A permanent record book, defined as: a permanently bound book, with pages consecutively numbered, setting forth the name, address, date of birth, enrollment date, course type, and completion date of every person receiving lessons, lectures, tutoring, instruction of any kind or any other services relating to instruction in the operation of motor vehicles. The permanent record book must be updated upon both enrollment and course completion of each student. The division must approve the format of the permanent record book.

(b) A student record book, defined as: a book or other record showing the name, date of birth, and course type for each student; and the date, type, exact time of day including a.m. and p.m. for the beginning and ending, ~~and duration~~ of all training administered ~~[lessons, lectures, tutoring, instructions or other services relating to instruction]~~ in the operation of motor vehicles. It will also contain the names of the instructors giving such lessons or instructions and identification of the vehicle in which any behind-the-wheel and/or observation instruction is given. The student record book must be updated within 24 hours of the time that instruction is conducted for each student. The division must approve the format of the student record book.

(c) Computerized files may be substituted for the permanently bound book and student record book if the format to be used has been approved by the division. It is a violation of this rule to maintain computerized files that have not been approved by the division.

(d) Each school shall maintain accurate, up to date records. Failure to do so is a violation of this rule.

(2) The division shall review the records of all schools at least annually and may observe the instruction given both in the classroom and behind the wheel. The division shall have the right to review the operation of the schools whenever the division deems it necessary to insure compliance with this rule.

(3) The loss, mutilation or destruction of any records which a school is required to maintain, must be immediately reported by the school to the division by affidavit stating:

(a) The date such records were lost, mutilated or destroyed; and

(b) The circumstances involving such loss, mutilation or destruction.

(4) All records must be retained by the schools for three years, with the exception of the permanently bound book or computerized file there of, which is to be kept permanently, during which time they shall be subject to inspection by the division during reasonable business hours. In the event that the school closes permanently, the permanent record book will be submitted by the school to the division.

(5) When deemed necessary by the division, the school records will be removed from the school location for the purpose of conducting an audit.

(a) When records are removed from the school location, a receipt will be provided to the school operator which will include the name of the school, location of the school, date of removal of records from the school location, information that specifies all records removed from the school location, the signature of the school operator, and the signature of a division representative.

(b) Upon return of the school records, the receipt will be updated to reflect the date that the records were returned to the school, the signature of the school operator, and the signature of the division designate returning the records.

(c) Records will be held by the division for the minimum amount of time necessary so that an audit can occur without creating an unnecessary hardship or inconvenience to the school.

(d) All records, including computerized records, must be provided to the division when requested for the purpose of an audit or review of the school's records. Failure to provide all records as requested by the division is a violation of this rule. In the event that a hearing occurs subsequent to an audit, records not provided by the school at the time of the audit may not be considered as evidence during the hearing.

**KEY: driver education, schools, rules and procedures  
2004  
Notice of Continuation November 25, 2002  
53-3-505**



Public Safety, Driver License  
**R708-3**  
Driver License Point System  
Administration

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 27251

FILED: 06/29/2004, 10:43

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to bring the Driver License Division in compliance with the changes made in the statute (Section 53-3-109) during the last legislative session (S.B. 168) regarding the Driver License Division Record Reporting period for drug and alcohol related offenses. We also removed language concerning the Utah Safety Council who is no longer a state agency. (DAR NOTE: S.B. 168 is found at UT L 2004 Ch 161, and was effective 05/03/2004.)

SUMMARY OF THE RULE OR CHANGE: The language in Subsection R708-3-4(3) is changed so the division can provide the current and correct information to the public concerning point violations that may go onto their driving record and the length of time it stays on the record. The language that refers to the Utah Safety Council is deleted from the definition of a defensive driving course because they no longer exist. (DAR NOTE: A corresponding 120-day (emergency) rule is found under DAR No. 27142 in the June 1, 2004, issue of the Bulletin, and was effective 05/05/2004.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 53-3-221(4) and 53-3-209(2)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be no cost or savings in the state budget because the changes are procedural.

❖ LOCAL GOVERNMENTS: There are no cost or savings to local government because they are not involved in record keeping or with the defensive driving courses for the Driver License Division.

❖ OTHER PERSONS: There will be no extra cost or savings to the public because these are procedural changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs to the public for changing information on the Driver License Records or removing language concerning the Highway Safety Council because these are procedural changes.

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

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

PUBLIC SAFETY  
DRIVER LICENSE  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W 3RD FL  
SALT LAKE CITY UT 84119-5595, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Vinn Roos at the above address, by phone at 801-965-4456, by FAX at 801-964-4482, or by Internet E-mail at vroos@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 08/16/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 08/17/2004

AUTHORIZED BY: Judy Hamaker Mann, Director

**R708. Public Safety, Driver License.****R708-3. Driver License Point System Administration.****R708-3-1. Purpose.**

The purpose of this rule is to establish procedures for the administration of a point system for drivers age 21 and older as mandated by Subsection 53-3-221(4) and a point system for drivers age 20 and younger as mandated by Subsection 53-3-209(2).

**R708-3-2. Authority.**

This rule is authorized by Subsections 53-3-209(2), 53-3-221(4), and 63-46b-5(1).

**R708-3-3. Definitions.**

(1) "Defensive driving course" means a course sponsored and conducted by a certified designee of ~~the Utah Safety Council or~~ the National Safety Council which allows the division to grant a 50 point reduction from the driving records of drivers who successfully complete the course.

(2) "Division" means the Driver License Division of the Utah Department of Public Safety.

(3) "License" means the privilege to drive a motor vehicle.

(4) "Probation" means a division sanction whereby a driver is permitted to drive by complying with certain terms and conditions established by the division.

(5) "Provisional license" means a driving privilege issued by the division to a person younger than 21 years of age.

**R708-3-4. Point Assignment.**

(1) In compliance with Subsection 53-3-221(4), the division shall determine a number of points to be assigned to each moving traffic violation as a measure of the violation's seriousness.

(2) In compliance with Subsection 53-3-221(4)(c), the driving record of the driver will be assessed 35 points for minimum speeding violations, 55 points for intermediate speeding violations, and 75 points for maximum speeding violations. Since excessive speed has been demonstrated by the National Safety Council and the Department of Public Safety's Utah Traffic Accident Summary to be a leading contributing factor in causing vehicular accidents, the division has determined that the assessing of no points for minimum speeding violations would be detrimental to public safety.

(3) ~~[This rule incorporates by reference "The Code Violation Table", dated February 01, 2001, published by the]~~ The Driver License Division, Utah Department of Public Safety, ~~[which is]~~ shall make available for public review and inspection at the division office, reception desk, 4501 South 2700 West, Salt Lake City, Utah 84130-0560 ~~[This]~~ a ~~[document lists]~~ listing of the number of points

assigned to moving traffic violations and the length of time that the violations remain on the record.

(4) Moving traffic violations which require mandatory sanction by law or rule are assigned 0 points.

#### **R708-3-5. Point Increase or Decrease.**

(1) Total points accumulated will be increased or decreased by the following means:

(a) a 10% increase or decrease in points assigned to any moving violation, except speed violations in accordance with Subsection 53-3-221(4)(b);

(b) a 50 point decrease once in a three year period after successfully completing a defensive driving course as defined in this rule;

(c) a 50% point decrease after one year of violation free driving in accordance with Subsection 53-3-221(4)(d); and

(d) a 100% point decrease after two years of violation free driving in accordance with Subsection 53-3-221(4)(d).

(2) The assigned points for any moving traffic violation will be dropped three years after the violation occurred in accordance with Subsection 53-3-221(4)(d).

(3) The point total after a sanction for drivers under age 21 will decrease to 35 points except when the point total is already below 35.

(4) The point total after a sanction for drivers age 21 and older will decrease to 125 points except when the point total is already below 125 in accordance with this rule.

#### **R708-3-6. Point System Thresholds for Drivers Age 21 and Older.**

(1) Upon receiving notice of a court conviction of a moving traffic violation, the division will post the violation to the driving record of the individual convicted, along with the points assigned to the violation, as designated in the code violation table.

(2) The division will use the following point thresholds to determine the severity of the sanction to be levied against the driver:

(a) 150 to 199 points: driver is sent a warning letter;

(b) 200 points: driver must appear for a hearing;

(c) 200 to 299 points: driver may be placed on probation or suspended for three months;

(d) 300 to 399 points: driver is suspended for 3 months;

(e) 400 to 599 points: driver is suspended for 6 months; and

(f) 600 or more points: driver is suspended for 1 year.

(3) A driver who is within a designated threshold may be considered for action at a lower threshold if completion of the defensive driving course has lowered the point total to that lower threshold.

(4) The suspension time is doubled, up to a maximum of one year, for a second or subsequent suspension within a three year period.

#### **R708-3-7. Separate Point System for Provisional Licensed Drivers.**

(1) In compliance with Subsection 53-3-209(2), a separate point system is established to facilitate behavioral influence upon drivers age 20 and younger. The point thresholds are designed to take remedial action earlier than is provided for drivers who are age 21 and older.

(2) In compliance with Subsection 53-3-209(2), and in conjunction with the consideration of point totals, the division may

counsel a driver with regards to the development of safe driving attitudes, habits, and skills.

#### **R708-3-8. Point System Thresholds for Provisional Licensed Drivers.**

(1) Upon receiving notice of a court conviction of a moving traffic violation, the division will post the violation to the driving record of the individual convicted, along with the points assigned to the violation, as designated in the code violation table.

(2) The division will use the following point thresholds to determine the severity of the sanction to be levied against the driver:

(a) 35 to 69 points: driver is sent a warning letter;

(b) 70 points: driver must appear for a hearing;

(c) 70 to 139 points: driver may be placed on probation or denied for 30 days;

(d) 140 to 199 points, or violation of probation for the first time in a three year period: driver may be denied for 30 days;

(e) 140 to 199 points for a second time in a three year period or a second probation violation in a three year period: driver may be denied for 60 days;

(f) 140 to 199 points for a third time in a three year period or a third probation violation in a three year period: driver may be suspended for 90 days;

(g) 200 to 249 points: driver is suspended for 60 days;

(h) 250 to 349 points: driver is suspended for 90 days;

(i) 350 to 449 points: driver is suspended for 6 months; and

(j) 450 or more: driver is suspended for 1 year.

(3) A driver who is within a designated threshold may be considered for action at a lower threshold if completion of the defensive driving course has lowered the point total to that lower threshold.

(4) In accordance with Subsection 53-3-209(2)(b)(iii), the first two sanctions within a three year period will deny a driving privilege unless the point total is 200 or more. A third or additional sanction within a three year period will result in a suspension at the next highest threshold, which doubles in length for each succeeding sanction within the three year period up to a maximum of one year.

#### **R708-3-9. Hearing.**

Drivers who are sanctioned under the provisions of this point system rule are entitled to a hearing in accordance with Subsection 53-3-221(5)(a)(i) and R708-35.

#### **KEY: traffic violations, point-system**

~~[March 6, 2004]~~2004

Notice of Continuation July 25, 2002

53-3-209(2)

53-3-221(4)



Tax Commission, Auditing

**R865-13G-10**

Exemption for Collective Purchase of  
Motor Fuels by State and Local  
Government Agencies Pursuant to Utah  
Code Ann. Section 59-13-201

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 27269

FILED: 07/01/2004, 16:16

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: S.B. 133 (2004) amended Section 59-13-201 to repeal the requirement that in order to qualify for the fuel tax exemption, a government agency must purchase fuel in a quantity of 750 gallons or more. All government purchases of fuel, regardless of the quantity of fuel purchased, now qualify for the exemption. (DAR NOTE: S.B. 133 is found at UT L 2004 Ch 237, and was effective 05/03/2004.)

SUMMARY OF THE RULE OR CHANGE: The proposed amendment deletes language referring to the 750-gallon purchase requirement for government agencies to purchase fuel tax exempt (since that requirement is no longer in statute); and indicates that the exemption shall be administered in the form of a refund if the government agency purchases the fuel after the fuel tax has been paid.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-13-201

## ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Insignificant decrease--Prior to the passage of S.B. 133, a government entity that purchased less than 750 gallons of fuel for its bulk tanks was required to pay fuel tax on that purchase. The law then allowed the government entity to apply for a refund of the fuel taxes paid. Accordingly, the state had the use of the money until the entity applied for the refund. Under the new law, the government entity no longer has to pay the fuel tax and then apply for the refund. Thus, the state will no longer have the use of the entity's funds for the period between the time the entity pays the fuel taxes and the time the entity receives its refund for fuel taxes paid.

❖ LOCAL GOVERNMENTS: None--Fuel taxes are state taxes and do not apply to local government.

❖ OTHER PERSONS: Insignificant increase--A government entity will no longer be required to remit fuel tax on bulk purchases of less than 750 gallons and then apply for a refund of those taxes. Thus, a government entity will not lose the use of the monies while it waits for the refund of the fuel taxes paid.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--A government entity that purchases fuel for its bulk tanks will no longer be required to pay fuel tax on a purchase of less than 750 gallons, and then apply for a refund of the fuel taxes paid.

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

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 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 08/16/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 08/17/2004

AUTHORIZED BY: Pam Hendrickson, Commissioner

**R865. Tax Commission, Auditing.****R865-13G. Motor Fuel Tax.****R865-13G-10. Exemption For ~~Collective~~ Purchase of Motor Fuels by State and Local Government Agencies Pursuant to Utah Code Ann. Section 59-13-201.****[A. Definitions:**

1. "Sale" means the passing of title from the seller to the buyer for a price (see Utah Code Ann. Section 70A-2-106(1)).

2. "Delivery" means the physical transfer of the goods from seller to buyer, directly or through a carrier. Tender of delivery requires that the seller put and hold conforming goods at the buyer's disposition and give the buyer any notification reasonably necessary to enable him to take delivery (see Utah Code Ann. Section 70A-2-503(1)).

B. In order for collective purchases to qualify for the 750 gallon exemption, transactions must comply with the conditions of at least one of the four cases below:

1. Multiple government agencies exclusively sharing a tank, which is leased or owned by one or more of those agencies, may be classified as exempt if one of the following conditions are met:

a. If title to the fuel passes as it enters the tank, then any deliveries into the tank of 750 gallons or more billed to a single government agency will qualify for exemption.

b. If title to the fuel passes as it leaves the tank, then the provisions of B.2. must be met for the exemption to apply.

2. Purchases by a government agency from an automated metering system activated by a card or key qualify for exemption if the purchases are billed in quantities of 750 gallons or more and the time period over which the purchases were made is stated on the invoice. The government agency must have control of, rights to, and be the only agency billed for all fuel metered on each card or key assigned to it in order for the arrangement to be tax exempt.

3. Deliveries to more than one bulk storage facility owned or leased by a government agency qualify for exemption if the total amount of fuel delivered within 48 hours is 750 gallons or more. The location, amount, and date of each delivery must be shown on the invoice. As an example, 500 gallons may be delivered to a school district's shop, and another 500 gallons to its bulk storage facility out of town. The total 1000 gallons is exempt from taxation if the deliveries are made within 48 hours of each other and are billed as a single sale.

4. Bulk deliveries made from a truck with a delivery capacity of less than 750 gallons can qualify for the exemption if the total fuel delivered by the truck to the governmental agency within 48 hours is

~~750 or more gallons, regardless of the number of trips taken to deliver the fuel. The invoice must indicate the number and date of deliveries.~~

~~C.]A. Sales to an Indian tribe for its exclusive use, acting in its tribal capacity, are exempt from taxation [if the requirements of this rule are met]. Sales to individual tribal members, to Indian businesses operating on or off tribal territory, or to other nontribal organizations for personal use, retail sales purposes, or distribution to third parties do not qualify for the exemption for sales to Indian tribes.~~

~~[D.]B. Licensed distributors may claim the exemption on [qualifying] sales to government agencies by taking the deduction on their motor fuel tax return for the month in which the sales occurred. [In the case of qualifying collective purchases which span more than one month, the deduction is claimed in the month in which the sale is invoiced.]~~

1. Nonlicensed distributors making qualifying sales to government agencies must obtain credit for the exemption through the return of the licensed distributor supplying them with the fuel for the sales.

2. Each sale claimed as a deduction must be supported with a copy of the sales invoice attached to the return. The sales invoice must be in proper form and must contain sufficient information to substantiate the exemption status of the sale according to this rule.

C. The fuel tax exemption for motor fuel sold to the United States, this state, or a political subdivision of this state shall be administered in the form of a refund if the government entity purchases the motor fuel after the tax imposed by Title 59, Chapter 13, Part 2 was paid. For refund procedures, see rule R865-13G-13.

**KEY: taxation, motor fuel, gasoline, environment  
2004**

**Notice of Continuation April 3, 2002  
59-13-201**

▼ ————— ▼

## Workforce Services, Workforce Information and Payment Services **R994-404-101** Payments Following Workers' Compensation

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE NO.: 27253  
FILED: 06/29/2004, 16:16

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed change brings the rule into compliance with state statute.

SUMMARY OF THE RULE OR CHANGE: Subsection 35A-4-404(1) states that a claimant who has been on workers' compensation for a "continuous period" can use an alternative base period when subsequently claiming for unemployment. In an amendment to this rule effective 04/04/2004, the Department intended to define "continuous period" and made

other changes to the rule at the same time. It was later discovered that the other changes deprived claimants of this alternative base period provided in the statute. This change is made to correct the filing that was effective 04/04/2004, and bring it into compliance with the statute. (DAR NOTE: The previous filing on Rule R994-404 was a repeal and reenact and is found under DAR No. 26930, and was published in the February 15, 2004, Bulletin.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-4-404

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There will be no costs or savings to the State budget because this is a federally-funded program. This rule change is only being made to bring the rule back into compliance with the statute after a mistake made in a change to this same rule which became effective 04/04/2004.
- ❖ LOCAL GOVERNMENTS: In addition to the reasons stated above in relation to the State budget, there will be no costs or savings to local government as this is a federally-funded, state-wide program that does not affect local government.
- ❖ OTHER PERSONS: There will be no cost or savings to any person for the reasons stated above in relation to the State budget.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance costs to any person for the reasons stated above in relation to the State budget.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change will have no fiscal impact on any business in Utah as it merely codifies the provisions of the statute.

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

WORKFORCE SERVICES  
WORKFORCE INFORMATION  
AND PAYMENT SERVICES  
140 E 300 S  
SALT LAKE CITY UT 84111-2333, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/16/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 08/17/2004

AUTHORIZED BY: Raylene G. Ireland, Executive Director

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**R994. Workforce Services, Workforce Information and Payment Services.****R994-404. Payments Following Workers' Compensation.****R994-404-101. Claimants Who Qualify for an Adjustment to the Base Period.**

(1) A claimant who ~~[does not have sufficient qualifying wages in the base period because he or she]~~ was off work due to a work related illness or injury may qualify for an adjusted base period if all of the following elements are satisfied:

(a) the claimant must have been off work for at least seven weeks during the normal base period due to a work related illness or injury. The weeks need not be consecutive;

(b) the claimant must have received temporary total disability (TTD) compensation for the illness or injury under the workers' compensation or occupational disease laws of this state or under federal law;

(c) the initial claim for unemployment insurance benefits must have been filed no later than 90 calendar days after the claimant was released by his or her health care provider to return to full-time work. This does not include release to limited or light duty work.

The effective date of the eligible claim must be within the 90 days regardless of the date on which the claimant contacts the Department to file a claim. For example, if the 90th day falls on Wednesday and the claimant files a claim on Thursday, the effective date of the claim would be Sunday of that calendar week and would fall within the 90 day time limitation;

(d) the initial claim for unemployment insurance benefits must have been filed within 36 months of the week the covered injury or illness occurred.

(2) Wages previously used to establish a benefit year cannot be re-used.

**KEY: unemployment compensation, workers' compensation 2004**

**Notice of Continuation May 23, 2002**

**35A-4-404**



**End of the Notices of Proposed Rules Section**

## NOTICES OF CHANGES IN PROPOSED RULES

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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 (· · · · ·) indicates that unaffected text 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 16, 2004. At its option, the agency may hold public hearings.

From the end of the waiting period through November 12, 2004, 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 *Utah Code* Section 63-46a-6 (2001); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

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**The Changes in Proposed Rules Begin on the Following Page.**

**Commerce, Occupational and  
Professional Licensing  
R156-56  
Utah Uniform Building Standard Act  
Rules**

**NOTICE OF CHANGE IN PROPOSED RULE**

DAR File No.: 27101  
Filed: 06/24/2004, 16:06

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: After a public hearing and comments received, the Division and the Uniform Building Code Commission determined that the proposed amendment to the International Residential Code (IRC) regarding landing requirements in Subsection R156-56-711(13) was defective in that it failed to adequately consider all the factors that should be considered in adopting an amendment in this area. The effect being that there will be no amendment to the IRC requirements in this area.

SUMMARY OF THE RULE OR CHANGE: In Sections R156-56-704 and R156-56-707, made several minor typographical or technical error corrections throughout these sections. In Section R156-56-711, deleted Subsection R156-56-711(13) (previously proposed) regarding landings at doors and renumbered the remaining subsections. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the May 1, 2004, issue of the Utah State Bulletin, on page 5. 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 amendment 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: Section 58-56-1; and Subsections 58-1-106(1)(a), 58-1-202(1)(a), 58-56-4(2); and 58-56-6(2)(a)

**ANTICIPATED COST OR SAVINGS TO:**

- ❖ **THE STATE BUDGET:** The Division does not anticipate any additional costs or savings beyond those identified in the original rule filing.
- ❖ **LOCAL GOVERNMENTS:** The Division does not anticipate any additional costs or savings beyond those identified in the original rule filing.
- ❖ **OTHER PERSONS:** Since the landing requirement amendment is now being deleted, there may be no anticipated minor savings in the costs of landings at certain residences as was identified in the original rule filing.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Since the landing requirement amendment is now being deleted, there may be no anticipated minor savings in the costs of landings at certain residences as was identified in the original rule filing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Based upon comments received at the rule hearing, a previously proposed rule change to modify the IRC as to stairway landings is withdrawn with this filing. There are also minor technical amendments such as correction of references and typographical errors. These amendments do not appear to create any fiscal impact to businesses. Klarice A. Bachman, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dan S. Jones at the above address, by phone at 801-530-6720, by FAX at 801-530-6511, or by Internet E-mail at dsjones@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 08/16/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 08/17/2004

AUTHORIZED BY: J. Craig Jackson, Director

**R156. Commerce, Occupational and Professional Licensing.  
R156-56. Utah Uniform Building Standard Act Rules.  
R156-56-704. Statewide Amendments to the IBC.**

The following are adopted as amendments to the IBC to be applicable statewide:

(1) All references to the International Electrical Code are deleted and replaced with the National Electrical Code adopted under Subsection R156-56-701(1)(b).

.....

(14) Section 310.1 is deleted and replaced with the following:  
310.1 Residential Group "R". Residential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classed as an Institutional Group I. Residential occupancies shall include the following:

R-1<sub>2</sub> Residential occupancies where the occupants are primarily transient in nature (less than 30 days) including: Boarding Houses (transient), Hotels (transient), and Motels (transient).

Exception: Boarding houses accommodating 10 persons or less shall be classified as a Residential Group R-3 or shall comply with the International Residential Code in accordance with Section 101.2.

R-2<sub>2</sub> Residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature, including: Apartment Houses, Boarding houses (not transient), Convents, Dormitories, Fraternities and Sororities, Monasteries, Vacation timeshare properties, Hotels (non transient), and Motels (non transient).

Exception: Boarding houses accommodating 10 persons or less shall be classified as a Residential Group R-3 or shall comply with the International Residential Code in accordance with Section 101.2.

R-3<sub>2</sub>: Residential occupancies where the occupants are primarily permanent in nature and not classified as R-1, R-2, R-4 or I and where buildings do not contain more than two dwelling units, as applicable in Section 101.2, or adult and child care facilities that provide accommodations for five or fewer persons of any age for less than 24 hours. Adult and child care facilities that are within a single family home are permitted to comply with the International Residential Code in accordance with Section 101.2. Areas used for day care purposes may be located in a residential dwelling unit under all of the following conditions:

1. Compliance with the Utah Administrative Code, R710-8, Day Care Rules, as enacted under the authority of the Utah Fire Prevention Board.

2. Use is approved by the State Department of Health, as enacted under the authority of the Utah Child Care Licensing Act, UCA, Sections 26-39-101 through 26-39-110, and in any of the following categories:

a. Utah Administrative Code, R430-50, Residential Certificate Child Care Standards.

b. Utah Administrative Code, R430-90, Licensed Family Child Care.

3. Compliance with all zoning regulations of the local regulator.

R-4<sub>2</sub>: Residential occupancies shall include buildings arranged for occupancy as Residential Care/Assisted Living Facilities including more than five but not more than 16 occupants, excluding staff.

Group R-4 occupancies shall meet the requirements for construction as defined for Group R-3 except as otherwise provided for in this code or shall comply with the International Residential Code in accordance with Section 101.2.

.....

(24) Section 1009.11 [~~Exemption~~]Exception #4 is deleted and replaced with the following:

4. In occupancies in Group R-3, as applicable in Section 101.2 and in occupancies in Group U, which are accessory to an occupancy in Group R-3, as applicable in Section 101.2, handrails shall be provided on at least one side of stairways consisting of four or more risers.

(25) Section 1009.11.3 is amended to include the following exception at the end of the section:

Exception. Non-circular handrails serving an individual unit in a Group R-1, Group R-2 or Group R-3 occupancy shall be permitted to have a maximum cross sectional dimension of 3.25 inches (83 mm) measured 2 inches (51 mm) down from the top of the crown. Such handrail is required to have an indentation on both sides between 0.625 inch (16 mm) and 1.5 inches (38 mm) down from the top or crown of the cross section. The indentation shall be a minimum of 0.25 inch (6 mm) deep on each side and shall be at least 0.5 (13 mm) high. Edges within the handgrip shall have a minimum radius of 0.0625 inch (2 mm). The handrail surface shall be smooth with no cusps so as to avoid catching clothing or skin.

(26) In Section 1012.2 Exception 3 is added as follows:

3. For occupancies in Group R-3 and within individual dwelling units in occupancies in Group R-2, as applicable in Section 101.2, guards shall form a protective barrier not less than 36 inches (914 mm) in height.

(27) New sections 1109.7.1 and 1109.7.2 are added as follows:  
1109.7.1 All platform (wheelchair) lifts shall be capable of independent operation without a key.

1109.7.2 Standby power shall be provided for platform lifts permitted to serve as part of the accessible means of egress.

(28) Section 1208.4 subparagraph 1 is deleted and replaced with the following:

1. The unit shall have a living room of not less than 165 square feet (15.3 [~~m~~]<sup>2</sup>) of floor area. An additional 100 square feet (9.3 [~~m~~]<sup>2</sup>) of floor area shall be provided for each occupant of such unit in excess of two.

(29) Section 1405.3 is deleted and replaced with the following:

1405.3 Flashing. Flashing shall be installed in such a manner so as to prevent moisture from entering the wall or to redirect it to the exterior. Flashings shall be installed at the perimeters of exterior door and window assemblies, penetrations and terminations of exterior wall assemblies, exterior wall intersections with roofs, chimneys, porches, decks, balconies and similar projections and at built-in gutters and similar locations where moisture could enter the wall. Flashing with projected flanges shall be installed on both sides and the ends of copings, under sills and continuously above projected trim. A flashing shall be installed at the intersection of the foundation to stucco, masonry, siding or brick veneer. The flashing shall be on an approved corrosion-resistant flashing with a 1/2" drip leg extending past exterior side of the foundation.

.....

(41) Section 1608.3.2 is deleted and replaced with the following:

[~~1086~~]1608.3.2 Thermal Factor. The value for the thermal factor, C<sub>t</sub>, used in calculation of p<sub>f</sub> shall be determined from Table 1608.3.2.

Exception: Except for unheated structures, the value of C<sub>t</sub> need not exceed 1.0 when ground snow load, P<sub>g</sub>, is calculated using Section 1608.1.1 as amended.

.....

(59) The following referenced standard is added under NFPA in chapter 35:

TABLE		
Number	Title	Referenced in code Section number
720-99	Recommended Practice for the Installation of Household Carbon Monoxide (CO) Warning Equipment	907.2.10.1, 907.2.10.5

(60) In Chapter 35, Referenced Standards, the following NFPA referenced standards are deleted and replaced with the current versions as follows:

TABLE		
DELETED	REPLACED BY	
13 - 99	13 - 02	Installation of Sprinkler Systems
13D - 99	13D - 02	Installation of Sprinkler Systems in One- and Two-family Dwellings and Manufactured Homes
13R - 99	13R - 02	Installation of Sprinkler Systems in Residential Occupancies Up to and Including Four Stories in Height
72 - 99	72 - 02	National Fire Alarm Code
101 - 00	101 - 03	Life Safety Code

**R156-56-707. Statewide Amendments to the IPC.**

The following are adopted as amendments to the IPC to be applicable statewide:

.....

(20) A new section 406.4 is added as follows:

406.4 Automatic clothes washer metal safe pans. Metal safe pans, when installed under automatic clothes washers, shall only be allowed to receive the unintended discharge from a leaking appliance, valve, supply hose, or overflowing waste water from the clothes washer standpipe. Clothes washer metal safe pans shall not be used as indirect waste receptors to receive the discharge of waste water from any other equipment, appliance, appurtenance, drain pipe, etc. Each safe pan shall be provided with an approved trap seal primer, conforming to ASSE 1018 or 1044 or a deep seal trap. The sides of the safe pan shall be no less than 1 1/2" high and shall be soldered at the joints to provide a water tight seal.

406.4.1 Safe pan outlet. The safe pan outlet shall be no less than 1 1/2" in diameter and shall be located in a visible and accessible location to facilitate cleaning and maintenance. The outlet shall be flush with the surface of the pan so as not to allow water retention within the pan.

(21) Section 412.1 is deleted and replaced with the following:

412.1 Approval. Floor drains shall be made of ABS, PVC, cast-iron, stainless steel, brass, or other approved materials that are listed for the use.

(22) Section 412.5 is added as follows:

412.5 Public toilet rooms. All public toilet rooms shall be equipped with at least one floor drain.

(23) Section 417.5.2 is deleted and replaced with the following:

417.5.2 Shower lining. Floors under shower compartments, except where prefabricated receptors have been provided, shall be lined and made water tight utilizing material complying with Sections 417.5.2.1 through 417.5.2.4. Such liners shall turn up on all sides at least three inches (76.2 mm) above the finished threshold level. Liners shall be recessed and fastened to an approved backing so as not to occupy the space required for wall covering, and shall not be nailed or perforated at any point less than two inches (50.8 mm) above finished threshold. Liners shall be pitched one-fourth unit vertical in 12 units horizontal (2-percent slope) and shall be sloped towards the fixture drains and be securely fastened to the waste outlet at the seepage entrance, making a watertight joint between the liner and the outlet.

.....

(66) Section 1108 is deleted in its entirety.

(67) Chapter 13, Referenced Standards, is amended as follows: NSF - Standard Reference Number 61-99 - The following referenced in code section number is added: 608.11

The following reference standard is added:

TABLE

USC- Foundation for Cross-Connection [Control] Table 608.1  
 FCCCHR Control and Hydraulic Research  
 9th University of Southern California  
 Edition Kaprielian Hall 300  
 Manual Los Angeles CA 90089-2531  
 of Cross  
 Connection  
 Control

(68) Appendix C of the IPC, Gray Water Recycling Systems as amended herein shall not be adopted by any local jurisdiction until such jurisdiction has requested Appendix C as amended to be adopted as a local amendment and such local amendment has been approved as a local amendment under these rules.

.....

**R156-56-711. Statewide Amendments to the IRC.**

The following are adopted as amendments to the IRC to be applicable statewide:

(1) All amendments to the IBC under Section R156-56-704, local amendments under Section R156-56-705, the NEC under Section R156-56-706, the IPC under Section R156-56-707, the IMC under Section R156-56-708, the IFGC under Section R156-56-709 and the IECC under Section R156-56-710 which may be applied to detached one and two family dwellings and multiple single family dwellings shall be applicable to the corresponding provisions of the IRC. All references to the International Electrical Code are deleted and replaced with the National Electrical Code adopted under Section R156-56-701(1)(b). Should there be any conflicts between the NEC and the IRC, the NEC shall prevail.

.....

(12) Section R304.3 is deleted and replaced with the following:  
 R304.3 Minimum dimensions. Habitable rooms shall not be less than 7 feet (2134 mm) in any horizontal dimension.

Exception: Kitchens shall have a clear passageway of not less than 3 feet (914 mm) between counter fronts and appliances or counter fronts and walls.

(13) ~~[In Section R311.4.3 the exceptions are deleted and replaced with the following:~~

~~— Exception to the first paragraph:~~

~~— Exception: Where a stairway with a rise of less than 30 inches (762 mm) is located on the exterior side of a door, other than the required exit door, a landing is not required for the exterior side of the door.~~

~~— Exception to the second paragraph:~~

~~— Exception: The landing at an exterior doorway shall not be more than 8 inches (203 mm) below the top of the threshold, provided the door, other than an exterior storm or screen door, does not swing over the landing.~~

(14) Section R311.5.3 is deleted and replaced with the following:

R311.5.3 Treads and risers. The maximum riser height shall be 8 inches (203 mm) and the minimum tread depth shall be 9 inches (229 mm). The riser height shall be measured vertically between leading edges of the adjacent treads. The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. The walking surface of treads and landings of a stairway shall be sloped no steeper than one unit vertical in 48 units horizontal (2-percent slope). The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).

R311.5.3.3 Profile. The radius of curvature at the leading edge of the tread shall be no greater than 9/16 inch (14.3 mm). A nosing not less than 3/4 inch (19.1 mm) but not more than 1 1/4 inches (32 mm) shall be provided on stairways with solid risers. The greatest nosing projection shall not exceed the smallest nosing projection by more than 3/8 inches (9.5 mm) between two stories, including the nosing at the level of floors and landings. Beveling of nosing shall not exceed 1/2 inch (12.7 mm). Risers shall be vertical or sloped from the underside of the leading edge of the tread above at an angle not more than 30 degrees from the vertical. Open risers are permitted, provided that the opening between treads does not permit the passage of a 4-inch diameter (102 mm) sphere.

Exceptions:

1. A nosing is not required where the tread depth is a minimum of 10 inches (254 mm).

2. The opening between adjacent treads is not limited on stairs with a total rise of 30 inches (762 mm) or less.

(~~14~~14) Section R311.5.6 is deleted and replaced with the following:

R311.5.6 Handrails. Handrails shall be provided on at least one side of stairways consisting of four or more risers. Handrails shall have a minimum height of 34 inches (864 mm) and a maximum height of 38 inches (965 mm) measured vertically from the nosing of the treads. All required handrails shall be continuous the full length of the stairs from a point directly above the top riser to a point directly above the lowest riser of the stairway. The ends of the handrail shall be returned into a wall or shall terminate in newel post or safety terminals. A minimum clear space of 1 1/2 inches (38 mm) shall be provided between the wall and the handrail.

Exceptions:

1. Handrails shall be permitted to be interrupted by a newel post at a turn.

2. The use of a volute, turnout or starting easing shall be allowed over the lowest tread.

(~~15~~15) Section R311.5.6.3 is deleted and replaced with the following:

R311.5.6.3 Handrail grip size. The handgrip portion of handrails shall have a circular cross section of 1 1/4 inches (32mm) minimum to 2 5/8 inches (67mm) maximum. Edges shall have a minimum radius of 1/8 inch (3.2mm).

Exception: Non-circular handrails shall be permitted to have a maximum cross sectional dimension of 3.25 inches (83mm) measured 2 inches (51 mm) down from the top of the crown. Such handrail is required to have an indentation on both sides between 0.625 inch (16mm) and 1.5 inches (38mm) down from the top or crown of the cross section. The indentation shall be a minimum of 0.25 inch (6mm) deep on each side and shall be at least 0.5 inch (13 mm) high. Edges within the handgrip shall have a minimum radius

of 0.0625 inch (2 mm). The handrail surface shall be smooth with no cusps so as to avoid catching clothing or skin.

(~~17~~16) Section R313 is deleted and replaced with the following:

R313.1 Single- and multiple-station smoke alarms. Single- and multiple-station smoke alarms shall be installed in the following locations:

1. In each sleeping room.

2. Outside of each separate sleeping area in the immediate vicinity of the bedrooms.

3. On each additional story of the dwelling, including basements and cellars but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

All smoke alarms shall be listed and installed in accordance with the provisions of this code and the household fire warning equipment provision of NFPA 72.

R313.2 Carbon monoxide alarms. Carbon monoxide alarms shall be installed on each habitable level of a dwelling unit equipped with fuel burning appliances. All carbon monoxide detectors shall be listed and comply with U.L. 2034 and shall be installed in accordance with provisions of this code and NFPA 720.

R313.3 Interconnection of alarms. When multiple alarms are required to be installed within an individual dwelling unit, the alarm devices shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed. Approved combination smoke- and carbon-monoxide detectors shall be permitted.

R313.4 Power source. In new construction, the required alarms shall receive their primary power from the building wiring when such wiring is served from a commercial source, and when primary power is interrupted, shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection. Alarms shall be permitted to be battery operated when installed in buildings without commercial power or in buildings that undergo alterations, repairs, or additions regulated by Section R313.5

R313.5 Alterations, repairs and additions. When interior alterations, repairs or additions requiring a permit occur, or when one or more sleeping rooms are added or created in existing dwellings, the individual dwelling unit shall be provided with alarms located as required for new dwellings; the alarms shall be interconnected and hard wired.

Exceptions:

1. Alarms in existing areas shall not be required to be interconnected and hard wired where the alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space, or basement available which could provide access for hard wiring and interconnection without the removal of interior finishes.

2. Repairs to the exterior surfaces of dwellings are exempt from the requirements of this section.

(~~18~~17) In Section 317.3.2 Exception 1.1 is deleted and replaced with the following:

1.1 By a horizontal distance of not less than the width of a stud space regardless of stud spacing, or

(~~149~~18) In Section R403.1.4.1 exception 1 is deleted and replaced with the following:

1. Freestanding accessory structures, not intended for human occupancy, with an area of 1,000 square feet (93m<sup>2</sup>) or less, of wood framed construction, with an eave height of 10 feet (3080 mm) or less shall not be required to be protected.

(~~120~~19) In Section R403.1.6 the exception is deleted and replaced with the following exceptions:

Exceptions:

1. Foundation anchor straps, spaced as required to provide equivalent anchorage to 1/2 inch diameter (12.7 mm) anchor bolts.

2. When anchor bolt spacing does not exceed 32 inches (816 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines and at all exterior walls.

(~~121~~20) In Section R403.1.6.1 the following exception is added at the end of Item 2 and Item 3:

Exception: When anchor bolt spacing does not exceed 32 inches (816 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines and at all exterior walls.

(~~122~~21) Section R703.6 is deleted and replaced with the following:

R703.6 Exterior plaster.

R703.6.1 Lath. All lath and lath attachments shall be of corrosion-resistant materials. Expanded metal or woven wire lath shall be attached with 1 1/2 inch-long (38 mm), 11 gage nails having 7/16 inch (11.1 mm) head, or 7/8-inch-long (22.2 mm), 16 gage staples, spaced at no more than 6 inches (152 mm), or as otherwise approved.

R703.6.2 Weather-resistant barriers. Weather-resistant barriers shall be installed as required in Section R703.2 and, where applied over wood-based sheathing, shall include a weather-resistive vapor permeable barrier with a performance at least equivalent to two layers of Grade D paper.

R703.6.3 Plaster. Plastering with portland cement plaster shall be not less than three coats when applied over metal lath or wire lath and shall be not less than two coats when applied over masonry, concrete or gypsum backing. If the plaster surface is completely covered by veneer or other facing material or is completed concealed, plaster application need be only two coats, provided the total thickness is as set forth in Table R702.1(1). On wood-frame construction with an on-grade floor slab system, exterior plaster shall be applied in such a manner as to cover, but not extend below, lath, paper and screed.

The proportion of aggregate to cementitious materials shall be as set forth in Table R702.1(3).

(~~123~~22) In Section R703.8, number 8 is added as follows:

8. At the intersection of foundation to stucco, masonry, siding, or brick veneer with an approved corrosive-resistance flashing with a 1/2" drip leg extending past exterior side of the foundation.

(~~124~~23) A new Section G2401.2 is added as follows:

G2401.2 Meter Protection. Gas meters shall be protected from physical damage, including falling ice and snow.

(~~125~~24) Section P2602.3 is added as follows:

P2602.3 Individual water supply. Where a potable public water supply is not available, individual sources of potable water supply

shall be utilized provided that the source has been developed in accordance with Sections 73-3-1 and 73-3-25, Utah Code Ann. (1953), as amended, as administered by the Department of Natural Resources, Division of Water Rights. In addition, the quality of the water shall be approved by the local health department having jurisdiction.

(~~126~~25) Section P2602.4 is added as follows:

P2602.4 Sewer required. Every building in which plumbing fixtures are installed and all premises having drainage piping shall be connected to a public sewer where the sewer is within 300 feet of the property line in accordance with Section 10-8-38, Utah Code Ann. (1953), as amended; or an approved private sewage disposal system in accordance with Rule R317-501 through R317-513 and Rule R317-5, Utah Administrative Code, as administered by the Department of Environmental Quality, Division of Water Quality.

(~~127~~26) Section P2603.2.1 is deleted and replaced with the following:

P2603.2.1 Protection against physical damage. In concealed locations where piping, other than cast-iron or galvanized steel, is installed through holes or notches in studs, joists, rafters, or similar members less than 1 1/2 inch (38 mm) from the nearest edge of the member, the pipe shall be protected by shield plates. Protective shield plates shall be a minimum of 1/16 inch-thick (1.6 mm) steel, shall cover the area of the pipe where the member is notched or bored, and shall be at least the thickness of the framing member penetrated.

(~~128~~27) Section P2801.2.1 is added as follows:

P2801.2.1 Water heater seismic bracing. In Seismic Design Categories C, D<sub>1</sub> and D<sub>2</sub>, water heaters shall be anchored or strapped in the upper third of the appliance to resist a horizontal force equal to one third the operating weight of the water heater, acting in any horizontal direction, or in accordance with the appliance manufacturers recommendations.

(~~129~~28) Section P2902.1.1 is added as follows:

P2902.1.1 Backflow assembly testing. The premise owner or his designee shall have backflow prevention assemblies operation tested at the time of installation, repair and relocation and at least on an annual basis thereafter, or more frequently as required by the authority having jurisdiction. Testing shall be performed by a Certified Backflow Preventer Assembly Tester. The assemblies that are subject to this paragraph are the Spill Resistant Vacuum Breaker, the Pressure Vacuum Breaker Assembly, the Double Check Backflow Prevention Assembly, the Double Check Detector Assembly Backflow Preventer, the Reduced Pressure Principle Backflow Preventer, and Reduced Pressure Detector Assembly.

(~~130~~29) Section P3003.2.1 is added as follows:

Section P3003.2.1 Improper Connections. No drain, waste, or vent piping shall be drilled and tapped for the purpose of making connections.

(~~131~~30) In Section P3103.6, the following sentence is added at the end of the paragraph:

Vents extending through the wall shall terminate not less than 12 inches from the wall with an elbow pointing downward.

(~~132~~31) In Section P3104.4, the following sentence is added at the end of the paragraph:

Horizontal dry vents below the flood level rim shall be permitted for floor drain and floor sink installations when installed below grade in accordance with Chapter 30, and Sections P3104.2 and P3104.3. A wall cleanout shall be provided in the vertical vent.

(~~133~~32) Chapter 43, Referenced Standards, is amended as follows:

The following reference standard is added:

TABLE

TABLE  
 USC- Foundation for Cross-Connection Control and Hydraulic Research  
 FCCCHR 9th Edition Manual of Cross Connection Control  
 University of Southern California  
 Kaprielian Hall 300  
 Los Angeles CA 90089-2531  
 Section P2902

720-98 Recommended Practice for the Installation of Household Carbon Monoxide (CO) Warning Equipment R313.2

**KEY: contractors, building codes, building inspection, licensing 2004**

**Notice of Continuation May 16, 2002**

**58-1-106(1)(a)**

**58-1-202(1)(a)**

**58-56-1**

**58-56-4(2)**

**58-56-6(2)(a)**

([34]33) In Chapter 43, the following standard is added under NFPA as follows:



**End of the Notices of Changes in Proposed Rules Section**

## NOTICES OF 120-DAY (EMERGENCY) RULES

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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 (*Utah Code* Subsection 63-46a-7(1) (2001)).

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 *Utah Code* Section 63-46a-7 (2001); and *Utah Administrative Code* Section R15-4-8.

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### Human Services, Aging and Adult Services **R510-107** Title V Senior Community Services Employment Program Standards and Procedures

#### NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE No.: 27248  
FILED: 06/29/2004, 09:11

#### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The United States Department of Labor enacted federal regulations that are significantly different than the current rule.

SUMMARY OF THE RULE OR CHANGE: Under the new regulations, the reporting requirements change, eligibility changes, treatment plans change, host agencies assume a bigger role, there is more client tracking, and there is more federal reporting. (DAR NOTE: A corresponding proposed amendment is under DAR No. 27249 in this issue.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 62A, Chapter 3

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 20 CFR 641 (April 9, 2004)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The state appropriations will not change. This program has been in existence for several decades.

The process for implementing the program will change but there are no costs involved.

❖ LOCAL GOVERNMENTS: Local government appropriations will not change. This program has been in existence for several decades. The process for implementing the program will change but there are no costs involved.

❖ OTHER PERSONS: Host agencies may experience a minimal increase in cost due to required participation in a survey, but the cost remains unknown.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Host agencies may experience a minimal increase in cost due to required participation in a survey, but the cost remains unknown.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Title V Program is designed to provide skills training and job placement for low-income seniors. The program has been operational for a considerable amount of time. The new procedures will have no affect on business costs because their role does not change with the proposed changes.

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

Utah's Rule R510-107 is out of compliance with the new federal regulations which became effective 07/01/2004.

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

HUMAN SERVICES  
AGING AND ADULT SERVICES  
Room 325  
120 N 200 W  
SALT LAKE CITY UT 84103-1500, or  
at the Division of Administrative Rules.

## DIRECT QUESTIONS REGARDING THIS RULE TO:

Mike Bednarek, Lee Ann Whitaker, or Sally Anne Brown at the above address, by phone at 801-538-3922, 801-538-3915, or 801-538-8250, by FAX at 801-538-4395, 801-538-4395, or 801-538-4395, or by Internet E-mail at mjbednarek@utah.gov, lwhitaker@utah.gov, or sabrown@utah.gov

THIS RULE IS EFFECTIVE ON: 07/01/2004

AUTHORIZED BY: Helen Goddard, Director

**R510. Human Services, Aging and Adult Services.****R510-107. Title V Senior Community Service Employment Program Standards and Procedures.****R510-107-1. Purpose.**

~~1-1~~(1) Provide useful part-time community service employment for persons with low incomes who are 55 years old or older and provide useful community services.

**[R510-107-2. Definitions.**

2.1 The following definitions apply to all sections of this part:

A. **Eligible Individuals** means a person who is 55 years of age or older and who has a low income as defined in this section.

B. **Eligible Organization** means an organization which is legally capable of receiving and using Federal Funds under Title V of the Older Americans Act.

C. **Enrollment and Training Programs** means publicly funded efforts designed to offer training and/or placement services which enhance an individual's employability. The term is used in this part to include but not be limited to the Job Training Partnership Act or similar successor legislation and state or local programs of a similar nature.

D. **Enrollee** means an individual who is eligible, receives services, and is paid wages for engaging in community service employment under a project.

E. **Contract Agreement** means a legally binding agreement in document form which is a contract entered into between the Utah State Division of Aging and Adult Services and an eligible organization and which awards Federal Funds and provides for authorized activities under Title V of the Older Americans Act.

F. **Host Agency** means a public agency or a private nonprofit organization, other than a political party, exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954, which provides a work site and supervision for an enrollee.

G. **Low Income** means, for purposes of this part, an income which, during the preceding 6 months on an annualized basis or the actual income during the preceding 12 months, whichever is more beneficial to the applicant, is not more than 125 percent of the poverty levels established and periodically updated by the U.S. Department of Health and Human Services. In addition, an individual who receives or is a member of a family which receives regular cash welfare payments shall be deemed to have a low income for purposes of this part.

H. **Project** means an undertaking by a project sponsor pursuant to a grant agreement between the Department of Labor and a project sponsor which provides for the employment of eligible individuals and the delivery of associated services.

I. **Project Sponsor** means an eligible organization which has entered into a grant agreement with the Department of Labor.

J. **Project Year** means the 12 month period covered by a grant agreement.

K. **Reallocation** means the redistribution of Title V funds as proposed by the Department of Labor from one State to another State(s) or from one project sponsor to another project sponsors(s).

L. **SCSEP** means Senior Community Service Employment Program as authorized under Title V of the Older Americans Act.

M. **State Agency on Aging** means the Utah State Division of Aging and Adult Services.

N. **Subproject Agreement or Contract** means an agreement entered into between a project sponsor and an organization which provides for the transfer of Federal Funds to the organization for the purpose of carrying out activities authorized in the grant agreement.

O. **Subproject Sponsor** means an organization which has entered into a subproject agreement or contract with the Utah State Division of Aging and Adult Services.

P. **Temporary Position** means an enrollment opportunity in addition to the authorized positions made available during a project year when a portion of project funds is not being used as planned in the grant agreement.

**R510-107-3. Responsibilities.**

3.1 Subproject sponsor/host agency responsibilities are to provide enrollees:

A. Opportunities for skill acquisition or skill enhancement.

B. Annual physical examinations or signed waiver.

C. Personal and employment-related counseling.

D. Assistance in transition to unsubsidized employment where it is feasible.

E. Recruitment and selection of enrollees.

F. Agency orientation.

G. Assessment on suitability of job assignment.

H. Annual determination of eligibility for SCSEP.

I. Assistance in transition to unsubsidized employment where feasible.

J. Select community service employment occupational categories and work assignments for enrollees.

3.2 State Agency Responsibilities

A. Develop an annual pre-application grant for Title V to be approved by the Department of Labor in order to establish and operate a Title V program within the State of Utah.

B. Develop a grant disclosing Utah's proposed method to implement Title V Senior Community Service Employment Program and serve in the capacity of project sponsor.

C. Take the leading role in the coordination of statewide activity with other national sponsors (i.e., Green Thumb and Forest Service).

D. Develop an annual equitable distribution report with Green Thumb and Forest Service.

E. Select eligible organizations and develop subproject contracts or agreements with said agencies in order to implement the Title V program for a project year.

F. Annually monitor and assure case file compliance and fiscal accountability.

G. Provide quarterly reports to the Department of Labor on progress toward statewide grant objectives.

H. Complete an annual close out report for the Department of Labor and any other relevant report or informational request.

I. Assure to the extent feasible that the Title V statewide program enroll minorities and limited English speaking eligible individuals in proportion to their number in the State.

J. Enforce federal Laws and regulations relevant to this program.

— K. Cooperate with agencies providing services to elderly persons and with agencies providing employment and training services, including activities conducted under the Job Training Partnership Act.

— L. Select subproject sponsor and host agencies to provide a variety of community service opportunities for enrollees, and produce a variety of services which respond to the community's total needs.

— M. Continue pre-existing coordinating relationships with Area Agencies on Aging, and work with State employment security agencies.

— N. Disseminate relevant program information to subproject sponsors and provide technical assistance when needed or upon request.

#### **R510-107-4. Recruitment and Selection of Enrollee.**

— 4.1 Each subproject sponsor shall use methods of recruitment and selection which will assure that the maximum number of eligible individuals have an opportunity to participate in the project. Recruitment efforts shall be designed to assure equitable participation of minority groups and limited English speaking eligible individuals.

— 4.2 To facilitate recruitment activities, subproject sponsor shall develop a fact sheet. In addition to promoting recruitment, the fact sheet can also include the following information:

— A. Provide information to the public and the potential employers about the goals of the program and how it operates.

— B. Seek the cooperation of prospective employers to expand employment opportunities for older workers in both the private and public sectors.

— C. Increase public awareness of the needs of the older workers and the contributions they make to local communities and economies.

— 4.3 The subproject sponsor shall assure participants fair, equitable treatment and access to the Title V Program. The following methods shall be considered by a subproject sponsor when activating recruitment procedures for an enrollee slot:

— A. Contacting the local State Job Service offices, Area Agencies on Aging, Social Security offices, JPTA sponsors, AARP program.

— B. Utilization of mass media (newspapers, radio, and television for free public service announcements) including local bi-lingual media, newspapers, and other community resources.

— C. Have announcements made by civic, labor, religious, business organizations, organizations of older people, and agencies serving older people; and

— D. Arrange for the display of posters announcing the availability of Title V Senior Community Service Employment Program in public buildings, business places, senior centers, nutrition project sites, and in other places where these will be seen by older people.

#### **R510-107-5. Eligibility Determination.**

— 5.1 Subproject sponsors shall be responsible for assuring and documenting the eligibility of all applicants for participation in the program in accordance with the following criteria:

— A. Age: Prior to the date of actual enrollment for participation in the program, the individual must have reached 55 years of age or older. Priority will be given to those individuals who are 60 years of age and older. There is no maximum age limitation and no person shall be determined ineligible solely because of advanced age.

— B. Residency: The individual must live in Utah. There is no length of residency required except that the person live in the state during the time of participation in the program.

— C. Income: The income of an individual or of the family of which the individual is a member shall not exceed the low income

standards defined by U.S. Department of Health and Human Services (which are periodically up dated) and shall be applied to:

— 1. Each individual seeking initial enrollment.

— 2. Each individual seeking reenrollment after termination from SCSEP.

— 3. Each enrollee seeking certification for continued enrollment.

— D. Family (for the purpose of determining income): Is defined as one or more persons living in a single residence who are related to each other by blood, marriage, or adoption. A step child or step parent shall be considered to be related by marriage. Anyone claimed as a dependent on the applicant's Federal Income Tax return for the previous year shall be presumed to be part of the applicant's family for the current year unless otherwise demonstrated. Except as provided above, an individual 18 years or older who receives less than 50% of his/her support from the family, and who is not the principal earner or the spouse of the principal earner, shall not be considered as a member of the family.

— E. Inclusions to income: For purposes of determining wages or salary the total gross earnings received for work performed as an employee. Use the amount paid before deductions for income taxes, social security, bond purchases, union dues, etc. Wages and salaries received for by individuals through public service employment and on-the-job training under JTPA are to be counted as income.

— 1. If an applicant, or an enrollee who is being recertified, has other family members who are currently enrolled in SCSEP, the SCSEP earning of the other family member(s) must be included as income.

— 2. Self employment income: Net money income (gross receipts minus operating expenses) from a business firm, farm or other enterprise in which a person is engaged on his or her own account must be counted.

— 3. Other income: Net money income (gross receipts minus operating expenses) received from such other sources as net rents, Social Security benefits, pensions, alimony, military retirement pay, periodic income from insurance policy annuities that is not for a fixed term and other cash income not specifically excluded below must be counted.

— 5.2 Exclusions from income: The following types of income shall not be counted for the purpose of determining annual family income for SCSEP:

— A. Non-cash income: Such as food stamps and compensation received in the form of food, housing, or other non-cash compensation or gifts.

— B. Public assistance payments: Includes all types of local, state, or federal cash welfare such as AFDC, SSI, and disability payments from Social Security and Black Lung programs.

— C. Employment programs: Payments made to participants in employment and training programs such as allowance payments for classroom training, transportation, and dependents allowances, wages for work experience, wages earned under SCSEP by the applicant or person being recertified, and stipends earned from programs such as Foster Grandparents. (Wages earned under OJT and PSE employment programs are countable).

— D. Recertification/reenrollment: For persons who are being recertified for continued enrollment, or those persons applying for reenrollment whose previous termination was due to illness or acceptance of unsubsidized employment, five hundred dollars (\$500) of otherwise includable income shall be excluded from the individual's family income.

— E. Capital gains or losses.

- F. Federal, state, or local employment benefits.
- G. One time unearned income: Such as the following examples: Payments received for a limited fixed term under income maintenance programs and supplemental unemployment benefit plans; one time or fixed term scholarship and fellowship grants; accident, health and casualty insurance proceeds; disability and death payments, including fixed term (but not life time) life insurance annuities and death benefits; one time awards and gifts; inheritance, including fixed term annuities; fixed term worker's compensation awards; terminal leave payments; soil bank and other agriculture crop stabilization payments.
- H. Payments for child support.
- I. Veteran's compensation payments: All benefit payments to veterans except military retirement pay shall be excluded for SCSEP income eligibility purposes.
- J. Interest income.
- K. Foster grandparent and senior companion stipends.
- This list is not intended to be all inclusive, but is intended to provide the conceptual framework of one-time unearned income.
- 5.3 Computation: For all persons who are applying for an enrollment for the first time or re-applying for enrollment, and for currently enrollees who are being recertified:
  - A. The income eligibility shall be computed by either taking their countable family income during the preceding 6 months and annualizing it (multiply by 2) or by taking the total includable income for the past 12 months. The method used of these two shall be the one that results in the lower annual family income.
  - B. The figure arrived at by the above process is then entered on the eligibility certification form, which is then compared to the poverty levels to determine if the individual meets the income eligibility criteria.
- 5.4 If a person is found to be ineligible:
  - A. Through providing false information at the time of interview or recertification, the person shall be terminated immediately.
  - B. Through no fault of his/her own, such as income increasing to a level higher than the maximum allowable or inability of the Program Coordinator to find constructive and productive work for the person's capability, or because of a error on the part of the interviewer, the individual shall be given 30 days notice before termination in writing. To the extent possible, such individuals shall also be provided assistance to obtain other employment.
  - C. Persons found ineligible shall be informed of their appeal rights in accordance with the local subproject sponsor grievance procedures. If they are enrolled at the time of determination, a termination form must be completed and inserted in their file.
- Subproject sponsors shall not impose any additional condition or requirement for enrollment eligibility. Also, all intake information should be obtained by personal interviews and verified by the dated signature of the interviewer and the applicant.

#### **R510-107-6. Selection/Enrollment Priorities.**

- In selecting individuals from the eligible applicants for actual enrollment to fill available vacancies, the subproject sponsor shall apply the following priorities:
  - A. First priority: Subproject sponsors that have temporary enrollees shall give them first consideration for permanent enrollment.
  - B. Second priority: shall be given to those individuals who are 60 years of age or older.
  - C. Third priority: shall be given to individuals who are applying for reenrollment whose termination was due to extended illness or placement into unsubsidized employment.

- D. Fourth priority: shall be given to the remaining applicants according to economic need.

#### **R510-107-7. Physical Examinations.**

- 7.1 The physical exam is a benefit of the program, not an eligibility requirement.
- 7.2 Subproject sponsors shall insure that each enrollee receives a physical examination or signs a written waiver of the exam prior to enrollment on the program. No applicant shall be paid wages for any activity prior to receiving a physical exam or signing a waiver.
- 7.3 The purpose of the examination is to determine the type of work the individual can do. The physical may be received up to 30 days prior to application for participation in the program. Physical received prior to application shall not be paid for with program funds. If the subproject sponsor is unable to find or to develop an employment opportunity for the person within his/her physical capability, the individual shall be informed and a written and signed statement detailing the situation shall be completed by the subproject sponsor and attached to the intake form. The applicant adversely affected shall be informed and assisted to exercise all of his/her due process appeal rights.
- 7.4 Each temporary and permanent enrollee shall be provided with a physical examination at least once every 12 months to determine his/her capability to continue in his/her current job assignment unless the individual voluntarily declines to take the physical and signs a waiver to that effect.
- 7.5 Subproject sponsors shall make all efforts to obtain physical examinations at reduced rate or at no cost from local health departments, clinics, hospitals or other sources. Where no other sources exist, the physical examinations will be paid for from program funds. The cost allowed for physical examinations shall be in accordance with prevailing local rates. Except for physicals received prior to application, the applicant/enrollee may not be required to pay for the physical examination themselves.
- 7.6 All physical examinations must be completed by the examining physician and a copy of all exams and waivers must be retained by the subproject sponsor and placed in the enrollee's personnel file. The original of the exam form or waiver is to be maintain within the enrollee's personnel file for documentation and accountability purposes.

#### **R510-107-8. Waiting List.**

- 8.1 If applications are received when all slots are filled, the subproject sponsor shall retain the intake form for review when vacancies exist.

#### **R510-107-9. Types of Appointment.**

- 9.1 Permanent enrollees shall be all those enrollees enrolled up to the number of authorized slots as designated in the contract.
- 9.2 Temporary enrollees shall be all those enrollees over the number of authorized slots.

#### **R510-107-10. Orientation.**

- 10.1 Each enrollee who is accepted for enrollment will receive orientation training as soon as practical prior to or after actually starting work at a host agency. Such orientation is designed to inform the enrollee of the purpose and goals of the program, to explain the benefits and services available, to discuss job placement goals, and to explain the participants' rights and responsibilities as an enrollee of the program. Topics to be discussed shall include, but not necessarily be limited to:

- A. Hours of work.
- B. Safe working habits.
- C. Fringe benefits.
- D. Host agency philosophy.
- E. Unsubsidized placement policy.
- F. Enrollee responsibilities.
- G. State agency responsibility.
- H. Host agency responsibility.
- I. Grievance procedures.
- J. Supportive services.
- K. Code of conduct and ethics.
- L. Standards of performance.
- 10.2. Time spent by enrollees in orientation and pre-job training shall be considered as enrollment for which they shall receive pay.

#### **R510-107-11. Enrollee Policy.**

- 11.1 Enrollee wages: Enrollees are to be provided an hourly amount that correspond to the highest of:
  - A. The federal minimum wage.
  - B. The state minimum wage.
  - C. The prevailing local wage for the type of work the enrollee is engaged in, if funding is available.
- 11.2 Hours of work:
  - A. Enrollees are not to be paid for more than 1300 hours during a twelve month period. This includes pay from the program for any purpose such as: orientation, training, sick leave, annual leave, holiday pay, etc. If an enrollee is transferred from another Title V SCSEP sponsor, the hours worked for the previous sponsor shall be carried over and counted toward the enrollee's 1300 hour limit for the current year.
  - B. A work schedule shall be established for each enrollee and maintained on file at the local project site office. Project sponsors shall attempt to ensure that enrollees work during normal business hours.
  - C. A project sponsor shall not offer an enrollee an average of fewer than 20 hours of paid participation per week; however, shorter periods may be authorized by written agreement between an enrollee and a project sponsor.
  - D. A subproject sponsor shall not require an enrollee to participate more than 20 hours during one week.
- 11.3 Duration of enrollment: There shall be no time limited placed on any permanent enrollee's participation in the program. Time limits may be placed on the participation of a temporary enrollee. However, such limitations are to be made a part of the enrollee's official file at the time of employment.
- 11.4 Enrollee fringe benefits: Project sponsors shall ensure that enrollees receive all Fringe Benefits required by law.
  - A. Fringe Benefits shall be administered uniformly to all permanent and temporary enrollees. All enrollees must be provided with the following:
    - 1. Worker's compensation.
    - 2. F.I.C.A. tax payments.
    - 3. Unemployment Insurance.
  - B. Additional fringe benefits may be provided for enrollees in accordance with the practice of the subproject sponsor for its own employees:
    - 1. Annual leave.
    - 2. Sick Leave.
    - 3. Holiday pay.
- 11.5 Enrollee transportation.
  - A. Subproject sponsors are authorized to provide payment for transportation only when such travel is performed by the enrollees in

the direct performance of their employment related activities. Payment with project funds for travel to and from home and work is to be authorized only in hardship cases as determined by the subproject sponsors.

- B. Whenever possible, payment for work related travel shall be obtained from the host agency or other local resources.
- C. When transportation is paid with project funds, the travel shall be documented and the records shall include the purpose of the trip(s); odometer reading (if required by the agency policy); and the location(s) travel from and to.
- D. Reimbursement for travel shall not exceed the current federal mileage rate for personal automobile usage.
- E. Enrollees utilizing their private vehicle in the performance of assigned duties must show proof of liability insurance coverage required by state law.
- F. Records containing the name of the insurer, the coverage limits, and the expiration date shall be maintained for all enrollees who receive payment for travel costs.
- G. If an enrollee's job requires driving a vehicle owned by the Host Agency, the owner shall assume full responsibility for the liability and injury insurance coverage.
- 11.6 Host agency selection: SCSEP work sites may be developed with any organization that meets the following criteria:
  - A. The agency must be either:
    - 1. A public agency — this is any organization or entity that is established by authorization of local, state, or federal statute, law or executive order.
    - 2. A non-profit organization that has a 501(c)3 tax exempt status from the Internal Revenue Service.
  - B. The activity the enrollees are involved in must be open to the general public without regard to language, race, religion, political or handicapped status.
  - C. Each Host Agency shall be provided with information concerning the SCSEP program that includes the following:
    - 1. The kind of supervision expected from the agency.
    - 2. The responsibility the agency has to assist the enrollee to obtain unsubsidized employment.
    - 3. The in-kind (non-federal contribution) requirements (if applicable).
    - 4. The responsibility of the agency to provide a safe working environment.
    - 5. Department of Labor's enrollee policies relating to hours of work, pay, fringe benefits, accident reporting, performance standards, EEO Affirmative Action policies, etc.
- 11.7 Subproject sponsors shall have no inherent right to any positions and Utah State Division of Aging and Adult Services reserves the right to reassign enrollees and/or position as the needs of the enrollees, community (equitable distribution), and state of Utah dictate.
- 11.8 Assessment:
  - A. After an applicant has been accepted for enrollment the program coordinator shall conduct an assessment of the individual's capabilities and interests to determine a suitable work assignment that will eventually lead to the placement of the enrollee into unsubsidized employment. In making the assessment, the following items shall be taken into consideration:
    - 1. The information provided on:
      - a. the intake form;
      - b. the physical examination;
      - c. the self evaluation form;
      - d. the employability plan.
    - 2. The individual's interests and job preferences.

— 3. The person's work history.

— 4. The geographical location the enrollee can reasonably commute to.

— B. The assessment must be documented and recorded in the enrollee's file.

— 11.9 Pre-placement training

— A. When it is necessary to prepare the enrollee for an assignment, pre-placement training may be provided by the program coordinator. Such training may be conducted in any manner that is appropriate to the enrollee's needs, and although the training may be paid for with grant funds, the program coordinator should make all possible attempts to obtain the training at no cost or reduce cost through local resources.

— B. Time spent by enrollees in training shall be considered enrollment and the enrollees shall be paid at the state or federal minimum wage whichever is highest or the prevailing rate of the job position.

— C. Pre-placement training and orientation combined shall not exceed a total of 80 hours per individual enrollee and should be conducted in the first 2 weeks unless extended periods are authorized by the State Office.

— 11.10 Enrollee work assignment

— A. As soon as possible after enrollment, orientation, assessment and pre-placement training, each enrollee shall be placed in a community service placement. This job shall be developed in consultation with a Host Agency and shall meet the following criteria:

— 1. Must contribute to the improvement and general welfare of the community.

— 2. Must result in an increase in employment opportunities over those which would otherwise be available.

— 3. Must not result in the displacement of currently employed enrollees or fill positions of persons on layoff, including partial displacement such as a reduction in hours of non-overtime work, wages or employment benefits.

— 4. Shall not impair existing contracts for service or result in the substitution of federal funds for other funds in connection with work that would otherwise be performed.

— 5. Shall not substitute project jobs for existing federally assisted jobs.

— 6. Shall provide good public recognition for the enrollee's skills and abilities.

— 7. Shall serve as many people as possible.

— 8. Shall provide opportunities for learning new skills.

— 9. Shall have a positive impact on community self image.

— 10. Shall create new community services or expand existing services.

— 11. Shall provide an opportunity for unsubsidized placement after a reasonable amount of time.

— 11.11 Special limitations which apply to all SCSEP work assignments

— A. Enrollees shall not be assigned to projects involved in the construction and building of highways and other projects which inures primarily to the benefit of private profit making organizations.

— B. Enrollees shall not be involved in projects connected with construction, repair, painting, rehabilitation, operation or maintenance of any facility used, or to be used as, a place of sectarian religious worship or instruction.

— C. No project or activity in SCSEP shall involve partisan political activities, and enrollees, project employees, or funds shall not be used for any activities under this section.

— D. No SCSEP funds shall be expended directly or indirectly for the purchase, erection or repair of any building except for:

— 1. Minor remodeling of a public building necessary to make it suitable for use by project administrators.

— 2. Minor repair and rehabilitation of private residences performed in conjunction with local public housing programs intended to benefit low-income families or individuals.

— 3. Minor repair and rehabilitation of publicly used facilities performed to beautify, improve, or restore the facilities for the general betterment of the community.

— 11.12 Monitoring and supervision

— A. Subproject sponsor shall provide all administrative supervision functions which includes:

— 1. Hiring.

— 2. Disciplinary action.

— 3. Setting wages.

— 4. Fringe benefit policies.

— B. Host agencies shall be required to provide the supervision necessary for safe, productive and effective work.

— C. To ensure that the program objectives are being met, the subproject sponsor shall monitor each project on-site at least once a quarter.

— 11.13 Safety

— A. No enrollee shall be permitted to work in building or surroundings under working conditions which are unsanitary, hazardous or dangerous to his/her health or safety or which are contrary to federal and state occupational health and safety administration laws and regulations.

— B. No enrollee shall be permitted to continue or begin work on premises that have been restricted under official occupational safety and health regulations and/or under regulation promulgated under the Clean Water Acts and the Consumer Production Program. This point shall be agreed to with any prospective host agency prior to assignment of enrollees to a work site.

— 11.14 Enrollee training

— A. Training shall be provided to enrollees during their enrollment on the program to develop self confidence, to teach new job skills, to update old skills and to motivate enrollees to seek and obtain employment in the regular competitive job market.

— B. Subproject sponsors shall, whenever possible, obtain training services through locally available resources at no cost or reduced cost to the program.

— C. Time spent by enrollees in training shall be considered a part of the enrollment time, and the individual shall be paid at his/her established rate of pay. Such payment for participation in training shall not exceed 260 hours during a program year.

— 11.15 Unsubsidized placement

— A. Subproject sponsors are required to place 20% of their allotted slots into unsubsidized employment each grant year.

— B. Unsubsidized employment may be with either public or private employers, and includes any job that is not directly subsidized by a federal employment program such as JTPA, etc.

— C. All orientation, work experience, training, counseling, etc., given to enrollees during their participation in the program should be aimed at achieving the final goal of unsubsidized employment. Subproject sponsors are encouraged to engage in a wide spectrum of activities designed to achieve the transition of enrollees to unsubsidized employment.

— D. After an enrollee is placed into an unsubsidized job, subproject sponsors shall follow up on the progress of the individual in their new job sometime between 30 and 90 days after termination from the program. If the enrollee is unable to continue in the job, he/she is eligible to return to SCSEP employment on a priority basis.

— E. All unsubsidized placements shall be documented on the termination form and subproject sponsors shall maintain records of the follow-ups completed for placed enrollees.

— 11.16 Supportive services

— A. When needed by an enrollee for successful participation in the program, supportive services may be provided by the subproject sponsors. Such services may be paid for with the project funds if other resources are not available. Supportive services for enrollees may include but are not limited to:

- 1. Referral to appropriate public agencies to address problems of the enrollee or her/his family;
- 2. Incidental needs for the job assignment such as safety clothing, work clothing, eyeglasses, etc.
- 3. Preparation of resumes for job search activities.
- 4. Transportation to service agencies.

— 11.17 Termination procedures

— A. The participation of an enrollee in the program may be terminated for the following reasons:

- 1. Placement into employment;
- 2. Voluntary resignation by the enrollee;
- 3. Failure to continue to meet the eligibility requirements;
- 4. Extended illness;
- 5. Transfer to another SCSEP project; and,
- 6. Misconduct which may include any of the following but is not limited to:

- a. gross negligence, physical violence, and other disorderly or disgraceful conduct;
- b. theft and/or fraud;
- c. repeated and unjustifiable tardiness and absenteeism;
- d. misuse of annual or sick leave;
- e. giving false statements on application or recertification forms;
- f. falsifying reports, e.g. time sheets, travel vouchers, etc.;
- g. violation of safety rules;
- h. ineffectiveness, demonstrated inability or incompetence to carry out duties of assigned job;
- i. refusal to obey legitimate instructions of a supervisor;
- j. reporting to work under the influence of intoxicating beverages or habit forming drugs or the use of such on the work site;
- k. sleeping during working hours; and,
- l. refusal to attend an unsubsidized job interview without just cause.

— B. In cases where an enrollee is terminated because of misconduct, the subproject sponsor must inform the enrollee of his/her right to file a grievance. Use the due process procedures spelled out in your local agency. Whenever an enrollee is terminated for any reason, a termination notice must be completed and maintained in the enrollee file for state review.

**R510-107-12. Program Files.**

— A. Each enrollee shall have an individual personnel file which shall contain the following information:

- 1. Intake form.
- 2. Documentation of eligibility.
- 3. Physical examinations and/or waivers.
- 4. Assessment/employability forms.
- 5. W 4 forms.
- 6. Recertification forms.
- 7. Job descriptions.
- 8. Termination documents.
- 9. Correspondence and other documents pertaining to the individual enrollee.

— 10. Certification of income.

— 11. Staff Training Record.

— 12. Leave Records.

— 13. Sign time and attendance reports.

— 14. Title V Statement of Understanding signed or temporary enrollment agreement (when applicable).

— B. Subproject sponsors files, which shall contain:

- 1. Subproject sponsor and host agency agreements.
- 2. Documentation of 501(c)3 tax status if appropriate.
- 3. Copies of monitoring reports related to the agency.

— C. Other documents, correspondence, and material, such as monitoring reports pertaining to program operations.

— D. The program files are to be retained five years after an enrollee or host agency has been terminated from the program.

**R510-107-13. Quarterly Progress Report.**

— 13.1 Subproject sponsors must submit a "Quarterly Progress Report" to the state agency office at the end of each quarter of the calendar year.

— 13.2 The Quarterly Progress Report is due to the state agency office by the 15th working day after the end of the quarter.

**R510-107-14. Private Sector Experimental Demonstration Project.**

— 14.1 Under the Private Sector Experimental Demonstration Project, the subproject sponsor can develop on the job training arrangements with businesses in the private sector. The basic purpose of the project is to provide an opportunity for older workers to enter the private job market on a trial basis and demonstrate their value to employers.

— 14.2 The employer must operate a business in the private sector and must have an actual job opening to place the older worker in if the trial period is successful. A written agreement must be made between the subproject sponsor and the employer before any enrollee is assigned to work at the business. Priority will be placed with small and minority owned businesses.

— 14.3 The work can be for any number of hours per week, up to 40 hours; it can be for a period of up to 6 weeks. During the project period, the subproject sponsor will pay wages and benefits as specified in the agreement.

— 14.4 It is expected that if the older worker completes the trial period agreement without problems being expressed by the employer, the employer will offer the position to the enrollee on a permanent basis. If it becomes obvious to the employer during the trial period that the enrollee will not be able to satisfactorily perform the job, the subproject sponsor will either provide additional enrollees for the employer to choose from or if the employer so desires, the subproject sponsor will simply cancel the agreement.

— 14.5 Upon cancellation of the agreement at anytime, there will be no obligation to the employer except that the subproject sponsor shall not place additional positions with the employer.

— 14.6 All enrollees placed in the demonstration program must meet all the eligibility requirements for Title V. An enrollee already on the program can be transferred to the position with no additional paperwork except that the agreement and notification is placed in the enrollee file for documentation purposes acknowledging job change assignment.

**R510-107-15. Non Federal and State Status of Enrollees.**

— 15.1 Enrollees who are employed in any project funded under the Older Americans Act are not federal or state employees as a result of such employment.

**R510-107-16. Temporary Positions.**

~~16.1 Where a portion of project funds is not being used as planned in the contract agreement, the project sponsor may use those funds during the period of the agreement to enroll additional eligible individuals in temporary positions. The number of temporary positions may not exceed 20 percent of the total number of authorized positions established under the agreement without the written approval of the Department of Labor. Payments to or on behalf of enrollees in temporary positions shall not exceed the amount of the unused funds available. Each individual enrolled in a temporary position shall be informed in writing that the employment is of a temporary nature and may be terminated. Project sponsors first shall seek to maintain full enrollment in authorized positions and shall seek to schedule all enrollments and terminations to avoid excessive terminations at the end of the project period.~~

**R510-107-17. Maintenance of Effort.**

~~17.1 Employment of enrollees funded under the Older Americans Act (Act) shall be only in addition to employment which would otherwise be funded by the subproject sponsor, and the host agencies without assistance under the Act.~~

~~17.2 Projects funded under the Act:~~

~~A. Shall result in an increase in employment opportunities in addition to those which would otherwise be available;~~

~~B. Shall not result in the displacement of currently employed workers, including partial displacement such as a reduction in hours of non-overtime work, wages, or employment benefits;~~

~~C. Shall not impair existing contracts for service or result in the substitution of federal funds for other funds in connection with work that would otherwise be performed;~~

~~D. Shall not substitute project jobs for existing federally-assisted jobs; and~~

~~E. Shall not employ or continue to employ any enrollee to perform work which is the same or substantially the same as that performed by any other person who is on layoff.]~~

**R510-107-2. Program Standards and Procedures.**

~~(1) The Division's standards and procedures for this program are incorporated by reference to be the Federal Register 20 CFR Part 641 as published April 9, 2004.~~

**KEY: elderly, employment**

**July 1, 2004**

**Notice of Continuation November 1, 2002**

**62A-3-104**



Human Services, Child and Family  
Services

**R512-306**

Independent Living Services, Education  
and Training Voucher Program

**NOTICE OF 120-DAY (EMERGENCY) RULE**

DAR FILE NO.: 27243

FILED: 06/22/2004, 09:23

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** To implement the Education and Training Voucher (ETV) Program which assists foster individuals in making the transition to self-sufficiency in adulthood. The ETV Program provides financial resources through material benefits for postsecondary education and vocational training.

**SUMMARY OF THE RULE OR CHANGE:** This is a new program that provides educational training vouchers for individuals in Division foster care. As individuals leave foster care due to age, this program will assist them to obtain an education and make the transition to independence.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 62A-4a-105 and Pub. L. No. 107-133

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** This program will implement this new federal grant program requiring 20% state match (\$16,000) which is already in the Division budget.

❖ **LOCAL GOVERNMENTS:** After careful review, there will be no impact on local government because the money for the program is funded through federal and state funds.

❖ **OTHER PERSONS:** Person affected by this rule would be individuals approved for educational vouchers. Costs would be minimal, only those involved with applying.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Minimal--\$10 or less, cost might include postage, transportation, and/or long distance calls as part of the application process.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The training vouchers for this program may be used at public or private colleges or public or private technical institutes.

**EMERGENCY RULE REASON AND JUSTIFICATION:** REGULAR RULEMAKING PROCEDURES WOULD cause an imminent budget reduction because of budget restraints or federal requirements. place the agency in violation of federal or state law.

Delay in implementing this rule would cause an imminent budget reduction because of budget restraints or federal requirements.

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:

Steven Bradford at the above address, by phone at 801-538-8210, by FAX at 801-538-3993, or by Internet E-mail at sbradford@utah.gov

THIS RULE IS EFFECTIVE ON: 06/22/2004

AUTHORIZED BY: Richard Anderson, Director

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

**R512-306. Independent Living Services, Education and Training Voucher Program.**

**R512-306-1. Purpose and Authority.**

1) The Education and Training Voucher Program (ETV) assists foster individual's make the transition to self-sufficiency in adulthood. The Education and Training Voucher Program provides the financial resources for postsecondary education and vocational training necessary to obtain employment or to support the individual's employment goals.

2) The Education and Training Voucher Program is authorized by Pub. L. No. 107-133, which is incorporated by reference. 20 USC 1087kk and 20 USC 108711 (2001) are also incorporated by reference.

**R512-306-2. Definitions.**

1) The following terms are defined for the purposes of this rule:

- a) Institution of higher education means a school that:
  - i. Awards a bachelor's degree or not less than a two-year program that provides credit towards a degree, or
  - ii. Provides not less than one year of training towards gainful employment, or
  - iii. Is a vocational program that provides training for gainful employment and has been in existence for at least two years, and that also meets all of the following:
    - iv. Admits as regular students only persons with a high school diploma or equivalent; or who are beyond the age of compulsory school attendance (Section 53A-11-101 and 53A-11-102).
    - v. Public or non-profit facility.
    - vi. Accredited or pre-accredited by a recognized accrediting agency that the Secretary of Education determines to be reliable and is authorized to operate in the state.
- b) Satisfactory progress means maintaining at least a C grade average or 2.0 on a 4.0 scale on a cumulative basis or equivalent passing status as determined by the educational institution.
- c) GED means General Education Development.
- d) Division means Division of Child and Family Services.
- e) Foster care means individual in the custody of the Department of Human Services/Division of Child and Family Services and/or Indian Tribes.
- f) Full-time as defined by the educational institution.

**R512-306-3. Scope of Program.**

1) To be eligible for the Education and Training Voucher Program, an individual must meet all of the following requirements:

- a) An individual in foster care who has not yet attained 21 years of age, or
- b) An individual no longer in foster care who attained 18 years of age while in foster care and who has not yet attained 21 years of age, or
- c) An individual adopted from foster care after attaining 16 years of age and who has not yet attained 21 years of age.
- d) Have graduated from high school or earned a GED;

e) Have an individual educational assessment and individual education plan completed by DCFS or their designee;

f) Submit a completed application for the Education and Training Voucher Program;

g) Be accepted to a qualified college, university, or vocational program;

h) Apply for and accept available financial aid from other sources before obtaining funding from the Education and Training Voucher Program;

i) Enroll as a full-time student in the college, university or vocational program; and

j) Maintain a 2.0 cumulative grade point average on a 4.0 scale or equivalent as determined by the educational institution.

2) The application and attachments will be reviewed and approved by regional independent living program staff or their designee. Individuals meeting all requirements will be accepted for program participation when available ETV funding for this purpose permits. If demand exceeds available funding, the Division may establish a waiting list for funding or may approve applications for lesser amounts of funding. The individual will receive written notice of approval or denial of the application. If denied or terminated, a written reason for denial will be provided and will include instructions about how to appeal the decision.

3) Individual may participate in the Employment and Training Voucher Program until the completion of the degree or vocational program or age 21, with one exception. If enrolled in the ETV program on the date age 21 is attained, the individual may continue in the program until age 23 as long as the individual is attending an accredited or pre-accredited college, university, or vocational program full-time, is making satisfactory progress, and funding continues to be available.

4) The individual must provide ongoing documentation of full-time enrollment, satisfactory progress as detailed in the individual education plan, additional requests for funding, and any changes in total costs for attendance or other financial aid to the Division in order to continue receiving benefits under the program.

5) A individual under age 21 who has previously been denied acceptance to the program or who lost eligibility for the program due to not making satisfactory progress or not attending full-time may reapply for the program.

6) If an application for benefits under the Education and Training Voucher Program is denied, the applicant will have the right to appeal the decision through an administrative hearing in accordance with Section 63-46b-3 et seq.

7) An individual may receive vouchers up to a maximum amount of \$5,000 per year through the Education and Training Voucher Program.

a) In accordance with 20 USC 1087kk, the total amount awarded may not exceed the total cost of attendance, as described in R512-306-4, minus expected contributions from the individual's family and minus estimated financial assistance from other State or Federal grants or programs.

b) In accordance with 42 USC 677(i)(5), the amount of benefits received through the Education and Training Voucher Program may be disregarded in determining an individual's eligibility for, or amount of, any other Federal or Federally supported assistance.

c) Awards are subject to the availability of Division ETV funds appropriated for this program.

**R512-306-4. Cost of Attendance.**

1) The cost of attendance, is authorized in 20 USC 10871l.

**KEY: foster care, independent living**

**June 22, 2004**

**62A-4a-105**



**Public Safety, Driver License**  
**R708-2**  
**Commercial Driver Training Schools**

**NOTICE OF 120-DAY (EMERGENCY) RULE**

DAR FILE No.: 27245  
FILED: 06/23/2004, 08:57

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The 2004 legislature changed the age requirement in H.B. 343 for getting an instruction permit. The purpose of this rule is to make the age change requirement in the rule consistent with the change in the statute so it can become effective on 07/01/2004. Also changes fees per S.B. 1 (2004). (DAR NOTES: H.B. 343 is found at UT L 2004 Ch 222, and was effective 07/01/2004. S.B. 1 is found at UT L 2004 Ch 256, and was effective 07/01/2004.)

SUMMARY OF THE RULE OR CHANGE: The age for issuing instruction permits was changed from 15 years and 9 months to 15 years and 6 months. An original Commercial Driver Training School license fee was increased from \$80 to \$100. The annual fee for renewal of a license increased from \$50 to \$100. The annual fee for a renewal of a branch license increased from \$20 to \$30 and a duplicate license fee increased from \$5 to \$10. (DAR NOTE: A corresponding proposed amendment is under DAR No. 27246 in this issue.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-3-505

## ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Any costs or savings in the state budget would have been addressed by the legislature in its discussions of H.B. 343 and S.B. 1.
- ❖ LOCAL GOVERNMENTS: No impact--Local government does not regulate or administer driver education schools.
- ❖ OTHER PERSONS: There is no cost impact to driver education schools from the change in the rule that allows students to get an instruction permit three months earlier. The only cost will be fee increases for the licenses. An original Commercial Driver Training School license fee was increased from \$80 to \$100. The annual fee for renewal of a license increased from \$50 to \$100. The annual fee for a renewal of a branch license increased from \$20 to \$30 and a duplicate license fee increased from \$5 to \$10.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Individuals who receive services from driver training schools will not be

impacted by this rule unless the owners decide to pass on their fee increases to their students.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There only fiscal impact on businesses will be the fee increases. An original Commercial Driver Training School license fee was increased from \$80 to \$100. The annual fee for renewal of a license increased from \$50 to \$100. The annual fee for a renewal of a branch license increased from \$20 to \$30 and a duplicate license fee increased from \$5 to \$10.

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

In H.B. 343, the legislature changed the age requirement regarding instruction permits for driver education programs. The age requirement for getting an instruction permit was changed from 15 years and 9 months of age to 15 years and 6 months effective 07/01/2004. By using the normal rulemaking process, the change would not become effective until 08/17/2004. To meet the 07/01/2004 effective date, it became necessary to do an emergency rule change.

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

PUBLIC SAFETY  
DRIVER LICENSE  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W 3RD FL  
SALT LAKE CITY UT 84119-5595, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Vinn Roos at the above address, by phone at 801-965-4456, by FAX at 801-964-4482, or by Internet E-mail at vroos@utah.gov

THIS RULE IS EFFECTIVE ON: 07/01/2004

AUTHORIZED BY: Judy Hamaker Mann, Director

**R708. Public Safety, Driver License.****R708-2. Commercial Driver Training Schools.****R708-2-4. Licensing Requirement for a Commercial Driver Training School.**

(1) Every corporation, partnership or person who owns a commercial driver training school shall obtain a school license from the division. School license applications may be obtained from the Driver License Division at 4501 South 2700 West, Salt Lake City, Utah. Applicants are also responsible for obtaining any business licenses required by the municipality or county in which they are located. School and business licenses must be conspicuously displayed in the licensee's principal place of business and branch offices. Each school shall be inspected by a division representative before it can be licensed.

(2) A license is valid for the calendar year and expires on December 31 of the year issued. The [~~annual~~]-fee for an original license is [~~\$80~~]\$100. The annual fee for a renewal license is

~~[\$50]~~\$100. The annual fee for each branch license is ~~[\$20]~~\$30. Fees shall be payable to the Department of Public Safety. If a license is revoked, or refused issuance or reinstatement, no part of the fee will be refunded.

(3) Licenses are not transferable.

(4) If a license is lost or destroyed, a duplicate will be issued upon payment of a fee of ~~[\$5]~~\$10. A notarized affidavit setting forth the date the license was lost or destroyed and the circumstances of such loss or destruction must be provided.

(5) Whenever any school or branch office is discontinued, the school or branch office license must be surrendered to the division within five days. In such cases, the licensee shall state in writing the reason for such surrender.

(6) Any branch office or classroom facility in a location other than the school's principal place of business shall be separately licensed. A branch office shall meet the same requirements as the school's principal place of business and shall be similarly equipped and perform substantially the same services. Application for a branch office license shall be made on an application form provided by the division. Branch offices shall be inspected by a division representative before they can be licensed.

(7) Each school must employ a licensed operator to operate the school and each branch office before it may become licensed. The current licensed operator must be identified on the application maintained by the division for each school or branch office. It is permissible for a single operator to operate multiple branch offices of the same school. If at any time the operator discontinues employment with the school, a new operator must be employed before continuation of operation of the school, including any branch offices for which the individual has been identified as the operator, may occur.

(a) It is not permissible for an individual to maintain employment with more than one commercial driver training school or testing only school at a time.

(8) Only one school may be operated from a branch office or a classroom facility. It is not permissible for two or more schools owned by separate individuals and owned under different school names to operate from the same facility or office space unless one school has been designated by the division as a testing only school. One commercial driver training school and one testing only school may be operated from the same school or branch office. A clear separation of the schools must be identified, and each school must comply with standards set forth in R708-2.

(9) Each school or classroom facility must be posted with signage that will identify the school by name as the school is listed on the school certification.

#### **R708-2-5. Licensing Requirement for a Testing Only School.**

(1) Every corporation, partnership or person who owns a testing only school shall obtain a school license from the division. School license applications may be obtained from the Driver License Division at 4501 South 2700 West, Salt Lake City, Utah. Applicants are also responsible for obtaining any business licenses required by the municipality or county in which they are located. School and business licenses must be conspicuously displayed in the licensee's principal place of business and branch offices. Each school shall be inspected by a division representative before it can be licensed.

(2) A license is valid for the calendar year and expires on December 31 of the year issued. The ~~[annual]~~ fee for an original license is ~~[\$80]~~\$100. The annual fee for a renewal license is

~~[\$50]~~\$100. The annual fee for each branch license is ~~[\$20]~~\$30. Fees shall be payable to the Department of Public Safety. If a license is revoked, or refused issuance or reinstatement, no part of the fee will be refunded.

(3) Licenses are not transferable.

(4) If a license is lost or destroyed, a duplicate will be issued upon payment of a fee of ~~[\$5]~~\$10. A notarized affidavit setting forth the date the license was lost or destroyed and the circumstances of such loss or destruction must be provided.

(5) Whenever any school or branch office is discontinued, the school or branch office license must be surrendered to the division within five days. In such cases, the licensee shall state in writing the reason for such surrender.

(6) Any branch office in a location other than the school's principal place of business shall be separately licensed. A branch office shall meet the same requirements as the school's principal place of business and shall be similarly equipped and perform substantially the same services. Application for a branch office license shall be made on an application form provided by the division. Branch offices shall be inspected by a division representative before they can be licensed.

(7) It is not permissible for an individual to maintain employment with more than one commercial driver training school or testing only school at a time.

(8) Only one school may be operated from a branch office. It is not permissible for two schools owned by separate individuals and owned under different school names to operate from the same facility or office space unless one school has been designated by the division as a testing only school. One commercial driver training school and one testing only school may be operated from the same school or branch office. A clear separation of the schools must be identified, and each school must comply with standards set forth in R708-2.

(9) Each school must be posted with signage that will identify the school by name as the school is listed on the school certification.

(10) It is not required that a testing only school maintain a classroom facility in the school or branch office location. It is required that the testing only school location or branch office have a designated area in which to maintain required files and records.

#### **R708-2-7. Application Requirements for a Commercial Driver Training School Instructor License.**

(1) Every person who serves as an instructor in a commercial driver training school, including the owner, operator, partner or corporate officer of the licensee, substitute or part-time instructor, shall obtain an instructor's license from the division. Such license shall be valid only for the specific driver training school listed on the license.

(2) A license is valid for the calendar year and expires on December 31 of the year issued. The ~~[annual]~~ fee for an original license is ~~[\$15]~~\$30. The annual fee for a renewal license is ~~[\$10]~~\$20. Fees shall be payable to the Department of Public Safety. If a license is revoked or refused issuance, or refused renewed, no part of the fee will be refunded.

(3) Licenses are not transferable.

(4) If an instructor license is lost or destroyed, a duplicate will be issued upon payment of a fee of ~~[\$3]~~\$6. A notarized affidavit setting forth the date the license was lost or destroyed and the circumstances of such loss or destruction must be provided.

**R708-2-9. Additional Requirements for Commercial Driver Training School Instructors.**

(1) In addition to obtaining a license, a commercial driver training school instructor must:

- (a) have a valid Utah driver license;
- (b) be at least twenty one years of age;
- (c) have at least three years of driving experience in the United States, Canada, or a country with which the state of Utah has established a license reciprocity agreement;
- (d) have a driving record free of conviction for a moving violation or chargeable accident resulting in suspension or revocation of the driver license for the two year period immediately prior to application and during employment and be checked to determine if there is an unsatisfactory driving record in any state;
- (e) be in acceptable physical condition as required by Section 10 of this rule;
- (f) complete specialized professional preparation in driver safety education consisting of not less than 21 quarter hours, or 14 semester hours of credit as approved by the division. Of the 21 quarter hours or 14 semester hours, one class must be in teaching methodology and another class must include basic driver training instruction or organization and administration of driver training instruction;

(g) pass a written test given by the division. The test may cover commercial driver training school rules, traffic laws, safe driving practices, motor vehicle operation, teaching methods and techniques, statutes pertaining to commercial driver training schools, business ethics, office procedures and record keeping, financial responsibility, no fault insurance, procedures involved in suspension or revocation of an individual's driving privilege, material contained in the "Utah Driver Handbook", and traffic safety education programs;

- (h) pass a practical driving test;
- (i) pass the same standard eye test that is given to applicants who apply for a Utah operator or commercial driver license; and
- (j) submit a fingerprint record for a criminal history record check.

(2) Instructors shall be sponsored by a commercial driver training school which shall be responsible for controlling and supervising the actions of the instructors. No school may knowingly employ any person as an instructor or in any other capacity if such person has been convicted of a felony or any crime involving moral turpitude.

(3) The instructor's license must be in the possession of the instructor at all times while providing behind-the-wheel or classroom instruction.

**R708-2-10. Application and Medical Requirements for a Commercial Driver Training School Instructor License.**

(1) Application for an original or renewal instructor's license must be made on forms provided by the division, signed by the applicant in front of a division employee authorized to administer oaths. Applications must be submitted at least 30 days prior to licensing. The original and each yearly renewal application must be accompanied by a medical profile form provided by the division and completed by a health care professional as defined in Subsection 53-3-302(2).

(2) The medical profile form shall indicate any physical or mental impairments which may preclude service as a commercial driver training school instructor. The physical examinations must take place no more than three months prior to application.

(3) The commercial driver training school desiring to employ the applicant as an instructor must sign the application verifying that the applicant will be employed by the school.

(4) When deemed necessary by the division, an applicant seeking to renew an instructor's permit may be required to take a driving skills test.

**R708-2-15. Instruction Permits.**

(1) A commercial driver training school must obtain from the division an instruction permit for each student enrolled in the school for the purpose of meeting licensing requirements as set forth in Section 53-3-204 (1). An instruction permit provides proof that the student is enrolled in a driver training course and is licensed to receive behind-the-wheel instruction with a licensed instructor. Instruction permits shall be retained by the instructor and shall be available in the vehicle at all times while the student is driving. Information shall be included on the instruction permit in a manner specified by the division.

(a) It is the responsibility of the school to ensure that the instruction permit application contains the correct name and date of birth of the student, by means of a birth certificate or other official form of identification.

(b) Application for an instruction permit must be typed or printed in ink. Duplicate instruction permits may not be issued unless the student's name and date of birth are the same as those on the original application.

(c) Instruction permits shall not be issued for persons under the age of 15 years and ~~nine~~six months.

(d) All unused instruction permits issued between January 1 and September 30 of each year shall be returned to the division prior to December 31 of that year. Unused permits issued during October, November, and December shall be submitted with the unused permits of the following year.

(2) Upon completion of the requirements of the driver training course, the commercial driver training school shall release to the student a form consisting of an instruction permit, a certificate of training which must be signed by the student, and a certificate of completion which must be signed by the instructor and the school owner.

(3) The student shall present the certificate of completion to the division when the student makes application for a driver license.

(4) Duplicate certificates of completion may be obtained for \$5.

(5) Following notice of intent to take agency action, suspension of issuance of instruction permits to a school or instructor may occur whenever the division has reason to believe that a school or instructor is in non-compliance with this rule.

(6) After notice of intent to take agency action is sent to a school, and after allowing sufficient time for the school to have received the notice, the division will no longer issue instruction permits to the school.

(7) Suspension of issuance of instruction permits will remain in effect until such times as the school, operator or instructor is in compliance with requirements as stipulated in the notice of intent to take agency action and reinstatement of the school license, instructor license, and /or operator license has occurred. The subject of intended action may request a hearing regarding the agency's intent to take action. If a hearing is requested, suspension of issuance of instruction permits will remain in effect pending the outcome of the hearing.

(8) After a school has received notice from the division of intent for agency action to occur, it is a violation of this rule for the school to allow students to enroll in a driver training course at the school or to accept money from students for whom the school will be unable to obtain an instruction permit or for whom the school will be unable to provide a completion slip if the school license is revoked or refused renewal or reinstatement following a hearing as requested by the school.

(9) In the event that a school license is revoked or refused renewal, all incomplete instruction permits shall be returned to the division.

**R708-2-21. Records.**

(1) Every commercial driver training school shall maintain the following records:

(a) A permanent record book, defined as: a permanently bound book, with pages consecutively numbered, setting forth the name, address, date of birth, enrollment date, course type, and completion date of every person receiving lessons, lectures, tutoring, instruction of any kind or any other services relating to instruction in the operation of motor vehicles. The permanent record book must be updated upon both enrollment and course completion of each student. The division must approve the format of the permanent record book.

(b) A student record book, defined as: a book or other record showing the name, date of birth, and course type for each student; and the date, type, exact time of day including a.m. and p.m. for the beginning and ending, ~~and duration~~ of all training administered ~~[lessons, lectures, tutoring, instructions or other services relating to instruction]~~ in the operation of motor vehicles. It will also contain the names of the instructors giving such lessons or instructions and identification of the vehicle in which any behind-the-wheel and/or observation instruction is given. The student record book must be updated within 24 hours of the time that instruction is conducted for each student. The division must approve the format of the student record book.

(c) Computerized files may be substituted for the permanently bound book and student record book if the format to be used has been approved by the division. It is a violation of this rule to maintain computerized files that have not been approved by the division.

(d) Each school shall maintain accurate, up to date records. Failure to do so is a violation of this rule.

(2) The division shall review the records of all schools at least annually and may observe the instruction given both in the classroom and behind the wheel. The division shall have the right to

review the operation of the schools whenever the division deems it necessary to insure compliance with this rule.

(3) The loss, mutilation or destruction of any records which a school is required to maintain, must be immediately reported by the school to the division by affidavit stating:

(a) The date such records were lost, mutilated or destroyed; and

(b) The circumstances involving such loss, mutilation or destruction.

(4) All records must be retained by the schools for three years, with the exception of the permanently bound book or computerized file there of, which is to be kept permanently, during which time they shall be subject to inspection by the division during reasonable business hours. In the event that the school closes permanently, the permanent record book will be submitted by the school to the division.

(5) When deemed necessary by the division, the school records will be removed from the school location for the purpose of conducting an audit.

(a) When records are removed from the school location, a receipt will be provided to the school operator which will include the name of the school, location of the school, date of removal of records from the school location, information that specifies all records removed from the school location, the signature of the school operator, and the signature of a division representative.

(b) Upon return of the school records, the receipt will be updated to reflect the date that the records were returned to the school, the signature of the school operator, and the signature of the division designate returning the records.

(c) Records will be held by the division for the minimum amount of time necessary so that an audit can occur without creating an unnecessary hardship or inconvenience to the school.

(d) All records, including computerized records, must be provided to the division when requested for the purpose of an audit or review of the school's records. Failure to provide all records as requested by the division is a violation of this rule. In the event that a hearing occurs subsequent to an audit, records not provided by the school at the time of the audit may not be considered as evidence during the hearing.

**KEY: driver education, schools, rules and procedures**

**July 1, 2004**

**Notice of Continuation November 25, 2002**

**53-3-505**



**End of the Notices of 120-Day (Emergency) Rules Section**

# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1998).

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## Commerce, Occupational and Professional Licensing **R156-46a** Hearing Instrument Specialist Licensing Act Rules

### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 27247  
FILED: 06/24/2004, 15:51

### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 46a, provides for the licensure of hearing instrument specialists and hearing instrument interns. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-46a-201(3)(a) provides that the Hearing Instrument Specialist Licensing Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the division director. This rule was enacted to clarify the provisions of Title 58, Chapter 46a, with respect to hearing instrument specialists and hearing instrument interns.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in August 1999, it has been amended three times. In March 2003, amendments were made to the rule as a result of statute changes during the 2002 legislative session. A March 11, 2003, rule hearing was held regarding the proposed amendments. The Division received no written comments with respect to the proposed amendments. In October 2001, the rule was amended to clarify the continuing education requirements. An October 10, 2001, rule hearing was held regarding the proposed amendments. The Division received no written comments with respect to the proposed amendments. However, several nonsubstantive changes

were noted during the October 10, 2001, rule hearing and those nonsubstantive changes were filed with the Division of Administrative Rules on October 16, 2001. Finally, the rule was amended in July 2001 to delete references to a quality assurance program as a result of statute changes made during the 2001 legislative session. The Division received no written comments with respect to these proposed amendments.

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 as it clarifies the provisions of Title 58, Chapter 46a, with respect to hearing instrument specialists and hearing instrument interns.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Clyde Ormond at the above address, by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at [cormond@utah.gov](mailto:cormond@utah.gov)

AUTHORIZED BY: J. Craig Jackson, Director

EFFECTIVE: 06/24/2004



## Health, Administration **R380-25** Submission of Data Through an Electronic Data Interchange

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 27260  
FILED: 06/30/2004, 14:30

**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: Subsections 26-1-30(2)(d), (e), (f), (g), (p), and (w) authorize the Department of Health to collect data, and to detect, monitor, and disseminate information about diseases and health conditions important to the public health. Sections 26-3-5 and 26-3-6 provide that the Department of Health may establish uniform standards for the management of health information to avoid duplication of data and to coordinate health data activities within the state. This rule provides for uniform submission of data to the Department of Health through an electronic data interchange and provides for the confidential treatment of that data.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary for consistent, cost-effective reporting of information important to public health, and therefore, the rule should be continued.

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

HEALTH  
ADMINISTRATION  
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:  
Doug Springmeyer at the above address, by phone at 801-538-6971, by FAX at 801-538-6306, or by Internet E-mail at [dspringm@utah.gov](mailto:dspringm@utah.gov)

AUTHORIZED BY: Scott D. Williams, Executive Director

EFFECTIVE: 06/30/2004



Health, Health Systems Improvement,  
Child Care Licensing  
**R430-8**

Exclusions from Child Care Licensing -  
Parochial Education Institution

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 27242  
FILED: 06/16/2004, 16:13

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 26-39-106(6) excludes parochial education institutions as child care facilities.

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 supporting or opposing the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Utah law requires church-owned child care facilities to be licensed, but exempts church-owned educational facilities. This rule defines the difference so businesses can determine if they are required to obtain a license, and therefore the rule should be continued.

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

HEALTH  
HEALTH SYSTEMS IMPROVEMENT,  
CHILD CARE LICENSING  
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:  
Debra Wynkoop at the above address, by phone at 801-538-6152, by FAX at 801-538-6325, or by Internet E-mail at [debwynkoop@utah.gov](mailto:debwynkoop@utah.gov)

AUTHORIZED BY: Scott D. Williams, Executive Director

EFFECTIVE: 06/16/2004



## NOTICES OF RULE EFFECTIVE DATES

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These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

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### Abbreviations

AMD = Amendment  
CPR = Change in Proposed Rule  
NEW = New Rule  
R&R = Repeal and Reenact  
REP = Repeal

### Administrative Services

#### Finance

No. 27120 (AMD): R25-7. Travel-Related Reimbursements for State Employees.  
Published: May 15, 2004  
Effective: July 1, 2004

### Commerce

#### Real Estate

No. 27129 (NEW): R162-201. Residential Mortgage Definitions.  
Published: May 15, 2004  
Effective: June 29, 2004

No. 27130 (AMD): R162-202. Initial Application.  
Published: May 15, 2004  
Effective: June 29, 2004

### Environmental Quality

#### Water Quality

No. 27022 (AMD): R317-10. Certification of Wastewater Works Operator.  
Published: April 15, 2004  
Effective: June 23, 2004

### Governor

#### Planning and Budget, Chief Information Officer

No. 27108 (NEW): R365-6. IT Plan Submission Rule for Executive Branch Agencies.  
Published: May 15, 2004  
Effective: June 28, 2004

No. 27119 (NEW): R365-7. Acceptable Use of Information Technology Resources.  
Published: May 15, 2004  
Effective: June 28, 2004

### Health

#### Health Care Financing, Coverage and Reimbursement Policy

No. 27049 (AMD): R414-55. Medicaid Policy for Hospital Emergency Department Copayment Procedures.  
Published: April 15, 2004  
Effective: June 17, 2004

### Human Services

#### Administration

No. 26936 (NEW): R495-882. Termination of Parental Rights.  
Published: March 1, 2004  
Effective: June 29, 2004

#### Mental Health

No. 27117 (AMD): R523-1-10. Allocation of Utah State Hospital Bed Days to Local Mental Health Authorities.  
Published: May 15, 2004  
Effective: June 17, 2004

No. 27118 (AMD): R523-1-16. Pediatric Bed Allocation at the Utah State Hospital.  
Published: May 15, 2004  
Effective: June 17, 2004

### Tax Commission

#### Auditing

No. 27093 (AMD): R865-9I-38. Pensions and Annuities Pursuant to Utah Code Ann. Section 59-10-114.  
Published: May 1, 2004  
Effective: June 29, 2004

No. 27056 (AMD): R865-12L-7. Public Utilities Point of Sale Pursuant to Utah Code Ann. 59-12-207.  
Published: May 1, 2004  
Effective: June 29, 2004

No. 27060 (AMD): R865-12L-15. Resort Communities' Tax Pursuant to Utah Code Ann. Section 59-12-401.  
Published: May 1, 2004  
Effective: June 29, 2004

No. 27061 (AMD): R865-12L-16. Notification to Tax Commission Upon Change in the Election to Collect County or Municipality Imposed Transient Room Taxes Pursuant to Utah Code Ann. Sections 59-12-302 and 59-12-354.

Published: May 1, 2004  
Effective: June 29, 2004

No. 27062 (AMD): R865-12L-17. Procedures for Administration of the Tourism, Recreation, Cultural, and Convention Facilities Tax Pursuant to Utah Code Ann. Sections 59-12-602 and 59-12-603.

Published: May 1, 2004  
Effective: June 29, 2004

No. 27063 (AMD): R865-19S-1. Sales and Use Taxes Distinguished Pursuant to Utah Code Ann. Title 59, Chapter 12.

Published: May 1, 2004  
Effective: June 29, 2004

No. 27064 (AMD): R865-19S-12. Filing of Returns Pursuant to Utah Code Ann. Section 59-12-107.

Published: May 1, 2004  
Effective: June 29, 2004

No. 27068 (AMD): R865-19S-23. Exemption Certificates Pursuant to Utah Code Ann. Sections 59-12-106 and 59-12-104.

Published: May 1, 2004  
Effective: June 29, 2004

No. 27071 (AMD): R865-19S-28. Retailer Defined Pursuant to Utah Code Ann. Section 59-12-102.

Published: May 1, 2004  
Effective: June 29, 2004

No. 27072 (AMD): R865-19S-30. Purchase Price or Sales Price Defined Pursuant to Utah Code Ann. Sections 59-12-102 and 59-12-104.

Published: May 1, 2004  
Effective: June 29, 2004

No. 27095 (AMD): R865-19S-45. Auctioneers, Consignees, Bailees, Etc. Pursuant to Utah Code Ann. Section 59-12-102.

Published: May 1, 2004  
Effective: June 29, 2004

No. 27080 (AMD): R865-19S-58. Materials and Supplies Sold to Owners, Contractors, and Repairmen of Real Property Pursuant to Utah Code Ann. Sections 59-12-102 and 59-12-103.

Published: May 1, 2004  
Effective: June 29, 2004

No. 27053 (AMD): R865-19S-70. Sales Incidental To The Rendition of Services Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-104.

Published: May 1, 2004  
Effective: June 29, 2004

No. 27074 (AMD): R865-19S-86. Monthly Payment of Sales Taxes Pursuant to Utah Code Ann. Section 59-12-108.

Published: May 1, 2004  
Effective: June 29, 2004

No. 27085 (AMD): R865-19S-92. Computer Software and Other Related Transactions Pursuant to Utah Code Ann. Section 59-12-103.

Published: May 1, 2004  
Effective: June 29, 2004

No. 27086 (AMD): R865-19S-98. Sales to Nonresidents of Vehicles, Off-Highway Vehicles, and Boats Required to be Registered, and Sales to Nonresidents of Boat Trailers and Outboard Motors Pursuant to Utah Code Ann. Section 59-12-104.

Published: May 1, 2004  
Effective: June 29, 2004

No. 27088 (AMD): R865-19S-107. Reporting of Exempt Sales or Purchases Pursuant to Utah Code Ann. Section 59-12-105.

Published: May 1, 2004  
Effective: June 29, 2004

No. 27090 (AMD): R865-19S-114. Items that Constitute Clothing Pursuant to Utah Code Ann. Section 59-12-102.

Published: May 1, 2004  
Effective: June 29, 2004

No. 27091 (AMD): R865-19S-115. Items that Constitute Protective Equipment Pursuant to Utah Code Ann. Section 59-12-102.

Published: May 1, 2004  
Effective: June 29, 2004

No. 27097 (AMD): R865-19S-116. Items that Constitute Sports or Recreational Equipment Pursuant to Utah Code Ann. Section 59-12-102.

Published: May 1, 2004  
Effective: June 29, 2004

No. 27096 (AMD): R865-19S-117. Use of Rounding in Determining Sales and Use Tax Liability Pursuant to Utah Code Ann. Section 59-12-118.

Published: May 1, 2004  
Effective: June 29, 2004

No. 27099 (AMD): R865-19S-118. Collection of Municipal Telecommunications License Tax Pursuant to Utah Code Ann. Section 10-1-405.

Published: May 1, 2004  
Effective: June 29, 2004

No. 27092 (AMD): R865-21U-1. Nature of Tax Pursuant to Utah Code Ann. Section 59-12-103.

Published: May 1, 2004  
Effective: June 29, 2004

No. 27078 (AMD): R865-21U-12. Storage Pursuant to Utah Code Ann. Section 59-12-103 and 59-12-104(34).  
Published: May 1, 2004  
Effective: June 29, 2004

Workforce Services  
Employment Development  
No. 27138 (AMD): R986-700. Child Care Assistance.  
Published: May 15, 2004  
Effective: July 1, 2004

**End of the Notices of Rule Effective Dates Section**

# RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

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The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2004, including notices of effective date received through July 1, 2004, the effective dates of which are no later than July 15, 2004. 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/>).

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## RULES INDEX - BY AGENCY (CODE NUMBER)

### ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b>Administrative Services</b>					
<u>Facilities Construction and Management</u>					
R23-29	Across the Board Delegation	26991	5YR	03/10/2004	2004-7/35
<u>Finance</u>					
R25-7	Travel-Related Reimbursements for State Employees	27120	AMD	07/01/2004	2004-10/4
R25-7-6	Reimbursements for Meals	27164	AMD	07/02/2004	2004-11/4
<u>Fleet Operations, Surplus Property</u>					
R28-3	Utah State Agency for Surplus Property Adjudicative Proceedings	26843	AMD	02/12/2004	2004-1/4
<u>Records Committee</u>					
R35-1	State Records Committee Appeal Hearing Procedures	27277	5YR	07/02/2004	Not Printed
R35-2	Declining Appeal Hearings	27278	5YR	07/02/2004	Not Printed
R35-3	Prehearing Conferences	27279	5YR	07/02/2004	Not Printed

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R35-5	Subpoenas Issued by the Records Committee	27281	5YR	07/02/2004	Not Printed
R35-6	Expedited Hearings	27282	5YR	07/02/2004	Not Printed
<b>Agriculture and Food</b>					
<u>Animal Industry</u>					
R58-20	Domesticated Elk Hunting Parks	26990	5YR	03/05/2004	2004-7/35
R58-20-5	Facilities	26989	AMD	05/04/2004	2004-7/3
R58-21	Trichomoniasis	26891	AMD	03/04/2004	2004-3/4
<u>Plant Industry</u>					
R68-7-6	Categorization of Pesticide Applicators	26794	NSC	01/01/2004	Not Printed
R68-20-1	Authority	26949	AMD	04/01/2004	2004-5/2
<u>Regulatory Services</u>					
R70-310	Grade A Pasteurized Milk	27149	AMD	07/02/2004	2004-11/6
R70-310	Grade A Pasteurized Milk	27286	5YR	07/09/2004	Not Printed
R70-330	Raw Milk for Retail	27069	AMD	06/02/2004	2004-9/4
<b>Alcoholic Beverage Control</b>					
<u>Administration</u>					
R81-1-3	General Policies	27025	AMD	06/01/2004	2004-8/4
R81-1-8	Consent Calendar Procedures	27027	AMD	06/01/2004	2004-8/5
R81-1-21	Beer Advertising in Event Venues	27028	AMD	06/01/2004	2004-8/6
R81-1-22	Diplomatic Embassy Shipments and Purchases	27029	AMD	06/01/2004	2004-8/8
R81-1-23	Sales Restrictions on Products of Limited Availability	27030	AMD	06/01/2004	2004-8/10
R81-2-1	Special Orders of Liquor by Public	27031	AMD	06/01/2004	2004-8/11
R81-2-2	Liquor Returns, Refunds and Exchanges	27032	AMD	06/01/2004	2004-8/12
R81-2-7	Minors on Premises	27033	AMD	06/01/2004	2004-8/14
R81-2-8	Accepting Checks as Payment for Liquor	27034	AMD	06/01/2004	2004-8/14
R81-2-9	Accepting Credit Cards as Payment for Liquor	27035	AMD	06/01/2004	2004-8/16
R81-2-10	State Store Hours	27036	AMD	06/01/2004	2004-8/17
R81-2-11	Industry Members in State Stores	27037	AMD	06/01/2004	2004-8/18
R81-3-5	Special Orders of Liquor by Public	27038	AMD	06/01/2004	2004-8/19
R81-3-6	Liquor Returns, Refunds and Exchanges	27039	AMD	06/01/2004	2004-8/20
R81-3-14	Type 5 Package Agencies	27040	AMD	06/01/2004	2004-8/22
R81-3-16	Minors on Premises	27041	AMD	06/01/2004	2004-8/23
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R81-3-18	Type 4 Package Agency Room Service - Mini-Bottle/187 ml Wine Sales	27043	AMD	06/01/2004	2004-8/25
R81-3-19	Credit Cards	27044	AMD	06/01/2004	2004-8/26
R81-4D-13	On-Premise Banquet License Room Service - Mini-Bottle/187 ml Wine Sales	27045	AMD	06/01/2004	2004-8/27
R81-6-6	Religious Wine Permits	27046	AMD	06/01/2004	2004-8/29
R81-8-2	Out of State Business	27047	AMD	06/01/2004	2004-8/30
R81-8-3	Winery Tasting Facilities	27048	AMD	06/01/2004	2004-8/31

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<b>Commerce</b>					
<u>Consumer Protection</u>					
R152-11	Utah Consumer Sales Practices Act Rules	26945	AMD	05/20/2004	2004-5/3
R152-21	Credit Services Organizations Act Rules	27238	5YR	06/15/2004	2004-13/67
R152-34	Postsecondary Proprietary School Act Rules	26905	AMD	05/20/2004	2004-4/2
<u>Occupational and Professional Licensing</u>					
R156-1	General Rules of the Division of Occupational and Professional Licensing	26678	NSC	01/01/2004	Not Printed
R156-1-106	Division - Duties, Functions, and Responsibilities	26805	AMD	01/20/2004	2003-24/4
R156-5a	Podiatric Physician Licensing Act Rules	26917	5YR	01/27/2004	2004-4/74
R156-17a-612	Operating Standards - Pharmaceutical Wholesaler/Distributor and Pharmaceutical Manufacturer located in Utah	26754	AMD	02/19/2004	2003-22/11
R156-17a-612	Operating Standards - Pharmaceutical Wholesaler/Distributor and Pharmaceutical Manufacturer located in Utah	26754	CPR	02/19/2004	2004-2/10
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R156-26a-303b	Renewal and Reinstatement Requirements - Continuing Professional Education (CPE)	26786	AMD	01/06/2004	2003-23/7
R156-26a-303b	Renewal and Reinstatement Requirements - Continuing Professional Education (CPE)	27019	AMD	05/24/2004	2004-8/32
R156-37c	Utah Controlled Substance Precursor Act Rules	26916	5YR	01/27/2004	2004-4/74
R156-38	Residence Lien Restriction and Lien Recovery Fund Rules	26834	AMD	02/03/2004	2004-1/5
R156-39a	Alternative Dispute Resolution Providers Certification Act Rules	26915	5YR	01/27/2004	2004-4/75
R156-44a	Nurse Midwife Practice Act Rules	27224	5YR	06/10/2004	2004-13/67
R156-46a	Hearing Instrument Specialist Licensing Act Rules	27247	5YR	06/24/2004	2004-14/56
R156-47b	Massage Therapy Practice Act Rules	26937	AMD	06/07/2004	2004-5/5
R156-54-302b	Examination Requirements - Radiology Practical Technician	26580	CPR	01/20/2004	2003-24/70
R156-54-302b	Examination Requirements - Radiology Practical Technician	26580	AMD	01/20/2004	2003-18/4
R156-55b	Electricians Licensing Rules	27112	AMD	06/15/2004	2004-10/6
R156-56	Utah Uniform Building Standard Act Rules	26693	AMD	01/01/2004	2003-21/7
R156-56	Utah Uniform Building Standard Act Rules	26866	NSC	01/01/2004	Not Printed
R156-56-707	Statewide Amendments to the IPC	26692	AMD	01/01/2004	2003-21/34
R156-61	Psychologist Licensing Act Rules	27225	5YR	06/10/2004	2004-13/68
R156-63	Security Personnel Licensing Act Rules	26888	AMD	03/04/2004	2004-3/5
R156-68	Utah Osteopathic Medical Practice Act Rules	26956	AMD	04/15/2004	2004-6/2
R156-71-202	Naturopathic Physician Formulary	26998	AMD	05/04/2004	2004-7/3
R156-74	Certified Shorthand Reporters Licensing Act Rules	26927	5YR	02/02/2004	2004-4/75
R156-76-102	Definitions	26777	AMD	01/20/2004	2003-23/14
<u>Real Estate</u>					
R162-3	License Status Change	27026	AMD	05/20/2004	2004-8/44
R162-6-2	Standards of Practice	26944	AMD	04/21/2004	2004-5/6
R162-7-3	Investigation and Enforcement	26835	AMD	02/18/2004	2004-1/9
R162-105	Scope of Authority	26890	5YR	01/13/2004	2004-3/42
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R162-204	Residential Mortgage Record Keeping Requirements	26908	AMD	04/12/2004	2004-4/8
R162-205	Residential Mortgage Unprofessional Conduct	26907	AMD	04/12/2004	2004-4/9
R162-206	Licensing Examination	26840	NEW	02/03/2004	2004-1/12
R162-207	License Renewal	26839	NEW	02/03/2004	2004-1/13
R162-208	Continuing Education	26836	NEW	02/03/2004	2004-1/14
R162-209	Administrative Proceedings	26906	AMD	04/12/2004	2004-4/10
<u>Securities</u>					
R164-11-2	Hearings for Certain Exchanges of Securities	26481	AMD	01/05/2004	2003-15/17
R164-11-2	Hearings for Certain Exchanges of Securities	26481	CPR	01/05/2004	2003-23/83
<b>Corrections</b>					
<u>Administration</u>					
R251-101	Corrections Advisory Council Bylaws	26769	REP	03/24/2004	2003-23/15
<b>Crime Victim Reparations</b>					
<u>Administration</u>					
R270-1	Award and Reparations Standards	27157	AMD	07/02/2004	2004-11/7
<b>Education</b>					
<u>Administration</u>					
R277-102	Adjudicative Proceedings	26958	5YR	02/26/2004	2004-6/58
R277-105	Recognizing Constitutional Freedoms in the Schools	27214	5YR	06/01/2004	2004-12/80
R277-413	Accreditation of Secondary Schools, Alternative or Special Purpose Schools	26959	5YR	02/26/2004	2004-6/58
R277-425	Budgeting, Accounting, and Auditing for Utah School Districts	26960	5YR	02/26/2004	2004-6/59
R277-437	Student Enrollment Options	26871	5YR	01/05/2004	2004-3/42
R277-438	Dual Enrollment	27205	5YR	06/01/2004	2004-12/80
R277-444	Distribution of Funds to Arts and Sciences Organizations	26979	AMD	04/15/2004	2004-6/4
R277-462	Comprehensive Guidance Program	26850	AMD	02/05/2004	2004-1/16
R277-469	Instructional Materials Commission Operating Procedures	26999	AMD	05/05/2004	2004-7/5
R277-484	Data Standards, Deadlines and Procedures	26688	NSC	01/01/2004	Not Printed
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<u>University of Utah, Museum of Natural History (Utah)</u>					
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R865-7H	Environmental Assurance Fee	26957	5YR	02/25/2004	2004-6/63
R865-9I-38	Pensions and Annuities Pursuant to Utah Code Ann. Section 59-10-114	27093	AMD	06/29/2004	2004-9/18
R865-12L-7	Public Utilities Point of Sale Pursuant to Utah Code Ann. 59-12-207	27056	AMD	06/29/2004	2004-9/20
R865-12L-15	Resort Communities' Tax Pursuant to Utah Code Ann. Section 59-12-401	27060	AMD	06/29/2004	2004-9/24
R865-12L-16	Notification to Tax Commission Upon Change in the Election to Collect County or Municipality Imposed Transient Room Taxes Pursuant to Utah Code Ann. Sections 59-12-302 and 59-12-354	27061	AMD	06/29/2004	2004-9/25
R865-12L-17	Procedures for Administration of the Tourism, Recreation, Cultural, and Convention Facilities Tax Pursuant to Utah Code Ann. Sections 59-12-602 and 59-12-603	27062	AMD	06/29/2004	2004-9/26
R865-19S-1	Sales and Use Taxes Distinguished Pursuant to Utah Code Ann. Title 59, Chapter 12	27063	AMD	06/29/2004	2004-9/27
R865-19S-12	Filing of Returns Pursuant to Utah Code Ann. Section 59-12-107	27064	AMD	06/29/2004	2004-9/28
R865-19S-23	Exemption Certificates Pursuant to Utah Code Ann. Sections 59-12-106 and 59-12-104	27068	AMD	06/29/2004	2004-9/30
R865-19S-28	Retailer Defined Pursuant to Utah Code Ann. Section 59-12-102	27071	AMD	06/29/2004	2004-9/31
R865-19S-30	Purchase Price or Sales Price Defined Pursuant to Utah Code Ann. Sections 59-12-102 and 59-12-104	27072	AMD	06/29/2004	2004-9/32
R865-19S-45	Auctioneers, Consignees, Bailees, Etc. Pursuant to Utah Code Ann. Section 59-12-102	27095	AMD	06/29/2004	2004-9/34
R865-19S-58	Materials and Supplies Sold to Owners, Contractors, and Repairmen of Real Property Pursuant to Utah Code Ann. Sections 59-12-102 and 59-12-103	27080	AMD	06/29/2004	2004-9/37
R865-19S-70	Sales Incidental To The Rendition of Services Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-104	27053	AMD	06/29/2004	2004-9/40
R865-19S-86	Monthly Payment of Sales Taxes Pursuant to Utah Code Ann. Section 59-12-108	27074	AMD	06/29/2004	2004-9/45
R865-19S-92	Computer Software and Other Related Transactions Pursuant to Utah Code Ann. Section 59-12-103	27085	AMD	06/29/2004	2004-9/47
R865-19S-98	Sales to Nonresidents of Vehicles, Off-Highway Vehicles, and Boats Required to be Registered, and Sales to Nonresidents of Boat Trailers and Outboard Motors Pursuant to Utah Code Ann. Section 59-12-104	27086	AMD	06/29/2004	2004-9/48
R865-19S-107	Reporting of Exempt Sales or Purchases Pursuant to Utah Code Ann. Section 59-12-105	27088	AMD	06/29/2004	2004-9/50
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R865-19S-116	Items that Constitute Sports or Recreational Equipment Pursuant to Utah Code Ann. Section 59-12-102	27097	AMD	06/29/2004	2004-9/54
R865-19S-117	Use of Rounding in Determining Sales and Use Tax Liability Pursuant to Utah Code Ann. Section 59-12-118	27096	AMD	06/29/2004	2004-9/54
R865-19S-118	Collection of Municipal Telecommunications License Tax Pursuant to Utah Code Ann. Section 10-1-405	27099	AMD	06/29/2004	2004-9/55
R865-21U-1	Nature of Tax Pursuant to Utah Code Ann. Section 59-12-103	27092	AMD	06/29/2004	2004-9/56
R865-21U-12	Storage Pursuant to Utah Code Ann. Section 59-12-103 and 59-12-104(34)	27078	AMD	06/29/2004	2004-9/58
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R907-65	Compensation Schedule for Longitudinal Access to Interstate Highway Rights-of-Way for Installation of Telecommunications Facilities	26879	5YR	01/05/2004	2004-3/50
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### 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	

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<b><u>acceptable use</u></b> Governor, Planning and Budget, Chief Information Officer	27119	R365-7	NEW	06/28/2004	2004-10/20
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	27019	R156-26a-303b	AMD	05/24/2004	2004-8/32
<b><u>accreditation</u></b> Education, Administration	26959	R277-413	5YR	02/26/2004	2004-6/58
<b><u>acid rain</u></b> Environmental Quality, Air Quality	26941	R307-417	5YR	02/09/2004	2004-5/45
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<b><u>administrative procedures</u></b> Education, Administration	26958	R277-102	5YR	02/26/2004	2004-6/58
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<b><u>administrative rules</u></b> Human Resource Management, Administration	27170	R477-12	AMD	07/02/2004	2004-11/57
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	26939	R307-214	5YR	02/09/2004	2004-5/44
	27220	R307-215	5YR	06/08/2004	2004-13/69
	26897	R307-301	AMD	05/18/2004	2004-3/15
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