

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed July 2, 2004, 12:00 a.m. through July 15, 2004, 11:59 p.m.

Number 2004-15
August 1, 2004

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Nancy L. Lancaster, Editor

The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah State Government. The Department of Administrative Services, Division of Administrative Rules produces the *Bulletin* under authority of Section 63-46a-10, *Utah Code Annotated* 1953.

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

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

Division of Administrative Rules, Salt Lake City 84114

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Printed in the United States of America

Library of Congress Cataloging-in-Publication Data

Utah state bulletin.

Semimonthly.

1. Delegated legislation--Utah--Periodicals. 2. Administrative procedure--Utah--Periodicals.
- I. Utah. Office of Administrative Rules.

KFU440.A73S7

348.792'025--DDC

85-643197

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SPECIAL NOTICES

Governor's Proclamation: Calling the Fifty-Fifth Legislature into a Third Special Session

STATE OF UTAH

PROCLAMATION

WHEREAS, since the adjournment of the 2004 General Session of the Fifty-Fifth Legislature of the State of Utah, matters have arisen which require immediate legislative attention; and

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

NOW, THEREFORE, I, Olene S. Walker, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and the Laws of the State of Utah, do by this Proclamation call the Fifty-Fifth Legislature of the State of Utah into a Special Session at the Capitol Complex at Salt Lake City, Utah, on the 28th day of June, 2004, at 12 o'clock noon, for the following purpose:

1. to consider amendments related to SB147, Streamlined Sales Tax Project Amendments, 2003 General Session and HB273, Tax and Charge Amendments, 2004 General Session.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the Capitol Complex in Salt Lake City, Utah, this 24th day of June, 2004.

(State Seal)

Olene S. Walker
Governor

Attest:

Gayle F. McKeachnie
Lieutenant Governor

Governor's Executive Order 2004-0006: Wildland Fire Management

EXECUTIVE ORDER

Wildland Fire Management

WHEREAS, the danger from wildland fires is high throughout the state of Utah;

WHEREAS, numerous wildland fires are anticipated statewide that will present a serious threat to public safety, property, natural resources and the environment;

WHEREAS, some of the areas where fires are anticipated are extremely remote and inaccessible and the situation has the potential to worsen greatly if left unattended;

WHEREAS, immediate action is required to suppress these fires as they occur and mitigate post-burn flash floods to protect public safety, property, natural resources and the environment; and

WHEREAS, these conditions do create a disaster emergency within the intent of the Disaster Response and Recovery Act of 1981;

NOW, THEREFORE, I, Olene S. Walker, Governor of the state of Utah by virtue of the power vested in me by the constitution and the laws of the state of Utah, do hereby order that:

It is found, determined and declared that a "State of Emergency" exists statewide due to the threat to public safety, property, natural resources and the environment for thirty days, effective as of July 10, 2004, requiring aid, assistance and relief available pursuant to the provisions of state statutes, and the State Emergency Operations Plan, which is hereby activated.

IN WITNESS, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the state of Utah. Done in Salt Lake City, Utah, this 10th day of July, 2004.

(State Seal)

OLENE S. WALKER
Governor

ATTEST:

GAYLE F. MCKEACHNIE
Lieutenant Governor

2004/0006

End of the Special Notices Section

NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between July 2, 2004, 12:00 a.m., and July 15, 2004, 11:59 p.m. are included in this, the August 1, 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 31, 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 29, 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.

The Proposed Rules Begin on the Following Page.

**Agriculture and Food, Regulatory
Services
R70-630
Water Vending Machine**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27290

FILED: 07/13/2004, 13:58

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change is made to adopt 21 CFR 178.1010, 2004 ed.

SUMMARY OF THE RULE OR CHANGE: This change is made to adopt by reference 21 CFR 178.1010, 2004 ed. There has been no significant changes made in this version.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 4, Chapter 5

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 21 CFR 178.1010 (2004 ed.)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There are no anticipated cost or savings to the state budget due to this change as it only updates a reference.
- ❖ LOCAL GOVERNMENTS: There are no anticipated cost or savings to local government due to this change as it only updates a reference.
- ❖ OTHER PERSONS: There is no compliance cost associated with this rule change as it only updates a reference.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance cost associated with this rule change as it only updates a reference.

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

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

AGRICULTURE AND FOOD
REGULATORY SERVICES
350 N REDWOOD RD
SALT LAKE CITY UT 84116-3087, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Marolyn Leetham, Chris Crnich, or Becky Shreeve at the above address, by phone at 801-538-7114, 801-538-7150, or 801-538-7149, by FAX at 801-538-7126, 801-538-4949, or 801-538-7126, or by Internet E-mail at mleetham@utah.gov, ccnich@utah.gov, or bshreeve@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: Cary G. Peterson, Commissioner

R70. Agriculture and Food, Regulatory Services.

R70-630. Water Vending Machine.

R70-630-3. Definitions.

For the purpose of this rule, the following words and phrases shall have the meanings indicated:

(1) "Approved" means a water vending machine, drinking water source, backflow prevention device or other devices or services that meets the minimum standards of this rule. Approved does not imply satisfactory performance for a specific period of time. Approval, when required, shall be in writing based upon departmental review of data submitted by the water vending industry, manufacturers, operators, owners or managers.

(2) "Approved material" means materials approved by the department as being free of substances which may render the water injurious to health or which may adversely affect the flavor, color, odor, radiological, microbial or chemical quality of the water.

(3) "Department" means the Department of Agriculture and Food, Division of Regulatory Services, or its representative.

(4) "Nontoxic" means free of substances which may render the water injurious to health or may adversely affect the flavor, color, odor, chemical or microbial quality of the water.

(5) "Person" means any individual, partnership, firm, company, corporation, trustee, association, public body or private entity engaged in the water vending business.

(6) "Potable water" means water satisfactory for drinking, culinary and domestic purposes meeting the quality standards of rule R309-103, under the Department of Environmental Quality, the Division of Drinking Water.

(7) "Purified water" means water produced by distillation, deionization, reverse osmosis, or other method of equal effectiveness that meets the requirements for purified water as described in the 21st Edition of the United States Pharmacopoeia issued by Mack Publishing, Easton, Penn. 18042.

(8) "Sanitize" means the effective bactericidal treatment of clean surfaces of equipment, utensils, and containers by a process that provides enough accumulative heat or concentration of chemicals for sufficient time to reduce the bacterial count, including pathogens, to a safe level.

(9) "Sanitizing solution" means Aqueous solutions described by 21 CFR 178.1010, [~~1999~~2004], for the purpose of sanitizing food or water contact surfaces.

(10) "Vended water" means water that is dispensed by a water vending machine or retail water facility for drinking, culinary or other purposes involving a likelihood of the water being ingested by humans. Vended water does not include water from a public water system which has not undergone additional treatment and shall be labeled accordingly.

(11) "Vending machine" means any self-service device which upon insertion of a coin, coins, paper currency, token, card or receipt of payment by other means dispenses unit servings of food, either in bulk or in packages without the necessity of replenishing the device between each vending operation.

(12) "Water vending machine" means a vending machine connected to water designed to dispense drinking water, purified and/or other water products. Such machines shall be designed to reduce or remove turbidity, off-taste and odors and to provide disinfectant treatment and may include processes for dissolved solid reduction or removal.

(13) "Water vending machine operator" means any person who owns, leases, manages, or is otherwise responsible for the operation of a water vending machine.

R70-630-4. Location and Operation.

(1) Each water vending machine shall be located indoors or otherwise protected against tampering and vandalism, and shall be located in an area that can be maintained in a clean condition, and in a manner that avoids insect and rodent harborage.

(2) The floor on which a water vending machine is located shall be smooth and of cleanable construction.

(3) Each machine shall have an adequate system for collecting and disposing drippage, spillage, and overflow of water to prevent creation of a nuisance. Where process waste water is collected within the machine for pumping or gravity flow to an outside drain, the water line from the processing unit shall terminate at least two inches above the top rim of the retention vessel. Additionally, the waste line from the machine shall be air-gapped. Containers or drip pans used for the storage or collection of liquid wastes within a vending machine shall be leakproof, readily removable, easily cleanable and corrosion resistant. In water vending machines which utilize the bottom of the cabinet interior as an internal sump, the sump shall be readily accessible and corrosion resistant. The waste disposal holding tank shall be maintained in a clean and sanitary manner.

(4) Each machine shall have a backflow prevention device for all connections with the water supply source which meets requirements of The International Plumbing Code and its amendment as adopted by the State of Utah Building Codes Commission and shall have no cross connections between the drain and potable water.

(5) Each person who establishes, maintains, or operates any water vending machine in the state, shall first secure a Water Vending Machine Operating ~~[Permit]~~ Registration issued under Section 4-5-9. ~~[Such a permit]~~ The Registration shall be renewed annually.

(6) Application for ~~[permit]~~ Registration shall be made in writing and include the location of each water vending machine, the source of the water to be vended, the treatment that the water will receive prior to being vended, and the name of the manufacturer and the model number of each machine.

(7) The source of the water supply shall be an approved public water system as defined under the Department of Environmental Quality, Division of Drinking Water. Upon application for an initial operating ~~[permit]~~ Registration, the operator shall submit information which indicates the product being dispensed into the container meets all finished product quality standards applicable to drinking water. When indicated by reason of complaint or illness, the department may require that additional analyses be performed on the source or products of water vending machines.

(8) Each water vending machine shall be maintained in a clean and sanitary condition, free from dust, dirt and vermin.

(9) Labels or advertisements located on or near water vending machines shall not imply nor describe the vended water as "spring water."

(10) Water vending machine labels or advertisements shall not describe or use other words to imply, on the machine or elsewhere, the water as being "purified water" unless such water conforms to the definition contained in this rule.

(11) Water vending machine labels or advertisements shall not describe, on the machine or elsewhere, the water as having medicinal or health giving properties.

(12) Each water vending machine shall have in a position clearly visible to customers the following information:

- (a) Name and address of the operator.
- (b) Name of the water supply purveyor.
- (c) The method of treatment that is utilized.
- (d) The method of post-disinfection that is utilized.
- (e) A local or toll free number that may be called for further information, problems, or complaints; or the name of the store or building manager can be listed when the machine is located within a business establishment and the establishment manager is responsible for the operation of the machine.

R70-630-6. Operator Requirements.

(1) Water vending machine operators shall have on file and perform a maintenance program that includes:

- (a) Visits for cleaning, sanitizing and servicing of machines at least every two weeks.
- (b) Written servicing instructions.
- (c) Technical manuals for the machines.
- (d) Technical manuals for the water treatment appurtenances involved.

(2) Parts and surfaces of water vending machines shall be kept clean and maintained by the water vending machine operator. The vending chamber and the vending nozzle shall be cleaned and sanitized each time the machine is serviced. A record of cleaning and maintenance operations shall be kept by the operator for each water vending machine. These records shall be made available to the department's employees upon request.

(3) Water vending machine operators shall ensure that machines are maintained and monitored to dispense water meeting quality standards specified in this rule. Water analysis shall be performed using approved testing procedures set forth in 21 CFR 165, ~~[1999]~~ 2004. Each machine's finished product shall be sampled at least once every three months by the operator, to determine total coliform content. However, provided a satisfactory method of post-treatment disinfection is utilized and based on a sustained record of satisfactory total coliform analyses, the department shall allow modification of the three-month sampling requirement as follows:

(a) When three consecutive three-month samples are each found to contain zero coliform colonies per 100 milliliters of the vended water, microbiological sampling intervals shall be extended to a period not exceeding six months. Should a subsequent six-month sample test positive for total coliform, the required sampling frequency shall revert to the three-month frequency until three consecutive samples again test negative for total coliform bacteria.

(b) If any sample collected from a machine is determined to be unsatisfactory, exceeding the zero coliform colonies per 100 milliliter, the machine shall be cleaned, sanitized and resampled immediately. If, after being cleaned and sanitized, the vended

product is determined to be positive for coliform, the machine shall be taken out of service until the source of contamination has been located and corrected.

(4) Each water vending machine operator shall take whatever investigative or corrective actions are necessary to assure a potable water is supplied to consumers.

(5) The vended water from each vending machine utilizing silver-impregnated carbon filters in the treatment process shall be sampled once every six months for silver.

(6) All records pertaining to the sampling and analyses shall be retained by the operator for a period of not less than two years. Results of the analyses shall be available for department review upon request.

R70-630-7. Duties and Responsibilities of the Department.

(1) The department may collect and analyze samples of vended water when necessary to determine if the vended water meets the standards of potable water.

(2) After considering the source of water and the treatment process provided by the water vending machine, the department shall determine whether the finished product water will or will not meet quality standards as provided under rule R309-103 under the Division of Drinking Water. If it is determined that the water will not meet potable water standards, the ~~permit~~ Registration to operate a water vending machine shall be denied.

(3) The department will evaluate water vending machines, as well as their locations and support facilities as often as may be deemed necessary for enforcement of the provisions of this rule.

(4) Water vending machine operators shall allow the department to examine necessary records pertaining to the operation and maintenance of the vending machines and also provide access to the machines for inspection at reasonable hours.

R70-630-8. Enforcement and Penalties.

(1) The department shall order a water vending machine operator to discontinue the operation of any water vending machine that represents a threat to the life or health of any person, or whose finished water does not meet the minimum standards provided for in this rule. Such water vending machine shall not be returned to use or used until such time the department determines that the conditions which caused the discontinuance of operation no longer exist.

(2) The department shall ~~revoke~~ deny a ~~permit~~ Registration (procedures for ~~permit revocation~~ Registration denial are stated in R51-2) when it is determined that there has been a substantial failure to comply with the provisions of this rule by which the health or life of an individual, or the health or lives of individuals is threatened or impaired, or by which or through which, directly or indirectly, disease is caused. ~~Permit~~ Registration can also be ~~revoked~~ denied or suspended if the water has been adulterated.

KEY: food inspection

~~March 3, 2000~~ 2004

Notice of Continuation January 11, 2000

4-5

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

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27301

FILED: 07/15/2004, 09:29

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Board of Nursing are proposing amendments to define and implement statute changes made during the 2003 (see S.B. 90 and S.B. 252) and 2004 (see H.B. 70 and S.B. 107) legislative sessions and to update documents which are incorporated by reference. (DAR NOTES: S.B. 90 is found at UT L 2003 Ch 48, and was effective 05/05/2003. S.B. 252 is found at UT L 2003 Ch 219, and was effective 05/05/2003. H.B. 70 is found UT L 2004 Ch 247, and was effective 05/03/2004. S.B. 107 is found at UT L 2004 Ch 15, and was effective 07/01/2004.)

SUMMARY OF THE RULE OR CHANGE: The proposed amendments are: 1) updates references to documents that are incorporated by reference; 2) increases the number of registered nurses on the Board of Nursing to six based on a change in Title 58, Chapter 31b; 3) deletes any reference to Prescriptive Practice Peer Committee audits as a result of statute changes made during the 2003 legislative session; 4) adds approved examinations for the LPN-GCM (Licensed Practical Nurse-Geriatric Care Manager) and APRN (Advanced Practice Registered Nurse) licensure; 5) deletes the language addressing criminal convictions for individuals making application for a health care assistant and the Division will simply rely on wording in the statute requiring a criminal background check; 6) establishes criteria to renew/reactivate a LPN-GCM license/certification; 7) clarifies an exemption for licensure for respite care; 8) adds license classification LPN-GCM to the disciplinary process, fine schedule and unprofessional conduct sections; 9) clarifies standards and process whereby new nursing education programs become approved; 10) establishes the types of information that may be obtained by approved nursing education programs during a yearly survey; 11) establishes standards for out-of-state schools to offer clinical experiences in Utah facilities; 12) establishes the LPN-GCM standards and criteria for certification; 13) clarifies the expanded scope of practice allowed by an individual certified as a LPN-GCM; and 14) identifies the evaluation process for facilities wishing to begin a LPN-GCM education program.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Deletes: The "State Approved Schools of Nursing RN", 1998, published by the National League for Nursing Accrediting Committee; the "State Approved Schools of Nursing LPN/LVN", 1998, published by the National League for Nursing Accrediting Committee; the "Scope and Standards of Advanced Practice Registered Nursing", 1996, published by the American Nurses Association; the "Model Nursing Administrative Rules", 1994, published by the National Council of State Boards of Nursing; the "Standards of Clinical Nursing Practice", 2nd edition, 1998, published by the American Nurses Association; the "Standards of Accreditation of Baccalaureate and Graduate Nursing Education Programs", August 1998, published by the Commission on Collegiate Nursing Education; and the "Accreditation Manual and Interpretative Guidelines by Program Type for Post Secondary, Baccalaureate and Higher Degree Programs in Nursing", 2001 revised, published by the National League of Nursing Accrediting Committee. Adds: the "Directory of Accredited Nursing Programs", 2003, published by the National League for Nursing Accrediting Commission; and the "Nursing: Scope and Standards of Practice", 2003, published by the American Nurses Association

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division will incur costs of approximately \$50 to reprint the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget. If any state run facility wishes to hire a LPN-GCM or to run a training program, there will be costs associated with that hire and/or training. Due to the LPN-GCM program being a new program, the Division is unable to determine any exact costs at this time.

❖ LOCAL GOVERNMENTS: If a local government agency, i.e. Division of Aging, employed the services of a LPN-GCM, then the salary would be higher than that of a LPN. The exact increase in salary cannot be determined by the Division at this time.

❖ OTHER PERSONS: Costs for health care may actually decrease as long-term care facilities are able to train and hire LPN-GCMs rather than RNs. With the current shortage of RNs, it is difficult for long-term care facilities to find RNs who are willing to work in the facilities. There will be some costs to either LPNs or the facilities in which they work to pay for the training, certification examination and license/renewal fees. The Division is unable to determine what costs are involved with respect to the training at this time. The cost for the LPN-GCM certification examination is also not known to the Division at this time. The license/renewal fees for a LPN-GCM are as follows: \$40 application fee and \$70 renewal fee every two years. It should be noted that the LPN-GCM certification is voluntary and not every LPN would be subject to these costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be some costs to either LPNs or the facilities in which they work to pay for the training, certification examination, and license/renewal fees. The Division is unable to determine what costs are involved with respect to the training at this time. The cost for the LPN-GCM certification examination is also not known to

the Division at this time. The license/renewal fees for a LPN-GCM are as follows: \$40 application fee and \$70 renewal fee every 2 years. It should be noted that the LPN-GCM certification is voluntary and not every LPN would be subject to these costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing adopts provisions to implement amendments in H.B. 70 regarding the certification of geriatric care managers. Because the fiscal impact was previously considered in passage of H.B. 70, no additional fiscal impact to businesses results from this aspect of the rule filing. The rule filing also includes technical changes by clarifying existing provisions with additional definitions and updating references within the existing rules. There is no fiscal impact to businesses as to these technical changes. This amendment further establishes approval criteria for nursing education programs and standards for foreign nursing programs. These standards will fiscally impact the regulated industry, but should not affect businesses in general. However, nursing education programs and foreign nursing programs are presumably already in compliance with national and/or foreign state standards and their compliance with Utah standards as adopted in these rules may not be significant. The exact amount of any fiscal impact will vary among nursing education programs and is difficult to ascertain. 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:

Laura Poe at the above address, by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at lpoe@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/31/2004

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 8/26/2004 at 10:00 AM, 160 East 300 South - Conference Room 4A (4th floor) - Salt Lake City, Utah.

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

AUTHORIZED BY: J. Craig Jackson, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-31b. Nurse Practice Act Rules.
R156-31b-102. Definitions.**

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

(1) "Absolute discharge", as used in Subsection 58-31b-302(7)(b), means the completion of criminal probation or parole.

([1]2) "Activities of daily living (ADLs)" means those personal activities in which individuals normally engage or are required for an individual's well-being whether performed by them alone, by them with the help of others, or for them by others, including eating, dressing, mobilizing, toileting, bathing, and other acts or practices to which an individual is subjected while under care in a regulated facility or under the orders of a licensed health care practitioner in a private residence.

(3) "Affiliated", as used in these rules, means a condition of being united, being in close connection, allied, associated, or attached as a member or branch, as evidenced by a written contract or memorandum of understanding.

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

([2]5) "APRN" means an advanced practice registered nurse.

([3]6) "Approved continuing education" in Subsection R156-31b-303(3) means:

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

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

(c) health related course work taken from an educational institution accredited by a regional institutional accrediting body identified in the "Accredited Institutions of Postsecondary Education", [1997-98]2003-04 edition, published by [for the Commission of Recognition of Postsecondary Accreditation of] the American Council on Education.

([4]7) "Approved education program" as defined in Subsection 58-31b-102(3) is further defined to include any nursing education program published in the documents entitled ["State Approved Schools of Nursing RN", 1998, and "State Approved Schools of Nursing LPN/LVN", 1998,] "Directory of Accredited Nursing Programs", 2003, published by the National League for Nursing Accrediting Commission, which are hereby adopted and incorporated by reference as a part of these rules.

([5]8) "CCNE" means the Commission on Collegiate Nursing Education.

([7]9) "CGFNS" means the Commission on Graduates of Foreign Nursing Schools.

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

([6]11) "Contact hour" means 50 minutes.

(12) "Consultation", as used in Subsection R156-31b-703, means the LPN-GCM may develop or revise a treatment plan

without the direction or immediate oversight of the RN. The LPN-GCM is to confer with or ask the advice of the RN as needed. However, the RN must review and approve treatment plans as required in Subsection R156-31b-703.

(13) "Contributing to or participating in", as used in Subsection 58-31-102(17), means a LPN makes observations, provides data, and input into the nursing process while under the direction of a RN, MD or other licensee as defined by these rules, who is responsible for developing and documenting the plan of care.

([8]14) "CRNA" means a certified registered nurse anesthetist.

([9]15) "Delegation" means transferring to an individual the authority to perform a selected nursing task in a selected situation. The nurse retains accountability for the delegation.

([10]16) "Direct supervision" is the supervision required in Subsection 58-31b-306(1)(a)(iii) and means:

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

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

([11]17) "Disruptive behavior", as used in these rules, means conduct, whether verbal or physical, that is demeaning, outrageous, or malicious and that places at risk patient care or the process of delivering quality patient care. Disruptive behavior does not include criticism that is offered in good faith with the aim of improving patient care.

([12]18) "Generally recognized scope and standards of nursing practice", as referred to in Subsections 58-31b-102(17), (18), and (19), means the "Nursing: Scope and Standards of Practice", 2003, [advanced practice registered nursing] means the scope and standards of practice set forth in the "Scope and Standards of Advanced Practice Registered Nursing", 1996, published by the American Nurses Association, which is hereby adopted and incorporated by reference, or as established by the professional community.]

—(13) "Generally recognized scope of practice of licensed practical nurses" means the scope of practice set forth in the "Model Nursing Administrative Rules", 1994, published by the National Council of State Boards of Nursing, which is hereby adopted and incorporated by reference, or as established by the professional community.

—(14) "Generally recognized scope of practice of registered nurses" means the scope of practice set forth in the "Standards of Clinical Nursing Practice", 2nd edition, 1998, published by the American Nurses Association, which is hereby adopted and incorporated by reference, or as established by the professional community.]

(19) "Geriatric", as used in these rules, means a population of people 50 years or older who reside in a long term facility which has been approved to participate in the LPN-GCM Pilot Program.

([15]20) "Licensure by equivalency" as used in these rules means licensure as a licensed practical nurse after successful completion of course work in a registered nurse program which meets the criteria established in Section R156-31b-601.

([16]21) "LPN" means a licensed practical nurse.

(22) "LPN-GCM" means a licensed practical nurse-geriatric care manager.

([17]23) "NLNAC" means the National League for Nursing Accrediting Commission.

~~(148)~~²⁴ "NCLEX" means the National Council Licensure Examination of the National Council of State Boards of Nursing.

~~(149)~~²⁵ "Non-approved education program" means any foreign nurse education program.

~~(120)~~²⁶ "Other specified health care professionals", as used in Subsection 58-31b-102(12), who may direct the licensed practical nurse means:

- (a) advanced practice registered nurse;
- (b) certified nurse midwife;
- (c) chiropractic physician;
- (d) dentist;
- (e) osteopathic physician;
- (f) physician assistant;
- (g) podiatric physician;
- (h) optometrist;
- (i) certified registered nurse anesthetist.

~~(27)~~ "Parent-program", as used in Section R156-31b-607, means a nationally accredited Board of Nursing approved nursing education program that is providing nursing education (didactic, clinical or both) to a student and is responsible for the education program curriculum, and program and student policies.

~~(24)~~²⁸ "Patient surrogate", as used in Subsection R156-31b-502(4), means an individual who has legal authority to act on behalf of the patient when the patient is unable to act or decide for himself, including a parent, foster parent, legal guardian, or a person designated in a power of attorney.

~~(22)~~²⁹ "Personal assistance and care", as used in Subsection 58-31b-102(11), means acts or practices by an individual to personally assist or aid another individual in activities of daily living. These activities do not include those services provided by physical therapy, occupational therapy, or recreational therapy aides/assistants.

~~(30)~~ "Postsecondary school", as used in Section R156-31b-607, means a program registered and in good standing with the Utah Department of Commerce, Division of Consumer Protection that offers coursework to individuals who have graduated from high school or have been awarded a GED.

~~(31)~~ "PRN" means as needed.

~~(23)~~³² "Psychiatric mental health nursing specialty", as used in Subsection 58-31b-302(3)(g), includes psychiatric mental health nurse specialists and psychiatric mental health nurse practitioners.

~~(24)~~³³ "RN" means a registered nurse.

~~(25)~~³⁴ "Supervision" in Section R156-31b-701 means the provision of guidance or direction, evaluation and follow up by the licensed nurse for accomplishment of a task delegated to unlicensed assistive personnel or other licensed individuals.

~~(35)~~ "Supervisory clinical faculty", as used in Section R156-31b-607, means one or more individuals employed by an approved nursing education program who meet the accreditation and Board of Nursing specific requirements to be a faculty member and are responsible for the overall clinical experiences of nursing students and may supervise and coordinate clinical mentors/preceptors who provide the actual direct clinical experience.

~~(26)~~³⁶ "Unprofessional conduct" as defined in Title 58, Chapters 1 and 31b, is further defined in Section R156-31b-502.

R156-31b-103. Authority - Purpose.

These rules are adopted by the division under the authority of Subsection 58-1-106(1)(a) to enable the division to administer Title 58, Chapter 31b.

R156-31b-201. Board of Nursing - Membership.

In accordance with Subsection 58-31b-201(~~3~~)¹, nurses serving as members of the Board shall be:~~[the Board of Nursing shall be composed of the following nurse members:]~~

- (1) ~~[five]~~^{six} registered nurses, two of whom are actively involved in nursing education;
- (2) one licensed practical nurse; and
- (3) two advanced practice registered nurses or certified registered nurse anesthetists.

~~[R156-31b-203. Prescriptive Practice Peer Committee Audits.~~

~~In accordance with Subsection 58-31b-202(1)(b)(ii), the Prescriptive Practice Peer Committee shall audit and review the prescribing records of APRNs by reviewing the controlled substance data bank. The prescribing records of five percent of APRNs with a controlled substance license will be reviewed on a quarterly basis.]~~

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

In accordance with Sections 58-31b-302(1)(e) and 58-31b-303, the education requirements for licensure are defined as follows:

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

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

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

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

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

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

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

(b) An applicant for certification as a LPN-GCM shall pass the Long-Term Care Certification Examination offered by the National Association for Practical Nurse Education and Services, Inc. (NAPNES) with a passing score as established by NAPNES.

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

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

(A) Adult Nurse Practitioner;

(B) Family Nurse Practitioner;

(C) ~~[School Nurse Practitioner;~~

~~(D)]~~ Pediatric Nurse Practitioner;

~~(E)]~~ Gerontological Nurse Practitioner;

~~(F)]~~ Acute Care Nurse Practitioner;

~~(G)]~~ Clinical Specialist in Medical-Surgical Nursing;

- (~~H~~G) Clinical Specialist in Gerontological Nursing;
 (~~I~~) Clinical Specialist in Community Health Nursing;
] (~~J~~H) Clinical Specialist in Adult Psychiatric and Mental Health Nursing;
 (~~K~~L) Clinical Specialist in Child and Adolescent Psychiatric and Mental Health Nursing;
 (~~L~~J) Psychiatric and Mental Health Nurse Practitioner (Adult and Family);
 (ii) [~~National Certification Board of Pediatric Nurse Practitioners and Nurses~~] Pediatric Nursing Certification Board;
 (iii) American Academy of Nurse Practitioners;
 (iv) [~~F~~]the National Certification Corporation for the Obstetric, Gynecologic and Neonatal Nursing Specialties;
 (v) [~~F~~]the Oncology Nursing Certification Corporation Advanced Oncology Certified Nurse if taken on or before July 1, 2005; [~~or~~]
 (vi) [~~F~~]the Advanced Practice Certification for the Clinical Nurse Specialist in Acute and Critical Care; or
 (vii) the Advanced Critical Care Examination administered by the American Association of Critical Care Nurses.

(~~e~~d) An applicant for licensure as a CRNA shall pass the examination of the Council on Certification of Nurse Anesthetists.

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

R156-31b-302d. Qualifications for Registration.

~~In accordance with Subsections 58-1-401(2)(a) and 58-1-501(2)(c), the standards for determining if a misdemeanor crime of moral turpitude or any other misdemeanor crime bears a reasonable relationship to the safe practice as a health care assistant, shall be the same as for those individuals who function under Subsections R432-35-4(2) and (3), as effective August 22, 1999, which is incorporated by reference in this rule.~~

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

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

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

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

(a) A [~~n~~] LPN or RN shall complete one of the following during the two years immediately preceding the application for renewal:

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

(b) A LPN-GCM shall complete the requirement in Subsection (3)(a)(i) of this section and 10 contact hours of approved continuing education specific to nursing practice in a long-term care facility.

(~~b~~c) An APRN shall complete the following:

- (i) be currently certified or recertified in their specialty area of practice; or
- (ii) if licensed prior to July 1, 1992, complete 30 hours of approved continuing education and 400 hours of practice.

(~~e~~d) A CRNA shall be currently certified or recertified as a CRNA.

R156-31b-306. Inactive Licensure.

(1) A licensee may apply for inactive licensure status in accordance with Sections 58-1-305 and R156-1-305.

(2) To reactivate a license which has been inactive for five years or less, the licensee must document current compliance with the continuing competency requirements as established in Subsection R156-31b-303(3).

(3) To reactivate a [~~n~~] RN or LPN license which has been inactive for more than five years but less than 10 years, the licensee must document active licensure in another state or jurisdiction, pass the required examinations as defined in Section R156-31b-302c within six months prior to making application to reactivate a license, or successfully complete an approved re-entry program.

(4) To reactivate a [~~n~~] RN or LPN license which has been inactive for 10 or more years, the licensee must document active licensure in another state or jurisdiction, or pass the required examinations as defined in Section R156-31b-302 within six months prior to making application to reactivate a license and successfully complete an approved re-entry program.

(5) To reactivate a LPN-GCM certification which has been inactive for more than five years, the certificate holder must meet the requirements for reactivation of a LPN license as established in Subsections (3) and (4) of this section and complete the training and examination requirements defined in Section R156-31b-608 and Subsection R156-31b-302c(1)(b) within three months prior to making application to reactivate the certification.

(~~s~~6) To reactivate an APRN or CRNA license which has been inactive for more than five years, the licensee must document active licensure in another state or jurisdiction or pass the required examinations as defined in Section R156-31b-302c within six months prior to making application to reactivate a license.

R156-31b-308. Exemption from Licensure.

In accordance with Subsections 58-1-307(1) and 58-31b-308(1)(a), an individual who provides up to 48 consecutive hours of respite care for a family member, with or without compensation, is exempt from licensure.

R156-31b-401. Disciplinary Proceedings.

(1) An individual licensed as a [~~n~~] LPN or LPN-GCM who is currently under disciplinary action and qualifies for licensure as an RN may be issued an RN license under the same restrictions as the LPN or LPN-GCM.

(2) A nurse or health care assistant whose license or registration is suspended under Subsection 58-31b-401(2)(d) may petition the division at any time that he can demonstrate that he can resume competent practice.

R156-31b-402. Administrative Penalties.

In accordance with Subsections 58-31b-102(1) and 58-31b-402(1), unless otherwise ordered by the presiding officer, the following fine schedule shall apply.

- (1) Using a protected title:
initial offense: \$100 - \$300
subsequent offense(s): \$250 - \$500
- (2) Using any title that would cause a reasonable person to believe the user is licensed or registered under this chapter:
initial offense: \$50 - \$250
subsequent offense(s): \$200 - \$500

(3) Conducting a nursing education program in the state for the purpose of qualifying individuals for licensure without board approval:

initial offense: \$1,000 - \$3,000
subsequent offense(s): \$5,000 - \$10,000

(4) Practicing or attempting to practice nursing or health care assisting without a license or registration or with a restricted license or registration:

initial offense: \$500 - \$2,000
subsequent offense(s): \$2,000 - \$10,000

(5) Impersonating a licensee or registrant, or practicing under a false name:

initial offense: \$500 - \$2,000
subsequent offense(s): \$2,000 - \$10,000

(6) Knowingly employing an unlicensed person:

initial offense: \$500 - \$1,000
subsequent offense(s): \$1,000 - \$5,000

(7) Knowingly permitting the use of a license or registration by another person:

initial offense: \$500 - \$1,000
subsequent offense(s): \$1,000 - \$5,000

(8) Obtaining a passing score, applying for or obtaining a license or registration, or otherwise dealing with the division or board through the use of fraud, forgery, intentional deception, misrepresentation, misstatement, or omission:

initial offense: \$500 - \$2,000
subsequent offense(s): \$2,000 - \$10,000

(9) Violating or aiding or abetting any other person to violate any statute, rule, or order regulating nursing or health care assisting:

initial offense: \$500 - \$2,000
subsequent offense(s): \$2,000 - \$10,000

(10) Violating, or aiding or abetting any other person to violate any generally accepted professional or ethical standard:

initial offense: \$500 - \$2,000
subsequent offense(s): \$2,000 - \$10,000

(11) Engaging in conduct that results in convictions of, or a plea of nolo contendere, or a plea of guilty or nolo contendere held in abeyance to a crime of moral turpitude or other crime:

initial offense: \$500 - \$2,000
subsequent offense(s): \$2,000 - \$10,000

(12) Engaging in conduct that results in disciplinary action by any other jurisdiction or regulatory authority:

initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000

(13) Engaging in conduct, including the use of intoxicants, drugs to the extent that the conduct does or may impair the ability to safely engage in practice as a nurse or a health care assistant:

initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000

(14) Practicing or attempting to practice as a nurse or health care assistant when physically or mentally unfit to do so:

initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000

(15) Practicing or attempting to practice as a nurse or health care assistant through gross incompetence, gross negligence, or a pattern of incompetence or negligence:

initial offense: \$500 - \$2,000
subsequent offense(s): \$2,000 - \$10,000

(16) Practicing or attempting to practice as a nurse or health care assistant by any form of action or communication which is false, misleading, deceptive, or fraudulent:

initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000

(17) Practicing or attempting to practice as a nurse or health care assistant beyond the individual's scope of competency, abilities, or education:

initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000

(18) Practicing or attempting to practice as a nurse or health care assistant beyond the scope of licensure:

initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000

(19) Verbally, physically, mentally, or sexually abusing or exploiting any person through conduct connected with the licensee's or registrant's practice:

initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000

(20) Failure to safeguard a patient's right to privacy:

initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000

(21) Failure to provide nursing service in a manner that demonstrates respect for the patient's human dignity:

initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000

(22) Engaging in sexual relations with a patient:

initial offense: \$5,000 - \$10,000
subsequent offense(s): \$10,000

(23) Unlawfully obtaining, possessing, or using any prescription drug or illicit drug:

initial offense: \$200 - \$1,000
subsequent offense(s): \$500 - \$2,000

(24) Unauthorized taking or personal use of nursing supplies from an employer:

initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000

(25) Unauthorized taking or personal use of a patient's personal property:

initial offense: \$200 - \$1,000
subsequent offense(s): \$500 - \$2,000

(26) Knowingly entering false or misleading information into a medical record or altering a medical record:

initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000

(27) Unlawful or inappropriate delegation of nursing care:

initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000

(28) Failure to exercise appropriate supervision:

initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000

(29) Employing or aiding and abetting the employment of unqualified or unlicensed person to practice:

initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000

(30) Failure to file or impeding the filing of required reports:

initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000

(31) Breach of confidentiality:

initial offense: \$200 - \$1,000
subsequent offense(s): \$500 - \$2,000

(32) Failure to pay a penalty:

Double the original penalty amount up to \$10,000

(33) Prescribing a schedule II-III controlled substance without a consulting physician or outside of a consultation and referral plan:
initial offense: \$500 - \$1,000
subsequent offense(s): \$500 - \$2,000

(34) Failure to confine practice within the limits of competency:

initial offense: \$500 - \$1,000

subsequent offense(s): \$500 - \$2,000

(35) Any other conduct which constitutes unprofessional or unlawful conduct:

initial offense: \$100 - \$500

subsequent offense(s): \$200 - \$1,000

(36) Engaging in a sexual relationship with a patient surrogate:

initial offense: \$1,000 - \$5,000

subsequent offense(s): \$5,000 - \$10,000

(37) Engaging in practice in a disruptive manner:

initial offense: \$100 - \$500

subsequent offense(s): \$200 - \$1,000

(38) Practicing as a LPN-GCM in a setting other than a long-term care facility:

initial offense: \$500 - \$2,000

subsequent offense(s): \$2,000 - \$10,000

(39) Practicing as a LPN-GCM beyond the scope of practice established in Section R156-31b-703:

initial offense: \$100 - \$500

subsequent offense(s): \$200 - \$1,000.

R156-31b-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) failing to destroy a license which has expired due to the issuance and receipt of an increased scope of practice license;

(2) a ~~an~~ RN issuing a prescription for a prescription drug to a patient except in accordance with the provisions of Section 58-17a-620, or as may be otherwise provided by law;

(3) failing as the nurse accountable for directing nursing practice of an agency to verify any of the following:

(a) that standards of nursing practice are established and carried out so that safe and effective nursing care is provided to patients;

(b) that guidelines exist for the organizational management and management of human resources needed for safe and effective nursing care to be provided to patients;

(c) nurses' knowledge, skills and ability and determine current competence to carry out the requirements of their jobs;

(4) engaging in sexual contact with a patient surrogate concurrent with the nurse/patient relationship unless the nurse affirmatively shows by clear and convincing evidence that the contact:

(a) did not result in any form of abuse or exploitation of the surrogate or patient; and

(b) did not adversely alter or affect in any way:

(i) the nurse's professional judgment in treating the patient;

(ii) the nature of the nurse's relationship with the surrogate; or

(iii) the nurse/patient relationship;

(5) engaging in disruptive behavior in the practice of nursing;

(6) unauthorized disclosure of confidential information obtained as a result of practice as a health care assistant; ~~and~~

(7) engaging in any regulated health care practice for which the person is not registered, certified, or licensed; and

(8) practicing as a LPN-GCM beyond the scope of practice established in Section R156-31b-703.

R156-31b-601. Nursing Education Program Standards.

In accordance with Subsection 58-31b-601(2), the minimum standards that a nursing education program must meet to qualify graduates for licensure under this chapter are set forth in Sections R156-31b-601, 602, 603, and 604, which are hereby adopted and incorporated by reference, are respectively:

(1) the "Standards of Accreditation of Baccalaureate and Graduate Nursing Education Programs", August 1998, published by the CCNE; or

(2) the standards found in the "Accreditation Manual and Interpretative Guidelines by Program Type for Post-Secondary, Baccalaureate, and Higher Degree Programs in Nursing", 2001 Revised, published by the NLNAC.]

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

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

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

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

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

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

(f) meet the accreditation standards of either CCNE or NLNAC as evidenced by accreditation by either organization as required under Subsection R156-31b-602; and

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

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

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

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

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

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

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

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

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

(a) accredited by the CCNE or NLNAC; and

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

R156-31b-602. Nursing Education Program Full Approval.

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

(2) Programs which have been granted full approval as of the effective date of these rules and are not accredited, must become accredited by July 1, 200[3]5, or be placed on probationary status.

R156-31b-603. Nursing Education Program Provisional Approval.

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

(a) is located or available within the state;

(b) is newly organized;

(c) meets all standards for provisional approval [except accreditation] as required in this section; and

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

~~(2) A nursing education program that receives approval from the Utah Board of Regents shall be granted provisional approval status by the Division in collaboration with the Board. Provisional approval granted under this subsection shall not exceed a time period of three years after the date of the first graduating class.~~

(2) The general standards for provisional approval include:

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Programs which have been granted provisional approval prior to the effective date of these rules and are not accredited, must become accredited by July 1, 200[3]5.

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

(a) students' achievement of program outcomes;

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

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

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

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

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

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

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

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

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

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

(d) coursework including, but not limited to:

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

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

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

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

(C) providing client-centered, culturally competent care;

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

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

(3) coordinating and managing continuous client care; and

(4) promoting healthy lifestyles for clients and populations;

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

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

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

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

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

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

(7) Students rights and responsibilities:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) education preparation or experience in teaching and learning principles for adult education, including curriculum

development and administration, and at least two years of clinical experience; and

(iv) a current knowledge of RN practice;

(c) the qualifications for an administrator/director in an APRN program preparing an individual for licensure as an APRN shall include:

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

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

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

(iv) a current knowledge of APRN practice.

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

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

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

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

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

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

(b) two years of clinical experience; and

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

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

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

(b) two years of clinical experience; and

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

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

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

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

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

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

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

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

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

experience. Clinical preceptors should be licensed as a nurse at or above the level for which the student is preparing.

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

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

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

(i) graduate nursing program core courses;

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

(iii) coursework focusing on the APRN role and specialty.

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

(d) Instructional track/major shall have a minimum of 500 hours of supervised clinical. The supervised experience shall be directly related to the knowledge and role of the specialty and category. Specialty tracks that provide care to multiple age groups and care settings will require additional hours distributed in a way that represents the populations served.

(e) There shall be provisions for the recognition of prior learning and advanced placement in the curriculum for individuals who hold a masters degree in nursing who are seeking preparation in a different role and specialty. Post-masters nursing students shall complete the requirements of the masters APRN program through a formal graduate level certificate or master level track in the desired role and specialty. A program offering a post-masters certificate in a specialty area must also offer a master degree course of study in the same specialty area. Post-master students must master the same APRN outcome criteria as the master level students and are required to complete a minimum of 500 supervised clinical hours.

(f) A lead faculty member who is educated and nationally certified in the same specialty area and licensed as an APRN or possessing a APRN multistate privilege shall coordinate the educational component for the role and specialty in the APRN program.

R156-31b-604. Nursing Education Program Probationary Approval.

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

(a) is located or available within the state;

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

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

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

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

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

(1) Educational institutions wishing to begin a new nursing education program shall submit an application to the division for approval at least one year prior to the implementation of the program[~~or shall document program approval from the Utah Board of Regents~~].

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

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

The division may conduct an annual survey of nursing education programs to monitor compliance with these rules. The survey may include the following:

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

(2) a copy of any changes submitted to any nurse accrediting body; and

(3) a copy of any accreditation self study summary report.

R156-31b-607. Standards for Out-of-State Programs Providing Clinical Experiences in Utah.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) a formal contract must be in place between the parent-program and the Utah post-secondary school;

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

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

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

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

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

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

R156-31b-608. LPN-GCM Training Standards and Criteria.

(1) In accordance with Subsection 58-31b-302(2), an approved geriatric care manager training program for licensed practical nurses shall be affiliated with a division approved and accredited nursing education program.

(2) The LPN-GCM curriculum shall consist of a minimum of 270 clock hours and include the following content areas:

(a) geriatric nursing (three credit hours, 45 clock hours of didactic and 0.5 credit hour, 10 clock hours lab) including:

(i) nursing process and care planning related to aging;

(ii) aging and nursing care in relation to:

(A) cognition and mental status;

(B) musculoskeletal system;

(C) neurological system;

(D) metabolic and endocrine system;

(E) hematological system;

(F) pulmonary system;

(G) cardiovascular system;

(H) urinary - renal system;

(I) gastrointestinal system;

(J) integumentary system;

(K) sensory changes;

(L) immunological system; and

(M) disuse syndrome;

(iii) geriatric physical assessment; and

(iv) functional assessment;

(b) pharmacology for the geriatric patient (two credit hours, 30 clock hours);

(c) leadership and management (three credit hours, 45 clock hours) including:

(i) delegation;

(ii) charge nursing and care coordination;

(iii) interpersonal relationship skills;

(iv) legal and ethical issues; and

(v) the Nurse Practice Act and scope of practice; and

(d) precepted clinical experience including at least 140 clock hours, completed under the direct, on-site supervision of a RN licensed and in good standing with the division. A preceptor supervisor may not supervise more than one preceptee at any given time.

R156-31b-703. LPN-GCM Extended Scope of Practice for the LPN-GCM Pilot Program.

(1) In accordance with Subsection 58-31b-102(14)(b), the expanded scope of practice for an individual certified as an LPN-GCM includes the following activities for geriatric patients/clients in long-term care facilities, following consultation with a RN:

(a) supervise and direct the following nursing staff as a lead LPN-GCM:

(i) LPNs;

(ii) certified nursing assistants;

(iii) nursing aides; and

(iv) dining assistants;

(b) accept verbal orders from prescribing practitioners;

(c) implement the nursing process:

(i) assess the health of geriatric patients/clients;

(ii) identify health care needs;

(iii) establish short and long term goals to meet identified needs;

(iv) plan a strategy of care which is reviewed and approved by a RN within two calendar days if practicing in a skilled nursing facility, and three calendar days if practicing in any other long-term care facility;

(v) determine nursing interventions;

(vi) implement a strategy of care;

(vii) maintain safe and effective nursing care; and

(viii) evaluate responses to interventions;

(d) perform admission and routine physical assessments, the admission physical assessment must be reviewed and approved by a RN within two calendar days if practicing in a skilled nursing facility, and three calendar days if practicing in any other long-term care facility.

(2) In accordance with Subsections 58-31b-102(17) and 58-31b-102(18)(j), the RN who consults with an LPN-GCM is ultimately accountable for the patient care.

(3) The scope of practice activities listed in (1)(a) and (1)(b) of this section may also be performed by an LPN, if the facility's policies allows such scope of practice activities to be performed by a LPN.

R156-31b-704. LPN-GCM Pilot Program.

(1) The following are the criteria for the pilot program as established in Section 58-31b-301.5:

(a) A long-term care facility must be licensed in good standing by the Department of Health, without any Class G - L deficiencies, to be eligible to participate in the pilot program. No more than five facilities will be approved for the pilot program.

(b) A long-term care facility chosen to participate in this pilot program must be affiliated with a fully approved nursing education program. The role of the nursing education program is to offer expertise and faculty to ensure the training specified in Section R156-31b-608 is accomplished.

(2) A RN preceptor must be employed by the specific pilot long-term care facility and provide consultation to an LPN-GCM:

(a) the RN is to determine the degree of consultation needed with respect to the patient's/client's condition and the experience and training of the LPN-GCM;

(b) the RN must review and co-sign any plans of care or changes to plans of care written by an LPN-GCM within 48 hours; and

(c) the RN must review and co-sign any initial assessments performed and documented by an LPN-GCM within 48 hours.

(3) A long-term care facility participating in the pilot program will be formally evaluated every six months by a review committee appointed by the division. Evaluation tools will include:

(a) audits of between 5-10% of each participating facility's geriatric patient charts, chosen at random by the division, including copies of patient assessments (both initial and on-going), nursing care plans completed and/or revised by LPN-GCMs, and the history and physical for those patients/clients included in the audit;

(b) the position description for the LPN-GCM and a summary by the director of nursing indicating how the LPN-GCMs are being utilized in the facility; and

(c) a copy of the most recent survey report from the Department of Health, and all other survey reports conducted during the time period of the pilot program.

(4) The division may conduct on-site evaluations to any facility participating in this pilot program.

KEY: licensing, nurses

~~November 18, 2002~~ 2004

Notice of Continuation June 2, 2003

58-31b-101

58-1-106(1)(a)

58-1-202(1)(a)



Commerce, Occupational and
Professional Licensing
R156-60a
Social Worker Licensing Act Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27285

FILED: 07/08/2004, 11:00

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division is updating the rule to reflect a change in the national examination names and national association name.

SUMMARY OF THE RULE OR CHANGE: In Section R156-60a-102, deleted the definition for AASSWB (American Association of State Social Work Boards) and replaced it with ASWB (Association of Social Work Boards). In Section R156-60a-103, updated a statute citation reference. In Section R156-60a-302d, updated the names of the national examinations as well as the national association name. In Section R156-60a-308, updated the name of the national association.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-60-201, and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division will incur minimal costs of approximately \$25 to reprint the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

❖ LOCAL GOVERNMENTS: Proposed amendments do not apply to local governments, therefore there are no costs or savings.

❖ OTHER PERSONS: The Division anticipates no costs or savings to licensed social workers or other persons since the proposed amendments are only updating the national association name, as well as the national examination names.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Division anticipates no costs or savings to affected persons since the proposed amendments are only updating the national association name, as well as the national examination names.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule amendment codifies the recent name change of the national association for social workers, as well as the name change in the examinations approved by that association. There appears to be no fiscal impact to businesses as a result of these name changes. 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:

Debra Hendren at the above address, by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at dhendren@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: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.**R156-60a. Social Worker Licensing Act Rules.****R156-60a-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 60, as used in Title 58, Chapters 1 and 60, or these rules:

(1) [~~"AASSWB" means the American Association of State Social Work Boards."~~]"ASWB" means the Association of Social Work Boards.

(2) "CSW" means a licensed certified social worker.

(3) "Clinical social work concentration and practicum", "clinical concentration and practicum" "case work", "group work", or "family treatment course sequence with a clinical practicum", "clinical practicum" or "practicum", as used in Subsections 58-60-205(1)(g) and (2)(d)(ii), means a track of professional education which is specifically established to prepare an individual to practice or engage in mental health therapy.

(4) "LCSW" means a licensed clinical social worker.

(5) "SSW" means a licensed social service worker.

(6) "Supervised practice of mental health therapy by a clinical social worker", as used in Subsection 58-60-202(3)(a), means that the CSW is supervised by a LCSW meeting the requirements of Sections R156-60a-302e and R156-60a-601.

R156-60a-103. Authority - Purpose.

These rules are adopted by the division under the authority of Subsection 58-1-106(1)(a) to enable the division to administer Title 58, Chapter 60.

R156-60a-302d. Examination Requirements.

(1) In accordance with Subsection 58-60-205(1)(h), the examination requirements for licensure as a LCSW include passing the Clinical Examination of the [~~AASSWB~~]ASWB or the Clinical Social Workers Examination of the State of California.

(2) In accordance with Subsection 58-60-205(2)(e), the examination requirements for licensure as a CSW shall include passing the [~~Intermediate~~]Masters, Advanced Generalist, or Clinical Examination of the [~~AASSWB~~]ASWB.

(3) In accordance with Subsection 58-60-205(3)(e), the examination requirements for licensure as a SSW shall include passing the [~~Basic~~]Bachelors Examination of the [~~AASSWB~~]ASWB.

R156-60a-308. Reinstatement of a LCSW License which has Expired Beyond Two Years.

In accordance with Subsection 58-1-308(6) and Section R156-1-308e, an applicant for reinstatement for licensure as a LCSW, whose license expired after two years following the expiration of that license, shall:

(1) upon request, meet with the board to evaluate the applicant's ability to safely and competently practice clinical social work and mental health therapy;

(2) upon recommendation of the board, establish a plan of supervision under an approved supervisor which may include up to 4000 hours of clinical social work and mental health therapy training as a CSW before qualifying for reinstatement of the LCSW license;

(3) pass the Clinical Examination of the [~~AASSWB~~]ASWB if it is determined by the board that examination or reexamination is necessary to demonstrate the applicant's ability to safely and competently practice clinical social work and mental health therapy; and

(4) complete a minimum of 40 hours of continuing education in subjects determined by the board as necessary to ensure the applicant's ability to safely and competently practice clinical social work and mental health therapy.

KEY: licensing, social workers

~~[September 16, 2003]~~2004

Notice of Continuation November 15, 1999

58-60-201

58-1-106(1)(a)

58-1-202(1)(a)

▼ ————— ▼

Education, Administration

R277-408

Expenditures for Instructional Supplies Required in Utah Public Schools

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 27308

FILED: 07/15/2004, 16:40

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is repealed because the Utah State Board of Education determined that it would no longer require a minimum expenditure level for instructional supplies which will give local school boards/school districts local control in spending money for this purpose.

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

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

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There are no anticipated cost or savings to state budget. School districts will continue to receive funding that may be spent for instructional supplies at the discretion of the school district.

❖ **LOCAL GOVERNMENTS:** There are no anticipated cost or savings to local government. School districts will continue to receive funding that may be spent for instructional supplies at the discretion of the school district. The repeal of the rule simply removes the minimum expenditure level to be spent on instructional supplies which school districts continually exceeded anyway.

❖ **OTHER PERSONS:** There are no anticipated cost or savings to other persons. The rule relates to minimum expenditure levels for school districts.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. School districts will continue to receive funding that may be spent for instructional supplies at the discretion of the local board. The repeal of the rule simply removes the minimum expenditure level to be

spent on instructional supplies which school districts continually exceeded anyway.

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 08/31/2004.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.

[R277-408. Expenditures for Instructional Supplies Required in Utah Public Schools.

R277-408-1. Definitions.

— A. "Audiovisual materials" means nonprint items which, with reasonable care and use, may be expected to last for more than one year. This includes such items as tapes and discs, slides and transparencies, films and filmstrips, maps, globes and charts, prints and photographs, and models and mockups.

— B. "Board" means the Utah State Board of Education.

— C. "Instructional supplies" means instructional computer software, teaching supplies, laboratory materials, student supplies, other instructional materials used by teachers and students in the instructional process and those items that would be coded to the following designations in the Form F-4 Report:

- (1) Fund 10 Maintenance and Operation
 - (a) Function 1000 Instruction Object Codes
 - (i) 610 Supplies
 - (ii) 641 Textbooks
 - (iii) 670 Computer Supplies
 - (b) Function 2200 Support Services (Instructional) Object Codes
 - (i) 600 Supplies and Materials
 - (ii) 644 Library Books
 - (iii) 650 Periodicals
 - (iv) 660 Audiovisual Materials
- (2) Fund 32 Capital Projects (10 Percent of Basic Levy)
 - (a) Function 1000 Instruction Object Codes
 - (i) 610 Supplies

— (ii) 641 Textbooks.

— D. "Instructional computer supplies" means items that are used in the course of instruction or student use of computers in an instructional or research setting. These supplies include:

— (1) software programs that provide instruction, practice or research;

— (2) storage devices such as floppy disks, tapes or CD's; and

— (3) printing supplies such as toner, paper and inks.

— E. "Laboratory materials" means items which are required of students as an integral part of a course, subject, or grade, or those items which are consumed in the teaching-learning process but not considered personal property of students. These may include:

— (1) teaching materials: glue, sandpaper, nails, and other such items; thread, needles, bobbins, and similar items for general practice and instruction; flour, sugar, spices, and other food items used in instruction;

— (2) instructional media materials: required literary magazines, weekly readers, and other such materials. These may also be classified as textbooks depending on their use and application; and

— (3) other: towels, if school towels are required to be used; choir, band, and orchestra robes or capes which have little use to students except for a particular activity; drama costumes other than typical student dress; gym clothing, if required to be uniform or purchased from a particular location; workbooks, resource files, and supplementary text materials which may enrich and individualize the classroom instruction program.

— F. "Library books" means books provided for enrichment, extension, or study in depth. They may be general or specialized. They include reference sets and dictionaries, but not textbooks and periodicals.

— G. "Periodicals" means serial materials published at fixed intervals, including both the regular published format and microfilm format for permanent collections.

— H. "Student supplies" means items which are retained by and become the personal property of the student. These include:

— (1) paper, pencils, pens, notebooks, and similar items;

— (2) supplies and materials to construct personal items that are retained by the student;

— I. "Teaching supplies" means expendable items that may:

— (1) be consumed, worn out, or deteriorated in use such as paper, pencils, notebooks, workbooks, chemicals, paints, tests or answer sheets, bulbs, or tubes, or

— (2) lose their identity through fabrication or incorporation into a different or more complex unit or substance such as transparency acetate, camera film, laminating supplies, chart paper, mounting or framing materials, or other similar items.

— J. "Textbooks" means systematically arranged text materials, in harmony with the state curriculum framework and courses of study, which may be used by students as principal sources of study and which cover a significant portion of the course. These materials:

— (1) are designed for student use;

— (2) are accompanied by or contain teaching guides and study helps;

— (3) may be programmed or self-instructional; and

— (4) must appear on the list of state-adopted texts or be approved for pilot or trial use by the State Textbook Commission.

— K. "Weighted Pupil Unit (WPU)" means the unit of measure that is computed in accordance with the Minimum School Program Act for the purpose of determining the costs of a program on a uniform basis for each district.

- ~~— L. "ADM" means Average Daily Membership of students.~~
~~— M. "USOE" means the Utah State Office of Education.~~

~~**R277-408-2. 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)(f) which directs the Board to adopt rules regarding the minimum school program, 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 specify the amount of funds to be spent by the state and school districts to meet the mandates of Sections 53A-1-402(1)(f) and 53A-1-402(2).~~

~~**R277-408-3. Standards.**~~

~~— A. A school district shall spend a per pupil amount computed as 5.5 percent of the current year's WPU value rounded to the nearest whole dollar times the prior year ADM. School districts may use a two year averaging procedure.~~

~~— B. A school district shall annually report to the Utah State Office of Education, as directed by the USOE, the expenditures it makes, by category, in any fiscal year for textbooks, library books and materials, periodicals, instructional supplies and audiovisual materials.~~

~~— C. On-site accreditation visits shall evaluate the availability of textbooks and educational supplies in the classrooms.~~

~~— D. Minimum school program funds shall be expended for adequate amounts of textbooks and educational supplies for students before those funds are used to supplement secondary school student activities.~~

~~— E. The Board may review hardship and inequity situations and may exempt school districts from the minimum expenditure requirement for one year when emergencies exist.~~

~~— School districts desiring Board review of cases of hardship and inequity may make application to the State Superintendent of Public Instruction for review.~~

~~**KEY: educational expenditures, textbooks**~~

~~**March 10, 1997**~~

~~**Notice of Continuation September 12, 2002**~~

~~**Art X Sec 3**~~

~~**53A-1-402(1)(f)**~~

~~**53A-1-402(2)**~~

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



Education, Administration
R277-615
 Foreign Exchange Students

NOTICE OF PROPOSED RULE
 (Repeal)

DAR FILE No.: 27309
 FILED: 07/15/2004, 16:41

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is repealed because changes to state law repealing Utah State Board of Education funding of J-1 Foreign Exchange Student

programs except for one-to-one exchanges make the rule no longer necessary.

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

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: In 2003, there was an approximate \$700,000 savings based on the number of foreign exchange students coming into the state and receiving state weighted pupil unit (WPU) monies for services. In addition, there was probably an additional \$15,000 savings based on 25% of a state education specialist and secretary time to administer the program. The savings would increase yearly based on state WPU increases and based on the number of students coming into the state to attend Utah public schools.

❖ LOCAL GOVERNMENTS: There are no anticipated cost or savings to local government. The only time a school district would accept a J-1 foreign exchange student is when a resident student leaves the school to attend a school in a foreign country which makes the space available for a J-1 foreign exchange student to enroll.

❖ OTHER PERSONS: There will be costs to persons wishing to send students to Utah to attend Utah public schools. Student will now need to either pay for the full cost of the program or reside with a legal guardian consistent with state law to avoid tuition costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be compliance costs to persons wishing to send students to Utah to attend Utah public schools. Student will now need to either pay for the full cost of the program or reside with a legal guardian consistent with state law to avoid tuition costs.

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 08/31/2004.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.

~~[R277-615. Foreign Exchange Students.~~

~~R277-615-1. Definitions.~~

- ~~— A. "Board" means the Utah State Board of Education.~~
- ~~— B. "USOE" means the Utah State Office of Education.~~
- ~~— C. "J-1 foreign exchange student" means a foreign national secondary student who has entered the United States for up to one year for a cultural and educational experience and whose placement is sponsored by a Board-approved agency.~~

~~R277-615-2. Authority and Purpose.~~

- ~~— A. This rule is authorized under Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, Section 53A-2-206 which requires the Board to approve agencies sponsoring J-1 exchange students, and Section 53A-1-402(1)(b) which directs the Board to adopt rules regarding attendance.~~
- ~~— B. This rule sets standards by which districts may include J-1 exchange students in the student membership count required for the apportionment of state funds.~~

~~R277-615-3. Board Approved Participation.~~

- ~~— Each year the Board determines the number of J-1 exchange students whose participation in public education programs will be funded by the state appropriation. The number approved is based on available funds and the percentage of increase or decrease of the K-12 student population statewide.~~

~~R277-615-4. Student and Agency Eligibility.~~

- ~~— A. Students approved for funded participation shall be:

 - ~~— (1) Sponsored by an agency approved by the United States Information Agency.

 - ~~— (a) The USOE maintains a current list of approved sponsoring organizations. The list is available from the USOE specialist for international education.~~
 - ~~— (b) The sponsoring agency must be working toward a one-to-one exchange.~~
 - ~~— (c) Requests for exceptions to USOE approved organizations are reviewed and approved by the USOE on an individual basis using the criteria for approval established in "Regulations Governing Exchange Visitor Programs," 1993, published by the United States Information Agency. This publication is available from all foreign student exchange group representatives, all host families, all schools attended by foreign exchange students, and the Specialist for International Education at the Utah State Office of Education; and~~
 - ~~— (2) approved for enrollment by the district of attendance prior to the student's arrival in the United States.~~~~
 - ~~— B. Approved agencies are allotted a specific number of placements annually. This number is specified, after negotiation with the sponsoring agency, by USOE staff based on outgoing exchange students placed by an agency. Placements are approved by the Board or its designee.~~
 - ~~— C. Allotted placements not completed by designated placement agencies by July 15 may be reallocated.~~~~

~~R277-615-5. District Reports.~~

- ~~— A. A school district shall annually report to the USOE the number of J-1 exchange students accepted, the sponsoring agencies, and the J-1 exchange students' entry and exit dates.~~
- ~~— B. A school district shall maintain the names of all J-1 exchange students accepted, the exchange students' local addresses, the sponsoring agencies, dates of acceptance by the local boards, and dates on which the USOE was notified of the acceptance.~~

~~R277-615-6. Representation.~~

- ~~— The USOE works with sponsoring agencies and districts to assure an equitable representation of countries in individual schools.~~

~~R277-615-7. Foreign Exchange Student Promotion or Graduation.~~

- ~~— A. Each district participating in the J-1 foreign exchange student program shall adopt a written policy outlining and explaining high school graduation and diploma options for J-1 exchange students.~~
- ~~— B. All J-1 foreign exchange students shall provide a translated transcript to school officials as required by United State Information Agency regulations.~~
- ~~— C. A J-1 foreign exchange student who desires to earn a graduation diploma shall provide an evaluated, translated transcript of courses to the assigned counselor prior to the student's registration at the school.~~
- ~~— D. The USOE International Specialist shall develop and provide to school districts a list of approved individuals qualified to evaluate foreign transcripts.~~
- ~~— E. Any costs associated with evaluation of foreign transcripts shall be the responsibility of the foreign exchange student or the host family.~~
- ~~— F. Districts shall include in their policies, procedures and criteria for receiving "certificates of completion" or "promotion."~~

~~KEY: foreign students~~

~~July 16, 1996~~

~~Notice of Continuation January 14, 2003~~

~~Art X Sec 3~~

~~53A-2-206~~

~~53A-1-402(1)(b)]~~



Education, Administration R277-725 Electronic High School

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE No.: 27307
FILED: 07/15/2004, 16:40

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide for an electronic high school diploma once a student has satisfied the high school graduation requirements established by the State Board of Education.

SUMMARY OF THE RULE OR CHANGE: The amendments provide for eligibility criteria, graduation criteria, and standards for awarding of diplomas. Other changes are nonsubstantive.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3) and Section 53A-17a-131.15

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Minimal or no costs to the state to provide for electronic high school diploma.
- ❖ LOCAL GOVERNMENTS: There are no anticipated costs to school districts. Diplomas will be issued by the state.
- ❖ OTHER PERSONS: This rule requires no costs for individual students or parents except, perhaps, a minimal fee for a paper diploma.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule requires no compliance costs for affected persons except, perhaps, a minimal fee to students or parents for a paper diploma.

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 08/31/2004.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.

R277-725. Electronic High School.

R277-725-1. Definitions.

- A. "Board" means the Utah State Board of Education.
- B. "Electronic high school" means a rigorous program offering 9-12 grade level courses delivered over the Internet and coordinated by the USOE.
- C. "Home-schooled student" means a student who attends no more than two regularly scheduled classes or courses in a public school per semester as defined under Section 53A-11-102.

[C]D. "Open entry/open exit" means:

(1) a method of instructional delivery that allows for flexible scheduling in response to individual student needs or requirements and demonstrated competency when knowledge and skills have been mastered; and

(2) students have the flexibility to begin or end study at any time, progress through course material at their own pace, and demonstrate competency when knowledge and skills have been mastered.

[D]E. "Unit of credit" means credit awarded for courses taken with school district/school approval and successfully completed by students. A student may also earn units of credit by demonstrating subject mastery through district/school approved methods.

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

R277-725-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution, Article X, Section 3 which vests general control and supervision of the public schools in the Board, Section 53A-1-401(3) which authorizes the Board to adopt rules in accordance with its responsibilities, and Section 53A-17a-131.15 which directs the Board to have a rule for distribution of funds for the electronic high school program.

B. The purpose of this rule is to provide minimum standards, definitions, and procedures for distribution of funds and coordination of the electronic high school program.

R277-725-3. Electronic High School Funding.

A. Funds appropriated by the Legislature for the electronic high school program shall be distributed by the Utah State Office of Education.

B. The Utah State Office of Education may designate a fiscal agent to pay teachers' salaries, course development fees, software licensing fees, and accreditation dues.

R277-725-4. Courses and Credit.

A. Curriculum, course offerings and course availability shall be determined by the USOE Electronic High School Principal following consultation with school district personnel and USOE specialists to determine demand and curriculum requirements.

B. Courses shall be offered in an open-entry open-exit format.

C. Courses shall be designed to be competency-based, with no specific student seat time requirement. (Historically, the average course takes the average student 175 to 200 hours to successfully complete a one-credit course).

D. Credits that students earn through the electronic high school shall be accepted by schools or school districts consistent with this rule.

R277-725-5. Student Eligibility for Enrollment.

A. There are no age or grade restrictions for Utah students to enroll in electronic high school courses.

B. Students are accepted into electronic high school courses on a first-come first-served basis.

C. A student may register for electronic high school course(s) following approval from the student's residence area secondary school counselor, consistent with the student's SEP/SEOP.

D. The school counselor shall assist students in evaluating courses required for and offered through the electronic high school.

R277-725-6. Electronic High School Services to Students with Disabilities.

Students with disabilities who may need additional services or resources and who seek to enroll in electronic high school classes may request appropriate accommodations through the students' assigned schools or school districts.

R277-725-7. Student Fees or Tuition.

A. Electronic high school courses are provided to students who are Utah residents, as defined under Section 53A-2-201(1), free of charge.

B. Non-resident students may enroll in electronic high school courses for a fee of \$100 per course per semester provided that the course can accommodate additional students.

R277-725-8. Teacher Requirements and Payments.

A. All electronic high school teachers are licensed Utah educators consistent with Section 53A-6.

B. Electronic high school teachers are paid a salary determined by the electronic high school salary schedule and negotiated to the extent necessary with the USOE Electronic High School Principal.

C. All electronic high school teachers shall be subject to laws and administrative rules for Utah educators, including the state and federal Family Educational Rights and Privacy Act, Sections 53A-13-301 and 302, and 20 U.S.C. Section 1232g and 34 C.F.R. Part 99; child abuse reporting requirements; and Professional Standards for Utah Educators, R686-103.

R277-725-9. Electronic High School Diploma.

A. Three types of students may be eligible for an electronic high school diploma:

- (1) a home-schooled student;
- (2) a student who has dropped out of school as defined under R277-419 and whose original high school class has graduated; and
- (3) a student who is identified by his resident school district as ineligible for graduation from a traditional high school program for specific reasons.

B. Graduation criteria

(1) Students shall satisfy all requirements established by R277-700 for a high school diploma.

(2) Students who seek an electronic high school diploma shall be required to satisfy the requirements of the Participation Skills and Techniques and Individualized Lifetime Activity courses which are Core classes required for high school graduation. Students may satisfy course requirements through district-approved activities outside of the Electronic High School program.

C. Awarding of diplomas

(1) Diplomas shall be awarded to electronic high school graduates at least annually.

(2) An annual commencement program may be offered by the USOE. Electronic high school graduates may voluntarily participate.

D. Additional provisions

(1) The USOE shall provide graduation information upon request to interested prospective graduates.

(2) The USOE and resident school district personnel shall assist prospective graduates, to the extent of resources available, with transcript evaluation and suggestions for completing graduation requirements required beyond the electronic high school curriculum.

KEY: electronic high school

[April 15,]2004

Art X Sec 3

53A-1-401(3)

53A-17a-131.15

Environmental Quality, Air Quality R307-110-12

Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27295

FILED: 07/13/2004, 16:55

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to demonstrate that carbon monoxide levels will not exceed the federal health standard in Salt Lake City through 2019 and to specify a new Mobile Source Emissions Budget to be used for transportation conformity purposes (see separate filing on Section R307-110-33 in this issue.) (DAR NOTE: The proposed change to Section R307-110-33 is under DAR No. 27296 in this issue.)

SUMMARY OF THE RULE OR CHANGE: In Section R307-110-12, the change amends the date of adoption by the Air Quality Board to reflect the latest amendments to the State Implementation Plan (SIP) for Carbon Monoxide. In the SIP, replace the existing Section IX.C.7 with the updated plan demonstrating continued attainment of the health standard for carbon monoxide in Salt Lake City through 2019. New Motor Vehicle Emissions Budgets are established for 2005 and 2019 for conformity purposes, and other budgets in the existing SIP are deleted. The demonstration shows that vehicles six years old and newer can have their emissions tested every other year instead of annually without any risk of exceeding the federal health standard for carbon monoxide (see separate filing on Section R307-110-33 in this issue.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(2)(e), and Clean Air Act Section 211(m) (42 U.S.C. 7545(m))

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None of the control measures in the SIP are changed and thus there is no impact on the State budget.

❖ LOCAL GOVERNMENTS: This change will have no effect on any local government, as there is no change in control measures

❖ OTHER PERSONS: There is no change in costs for any affected person, as there is no change in the control measures required in the Plan. Carbon monoxide levels are dropping rapidly as cleaner cars replace older vehicles.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no change in costs for any affected person, as there is no change in the control measures required in the Plan. Carbon monoxide levels are dropping rapidly as cleaner cars replace older vehicles.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: More stringent federal emission controls on vehicles have reduced emissions of carbon monoxide to the point that computer modeling can demonstrate that Salt Lake City will comply with carbon monoxide standards through 2019. There is no change in costs for any affected business or individual.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at janmiller@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

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 8/18/2004 at 1:30 PM, DAQ Building, 150 N 1950 W, Main Conference Room, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/07/2004

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

**R307. Environmental Quality, Air Quality.
R307-110. General Requirements: State Implementation Plan.
R307-110-12. Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide.**

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide, as most recently amended by the Utah Air Quality Board on ~~March 31~~ October 6, 2004, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

**KEY: air pollution, small business assistance program, particulate matter, ozone
2004**

**Notice of Continuation March 27, 2002
19-2-104(3)(e)**

**Environmental Quality, Air Quality
R307-110-33
Section X, Vehicle Inspection and
Maintenance Program, Part C, Salt
Lake County**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 27296

FILED: 07/13/2004, 17:03

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the amendments is to incorporate the changes in Section 41-6-163.7 into the State Implementation Plan X.C, which is incorporated by reference under Section R307-110-33.

SUMMARY OF THE RULE OR CHANGE: This change amends Section R307-110-33 by changing the date of last adoption by the Air Quality Board to October 6, 2004. In the State Implementation Plan X.C, which is incorporated by reference under Section R307-110-33, adds language to specify that vehicles six years old and newer must be inspected only every other year, as per changes in Section 41-5-163.7. Also, deletes Table X.C.1 because the performance standards for Utah County are included in the appendices for X.C.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(2)(e)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: State Implementation Plan, Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The vehicle inspection and maintenance program is operated by Salt Lake County, not the state; this change does not affect the state budget.

❖ LOCAL GOVERNMENTS: This change will not affect the budget of Salt Lake County, because the costs to administer the inspection and maintenance programs are covered by the County's share of the fees paid by vehicle owners.

❖ OTHER PERSONS: Of the total 668,508 vehicles registered in Salt Lake County, approximately 283,819 vehicles are six years old or newer. Theoretically, owners of vehicles that are six years old or newer and are registered in Salt Lake County

may save the cost of vehicle emissions inspection every other year, if inspection stations do not raise their rates. However, Salt Lake County government has removed the ceiling on the rates that may be charged. It is likely that owners of newer cars are achieving some savings but that owners of older cars are now paying somewhat more than before. Also, there is no evidence that any inspection stations have been driven out of business by the reduction in the number of inspections.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Theoretically, owners of vehicles that are six years old or newer and are registered in Salt Lake County may save the cost of vehicle emissions inspection every other year, if inspection stations do not raise their rates. However, Salt Lake County government has removed the ceiling on the rates that may be charged. It is likely that owners of newer cars are achieving some savings but that owners of older cars are now paying somewhat more than before. Also, there is no evidence that any inspection stations have been driven out of business by the reduction in the number of inspections.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses in Salt Lake County that own vehicles six years old and newer will be able to save in inspection costs by inspecting every other year instead of annually.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at janmiller@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

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 8/18/2004 at 1:30 PM, DAQ Building, 150 N 1950 W, Main Conference Room, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/07/2004

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-110. General Requirements: State Implementation Plan. R307-110-33. Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County.

The Utah State Implementation Plan, Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County, as most recently amended by the Utah Air Quality Board on [August 1,

~~2004~~ October 6, 2004, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

KEY: air pollution, particulate matter, ozone

~~December 31, 2003~~ 2004

Notice of Continuation March 27, 2002

19-2-104(3)(e)



Environmental Quality, Air Quality **R307-202** Emission Standards: General Burning

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 27292

FILED: 07/13/2004, 16:14

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule contains the oldest provisions in the air quality rules. The rule has been reviewed for currency and relevance; and the summary section below lists the major changes that are proposed.

SUMMARY OF THE RULE OR CHANGE: The existing rule applies statewide while the reenacted rule applies outside Davis, Salt Lake, Utah and Weber Counties; a new rule, R307-303, applies within those counties (see the separate filing in this issue). Provisions within the current rule that are deleted or changed in the new rule include the following: 1) deletes the existing Subsection R307-202-4(4), because flares are now regulated by Rules R307-401 and R307-415; 2) deletes the existing Subsection R307-202-4(5) because burning household garbage is prohibited under the federal Resource Conservation and Recovery Act; 3) deletes Subsection R307-202-5(3)(a) regulating open burning of tree cuttings and slash in forest areas because that activity is now regulated by Rule R307-204; and 4) deletes the portion of Subsection R307-202-5(3)(c) that allows local governments to issue permits to burn structures outside the statutory allowance of two structures per year for firefighter training. Provisions added to the reenacted rule include the following: 1) a purpose statement is added in Section R307-202-1; 2) in Section R307-202-4, a new prohibition is added to prevent burning to clear agricultural land for some other use; 3) in Section R307-202-4, prohibits burning any structure until all asbestos has been removed; and 4) in Section R307-202-5, adds a new provision allowing burning to train on-site fire crews when the clearing index is greater than 500. Other changes include extending the window in the spring and fall during which local governments may declare a 30-day window for burning yard waste; the existing windows are March 1 - May 30 and September 15 - October 30, while the new windows are February 1 - May 30 and October 1 - November 30 if allowed by the state forester. (DAR NOTE: The proposed new rule, R307-303, is under DAR No. 27294 in this issue.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-2-104 and 65A-8-9, and Subsection 11-7-1(2)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be no change in the State's costs to administer the reenacted rule because the same sources will be reviewed.

❖ LOCAL GOVERNMENTS: This change will not affect the costs to local governments, who may determine a 30-day window during which burning of yard waste may be allowed, as a similar provision is in the existing rule.

❖ OTHER PERSONS: There may be some small changes in costs and benefits for individual citizens and companies from these changes but it is difficult to estimate them because there are so many different provisions that affect so many different people plus one provision can affect people differently depending on their individual circumstances and thus, the Division cannot determine every possibility.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be some small changes in costs and benefits for individual citizens and companies from these changes but it is difficult to estimate them because there are so many different provisions that affect so many different people plus one provision can affect people differently depending on their individual circumstances and thus, the Division cannot determine every possibility.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Any changes in costs or benefits for businesses will be minimal.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at janmiller@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

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 8/17/2004 at 1:30 PM, DEQ Building, 168 N 1950 W, Room 201, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/07/2004

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

~~**R307-202. Emission Standards: General Burning.**~~

~~**R307-202-1. Definitions and Exclusions.**~~

~~As provided in Section 19-2-114, the provisions of R307-202 are not applicable to:~~

~~(1) burning incident to horticultural or agricultural operations of:~~

~~(a) prunings from trees, bushes, and plants; or~~

~~(b) dead or diseased trees, bushes, and plants, including stubble;~~

~~(2) burning of weed growth along ditch banks incident to clearing these ditches for irrigation purposes;~~

~~(3) controlled heating of orchards or other crops to lessen the chances of their being frozen so long as the emissions from this heating do not violate minimum standards set by the board; and~~

~~(4) the controlled burning of not more than two structures per year by an organized and operating fire department for the purpose of training fire service personnel when the United States Weather Service clearing index is above 500.~~

~~See also Section 11-7-1(2)(a).~~

~~**R307-202-2. Community Waste Disposal.**~~

~~No open burning shall be done at sites used for disposal of community trash, garbage and other wastes except as authorized through a variance or as authorized for a specific period of time by the Board on the basis of justifiable circumstances reviewed and weighed in terms of pollution effects and other relevant considerations at an appropriate hearing following written application.~~

~~**R307-202-3. General Prohibitions.**~~

~~No person shall burn any trash, garbage or other wastes, or shall conduct any salvage operation by open burning except in conformity with the provisions of R307-202-4 and 5.~~

~~**R307-202-4. Permissible Burning Without Permit.**~~

~~When not prohibited by other laws or by other officials having jurisdiction and provided that a nuisance as defined in Section 76-10-803 is not created, the following types of open burning are permissible without the necessity of securing a permit:~~

~~(1) in devices for the primary purpose of preparing food such as outdoor grills and fireplaces;~~

~~(2) campfires and fires used solely for recreational purposes where such fires are under control of a responsible person;~~

~~(3) in indoor fireplaces and residential solid fuel burning devices except as provided in R307-302-2;~~

~~(4) properly operated industrial flares for combustion of flammable gases; and~~

~~(5) burning, on the premises, of combustible household wastes generated by occupants of dwellings of four family units or less in those areas only where no public or duly licensed disposal service is available.~~

~~**R307-202-5. Permissible Burning With Permit.**~~

~~(1) Open burning is authorized by the issuance of a permit as specified in (3) below when not prohibited by other laws or other officials having jurisdiction, and when a nuisance as defined in Section 76-10-803 is not created.~~

— (2) Individual permits for the types of burning listed in (3) below may be issued by an authorized local authority under the "clearing index" system approved and coordinated by the Department of Environmental Quality.

— (3) Types of burning for which a permit may be granted are:

— (a) open burning of tree cuttings and slash in forest areas where the cuttings accrue from pulping, lumbering, and similar operations, but excluding waste from sawmill operations such as sawdust and scrap lumber;

— (b) open burning of trees and brush within railroad rights-of-way provided that dirt is removed from stumps before burning, and that tires, oil more dense than #2 fuel oil or other materials which can cause severe air pollution are not used to start fires or keep fires burning;

— (c) open burning of solid or liquid fuels or structures for removal of hazards or eyesores;

— (d) open burning, in remote areas, of highly explosive or other hazardous materials, for which there is no other known practical method of disposal;

— (e) open burning of clippings, bushes, plants and prunings from trees incident to property clean-up activities provided that the following conditions have been met:

— (i) in any area of the state, the local county fire marshal has established a 30 day period between March 1 and May 30 for such burning to occur and notified the executive secretary of the open burning period prior to the commencement of the 30 day period, or, in areas which are located outside of Salt Lake, Davis, Weber, and Utah Counties, the local county fire marshal has established, if allowed by the state forester under Section 65A-8-9, a 30 day period between September 15 and October 30 for such burning to occur and has notified the executive secretary of the opening burning period prior to the commencement of the 30 day period;

— (ii) such burning occurs during the period established by the local county fire marshal;

— (iii) materials to be burned are thoroughly dry;

— (iv) no trash, rubbish, tires, or oil are used to start fires or included in the material to be burned.

— (4) The Board may grant a permit for types of open burning not specified in (3) above on written application if the Board finds that the burning is not inconsistent with the State Implementation Plan.

R307-202-6. Special Conditions.

— Open burning for special purposes, or under unusual or emergency circumstances, may be approved by the executive secretary.

KEY: air pollution, open burning*, fire marshal*

July 15, 1999

Notice of Continuation June 12, 2003

19-2-104

11-7-1(2)(a)

65A-8-9]

R307-202. Areas Outside Davis, Salt Lake, Utah and Weber Counties: Open Burning.

R307-202-1. Purpose.

The purpose of R307-202 is to regulate open burning in areas outside Davis, Salt Lake, Utah and Weber Counties, in order to reduce PM10 and PM2.5 emissions and emissions of precursors of ozone, and to protect visibility in Class I areas. Open burning within Davis, Salt Lake, Utah and Weber Counties is regulated under

R307-303. Certain kinds of burning are regulated under R307-204, and additional open burning requirements may be included in approval orders issued under R307-401 or permits issued under R307-415.

R307-202-2. Exclusions and Definitions.

(1) As provided in Section 19-2-114, the provisions of R307-202 are not applicable to:

(a) burning incident to horticultural or agricultural operations of:

(i) prunings from trees, bushes, and plants; or

(ii) dead or diseased trees, bushes, and plants, including stubble;

(iii) burning of weed growth along ditch banks incident to clearing ditches for irrigation purposes;

(b) controlled heating of orchards or other crops to lessen the chances of their being frozen so long as the emissions from this heating do not violate minimum standards set by the board; and

(c) the controlled burning of not more than two structures per year by an organized and operating fire department for the purpose of training fire service personnel when the National Weather Service clearing index is greater than 500.

(2) The following definitions apply to R307-202.

"Fire Crew" means an organized group of fire fighters employed on-site by the operator of a source of air pollution.

"Local Government" means the authorized city, county, or fire protection district office that is responsible for issuing open burning permits, as stated in Section 53-7-204(4).

R307-202-3. Municipal Waste Landfills.

No person may burn waste at a municipal waste landfill except as authorized by a variance issued by the Board. An application for a variance must be submitted in writing.

R307-202-4. General Prohibitions.

(1) No person may burn any wastes or conduct any salvage operation by open burning except in conformity with the provisions of R307-202-5 and 6, R307-401 or R307-415.

(2) No person may burn waste from sawmill operations such as sawdust and scrap lumber, except in conformity with the provisions of R307-401 and R307-415.

(3) No person may burn prunings from trees, bushes or plants or dead trees, bushes and plants including stubble if the intent is to clear the land for non-agricultural uses.

(4) Tires, oil heavier than #2 fuel oil or other materials that can cause severe air pollution may not be burned or used to start fires or to keep fires burning, except as provided in R307-202-5(4).

(5) No person may ignite a structure for any reason until all asbestos is removed.

R307-202-5. Permissible Burning Without an Open Burning Permit.

When not prohibited by other laws or by other officials having jurisdiction, and provided that a nuisance as defined in Section 76-10-803 is not created, the following types of open burning are permissible without securing a permit under R307-202-6:

(1) food preparation in a device such as an outdoor grill or fireplace;

(2) recreational fire such as a campfire if not prohibited by other regulations and where the fire is under the control of a responsible person;

(3) in indoor residential fireplaces and stoves; and
(4) controlled burning for the purpose of training a fire crew
when the clearing index is greater than 500.

R307-202-6. Permissible Burning With an Open Burning Permit from a Local Government.

(1) A local government may issue an open burning permit using the National Weather Service clearing index if:

(a) the clearing index is greater than 500;
(b) open burning is not prohibited by other laws or officials having jurisdiction;

(c) a nuisance as defined in Section 76-10-803 is not created.
(2) Open burning of the types listed in (a) through (c) below may be conducted only with a permit from a local government.

(a) Open burning of trees and brush within railroad rights-of-way may be permitted, provided that dirt is removed from stumps before burning.

(b) Open burning of solid or liquid fuels may be permitted for removal of hazards, and open burning of highly explosive or other hazardous materials may be permitted if there is no other practical method of disposal. These activities may be conducted only if they are not prohibited by R307-214.

(c) Open burning of clippings, bushes, plants and prunings from trees incident to property clean-up activities may be permitted only under the following conditions.

(i) The local government must have established a 30-day period for open burning, and must have notified the executive secretary of the open burning period prior to the commencement of the period.

(ii) The 30-day open burning period must occur between February 1 and May 30, and, if allowed by the state forester under 65A-8-9, between October 1 and November 30.

(iii) Permitted burning may be conducted only during a 30-day period established by the local government.

(iv) Materials to be burned must be thoroughly dry.
(v) No trash, rubbish, tires, or oil heavier than #2 fuel oil may be used to start fires or included in the material to be burned.

(3) The Board may grant a permit for types of open burning not specified in (2) above on written application if the Board finds that the burning is consistent with the State Implementation Plan.

R307-202-7. Special Conditions.

Open burning for special purposes, or under unusual or emergency circumstances, may be approved by the executive secretary.

KEY: air pollution, open burning, permits

2004

Notice of Continuation June 12, 2003

19-2-104

11-7-1(2)(a)

65A-8-9



Environmental Quality, Air Quality
R307-214-2
 Nation Emissions for Hazardous Air
 Pollutants

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 27293

FILED: 07/13/2004, 16:32

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to protect the public health and the environment by reducing emissions of Hazardous Air Pollutants.

SUMMARY OF THE RULE OR CHANGE: Fifteen new federal standards for hazardous air pollutants (HAPs) are proposed for incorporation by reference into Section R307-214-2. There are sources in Utah that are known to be subject to ten of these new standards. The Clean Air Act of 1990 required the EPA to issue standards for HAPs; these standards are commonly called Maximum Achievable Control Technologies (MACTs). State operation of the MACTs program is a federally required component of Operating Permits program under Title V of the Clean Air Act.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR Part 63, Subpart EEEE, National Emission Standards for Hazardous Air Pollutions: Organic Liquids Distribution (Non-Gasoline); 40 CFR Part 63, Subpart FFFF, National Emission Standards for Hazardous Air Pollutions: Organic Chemical Manufacturing; 40 CFR Part 63, Subpart MMMM, National Emission Standards for Hazardous Air Pollutions: Surface Coating of Miscellaneous Metal Parts and Products; 40 CFR Part 63, Subpart YYYY, National Emission Standards for Hazardous Air Pollutions for Stationary Combustion Turbines; 40 CFR Part 63, Subpart ZZZZ, National Emission Standards for Hazardous Air Pollutions for Stationary Reciprocating Internal Combustion Engines; 40 CFR Part 63, Subpart AAAAA, National Emission Standards for Hazardous Air Pollutions for Lime Manufacturing Plants; 40 CFR Part 63, Subpart EEEEE, National Emission Standards for Hazardous Air Pollutions for Iron and Steel Foundries; 40 CFR Part 63, Subpart GGGGG, National Emission Standards for Hazardous Air Pollutions: Site Remediation; 40 CFR Part 63, Subpart HHHHH, National Emission Standards for Hazardous Air Pollutions: Miscellaneous Coating Manufacturing; and 40 CFR Part 63, Subpart TTTTT, National Emission Standards for Hazardous Air Pollutions for Primary Magnesium Refining

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no costs to the state budget for implementing the MACTS, as all sources are required to hold Operating Permits, and their costs are built into the fees paid by sources of HAPs under the Operating Permit Program.

❖ LOCAL GOVERNMENTS: The only new MACTs that may affect local governments. The first is 40 CFR Part 63, Subpart YYYY, National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines. Nationally, implementation of the rule will reduce HAPs from these

sources by approximately 90%, with minimal changes in prices and output for products made by the affected industries. Second is 40 CFR Part 63, Subpart ZZZZ NESHAPs for Stationary Reciprocating Internal Combustion Engines. Nationwide, this rule will reduce HAP emissions by 5,600 ton per year and NOx emissions by 90%. Minimal change to prices and quantity produced in most of the fuel markets. Although the natural gas market has the greatest share of the regulatory burden, the impact on prices and output is about 0.3%, which is considered a minimal economy impact for this industry. Cost to producers is 0.12%. For consumers, as a percentage of spending on the outputs from these industries is 0.003%.

❖ OTHER PERSONS: 1) 40 CFR Part 63, Subpart EEEE, National Emission Standards for Hazardous Air Pollutions: Organic Liquids Distribution (Non-Gasoline). There are one to three sources in Utah known to be subject to this rule. Nationwide, this rule is anticipated to result in a 60% decrease in emissions of hazardous air pollutants (HAPs) from these sources. The cost increase may be as much as \$7,100 per ton of HAPs reduced, with prices for the finished product increasing by approximately 0.1%, on average across the U.S. No adverse economic impact is expected to occur because of this rule. 2) 40 CFR Part 63, Subpart FFFF, National Emission Standards for Hazardous Air Pollutions: Organic Chemical Manufacturing. There are approximately five to eight sources in Utah known to be subject to this rule. Across the U.S., emissions will be reduced by approximately 70% and the price of products from this industry will rise 0.5%. Nationwide the capital cost for the existing sources estimated to be \$127,000,000 per year and annual cost for existing sources is estimated to be \$75,100,000 per year. No adverse economic impact is expected to occur because of this rule. 3) 40 CFR Part 63, Subpart MMMM, National Emission Standards for Hazardous Air Pollutions: Surface Coating of Miscellaneous Metal Parts and Products. There are two sources in Utah known to be subject to this rule. Nationwide, implementation of the rule will reduce HAPs from these sources by approximately 48%. There may be minimal cost increases, and a small price increase to consumers of such products. 4) 40 CFR Part 63, Subpart YYYY, National Emission Standards for Hazardous Air Pollutions for Stationary Combustion Turbines. There are six to ten sources in Utah known to be subject to this rule. Nationwide, implementation of the rule will reduce HAPs from these sources by approximately 90%, with minimal changes in prices and output for products made by the affected industries. 5) 40 CFR Part 63, Subpart ZZZZ, National Emission Standards for Hazardous Air Pollutions for Stationary Reciprocating Internal Combustion Engines. There are as many as 20 sources in Utah known to be subject to this rule. Nationwide, this rule will reduce HAP emissions by 5,600 ton per year and NOx emissions by 90%. Minimal change to prices and quantity produced in most of the fuel markets. Although the natural gas market has the greatest share of the regulatory burden, the impact on prices and output is about 0.3%, which is considered a minimal economy impact for this industry. Cost to producers is 0.12%. For consumers, as a percentage of spending on the outputs from these industries is 0.003%. 6) 40 CFR Part 63, Subpart AAAAA, National Emission Standards for Hazardous Air

Pollutions for Lime Manufacturing Plants. There are two sources in Utah known to be subject to this rule. Nationally, implementation of the rule will reduce HAPs from these sources by approximately 2% and total emissions by 17%. Average price per ton of lime will increase by 2.1% (or \$1.17 per metric ton). Production is projected to decrease by 1.8%.

It is projected that consumers of lime across the U.S. will lose \$19,700,000 annually. 7) 40 CFR Part 63, Subpart EEEEE, National Emission Standards for Hazardous Air Pollutions for Iron and Steel Foundries. There is one source in Utah that is subject to this rule. Nationally, implementation of the rule will reduce HAPs by 820 tons per year and reduce mercury emissions by 80% (or 1.4 tons per year). Nationwide the total capital cost is about \$188,000,000 and annually cost to maintain equipment is estimated at \$21,000,000. Prices for iron and steel casting are expected to increase by 0.1% with domestic production declining by 8,400 tons per year. It is expected that consumers will incur \$13,200,000 in higher prices and foregone consumption. Further, domestic producers of iron and steel casting are expected to experience profit losses of \$9,000,000, while foreign producers may experience profit gains of approximately \$1,000,000. 8) 40 CFR Part 63, Subpart GGGGG, National Emission Standards for Hazardous Air Pollutions: Site Remediation. There is one source in Utah that is subject to this rule. Nationwide, this rule is anticipated to reduce air emissions by approximately 50% from these sources. Nationally total capital cost will be \$18,000,000 and annual cost of \$9,000,000 per year to implement this rule. It is expected that cost-to-sales ratio is below 0.02% for the affected industries to comply with this rule. 9) 40 CFR Part 63, Subpart HHHHH, National Emission Standards for Hazardous Air Pollutions: Miscellaneous Coating Manufacturing. There are one to two sources in Utah known to be subject to this rule. Nationwide, this rule is anticipated to reduce HAPs from these sources by approximately 64%. The cost impacts expected include capital costs (nationally \$57,000,000) to install control devices and monitoring equipment and annual costs (nationally \$16,000,000) in maintaining equipment and conducting performance tests. Further, it is estimated that it will cost approximately \$3,500 per respondent for recordkeeping and reporting requirements. Prices will increase for affected output by 0.3%. Production will decrease by 0.1% because of the rule. One plant closure is expected out of the 127 facilities nationwide. However, the plant that is expected to close already has low profitability. Therefore, no adverse impact is expected to occur. 10) 40 CFR Part 63, Subpart TTTTT, National Emission Standards for Hazardous Air Pollutions for Primary Magnesium Refining. There is one source in Utah (only operating magnesium plant in the nation) known to be subject to this rule. Generally, there are no significant impacts expected because the magnesium operation already has all of the required air pollution control equipment in place and operating. The only impacts will be the estimated cost of \$43,000 for the additional monitoring requirements required by the rule. 11) There are no known sources in Utah that are subject to the other federal requirements being incorporated by reference, and thus there is no cost or savings information.

COMPLIANCE COSTS FOR AFFECTED PERSONS: 1) 40 CFR Part 63, Subpart EEEE, National Emission Standards for Hazardous

Air Pollutions: Organic Liquids Distribution (Non-Gasoline). There are one to three sources in Utah known to be subject to this rule. Nationwide, this rule is anticipated to result in a 60% decrease in emissions of hazardous air pollutants (HAPs) from these sources. The cost increase may be as much as \$7,100 per ton of HAPs reduced, with prices for the finished product increasing by approximately 0.1%, on average across the U.S. No adverse economic impact is expected to occur because of this rule. 2) 40 CFR Part 63, Subpart FFFF, National Emission Standards for Hazardous Air Pollutions: Organic Chemical Manufacturing. There are approximately five to eight sources in Utah known to be subject to this rule. Across the U.S., emissions will be reduced by approximately 70% and the price of products from this industry will rise 0.5%. Nationwide the capital cost for the existing sources estimated to be \$127,000,000 per year and annual cost for existing sources is estimated to be \$75,100,000 per year. No adverse economic impact is expected to occur because of this rule. 3) 40 CFR Part 63, Subpart MMMM, National Emission Standards for Hazardous Air Pollutions: Surface Coating of Miscellaneous Metal Parts and Products. There are two sources in Utah known to be subject to this rule. Nationally, implementation of the rule will reduce HAPs from these sources by approximately 48%. There may be minimal cost increases, and a small price increase to consumers of such products. 4) 40 CFR Part 63, Subpart YYYY, National Emission Standards for Hazardous Air Pollutions for Stationary Combustion Turbines. There are six to ten sources in Utah known to be subject to this rule. Nationally, implementation of the rule will reduce HAPs from these sources by approximately 90%, with minimal changes in prices and output for products made by the affected industries. 5) 40 CFR Part 63, Subpart ZZZZ, National Emission Standards for Hazardous Air Pollutions for Stationary Reciprocating Internal Combustion Engines. There are as many as 20 sources in Utah known to be subject to this rule. Nationwide, this rule will reduce HAP emissions by 5,600 ton per year and NOx emissions by 90%. Minimal change to prices and quantity produced in most of the fuel markets. Although the natural gas market has the greatest share of the regulatory burden, the impact on prices and output is about 0.3%, which is considered a minimal economy impact for this industry. Cost to producers is 0.12%. For consumers, as a percentage of spending on the outputs from these industries is 0.003%. 6) 40 CFR Part 63, Subpart AAAAA, National Emission Standards for Hazardous Air Pollutions for Lime Manufacturing Plants. There are two sources in Utah known to be subject to this rule. Nationally, implementation of the rule will reduce HAPs from these sources by approximately 2% and total emissions by 17%. Average price per ton of lime will increase by 2.1% (or \$1.17 per metric ton). Production is projected to decrease by 1.8%. It is projected that consumers of lime across the U.S. will lose \$19,700,000 annually. 7) 40 CFR Part 63, Subpart EEEEE, National Emission Standards for Hazardous Air Pollutions for Iron and Steel Foundries. There is one source in Utah that is subject to this rule. Nationally, implementation of the rule will reduce HAPs by 820 tons per year and reduce mercury emissions by 80% (or 1.4 tons per year). Nationwide the total capital cost is about \$188,000,000 and annually cost to maintain equipment is estimated at \$21,000,000. Prices for

iron and steel casting are expected to increase by 0.1% with domestic production declining by 8,400 tons per year. It is expected that consumers will incur \$13,200,000 in higher prices and foregone consumption. Further, domestic producers of iron and steel casting are expected to experience profit losses of \$9,000,000, while foreign producers may experience profit gains of approximately \$1,000,000. 8) 40 CFR Part 63, Subpart GGGGG, National Emission Standards for Hazardous Air Pollutions: Site Remediation. There is one source in Utah that is subject to this rule. Nationwide, this rule is anticipated to reduce air emissions by approximately 50% from these sources. Nationally total capital cost will be \$18,000,000 and annual cost of \$9,000,000 per year to implement this rule. It is expected that cost-to-sales ratio is below 0.02% for the affected industries to comply with this rule. 9) 40 CFR Part 63, Subpart HHHHH, National Emission Standards for Hazardous Air Pollutions: Miscellaneous Coating Manufacturing. There are one to two sources in Utah known to be subject to this rule. Nationally, this rule is anticipated to reduce HAPs from these sources by approximately 64%. The cost impacts expected include capital costs (nationally \$57,000,000) to install control devices and monitoring equipment and annual costs (nationally \$16,000,000) in maintaining equipment and conducting performance tests. Further, it is estimated that it will cost approximately \$3,500 per respondent for recordkeeping and reporting requirements. Prices will increase for affected output by 0.3%. Production will decrease by 0.1% because of the rule. One plant closure is expected out of the 127 facilities nationwide. However, the plant that is expected to close already has low profitability. Therefore, no adverse impact is expected to occur. 10) 40 CFR Part 63, Subpart TTTTT, National Emission Standards for Hazardous Air Pollutions for Primary Magnesium Refining. There is one source in Utah (only operating magnesium plant in the nation) known to be subject to this rule. Generally, there are no significant impacts expected because the magnesium operation already has all of the required air pollution control equipment in place and operating. The only impacts will be the estimated cost of \$43,000 for the additional monitoring requirements required by the rule. 11) There are no known sources in Utah that are subject to the other federal requirements being incorporated by reference, and thus there is no cost or benefit information.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Costs for Utah businesses to implement these requirements are very small, and will not affect the viability of any Utah business.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@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

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 8/19/2004 at 1:30 PM, DAQ Building, 150 N 1950 W, Main Conference Room, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/07/2004

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-214. National Emission Standards for Hazardous Air Pollutants.

R307-214-2. Part 63 Sources.

The provisions listed below of 40 CFR Part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories, effective as of July 1, [2002]2003, or later for those whose subsequent publication citation is included below, are incorporated into these rules by reference. References in 40 CFR Part 63 to "the Administrator" shall refer to the executive secretary, unless by federal law the authority is specific to the Administrator and cannot be delegated.

- (1) 40 CFR Part 63, Subpart A, General Provisions.
- (2) 40 CFR Part 63, Subpart B, Requirements for Control Technology Determinations for Major Sources in Accordance with 42 U.S.C. 7412(g) and (j).
- (3) 40 CFR Part 63, Subpart F, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry.
- (4) 40 CFR Part 63, Subpart G, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.
- (5) 40 CFR Part 63, Subpart H, National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks.
- (6) 40 CFR Part 63, Subpart I, National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.
- (7) 40 CFR Part 63, Subpart J, National Emission Standards for Polyvinyl Chloride and Copolymers Production [~~published on July 10, 2002 at 67 FR 45885~~].
- (8) 40 CFR Part 63, Subpart L, National Emission Standards for Coke Oven Batteries.
- (9) 40 CFR Part 63, Subpart M, National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.
- (10) 40 CFR Part 63, Subpart N, National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.
- (11) 40 CFR Part 63, Subpart O, National Emission Standards for Hazardous Air Pollutants for Ethylene Oxide Commercial Sterilization and Fumigation Operations.
- (12) 40 CFR Part 63, Subpart Q, National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers.
- (13) 40 CFR Part 63, Subpart R, National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).

(14) 40 CFR Part 63, Subpart T, National Emission Standards for Halogenated Solvent Cleaning.

(15) 40 CFR Part 63, Subpart U, National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins.

(16) 40 CFR Part 63, Subpart AA, National Emission Standards for Hazardous Air Pollutants for Phosphoric Acid Manufacturing.

(17) 40 CFR Part 63, Subpart BB, National Emission Standards for Hazardous Air Pollutants for Phosphate Fertilizer Production.

(18) 40 CFR Part 63, Subpart CC, National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries.

(19) 40 CFR Part 63, Subpart DD, National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.

(20) 40 CFR Part 63, Subpart EE, National Emission Standards for Magnetic Tape Manufacturing Operations.

(21) 40 CFR Part 63, Subpart GG, National Emission Standards for Aerospace Manufacturing and Rework Facilities.

(22) 40 CFR Part 63, Subpart HH, National Emission Standards for Hazardous Air Pollutants for Oil and Natural Gas Production.

(23) 40 CFR Part 63, Subpart JJ, National Emission Standards for Wood Furniture Manufacturing Operations.

(24) 40 CFR Part 63, Subpart KK, National Emission Standards for the Printing and Publishing Industry.

(25) 40 CFR Part 63, Subpart MM, National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semicheical Pulp Mills.

(26) 40 CFR Part 63, Subpart OO, National Emission Standards for Tanks - Level 1.

(27) 40 CFR Part 63, Subpart PP, National Emission Standards for Containers.

(28) 40 CFR Part 63, Subpart QQ, National Emission Standards for Surface Impoundments.

(29) 40 CFR Part 63, Subpart RR, National Emission Standards for Individual Drain Systems.

(30) 40 CFR Part 63, Subpart SS, National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process (Generic MACT).

(31) 40 CFR Part 63, Subpart TT, National Emission Standards for Equipment Leaks- Control Level 1 (Generic MACT).

(32) 40 CFR Part 63, Subpart UU, National Emission Standards for Equipment Leaks-Control Level 2 Standards (Generic MACT).

(33) 40 CFR Part 63, Subpart VV, National Emission Standards for Oil-Water Separators and Organic-Water Separators.

(34) 40 CFR Part 63, Subpart WW, National Emission Standards for Storage Vessels (Tanks)-Control Level 2 (Generic MACT).

(35) 40 CFR Part 63, Subpart XX, National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations [~~published on July 12, 2002, at 67 FR 46257~~].

(36) 40 CFR Part 63, Subpart YY, National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic MACT.

(37) 40 CFR Part 63, Subpart CCC, National Emission Standards for Hazardous Air Pollutants for Steel Pickling-HCl Process Facilities and Hydrochloric Acid Regeneration Plants.

(38) 40 CFR Part 63, Subpart DDD, National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production.

(39) 40 CFR Part 63, Subpart EEE, National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors.

(40) 40 CFR Part 63, Subpart GGG, National Emission Standards for Hazardous Air Pollutants for Pharmaceuticals Production.

(41) 40 CFR Part 63, Subpart HHH, National Emission Standards for Hazardous Air Pollutants for Natural Gas Transmission and Storage.

(42) 40 CFR Part 63, Subpart III, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production.

(43) 40 CFR Part 63, Subpart JJJ, National Emission Standards for Hazardous Air Pollutants for Group IV Polymers and Resins.

(44) 40 CFR Part 63, Subpart LLL, National Emission Standards for Hazardous Air Pollutants for Portland Cement Manufacturing Industry.

(45) 40 CFR Part 63, Subpart MMM, National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.

(46) 40 CFR Part 63, Subpart NNN, National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing.

(47) 40 CFR Part 63, Subpart OOO, National Emission Standards for Hazardous Air Pollutants for Amino/Phenolic Resins Production (Resin III).

(48) 40 CFR Part 63, Subpart PPP, National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production.

(49) 40 CFR Part 63, Subpart QQQ, National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelters.

(50) 40 CFR Part 63, Subpart RRR, National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production.

(51) 40 CFR Part 63, Subpart TTT, National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting.

(52) 40 CFR Part 63, Subpart UUU, National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units.

(53) 40 CFR Part 63, Subpart VVV, National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works.

(54) 40 CFR Part 63, Subpart AAAA, National Emission Standards for Hazardous Air Pollutants for Municipal Solid Waste Landfills, published on January 16, 2003 at 68 FR 2227.

(55) 40 CFR Part 63, Subpart CCCC, National Emission Standards for Manufacturing of Nutritional Yeast.

(56) 40 CFR Part 63, Subpart EEEE, National Emission Standards for Hazardous Air Pollutants for Organic Liquids Distribution (non-gasoline), published on February 3, 2004 at 69 FR 5038.

(57) 40 CFR Part 63, Subpart FFFF, National Emission Standards for Hazardous Air Pollutants for Miscellaneous Organic

Chemical Manufacturing, published on November 10, 2003 at 68 FR 63852.

(5[6]8) 40 CFR Part 63, Subpart GGGG, National Emission Standards for Vegetable Oil Production; Solvent Extraction.

(5[7]9) 40 CFR Part 63, Subpart HHHH - National Emission Standards for Wet-Formed Fiberglass Mat Production.

(60) 40 CFR Part 63, Subpart IIII, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Automobiles and Light-Duty Trucks, published on April 26, 2004 at 69 FR 22602.

([58]61) 40 CFR Part 63, Subpart JJJJ, National Emission Standards for Hazardous Air Pollutants for Paper and Other Web Surface Coating Operations, published on December 4, 2002 at 67 FR 72330.

(62) 40 CFR Part 63, Subpart KKKK, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Metal Cans, published on November 13, 2003 at 68 FR 64432.

(63) 40 CFR Part 63, Subpart MMMM, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products, published on January 2, 2004 at 69 FR 130.

([59]64) 40 CFR Part 63, Subpart NNNN - National Emission Standards for Large Appliances Surface Coating Operations, published on July 23, 2002, at 67 FR 48253.

([60]65) 40 CFR Part 63, Subpart OOOO, National Emission Standards for Hazardous Air Pollutants for Fabric Printing, Coating and Dyeing Surface Coating Operations, published on May 29, 2003 at 68 FR 32172.

(66) 40 CFR Part 63, Subpart PPPP, National Emissions Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products, published on April 19, 2004 at 69 FR 20968.

(6[4]7) 40 CFR Part 63, Subpart QQQQ, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Wood Building Products, published on May 28, 2003 at 68 FR 31746.

(6[2]8) 40 CFR Part 63, Subpart RRRR, National Emission Standards for Hazardous Air Pollutants for Metal Furniture Surface Coating Operations, published on May 23, 2003 at 68 FR 28606.

(6[3]9) 40 CFR Part 63, Subpart SSSS - National Emission Standards for Metal Coil Surface Coating Operations.

([64]70) 40 CFR Part 63, Subpart TTTT - National Emission Standards for Leather Tanning and Finishing Operations.

([65]71) 40 CFR Part 63, Subpart UUUU - National Emission Standards for Cellulose Product Manufacturing.

([66]72) 40 CFR Part 63, Subpart VVVV - National Emission Standards for Boat Manufacturing.

([67]73) 40 CFR Part 63, Subpart WWWW, National Emissions Standards for Hazardous Air Pollutants for Reinforced Plastic Composites Production, published on April 21, 2003 at 68 FR 19375.

([68]74) 40 CFR Part 63, Subpart XXXX - National Emission Standards for Tire Manufacturing, published on July 9, 2002, at 67 FR 45589.

(75) 40 CFR Part 63, Subpart YYYYY, National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines, published on March 5, 2004 at 69 FR 10512.

(76) 40 CFR Part 63, Subpart ZZZZ, National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines, published on June 15, 2004 at 69 FR 33474.

(77) 40 CFR Part 63, Subpart AAAAA, National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants, published on January 5, 2004 at 69 FR 394.

(~~69~~78) 40 CFR Part 63, Subpart BBBBB, National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing[, published on May 22, 2003 at 68 FR 27913].

(~~79~~79) 40 CFR Part 63, Subpart CCCCC, National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks[, published on April 14, 2003 at 68 FR 18008].

(80) 40 CFR Part 63, Subpart EEEEE, National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries, published on April 22, 2004 at 69 FR 21906.

(~~74~~81) 40 CFR Part 63, Subpart FFFFF, National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing[, published on May 20, 2003 at 68 FR 27646].

(82) 40 CFR Part 63, Subpart GGGGG, National Emission Standards for Hazardous Air Pollutants for Site Remediation, published on October 8, 2003 at 68 FR 58172.

(83) 40 CFR Part 63, Subpart HHHHH, National Emission Standards for Hazardous Air Pollutants for Miscellaneous Coating Manufacturing, published on December 11, 2003 at 68 FR 69164.

(84) 40 CFR Part 63, Subpart IIIII, National Emission Standards for Hazardous Air Pollutants for Mercury Emissions from Mercury Cell Chlor-Alkali Plants, published on December 19, 2003 at 68 FR 70904.

(~~72~~85) 40 CFR Part 63, Subpart JJJJJ, National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing[, published on May 16, 2003 at 68 FR 26690].

(~~73~~86) 40 CFR Part 63, Subpart KKKKK, National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing[, published on May 16, 2003 at 68 FR 26690].

(~~74~~87) 40 CFR Part 63, Subpart LLLLL, National Emission Standards for Hazardous Air Pollutants for Asphalt Processing and Asphalt Roofing Manufacturing[, re-published on May 7, 2003 at 68 FR 24562].

(~~75~~88) 40 CFR Part 63, Subpart MMMMM, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Fabrication Operations[, published on April 14, 2003 at 68 FR 18062].

(~~76~~89) 40 CFR Part 63, Subpart NNNNN, National Emission Standards for Hazardous Air Pollutants for Hydrochloric Acid Production[, published on April 17, 2003 at 68 FR 19076].

(~~77~~90) 40 CFR Part 63, Subpart PTTTT, National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Stands[, published on May 27, 2003 at 68 FR 28774].

(~~78~~91) 40 CFR Part 63, Subpart QQQQ - National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities[, published on October 18, 2002, at 67 FR 64497].

(92) 40 CFR Part 63, Subpart RRRRR, National Emission Standards for Hazardous Air Pollutants for Taconite Iron Ore Processing, published on October 30, 2003 at 68 FR 61868.

(~~79~~93) 40 CFR Part 63, Subpart SSSSS, National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing[, published on April 16, 2003 at 68 FR 18730].

(94) 40 CFR Part 63, Subpart TTTTT, National Emission Standards for Hazardous Air Pollutants for Primary Magnesium Refining, published on October 10, 2003 at 68 FR 58615.

KEY: air pollution, hazardous air pollutant, MACT
~~[October 1, 2003]~~2004
Notice of Continuation February 9, 2004
19-2-104(1)(a)

Environmental Quality, Air Quality **R307-303** Davis, Salt Lake, Utah and Weber Counties: Open Burning

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 27294

FILED: 07/13/2004, 16:47

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is to protect public health by regulating open burning in urban counties that already have high levels of harmful air pollutants.

SUMMARY OF THE RULE OR CHANGE: This new rule applies to open burning within Davis, Salt Lake, Utah, and Weber Counties. Rule R307-202 applies outside those counties (see separate filing in this issue). Generally, the rule is similar to Rule R307-202, except that burning is prohibited at municipal landfills. The existing window in which local governments may allow open burning of yard waste is March 1 - May 30, while the new window is March 15 - May 30. (DAR NOTE: The proposed repeal and reenact of Rule R307-202 is under DAR No. 27292 in this issue.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-2-104 and 65A-8-9, and Subsection 11-7-1(2)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There will be no change in the State's costs to administer the new rule because the same sources will be reviewed as are currently reviewed under Rule R307-202.

❖ **LOCAL GOVERNMENTS:** This change will not affect the costs to local governments, who may determine a 30-day window during which burning of yard waste may be allowed, as a similar provision is in the existing Rule R307-202.

❖ **OTHER PERSONS:** There may be some small changes in costs and benefits for individual citizens and companies from the costs and benefits now found in Rule R307-202 but it is difficult to estimate them because there are so many different provisions that affect so many different people plus one provision can affect people differently depending on their individual circumstances and thus, the Division cannot determine every possibility.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be some small changes in costs and benefits now found in Rule R307-202 for individual citizens and companies from these changes but it is difficult to estimate them because there are

so many different provisions that affect so many different people plus one provision can affect people differently depending on their individual circumstances and thus, the Division cannot determine every possibility.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Any changes in costs or benefits for businesses from those now found in Rule R307-202 will be minimal.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at janmiller@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

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 8/17/2004 at 1:30 PM, DEQ Building, 168 N 1950 W, Room 201, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/07/2004

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-303. Davis, Salt Lake, Utah and Weber Counties: Open Burning.

R307-303-1. Purpose.

The purpose of R307-303 is to reduce PM10 and PM2.5 emissions within Davis, Salt Lake, Utah and Weber Counties by regulating open burning in those counties. Open burning outside those counties is regulated under R307-202. Certain kinds of burning are regulated under R307-204 and R307-302, and additional requirements may be included in approval orders issued under R307-401 or permits issued under R307-415.

R307-303-2. Exclusions and Definitions.

(1) As provided in Section 19-2-114, the provisions of R307-303 are not applicable to:

(a) burning incident to horticultural or agricultural operations of:

(i) prunings from trees, bushes, and plants; or
(ii) dead or diseased trees, bushes, and plants, including stubble;

(iii) burning of weed growth along ditch banks incident to clearing ditches for irrigation purposes;

(b) controlled heating of orchards or other crops to lessen the chances of their being frozen so long as the emissions from this heating do not violate minimum standards set by the board; and

(c) the controlled burning of not more than two structures per year by an organized and operating fire department for the purpose of training fire service personnel when the National Weather Service clearing index is greater than 500.

(2) The following definitions apply to R307-303.

"Fire Crew" means an organized group of fire fighters employed on-site by the operator of a source of air pollution.

"Local Government" means the authorized local government office that is responsible for issuing open burning permits, as stated in Section 53-7-204(4).

R307-303-3. General Prohibitions.

(1) In accordance with the Utah State Implementation Plan for PM10, Section IX.A, that is incorporated by reference at R307-110-10, no person may conduct open burning at any municipal solid waste landfill.

(2) No person may burn any wastes or conduct any salvage operation by open burning except in conformity with the provisions of R307-303-4 and 5, R307-401 or R307-415.

(3) No person may burn waste from sawmill operations such as sawdust and scrap lumber, except in conformity with the provisions of R307-401 and R307-415.

(4) No person may burn prunings from trees, bushes or plants or dead trees, bushes and plants including stubble if the intent is to clear the land for non-agricultural uses.

(5) Tires, oil heavier than #2 fuel oil or other materials that can cause severe air pollution may not be burned or used to start fires or to keep fires burning, except as provided in R307-303-4(3).

(6) No person may ignite a structure for any reason until all asbestos is removed.

R307-303-4. Permissible Burning Without an Open Burning Permit.

When not prohibited by other laws or by other officials having jurisdiction, and provided that a nuisance as defined in Section 76-10-803 is not created, the following types of open burning are permissible without securing a permit under R307-303-5:

(1) food preparation in a device such as an outdoor grill or fireplace;

(2) recreational fire such as a campfire if not prohibited by other regulations and where the fire is under the control of a responsible person; and

(3) controlled burning for the purpose of training a fire crew when the clearing index is greater than 500.

R307-303-5. Permissible Burning With an Open Burning Permit from a Local Government.

(1) A local government may issue an open burning permit using the National Weather Service clearing index if:

(a) the clearing index is greater than 500;

(b) open burning is not prohibited by other laws or officials having jurisdiction;

(c) a nuisance as defined in Section 76-10-803 is not created.

(2) Open burning of the types listed in (a) through (c) below may be conducted only with a permit from a local government.

(a) Open burning of trees and brush within railroad rights-of-way may be permitted, provided that dirt is removed from stumps before burning.

(b) Open burning of solid or liquid fuels may be permitted for removal of hazards, and open burning of highly explosive or other hazardous materials may be permitted if there is no other practical method of disposal. These activities may be conducted only if they are not prohibited by R307-214.

(c) Open burning of clippings, bushes, plants and prunings from trees incident to property clean-up activities may be permitted only under the following conditions.

(i) The local government must have established a 30-day period for open burning and must have notified the executive secretary of the period prior to its commencement.

(ii) The 30-day open burning period must occur between March 15 and May 30.

(iii) Permitted burning may occur only during a 30-day period established by the local government.

(iv) Materials to be burned must be thoroughly dry.

(v) No trash, rubbish, tires, or oil heavier than #2 fuel oil may be used to start fires or included in the material to be burned.

(3) The Board may grant a permit for types of open burning not specified in (2) above on written application if the Board finds that the burning is consistent with the State Implementation Plan.

R307-303-6. Special Conditions.

Open burning for special purposes, or under unusual or emergency circumstances, may be approved by the executive secretary.

KEY: air pollution, open burning, permits

2004

19-2-104

11-7-1(2)(a)

65A-8-9

Environmental Quality, Solid and Hazardous Waste

R315-2-13

Variances Authorized

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 27289

FILED: 07/13/2004, 09:42

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The change is made to clarify the process by which a person may request a variance under Section 19-6-111, and to establish, by rule, the information a person requesting a variance is to provide to the Board and the Executive Secretary.

SUMMARY OF THE RULE OR CHANGE: The changes direct any person applying for a variance to submit the application to the Executive Secretary. The rule explains the kinds of information the applicant is to provide in support of the application, including such matters as the hardship imposed by the requirement from which the variance is sought and

information demonstrating that human health and the environment will be adequately protected if the variance application is approved.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105 and 19-6-106

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: To the extent that a state agency might seek a variance to an applicable rule, the agency may incur the same costs as identified under Other Persons below.

❖ LOCAL GOVERNMENTS: To the extent that a local government entity might seek a variance to an applicable rule, the agency may incur the same costs as identified under Other Persons below.

❖ OTHER PERSONS: There could be a slight increase in cost to persons seeking a variance request with this rule change. The costs would be associated with gathering and submitting the required information. Costs would be dependent upon the time and effort to gather and compile the information and may range anywhere from \$0 to \$500/hour.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There could be a slight increase in cost to persons seeking a variance request with this rule change. The costs would be associated with gathering and submitting the required information. Costs would be dependent upon the time and effort to gather and compile the information and may range anywhere from \$0 to \$500/hour.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There could be a slight increase in cost to persons seeking a variance request with this rule change. The costs would be associated with gathering and submitting the required information. Costs would be dependent upon the time and effort to gather and compile the information. Dianne R. Nielson, Ph.D.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@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: 09/15/2004

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.**R315-2. General Requirements - Identification and Listing of Hazardous Waste.****R315-2-13. Variances Authorized.**

(a) Variances will be granted by the Board only to the extent allowed under State and Federal law.

(b) The Board may consider a variance request in accordance with the ~~[statutory]~~ standard ~~[of]~~established in section 19-6-111. ~~No variance shall be granted except upon application for it. Immediately upon receipt of an application for a variance, the Board shall give public notice of the application and provide for an opportunity for a public hearing. A variance granted for more than one year shall contain a timetable for coming into compliance with these regulations and shall be conditioned on adherence to that timetable.~~

~~—(c) Any variance granted under this section may be renewed on terms and conditions and for periods which would be appropriate for the initial granting of a variance. No renewal shall be granted except on application for it. Immediately upon receipt of an application for renewal, the Board shall give public notice of the application and provide for an opportunity for a public hearing.~~

~~—(d)](c) The Board may, at its own instance, review any variance granted during the term for which a variance was granted. [The procedure for this review shall be the same as that for an original application and the variance previously granted may be revoked upon a finding that the conditions and the terms upon which the variance was granted are not being met.~~

~~—(e) Any variance or renewal shall exist at the discretion of the Board and shall not constitute a right of the applicant or holder. However, any person adversely affected by the granting, denial or revocation of any variance or renewal by the Board may obtain judicial review of the Board's decision by filing a petition in District Court within 30 days from the date of notification of the decision.]~~

(d) A person applying for a variance shall submit the application, in writing, to the Executive Secretary. The application shall provide the following:

(1) Citation of the statutory, regulatory, or permit requirement from which the variance is sought;

(2) For variances for which the Board promulgates or has promulgated specific rules, information meeting the requirements of those rules;

(3) Information demonstrating that application of or compliance with the requirement would cause undue or unreasonable hardship on the person applying for the variance;

(4) Proposed alternative requirements, if any;

(5) Information demonstrating that the variance will achieve the purpose and intent of the statutory, regulatory, or permit provision from which the variance is sought;

(6) Information demonstrating that any alternative requirement or requirements will adequately protect human health and the environment; and

(7) If no alternative requirement is proposed, information demonstrating that if the variance is granted, human health and the environment will be adequately protected.

(e) A person applying for a variance shall provide such additional information as the Board or the Executive Secretary requires.

(f) Nothing in R315-2-13(d) or (e) limits the authority of the Board to grant variances in accordance with the standard established in section 19-6-111. A person applying for a variance under R315-

9-2 shall provide such information described under R315-2-13(d) as the Executive Secretary directs.

KEY: hazardous wastes

~~[September 15, 2003]~~**2004**

Notice of Continuation October 18, 2001

19-6-105

19-6-106

▼ ————— ▼

Environmental Quality, Solid and Hazardous Waste R315-317-2 Variances

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27288

FILED: 07/13/2004, 09:41

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change is to clarify the process by which a person may request a variance under Section 19-6-111, and to establish, by rule, the information a person requesting a variance is to provide to the Board and the Executive Secretary.

SUMMARY OF THE RULE OR CHANGE: The changes direct any person applying for a variance to submit the application to the Executive Secretary. The rule explains the kinds of information the applicant is to provide in support of the application, including such matters as the hardship imposed by the requirement from which the variance is sought and information demonstrating that human health and the environment will be adequately protected if the variance application is approved.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105, 19-6-108, 19-6-109, 19-6-111, and 19-6-112

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** To the extent that a state agency might seek a variance to an applicable rule, the agency may incur the same costs as identified under Other Persons below.

❖ **LOCAL GOVERNMENTS:** To the extent that a local government entity might seek a variance to an applicable rule, the agency may incur the same costs as identified under Other Persons below.

❖ **OTHER PERSONS:** There could be a slight increase in cost to persons seeking a variance request with this rule change. The costs would be associated with gathering and submitting the required information. Costs would be dependent upon the time and effort to gather and compile the information and may range anywhere from \$0 to \$500/hour.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There could be a slight increase in cost to persons seeking a variance request with this rule change. The costs would be associated with gathering and submitting the required information. Costs would be dependent upon the time and effort to gather and compile the information and may range anywhere from \$0 to \$500/hour.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There could be a slight increase in cost to persons seeking a variance request with this rule change. The costs would be associated with gathering and submitting the required information. Costs would be dependent upon the time and effort to gather and compile the information. Dianne R. Nielson, PhD.

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@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: 09/15/2004

AUTHORIZED BY: Dennis Downs, Director

**R315. Environmental Quality, Solid and Hazardous Waste.
R315-317. Other Processes, Variances, and Violations.
R315-317-2. Variances.**

(1) Variances will be granted by the Board only to the extent allowed under State and Federal law.

(2) ~~[Any owner or operator of a solid waste facility may apply to the Board for a variance from any portion of Rules R315-301 through 320 except as specified in Subsection R315-317-2(1). The application shall be accompanied by such information as the Executive Secretary may require. All applications for a variance shall be subject to the public comment requirements of Subsection R315-311-3. The Board may grant such variance, if it finds that.]~~ The Board may consider a variance application in accordance with the standard established in section 19-6-111.

~~— (a) the solid waste handling practices or location do not endanger public health, safety, or the environment; and~~

~~— (b) the application of, or compliance with, any requirement of Rules R315-301 through 320 would cause undue or unreasonable hardship to any person; and~~

~~— (c) circumstances of the solid waste disposal site location, operating procedures, or other conditions indicate that the purpose and intent of Rules R315-301 through 320 as well as other state and~~

~~federal regulations can be achieved without strict adherence to all of the requirements.]~~

~~(3) [If a variance is granted by the Board under Section R315-317-2 for a period longer than one year, the variance shall contain a timetable for coming into compliance and shall be conditioned on adherence to that timetable.]~~ The Board may, at its own instance, review any variance granted during the term for which a variance was granted.

(4) A person applying for a variance shall submit the application, in writing, to the Executive Secretary. The application shall provide the following:

(a) Citation of the statutory, regulatory, or permit requirement from which the variance is sought;

(b) For variances for which the Board promulgates or has promulgated specific rules, information meeting the requirements of those rules;

(c) Information demonstrating that application of or compliance with the requirement would cause undue or unreasonable hardship on the person applying for the variance;

(d) Proposed alternative requirements, if any;

(e) Information demonstrating that the variance will achieve the purpose and intent of the statutory, regulatory, or permit provision from which the variance is sought;

(f) Information demonstrating that any alternative requirement will adequately protect human health and the environment; and

(g) If no alternative requirement is proposed, information demonstrating that if the variance is granted, human health and the environment will be adequately protected.

(5) A person applying for a variance shall provide such additional information as the Board or the Executive Secretary requires.

(6) Nothing in subsections R315-317-2(4) or (5) limits the authority of the Board to grant variances in accordance with the standard established in section 19-6-111.

KEY: solid waste management, waste disposal
~~[October 15, 1999]~~ **2004**

Notice of Continuation March 14, 2003
19-6-105
19-6-108
19-6-109
19-6-111
19-6-112

▼ ————— ▼
Environmental Quality, Water Quality
R317-7
Underground Injection Control Program

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 27276
FILED: 07/02/2004, 13:29

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division of Occupational and Professional Licensing (DOPL) recently promulgated the Professional Geologist Licensing Act (PGLA) Rules for complying with the PGLA governing the practice of

geology within the State of Utah. The proposed rule changes bring the Underground Injection Control (UIC) Program rule into compliance with the PGLA Rules. Changes are also proposed that update reference to the Drinking Water Program rules, which were recently renumbered, and the Code of Federal Regulations (CFR); delete reference to deadlines that have already passed; and correct minor errors.

SUMMARY OF THE RULE OR CHANGE: The proposed rule changes include adding definitions of professional geologist and professional engineer, and the requirement that the following submittals be prepared by or under the direction, and bear the seal, of a professional geologist or professional engineer which include: 1) any UIC permit application and associated technical reports; and 2) any UIC permit renewal application and associated technical reports that are significantly different from the original application or technical report. The essential elements of these submittals have been reviewed and a determination made that they need to be prepared and certified by a licensed professional geologist or engineer. Subsection R317-7-6.5(C) of the rule establishes the mandatory closure date for Motor Vehicle Waste Disposal Wells (MVWDs) based on whether or not the Division of Drinking Water has completed the delineation of ground water protection areas by January 1, 2004. The Division of Drinking Water completed these assessments by the January 1, 2004, deadline; therefore, Section R317-7-6.5(C)(2) has been removed and Subsection R317-7-6.5(C)(3) has been modified to remove the reference to the January 1, 2004, deadline. Also, an additional term "ground water protection area" has been included in Section R317-7-2. "Ground water protection area", a term used in the Federal Register notice of December 7, 1999, for the Final Rule for Revisions to the Underground Injection Control Regulations for Class V Injection Wells, correlates with the term "Drinking Water Source Protection Zone" under the Rule R309-600 "Drinking Water Source Protection for Ground Water Sources", which is administered by the Utah Division of Drinking Water. Several years ago the Utah Division of Drinking Water renumbered their administrative rules, and references to these rules have been modified accordingly. Section R317-7-1 was modified to include descriptive text for the sections of the 40 CFR incorporated by reference, to update reference to the July 1, 2003, edition of the 40 CFR, and to delete sections of 40 CFR that no longer exist. In Subsection R317-7-5.7(A), a correction is made to the reference to 40 CFR explaining the exemption for the use of Class IV injection wells at Comprehensive Environmental Response, Compensation and Liability Act cleanup of releases and Resource Conservation and Recovery Act response actions.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 19, Chapter 5; Title 58, Chapter 1; and Title 58, Chapter 76

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 144, 40 CFR 146, 40 CFR 148, 40 CFR 261, 40 CFR 136 Table IB, 10 CFR 20 Appendix B Table 2 Column 2, and 40 CFR 124 (July 1, 2003, ed.)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The only cost associated with the proposed rule change is the DOPL fee for registering qualified State employees as Professional Geologists. The DOPL fee is \$165 for the original license and \$123 for renewal every two years.

❖ **LOCAL GOVERNMENTS:** The only cost associated with the proposed rule change is the DOPL fee for registering qualified employees as Professional Geologists.

❖ **OTHER PERSONS:** All documents that are required by the proposed rule change to be submitted by a professional geologist or engineer are generally prepared by companies or consulting firms that already have a professional geologist or professional engineer on staff. Therefore, the proposed changes are expected to have minimal impact on the regulated community and their consultants other than the DOPL fee for registering qualified employees as Professional Geologists. The DOPL fee is \$165 for the original license and \$123 for renewal every two years.

COMPLIANCE COSTS FOR AFFECTED PERSONS: All documents that are required by the proposed rule change to be submitted by a professional geologist or engineer are generally prepared by companies or consulting firms that already have a professional geologist or professional engineer on staff. Therefore, the proposed changes are expected to have minimal impact on the regulated community and their consultants other than the DOPL fee for registering qualified employees as Professional Geologists. The DOPL fee is \$165 for the original license and \$123 for renewal every two years.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: All documents that are required by the proposed rule change to be submitted by a professional geologist or engineer are generally prepared by companies or consulting firms that already have a professional geologist or professional engineer on staff. Therefore, the proposed changes are expected to have minimal impact on the regulated community and their consultants other than the DOPL fee for registering qualified employees as Professional Geologists.

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

ENVIRONMENTAL QUALITY
WATER QUALITY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dave Wham at the above address, by phone at 801-538-6052, by FAX at 801-538-6016, or by Internet E-mail at dwham@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/31/2004.

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

AUTHORIZED BY: Dianne R. Nielson, Executive Director

R317. Environmental Quality, Water Quality.

R317-7. Underground Injection Control (UIC) Program.

R317-7-1. Incorporation By Reference.

1.1 Underground Injection Control Program - 40 C.F.R. 144.7, 144.13(d), 144.14, 144.16, 144.23(c), 144.32, 144.34, 144.36, 144.38, 144.39, 144.40, 144.41, 144.51(a)-(o) and (q), 144.52, 144.53, 144.54, 144.55, 144.60, 144.61, 144.62, 144.63, 144.64, 144.65, 144.66, [~~144.67, 144.68, 144.69,~~]144.70, and 144.87, July 1, [~~2000~~]2003 ed., are adopted and incorporated by reference with the following exceptions:

A. "Director" is hereby replaced with "Executive Secretary".

B. "one quarter mile" is hereby replaced with "two miles".

1.2 Underground Injection Control Program - Criteria and Standards - 40 C.F.R. 146.4, 146.6, 146.7, 146.8, 146.12, 146.13(d), 146.14, 146.32, 146.34, 146.61, 146.62, 146.63, 146.64, 146.65, 146.66, 146.67, 146.68, 146.69, 146.70, 146.71, 146.72, and 146.73, July 1, [~~2000~~]2003 ed., are adopted and incorporated by reference with the following exceptions:

A. "Director" is hereby replaced with "Executive Secretary";

B. "one quarter (1/4) mile" and "one-fourth (1/4) mile" are each hereby replaced with "two miles".

1.3 Hazardous Waste Injection Restrictions - 40 C.F.R. Part 148, July 1, [~~2000~~]2003 ed., is adopted and incorporated by reference with the exception that "Director" is hereby replaced with "Executive Secretary".

1.4 Identification and Listing of Hazardous Waste - 40 C.F.R. Part 261, July 1, [~~2000~~]2003 ed., is adopted and incorporated by reference.

1.5 National Primary Drinking Water Regulations - 40 C.F.R. Part 141, July 1, [~~2000~~]2003 ed., is adopted and incorporated by reference.

1.6 Guidelines Establishing Test Procedures for the Analysis of Pollutants - 40 C.F.R. Part 136 Table 1B, July 1, [~~2000~~]2003 ed., is adopted and incorporated by reference.

1.7 Nuclear Regulatory Commission - Standards for Protection Against Radiation - 10 C.F.R. Part 20 Appendix [b]B, Table [4+2] Column 2, January 1, [~~2000~~]2003 ed., is adopted and incorporated by reference.

1.8 Procedures for Decision Making - 40 C.F.R. 124.3(a); 124.5(a), (c), (d) and (f); 124.6(a), (c), (d) and (e); 124.8; 124.10(a)(1)ii, iii, and (a)(1)(V); 124.10(b), (c), (d), and (e); 124.11; 124.12(a); and 124.17(a) and (c), July 1, [~~2000~~]2003 ed., are adopted and incorporated by reference with the exception that "Director" is hereby replaced by "Executive Secretary".

R317-7-2. Definitions.

2.1 "Abandoned Well" means a well whose use has been permanently discontinued or which is in a state of disrepair such that it cannot be used for its intended purpose or for observation purposes.

2.2 "Application" means standard forms for applying for a permit, including any additions, revisions or modifications.

2.3 "Aquifer" means a geologic formation or any part thereof that is capable of yielding significant water to a well or spring.

2.4 "Area of Review" means the zone of endangering influence or fixed area radius determined in accordance with the provisions of 40 C.F.R. 146.6.

2.5 "Background Data" means the constituents or parameters and the concentrations or measurements which describe water quality and water quality variability prior to surface or subsurface discharge.

2.6 "Barrel" means 42 (U.S.) gallons at 60 degrees F and atmospheric pressure.

2.7 "Casing" means a pipe or tubing of appropriate material, of varying diameter and weight, lowered into a borehole during or after drilling in order to support the sides of the hole and thus prevent the walls from caving, to prevent loss of drilling mud into porous ground, or to prevent water, gas, or other fluid from entering or leaving the hole.

2.8 "Casing Pressure" means the pressure within the casing or between the casing and tubing at the wellhead.

2.9 "Catastrophic Collapse" means the sudden and utter failure of overlying "strata" caused by removal of underlying materials.

2.10 "Cementing" means the operation whereby a cement slurry is pumped into a drilled hole and/or forced behind the casing.

2.11 "Cesspool" means a "drywell" that receives untreated sanitary waste containing human excreta, and which sometimes has an open bottom and/or perforated sides.

2.12 "Confining Bed" means a body of impermeable or distinctly less permeable material stratigraphically adjacent to one or more aquifers.

2.13 "Confining Zone" means a geological formation, group of formations, or part of a formation that is capable of limiting fluid movement above an injection zone.

2.14 "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

2.15 "Conventional Mine" means an open pit or underground excavation for the production of minerals.

2.16 "Disposal Well" means a well used for the disposal of fluids into a subsurface stratum.

2.17 "Drilling Mud" means mud of not less than 36 viscosity (A.P.I. Full Funnel Method) and a weight of not less than nine pounds per gallon.

2.18 "Drywell" means a well, other than an improved sinkhole or subsurface fluid distribution system, completed above the water table so that its bottom and sides are typically dry except when receiving fluids.

2.19 "Exempted Aquifer" means an aquifer or its portion that meets the criteria in the definition of "underground source of drinking water" but which has been exempted according to the procedures of 40 C.F.R. 144.7.

2.20 "Existing Injection Well" means an "injection well" other than a "new injection well."

2.21 "Experimental Technology" means a technology which has not been proven feasible under the conditions in which it is being tested.

2.22 "Fault" means a surface or zone of rock fracture along which there has been a displacement.

2.23 "Flow Rate" means the volume per time unit given to the flow of gases or other fluid substance which emerges from an orifice, pump, turbine or passes along a conduit or channel.

2.24 "Fluid" means material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state.

2.25 "Formation" means a body of rock characterized by a degree of lithologic homogeneity which is prevailing, but not necessarily, tabular and is mappable on the earth's surface or traceable in the subsurface.

2.26 "Formation Fluid" means "fluid" present in a "formation" under natural conditions as opposed to introduced fluids, such as drilling mud.

2.27 "Generator" means any person, by site location, whose act or process produces hazardous waste identified or listed in 40 C.F.R. Part 261.

2.28 "Groundwater" means water below the ground surface in a zone of saturation.

2.29 "Ground water protection area" refers to the drinking water source protection zones for ground water sources delineated by the Utah Division of Drinking Water according to Utah Administrative Code R309-600 - Drinking Water Source Protection For Ground-Water Sources.

2.29]30 "Hazardous Waste" means a hazardous waste as defined in R315-2-3.

2.30]31 "Hazardous Waste Management Facility" means all contiguous land, structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (for example, one or more landfills, surface impoundments, or combination of them).

2.31]32 "Improved sinkhole" means a naturally occurring karst depression or other natural crevice found in volcanic terrain and other geologic settings which have been modified by man for the purpose of directing and emplacing fluids into the subsurface.

2.32]33 "Injection Well" means a well into which fluids are being injected for subsurface emplacement of the fluids.

2.33]34 "Injection Zone" means a geological "formation," group of formations, or part of a formation receiving fluids through a well.

2.34]35 "Lithology" means the description of rocks on the basis of their physical and chemical characteristics.

2.35]36 "Monitoring Well" means a well used to measure groundwater levels and to obtain water samples for water quality analysis.

2.36]37 "New Injection Well" means an injection well which began injection after January 19, 1983.

2.37]38 "Packer" means a device lowered into a well to produce a fluid-tight seal within the casing.

2.38]39 "Plugging" means the act or process of stopping the flow of water, oil, or gas into or out of a formation through a borehole or well penetrating that formation.

2.39]40 "Plugging Record" means a systematic listing of permanent or temporary abandonment of water, oil, gas, test, exploration and waste injection wells, and may contain a well log, description of amounts and types of plugging material used, the method employed for plugging, a description of formations which are sealed and a graphic log of the well showing formation location, formation thickness, and location of plugging structures.

2.40]41 "Point of injection" means the last accessible sampling point prior to waste fluids being released into the subsurface environment through a Class V injection well. For example, the point of injection of a Class V septic system might be the distribution box - the last accessible sampling point before the waste fluids drain into the underlying soils. For a dry well, it is likely to be the well bore itself.

2.41]42 "Pressure" means the total load or force per unit area acting on a surface.

2.42]43 "Project" means a group of wells in a single operation.

2.44 "Professional Engineer" means any person qualified to practice engineering before the public in the state of Utah and professionally registered as required under the Professional Engineers and Professional Land Surveyors Licensing Act Rules (UAC R156-22).

2.45 "Professional Geologist" means any person qualified to practice geology before the public in the state of Utah and professionally registered as required under the Professional Geologist Licensing Act Rules (UAC R156-76).

2.43]46 "Radioactive Waste" means any waste which contains radioactive material in concentrations which exceed those listed in 10 C.F.R. Part 20, Appendix B, Table II Column 2.

2.44]47 "Sanitary waste" means liquid or solid wastes originating solely from humans and human activities, such as wastes collected from toilets, showers, wash basins, sinks used for cleaning domestic areas, sinks used for food preparation, clothes washing operations, and sinks or washing machines where food and beverage serving dishes, glasses, and utensils are cleaned. Sources of these wastes may include single or multiple residences, hotels and motels, restaurants, bunkhouses, schools, ranger stations, crew quarters, guard stations, campgrounds, picnic grounds, day-use recreation areas, other commercial facilities, and industrial facilities provided the waste is not mixed with industrial waste.

2.45]48 "Septic system" means a "well" that is used to emplace sanitary waste below the surface and is typically comprised of a septic tank and subsurface fluid distribution system or disposal system.

2.46]49 "Stratum" (plural strata) means a single sedimentary bed or layer, regardless of thickness, that consists of generally the same kind of rock material.

2.47]50 "Subsidence" means the lowering of the natural land surface in response to earth movements; lowering of fluid pressure; removal of underlying supporting material by mining or solution of solids, either artificially or from natural causes; compaction due to wetting (Hydrocompaction); oxidation of organic matter in soils; or added load on the land surface.

2.48]51 "Subsurface fluid distribution system" means an assemblage of perforated pipes, drain tiles, or other similar mechanisms intended to distribute fluids below the surface of the ground.

2.49]52 "Surface Casing" means the first string of well casing to be installed in the well.

2.50]53 "Total Dissolved Solids (TDS)" means the total residue (filterable) as determined by use of the method specified in 40 C.F.R. Part 136 Table 1B.

2.51]54 "Transferee" means the owner or operator receiving ownership and/or operational control of the well.

2.52]55 "Transferor" means the owner or operator transferring ownership and/or operational control of the well.

2.53]56 "Underground Injection" means a "well injection".

2.54]57 "Underground Sources of Drinking Water (USDW)" means an aquifer or its portion which:

A. Supplies any public water system, or which contains a sufficient quantity of ground water to supply a public water system; and

1. currently supplies drinking water for human consumption;
or

2. contains fewer than 10,000 mg/l total dissolved solids (TDS); and

B. is not an exempted aquifer. (See Section 7-4).

2.[55]58 "Well" means a bored, drilled or driven shaft whose depth is greater than the largest surface dimension; or a dug hole whose depth is greater than the largest surface dimension; or an improved sinkhole; or a subsurface fluid distribution system.

2.[56]59 "Well Injection" means the subsurface emplacement of fluids through a well.

2.[57]60 "Well Monitoring" means the measurement, by on-site instruments or laboratory methods, of the quality of water in a well.

2.[58]61 "Well Plug" means a watertight and gas-tight seal installed in a borehole or well to prevent movement of fluids.

2.[59]62 "Well Stimulation" means several processes used to clean the well bore, enlarge channels, and increase pore space in the interval to be injected thus making it possible for wastewater to move more readily into the formation, and includes:

- (1) surging;
- (2) jetting;
- (3) blasting;
- (4) acidizing; and
- (5) hydraulic fracturing.

R317-7-5. Prohibition of Unauthorized Injection.

5.1 Any underground injection is prohibited except as authorized by permit or as allowed under these rules.

5.2 No authorization by permit or by these rules for underground injection shall be construed to authorize or permit any underground injection which endangers a drinking water source.

5.3 Underground injections are prohibited which would allow movement of fluid containing any contaminant into underground sources of drinking water if the presence of that contaminant may cause a violation of any primary drinking water regulation (40 C.F.R. Part 141 and Utah ~~[Public]Primary~~ Primary Drinking Water ~~[Rules]Standards~~ R309-~~[403]~~200-5), or which may adversely affect the health of persons. Underground injections shall not be authorized if they may cause a violation of any ground water quality rules that may be promulgated by the Utah Water Quality Board. Any applicant for a permit shall have the burden of showing that the requirements of this paragraph are met.

5.4 For Class I and III wells, if any monitoring indicates the movement of injection or formation fluids into underground sources of drinking water, the Executive Secretary shall prescribe such additional requirements for construction, corrective action, operation, monitoring, or reporting, including closure of the injection well, as are necessary to prevent such movement. In the case of wells authorized by permit, these additional requirements shall be imposed by modifying the permit or the permit may be terminated, or appropriate enforcement action may be taken if the permit has been violated.

5.5 For Class V wells, if at any time the Executive Secretary determines that a Class V well may cause a violation of primary drinking water rules under R309-~~[403]~~200, the Executive Secretary shall:

- A. require the injector to obtain an individual permit;
- B. order the injector to take such actions, including closure of the injection well, as may be necessary to prevent the violation; or
- C. take appropriate enforcement action.

5.6 Whenever the Executive Secretary determines that a Class V well may be otherwise adversely affecting the health of persons, the Executive Secretary may require such actions as may be necessary to prevent the adverse effect.

5.7 Class IV Wells

A. Prohibitions. The construction, operation or maintenance of any Class IV well is prohibited except as specified in 40 C.F.R. 144.13 (~~[d]~~c) and 144.23(c) as limited by the definition of Class IV wells in Section 7-3.4 of these rules.

B. Plugging and abandonment requirements. Prior to abandoning a Class IV well, the owner or operator shall close the well in a manner acceptable to the Executive Secretary. At least 30 days prior to abandoning a Class IV well, the owner or operator shall notify the Executive Secretary of the intent to abandon the well.

5.8 Notwithstanding any other provision of this section, the Executive Secretary may take emergency action upon receipt of information that a contaminant which is present in, or is likely to enter a public water system, may present an imminent and substantial endangerment to the health of persons.

5.9 Records. The Executive Secretary may require, by written notice on a selective well-by-well basis, an owner or operator of an injection well to establish and maintain records, make reports, conduct monitoring, and provide other information as is deemed necessary to determine whether the owner or operator has acted or is acting in compliance with these rules.

R317-7-6. Permit and Compliance Requirements - New and Existing Wells.

6.1 The owner or operator of any new injection well is required to obtain a permit from the Executive Secretary prior to construction unless excepted by R317-7-6.3. Compliance with construction plans and standards is required prior to commencing injection operations. Changes in construction plans require approval of the Executive Secretary.

6.2 Owners or operators of existing underground injection wells are required to obtain a permit from the Executive Secretary unless specifically excepted by Section 7-6.3 of these rules.

6.3

A. Existing and new Class V injection wells are authorized by rule, subject to the conditions in Section 7-6.5 of these rules.

B. Well authorization under this Section 7-6.3 expires upon the effective date of a permit issued in accordance with these rules or upon proper closure of the well.

C. An owner or operator of a well which is authorized by rule under this Section 7-6.3 is prohibited from injecting into the well:

1. Upon the effective date of a permit denial.

2. Upon failure to submit a permit application in a timely manner if requested by the Executive Secretary under Section 7-6.4 of these rules.

3. Upon failure to submit inventory information in a timely manner in accordance with Section 7-6.4(C) of these rules.

6.4

A. The Executive Secretary may require any owner or operator of a Class I, III or V well authorized under Section 7-6.3 to apply for and obtain an individual or area permit. Cases where permits may be required include:

1. The injection well is not in compliance with the applicable rules.

2. The injection well is not or no longer is within the category of wells and types of well operations authorized by Section 7-6.3.

3. Protection of an USDW.

B. Any owner or operator authorized under Section 7-6.3 may request a permit and hence be excluded from coverage under Section 7-6.3.

C. Owners or operators of all injection wells regulated by Section 7-6.3 shall submit the following inventory information to the Executive Secretary:

1. facility name and location;
2. name and address of legal contact;
3. ownership of facility;
4. nature and type of injection wells; and
5. operating status of injection wells.

Inventory information shall be submitted no later than January 19, 1984 for existing injection wells and before injection begins for new injection wells.

6.5 Additional requirements for large-capacity cesspools and motor vehicle waste disposal wells (see Class V well descriptions in Sections 7-3.5(B) and 7-3.5(O), respectively).

A. All existing large-capacity cesspools (operational or under construction by April 5, 2000) must close by April 5, 2005. See closure requirements in Section 7-6.6.

B. All new or converted large-capacity cesspools (construction not started before April 5, 2000) are prohibited.

C. All existing motor vehicle waste disposal wells (operational or under construction by April 5, 2000) must either be closed or their owners or operators must obtain a UIC permit.

1. For those wells located within a ground water protection area as designated by the Utah Division of Drinking Water (DDW), closure or permit application submittal must take place within one year of completion of DDW's ground water protection area assessment for the pertinent area.

~~[2] If Utah does not complete all the local ground water protection area assessments by January 1, 2004, or by January 1, 2005 if an extension is granted to the state as described in 40 CFR 144.87(b), all motor vehicle waste disposal wells statewide located outside an area with a completed assessment must either be closed or their owners or operators must submit a UIC permit application by January 1, 2005 (or by January 1, 2006 if an extension is granted to the state as described in 40 CFR 144.87(b)). The closure deadline may be extended by the Executive Secretary for up to one year under certain conditions, such as intent to connect to a sanitary sewer.~~

~~[3] If Utah does complete all the local ground water protection area assessments by January 1, 2004, or by January 1, 2005 if an extension is granted to the state as described in 40 CFR 144.87(b), a) All motor vehicle waste disposal wells statewide located outside a ground water protection area [with a completed assessment] must either be closed or their owners or operators must submit a UIC permit application by January 1, 2007.~~

[4] If well closure is the option chosen, the closure requirements in Section 7-6.6 must be followed. The closure deadline may be extended by the Executive Secretary for up to one year under certain conditions, such as intent to connect to a sanitary sewer.

[5] If obtaining a UIC permit is the option chosen, Utah Drinking Water Maximum Contaminant Levels (MCL's), Utah Ground Water Quality Standards, and EPA Adult Lifetime Health Advisories must be met at the point of injection while the permit application is under review. These standards must also be met at the point of injection under the terms of the permit, when issued. Utah Ground Water Protection Levels may be required to be met at downgradient ground water monitoring wells, if required to be

installed. Such a permit may require pretreatment of the wastewater, and will require adherence to best management practices and monitoring of the quality of the injectate and any sludge generated.

D. All new or converted motor vehicle waste disposal wells (construction not started before April 5, 2000) are prohibited.

6.6 Class V well plugging and abandonment requirements.

A. Prior to abandoning a Class V well, the owner or operator shall close the well in a manner that prevents the movement of fluid containing any contaminant into an underground source of drinking water, if the presence of that contaminant may cause a violation of any primary drinking water regulation under 40 CFR Part 141 or Utah ~~[Public] Primary Drinking Water [Rules] Standards R309-[103]200-5~~, or may otherwise adversely affect the health of persons.

B. The owner or operator shall dispose of or otherwise manage any soil, gravel, sludge, liquids, or other materials removed from or adjacent to the well in accordance with all applicable Federal, State, and local regulations and requirements.

C. The owner or operator must notify the Executive Secretary of intent to close the well at least 30 days prior to closure.

6.7 Conversion of motor vehicle waste disposal wells. In limited cases, the Executive Secretary may authorize the conversion (reclassification) of a motor vehicle waste disposal well to another type of Class V well. Motor vehicle wells may only be converted if: all motor vehicle fluids are segregated by physical barriers and are not allowed to enter the well; and, injection of motor vehicle waste is unlikely based on a facility's compliance history and records showing proper waste disposal. The use of a semi-permanent plug as the means to segregate waste is not sufficient to convert a motor vehicle waste disposal well to another type of Class V well.

6.8 Time for Application for Permit. Any person who performs or proposes an underground injection for which a permit is or will be required shall submit a complete application to the Executive Secretary in accordance with Section 7-9 a reasonable time before construction is expected to begin, except for new wells covered by an existing area permit.

6.9 All applications for a Utah UIC permit, including any required Technical Report that addresses the technical requirements of R317-7-10 or R317-7-11, any technical information necessary for the adequate evaluation of any permit application, or any permit renewal applications and Technical Reports that are significantly different from the original permit application, must be prepared by or under the direction, and bear the seal, of a professional geologist or professional engineer.

R317-7-7. Area Permits.

A. The Executive Secretary may issue a permit on an area basis, rather than for each well individually, provided that the permit is for injection wells:

1. described and identified by location in permit application, if they are existing wells, except that the Executive Secretary may accept a single description of wells with substantially the same characteristics;
2. within the same well field, facility site, reservoir, project, or similar unit in the State;
3. operated by a single owner or operator; and
4. used to inject other than hazardous waste.

B. Area permits shall specify:

1. the area within which underground injections are authorized; and
2. the requirements for construction, monitoring, reporting, operation, and abandonment, for all wells authorized by the permit.

C. The area permit may authorize the permittee to construct and operate, convert, or plug and abandon injection wells within the permit area provided that:

1. the permittee notifies the Executive Secretary at such time as the permit requires, when and where the new well has been or will be located;
2. the additional well meets the area permit criteria; and
3. the cumulative effects of drilling and operation of additional injection wells are considered by the Executive Secretary during evaluation of the area permit application and are acceptable to the Executive Secretary.

D. If the Executive Secretary determines that any additional well does not meet the area permit requirements, the Executive Secretary may modify or terminate the permit or take appropriate enforcement action.

E. If the Executive Secretary determines the cumulative effects are unacceptable, the permit may be modified.

F. The requirements of R317-7-6.9 apply to area permits.

R317-7-8. Emergency Permits.

A. Notwithstanding any provision in this Part [VH]Z, the Executive Secretary is authorized to issue emergency permits for specific underground injections provided the conditions and requirements of 40 C.F.R. 144.34 are met.

B. The requirements of R317-7-6.9 apply to emergency permits.

R317-7-9. Permitting Procedures and Conditions.

9.1 Application for a Permit

A. Any person who is required to have a permit shall complete, sign and submit an application to the Executive Secretary.

B. When the owner and operator are different, it is the operator's duty to obtain a permit.

C. The application must be complete before the permit is issued.

D. All applicants shall provide the following information:

1. activities conducted by the applicant which require a permit;
2. name, mailing address and location of facility;
3. up to four Standard Industrial Code (SIC) codes which best reflect the principal products or services provided;
4. operator's name, address, telephone number, ownership status, and status as Federal, State, private, public or other entity;
5. whether the facility is located on Indian lands;
6. list of State and Federal environmental permits or construction approvals received or applied for and other relevant environmental permits;
7. topographic map (or other map if the topographic map is unavailable) extending one mile beyond the property boundary; depicting the facility and its intake and discharge structures, any hazardous waste, treatment, storage and disposal facilities; each injection well; and wells, springs, surface water bodies, and drinking water wells listed in public records or otherwise known;
8. a brief description of the nature of the business;
9. a map showing the injection well for which a permit is sought and the applicable area of review. Within the area of review, the map must show a number, or name, and location of all producing wells, injection wells, abandoned wells, dry holes, surface bodies of water, springs, mines, (surface and subsurface), quarries, water wells and other pertinent surface features including residences and roads. The map should also show faults, if known or suspected. Only information of public record is required to be included on this map;

10. a tabulation of data on all wells within the area of review which penetrates into the proposed injection zone. Such data shall include a description of each well's type, construction, date drilled, location, depth, record of plugging and/or completion, any available water quality data, and any additional information the Executive Secretary may require;

11. maps and cross sections indicating the vertical limits of all underground sources of drinking water within the area of review, their position relative to the injection formation and the direction of water movement, where known, in each underground source of drinking water which may be affected by the proposed injection;

12. maps and cross sections detailing the geologic structure and lithology of the local area;

13. generalized maps and cross sections illustrating the regional geologic and hydrologic setting;

14. proposed operating data:

(a) average and maximum daily rate and volume of the fluid to be injected;

(b) average and maximum injection pressure; and

(c) source and an appropriate analysis of the chemical, physical, radiological and biological characteristics of injection fluids;

15. proposed formation testing program to obtain an analysis of the chemical, physical and radiological characteristics of and other information on the receiving formation;

16. proposed stimulation program;

17. proposed injection procedure;

18. schematic or other appropriate drawings of the surface and subsurface construction details of the system;

19. contingency plans to cope with all shut-ins or well failures to prevent migration of fluids into any underground source of drinking water;

20. plans (including maps) for meeting the monitoring requirements;

21. for wells within the area of review which penetrate the injection zone but are not properly completed or plugged, the corrective action proposed to be taken;

22. construction procedures, as follows:

(a) For Class I Nonhazardous Wells: a cementing and casing program, logging procedures, deviation checks, and a drilling, testing, and coring program, which comply with Section 7-10.1(A) or 40 C.F.R. 146.12;

(b) For Class I Hazardous Waste Wells: cementing and casing program, well materials specifications and their life expectancy, logging procedures, deviation checks, and a drilling, testing and coring program, which comply with 40 C.F.R. 146.65 and 146.66;

(c) For Class III wells: cementing and casing program, logging procedures, deviation checks, and a drilling, testing, and coring program, which comply with section 7-10.1(B) or 40 C.F.R. 146.32.

23. A plan for plugging and abandoning the well, as follows:

(a) Class I Nonhazardous Well plans shall include information required by 40 C.F.R. 146.14(c) and Section 7-10.5 of these rules;

(b) Class I Hazardous Waste Well plans shall include information required by 40 C.F.R. 146.71(a)(4) and 146.72(a);

(c) Class III well plans shall include information required by 40 C.F.R. 146.34(c) and Section 7-10.5 of these rules.

24. A certificate that the applicant has assured, through a performance bond or other appropriate means, the resources necessary to close, plug or abandon the well. Class I Hazardous Waste wells shall also demonstrate financial responsibility pursuant to 40 C.F.R. 144.60 through 144.70;

25. such other information as may be required by the Executive Secretary.

9.2 Applicants shall keep records of all data used to complete permit applications and supplemental information for at least three years from the date of permit approval.

9.3 Permit applications and reports required under these regulations shall be signed in accordance with 40 C.F.R. Section 144.32.

9.4 Permit Provisions, Conditions and Schedules of Compliance.

Any permit issued by the Executive Secretary is subject to the conditions and requirements and shall be issued in accordance with the procedures outlined in 40 C.F.R. 144.51 (a)-(o) and (q), 144.52, 144.53, 144.54, 144.55 and 146.7, and 40 C.F.R. 124.3(a), 124.5(a),(c),(d) and (f), 124.6(a),(c),(d) and (e), 124.8, 124.10(a)(1)ii, and iii, (a)(1)(v), 124.10(b),(c),(d) and (e), 124.11, 124.12(a) and 124.17(a) and (c). The permit may specify schedules of compliance which require compliance not later than three years after the effective date of the permit.

9.5 Duration of Permits. Permits for Class I and Class V wells shall be effective for a fixed term not to exceed ten years. Permits for Class III wells shall be issued for a period up to the operating life of the facility. Each issued Class III well permit shall be reviewed by the Executive Secretary at least once every five years to determine whether it should be modified, revoked and reissued, or terminated. The Executive Secretary may issue any permit for a duration that is less than the full allowable term under this section.

9.6 Transfer, Modification, and Termination. Permits may be transferred, modified, revoked, reissued, or terminated by the Executive Secretary under the conditions and following the procedures outlined in 40 C.F.R. 144.36, 144.38, 144.39, 144.40, and 144.41[~~and 144.36~~].

9.7 Confidentiality of Information. The following information when submitted as required by these rules cannot be claimed confidential:

- A. name and address of permit applicant or permittee; and
- B. information which deals with the existence, absence or level of contaminants in drinking water.

9.8 Waivers of Requirements

A. The Executive Secretary may waive the requirements of these rules only under the conditions and circumstances outlined in 40 C.F.R. Section 144.16.

B. The "two mile" distance provisions in Sections 7-3.1(B), 7-3.4, 7-10.1(A)(1), and 7-11 of these rules may be reduced by the Board on a case-by-case basis to less than two miles but in no event to less than 1/4 mile upon a finding by the Board that the distance reduction will not pose a threat to any USDW. The burden shall be on the applicant to demonstrate that hydrogeologic conditions, ground water quality in the area, and other environmental studies and information support the finding.

KEY: water quality, underground injection control
[January 30, 2003]2004

Notice of Continuation November 13, 2001
19-5



Health, Health Systems Improvement, Licensing **R432-2** General Licensing Provisions

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 27303

FILED: 07/15/2004, 14:05

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule defines the process of "banking beds" which allows a facility to bank unused beds and have the license reflect the current number of beds which can be operational within 24 hours.

SUMMARY OF THE RULE OR CHANGE: The change is Section R432-2-6 establishes the process for a licensee to bank beds.

The change in Section R432-2-7 identifies that the license will reflect the actual licensed capacity and operational and banked beds.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 21

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There is a small impact of \$350 to copy and mail the amended rule to the affected parties. There will be a small decrease in licensing fees for facilities that elect to bank beds that are renewing their bi-annual license. Since this is not mandatory, it is impossible to calculate the reduction in the general fund, however it should not be more than \$2,000 if 200 beds are reduced from the current payment.

❖ **LOCAL GOVERNMENTS:** Since this is an option for facilities and not a mandate, the cost impact is estimated to be neutral.

However, if a local government operates a health care facility that elects to bank beds, the facility may realize a reduction of \$500 per bed if the facility pays per bed liability insurance. Medicaid reimbursement is made on 75% occupancy so a facility with less than 75% that elects to bank beds will realize some increase in Medicaid payments it receives.

❖ **OTHER PERSONS:** Since this is an option for facilities and not a mandate, the cost impact is estimated to be neutral. However, if a private entity operates a health care facility that elects to bank beds the facility may realize a reduction of \$500 per bed if the facility pays per bed liability insurance. Medicaid reimbursement is made on 75% occupancy so a facility with less than 75% that elects to bank beds will realize some increase in Medicaid payments it receives.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This is an option for facilities and not a mandate, the cost impact is estimated to be neutral.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This optional designation made available by this rule is requested by regulated businesses and may have a positive fiscal impact for businesses that exercise the option. 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.

R432-2. General Licensing Provisions.

R432-2-6. Application.

(1) An applicant for a license shall file a Request for Agency Action/License Application with the Utah Department of Health on a form furnished by the Department.

(2) Each applicant shall comply with all zoning, fire, safety, sanitation, building and licensing laws, regulations, ordinances, and codes of the city and county in which the facility or agency is located. The applicant shall obtain the following clearances and submit them as part of the completed application to the licensing agency:

(a) A certificate of fire clearance from the State Fire Marshal or designated local fire authority certifying compliance with local and state fire codes is required with initial and renewal application, change of ownership, and at any time new construction or substantial remodeling has occurred.

(b) A satisfactory Food Services Sanitation Clearance report by a local or state sanitarian is required for facilities providing food service at initial application and upon a change of ownership.

(c) Certificate of Occupancy from the local building official at initial application, change of location and at the time of any new construction or substantial remodeling.

(3) The applicant shall submit the following:

(a) a list of all officers, members of the boards of directors, trustees, stockholders, partners, or other persons who have a greater than 25 percent interest in the facility;

(b) the name, address, percentage of stock, shares, partnership, or other equity interest of each person; and

(c) a list, of all persons, of all health care facilities in the state or other states in which they are officers, directors, trustees, stockholders, partners, or in which they hold any interest;

(4) The applicant shall provide the following written assurances on all individuals listed in R432-2-6(3):

(a) None of the persons has been convicted of a felony;

(b) None of the persons has been found in violation of any local, state, or federal law which arises from or is otherwise related to the individual's relationship to a health care facility; and

(c) None of the persons who has currently or within the five years prior to the date of application had previous interest in a licensed health care facility that has been any of the following:

(i) subject of a patient care receivership action;

(ii) closed as a result of a settlement agreement resulting from a decertification action or a license revocation;

(iii) involuntarily terminated from participation in either Medicaid or Medicare programs; or

(iv) convicted of patient abuse, neglect or exploitation where the facts of the case prove that the licensee failed to provide adequate protection or services for the person to prevent such abuse.

(5) An applicant or licensee shall submit a feasibility study as part of its application for a license for a new facility or agency or for a new license for an increase in capacity at a health care facility or expansion of the areas served by an agency.

(a) The feasibility study shall be a written narrative and provide at a minimum:

(i) the purpose and proposed license category for the proposed newly licensed capacity;

(ii) a detailed description of the services to be offered;

(iii) identification of the operating entity or management company;

(iv) a listing of affiliated health care facilities and agencies in Utah and any other state;

(v) identification of funding source(s) and an estimate of the total project capital cost;

(vi) an estimate of total operating costs, revenues and utilization statistics for the twelve month period immediately following the licensing of the new capacity;

(vii) identification of all components of the proposed newly licensed capacity which ensures that residents of the surrounding area will have access to the proposed facility or service;

(viii) identification of the impact of the newly licensed capacity on existing health care providers; and

(ix) a list of the type of personnel required to staff the newly licensed capacity and identification of the sources from which the facility or agency intends to recruit the required personnel.

(b) The applicant or licensee shall submit the feasibility study no later than the time construction plans are submitted. If new construction is not anticipated, the applicant or licensee shall submit the study at least 60-days prior to beginning the new service. The applicant shall provide a statement with the feasibility study indicating whether it claims business confidentiality on any portion of the information submitted and, if it does claim business confidentiality, provide a statement meeting the requirements of Utah Code section 63-2-308.

(c) The Department shall publish public notice, at the applicant's expense, in a newspaper in general circulation for the location where the newly licensed capacity will be located that the feasibility study has been completed. The Department shall accept public comment for 30 days from initial publication. The

Department shall retain the feasibility study and make it available to the public.

(d) The Department shall review the feasibility study, summarize the public comment, review demographics of the geographic area involved and prepare a written evaluation to the applicant regarding the viability of the proposed program.

(6) The licensee may apply to designate any number of beds within the facility's licensed capacity as banked beds on a form provided by the Department.

(a) The licensee may apply to designate beds as banked no later than December 1st of each year or upon application for license renewal.

(b) The Department shall thereafter show the facility as having an operational bed capacity equal to the licensed capacity minus any beds banked by the facility.

(c) Banking beds shall not alter the licensed capacity of a facility.

(7) The licensee may apply to return any number of banked beds to operational bed capacity on a form provided by the Department.

(a) The licensee may apply to return banked beds to operational capacity no later than December 1 of each year or upon application for license renewal.

(b) The Department shall thereafter show the facility as having an operational bed capacity equal to the licensed capacity minus any beds still banked by the facility.

(c) Beds previously banked that have been returned to operational capacity must meet the construction and life safety codes that were applicable to the facility at the time the beds were last banked.

R432-2-10. License Contents and Provisions.

(1) The license shall document the following:

- (a) the name of the health facility,
- (b) licensee,
- (c) type of facility,
- (d) approved licensed capacity including identification of operational and banked beds,
- (e) street address of the facility,
- (f) issue and expiration date of license,
- (g) variance information, and
- (h) license number.

(2) The license is not assignable or transferable.

(3) Each license is the property of the Department. The licensee shall return the license within five days following closure of a health care facility or upon the request of the Department.

(4) The licensee shall post the license on the licensed premises in a place readily visible and accessible to the public.

KEY: health care facilities

2004

Notice of Continuation January 11, 1999

26-21-9

26-21-11

26-21-12

26-21-13



Human Services, Administration, Administrative Services, Licensing **R501-12** Child Foster Care

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27275

FILED: 07/02/2004, 11:18

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During the 2004 session, S.B. 48 was passed which was in conflict with Section R501-12-8 of this rule. This required the Department of Human Services to change Subsection R501-12-8(6). H.B. 197 gave an agency authority to recommend or rule based on the compatibility of a minor with a particular custody, placement, or other disposition alternative. Also updates language to cover proctor homes in addition to foster homes. (DAR NOTE: S.B. 48 is found at UT L 2004 Ch 264, and was effective 05/03/2004. H.B. 197 is found at UT L 2004 Ch 344, and was effective 05/03/2004.)

SUMMARY OF THE RULE OR CHANGE: The change removes Subsection R501-12-8(6); and implements Section 63-46b-2.1.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63-98-102(5) and Section 63-46b-2.1

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no cost to the State budget. The Office of Licensing currently conducts home studies for foster homes and reviews for Child Placing foster care agencies. This process is in place and adds no additional requirements.

❖ LOCAL GOVERNMENTS: No impact on local government as they are not involved in this process.

❖ OTHER PERSONS: It may reduce the cost for foster parents because it takes away the requirement to render the weapons inoperable or locked in a approved safe. Exact cost cannot be determined at this time.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It may reduce the cost for foster parents because it takes away the requirement to render the weapons inoperable or locked in a approved safe. Exact cost cannot be determined at this time.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This is a licensing process and will not have an impact on businesses.

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

HUMAN SERVICES
ADMINISTRATION, ADMINISTRATIVE SERVICES,
LICENSING
120 N 200 W

SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Meredith Mannebach at the above address, by phone at 801-538-9877, by FAX at 801-538-4016, or by Internet E-mail at MMANNEBACH@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: Robin Arnold-Williams, Executive Director

R501. Human Services, Administration, Administrative Services, Licensing.

R501-12. Child Foster Care.

R501-12-1. Authority.

(1) Pursuant to 62A-2-101 et seq., the Office of Licensing, shall license child foster care services according to the following rules. Child foster care services are provided pursuant to 62A-4a-106 for the Division of Child and Family Services, hereinafter referred to as DCFS, and 62A-7-104 for the Division of Juvenile Justice Services, hereinafter referred to as DJJS.

R501-12-2. Purpose Statement.

(1) The purpose of these rules is to establish the minimum requirements for licensure of child foster homes and proctor homes for children in the custody of the Department of Human Services, herein after referred to as DHS. Rules applying to child foster care are also applicable to proctor care unless otherwise specified below.

R501-12-3. Definitions.

(1) "Child foster care" means the provision of care which is conducive to the physical, social, emotional and mental health of children or adjudicated youth who are temporarily unable to remain in their own homes.

(2) "Proctor care" means the provision of child foster care for only one youth at a time placed in a licensed or certified[~~foster~~] proctor home. The youth shall be adjudicated to the custody of DJJS.

(3) "Foster care agency" is any authorized licensed private agency certifying providers for foster or proctor care services, hereinafter referred to as Agency.

(4) "Child" means anyone under 18 years of age with the exception of DJJS [~~proctor care~~] where custody and guardianship may be maintained to 21 years of age.

R501-12-4. Licensing and Renewal.

(1) Application: An individual or legally married couple age 21 and over may apply to be foster or proctor parents. The applicant shall be provided with an application and a copy of the foster care licensing rules. The application shall require the applicant to list each member of the applicant's household.

(2) Medical Information:

(a) At the time of application, each potential foster and proctor parent shall obtain and submit to the Agency or the Office of Licensing, a medical reference letter, completed by a licensed health care

professional, which assesses the physical ability of the individual to be a foster or proctor parent. On an annual basis thereafter, each foster and proctor parent shall submit a personal health status statement.

(b) A psychological examination of a potential or current foster and proctor parent may be required by the Office of Licensing or the Agency if there are questions regarding the individual's mental status which may impair functioning as a foster or proctor parent. The psychological examination shall be arranged and paid for by the foster or proctor parent.

(3) References:

The applicant shall submit the names of no more than four individuals, two not related and one related, who may be contacted by the Agency or the Office of Licensing for a reference. These individuals, shall be knowledgeable of the ability of the potential foster or proctor parents to nurture children. Three acceptable letters of reference must be received by the Agency or the Office of Licensing before a license will be issued.

(4) Background Screening:

(a) Pursuant to 62A-2-120 and R501-14, criminal background screening, referred to as CBS, requires that all child foster or proctor care applicants or persons 18 years of age or older living in the home must have the criminal background screening successfully completed. This shall be completed on initial home approval and yearly thereafter.

(b) Pursuant to 62A-2-121 and R501-18, child abuse and neglect licensing data base shall also be screened for each applicant or persons 18 years of age or older living in the home to see if a report of a severe type of abuse and neglect has been substantiated by the Juvenile Court. This shall be done on initial home approval and yearly thereafter.

(5) Home Study: There shall be a current home study report on record prepared, or reviewed and signed off, by a licensed Social Worker. A home study shall be completed for each potential foster or proctor home. The home study shall be updated annually with a home visit.

(6) Provider Code of Conduct: Each foster and proctor care applicant shall read, abide by, and sign a current copy of the DHS Provider Code of Conduct.

(7) Training: Each foster and proctor care applicant shall complete the required pre-service training as specified in R501-12-5 prior to receiving a license.

(8) Approval or Denial:

(a) Following pre-service training and submission of all required documentation, the home study and an assessment of an applicant shall be completed.

(b) A license shall be issued for applicants who meet Foster Care Licensing Rules.

(c) The decision to approve or deny the applicant shall be made on the basis of facts, health and safety factors, and the professional judgment of the Agency or the Office of Licensing.

(d) No person may be denied a foster or proctor care license on the basis of race, color, or national origin of the person, or a child, involved, pursuant to the Social Security Act, Section 471(a)(18)(A).

(e) The provider shall be evaluated annually for compliance with foster care rules when renewing a license.

(f) Kinship and Specific Home Approval: An applicant may be licensed for placement of one specific child or sibling group. The home study shall be completed and all licensing requirements met. This license is valid for the duration of the specific placement only and must be renewed annually.

(g) Licensure approval is not a guarantee that a child will be placed in the home. Additional requirements for adoptive parents and

adoptive assessments for children in State custody are included in R512-41(3)(4).

(h) Providers shall not be licensed or certified to provide foster or proctor care for children in the same home in which they are providing child care, as defined in UCA 26-39-102, or a licensed human service program, as defined in UCA 62A-2-101.

(i) The Office Director or designee may grant a time limited variance to a rule if it is in the best interest of the specific child and addresses how basic health and safety requirements shall be maintained in accordance with R501-1-8.

(j) All providers shall report any major changes in their lives to the Office of Licensing or Agency within 48 hours. These changes shall be re-evaluated within one month of the change by the Office of Licensing or Agency. A major change in the lives of the foster or proctor parents shall include, but is not limited to the following:

- (i) death or serious illness among the members of the foster or proctor family,
- (ii) separation or divorce,
- (iii) loss of employment,
- (iv) change of residence, or
- (v) suspected abuse or neglect of any child in the foster or proctor home.

R501-12-5. Training.

(1) Applicants shall attend training required and approved by the applicable DHS Division or other approved entity and submit verification of completed training to the Office of Licensing or Agency annually.

(2) At least one spouse shall complete the entire training series in order for the home to be licensed. The other spouse shall attend at least one third of the training.

(3) Providers associated with an Agency that is contracted to provide foster care or proctor care services shall meet the training requirements specified by the contract.

R501-12-6. Foster and Proctor Parent Requirements.

(1) Personal characteristics of foster and proctor parents shall include the following:

(a) Foster and proctor parents shall be in good health, able to provide for the physical and emotional needs of the child.

(b) Foster and proctor parents shall be emotionally stable and responsible persons over 21 years of age. Legally married couples and single individuals, may be foster or proctor parents.

(c) Foster and proctor parents shall document and verify legal residential status when appropriate.

(d) Foster or proctor parents shall have the ability to help the child grow and change in behavior.

(e) Foster or proctor parents shall not be dependent on the foster care payment for their expenses beyond those associated with foster or proctor care, and shall allocate funds as directed by Division policy. Verification of income shall be submitted with the application to the Office of Licensing or Agency on an annual basis.

(f) Division employees shall not be approved as foster or proctor parents to care for children in the custody of their respective Divisions. An employee may provide care for children in the custody of a different Division with approval of the Regional Director in accordance with DHS conflict of interest policy.

(g) Owners, directors, and members of the governing body for foster and proctor care agencies shall not serve as foster or proctor parents.

(h) Foster and proctor parents shall follow Agency rules and work cooperatively with the Agency, Courts, and law enforcement officials.

(2) Family Composition shall meet the following:

(a) The number, ages, and gender of persons in the home shall be taken into consideration as they may be affected by or have an effect upon the child.

(b) No more than two children under the age of two, shall reside in a foster home, including natural children.

(c) No more than two non-ambulatory children shall be in a foster home including infants under the age of two.

(d) No more than four foster children shall be in any one home.

(e) No more than one foster child shall be in any one home designated for proctor care by agencies contracted with DJJS.

R501-12-7. Physical Aspects of Home.

(1) The foster and proctor home shall be located in a vicinity in which school, church, recreation, and other community facilities are reasonably available.

(2) The physical facilities of the foster and proctor home shall be clean, in good repair, and shall provide for normal comforts in accordance with accepted community standards.

(3) The foster and proctor home shall be free from health and fire hazards. Each foster and proctor home shall have a working smoke detector on each floor and at least one approved fire extinguisher. An approved fire extinguisher shall be inspected annually and be a minimum of 2A:10BC five point, rated multi-purpose, dry chemical fire extinguisher.

(4) There shall be sufficient bedroom space to provide for the following:

(a) rooms are not shared by children of the opposite sex, except infants under the age of two years,

(b) children do not sleep in the parents' room, except infants under the age of two years,

(c) each child has his or her own solidly constructed bed adequate to the child's size,

(d) a minimum of 80 square feet is provided in a single occupant bedroom and a minimum of 60 square feet per child is provided in a multiple occupant bedroom excluding storage space, and

(e) no more than four children are housed in a single bedroom.

(5) Sleeping areas shall have a source of natural light and shall be ventilated by mechanical means or equipped with a screened window that opens.

(6) Closet and dresser space shall be provided within the bedroom for the children's personal possessions and for a reasonable degree of privacy.

(7) There shall be adequate indoor and outdoor space for recreational activities.

(8) Foster and proctor homes shall offer sufficiently balanced meals to meet the child's needs.

(9) All indoor and outdoor areas shall be maintained to ensure a safe physical environment.

(10) Areas determined to be unsafe, including but not limited to, steep grades, cliffs, open pits, swimming pools, hot tubs, high voltage boosters, or high speed roads, shall be fenced off or have natural barriers.

(11) Equipment: All furniture and equipment shall be maintained in a clean and safe condition. Furniture and equipment shall be of sufficient quantity, variety, and quality to meet individual needs.

(12) Exits: There shall be at least two means of exit on each level of the foster and proctor home.

R501-12-8. Safety.

(1) Foster and Proctor families shall conduct fire drills at least quarterly and provide documentation to the Office of Licensing and Agency.

(2) Foster and proctor parents shall provide and document training to children regarding response to fire warnings and other instructions for life safety.

(3) The foster or proctor home shall have a telephone. Telephone numbers for emergency assistance shall be posted next to the telephone.

(4) The foster or proctor home shall have an adequately supplied first aid kit such as recommended by the American Red Cross.

(5) Foster and Proctor parents who have firearms, ~~[or]~~ ammunition, or other weapons shall assure that they are inaccessible to children at all times. Firearms and ammunition that are stored together shall be kept securely locked in security vaults or locked cases, not in glass fronted display cases. Firearms that are stored in display cases shall be rendered inoperable with trigger locks, bolts removed or other disabling methods. Ammunition for those firearms shall be kept securely locked in a separate location. This does not restrict constitutional or statutory rights regarding concealed weapons permits, pursuant to UCA 53-5-701 et seq.

(6) ~~[No firearms shall be allowed in foster homes that contract with DHS.]~~ Foster and Proctor parents shall not provide a weapon to a minor or permit a minor to possess a weapon in violation of Sections 76-10-509 through 76-10-509.7.1.

(a) The Office shall identify whether a foster or proctor parent possesses or uses a firearm or other weapon and shall provide this information to the Division of Juvenile Justice Services and the Division of Children and Family Services for use in accordance with R512-302-4 and Section 63-46b-2.1.

(7) Foster and Proctor parents who have alcoholic beverages in their home shall assure that the beverages are kept inaccessible to children at all times.

(8) There shall be locked storage for hazardous chemicals and materials.

R501-12-9. Emergency Plans.

(1) Foster and Proctor parents shall have a written plan of action for emergencies and disaster to include the following:

- (a) evacuation with a pre-arranged site for relocation,
- (b) transportation and relocation of children when necessary,
- (c) supervision of children after evacuation or relocation, and
- (d) notification of appropriate authorities.

(2) Foster and Proctor parents shall have a written plan for medical emergencies, including arrangements for medical transportation, treatment and care.

(3) Foster or Proctor parents shall immediately report any serious illness, injury or death of a foster or proctor child to the appropriate Division or Agency and the Office of Licensing.

R501-12-10. Infectious Disease.

(1) Foster and Proctor parents shall contact their local health department for assistance in preventing or controlling infectious and communicable diseases in the home. In the event of an infectious or communicable disease outbreak, foster and proctor parents shall follow specific instructions given by the local health department.

R501-12-11. Medication.

(1) Foster and Proctor parents shall administer prescribed medication, according to the written directions of a licensed physician. Medicine shall only be given to the child for whom it was prescribed.

(2) Medication shall not be discontinued without the approval of the licensed physician, side effects shall be reported to the licensed physician.

(3) Non-prescriptive medications may be administered by foster or proctor parents according to manufacturer's instructions.

(4) Medications shall not be administered by the foster or proctor child.

(5) Medication shall not be used for behavior management or restraint unless prescribed by a licensed physician with notification to the Division or Agency worker.

(6) There shall be locked storage for medication.

R501-12-12. Transportation.

(1) Foster and Proctor parents shall provide transportation. In case of an emergency a means of transportation shall be arranged by the foster or proctor parents.

(2) Drivers of vehicles shall have a valid Utah Drivers License and follow safety requirements of the State.

(3) Transportation shall be provided in an enclosed vehicle which has been safety inspected and equipped with seatbelts and an appropriate restraint for infants and young children.

(4) An emergency telephone number shall be in the vehicle used to transport children.

(5) Each vehicle shall be equipped with an adequately supplied first aid kit such as recommended by the American Red Cross.

R501-12-13. Behavior Management.

(1) Foster and Proctor parents shall provide supervision at all times.

(2) Foster and Proctor parents shall not use, nor permit the use of corporal punishment, physical or chemical restraint, infliction of bodily harm or discomfort, deprivation of meals, rest or visits with family, humiliating or frightening methods to control the actions of children.

(3) The foster or proctor parents' methods of discipline shall be constructive. In exercising discipline, the child's age, emotional make-up, intelligence and past experiences shall be considered.

(4) Passive restraint shall be used only in behaviorally related situations as a temporary means of physical containment to protect the child, other persons, or property from harm. Passive restraint shall not be associated with punishment in any way.

(5) Foster and Proctor parents shall inform the Division or Agency worker of any extreme or repeated behavioral problems of a child placed in the foster or proctor home.

R501-12-14. Child's Rights in Foster and Proctor Care.

(1) The foster and proctor parent shall adhere to the following:

- (a) allow the child to eat meals with the family, and to eat the same food as the family unless the child has a special prescribed diet,
- (b) allow the child to participate in family activities,
- (c) protect privacy of information,
- (d) not make copies of the child's records,
- (e) explain the child's responsibilities, including household tasks, privileges, and rules of conduct,
- (f) not allow discrimination,
- (g) treat the child with dignity,
- (h) allow the child to communicate with family, attorney, physician, clergyman, and others, except where documented otherwise,
- (i) follow visitation rights as provided by DHS or Agency worker,
- (j) allow the child to send and receive mail providing that security and general health and safety requirements are met, foster or proctor

parents may only censor or monitor a foster or proctor child's mail or phone calls by court order,

- (k) provide for personal needs and clothing allowance, and
- (l) respect the child's religious and cultural practices.

R501-12-15. Record Keeping.

(1) Foster and Proctor parents shall maintain the following:

- (a) current license certificate,
- (b) copy of each contract with DHS,
- (c) record of money provided to each foster or proctor child,
- (d) record of expenditures for each foster or proctor child, and
- (e) documentation of special need payments on behalf of the foster or proctor child.

(2) The Office of Licensing and Agency staff shall maintain a separate record for each child foster or proctor care home or Agency.

KEY: licensing, human services, foster care

~~[January 30, 2003]~~2004

Notice of Continuation November 15, 2002

62A-2-101 et seq.



Human Services, Child and Family Services

R512-302-4

Selection of a Caregiver for a Child Receiving Out of Home Services

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27274

FILED: 07/02/2004, 11:01

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During the 2004 session, S.B. 48 was passed which was in conflict with Section R512-302-4 of this rule. This required the Department of Human Services to make changes to Section R512-302-4. H.B. 197 gave an agency authority to recommend or rule based on the compatibility of a minor with a particular custody, placement, or other disposition alternative. Also updates language to cover proctor homes in addition to foster homes. (DAR NOTE: S.B. 48 is found at UT L 2004 Ch 264, and was effective 05/03/2004. H.B. 197 is found at UT L 2004 Ch 344, and was effective 05/03/2004.)

SUMMARY OF THE RULE OR CHANGE: It implements Section 63-46b-2.1 by stating that a caregiver shall be selected according to the caregiver's compatibility with the minor, as determined by the agency exercising its professional judgment.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63-98-102(5) and Section 63-46b-2.1

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no cost to the State budget. The Office of Licensing currently conducts home studies for the out-of-home caregiver and reviews for Child Placing foster

care agencies. This process is in place and adds no additional requirements.

❖ LOCAL GOVERNMENTS: No impact on local government as they are not involved in this process.

❖ OTHER PERSONS: It may reduce the cost for out-of-home caregiver because it takes away the requirement to render the weapons inoperable or locked in a approved safe. Exact cost cannot be determined at this time.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It may reduce the cost for out-of-home caregiver because it takes away the requirement to render the weapons inoperable or locked in a approved safe. Exact cost cannot be determined at this time.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This is a licensing process and will not have an impact on businesses.

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:

Meredith Mannebach at the above address, by phone at 801-538-9877, by FAX at 801-538-4016, or by Internet E-mail at MMANNEBACH@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: Robin Arnold-Williams, Executive Director

R512. Human Services, Child and Family Services.

R512-302. Out of Home Services, Responsibilities Pertaining to an Out of Home Caregiver.

R512-302-4. Selection of a Caregiver for a Child Receiving Out of Home Services.

~~[A-](1)~~ A caregiver shall have the experience, personal characteristics, temperament, and training necessary to work with a child and the child's family to be approved and selected to provide out of home services.

~~[B-](2)~~ An out-of-home caregiver shall be selected according to the caregiver's skills and abilities to meet a child's individual needs and, when appropriate, an ability to support both parents in reunification efforts and to consider serving as a permanent home for the child if reunification is not achieved. When dictated by a child's level of care needs, the Division may require one parent to be available in the home at all times.

(3) An out-of-home caregiver shall be selected according to the caregiver's compatibility with the minor, as determined by the agency exercising its professional judgment. The best interest of the

child shall be the agency's primary consideration when making a placement decision.

(a) The agency may consider the out-of-home caregiver's possession or use of a firearm or other weapon, espoused religious beliefs, or choice to school the minor outside the public education system in accordance with Section 63-46b-2.1.

(b) The agency may consider the child's sex, age, behavior, and the composition of the foster family.

~~(C)~~(4) A child in agency custody shall be placed with an out of home caregiver who is fully licensed as provided in Rule R501-12. A child may be placed in a home that is conditionally licensed only if the out of home caregiver is a kinship placement.

~~(D)~~(5) An out of home caregiver shall be given necessary information to make an informed decision about accepting responsibility to care for a child. The worker shall obtain all available necessary information about the child's permanency plan, family visitation plans, and needs such as medical, educational, mental health, social, behavioral, and emotional needs, for consideration by the caregiver.

~~(E)~~(6) If the court has not given custody to a non-custodial parent or kin provider, to provide safety and maintain family ties, the child shall be placed in the least restrictive placement that meets the child's special needs and is in the child's best interests, according to the following priorities:

~~(1)~~(a) With siblings.

~~(2)~~(b) In the home of licensed kin.

~~(3)~~(c) With a licensed caregiver, group, or residential provider within reasonable proximity to the child's family and community, if the goal is reunification.

~~(4)~~(d) With a licensed caregiver, group, or residential provider not in reasonable proximity to the child's family and community.

~~(F)~~(7) If a child is reentering custody of the Division, the child's former out of home caregiver shall be given preference as provided in Section 62A-4a-206.1.

~~(G)~~(8) A child's placement shall not be denied or delayed on the basis of race, color, or national origin of the out of home caregiver or the child involved.

~~(H)~~(9) Selection of a out of home caregiver for an Indian child shall be made in compliance with the Indian Child Welfare Act, 25 USC Section 1915, which is incorporated by reference.

KEY: child welfare
~~September 3, 2003~~2004
62A-4a-105



**Natural Resources, Parks and
Recreation
R651-406
Off-Highway Vehicle Registration Fees**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27304

FILED: 07/15/2004, 14:57

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Off-Highway Vehicle (OHV) registration fees have remained constant for years. Recently, growth in the activity has placed additional demands on the OHV program for services that we do not have the capability to provide under current budgets. H.B. 220 (2004), authorized the Board to increase registration fees from the current \$10 per registration to as much as \$17 per registration. It also authorized the Board to increase the fees charged for duplicate registration stickers and duplicate registration certificates. This same legislation also appropriated to the Utah School and Institutional Trust Land Administration (SITLA) \$1.50 from each OHV registration for use in managing OHV use on Trust Lands. (DAR NOTE: H.B. 220 is found at UT L 2004 Ch 349, and was effective 07/01/2004.)

SUMMARY OF THE RULE OR CHANGE: Beginning July 1, 2004, SITLA will automatically receive \$1.50 from each registration, which potentially could result in a total depletion of the OHV Restricted account prior to the 2008 fiscal year, as it would cost the Division of Parks and Recreation \$226,000 per year at the current registration fees. Also, education and increased law enforcement are needed to dealing with the huge increase of the rapidly growing OHV use on our public lands and forest areas.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 41-22-8

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The registration fee in 2003 was \$10 per registration, creating revenue of \$1,507,810 during the calendar year. Those funds were deposited into the OHV Restricted Account. The \$4 increase approved by the Board on 07/08/2004 will increase the amount of that deposit to \$2,110,939 annually (using 2003 registration numbers), an increase of \$603,124 per year (at 2003 numbers).

❖ LOCAL GOVERNMENTS: Local government would not be involved in this state run program. Therefore, we see no aggregate cost or savings to local government.

❖ OTHER PERSONS: The cost for a permit will be increased from \$10 to \$14, to offset the costs for improved and new programs in education, and the growth of the OHV use in the state. Therefore, those registering their OHVs would pay the new fee at the time of registration.

COMPLIANCE COSTS FOR AFFECTED PERSONS: If the owner of an OHV decides not to register an OHV because of the increase, they could be cited when using an unregistered OHV on public lands.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Due to the small size of the proposed increase compared to the relative expense involved with owning and operating OHVs, the department anticipates no fiscal impact on business.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/31/2004.

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

AUTHORIZED BY: Mary Tullius, Interim Director

**R651. Natural Resources, Parks and Recreation.
R651-406. Off-Highway Vehicle Registration Fees.
R651-406-1.**

The annual registration fee is \$[5]14.

R651-406-2.

The fee for a duplicate certificate of registration is \$[+]3.

R651-406-3.

The fee for duplicate numbered stickers is \$[2]5.

KEY: off-highway vehicles

~~[1987]~~September 1, 2004

Notice of Continuation November 13, 2001

41-22-8

▼ ————— ▼

Natural Resources, Parks and Recreation **R651-611** Fee Schedule

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 27305
FILED: 07/15/2004, 15:06

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed change adjusts motorized cart fees at Palisade State Park Golf Course with a \$2 increase for a motorized cart for 18 holes, from \$8 to \$10; and increases the cost of rental for a motorized cart for 9 holes by \$1, from \$4 to \$5. This increases will offset the costs of operation of the golf course

and the new nine holes that have been added. This rule amendment also clarifies Subsections R651-611-4(A)(1)(k) and R651-611-4(A)(1)(l) under Palisade State Park. It also corrects a new fee that was added for Dinosaur Gardens at Utah Field House of Natural History in Vernal, Utah. Some of the public have been interested in renting the Dinosaur Garden, but don't need the full museum or don't want to pay the higher fee. The fee gives an avenue for the public to utilize the Dinosaur Garden only, but charges a reasonable amount for the facility. It was passed by the Board of Parks and Recreation at \$500 and not \$1,000.

SUMMARY OF THE RULE OR CHANGE: The definitions of the motorized cart fees and increases at Palisade State Park Golf Course are addressed in this rule. Also, the new fee for rental of the Dinosaur Garden at the Utah Field House of Natural is being added for those who only want the Garden and not the whole museum.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63-11-17

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The fee for renting Dinosaur Gardens at the Utah Field House of Natural History was entered inadvertently and the Board had not acted on the amount. It has been acted upon now and the cost is \$500, and not \$1,000 as previously stated. It will take some time to see who rents the building to know how it will impact the savings or cost to the state budget. Also, the motorized cart fee rental at Palisade State Park is so small at this time, there will be little change in the cost or savings to the state budget.

❖ LOCAL GOVERNMENTS: This amendment to Rule R651-611 is geared to update fees for use of state facilities and golf courses. There is no anticipated cost or savings to local government.

❖ OTHER PERSONS: The recreating public who choose to golf, renting a motorized cart, will pay the extra \$1 or \$2 depending on whether they golf 9 or 18 holes. It also corrects a fee that allows the public to rent just the Dinosaur Gardens at Utah Field House of Natural History that should have been \$500 and not \$1,000.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Any person or company that utilizes the golf course at Palisade must pay the increase for rental of motorized carts, an extra \$1 or \$2, if they choose to use them. Anyone wishing to rent the Dinosaur Gardens at Utah Field House of Natural History must pay the fee in advance (\$500) for rental of the facility. If the fees are not paid, the service or facility will not be granted.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The department does not anticipate any fiscal impact on businesses from the proposed fee changes and rental options.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116

1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320,
by FAX at 801-537-3144, or by Internet E-mail at
deeguess@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY
SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER
THAN 5:00 PM on 08/31/2004.

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

AUTHORIZED BY: Steve Roberts, Deputy Director

R651. Natural Resources, Parks and Recreation.

R651-611. Fee Schedule.

R651-611-4. Special Fees.

A. Golf Course Fees

1. Palisade rental and green fees.

a. Nine holes general public - weekends and holidays - \$10.00

b. Nine holes weekdays (except holidays) - \$9.00

c. Nine holes Jr/Sr weekdays (except holidays) \$8.00

d. 20 round card pass - \$140.00

e. 20 round card pass (Jr only)- \$100.00

f. Promotional pass - single person (any day) - \$400.00

g. Promotional pass - single person (weekdays only) - \$275.00

h. Promotional pass - couples (any day) - \$650.00

i. Promotional pass - family (any day) - \$850.00

j. Companion fee - walking, non -player - \$4.00

k. Motorized cart (18 holes) - ~~[\$8.00]~~10.00

l. Motorized cart (9 holes ~~[single rider]~~) - ~~[\$4.00]~~5.00

m. Pull carts (9 holes) - \$2.00

n. Club rental (9 holes) - \$5.00

o. School teams - No fee for practice rounds with coach and team roster. Tournaments are \$3.00 per player.

p. Driving range - small bucket - \$2.50

q. Driving range - large bucket - \$3.50

2. Wasatch Mountain and Soldier Hollow rental and green fees.

a. Nine holes general public - \$12.00

b. Nine holes general public (weekends and holidays) - 13.00

c. Nine holes Jr/Sr weekdays (except holidays) - \$11.00

d. 20 round card pass - \$220.00 - no holidays or weekends

e. Companion fee - walking, non-player - \$4.00

f. Motorized cart (9 holes - mandatory on Mt. course) - \$12.00

g. Motorized cart (9 holes single rider - \$6.00)

h. Pull carts (9 holes) - \$2.25

i. Club rental (9 holes) - \$6.00

j. School teams - No fee for practice rounds with coach and team roster (Wasatch County only).

Tournaments are \$3.00 per player.

k. Tournament fee (per player) - \$5.00

l. Driving range - small bucket - \$2.50

m. Driving range - large bucket - \$5.00

n. Advance tee time booking surcharge - \$15.00

3. Green River rental and green fees.

a. Nine holes general public - \$9.00

b. Nine holes Jr/Sr weekdays (except holidays) - \$8.00

c. Eighteen holes general public - \$16.00

d. 20 round card pass - \$140.00

e. Promotional pass - single person (any day) - \$350.00

f. Promotional pass - personal golf cart - \$350.00

g. Promotional pass - single person (Jr/Sr weekdays) - \$275.00

h. Promotional pass - couple (any day) - \$600.00

i. Promotional pass - family (any day) - \$750.00

j. Companion fee - walking, non-player - \$4.00

k. Motorized cart (9 holes) - \$8.00

l. Motorized cart (9 holes single rider) - \$4.00

m. Pull carts (9 holes) - \$2.25

n. Club rental (9 holes) - \$5.00

o. School teams - No fee for practice rounds with coach and team roster. Tournaments are \$3.00 per player.

4. Golf course hours are daylight to dark

5. No private, motorized golf carts are allowed, except where authorized by existing contractual agreement.

6. Jr golfers are 17 years and under. Sr golfers are 62 and older.

B. Boat Mooring and Dry Storage

1. Mooring Fees:

a. Day Use - \$5.00

b. Overnight Boat Parking - \$7.00 (until 8:00 a.m.)

c. Overnight Boat Camping - \$15.00 (until 2:00 p.m.)

d. Monthly - \$4.00/ft.

e. Monthly with Utilities - (Bear Lake) \$6.00/ft.

f. Monthly with Utilities - (Other Parks) \$5.00/ft.

g. Monthly Off Season - \$2.00/ft

h. Monthly (Off Season with utilities) - \$3.00/ft

2. Dry Storage Fees:

a. Overnight (until 2:00 p.m.) - \$5.00

b. Monthly During Season - \$75.00

c. Monthly Off Season - \$50.00

d. Monthly (unsecured) - \$25.00

C. Meeting Rooms and Buildings

1. Day Use: 1-4 hours between 8:00 a.m. and 6:00 p.m.

a. Up to 50 persons - \$50.00

b. 51 to 100 persons - \$70.00

c. 101 to 150 persons - \$90.00

d. Add 50% for after 6:00 p.m.

e. Fees include day use fee

2. Overnight Use 2:00 p.m. until 2:00 p.m., up to 100 people.

Minimum Fee \$250.00

3. Territorial Statehouse

a. Legislative Hall (per hour) - \$30.00

b. School or Grounds (per hour) - \$20.00

4. Utah Field House of Natural History

a. Training room per session - \$75.00

b. Theater per session - \$100.00

c. Lobby area per session - \$500.00

d. Dinosaur garden per session - ~~[\$1,000.00]~~\$500.00

e. Entire museum per day - \$2,000.00

D. Roller Skating Fees:

1. Adults - \$2.00

2. Children 6 through 11 - \$1.00

3. Skate Rental - \$1.00

4. Ice Skate Sharpening

5. Group Reservations

a. First Hour - \$30.00

b. Every Hour Thereafter - \$20.00

E. Other Miscellaneous Fees

1. Canoe Rental (includes safety equipment).
 - a. Up to one (1) hour - \$ 5.00
 - b. Up to four (4) hours - \$10.00
 - c. All day to 6:00 p.m. \$20.00
2. Paddle boat Rental (includes safety equipment).
 - a. Up to one (1) hour \$10.00
 - b. Up to four (4) hours \$20.00
 - c. All day to 6:00 p.m. \$30.00
3. Cross Country Skiing Trails.
 - a. \$4.00 per person, twelve (12) and older.
 - b. \$2.00 per person, six (6) through eleven (11).
4. Pavilion - 8:00 a.m. - 10:00 p.m. (non -fee areas).
 - a. \$10.00 per day - (single unit).
 - b. \$30.00 per day - (group unit).
5. Wagon Rental per day - \$50.00
6. Recreation Field (non-fee areas) - \$25.00.
7. Sports Equipment Rental - \$10.00.
8. Life Jacket Rental - \$1.00
9. Day Use Shower Fee - \$2.00.
(where facilities can accommodate)
10. Cleaning Deposit (where applicable) - \$100.00
11. Application Fees - Non -refundable PLUS Negotiated Costs.
 - a. Grazing Permit - \$20.00
 - b. Easement - \$ 200.00
 - c. Construction/Maintenance - \$50.00
 - d. Special Use Permit - \$50.00
 - e. Commercial Filming - \$50.00
 - f. Waiting List - \$10.00
12. Assessment and Assignment Fees.
 - a. Duplicate Document - \$10.00
 - b. Contract Assignment - \$20.00
 - c. Returned checks - \$20.00
 - d. Staff time - \$40.00/hour
 - e. Equipment - \$30.00/hour
 - f. Vehicle - \$20.00/hour
 - g. Researcher - \$5.00/hour
 - h. Photo copy - \$.10/each
 - i. Fee collection - \$10.00
13. Curation Fees.
 - a. Annual curation agreement \$75.00
 - b. Curation storage Edge of Cedars \$400.00/cubic foot.
 - c. Curation storage other parks \$350.00/cubic foot
 - d. All curation storage fees are one time only.
14. Snowmobile Parking Fee - Monte Cristo Trail head.
 - a. Day use (6:00 a.m. to 10:00 p.m.) - \$5.00
 - b. Overnight (10:00 p.m. to 10:00 p.m.) - \$5.00
 - c. Season Pass (Day use only) - \$30.00
 - d. Season Pass (Overnight) - \$50.00

KEY: parks, fees
~~July 16, 2004~~ **September 1, 2004**
Notice of Continuation August 7, 2001
63-11-17(2)(g)

Natural Resources, Parks and Recreation **R651-634-1** User Fees

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27306

FILED: 07/15/2004, 15:08

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 51 (2004) requires that any nonresident who operates or gives permission to operate an off-highway vehicle (OHV) in Utah, shall pay an annual OHV user fee. By law, that fee is set at \$30 per vehicle. Snowmobiles have been required to pay the fee since 2001. The new law extends that requirement to ATVs and motorcycles. Under Section 41-22-35, the Board is charged with establishing the parameters within which nonresident user fees are collected, and the associated decals are distributed. (DAR NOTE: H.B. 51 is found at UT L 2004 Ch 314, and was effective 07/01/2004.)

SUMMARY OF THE RULE OR CHANGE: Changes in the law necessitate that Section R651-634-1 be amended to include ATVs and off-highway motorcycles.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 41-22-35

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The annual fee has been in effect for snowmobiles since July 4, 2000. Adding ATVs and off-highway motorcycles would add a net of approximately \$120,000, after costs for the program and expenses are paid.
- ❖ LOCAL GOVERNMENTS: This is a state run program and would not affect local government in costs or savings.
- ❖ OTHER PERSONS: Out-of-state visitors coming to Utah to operate their snowmobile, off-highway motorcycle, or ATV will pay the \$30 fee in accordance to S.B. 14 (1999) that was effective 07/01/1999 and H.B. 51 that was effective 07/01/2004. (DAR NOTE: S.B. 14 is found at UT L 1999 Ch 1, and was effective 07/01/1999.)

COMPLIANCE COSTS FOR AFFECTED PERSONS: Any person from out-of-state, operating the off-highway vehicles without paying the fee will be cited with a Class C Misdemeanor (Subsection 41-22-17(1)).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Due to the small size of the new fee relative to the expense of owning and operating these vehicles, the department anticipates no fiscal impact to businesses.

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

NATURAL RESOURCES
PARKS AND RECREATION
Room 116
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/31/2004.

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

AUTHORIZED BY: Mary Tullius, Interim Director

R651. Natural Resources, Parks and Recreation.

R651-634. Snowmobile User Fee - Non-Residents.

R651-634-1. User Fees.

Except as provided ~~[in Subsection 41-22-29(1)(b)]~~below, any nonresident owning ~~[a snowmobile who operates or gives another person permission to operate the snowmobile]~~an off-highway vehicle, who operates or gives another person permission to operate the off-highway vehicle on any public land, trail, street or highway in this state, shall pay an annual ~~[snowmobile]off-highway vehicle~~ user fee

1. A decal will be ~~[dispersed by]~~issued which proves payment has been made. The decal will then be displayed on the ~~[snowmobile]off-highway vehicle~~ as follows: ~~[in accordance with the rules of the board. The decal should not be transferred.]~~On snowmobiles, the decal shall be mounted on the left side of the hood, pan or tunnel. On motorcycles, the decal shall be mounted on the left fork, or on the left side body plastic. On all-terrain vehicles, the decal shall be mounted on the rear of the vehicle. Vehicle types are defined in 41-22-2 UCA. In all instances, the decal shall be mounted in a visible location. The decal shall be non-transferable.

2. A receipt will be issued with the decal indicating the fee paid, the Vehicle Identification Number (VIN) of the off-highway vehicle, and the off-highway vehicle owner's name and address. This receipt shall remain with the off-highway vehicle at all times.

3. Fees charged will be in accordance with S.B. 14 (1999 Utah Laws 1, effective July 1, 1999, and HB 51 (2004 Utah Laws, effective July 1, 2004) which state[s] that the ~~[snowmobile]off-highway vehicle~~ user annual fee will be \$30 per year.

4. Nonresident OHV user permits shall expire December 31, annually.

~~[This rule will terminate the registration requirement for snowmobiles owned by nonresidents, providing for the collection of fees and issuance of decals by agents of the Division of Park and Recreation; and provide for a criminal penalty.]~~Applicants for a nonresident OHV user permit shall provide evidence that the applicant is the owner of the off-highway vehicle, and is not a resident of Utah. Such evidence shall include:

a. A government issued identification card showing the state of residency of the off-highway vehicle owner, and one of the following:

(1) A title or certificate of registration from a state other than Utah.

(2) An original bill of sale; or

b. A sworn affidavit stating that the off-highway vehicle is owned by a nonresident of the State of Utah. The affidavit must state the name and address of the vehicle owner, and a description of the off-highway vehicle, including the Vehicle Identification Number (VIN).

Off-highway vehicles currently registered in a state offering reciprocal operating privileges to Utah residents shall be exempt from the nonresident user fee requirements of this rule. The Division shall maintain a list of states offering reciprocal operating privileges to Utah residents. This list shall be updated at least annually.

Provisions of this rule shall not apply to off-highway vehicles exempt under 41-22-35(1)(b)(i), or to off-highway vehicles participating in scheduled competitive events sponsored by a public or private entity, or in noncompetitive events sponsored in whole or in part by any governmental entity.

KEY: parks

~~[July 4, 2000]~~September 1, 2004

~~[41-22-29(1)(a)]~~41-22-35

~~[41-22-29(1)(b)]~~

63-11-17



Natural Resources, Wildlife Resources

R657-6

Taking Upland Game

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27283

FILED: 07/06/2004, 14:37

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended to add White-winged Dove to migratory bird hunting as proposed by the Fish and Wildlife Service.

SUMMARY OF THE RULE OR CHANGE: Provisions of this rule are being amended to add White-winged Dove, which was included as a migratory game bird as proposed by the Fish and Wildlife Service; to delete "wild turkey" from the definition of upland game; and to delete the following wildlife management areas (WMAs) that are no longer owned by the Division of Wildlife (DWR): Cedar, Goshen Warm Springs, Logan, and Milford.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18 and 23-14-19

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 50 CFR 20, 2003 ed.

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** This amendment clarifies existing requirements. The proposed changes to this rule do not create a cost or savings impact to the state budget or DWR's budget.

❖ **LOCAL GOVERNMENTS:** This amendment clarifies existing requirements. These proposed changes do not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ **OTHER PERSONS:** This amendment clarifies existing requirements. These proposed changes to the rule do not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment clarifies existing requirements. These proposed changes to the rule do not create additional compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at debbiesundell@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: Kevin Conway, Director

R657. Natural Resources, Wildlife Resources.**R657-6. Taking Upland Game.****R657-6-1. Purpose and Authority.**

(1) Under authority of Sections 23-14-18 and 23-14-19 and in accordance with 50 CFR 20, [2002]2003 edition, which is incorporated by reference, the Wildlife Board has established this rule for taking upland game.

(2) Specific season dates, bag and possession limits, areas open, number of permits and other administrative details that may change annually are published in the Upland Game Proclamation and the Turkey Addendum to the Upland Game Proclamation of the Wildlife Board for taking upland game.

R657-6-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Bait" means shelled, shucked or unshucked corn, wheat or other grain, salt or other feed that lures, attracts or entices birds.

(b) "Baited area" means any area on which shelled, shucked or unshucked corn, wheat or other grain, salt or other feed has been placed, exposed, deposited, distributed or scattered, if that shelled, shucked or unshucked corn, wheat or other grain, salt or other feed could serve as a lure or attraction for migratory game birds to, on, or over areas where hunters are attempting to take migratory game birds. Any such area will remain a baited area for ten days following the complete removal of all such shelled, shucked or unshucked corn, wheat or other grain, salt or other feed.

(c) "Baiting" means the direct or indirect placing, depositing, exposing, distributing, or scattering of shelled, shucked or unshucked corn, wheat or other grain, salt or other feed that could serve as a lure or attraction for migratory game birds to, on, or over any areas where hunters are attempting to take migratory game birds.

(d) "CFR" means the Code of Federal Regulations.

(e) "Closed season" means the days on which upland game shall not be taken.

(f) "Commercial hunting area" means private land operated under Rule R657-22, where hatchery or artificially raised or propagated game birds are released for the purpose of hunting during a specified season and where a fee is charged.

(g) "Falconry" means the sport of taking quarry by means of a trained raptor.

(h) "Field possession limit" means no person may possess, have in custody, or transport, whichever applies, more than the daily bag limit of migratory game birds, tagged or not tagged, at or between the place where taken and either:

(i) his or her automobile or principal means of land transportation;

(ii) his or her personal abode or temporary or transient place of lodging;

(iii) a migratory bird preservation facility; or

(iv) a post office or common carrier facility.

(i) "Immediate family" means the landowner's lessee, or landowner's or lessee's spouse, children, son-in-law, daughter-in-law, father, mother, father-in-law, mother-in-law, brother, sister, brother-in-law, sister-in-law, stepchildren, and grandchildren.

(j) "Landowner" means any individual, family or corporation who owns property in Utah and whose name appears on the deed as the owner of eligible property or whose name appears as the purchaser on a contract for sale of eligible property.

(k) "Migratory game bird" means, for the purposes of this rule, Mourning Dove, White-winged Dove, Band-tailed Pigeon, and Sandhill Crane.

(l) "Nontoxic shot" means soft iron, steel, copper-plated steel, nickel-plated steel, zinc-plated steel, bismuth, and any other shot types approved by the U.S. Fish and Wildlife Service. Lead, nickel-plated lead, copper-plated lead, copper and lead/copper alloy shot have not been approved.

(m) "Open season" means the days when upland game may lawfully be taken. Each period prescribed as an open season shall include the first and last days thereof.

(n) "Personal abode" means one's principal or ordinary home or dwelling place, as distinguished from a temporary or transient place of abode or dwelling, such as a hunting club, cabin, tent, or trailer house used as a hunting club or any hotel, motel, or rooming house used during a hunting, pleasure, or business trip.

(o) "Cooperative Wildlife Management Unit" means a generally contiguous area of private land open for hunting small game, waterfowl, or big game by permit that is registered in accordance with Rules R657-21 and R657-37.

(p) "Possession limit" means, for purposes of this rule, the number of upland game birds one individual may have in possession at any one time.

(q) "Transport" means to ship, carry, export, import, receive or deliver for shipment, conveyance, carriage, exportation or importation.

(r) "Upland game" means pheasant, quail, Chukar Partridge, Hungarian Partridge, Sage-grouse, Ruffed Grouse, Blue Grouse, Sharp-tailed Grouse, cottontail rabbit, snowshoe hare, White-tailed Ptarmigan, ~~wild turkey,~~ and the following migratory game birds: Mourning Dove, White-winged Dove, Band-tailed Pigeon, and Sandhill Crane.

R657-6-3. Migratory Game Bird Harvest Information Program.

(1) A person must obtain a Migratory Game Bird Harvest Information Program (HIP) registration number to hunt migratory game birds (Band-tailed Pigeon, Mourning Dove, White-winged Dove and Sandhill Crane).

(2)(a) A person may call the telephone number published in the proclamation of the Wildlife Board for taking upland game or register online at www.wildlife.utah.gov to obtain their HIP registration number. Use of a public pay phone will not allow access to the telephone number published in the proclamation of the Wildlife Board for taking upland game.

(b) A person must write their HIP registration number on their current year's hunting license.

(3) Any person obtaining a HIP registration number will be required to provide their:

- (a) hunting license number;
- (b) hunting license code key;
- (c) name;
- (d) address;
- (e) phone number;
- (f) birth date; and
- (g) information about the previous year's migratory game bird hunts.

(4) Lifetime license holders will receive a sticker every three years from the Division to write their HIP number on and place on their lifetime license card.

(5) Any person hunting migratory game birds will be required, while in the field, to prove that they have registered and provided information for the HIP program.

R657-6-11. Use of Firearms and Archery Tackle on State Wildlife Management Areas.

(1) A person may not possess a firearm or archery tackle, except during the specified hunting seasons or as authorized by the Division on the following wildlife management areas: Bear River ~~Bottoms~~ Trenton Property Parcel, Bud Phelps, Castle Dale, Huntington, ~~[Cedar, Goshen Warm Springs,]~~ James Walter Fitzgerald, ~~[Logan,]~~ Mallard Springs, Manti Meadows, ~~[Milford, Montez]~~ Montez Creek, Nephi, Pahvant, Redmond Marsh, Richfield,

Roosevelt, Scott M. Matheson Wetland Preserve, Vernal, and Willard Bay.

(2) The firearm restrictions set forth in this section do not apply to a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code, provided the person is not utilizing the concealed firearm to hunt or take wildlife.

R657-6-13. Shooting Hours.

(1)(a) Except as provided in Subsection (b), shooting hours for upland game are as follows:

(i) Band-tailed Pigeon, Mourning Dove, White-winged Dove, and Sandhill Crane may be taken only between one-half hour before official sunrise through official sunset.

(ii) Sage-grouse, Ruffed Grouse, Blue Grouse, Sharp-tailed Grouse, White-tailed Ptarmigan, Chukar Partridge, Hungarian Partridge, pheasant, quail, wild turkey, cottontail rabbit, and snowshoe hare may be taken only between one-half hour before official sunrise through one-half hour after official sunset.

(b) A person must add to or subtract from the official sunrise and sunset depending on the geographic location of the state. Specific times are provided in a time zone map in the proclamation of the Wildlife Board for taking upland game.

(2) Pheasant and quail may not be taken prior to 8 a.m. on the opening day of the pheasant and quail seasons.

(3) A person may not discharge a firearm on state owned lands adjacent to the Great Salt Lake, state waterfowl management areas or on federal refuges between official sunset through one-half hour before official sunrise.

R657-6-26. Closed Areas.

A person may not hunt upland game in any area posted closed by the Division or any of the following areas:

- (1) Salt Lake Airport boundaries as posted.
- (2) Incorporated municipalities: Most of the incorporated areas of Alta, a portion of Davis County, Garland City, Layton, Logan, Pleasant View City, South Ogden City, West Jordan, and West Valley City are closed to the discharge of firearms. Check with the respective city officials for specific boundaries. Other municipalities may have additional firearm restrictions.

(3) Wildlife Management Areas:

(a) Waterfowl management areas are open for hunting upland game only during designated waterfowl hunting seasons, including: Bear River National Wildlife Refuge, Bicknell Bottoms, Blue Lake, Brown's Park, Clear Lake, Desert Lake, Farmington Bay, Harold S. Crane, Howard Slough, Locomotive Springs, Mills Meadows, Ogden Bay, Ouray National Wildlife Refuge, Powell Slough, Public Shooting Grounds, Salt Creek, Stewart Lake, and Timpie Springs.

(b) Fish Springs National Wildlife Refuge is closed to upland game hunting.

(c) Goshen Warm Springs is closed to upland game hunting.

(4) Military installations, including Camp Williams, are closed to hunting and trespassing unless otherwise authorized.

R657-6-28. Baiting Migratory Game Birds.

Migratory game birds may not be taken by the aid of baiting, or on or over any baited area. However, nothing in this paragraph shall prohibit:

- (1) the taking of ~~[Sandhill Crane]~~ Band-tailed Pigeon, Mourning Dove, ~~[and Band-tailed Pigeon]~~ White-winged Dove, and Sandhill Crane on or over standing crops, flooded standing crops

(including aquatics), flooded harvested croplands, grain crops properly shucked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting; or

(2) the taking of Band-tailed Pigeon, Mourning Dove, White-winged Dove and Sandhill Crane on or over any lands where feed has been distributed or scattered solely as the result of bona fide agricultural operations or procedures, or as a result of manipulation of a crop or other feed on the land where grown for wildlife management purposes.

KEY: wildlife, birds, rabbits, game laws

[December 17, 2003] 2004

Notice of Continuation June 16, 2002

23-14-18

23-14-19



Professional Practices Advisory Commission, Administration

R686-103

Professional Practices and Conduct for Utah Educators

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27310

FILED: 07/15/2004, 16:43

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide new language and terminology changes to Section R686-103-7, Moral and Ethical Conduct.

SUMMARY OF THE RULE OR CHANGE: The changes provide new language and terminology changes to Section R686-103-7 and corrects a grammatical error in Section R686-103-3.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-6-306(1)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There are no anticipated cost or savings to state budget. The changes provide for new offenses and terminology that will not add a cost or provide a savings to the state. If anything, there may be savings to state as one ambiguous provision is deleted. This could conceivably prevent lawsuits.

❖ **LOCAL GOVERNMENTS:** There are no anticipated cost or savings to local government. The changes are minimal and provide for new offenses and terminology that will not add a cost or provide a savings to school districts or local government.

❖ **OTHER PERSONS:** There are no anticipated cost or savings to other persons. The changes provide for new offenses and terminology that will not add a cost or provide a savings to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The changes provide for new offenses and terminology that have no costs relating to compliance.

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:

PROFESSIONAL PRACTICES ADVISORY
COMMISSION

ADMINISTRATION

250 E 500 S

SALT LAKE CITY UT 84111, 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 08/31/2004.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R686. Professional Practices Advisory Commission, Administration.

R686-103. Professional Practices and Conduct for Utah Educators.

R686-103-3. Commission Action if a Licensed Educator Violates the Provisions of Professional Practice and Conduct for Utah Educators.

A. The individual conduct of a professional educator at all levels reflects upon the practices, values, integrity and reputation of the Utah educational profession as a whole. Violation of this rule may result in the following:

(1) A disciplinary letter that may [e]affect the educator's ability to obtain employment as an educator;

(2) A letter of reprimand that would be placed in the educator's certification file and in the personnel file(s) of the district(s) where the educator is employed or seeks employment;

(3) A designated period of probationary status for a license holder. The probation may be for a specific or indefinite time period;

(4) Suspension of the educator's license(s) that would prevent the educator from practicing education in the state of Utah or other states during the period of suspension; and

(5) Revocation of the educator's license(s) for a minimum of five years.

B. This rule does not preclude alternative action by the Commission consistent with Utah law and Utah State Board of Education rules warranted under the facts of the case.

R686-103-7. Moral and Ethical Conduct.

An educator shall:

- A. not be convicted of domestic violence or abuse, including physical, sexual, and emotional abuse of any family member;
- B. not be convicted of a stalking crime;
- C. not use or distribute illegal drugs, or be convicted of any crime related to illegal drugs;
- D. not be convicted of any illegal sexual conduct;
- E. not attend school or school functions under the influence of illegal drugs, ~~or~~ alcohol, or prescription drugs if the drug ~~affects~~ impairs the educator's ability to perform regular activities;
- F. not participate in sexual, physical, or emotional harassment or any combination toward any student or co-worker, nor knowingly allow harassment to continue;
- G. not participate in inappropriate sexual contact with a student or minor;
- H. not knowingly fail to protect a student from any condition detrimental to that student's physical health, mental health, safety, or learning;
- I. not harass or discriminate against a student or co-worker on the basis of race, color, creed, sex, national origin, marital status, political or religious beliefs, physical or mental conditions, family, social, or cultural background, or sexual orientation;
- J. not interfere with the legitimate exercise of political and civil rights and responsibilities of colleagues or a student acting consistently with law and district and school policies;
- K. not threaten, coerce, ~~or~~ discriminate against or create a hostile environment toward any fellow employee, regardless of employment classification, who reports or discloses to a governing agency actual or suspected violations of law, educational regulations, or standards;
- L. conduct financial business with integrity by honestly accounting for all funds committed to the educator's charge and collect and report funds consistent with school and district policy;
- M. not accept gifts or exploit a professional relationship for gain or advantage that might create the appearance of impropriety or that may impair professional judgment, consistent with Section 67-16-1 through 14, Utah Public Employees Ethics Act; and
- N. not use or attempt to use district or school computers or information systems in violation of the district's acceptable use policy for employees or access information that may be detrimental to young people or inconsistent with the educator's role model responsibility.
- O. ~~[avoid not only impropriety but also the appearance of impropriety in actions towards students and colleagues.]not knowingly possess, while at school or at any school-related activity, any non-curriculum related sexually oriented material in any form.~~

KEY: disciplinary actions, educators
~~[October 16, 2002]~~2004
 Notice of Continuation May 5, 2004
 53A-6-306(1)(a)



**Public Service Commission,
 Administration
 R746-360-9
 One-Time Distributions from the Fund**

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 27302
 FILED: 07/15/2004, 10:33

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The expenditure level on a per project basis has increased significantly. Further, the characteristics of the projects have also changed to be large subsidies for small groups or individuals. The Commission determined that the public interest would be best served if the one-time distribution rules were amended to address the two observed concerns.

SUMMARY OF THE RULE OR CHANGE: The amendment revises the total amount of money the Universal Service Support Fund will pay for a project from \$25,000 to \$10,000. The change will also increase the percentage of the costs of a relatively low-cost project that is paid for by the Universal Service Support fund. It will decrease the percentage of costs paid for by the Fund for relatively expensive projects. Further, it will decrease the percentage of costs paid directly by the potential customer for low-cost projects, and increase the percentage of costs paid by the customer for expensive projects.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 54-3-1, 54-4-4-1, and 54-8b-15

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** Unknown, as the number of applications for use of Universal Service Funds is driven by the number of and location of customers in high cost areas which qualify for use of Universal Service Funds. However, since the cap amount has been significantly reduced, we expect a significant positive savings on a net basis.
- ❖ **LOCAL GOVERNMENTS:** No impact--This rule does not affect local government budgets.
- ❖ **OTHER PERSONS:** Telecommunications corporations that receive reimbursement payments will see an decrease in the amount of contribution levels for one-time projects using Universal Service Funds. Customers may see an increase or decrease in out of pocket expenses; an increase for those located in very high cost areas and a decrease for those located in relatively lower cost high cost areas.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no net change in these costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There should be no impact on businesses. The Universal Service Fund is used to assist in defraying the costs associated with extension of telephone service in high cost areas of the State of Utah; it is focused on increasing residential service penetration.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Barbara Stroud at the above address, by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at bstroud@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: Barbara Stroud, Paralegal

R746. Public Service Commission, Administration.

R746-360. Universal Public Telecommunications Service Support Fund.

R746-360-9. One-Time Distributions From the Fund.

A. Applications for One-Time Distributions -- Telecommunications corporations, whether they are or are not receiving USF funds under R746-360-7 or R746-360-8, potential customers not presently receiving service because facilities are not available, or customers receiving inadequate service may apply to the Commission for one-time distributions from the fund for extension of service to a customer, or customers, not presently served or for amelioration of inadequate service.

1. These distributions are to be made only in extraordinary circumstances, when traditional methods of funding and service provision are infeasible.

2. One-time distributions will not be made for:

- a. New subdivision developments [~~with four units or more~~];
- b. Property improvements, such as cable placement, when associated with curb and gutter installations; or
- c. [~~Exclusively s~~] Seasonal developments that are exclusively vacation homes.

i. Vacation home is defined as: A secondary residence which is primarily used for recreation and is unoccupied for a period of four consecutive weeks per year.

3. An application for a one-time distribution may be filed with the Commission by an individual or group of consumers desiring telephone service or improved service, a telecommunications corporation on behalf of those consumers, the Division of Public Utilities, or any entity permitted by law to request agency action. An application shall identify the service(s) sought, the area to be served and the individuals or entities that will be served if the one-time distribution is approved.

4. Following the application's filing, affected telecommunications corporations shall provide engineering, facilities, costs, and any other pertinent information that will assist in the Commission's consideration of the application.

5. In considering the one-time distribution application, the Commission will examine relevant facts including the type and grade

of service to be provided, the cost of providing the service, the demonstrated need for the service, whether the customer is within the service territory of a telecommunications corporation, whether the proposed service is for a primary residence, the provisions for service or line extension currently available, and other relevant factors to determine whether the one-time distribution is in the public interest.

B. Presumed Reasonable Amounts and Terms -- Unless otherwise ordered by the Commission, the maximum one-time distribution will be no more than ~~[\$25]10,000 per customer[for rate-of-return regulated companies and \$23,000 per customer for non rate-of-return companies]~~. The Commission will presume a company's service or line extension terms and conditions reasonable, for a subscriber in connection with one-time universal service fund distribution requests, if the costs of service extension, for each extension, are recovered as follows:

1. For ~~[rate-of-return]all~~ regulated ~~[companies:~~

~~— a. The first \$500] Local Exchange Carriers who request USF One-Time Distribution support for facility placement:~~

~~— a. The first \$2,500 of cost coverage per account is provided by the company; and]~~

~~— b. F]for cost amounts exceeding [the \$500 level, cost, \$2,500 per account up to two times the statewide average loop investment per account for all [rate-of-return regulated]telecommunication companies, as determined annually by the Division of Public Utilities, will pay 50 percent of the costs of the project.[equally provided by the company and the customer.~~

~~— 2. For non rate-of-return companies:~~

~~— a. The same terms as required of rate-of-return companies in R746-360-9(B)(1) and, for amounts that exceed two times the statewide average loop investment plus \$500, the company will provide additional amounts, up to an additional \$2,000 for each extension.~~

~~— 3. Other terms and conditions for service extension shall be reviewed by the Commission in its consideration of an application and may be altered by the Commission in order to approve the use of universal service funds through the requested one-time distribution.~~

~~— C. Combination of One-Time Distribution Funds with Additional Customer Funds and Future Customer Payment Recovery —~~

~~— 1. When the Commission grants an application and approves the use of universal service funds through a one-time distribution, 95 percent of service extension costs, above those recovered through the service extension cost recover terms specified in R746-360-9(B), shall be paid through universal service funds, up to the maximum universal service fund expenditure levels specified by this rule. The remaining five percent, or any additional amounts, shall be paid by additional]~~

~~— b. For projects that exceed \$2,500 per account, but are equal to or less than \$10,000 per account, the customer shall pay 25 percent of the costs that exceed \$2,500. For projects that exceed \$10,000 per account, but are equal to or less than \$20,000 per account, the customer shall pay 50 percent of the costs that are greater than \$10,000 plus the previously calculated amount. For projects exceeding \$20,000 per account the customer shall pay 75 percent of the cost above \$20,000 until the State Universal Service Support Fund has paid \$10,000 per account, any project costs above that level will be paid for 100 percent by the customer.~~

~~— c. The State Universal Service Support Fund shall pay the difference between the sum of the defined company contributions plus customer contribution[s beyond those specified in R746-360-9(B).~~

~~— 2. Potential] amounts and the total project cost up to the \$10,000 limit.~~

~~— 2. Other terms and conditions for service extension shall be reviewed by the Commission in its consideration of an application and~~

may be altered by the Commission in order to approve the use of universal service funds through the requested one-time distribution.

C. Combination of One-Time Distribution Funds with Additional Customer Funds and Future Customer Payment Recovery --

1. At least 51 percent of the potential customers must be full-time residents in the geographic area being petitioned for and must be willing to pay the initial up-front contribution to the project as calculated by the Commission or its agent.

2. Qualified customers[~~in the area~~] shall be notified by the telecommunications corporation of the nature and extent of the proposed service extension[~~, the Commission's approval of the application, and~~] including the necessary customer contribution amounts to participate in the project. Customer contribution payments shall be made prior to the start of construction. In addition to qualified customers, the Local Exchange Company needs to make a good faith effort to contact all known property owners within the geographic boundaries of the proposed project and invite them to participate on the same terms as the qualified customers.

3. New developments and empty lots will not be considered in the cost analysis for USF construction projects unless the lot owner comes forth and is willing to pay the per account costs for each lot as specified in this rule.

~~[3-]4.~~ Potential customers who are notified and initially decline participation in the line extension project, but subsequently decide to participate, prior to completion of the project, may participate in the project if they make a customer contribution payment, prior to completion of the project, of 105 percent of the original customer contribution amount.

~~[4]5.~~ For a period of five years following completion of ~~[the]a~~ project, ~~[potential customers who were notified and initially declined to participate in the project, prior to its completion, may participate by making a customer contribution payment of 110 percent of the original customer contribution amount.~~

~~5.~~ For a period of five years following completion of the project, ~~customers who did not receive the initial notification,~~ new customers who seek telecommunications service in the project area, shall pay a customer contribution payment equal to 110 percent of the amount paid by the original customers in the project.

6. The telecommunications corporation shall ensure that all customer contribution payments required by R746-360-9(C)(3), (4),

and (5) are collected. Funds received through these payments shall be sent to the universal service fund administrator. The company is responsible for tracking and notification to the Commission when the USF has been fully compensated. All monies will be collected and reported by the end of each calendar year, December 31st.

7. For each customer added during the five-year period following project completion, the telecommunications corporation and new customers shall bear the costs to extend service pursuant to the company's service or line extension terms and conditions, up to the telecommunications corporation's original contribution per customer for the project and the customer contributions required by this rule. The company may petition the Commission for a determination of the recovery from the universal service fund and the new customer for costs which exceed this amount.

D. Impact of Distribution on Rate of Return Companies -- A one-time distribution from the fund shall be recorded on the books of a rate base, rate of return regulated LEC as an aid to construction and treated as an offset to rate base.

E. Notice and Hearing -- Following notice that a one-time distribution application has been filed, any interested person may request a hearing or seek to intervene to protect his interests.

F. Bidding for Unserved Areas -- If only one telecommunications corporation is involved in the one-time distribution request, the distribution will be provided based on the reasonable and prudent actual or estimated costs of that company. If additional telecommunications corporations are involved, the distribution will be determined on the basis of a competitive bid. The estimated amount of the one-time distribution will be considered in evaluating each bid. Fund distributions in that area will be based on the winning bid.

KEY: public utilities, telecommunications, universal service
~~December 1, 2003~~2004

Notice of Continuation November 25, 2003

54-7-25

54-7-26

54-8b-12

54-8b-15



End of the Notices of Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1998).

Administrative Services, Records Committee

R35-1

State Records Committee Appeal Hearing Procedures

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 27277
FILED: 07/02/2004, 14:07

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Subsection 63-2-502(2)(a), the State Records Committee may make rules to govern its proceedings. This rule explains the procedures for a hearing before the State Records Committee.

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 on this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary for the Committee to have procedures for the hearing process so both the Committee members and the participants in the hearing can know what time frames are expected and what to anticipate during a hearing. Therefore, this rule should be continued.

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

ADMINISTRATIVE SERVICES
RECORDS COMMITTEE
ARCHIVES BUILDING
SALT LAKE CITY UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Janell Tuttle at the above address, by phone at 801-538-3052, by FAX at 801-538-3354, or by Internet E-mail at jtuttle@utah.gov

AUTHORIZED BY: Patricia Smith-Mansfield, Director

EFFECTIVE: 07/02/2004



Administrative Services, Records Committee

R35-2

Declining Appeal Hearings

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 27278
FILED: 07/02/2004, 14:19

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Subsection 63-2-403(4)(b), the Executive Secretary may decline to schedule a hearing if the Committee has had a previous hearing in which the same record series was found to be properly classified. This rule states the procedures the Executive Secretary must follow for declining an appeal hearing.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received in the last five years for this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary so the Executive Secretary and the Committee members are aware of the process for declining an appeal hearing. It also

allows for a report of declined hearings so Committee members may choose to reverse the decision to decline an appeal hearing. Therefore, this rule should be continued.

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

ADMINISTRATIVE SERVICES
RECORDS COMMITTEE
ARCHIVES BUILDING
SALT LAKE CITY UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Janell Tuttle at the above address, by phone at 801-538-3052, by FAX at 801-538-3354, or by Internet E-mail at jtuttle@utah.gov

AUTHORIZED BY: Patricia Smith-Mansfield, Director

EFFECTIVE: 07/02/2004



**Administrative Services, Records
Committee
R35-3**

Prehearing Conferences

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 27279
FILED: 07/02/2004, 14:23

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Subsection 63-2-502(2)(a), the State Records Committee may make rules to govern its proceedings. This rule explains the procedures for a prehearing conference before the State Records Committee.

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 in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule allows for prehearing conferences between the State Records Committee chair, the petitioner, and a representative from the governmental entity to encourage communication between the parties and to facilitate settlement of the appeal. Therefore, this rule should be continued.

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

ADMINISTRATIVE SERVICES
RECORDS COMMITTEE
ARCHIVES BUILDING
SALT LAKE CITY UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Janell Tuttle at the above address, by phone at 801-538-3052, by FAX at 801-538-3354, or by Internet E-mail at jtuttle@utah.gov

AUTHORIZED BY: Patricia Smith-Mansfield, Director

EFFECTIVE: 07/02/2004



**Administrative Services, Records
Committee
R35-4**

**Compliance with State Records
Committee Decisions and Orders**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 27280
FILED: 07/02/2004, 14:26

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Subsection 63-2-502(2)(a), the State Records Committee may make rules to govern its proceedings and this rule outlines the procedures followed by a governmental entity complying with the decision and order of the State Records Committee.

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 on this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule explains the procedures for a governmental entity to follow in order to be compliant with the State Records Committee's order. The rule also allows the Committee to enforce their order if there is noncompliance from a governmental entity. Therefore, this rule should be continued.

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

ADMINISTRATIVE SERVICES
RECORDS COMMITTEE
ARCHIVES BUILDING
SALT LAKE CITY UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Janell Tuttle at the above address, by phone at 801-538-3052, by FAX at 801-538-3354, or by Internet E-mail at jtuttle@utah.gov

AUTHORIZED BY: Patricia Smith-Mansfield, Director

EFFECTIVE: 07/02/2004

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

ADMINISTRATIVE SERVICES
RECORDS COMMITTEE
ARCHIVES BUILDING
SALT LAKE CITY UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Janell Tuttle at the above address, by phone at 801-538-3052, by FAX at 801-538-3354, or by Internet E-mail at jtuttle@utah.gov

AUTHORIZED BY: Patricia Smith-Mansfield, Director

EFFECTIVE: 07/02/2004

▼ ————— ▼

**Administrative Services, Records
Committee
R35-5
Subpoenas Issued by the Records
Committee**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 27281
FILED: 07/02/2004, 14:29

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Subsection 63-2-502(2)(a), the State Records Committee may make rules to govern its proceedings. This rule provides the procedures to be followed by the petitioner and the State Records Committee concerning subpoenas.

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 during the past five years on this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R35-5 outlines the procedures followed by the petitioner when requesting a subpoena be issued. The rule also outlines the procedures to be followed by the State Records Committee Chair when denying or granting the request. Therefore, this rule should be continued.

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**Administrative Services, Records
Committee
R35-6
Expedited Hearings**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 27282
FILED: 07/02/2004, 14:32

**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 63-2-502(2)(a) allows the State Records Committee to make rules to govern its proceedings. This rule outlines the procedure for an expedited hearing.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received on this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary so the petitioner, the governmental entity, and the State Records Committee will know the procedures for requesting and scheduling an expedited hearing. Therefore, this rule should be continued.

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

ADMINISTRATIVE SERVICES
RECORDS COMMITTEE
ARCHIVES BUILDING
SALT LAKE CITY UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Janell Tuttle at the above address, by phone at 801-538-3052, by FAX at 801-538-3354, or by Internet E-mail at jtuttle@utah.gov

AUTHORIZED BY: Patricia Smith-Mansfield, Director

EFFECTIVE: 07/02/2004

**Agriculture and Food, Regulatory
Services**

R70-310

Grade A Pasteurized Milk

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 27286
FILED: 07/09/2004, 07:41

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 4-2-2(1)(j) authorizes the Department of Agriculture and Food to make and enforce rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No 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 established to regulate the processing and distribution of Grade A Pasteurized Milk within the State of Utah. Therefore, this rule should be continued.

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

AGRICULTURE AND FOOD
REGULATORY SERVICES
350 N REDWOOD RD
SALT LAKE CITY UT 84116-3087, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Chris Crnich, Marolyn Leetham, or Becky Shreeve at the above address, by phone at 801-538-7150, 801-538-7114, or 801-538-7149, by FAX at 801-538-4949, 801-538-7126, or 801-538-7126, or by Internet E-mail at ccnich@utah.gov, mleetham@utah.gov, or bshreeve@utah.gov

AUTHORIZED BY: Cary G. Peterson, Commissioner

EFFECTIVE: 07/09/2004

**Agriculture and Food, Regulatory
Services**

R70-630

Water Vending Machine

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 27291
FILED: 07/13/2004, 15:10

**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 4, Chapter 5, the Utah Wholesome Food Act, establishes the guidelines for the requirements of water vending machines.

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 established to protect the health, safety and welfare of the public using vended water. Therefore, this rule should be continued.

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

AGRICULTURE AND FOOD
REGULATORY SERVICES
350 N REDWOOD RD
SALT LAKE CITY UT 84116-3087, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Chris Crnich, Becky Shreeve, or Marolyn Leetham at the above address, by phone at 801-538-7150, 801-538-7149, or 801-538-7114, by FAX at 801-538-4949, 801-538-7126, or 801-538-7126, or by Internet E-mail at ccnich@utah.gov, bshreeve@utah.gov, or mleetham@utah.gov

AUTHORIZED BY: Cary G. Peterson, Commissioner

EFFECTIVE: 07/13/2004

Workforce Services, Workforce
Information and Payment Services
R994-309
Nonprofit Organizations

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 27297
FILED: 07/14/2004, 16:45

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-4-102 sets forth the public policy considerations of the Employment Security Act and the creation, under the State's police power, of free public employment offices and the setting aside of reserves for the payment to unemployed individuals. Subsection 35A-4-502(1)(b) authorizes the Department to make rules as necessary for the administration of the Act. Section 35A-4-309 provides that nonprofit organizations can elect to be reimburse the Department for benefit costs instead of contributing to the unemployment fund.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to define nonprofits and establish procedures for election on reimbursable status and for reimbursing the Department for benefit costs. Therefore, this rule should be continued.

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

AUTHORIZED BY: Raylene G. Ireland, Executive Director

EFFECTIVE: 07/14/2004

Workforce Services, Workforce
Information and Payment Services
R994-310
Coverage

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 27300
FILED: 07/14/2004, 17:14

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-4-102 sets forth the public policy considerations of the Employment Security Act and the creation, under the State's police power, of free public employment offices and the setting aside of reserves for the payment to unemployed individuals. Subsection 35A-4-502(1)(b) authorizes the Department to make rules as necessary for the administration of the Act. Section 35A-4-310 defines employing units and coverage requirements.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to describe when and how an employer can terminate coverage. Therefore, this rule should be continued.

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

AUTHORIZED BY: Raylene G. Ireland, Executive Director

EFFECTIVE: 07/14/2004

Workforce Services, Workforce
Information and Payment Services
R994-311
Governmental Units

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 27298
FILED: 07/14/2004, 17:01

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-4-102 sets forth the public policy considerations of the Employment Security Act and the creation, under the State's police power, of free public employment offices and the setting aside of reserves for the payment to unemployed individuals. Subsection 35A-4-502(1)(b) authorizes the Department to make rules as necessary for the administration of the Act. Section 35A-4-311 provides for reimbursable status for governmental units.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to define governmental units and establish procedures for election on reimbursable status and procedure for reimbursing the Department for benefit costs. Therefore, this rule should be continued.

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

AUTHORIZED BY: Raylene G. Ireland, Executive Director

EFFECTIVE: 07/14/2004



Workforce Services, Workforce
Information and Payment Services
R994-312
Employing Units Records - Confidential

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 27299
FILED: 07/14/2004, 17:07

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-4-102 sets forth the public policy considerations of the Employment Security Act and the creation, under the State's police power, of free public employment offices and the setting aside of reserves for the payment to unemployed individuals. Subsection 35A-4-502(1)(b) authorizes the Department to make rules as necessary for the administration of the Act. Section 35A-4-312 sets for the criteria under which information can be released by the Department.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to describe the confidentiality of records and limits to releasing information obtained by the Department in carrying out its functions. Therefore, this rule should be continued.

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

AUTHORIZED BY: Raylene G. Ireland, Executive Director

EFFECTIVE: 07/14/2004



NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Administrative Services

Finance

No. 27164 (AMD): R25-7-6. Reimbursements for Meals.
Published: June 1, 2004
Effective: July 2, 2004

Agriculture and Food

Regulatory Services

No. 27149 (AMD): R70-310. Grade A Pasteurized Milk.
Published: June 1, 2004
Effective: July 2, 2004

Crime Victim Reparations

Administration

No. 27157 (AMD): R270-1. Award and Reparations Standards.
Published: June 1, 2004
Effective: July 2, 2004

Environmental Quality

Water Quality

No. 27021 (AMD): R317-6. Ground Water Quality Protection.
Published: April 15, 2004
Effective: July 12, 2004

No. 26797 (CPR): R317-401. Graywater Systems.
Published: April 15, 2004
Effective: July 2, 2004

No. 26797 (NEW): R317-401. Graywater Systems.
Published: December 1, 2003
Effective: July 2, 2004

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 27176 (AMD): R414-49. Dental Service.
Published: June 1, 2004
Effective: July 2, 2004

No. 27143 (NEW): R414-401. Nursing Care Facility Assessment.

Published: June 1, 2004
Effective: July 2, 2004

No. 27171 (AMD): R414-504. Nursing Facility Payments.

Published: June 1, 2004
Effective: July 2, 2004

Human Resource Management

Administration

No. 27160 (AMD): R477-1. Definitions.

Published: June 1, 2004
Effective: July 2, 2004

No. 27161 (AMD): R477-2. Administration.

Published: June 1, 2004
Effective: July 2, 2004

No. 27162 (AMD): R477-3. Classification.

Published: June 1, 2004
Effective: July 2, 2004

No. 27163 (AMD): R477-4. Filling Positions.

Published: June 1, 2004
Effective: July 2, 2004

No. 27165 (AMD): R477-6. Compensation.

Published: June 1, 2004
Effective: July 2, 2004

No. 27166 (AMD): R477-7. Leave.

Published: June 1, 2004
Effective: July 2, 2004

No. 27167 (AMD): R477-8. Working Conditions.

Published: June 1, 2004
Effective: July 2, 2004

No. 27168 (AMD): R477-9. Employee Conduct.

Published: June 1, 2004
Effective: July 2, 2004

No. 27169 (AMD): R477-11. Discipline.

Published: June 1, 2004
Effective: July 2, 2004

No. 27170 (AMD): R477-12. Separations.

Published: June 1, 2004
Effective: July 2, 2004

Labor Commission

Occupational Safety and Health

No. 27147 (AMD): R614-1-4. Incorporation of Federal Standards.

Published: June 1, 2004

Effective: July 2, 2004

No. 27148 (AMD): R614-1-5. Adoption and Extension of Established Federal Safety Standards and State of Utah General Safety Orders.

Published: June 1, 2004

Effective: July 2, 2004

Natural Resources

Parks and Recreation

No. 27153 (AMD): R651-407. Off-Highway Vehicle Advisory Council.

Published: June 1, 2004

Effective: July 5, 2004

No. 27154 (AMD): R651-619-2. Alcohol in Buildings.

Published: June 1, 2004

Effective: July 5, 2004

No. 27152 (AMD): R651-626. Skating and Skateboards.

Published: June 1, 2004

Effective: July 5, 2004

Wildlife Resources

No. 27159 (AMD): R657-5. Taking Big Game.

Published: June 1, 2004

Effective: July 2, 2004

No. 27158 (AMD): R657-27. License Agent Procedures.

Published: June 1, 2004

Effective: July 2, 2004

School and Institutional Trust Lands

Administration

No. 27178 (AMD): R850-70. Sales of Forest Products from Trust Lands Administration Lands.

Published: June 1, 2004

Effective: July 2, 2004

End of the Notices of Rule Effective Dates Section

RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2004, including notices of effective date received through July 15, 2004, the effective dates of which are no later than August 1, 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/>).

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
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<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 (5YR EXTENSION)	26973	NSC	07/02/2004	Not Printed
R35-1	State Records Committee Appeal Hearing Procedures	27277	5YR	07/02/2004	2004-15/63
R35-2	Declining Appeal Hearings	27278	5YR	07/02/2004	2004-15/63

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R35-3	Prehearing Conferences	27279	5YR	07/02/2004	2004-15/64
R35-4	Compliance with State Records Committee Decisions and Orders	27280	5YR	07/02/2004	2004-15/64
R35-5	Subpoenas Issued by the Records Committee	27281	5YR	07/02/2004	2004-15/65
R35-6	Expedited Hearings	27282	5YR	07/02/2004	2004-15/65

Agriculture and Food

Animal Industry

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

Plant Industry

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

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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	2004-15/66
R70-330	Raw Milk for Retail	27069	AMD	06/02/2004	2004-9/4
R70-630	Water Vending Machine	27291	5YR	07/13/2004	2004-15/66

Alcoholic Beverage Control

Administration

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
R81-3-17	Consignment Inventory Package Agencies	27042	AMD	06/01/2004	2004-8/24
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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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	CPR	02/19/2004	2004-2/10
R156-17a-612	Operating Standards - Pharmaceutical Wholesaler/Distributor and Pharmaceutical Manufacturer located in Utah	26754	AMD	02/19/2004	2003-22/11
R156-22-503	Administrative Penalties	26859	NSC	01/01/2004	Not Printed
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
R156-38	Residence Lien Restriction and Lien Recovery Fund Rules	27020	AMD	07/26/2004	2004-8/39
R156-38	Residence Lien Restriction and Lien Recovery Fund Rules	27020	CPR	07/26/2004	2004-12/74
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
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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>					
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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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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R162-106-8	Draft Reports	27098	AMD	07/28/2004	2004-9/11
R162-201	Residential Mortgage Definitions	27129	NEW	06/29/2004	2004-10/15
R162-202	Residential Mortgage Renewal Period	26837	AMD	02/03/2004	2004-1/10
R162-202	Initial Application	27130	AMD	06/29/2004	2004-10/15
R162-203	Changes to Residential Mortgage Registration Statement	26909	AMD	04/12/2004	2004-4/7
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>					
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R164-11-2	Hearings for Certain Exchanges of Securities	26481	CPR	01/05/2004	2003-23/83
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<u>Administration</u>					
R270-1	Award and Reparations Standards	27157	AMD	07/02/2004	2004-11/7
Education					
<u>Administration</u>					
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R277-105	Recognizing Constitutional Freedoms in the Schools	27214	5YR	06/01/2004	2004-12/80
R277-402	Online Testing	27202	NEW	07/16/2004	2004-12/5
R277-413	Accreditation of Secondary Schools, Alternative or Special Purpose Schools	26959	5YR	02/26/2004	2004-6/58
R277-418	School Professional Development Days Pilot Program	27203	NEW	07/16/2004	2004-12/7
R277-422	State Supported Voted Leeway	27204	AMD	07/16/2004	2004-12/8
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
R277-486	Professional Staff Cost Program	26828	NEW	01/15/2004	2003-24/5
R277-501	Educator Licensing Renewal	26980	AMD	04/15/2004	2004-6/5
R277-501	Educator Licensing Renewal	27206	AMD	07/16/2004	2004-12/10
R277-502	Educator Licensing and Data Retention	26827	AMD	01/15/2004	2003-24/6
R277-502	Educator Licensing and Data Retention	27207	AMD	07/16/2004	2004-12/15

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R277-511	Eminence or Special Qualification Authorization for Teaching in the Public Schools	27213	REP	07/16/2004	2004-12/19
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R277-517	Athletic Coaching Certification	26852	AMD	02/05/2004	2004-1/18
R277-518	Vocational-Technical Certificates	27000	AMD	05/05/2004	2004-7/8
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R277-520	Appropriate Licensing and Assignment of Teachers	27210	AMD	07/16/2004	2004-12/21
R277-522	Entry Years Enhancements (EYE) for Quality Teaching - Level 1 Utah Teachers	27211	AMD	07/16/2004	2004-12/25
R277-524	Paraprofessional Qualifications	26853	NEW	02/05/2004	2004-1/25
R277-601	Standards for Utah School Buses and Operations	26961	5YR	02/26/2004	2004-6/59
R277-700	The Elementary and Secondary School Core Curriculum	26902	AMD	03/03/2004	2004-3/10
R277-712	Advanced Placement Programs	26962	5YR	02/26/2004	2004-6/60
R277-720	Child Nutrition Programs	26830	AMD	01/15/2004	2003-24/10
R277-724	Criteria for Sponsors Recruiting Day Care Facilities in the Child and Adult Care Food Program	26829	NEW	01/15/2004	2003-24/11
R277-725	Electronic High School	26982	NEW	04/15/2004	2004-6/12
R277-734	Standards and Procedures for Adult Education Section 353 Funds	26963	5YR	02/26/2004	2004-6/60
R277-734	Standards and Procedures for Adult Education Section 353 Funds	27001	REP	05/05/2004	2004-7/11
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R277-916	Technology, Life, and Careers, and Work-Based Learning Programs	27212	5YR	06/01/2004	2004-12/81
<u>Rehabilitation</u>					
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R307-110-12	Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide	26896	CPR	05/18/2004	2004-8/87
R307-110-28	Regional Haze	26946	AMD	06/08/2004	2004-5/9
R307-110-31	Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements	26898	AMD	05/18/2004	2004-3/13
R307-110-31	Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements	26898	CPR	05/18/2004	2004-8/87
R307-110-34	Section X, Vehicle Inspection and Maintenance Program, Part D, Utah County	26899	CPR	05/18/2004	2004-8/88
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R307-150	Emission Inventories	26942	5YR	02/09/2004	2004-5/43
R307-214	National Emission Standards for Hazardous Air Pollutants	26939	5YR	02/09/2004	2004-5/44
R307-214	National Emission Standards for Hazardous Air Pollutants (5YR EXTENSION)	26887	NSC	02/09/2004	Not Printed

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R307-301	Utah and Weber Counties: Oxygenated Gasoline Program.	26897	AMD	05/18/2004	2004-3/15
R307-309	Davis, Salt Lake and Utah Counties, Ogden City and Any Nonattainment Area for PM10: Fugitive Emissions and Fugitive Dust	27217	5YR	06/08/2004	2004-13/69
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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-115	Items that Constitute Protective Equipment Pursuant to Utah Code Ann. Section 59-12-102	27091	AMD	06/29/2004	2004-9/53
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
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R865-21U-1	Nature of Tax Pursuant to Utah Code Ann. Section 59-12-103	27092	AMD	06/29/2004	2004-9/56
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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
R907-67	Suspension of Contractors from Work on Department Projects -- Reasons	26720	NEW	01/05/2004	2003-22/50
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R986-400	General Assistance and Working Toward Employment	26706	AMD	01/01/2004	2003-21/81
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R994-201	Definition of Terms in Employment Security Act	26928	AMD	04/04/2004	2004-4/42
R994-309	Nonprofit Organizations	27297	5YR	07/14/2004	2004-15/67
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ABBREVIATIONS

AMD = Amendment
 CPR = Change in proposed rule
 EMR = Emergency rule (120 day)
 NEW = New rule
 EXD = Expired

NSC = Nonsubstantive rule change
 REP = Repeal
 R&R = Repeal and reenact
 5YR = Five-Year Review

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<u>accountants</u> Commerce, Occupational and Professional Licensing	27019	R156-26a-303b	AMD	05/24/2004	2004-8/32
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	26773	R602-2-1	AMD	01/02/2004	2003-23/47
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<u>administrative rules</u> Human Resource Management, Administration	27170	R477-12	AMD	07/02/2004	2004-11/57
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	26942	R307-150	5YR	02/09/2004	2004-5/43
	26887	R307-214	NSC	02/09/2004	Not Printed
	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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	27144	R307-343	NSC	06/08/2004	Not Printed
	26940	R307-415	5YR	02/09/2004	2004-5/45
	27107	R307-420	NSC	06/08/2004	Not Printed
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	26693	R156-56	AMD	01/01/2004	2003-21/7
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