

UTAH STATE BULLETIN

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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/>

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Division of Administrative Rules, Salt Lake City 84114

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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 February 2, 2005, 12:00 a.m., and February 15, 2005, 11:59 p.m. are included in this, the March 1, 2005, 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 Rules being repealed are completely struck out.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 March 31, 2005. 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 June 29, 2005, 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.

Commerce, Occupational and
Professional Licensing
R156-22
Professional Engineers and
Professional Land Surveyors Licensing
Act Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 27698

FILED: 02/10/2005, 09:39

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Professional Engineers and Professional Land Surveyors Licensing Board are proposing amendments to: 1) reorganize the rule to be consistent with the Division's model format; 2) clarify continuing education provisions; 3) eliminate outdated provisions; and 4) make technical amendments.

SUMMARY OF THE RULE OR CHANGE: In Subsection R156-22-102(6), deleted an incorrect statutory citation, and combined old Sections R156-22-201 and R156-22-301 regarding education requirements for professional engineers and professional land surveyors into a new Section R156-22-302b.

In the new Section R156-22-302b added as a clarification in the rule that a TAC/ABET (Technology Accreditation Commission/Accreditation Board of Engineering and Technology) accredited degree is not acceptable to meet the qualifications for licensure as a professional engineer. This is not a substantive change but is being added to eliminate confusion by applicants. Also combined old Sections R156-22-202, R156-22-203, and R156-22-302 regarding experience requirements into a new Section R156-22-302c. In the new Section R156-22-302c, deleted Subsection (1)(b) to eliminate a redundant provision. The recognized jurisdictions as specified in Subsection R156-22-102(5) already require this experience. A person could not be licensed in that jurisdiction without meeting Utah's experience requirement. In the new Section R156-22-302c, deleted Subsection (2) to eliminate outdated information. The information contained in this paragraph conflicts with Subsection R156-22-302c(1)(a)(i)(A) which only allows one year experience prior to graduation if completed prior to January 1, 2005. In the new Subsection R156-22-302c(2)(a), added the term "three years" to required professional structural engineering experience. The three year requirement is already contained in the statute but it makes it easier to read the rule if it is specified here as well. In the new Section R156-22-302c, deleted Subsection (3)(b) to eliminate a redundant provision. The recognized jurisdictions as specified in Subsection R156-22-102(5) already require this experience. A person could not be licensed in that jurisdiction without meeting Utah's experience requirement. Combined old Sections R156-22-204, R156-22-205, R156-22-303, and R156-22-401 regarding examination requirements into a new Section R156-22-302d. In the new Section R156-22-302d, deleted Subsection (3) to eliminate the requirement for Board review before an applicants sits for an

examination more than three times for professional engineers.

This same paragraph was also eliminated in the paragraphs affecting professional structural engineers and professional land surveyors. Also in the new Section R156-22-302d, deleted Subsection (2)(a)(ii) regarding the California Structural Examination as the provision no longer applied after July 1, 2004. The old Section R156-22-501 regarding continuing education was changed to Section R156-22-304. In the new Section R156-22-304, Subsection (4)(b), added that teaching a class only counts for continuing education for the instructor only the first time it is taught. In the new Section R156-22-304, Subsection (4)(d) was deleted to eliminate confusion regarding active in the profession, which is meant to be on the job training. If the on the job training meets the other requirements, there is no maximum for seminars on the job. In the new Section R156-22-304, Subsection (4)(d), changed that a maximum of eight hours per two year period may be earned at the rate of one hour for each hour served on committees or in leadership roles in professional organizations to match engineer national model rules. In the new Section R156-22-304, Subsection (4)(e) was added to indicate that unlimited hours may be recognized for continuing education that is provided via the Internet or through home study as long as a test is given at the conclusion. In the new Section R156-22-304, Subsection (8) was added to provide that any licensee who fails to timely complete the continuing education required shall be required to complete double the number of hours missed to be eligible for renewal or reinstatement of licensure. Section R156-22-503 regarding Administrative Penalties was renumbered to Section R156-22-501. Section R156-22-601 regarding Unprofessional Conduct was renumbered to Section R156-22-502. Section R156-22-701 regarding Seal Requirements was renumbered to Section R156-22-601.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-22-101, and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division will incur minimal costs of approximately \$75 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: The Proposed amendments do not apply to local governments; therefore, there are no cost or savings to local government.

❖ OTHER PERSONS: The proposed amendments will only impact professional engineers, professional structural engineers, and professional land surveyors and persons applying for licensure in those classifications. The Division does not anticipate any costs to those licensees/applicants as a result of these proposed amendments. The added clarity of the rule may result in some minor savings in time for licensees/applicants who need to understand the rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments will only impact professional engineers, professional structural engineers, and professional land surveyors and persons applying for licensure in those classifications. The Division does not anticipate any costs to

those licensees/applicants as a result of these proposed amendments. The added clarity of the rule may result in some minor savings in time for licensees/applicants who need to understand the rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing makes technical changes and clarifies existing practices and procedures. No fiscal impact to businesses is anticipated as a result of this rule filing. Russell C. Skousen, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/31/2005

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 3/09/2005 at 9:00 AM, Heber Wells Bldg, 160 E 300 S, Room 428, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2005

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.
R156-22. Professional Engineers and Professional Land Surveyors Licensing Act Rules.
R156-22-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 22, as used in Title 58, Chapters 1 and 22, or these rules:

(1) "Complete and final" as used in Section 58-22-603 means "complete construction plans" as defined in Subsection 58-22-102(3).

(2) "Direct supervision" as used in Subsection 58-22-102(10) means "supervision" as defined in Subsection 58-22-102(16).

(3) "Employee, subordinate, associate, or drafter of a licensee" as used in Subsections 58-22-102(16), 58-22-603(1)(b) and these rules means one or more individuals not licensed under this chapter, who are working for, with, or providing professional engineering, professional structural engineering, or professional land surveying services directly to and under the supervision of a person licensed under this chapter.

(4) "Engineering surveys" as used in Subsection 58-22-102(9) include all survey activities required to support the sound conception, planning, design, construction, maintenance, and operation of engineered projects, but exclude the surveying of real

property for the establishment of land boundaries, rights-of-way, easements, alignment of streets, and the dependent or independent surveys or resurveys of the public land survey system.

(5) "Recognized jurisdiction" as used in Subsection 58-22-302(4)(d)(i), for licensure by endorsement, means any state, district or territory of the United States, or any foreign country who issues licenses for professional engineers, professional structural engineers, or professional land surveyors, and whose licensure requirements include:

(a) Professional Engineer.

(i) a bachelors or post graduate degree in engineering or equivalent education as determined by the Engineering Credentials Evaluation International and four years of full time engineering experience under supervision of one or more licensed engineers; or eight years of full time engineering experience under supervision of one or more licensed professional engineers; and

(ii) passing the NCEES Principles and Practice of Engineering Examination (PE) or passing a professional engineering examination that is substantially equivalent to the NCEES Principles and Practice of Engineering Examination.

(b) Professional Structural Engineer.

(i) a bachelors or post graduate degree in engineering or equivalent education as determined by the Engineering Credentials Evaluation International (ECEI) and four years of full time engineering experience under supervision of one or more licensed engineers; or eight years of full time engineering experience under supervision of one or more licensed professional engineers;

(ii) passing the NCEES Structural I and II Examination; and

(iii) three years of licensed experience in professional structural engineering.

(c) Professional Land Surveyor.

(i) a two or four year degree in land surveying or equivalent education as determined by the Engineering Credentials Evaluation International (ECEI) and four years of full time land surveying experience under supervision of one or more licensed professional land surveyors; or eight years of full time land surveying experience under supervision of one or more licensed professional land surveyors; and

(ii) passing the NCEES Principles and Practice of Land Surveying Examination (PLS) or passing a professional land surveying examination that is substantially equivalent to the NCEES Principles and Practice of Land Surveying Examination.

(6) "Responsible charge" by a principal as used in Subsection[s] 58-22-102(7) [~~and 58-22-305(7)(a)~~] means that the licensee is assigned to and is personally accountable for the production of specified professional engineering, professional structural engineering or professional land surveying projects within an organization.

(7) "TAC/ABET" means Technology Accreditation Commission/Accreditation Board for Engineering and Technology.

(8) "Under the direction of the licensee" as used in Subsection 58-22-102(16), as part of the definition of "supervision of an employee, subordinate, associate, or drafter of a licensee", means that the unlicensed employee, subordinate, associate, or drafter of a person licensed under this chapter engages in the practice of professional engineering, professional structural engineering, or professional land surveying only on work initiated by a person licensed under this chapter, and only under the administration, charge, control, command, authority, oversight, guidance, jurisdiction, regulation, management, and authorization of a person licensed under this chapter.

(9) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 22, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-22-~~604~~502.

R156-22-~~204~~302b. ~~Engineering Program Criteria~~ ~~Qualifications for Licensure - Education Requirements.~~

(1) Education requirements - Professional Engineer.

In accordance with Subsections 58-22-302(1)(d) and 58-22-302(2)(d), the engineering program criteria is established as one of the following:

(~~1~~)a The bachelors or post graduate engineering program shall be accredited by EAC/ABET or the Canadian Engineering Accrediting Board (CEAB).

(~~2~~)b The post graduate engineering degree, when not accredited by EAC/ABET or CEAB, shall be earned from an institution which offers a bachelors or masters degree in an engineering program accredited by EAC/ABET or CEAB in the same specific engineering discipline as the earned post graduate degree.

(~~3~~)c If the degree was earned in a foreign country, the engineering curriculum shall be determined to be equivalent to a EAC/ABET accredited program by the Engineering Credentials Evaluation International. Only deficiencies in course work in the humanities, social sciences and liberal arts and no more than five semester hours in math, science or engineering, not to exceed a total of 10 semester hours noted by the credentials evaluation may be satisfied by successfully completing the deficiencies in course work at a recognized college or university approved by the division in collaboration with the board. Engineering course work deficiencies must be completed at an EAC/ABET approved program.

~~(d) A TAC/ABET accredited degree is not acceptable to meet the qualifications for licensure as a professional engineer.~~

(2) Education requirements - Professional Land Surveyor.

~~R156-22-301. Equivalent Land Surveying Program for Licensure as a Professional Land Surveyor.~~

In accordance with Subsection 58-22-302(3)(d), an equivalent land surveying program for licensure as a professional land surveyor is defined as an earned bachelors or masters degree from a curriculum related to land surveying and completion of a minimum of 22 semester hours or 32 quarter hours of course work in land surveying which shall include the following courses:

(a) successful completion of a minimum of one course in each of the following content areas:

- (i) boundary law;
- (ii) writing legal descriptions;
- (iii) public land survey system;
- (iv) surveying field techniques; and

(b) the remainder of the 22 semester hours or 32 quarter hours may be made up of successful completion of courses from the following content areas:

- (i) photogrammetry;
- (ii) studies in land records or land record systems;
- (iii) survey instrumentation;
- (iv) global positioning systems;
- (v) geodesy;
- (vi) control systems;
- (vii) land development;
- (viii) drafting, not to exceed six semester hours or eight quarter hours; and

(ix) algebra, geometry, trigonometry, not to exceed six semester hours or eight quarter hours.

R156-22-~~202~~302c. ~~Qualifying Experience for Licensure as a Professional Engineer~~ ~~Qualifications for Licensure - Experience Requirements.~~

(1) Experience Requirements - Professional Engineer.

(~~1~~)a In accordance with Subsection 58-22-302(1)(e), an applicant for licensure as a professional engineer shall comply with one or more of the following qualifying experience requirements:

(~~1~~)i Submit verification of qualifying experience from one or more licensed professional engineers who have provided supervision or who have personal knowledge of the applicant's knowledge, ability, and competence to practice professional engineering documenting completion of a minimum of four calendar years of qualifying experience in professional engineering approved by the division in collaboration with the board in accordance with the following:

(~~1~~)A Up to one year of qualifying experience may be obtained while enrolled in an engineering program meeting the criteria set forth in Section R156-22-~~204~~302b(1) if completed before January 1, 2005.

(~~1~~)B Unlimited qualifying experience may be obtained after meeting the education requirements.

(~~1~~)C A maximum of three of the four years of qualifying experience may be approved by the board for persons who complete one or more of the following:

(~~1~~)A A maximum of three years of qualifying experience may be granted for teaching advanced engineering subjects in a college or university offering an engineering curriculum accredited by EAC/ABET.

(~~1~~)B A maximum of three years of qualifying experience may be granted for conducting research in a college or university offering an engineering curriculum accredited by EAC/ABET.

(~~1~~)C A maximum of one year of qualifying experience may be granted for completion of a masters degree in engineering provided that both the earned bachelors and masters degree in engineering meet the program criteria set forth in ~~Section~~ Subsection R156-22-~~204~~302b(1).

(~~1~~)D A maximum of two years of qualifying experience may be granted for completion of a doctorate degree in engineering provided that both the earned bachelors or masters degree and doctorate degree in engineering meet the program criteria set forth in ~~Subsection R156-22-302b(1).~~ ~~Section R156-22-201; or~~

~~(b) Submit documentation of two years of licensed experience in a recognized jurisdiction as a professional engineer.~~

~~(2) An applicant who was unsuccessful in obtaining licensure by experience before July 1, 1996, but who passed the NCEES Fundamentals of Engineering Examination and completed four years of qualifying experience before July 1, 1996, and who thereafter completes the education requirements in Section R156-22-201, may receive credit for the qualifying experience obtained before July 1, 1996 regardless of the requirements of Subsection (1).]~~

(~~3~~)b The performance or supervision of construction work as a contractor, foreman or superintendent is not qualifying experience for licensure as a professional engineer.

(~~4~~)c Full or part time employment, research, or teaching for periods of time less than ten weeks in length will not be considered as qualifying experience.

~~R156-22-203. Experience Requirements for Licensure as a Professional Structural Engineer.~~**~~(2) Experience Requirements - Professional Structural Engineer.~~**

~~(1) In accordance with Subsection 58-22-302(2)(e), each applicant shall submit verification of three years of professional structural engineering experience from one or more licensed professional engineers or professional structural engineers who have personal knowledge of the applicant's knowledge, ability and competence to practice professional structural engineering, which experience is in addition to the qualifying experience required for licensure as a professional engineer.~~

~~(2) Professional structural engineering experience shall include responsible charge of structural design in one or more of the following areas:~~

~~(a) structural design of any building or structure two stories and more, or 45 feet in height, designed in Uniform Building Code (UBC) seismic zones 2, 3, or 4;~~

~~(b) structural design for a major seismic retrofit/rehabilitation of an existing building or structure in UBC seismic zones 2, 3, or 4; or~~

~~(c) structural design of any other structure of comparable structural complexity.~~

~~Professional structural engineering experience shall include structural design in all of the following areas:~~

~~(1) use of three of the following four materials as they relate to the design, rehabilitation or investigation of buildings or structures:~~

~~(A) steel;~~

~~(B) concrete;~~

~~(C) wood; or~~

~~(D) masonry;~~

~~(2) selection of framing systems including the consideration of alternatives and the selection of an appropriate system for the interaction of structural components to support vertical and lateral loads;~~

~~(3) selection of foundation systems including the consideration of alternatives and the selection of an appropriate type of foundation system to support the structure;~~

~~(4) design and detailing for the transfer of forces between stories in multi-story buildings or structures;~~

~~(5) application of lateral design in the design of the buildings or structures in addition to any wind design requirements; and~~

~~(6) application of the local, state and federal code requirements as they relate to design loads, materials, and detailing.~~

~~R156-22-302. Qualifying Experience for Licensure as a Professional Land Surveyor.~~**~~(3) Experience Requirements - Professional Land Surveyor.~~**

~~(1) In accordance with Subsections 58-22-302(3)(d), an applicant for licensure as a professional land surveyor shall comply with one or more of the following qualifying experience requirements:~~

~~(a) Submit verification of qualifying experience from one or more licensed professional land surveyors who have provided supervision or who have personal knowledge of the applicant's knowledge, ability, field experience and competence to practice professional land surveying in accordance with the following:~~

~~(A) Applicants who have met the education requirements in Subsection 58-22-302(3)(d)(i) shall document four years of~~

qualifying experience in land surveying which experience may be obtained before, during or after completing the education requirements for licensure.

~~(B) Applicants who did not complete the education requirements in Subsection 58-22-302(3)(d)(i) shall document eight years of qualifying experience in land surveying prior to January 1, 2007;~~

~~(b) Submit documentation of two years of licensed experience in a recognized jurisdiction as a professional land surveyor.~~

~~(2) The four years of qualifying experience required in R156-22-~~302(1)(a)(i)~~302c(3)(a)(i)(A) and four of the eight years required in R156-22-~~302(1)(a)(ii)~~302c(3)(a)(i)(B) shall comply with the following:~~

~~(a) Two years of experience should be specific to field surveying with actual "hands on" surveying, including all of the following:~~

~~(A) operation of various instrumentation;~~

~~(B) review and understanding of plan and plat data;~~

~~(C) public land survey systems;~~

~~(D) calculations;~~

~~(E) traverse;~~

~~(F) staking procedures;~~

~~(G) field notes and manipulation of various forms of data encountered in horizontal and vertical studies; and~~

~~(2) Two years of experience should be specific to office surveying, including all of the following:~~

~~(A) drafting (includes computer plots and layout);~~

~~(B) reduction of notes and field survey data;~~

~~(C) research of public records;~~

~~(D) preparation and evaluation of legal descriptions; and~~

~~(E) preparation of survey related drawings, plats and record of survey maps.~~

~~(3) The remaining ~~four years or two years of~~ qualifying experience required in R156-22-~~302(1)(a)(ii)~~302c(3)(a)(i)(B) shall include any aspects of the practice of land surveying under the supervision of a licensed professional land surveyor in accordance with Subsection 58-22-102(16).~~

~~(4) Full or part time employment for periods of time less than ten weeks in length will not be considered as qualifying experience.~~

~~R156-22-~~204~~302d. Examination Requirements for Licensure as a Professional Engineer. Qualifications for Licensure - Examination Requirements.~~**~~(1) Examination Requirements - Professional Engineer.~~**

~~(1) In accordance with Subsection 58-22-302(1)(f), the examination requirements for licensure as a professional engineer are defined, clarified or established as the following:~~

~~(a) the NCEES Fundamentals of Engineering (FE) Examination with a passing score as established by the NCEES;~~

~~(b) a NCEES Principles and Practice of Engineering (PE) Examination other than Structural II with a passing score as established by the NCEES; and~~

~~(c) as part of the application for license, pass all questions on the open book, take home Utah Law and Rules Examination.~~

~~(2) An applicant must have successfully completed the qualifying experience requirements set forth in ~~Section~~ Subsection R156-22-~~202~~302c(1), and have successfully completed the education requirements set forth in ~~Section~~ Subsection R156-22-~~204~~302b(1) ~~and make application~~ before being eligible to sit for the NCEES PE examination.~~

~~—(3) Candidates with three or more unsuccessful attempts on an NCEES examination, regardless of where taken, must submit a new application to the Division to be re-qualified for future administrations of the same examination. If re-qualified by the Division, applicants must wait 12 months before being re-seated for the next scheduled examination. At the end of the 12-month period, the applicant may take the exam no more than once every calendar year.]~~

~~[(4)c] The admission criteria to sit for the NCEES FE examination is set forth in Section 58-22-306.[~~

~~**R156-22-205. Examination Requirements for Licensure as a Professional Structural Engineer.]**~~

~~**(2) Examination Requirements - Professional Structural Engineer.**~~

~~[(1)a] In accordance with Subsection 58-22-302(2)(f), the examination requirements for licensure as a professional structural engineer are defined, clarified, or established as the following:~~

~~[(a)i] the NCEES Fundamentals of Engineering Examination (FE) with a passing score as established by the NCEES;~~

~~[(b)ii] [one of the following professional examinations:~~

~~—(i)—]the NCEES Structural I and Structural II Examinations with a passing score as established by the NCEES; [or~~

~~—(ii) prior to July 1, 2004, the 16-hour California Structural Examination with a passing score as established by the California Engineering Board; however, after July 1, 2004, this exam will not be accepted;]and~~

~~[(e)iii] as part of the application for license, pass all questions on the open book, take home Utah Law and Rules Examination.~~

~~[(2)b] An applicant must have successfully completed the experience requirements set forth in Subsection R156-22-[203(2) and make application]302c(2) before being eligible to sit for the NCEES Structural Examination(s).]~~

~~—(3) Candidates with three or more unsuccessful attempts on an NCEES examination, regardless of where taken, must submit a new application to the Division to be re-qualified for future administrations of the same examination. If re-qualified by the Division, applicants must wait 12 months before being re-seated for the next scheduled examination. At the end of the 12-month period, the applicant may take the exam no more than once every calendar year.~~

~~**R156-22-303. Examination Requirements for Licensure as a Professional Land Surveyor.]**~~

~~**(3) Examination Requirements - Professional Land Surveyor.**~~

~~[(1)a] In accordance with Subsection 58-22-302(3)(g), the examination requirements for licensure as a professional land surveyor are established as the following:~~

~~[(a)i] the NCEES Fundamentals of Land Surveying (FLS) Examination with a passing score as established by the NCEES;~~

~~[(b)ii] the NCEES Principles and Practice of Land Surveying (PLS) Examination with a passing score as established by the NCEES; and~~

~~[(e)iii] the Utah Local Practice Examination with a passing score of at least 75.~~

~~[(2)b] An applicant must have successfully completed the education and qualifying experience requirements set forth in Subsections R156-22-[301 and 302 and make application]302b(2) and 302c(3) before being eligible to sit for the NCEES PLS examination.]~~

~~—(3) Candidates with three or more unsuccessful attempts on an NCEES examination, regardless of where taken, must submit a new application to the Division to be re-qualified for future administrations of the same examination. If re-qualified by the Division, applicants must wait 12 months before being re-seated for the next scheduled examination. At the end of the 12-month period, the applicant may take the exam no more than once every calendar year.~~

~~**R156-22-401. Examination Requirements for Licensure by Endorsement.]**~~

~~**(4) Examination Requirements for Licensure by Endorsement.**~~

~~In accordance with Subsection 58-22-302(4)(d)(ii), the examination requirements for licensure by endorsement are established as follows:~~

~~[(1)a] Professional Engineer: An applicant for licensure as a professional engineer by endorsement shall comply with the examination requirements in [Section]Subsection R156-22-[204]302d(1) except that the board may waive one or more of the following examinations under the following conditions:~~

~~[(a)i] the NCEES FE Examination for an applicant who is a principal for five of the last seven years preceding the date of the license application and who was not required to pass the NCEES FE Examination for initial licensure from the recognized jurisdiction the applicant was originally licensed;~~

~~[(b)ii] the NCEES PE Examination for an applicant who is a principal for five of the last seven years preceding the date of the license application, who has been licensed for 20 years preceding the date of the license application, and who was not required to pass the NCEES PE Examination for initial licensure from the recognized jurisdiction the applicant was originally licensed.~~

~~[(2)b] Professional Structural Engineer: An applicant for licensure as a professional structural engineer by endorsement shall comply with the examination requirements in [Section]Subsection R156-22-[205]302d(2) except that the board may waive the NCEES FE Examination for an applicant who is a principal for five of the last seven years preceding the date of the license application and who was not required to pass the NCEES FE Examination for initial licensure from the recognized jurisdiction the applicant was originally licensed.~~

~~[(3)c] Professional Land Surveyor: An applicant for licensure as a professional land surveyor by endorsement shall comply with the examination requirements in [Section]Subsection R156-22-[303]302d(3) except that the board may waive either the NCEES FLS Examination or the NCEES PLS Examination or both to an applicant who is a principal for five of the last seven years preceding the date of the license application and who was not required to pass the NCEES FLS Examination or the PLS Examination for initial licensure from the recognized jurisdiction the applicant was originally licensed.~~

~~**R156-22-[501]304. Continuing Education for Professional Engineers, Professional Structural Engineers and Professional Land Surveyors.**~~

~~In accordance with Subsection 58-22-303(2) and Section 58-22-304, the qualifying continuing professional education standards for professional engineers, professional structural engineers and professional land surveyors are established as follows:~~

~~(1) During each two year period ending on December 31 of each even numbered year, a licensed professional engineer,~~

professional structural engineer and professional land surveyor shall be required to complete not less than 24 hours of qualified professional education directly related to the licensee's professional practice.

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

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

(a) have an identifiable clear statement of purpose and defined objective for the educational program directly related to the practice of a professional engineer, professional structural engineer, or professional land surveyor;

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

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

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

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

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

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

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

(c) a maximum of four hours per two year period may be recognized for preparation of papers, articles, or books directly related to the practice of professional engineering, professional structural engineering or professional land surveying and submitted for publication; and

(d) ~~[a maximum of six hours per two year period may be recognized for active professional practice of professional engineering, professional structural engineering or professional land surveying; and~~

~~—(e)—[a maximum of six]eight hours per two year period may be recognized [for active membership]at the rate of one hour for each hour served on committees or in leadership roles in any state, national or international organization for the development and improvement of the profession of professional engineering, professional structural engineering or professional land surveying[.] but no more than four of the eight hours may be obtained from such activity in any one organization;~~

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

(5) A licensee shall be responsible for maintaining records of completed qualified continuing professional education for a period of four years after close of the two year period to which the records

pertain. It is the responsibility of the licensee to maintain information with respect to qualified continuing professional education to demonstrate it meets the requirements under this section.

(6) If a licensee exceeds the 24 hours of qualified continuing professional education during the two year period, the licensee may carry forward a maximum of 12 hours of qualified continuing professional education into the next two year period.

(7) A licensee who documents they are engaged in full time activities or is subjected to circumstances which prevent that licensee from meeting the continuing professional education requirements established under this section may be excused from the requirement for a period of up to three years. However, it is the responsibility of the licensee to document the reasons and justify why the requirement could not be met.

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

R156-22-[503]501. Administrative Penalties - Unlawful Conduct.

In accordance with Subsections 58-1-501, 58-1-501(1)(a) through (d), 58-22-501 and 58-22-503, unless otherwise ordered by the presiding officer, the following fine schedule shall apply.

(1) Engaging in unlicensed practice or using any title that would cause a reasonable person to believe the user of the title is licensed under this chapter.

First Offense: \$400

Second Offense: \$1,000

(2) Engaging in, or representing oneself as engaged in the practice of professional engineering or land surveying as a corporation, proprietorship, partnership, or limited liability company unless exempted from licensure.

First Offense: \$400

Second Offense: \$1,000

(3) Impersonating another licensee or engaging in practice under this chapter using a false or assumed name, unless permitted by law.

First Offense: \$400

Second Offense: \$1,000

(4) Knowingly employing any person to practice under this chapter who is not licensed to do so.

First Offense: \$600

Second Offense: \$1,200

(5) Knowingly permits any person to use his or her license except as permitted by law.

First Offense: \$600

Second Offense: \$1,200

(6) For third and subsequent offenses a fine of up to \$2,000 may be assessed for each day of continued offense as provided in Subsection 58-22-503(1)(i)(iii).

R156-22-[604]502. Unprofessional Conduct.

"Unprofessional conduct" includes:

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

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

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

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

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

(4) failing to conform to the accepted and recognized standards and ethics of the profession including those stated in the "Model Rules of Professional Conduct" of the National Council of Examiners for Engineering and Surveying (NCEES), 1997, which is hereby incorporated by reference.

R156-22-[704]601. Seal Requirements.

(1) In accordance with Section 58-22-601, all final plans, specifications, reports, maps, sketches, surveys, drawings, documents and plats prepared by the licensee or prepared under the supervision of the licensee, shall be sealed in accordance with the following:

(a) Each seal shall be a circular seal, 1-1/2 inches minimum diameter.

(b) Each seal shall include the licensee's name, license number, "State of Utah", and "Professional Engineer", "Licensed Professional Engineer", "Registered Professional Engineer", "Certified Structural Engineer", "Structural Engineer", "Licensed Professional Structural Engineer", "Professional Structural Engineer", "Land Surveyor", "Professional Land Surveyor", "Licensed Professional Land Surveyor" or "Licensed Land Surveyor", as appropriate.

(c) Each seal shall be signed and dated with the signature and date appearing across the face of each seal imprint.

(d) Each original set of final plans, specifications, reports, maps, sketches, surveys, drawings, documents and plats, as a minimum, shall have the original seal imprint, original signature and date placed on the cover or title sheet.

(e) A seal may be a wet stamp, embossed, or electronically produced.

(f) Copies of the original set of plans, specifications, reports, maps, sketches, surveys, drawings, documents and plats which contain the original seal, original signature and date is permitted, if the seal, signature and date is clearly recognizable.

(2) A person who qualifies for and uses the title of professional engineer intern is not permitted to use a seal.

KEY: engineers, surveyors, professional land surveyors, professional engineers

~~December 17, 2003~~ **2005**

Notice of Continuation January 13, 2003

58-22-101

58-1-106(1)(a)

58-1-202(1)(a)



Education, Administration
R277-410
 Accreditation of Schools

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 27705

FILED: 02/15/2005, 16:20

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to add and clarify definitions and update accreditation practices.

SUMMARY OF THE RULE OR CHANGE: The amendments add definitions, clarify the Northwest Accreditation process, and provide that public schools shall accept credit from all Northwest accredited schools.

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

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There are no anticipated cost or savings to the state budget. The Utah State Office of Education responsibilities have been similar under all accreditation practices for more than 10 years.

❖ **LOCAL GOVERNMENTS:** There are no anticipated cost or savings to local government. The same practice has been in place for more than 10 years.

❖ **OTHER PERSONS:** There are no anticipated cost or savings to other persons. The same practice has been in place for more than 10 years.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The same practice has been in place for more than 10 years.

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 03/31/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2005

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.**R277-410. Accreditation of Schools.****R277-410-1. Definitions.**

A. "Accreditation" means formal Northwest and Board approval of a school that has met standards considered by the Board to be essential for the operation of a quality school program.

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

C. "Elementary school" for the purpose of this rule means grades K-6 in whatever kind of school the grade levels exists.

D. "Middle school" for the purpose of this rule means grades 7-8 in whatever kind of school the grade levels exist.

E. "Northwest" means the Northwest Association of Accredited Schools, the regional accrediting association of which Utah is a member.

F. "Secondary school" for the purpose of this rule means a school that includes grades 9-12 that offers credits toward high school graduation or diplomas or both in whatever kind of school the grade levels exist.

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

R277-410-2. 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, by Section 53A-1-402(1)(c) which directs the Board to adopt rules for school accreditation, 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 accreditation procedures and responsibility for public schools for which accreditation is required and for [private]nonpublic schools which voluntarily request [Board]Northwest accreditation.

R277-410-3. Accreditation of Public Schools.

[A. The accreditation program of the Northwest Association of Schools and Colleges is the accreditation program for high schools, special purpose schools, schools containing grades kindergarten through twelve, elementary schools, junior high schools, and middle schools.

B. Elementary schools, junior high schools, and middle schools may instead elect to be accredited in accordance with the standards and procedures adopted in R277-411 or R277-412.

C. All schools, except non-accredited elementary schools, shall complete the annual accreditation report and file it in accordance with USOE procedures.

D. Application for actual accreditation is voluntary. [A. The USOE has responsibility to facilitate accreditation by the Board for Utah public schools. The Board is not responsible for the accreditation of nonpublic schools, including private, parochial, or other independent schools.

B. Utah public secondary schools, as defined in R277-410-1F, including charter schools, shall be members of Northwest and be accredited by Northwest, except as exempted by R277-412-3C and R277-413-3K.

C. Utah public elementary and middle schools, as defined in R277-410-1C and D, including charter schools, that desire accreditation shall be members of Northwest and meet the requirements of R277-413. Northwest accreditation is optional for Utah elementary and middle schools.

D. All Northwest accredited schools shall complete the annual accreditation report and file the report in accordance with USOE procedures.

E. If a school includes grade levels for which accreditation is both mandatory and optional, the school shall be accredited in its entirety.

R277-410-4. Transfer of Credit.

[A. If a school is accredited by any member of the International Council of School Accreditation Commissions, credit earned at that school is accepted at face value in the public schools in Utah.

B. Credit shall be accepted at face value in the public schools of Utah if a private school is evaluated under the credit approval criteria as established by the Board. Criteria shall include:

— (1) Application for credit approval to the Board;

— (2) Accreditation by a regional or national organization representing the category of the applicant school. The school's accreditation team shall include a representative from the USOE and shall have included at least the following:

— (a) a written self-evaluation;

— (b) a listing of the school's course offerings;

— (c) a description of the process for appointment and evaluation of faculty;

— (d) a review of finance, governance, faculty and long range planning;

— (e) A description of how the subject matter credits requested for transfer relate to the State Core Curriculum standards.

C. If a school is not accredited, the school district to which the credit is to be transferred may decide whether or not to accept the credit earned at the non-accredited school consistent with Section R277-700-6. [A. Utah public schools shall accept student credit at face value from public schools accredited by Northwest and by regional or third party accrediting associations recognized by Northwest.

B. Utah public schools shall accept student credit at face value from a nonpublic school if the school was evaluated by Northwest consistent with the following credit approval criteria:

— (1) the accreditation was by a regional or national organization representing the appropriate category of the applicant school;

— (2) the school's accreditation team included a USOE representative;

— (3) the accreditation included the school's written self-evaluation;

— (4) the accreditation required a listing of the school's course offerings; and

— (5) the accreditation required a description of the process for appointment, qualifications and evaluation of school faculty and administrators; and

C. The credits designated for acceptance by the public school shall include a description or explanation of the nonpublic school's credits' comparability to Utah Core Curriculum requirements. Credits that do not compare to Utah Core Curriculum standards/requirements may be accepted as elective credit only.

D. If a school is not accredited, or if the accredited school did not satisfy all criteria of R277-410-4B, the school requested to accept the credit has discretion in accepting the credit.

KEY: accreditation, public schools, [~~private~~]nonpublic schools
~~[November 3, 1998]2005~~
Notice of Continuation September 12, 2002
Art X Sec 3
53A-1-402(1)(c)
53A-1-401(3)

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 03/31/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2005

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

▼ ————— ▼

Education, Administration

R277-411

Elementary School Accreditation

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27706

FILED: 02/15/2005, 16:39

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to add and clarify definitions and update accreditation practices. The amendments also clarify that accreditation for Utah public elementary schools is not required.

SUMMARY OF THE RULE OR CHANGE: The amendments add definitions and clarify that accreditation for Utah public elementary schools is not required.

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There are no anticipated cost or savings to the state budget. In practice, accreditation of public elementary schools has been optional and few schools have sought accreditation.
- ❖ LOCAL GOVERNMENTS: There are no anticipated cost or savings to local government. In practice, accreditation of public elementary schools has been optional and few schools have sought accreditation.
- ❖ OTHER PERSONS: There are no anticipated cost or savings to other persons. Only schools seek accreditation.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Only schools seek accreditation.

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.

R277. Education, Administration.

R277-411. Elementary School Accreditation.

R277-411-1. Definitions.

[~~B~~]A. "Accreditation" means formal Northwest and Board approval of a school that has met standards considered by the Board to be essential for the operation of a quality school program.

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

~~C. "Elementary school" for the purpose of this rule means grades K-6 in whatever kind of school the grade levels exists.~~

~~D. "Northwest" means the Northwest Association of Accredited Schools, the regional accrediting association of which Utah is a member.~~

~~C. "State Committee" means the State Elementary Accreditation Committee.~~

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

R277-411-2. 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, by Section 53A-1-402(1)(c) which directs the Board to adopt rules for school accreditation, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to:

- (1) specify the standards and procedures by which elementary schools may become accredited by Northwest, the USOE, and the Board; and
- (2) establish an accreditation program of appropriate and high standards of attainment to assist schools in maintaining and improving education programs.

R277-411-3. Elementary School Accreditation[~~Classifications; Reports~~].

~~[A. The state accreditation program for elementary schools has two classification categories: accredited and non-accredited. An accreditation rating continues from year to year unless evaluation data, the annual report, and on-site visits justify a change in rating.~~

~~B. Within the accredited classification are the following ratings:~~

~~—(1) fully approved: the school is in compliance with minimum standards. This rating does not infer that improvement cannot be made.~~

~~—(2) approved with comment: one or two deviations from the standards have appeared for the first time or there are deviations of a minor nature;~~

~~—(3) approval with advice: the school deviates substantially from one or more standards or no observable effort has been made in the second year to correct deviations from a standard upon which comment was previously made. Approved with comment does not necessarily precede approved with advice;~~

~~—(4) approved with warning: a serious deviation from one or more standards exists. This rating is usually issued after a school has received the advised or comment status and no improvement is shown. A school may be dropped from fully approved to warned when, in the opinion of the State Committee, the violation is such that it shall not be allowed to persist beyond the current year. If a warned status is recommended by the State Committee, a special meeting shall be held with local school officials prior to making a final recommendation.~~

~~—C. Schools on warned status may be dropped to a non-accredited status unless significant progress toward overcoming deviations is shown on the next report. An accredited school may not be dropped to a non-accredited status without first receiving a warned status.~~

~~—D. Deviations from accreditation standards because of hardship, for the purposes of pilot programs and experimentation, or for other reasons may be approved upon proper written application to the State Committee.~~

~~—E. All accredited elementary schools shall submit an annual accreditation report to the USOE in the fall. A. Elementary schools desiring accreditation shall be members of Northwest and meet the standards required for such accreditation as outlined in R277-413.~~

~~B. The accreditation of Utah elementary schools is optional; interested elementary schools may apply to Northwest for accreditation.~~

~~C. Accreditation shall take place under the direction of the USOE acting as an agent for Northwest.~~

~~D. The accreditation status and date of most recent accreditation of the school shall be available from the USOE upon request.~~

[R277-411-4. Procedures for Evaluation and Classification.

~~—A. The evaluation of an elementary school for purposes of accreditation and classification is a cooperative activity in which the school, the local district, and the USOE share the major responsibility. Basic to the operation of the program is self-evaluation and self-initiated improvement on the part of the individual school.~~

~~—B. The procedures for elementary school accreditation are as follows:~~

~~—(1) application for accreditation is voluntary;~~

~~—(2) a school planning for accreditation must submit a formal application to the USOE;~~

~~—(3) school personnel may request the state specialist for accreditation to meet with them in an orientation session to discuss accreditation standards and evaluation procedures;~~

~~—(4) a school shall complete a self-evaluation. The school may use one of the following documents for its self-evaluation or other means approved by the State Committee:~~

~~—(a) Evaluative Criteria for Elementary Schools in Utah, Utah State Board of Education, Revised, 1977;~~

~~—(b) Elementary School Evaluative Criteria, National Study of School Evaluation, Second Edition.~~

~~—(5) a school, in coordination with the State Committee, sets a date for a two day on-site evaluation by a team appointed by the State Committee. The on-site visit takes place after the self-~~

~~evaluation is completed and prior to April 15. The visiting team represents a cross section of professional educators from throughout the state and staff members from the USOE. The school staff may recommend individuals to serve on the visiting team.~~

~~—(6) written evaluation results from the on-site visit and other pertinent information, including the self-evaluation, are presented to the State Committee. After review of all information, the State Committee makes a recommendation to the Board relative to an accreditation status. The Board is the final accrediting authority.~~

~~—(7) continuing accreditation is subject to a review of annual reports by the State Committee, and to periodic visits by representatives of the State Committee.~~

~~—(8) annual reports for purposes of accreditation are due to the school district office by February 1 of each year and to the USOE by February 15.~~

R277-411-5. Accreditation Standard I: The Education Program.

~~—A. An elementary school shall develop a written philosophy of education consistent with the goals and priorities of the local board of education and the Board. It shall be implemented by specific objectives which delineate the purposes and scope of the school's education program.~~

~~—B. A school shall conduct a balanced learning program for its students in accordance with the state program of studies for elementary school and district policies.~~

~~—C. Activities which are an outgrowth of the instruction program shall be available to permit students to perform, lead, and follow on an individual and group basis. Approved activities include government, festivals, assemblies, programs, and physical fitness exercises.~~

~~—D. A school shall continuously examine its philosophy and objectives and evaluate its instruction program to ensure that basic understanding and skills are learned, maintained, and strengthened.~~

R277-411-6. Accreditation Standard II: The Staff; School Atmosphere.

~~—A(1) All professional personnel shall hold a valid certificate for the position for which employed. The credentials and assignment of each staff member shall be included on the initial accreditation report. On succeeding reports, only staff members who do not meet the certification standard for the positions they fill are required on the report.~~

~~—(2) teaching loads shall not be excessive and assignments shall be consistent with teacher preparation, experience, and interests. There shall be a planned teacher supervision program. There shall be positive and wholesome teacher-administrator and teacher-pupil relationships.~~

~~—(3) there shall be no more than normal turnover in the school. Excessive turnover of teachers may be found to exist in schools of 10 or fewer teachers if the rate exceeds 50 percent and in schools of more than 30 teachers if it exceeds 25 percent.~~

~~—B. Pupil support services shall be available to the elementary school and shall include adequate secretarial assistance, aides, custodial services, lunchroom personnel, and bus drivers.~~

~~—C. Orientation programs shall be developed for staff new to a school or the district. Formal and informal educational experiences shall be available for new and continuing staff members, including district in-service workshops, curriculum development activities, state workshops, and university workshops.~~

~~—D. The school shall conduct an effective public relations program to improve school atmosphere. Pupil behavior shall reflect a sound education program.~~

~~—E. Positive and negative aspects of school atmosphere shall be reported in the annual accreditation report in a narrative form. Extenuating circumstances which may clarify negative factors may be included in the narrative. Indications of school atmosphere shall be evaluated within the school building, on the playground, on locations of school sponsored activities, and on school transportation facilities.~~

R277-411-7. Accreditation Standard III: Instructional Media.

~~—A. Media shall be used as specific tools of instruction to aid in the achievement of specific curricular aims and unit objectives.~~

~~—(1) teachers shall be aware of available media and be familiar with proper techniques for their use;~~

~~—(2) equipment shall be kept in good operating condition. Instruction and assistance shall be provided in the proper utilization and operation of equipment;~~

~~—(3) all available materials shall be catalogued and indexed.~~

~~—B(1) A school shall have an instructional media center which shall be used as the hub of instruction in the school. It shall be appropriate and adequate for the number of students enrolled. The area housing the collection of materials in the media center shall provide:~~

~~—(a) a display area such as bulletin boards or cases;~~

~~—(b) a means to circulate materials;~~

~~—(c) a properly maintained and integrated card catalog or comparable electronic alternative;~~

~~—(d) a processing area for receiving and processing materials;~~

~~—(e) sufficient shelving or storage facilities to make all materials and equipment readily available to students and faculty;~~

~~—(f) vertical filing facilities for unbound reference materials;~~

~~—(g) seating and study facilities which can be used to accommodate at least the largest class in the school, small study groups, or individual study; and~~

~~—(h) office space for media personnel.~~

~~—(2) the instructional media center staff shall instruct students in the use of the center and shall schedule time for class research and individual study.~~

~~—(3) all materials shall be properly inventoried and catalogued. A shelf list of all titles shall be maintained. Proper storage and filing spaces shall be provided for current and back copies of periodicals.~~

~~—(4) the instructional media center shall maintain an adequate balance of all types of media materials. The distribution of periodicals shall be such that all instruction areas of the school are adequately served.~~

~~—(5) "The Guidelines for the Development of an Instructional Media System, Part IV" shall be used as an evaluative instrument in examining current status, identifying critical needs, and establishing long and short range goals for a school's media center.~~

~~—C. School personnel shall be familiar with and follow state laws and Board rules in regard to the adoption of texts from the state adopted textbook list. There shall be evidence of teacher involvement in the evaluation and selection of textbooks on the local level. Adequate funds shall be allocated to purchase textbooks and other learning materials needed for the school. Each student shall be provided with texts and learning materials to satisfy individual needs and abilities in all areas of curriculum.~~

~~—D. Adequate supplies shall be available for the instructional needs of the curriculum.~~

~~R277-411-8. Accreditation Standard IV: Pupil Personnel Services.~~

~~—A. A pupil personnel director shall coordinate and supervise pupil personnel services. Counseling and social services shall be available to the school as needed. Approved pupil personnel services include resource programs, guidance and counseling, psychological services, psychometric services, pupil accounting, social work, school health services, and identification and diagnostic services for special education programs.~~

~~—B. Pupil personnel services shall be continuously evaluated and improved.~~

~~—C. A school shall have a planned program orienting individuals and groups to new education situations and experiences in the school.~~

~~R277-411-9. Accreditation Standard V: Administration.~~

~~—A. The principal is the chief administrator of the school. The principal shall:~~

~~—(1) serve as instructional leader and curriculum consultant;~~

~~—(2) serve as coordinator of pupil personnel services and as a counselor to students;~~

~~—(3) assist the district superintendent in selecting and assigning the staff to the school and make recommendations concerning continued employment or reassignment of the school's teachers;~~

~~—(4) orient the professional staff to and require compliance with school, district, Board, state, and federal laws, rules, and policies;~~

~~—(5) be responsible for student placement, safety and health, control and discipline, and student accounting;~~

~~—(6) provide an adequate system of reporting and interpreting student progress and the school program to parents and patrons;~~

~~—(7) be responsible for the operation and management of the school plant;~~

~~—(8) be responsible for securing, caring for, and disbursing equipment and school supplies; and~~

~~—(9) provide overall management for the school and school programs, including completing district, state and federal reports.~~

~~—B. Supervisory functions performed in the school through the administration shall include:~~

~~—(1) participating with district personnel in organizing workshops, in service training programs, inter school visits, conferences, and individual and school research programs;~~

~~—(2) assisting teachers in daily instruction activities as needed;~~

~~—(3) assisting teachers in diagnosing needs and providing programs to meet the needs of individual children;~~

~~—(4) assisting teachers in understanding and using course guides;~~

~~—(5) observing and evaluating teacher performance, custodians, lunch personnel, and other school staff;~~

~~—(6) providing professional and resource materials for staff;~~

~~—(7) having knowledge of school, district, state, and federal programs;~~

~~—(8) assisting the staff in self evaluation; and~~

~~—(9) performing other supervisory duties assigned by the local board or the district superintendent.~~

~~—C. Student Records~~

~~—(1) Complete student permanent records shall be kept where they are protected by a fireproof vault, safe, or filing cabinet.~~

~~—(2) A duplicate set of records shall be kept in a separate place if fireproof storage is not available.~~

~~— (3) When a student transfers to another school, a copy of the student's permanent records and other useful data shall be forwarded promptly to the new school upon parental request.~~

~~— D. An annual inventory of school equipment, supplies, and books shall be maintained.~~

~~R277-411-10. Accreditation Standard VI: School Plant.~~

~~— A. The school plant shall be consistent with the philosophy of the school and facilitate the meeting of student needs.~~

~~— B. Buildings and classrooms shall provide for the school's program. Space shall allow for a variety of classroom and extra-class experiences, recreational uses, and community activities. The plant shall provide adequate illumination, water, heat, ventilation, and sanitation services. It shall be designed, equipped, inspected, and maintained in compliance with required safety standards.~~

~~— C. Administrative space shall be used for:~~

~~— (1) meeting the pupils and the public;~~

~~— (2) conferences;~~

~~— (3) routine office work;~~

~~— (4) inside and outside communications; and~~

~~— (5) keeping and filing records.~~

~~— D. The school food service areas shall be adequate in size and designed to meet the needs of the program. The facility shall be functional, aesthetic, safe, sanitary, well-maintained, and provide for efficient operation of the program.]~~

KEY: accreditation

[1987]2005

Notice of Continuation September 12, 2002

Art X Sec 3

53A-1-402(1)(c)

53A-1-401(3)



Education, Administration
R277-412
 Junior High and Middle School
 Accreditation

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 27707

FILED: 02/15/2005, 16:53

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to add and clarify definitions and update accreditation practices.

SUMMARY OF THE RULE OR CHANGE: The amendments add definitions, clarify the accreditation differences between middle schools and junior high schools, and middle schools and junior high schools that include ninth grade. Junior high and middle schools that include ninth grade must be accredited in their entirety. Middle schools that desire accreditation must be members of Northwest and meet Northwest standards.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated cost or savings to the state budget. The Utah State Office of Education responsibilities have been similar under all accreditation practices for more than 10 years.

❖ LOCAL GOVERNMENTS: There are no anticipated cost or savings to local government. Junior high and middle schools that include ninth grade do not need to be members of Northwest to be accredited.

❖ OTHER PERSONS: There are no anticipated cost or savings to other persons. Only schools are accredited.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Only schools are accredited.

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 to 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 03/31/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2005

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.

R277-412. Junior High and Middle School Accreditation.

R277-412-1. Definitions.

[B]A. "Accreditation" means formal Northwest and Board approval of a school that has met standards considered by the Board to be essential for the operation of a quality school program.

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

C. "Junior high school" for the purpose of this rule means any combination of grades 7-9.

D. "Middle school" for the purpose of this rule means grades 7-8 in whatever kind of school the grade levels exist.

E. "Northwest" means the Northwest Association of Accredited Schools, the regional accrediting association of which Utah is a member.

~~—C. "State Committee" means the State Junior High and Middle School Accreditation Committee which is composed of public school principals and school district personnel, private school representatives, special purpose representatives, and USOE personnel.~~

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

R277-412-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-402(1)(c) which directs the Board to adopt rules for school accreditation, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to[~~]~~

~~—(1)] specify the standards and procedures by which junior high and middle schools may choose to become accredited by Northwest with facilitation by the Board[; and~~

~~—(2) establish an accreditation program of appropriate and high standards of attainment to assist schools in maintaining and improving education programs].~~

R277-412-3. Middle School Accreditation[~~Classifications; Reports].~~

~~[A. The state accreditation program for junior high and middle schools has two classification categories: accredited and non-accredited. An accredited rating continues from year to year unless evaluation data, annual reports, and on-site visits justify a change in rating.~~

~~—B. Within the accredited classification are the following ratings:~~

~~—(1) accredited with commendation: the school's current practices and plan for improvement are of a superior quality. This rating does not infer that improvement cannot be made;~~

~~—(2) accredited with full approval: the school is in compliance with minimum standards;~~

~~—(3) accredited with comment: one or two deviations from the standards have appeared for the first time or there are deviations of a minor nature;~~

~~—(4) accredited with advice: the school deviates substantially from one or more standards or no observable effort has been made in the second year to correct deviations from a standard upon which comment was previously made. Approved with comment does not necessarily precede approved with advice;~~

~~—(5) accredited with warning: a serious violation of one or more standards exists. This rating is usually issued after a school has received the advised or comment status and no improvement is shown. A school may be dropped from fully approved to warned when, in the opinion of the State Committee, the violation is such that it shall not be allowed to persist beyond the current year. A warned school is usually dropped to a non-accredited status the following year unless acceptable correction is made. No school is dropped to a non-accredited status unless it was warned the preceding year and a special meeting has been held with local school officials.~~

~~—C. Schools on warned status may be dropped to a non-accredited status unless significant progress toward overcoming deviations is shown on the next report. An accredited school may~~

~~not be dropped to a non-accredited status without first receiving a warned status unless there is justification for the exception. Justification may include the blatant disregard by the accredited school for the standards set and provided by the State Committee.~~

~~—D. All junior high and middle schools seeking or wishing to continue accreditation status shall submit an annual accreditation report to the USOE in the fall.]A. The accreditation process for junior high and middle schools shall take place under the direction of the USOE acting as an agent for Northwest.~~

~~—B. Middle schools, which desire accreditation, shall be members of Northwest and meet all the requirements and standards outlined in R277-413. They may apply for accreditation through Northwest.~~

~~—C. Public junior high and middle schools that include 9th grade shall be visited and assigned status by the USOE using the Northwest accreditation standards. The schools are not required, however, to be members of Northwest or file annual reports.~~

~~—D. The Northwest accreditation standards provided in R277-413 are applicable to junior high and middle schools in their entirety if the schools include 9th grade consistent with R277-412-3C.~~

~~—E. The accreditation status and date of most recent accreditation of the school shall be available from the USOE upon request.~~

[R277-412-4. Procedures for Evaluation and Classification.

~~—A. The evaluation of junior high and middle schools for purposes of accreditation and classification is a cooperative activity in which the school, the local district, and the USOE share the major responsibility. Basic to the operation of the program is self-evaluation and self-initiated improvement on the part of the individual school.~~

~~—B. The procedures for junior high and middle school accreditation are as follows:~~

~~—(1) application for accreditation is voluntary;~~

~~—(2) a school planning for accreditation must submit a formal application to the USOE;~~

~~—(3) school personnel may request the state specialist for accreditation to meet with them in an orientation session to discuss accreditation standards and evaluation procedures;~~

~~—(4) a school must complete a self-evaluation. The school may use one of the following documents for its self-evaluation or other means approved by the State Committee:~~

~~—(a) Junior High/Middle School Evaluative Criteria, National Study of School Evaluation;~~

~~—(b) Junior High School Evaluative Criteria, Utah State Board of Education.~~

~~—USOE staff members, parents, students, and community members may be invited to assist in the evaluation process.~~

~~—(5) A school, in coordination with the State Committee, shall set a date for a two day, on-site evaluation by a team appointed by the State Committee. The on-site visit takes place after the self-evaluation is completed and prior to April 15. The visiting team represents a cross section of professional educators from throughout the state.~~

~~—(6) Written evaluation results from the on-site visit and other pertinent information, including the self-evaluation, shall be presented to the State Committee. After review of all information, the State Committee shall make a recommendation to the Board or its designee relative to an accreditation status. The Board is the final accrediting authority.~~

—(7) Continuing accreditation is subject to a review of annual reports by the State Committee, and to a complete evaluation at least every ten years, beginning with the 1979-80 to 1989-90 ten year period.

—(8) annual reports for purpose of accreditation are due in the local school district office by October 1 of each year and in the USOE by October 15.

~~R277-412-5. Accreditation Standard I: The Education Program.~~

—A. A school shall develop a written philosophy of education consistent with the priorities and goals of the local board of education and the Board.

—(1) It shall be implemented by specific objectives which delineate the purposes and scope of the school's education program.

—(2) The objectives shall be reflected in practices observable in the total school program.

—B. A school shall determine the content of its program of studies by cooperative planning and continuous evaluation.

—(1) The state program of studies approved by the Board for junior high and middle schools shall be followed.

—(2) A school shall provide evidence of multi-cultural education taking place within the school. Emphasis shall be given to the interdependence of world cultures.

—C. Evaluation of a school's philosophy, objectives, and instruction program shall be conducted by the school.

~~R277-412-6. Accreditation Standard II: Teaching Personnel; School Atmosphere.~~

—A. Each teacher shall meet the state certification standards for the position for which the teacher is employed.

—B. The school staff shall be adequate in number to provide for individualized student guidance, placement, and instruction.

—(1) No school shall show excessive professional staff load. The student professional staff ratio, the enrollment of students shown in the annual report divided by the full-time equivalency of the professional staff members, shall not be greater than 25 to 1. Professional staff members include teachers, administrators, counselors, and media coordinators.

—(2) The number of daily classes taught per teacher shall not exceed six in a seven period day or five in a six period day. The number of daily class preparations for each teacher in the school shall not be excessive. The total number of students instructed by any teacher shall not exceed 160 per day according to the discount formula in Subsection 6(B)(3).

—(3) The number of students instructed in a day is the total of the following computations:

—(a) Total the number of students in duplicated classes and reduce by ten percent. A class is a duplicate class if one preparation is made for two or more sections;

—(b) Compute keyboarding classes at two-thirds of the actual enrollment;

—(c) Compute classes in physical education at two-thirds of the actual enrollment;

—(d) Compute music classes normally taught in large groups such as band, orchestra, and chorus at one-half of the actual count or 30, whichever is the smaller figure;

—(e) Count each supervised study hall period as 15 students, regardless of the number in the class;

—(f) Compute all other classes at the actual enrollment.

—C. The credentials and assignment of each staff member shall be included on the initial accreditation report. On succeeding reports, only staff members who do not meet the certification status of the position they fill shall be reported.

—D. Positive and negative aspects of school atmosphere shall be reported annually in narrative form in the annual accreditation report. Extenuating circumstances which help clarify the negative factors may be included in the report.

~~R277-412-7. Accreditation Standard III: Instructional Media.~~

—A. The "Guidelines for the Development of an Instructional Media System" shall be used by a school to examine the current status of, identify critical needs of, and establish long range and short range goals for its instructional media system.

—B. A school shall include a copy of a completed "School Media Profile-OPSCAN" with the annual report.

—C. All schools shall meet the minimum standards for library books, material, periodicals, and teaching supplies adopted by the Board. An adequate accounting system for supplies shall be maintained. Adequate storage space and facilities shall be provided.

—D. School personnel shall be familiar with and follow state laws in regard to the adoption of texts.

~~R277-412-8. Accreditation Standard IV: Pupil Personnel Services.~~

—A. Educational, career, and personal counseling services shall be available to all students and provided by qualified, certificated personnel.

—(1) There shall be one full-time equivalent guidance specialist for every 20 teachers.

—(2) Counselors, social workers, psychologists, and psychiatrists assigned regularly to the school shall be counted in computing the ratio.

—(3) Their names shall all appear on the Personnel Schedule and the Professional Preparation Sheet.

—(4) Teacher and administrator time devoted to counseling which is not scheduled is not used in computing the ratio.

—B. Conferences and reporting services shall include scheduled parent teacher conferences.

—C. Alternative pupil personnel programs shall be explicitly explained in a written statement justifying action for State Committee approval.

~~R277-412-9. Accreditation Standard V: Administration, Supervision, and Organization.~~

—A. Administrative and Supervisory Staff

—(1) Administrative and supervisory staff includes:

—(a) superintendents;

—(b) principals;

—(c) assistant principals;

—(d) administrative interns;

—(e) athletic directors;

—(f) attendance directors;

—(g) activity directors; and

—(h) department heads during released time used for administrative duties.

—A person may be counted in only one area at a time. At least one-half of the school day shall be available to the principal for administrative duties.

~~—(2) there shall be at least one administrator for the first 350 students or fraction thereof, and a second for 700 students. Three are recommended for schools with 1050 plus enrollment.~~

~~—(3) the administrative staff, through cooperative action with the central office staff, shall provide a school climate within which meaningful innovation and reasonable experimentation are encouraged.~~

~~—B. The principal's primary duty is leadership for the education program. To carry out this duty the principal shall:~~

~~—(1) actively participate in the recruitment, selection, and assignment of school staff;~~

~~—(2) effectively utilize staff and motivate administrators and teachers to achieve the highest degree of teaching potential;~~

~~—(3) coordinate efforts to obtain maximum utilization of existing facilities, equipment, and material, and to acquire facilities, equipment, and materials for the school;~~

~~—(4) supervise and improve instruction;~~

~~—(5) become well informed about educational developments that promote dynamic leadership, and know and enforce school, district, and Board rules and policies;~~

~~—(6) follow accepted budgetary procedures;~~

~~—(7) provide an adequate system of reporting and interpreting student progress and the school program to the parents and patrons; and~~

~~—(8) coordinate efforts to establish and maintain good community relations.~~

~~—C. There shall be one clerical worker for each 350 students or major fraction thereof. No school shall have less than a half time secretary. Only clerical staff being paid for services may be counted.~~

~~—D. Student Records~~

~~—(1) Complete student permanent records shall be filed in one place where they are protected by a fireproof vault, safe, or filing cabinet which meets Underwriters Laboratories Class C specifications.~~

~~—(2) If fireproof storage is not possible, a duplicate set of records shall be maintained in a separate location.~~

~~—(3) Records may be placed on computer.~~

~~—(4) The minimum information contained on student permanent records shall include subjects taken, grades by subject with an explanation of the grading system, credit earned with an explanation of the system for awarding credit, attendance records, and standardized test scores.~~

~~—(5) When a student transfers to another school, a copy of the student's permanent records and other useful data shall be forwarded promptly to the new school upon parental request.~~

~~—(6) An annual inventory of equipment, books, and supplies shall be maintained.~~

~~R277-412-10. Accreditation Standard VI: School Plant and Facilities.~~

~~—A. The school plant shall be adequate in size and shall provide attractive facilities for offering a modern program of education suited to the needs and interests of the students and community. The building shall be adequately maintained to ensure the health and safety of its occupants.~~

~~—B. Custodial service, heating, lighting, ventilation, water supply, and lavatories shall be sufficient to ensure hygienic conditions for students and staff.~~

~~—C. Proper safeguards for the protection of students and staff against hazards such as fires, storms, earthquakes, and acts of war shall be taken throughout the buildings and grounds.~~

~~—D. An inspection of the school plant and equipment shall be made by an appropriate, approved official each school year. Deficiencies shall be listed on the annual accreditation report.]~~

KEY: accreditation

[~~April 29, 1997~~]2005

Notice of Continuation September 12, 2002

Art X Sec 3

53A-1-402(1)(c)

53A-1-401(3)



Education, Administration

R277-413

Accreditation of Secondary Schools, Alternative or Special Purpose Schools

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 27708

FILED: 02/15/2005, 17:02

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to add and clarify definitions, outline accreditation protocol and standards, and make practice consistent with provisions of the rule.

SUMMARY OF THE RULE OR CHANGE: The amendments add and clarify definitions, add the requirement that public junior high and middle schools that include ninth grade must be accredited through Northwest, include new provisions for the written report, require the schools to demonstrate financial responsibility, and update other terminology.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated cost or savings to the state budget. Any additional requirements do not add additional costs to the process.

❖ LOCAL GOVERNMENTS: There are no anticipated cost or savings to local government. Junior high and middle schools that include ninth grade do not need to be members of Northwest to be accredited.

❖ OTHER PERSONS: There are no anticipated cost or savings to other persons. Only schools are accredited.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Only schools are accredited.

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 03/31/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2005

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.

R277-413. Accreditation of Secondary Schools, ~~Alternative or Special Purpose Schools~~.

R277-413-1. Definitions.

[B]A. "Accreditation" means formal Northwest and Board approval of a school that has met standards considered by the Board to be essential for the operation of a quality school program.

[E]B. "[~~Accreditation Standards~~]Annual Report[~~-(Annual Report)~~]" means a document that explains a school's compliance with educational standards and progress provided by the school in its school improvement plan. The school improvement plan is a dynamic document that reflects changes and progress made by the school community. The Annual Report also provides definitions and criteria required by Northwest for accreditation.

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

[F]D. "Northwest" means Northwest Association of Accredited Schools and Colleges (Northwest)" means the regional accrediting association of which Utah is a member.

[G]E. "Secondary school" for the purpose of this rule means a school [encompassing]that includes grades 9-12 including public, private, parochial, alternative, and special purpose schools offering credits toward high school graduation or diplomas or both.

[C]F. "State Committee" means the State Accreditation Committee, which is composed of public school [principals]administrators, school district personnel, private and special purpose school representatives, and USOE personnel.

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

H. "Visiting team" means a team composed of three to eight active educators as determined by the size of the school, trained by the USOE in accreditation procedures and standards.

R277-413-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-402(1)(c) which directs the Board to adopt rules for school accreditation, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to:

(1) specify the standards and procedures by which secondary schools shall become accredited by the Board; and

(2) ~~allow~~provide for additional requirements, which are unique to the state of Utah to be added to the Northwest Annual Report.

R277-413-3. Accreditation Classifications; Reports.

A. The Board accepts the Northwest standards as the basis for its accreditation standards for ~~high~~school accreditation.

B. The Board ~~also~~requires the satisfaction of additional specific Utah standards in addition to required Northwest standards, to satisfy ~~its~~Utah accreditation ~~requirements~~for Utah public schools.

C. A school shall complete the Annual Report ~~prepared~~provided by Northwest and submit the report to the USOE.

D. A school shall have a complete school evaluation and site visit at least once every six years to maintain its accreditation.

E. The USOE may require on-site visits as often as necessary when it receives notice of accreditation problems, as determined by Northwest, the USOE, or the State Committee.

F. The school's accreditation rating is recommended by the State Committee following a review of a school's Annual Report. Final approval of the rating is determined by the Board.

G. The classification ratings for accredited schools as designated by Northwest shall be:

(1) Approved: a school is classified as [²]approved[²] when it equals or exceeds the standards approved by Northwest and the Board.

(2) Approved with comment: a school is classified as [²]Northwest/Board approved with comment[²] when it has only minor deviations from specific standards.

(3) Advised: a school is classified as [²]advised[²] when there are deviations from one or more standard(s). Schools shall also be classified as [²]advised[²] when no observable effort has been made, by the second year, to correct deviations from a standard upon which comment was made in the previous year.

(4) Warned: a school is classified as [²]warned[²] when there are substantial deviations from one or more standard(s). A [²]warned[²] classification is usually given after a school has been [²]advised[²] and the deviation persists in the next Annual Report. A school may be [²]dropped[²] after two consecutive [²]warned[²] classifications, as recommended by the State Committee to the Board.

H. An accredited school may not be dropped to a non-accredited status without first receiving a [²]warned[²] classification. Exceptions to this procedure may be made due to discrepancies between information provided on the Annual Report and data received or by observations of the State Committee.

I. If a school disagrees with the recommendation of the State Committee, it may appeal as ~~is~~outlined in ~~Northwest~~the USOE accreditation policies and procedures, maintained at the USOE.

J. All ~~high~~ Northwest schools shall submit their Annual Report to the USOE by October 15 of each year.

K. Public junior high and middle schools that include 9th grade shall be visited and assigned status at least every six years by the USOE using Northwest accreditation standards. The schools are not required, however, to be members of Northwest or file annual reports.

R277-413-4. Accreditation Procedures ~~for Evaluation and Classification~~.

A. The evaluation of secondary schools for the purpose of accreditation ~~and classification~~ is a cooperative activity in which the school, the ~~local~~ school district, the USOE, and Northwest share ~~major~~ responsibilities. ~~Basic to the operation of the program is a~~ A school's self-evaluation, development, and implementation of a school improvement plan are the crucial primary steps toward accreditation.

~~B. Middle level schools' membership in Northwest is optional, but all middle level schools will complete the accreditation process.~~

[C]B. A school seeking Northwest accreditation for the first time shall submit a membership application to Northwest. The accepted application shall be forwarded to the USOE.

(1) Upon a visit by USOE staff verifying a school's compliance with accreditation standards, the school shall then receive initial accreditation and become a [C]Candidate member.

(2) Within three years of initial accreditation, a [C]candidate school shall complete a self-evaluation utilizing ~~the National Study of School Evaluation (NSSE) document, SCHOOL IMPROVEMENT: FOCUSING ON STUDENT PERFORMANCE available from Northwest or~~ materials and protocols recommended and provided by the USOE. ~~Following the self-evaluation, a site visit shall take place.~~

~~(3) A visiting team assigned by USOE shall be sent to the school to review the self-evaluation materials, visit classes, and talk with staff and students.~~

~~(4) The visiting team shall present its finding in the form of a written report. The report shall be sent to the school, district superintendent, and USOE.~~

~~(5) The USOE staff shall review the visiting team report with the State Committee and Northwest and recommend appropriate accreditation status to the Board.~~

~~(6) The Board is the final accrediting authority.~~ (3) Candidate schools shall be visited annually until they have completed their first self-evaluation.

[D]C. ~~Continuing accreditation is~~ Northwest accredited schools shall be subject to:

(1) compliance with Northwest membership requirements;

~~(1) receipt and review of annual reports by the State Committee;~~

(3) satisfactory review by the State Committee, Northwest, and final Board approval ~~by the Board~~;

~~(2) a new self-evaluation and site visit at least every six years; and~~ by a visiting team assigned by the USOE to review the self-evaluation materials, visit classes, and talk with staff and students as follows:

(a) The visiting team shall present its finding in the form of a written report in a timely manner. The report shall be provided to the school, school district superintendent, USOE staff, and the Board.

(b) USOE staff shall review the visiting team report, consult with the State Committee and Northwest and recommend appropriate accreditation status to the Board.

D. Following review and acceptance, accreditation visiting team reports are public information and are available online.

E. The Board is the final accrediting authority.

R277-413-5. Board Accreditation Standards.

A. ~~The following~~ Board accreditation standards include Northwest standards and Utah-specific requirements. Each standard requires the school to answer a series of questions and provide information as directed.

B. Standard I - The Education Program

(1) Northwest requirements as provided in the Annual Report:

(a) Philosophy and [O]objectives;

(b) Administrative [P]policies and [P]practices;

(c) Program of [S]studies ~~Core Curriculum~~;

(d) Technology in the [C]curriculum;

(2) Utah-specific requirements which shall be satisfied and may be addressed under the Northwest standards:

(a) State [G]graduation and [C]credit [R]requirements (consistent with requirements of R277-700, The Elementary and Secondary School Core Curriculum ~~and High School Graduation Requirements~~);

(i) Core [C]curriculum;

(ii) Assessments;

(iii) ~~Statewide~~ Standardized [T]testing, under Sections 53A-1-601 through 53A-1-611.

(b) Length of [S]school [D]day and [S]school [Y]year (consistent with requirements of R277-419, Pupil Accounting);

(c) Title IX, (which is incorporated by reference) [C]compliance;

~~(d) Instructional Materials (consistent with requirements of R277-408, Expenditures for Instructional Supplies Required in Utah Public Schools);~~

~~(e) Special [E]education (consistent with requirements of R277-750, Education Programs for Students with Disabilities);~~

~~(f) Accelerated Learning (consistent with requirements of R277-710, Accelerated Learning Programs.)~~

C. Standard II - Student Personnel Services

(1) Northwest requirements as provided in the Annual Report:

(a) Special [S]services including school services and community [S]services;

(b) Program of [C]comprehensive [S]services (available for students including counselors, social workers, school nurses, psychologists, and psychiatrists);

(c) Personnel and [O]organization (ratios and services);

(d) Postsecondary [S]services;

(e) Student [C]conduct and [A]attendance;

(2) Utah-specific requirements which shall be satisfied and may be addressed under the Northwest standards:

(a) Comprehensive [G]guidance (consistent with requirements of R277-462, Comprehensive Guidance Program);

(b) Student Educational Occupational Plan (SEOP) (consistent with requirements of R277-462, Comprehensive Guidance Program and R277-911, Secondary Applied Technology Education);

(c) School [F]fees (consistent with requirements of R277-407, School Fees);

(d) Student [C]conduct and [A]attendance (consistent with Section 53A-11-901).

D. Standard III - School Plant and Equipment

(1) Northwest requirements as provided in the Annual Report:

- (a) Adequacy;
- (b) Function;
- (c) Assurances;

(2) Utah-specific requirements which shall be satisfied and may be addressed under the Northwest standards:

(a) ~~School~~ emergency ~~Preparedness~~ response ~~P~~ plans (consistent with requirements of R277-400, School Emergency Preparedness Response Plans);

(b) Design, ~~C~~ construction, ~~O~~ operations, ~~S~~ sanitation, and ~~S~~ safety of ~~S~~ schools (consistent with requirements of R392-200, Design, Construction, Operation, Sanitation, and Safety of Schools).

E. Standard IV - Library Media Program - [

~~(1)~~ Northwest requirements as provided in the Annual Report:

- (~~a~~)1 Student ~~P~~ performance ~~O~~ objectives;
- (~~b~~)2 Use of ~~C~~ center;
- (~~e~~)3 Staffing;
- (~~d~~)4 Facilities;
- (~~e~~)5 Equipment;
- (~~f~~)6 Collection and ~~A~~ alternative ~~R~~ resources such as bookmobiles, or electronic resources.

~~(2) Utah-specific requirements which shall be satisfied and may be addressed under the Northwest standards:~~

F. Standard V - Records

(1) Northwest requirements as provided in the Annual Report:

- (a) Safekeeping;
- (b) Minimum ~~H~~ information;
- (c) Handling of student records; and

(2) Utah-specific requirements which shall be satisfied and may be addressed under the Northwest standards:

(a) Student ~~R~~ records (consistent with requirements of Section 53A-13-301 (Utah Family Educational Rights and Privacy Act) the federal Family Educational Rights and Privacy Act (FERPA), 20 USC, Sec. 1232g; 34 CFR Part 99).

G. Standard VI - School Improvement (Northwest and Utah requirements):[

~~]~~ A school shall submit pertinent information about its community support, school profile, school mission statement, school goals, and implementation of those goals.

H. Standard VII - Preparation of Personnel

(1) Northwest requirements as provided in the Annual Report:

- (a) Preparation of ~~P~~ professional ~~P~~ personnel;
- (b) Paraprofessional or ~~N~~ non-professional ~~P~~ personnel;
- (c) ~~Exceptions~~ Alternatives to the ~~S~~ standard ~~T~~ teacher ~~P~~ preparation;

(d) Professional ~~P~~ preparation ~~D~~ deficiency ~~R~~ report;

(e) ~~Staff~~ Professional ~~D~~ development

(f) Excessive ~~T~~ turnover and ~~E~~ efficiency of ~~I~~ instruction;

(g) Incentive ~~P~~ programs for ~~T~~ teachers and ~~S~~ students; and

(2) Utah-specific requirements which shall be satisfied and may be addressed under the Northwest standards:

(a) ~~Staff~~ Professional ~~D~~ development as required by the Board; and

(b) Professional and ethical ~~C~~ conduct of ~~S~~ staff;

~~(e) Career Ladder Participation (consistent with requirements of R277-526, Career Ladders in Education).~~

I. Standard VIII - Administration - [

~~(1)~~ Northwest requirements as provided in the Annual Report:

- (~~a~~)1 Responsibility and ~~L~~ leadership; and
- (~~b~~)2 Administrative ~~S~~ staff ~~S~~ size.

J. Standard IX - Teacher Load - [

~~(1)~~ Northwest requirements as provided in the Annual Report:

- (~~a~~)1 Maximum ~~T~~ teacher ~~L~~ load; and
- (~~b~~)2 Personnel ~~S~~ schedule.

K. Standard X - Student Activities - [

~~(1)~~ Northwest requirements as provided in the Annual Report:

(~~a~~)1 Student ~~A~~ activities; and

(~~b~~)2 Audit for ~~S~~ student ~~A~~ activity ~~F~~ funds and ~~B~~ bond ~~R~~ requirements for ~~P~~ persons ~~M~~ managing ~~S~~ student ~~F~~ funds.

L. Standard XI - Business Practices - Northwest requirements as provided in the Annual Report:

(1) Financial responsibility, including solvency and student fees proportionate to expenditures;

(2) Student tuition and fees policies; and

(3) Advertising about the school and school program that is only truthful and positive.

KEY: accreditation

~~March 22, 1999~~ 2005

Notice of Continuation February 26, 2004

Art X Sec 3

53A-1-402(1)

53A-1-401(3)



Education, Administration R277-705-6 Utah Basic Skills Competency Testing Requirements and Procedures

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27710

FILED: 02/15/2005, 17:12

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended to provide for makeup days in the administration of the required Utah Basic Skills Competency Test (UBSCT).

SUMMARY OF THE RULE OR CHANGE: The changes add language for schools to provide a makeup window not to exceed five school days following administration of the UBSCT. The amendments also add parent notification requirements.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 53A-1-402(1)(b) and 53A-1-402(1)(c)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated cost or savings to the state budget. Any costs will be absorbed by schools or school districts offering the test.

❖ LOCAL GOVERNMENTS: There may be additional costs to schools or school districts for administrators to monitor additional test days. Schools or school districts must absorb those costs within existing budgets.

❖ OTHER PERSONS: There are no anticipated cost or savings to other persons. There is no charge to students for the UBSCT.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. There is no charge to students for the UBSCT.

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 to 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 03/31/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2005

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.

R277-705. Secondary School Completion and Diplomas.

R277-705-6. Utah Basic Skills Competency Testing Requirements and Procedures.

A. All Utah public school students shall participate in Utah Basic Skills Competency testing, unless alternate assessment is designated in accordance with federal law or regulations or state law.

B. Timeline:

(1) Beginning with students in the graduating class of 2006, UBSCT requirements shall apply.

(2) No student may take any subtest of the UBSCT before the tenth grade year.

(3) Beginning in the 2004-2005 school year, UBSCT shall be given twice annually.

(4) Tenth graders should first take the test in the second half of their tenth grade year.

(5) Exceptions may be made with documentation of compelling circumstances.

C. UBSCT components, scoring and consequences:

(1) UBSCT consists of subtests in reading, writing and mathematics.

(2) Students who reach the established cut score for any subtest in any administration of the assessment have passed that subtest.

(3) Students shall pass all subtests to qualify for a basic high school diploma.

(4) Students who do not reach the established cut score for any subtest shall have multiple additional opportunities to retake the subtest.

(5) Students who have not passed all subtests of the UBSCT by the end of their senior year may receive a certificate of completion or alternative completion diploma.

(6) The certificate of completion or an alternative completion diploma may be converted to a basic high school diploma whenever the student completes all current state and district basic diploma requirements.

(7) Beginning in June 2006, an adult student enrolled in a Utah school district adult education program may receive an adult high school diploma by completing all state and district diploma requirements and passing all subtests of the UBSCT or may receive an adult alternative completion diploma consistent with district and state requirements.

(8) Specific testing dates shall be calendared and published at least two years in advance by the Board.

D. Reciprocity and new seniors:

(1) Students who transfer from out of state to a Utah high school after the tenth grade year may be granted reciprocity for high school graduation exams taken and passed in other states or countries based on criteria set by the Board and applied by the local board.

(2) Students for whom reciprocity is not granted and students from other states or countries that do not have high school graduation exams shall be required to pass the UBSCT before receiving a basic high school diploma if they enter the system before the final administration of the test in the student's senior year.

(3) The Board shall also establish criteria for granting a diploma to students who enter a Utah high school after the final administration of the test in their senior year.

(4) Students may appeal to the local board for exceptions.

E. Testing eligibility:

(1) Building principals shall certify that all students taking the test in any administration are qualified to be there.

(2) Students are qualified if they:

(a) are enrolled in tenth grade, eleventh, or twelfth grade (or equivalent designation in adult education) in a Utah public school program; or

(b) are enrolled in a Utah private/parochial school (with documentation) and are least 15 years old or enrolled at the appropriate grade level; or

(c) are home schooled (with documentation) and are at least 15 years old; and

(3) Students eligible for accommodations, assistive devices, or other special conditions during testing shall submit appropriate documentation at the test site.

F. Testing procedures:

(1) Three subtests make up the UBSCT: reading, writing, and mathematics. Each subtest shall be given on a separate day.

(2) The same subtest shall be given to all students on the same day, as established by the Board.

(3) All sections of a subtest shall be completed in a single day.

(4) Subtests are not timed. Students shall be given the time necessary within the designated test day to attempt to answer every question on each section of the subtest.

(5) ~~[Make-up testing shall not be offered. Students who miss the opportunity to take a subtest on the day it is offered may arrange to take that subtest the next time it is given.]~~ Makeup opportunities shall be provided to students for the Utah Basic Skills Competency Test according to the following:

(a) Students shall be allowed to participate in makeup tests if they were not present for the entire Utah Basic Skills Competency Test or subtest(s) of the Utah Basic Skills Competency Test.

(b) School districts shall determine acceptable reasons for student makeup eligibility which may include absence due to serious illness, absence due to family emergency, or absence due to death of family member or close friend.

(c) School districts shall provide a makeup window not to exceed five school days immediately following the last day of each administration of the Utah Basic Skills Competency Test.

(d) School districts shall determine and notify parents in an appropriate and timely manner of dates, times, and sites of makeup opportunities for the Utah Basic Skills Competency Test.

(6) Arrangements for extraordinary circumstances or exceptions shall be reviewed and decided by the UBSCT Advisory Committee on a case-by-case basis consistent with the purposes of this rule and enabling legislation.

KEY: curricula

~~[January 3, 2003]~~ **2005**

Art X Sec 3

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

53A-1-603 through 53A-1-611

53A-1-401(3)



**Environmental Quality, Solid and
Hazardous Waste
R315-50-18
Excluded Hazardous Waste From
Specific Sources**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27704

FILED: 02/15/2005, 14:07

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment is the result of a petition submitted by NUCOR Steel. The petition requested that the Division of Solid and Hazardous Waste exclude K061 waste generated at the NUCOR Steel Plymouth, Utah, facility from the Hazardous Waste Listing. The petition follows the procedures of Section R315-2-16 "Petitions to Amend This Rule to Exclude a Waste Produced at a Particular Facility", which incorporates by reference 40 CFR 260.22 by reference and the "Delisting Risk Assessment Manual" published by EPA. The proposed amendment will exclude from regulation K061 hazardous waste generated at the NUCOR Steel facility. The Division of Solid and Hazardous Waste has evaluated the petition and

has prepared the proposed amendment to Section R315-50-18 to exclude K061 from the list of hazardous wastes under certain conditions.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment would exclude from hazardous waste regulations K061 dust generated at the NUCOR Steel Plymouth, Utah, Facility. The waste would be excluded from hazardous waste regulations based on specific management conditions outlined in the proposed amendment. These management conditions include disposal of the waste in a lined and monitored Class I or Class V or equivalent solid waste landfill and treatment of the dust prior to the point of generation to the specified exclusion levels defined in Subsection R315-50-18(a). NUCOR must verify through waste sampling that the excluded K061 waste meets the exclusion levels prior to disposing of any waste in a solid waste landfill.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105, 19-6-106, and 19-6-108

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Because this proposed rule change only affects a private facility, there is no impact on the State budget.

❖ LOCAL GOVERNMENTS: Because this proposed rule change only affects a private facility, there is no impact on the local government's budget.

❖ OTHER PERSONS: This proposed rule change will only impact the facility that has requested the change and that facility has estimated the cost to be about \$200,000 per year.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The cost of this rule is anticipated by the facility to be about \$200,000 per year. However, this rule would decrease the regulatory burden on the facility under the Utah Hazardous Waste Rules due to the exclusion of the K061 as a hazardous waste.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The facility impacted by this rule change has determined that it will cost them approximately \$200,000 per year. However, this rule would decrease the regulatory burden on the facility under the Utah Hazardous Waste Rules due to the exclusion of the K061 as a hazardous waste. No other businesses will be effected by this rule change.--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 04/15/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 05/20/2005

AUTHORIZED BY: Dennis Downs, Director

R315. Environmental Quality, Solid and Hazardous Waste.

R315-50. Appendices.

R315-50-18. Excluded Hazardous Waste From Specific Sources.

Listed Hazardous Waste excluded under R315-2-16, R315-2-17 and R315-2-18, which incorporates by reference 40 CFR 260.20 and 260.22.

(a) Emission Control Dust (K061) generated at the NUCOR Steel, Plymouth Utah Facility is excluded from the list of hazardous wastes outlined in R315-2-10(f), which incorporates by reference 40 CFR 261.32, based on a bench scale demonstration of treating and stabilizing the K061 dust prior to the point of generation.

(b) Following treatment and stabilization the emission control dust will be considered non-hazardous waste, provided the constituent concentrations in the dust do not exceed the following levels:

TABLE

Constituent Levels	Total Metals (mg/kg) (1)	TCLP (mg/l) (1)
Antimony	10,000	0.05
Arsenic	2,380	0.03
Barium	10,000	7.31
Cadmium	10,000	0.056
Chromium	10,000	5.0
Cobalt	10,000	0.30
Copper	10,000	1,050.0
Lead	30,000	5.0
Mercury	4,040	0.0081
Nickel	10,000	2.83
Selenium	10,000	0.218
Silver	10,000	0.384
Thallium	3,230	0.0132
Tin	10,000	12.0
Vanadium	10,000	2.10
Zinc	350,000	28.0

(1) Constituent concentrations shall be determined using the Toxicity Characteristic Leaching Procedure (TCLP) performed in accordance with Method 1311, using either extraction fluid Number 1 with a pH of 4.9 or extraction fluid Number 2 with a pH of 2.9, Method 6010B for total metals and Method 7471B for Mercury.

(c) The maximum amount of K061 hazardous waste to be excluded per year shall not exceed 24,000 cubic yards.

(d) The excluded wastes shall be disposed of, at a minimum, in a permitted landfill constructed to Class I or V design specifications constructed with a liner, cover and monitoring as required by R315-303-3, R315-303-4, and R315-308. The landfill may be monitored for leachate in lieu of groundwater monitoring.

(e) The excluded wastes shall be disposed of in the following manner so as to mitigate inhalation hazards for potential worker exposures:

(1) The excluded waste shall be placed in nonwoven fabric bags as it is taken from NUCOR silos. The bags shall be maintained

in a closed condition prior to and during transport to the disposal location.

(2) Following placement in the landfill, NUCOR shall ensure that all bags remain intact until final cover is applied. If the bags are not intact, the operator shall repair the damage if possible or place six inches of clean soil over the bags to prevent fugitive dust generation.

(f) NUCOR shall implement a testing program to verify and confirm compliance with the constituent levels established in R315-50-18(a). The testing program shall meet the following requirements:

(1) Sample collection and analyses, including quality control, shall be performed according to the sampling and analysis procedures specified in SW-846.

(2) All samples shall be analyzed by Utah-certified laboratories.

(3) Verification sampling and analysis shall be conducted until testing demonstrates compliance with the levels established in R315-50-18(a) for a period of five consecutive days. After achieving five consecutive days of compliance, NUCOR may commence disposal of the excluded dust in a Class I or V Landfill.

(4) Confirmation sampling and analysis shall be conducted once a week for four consecutive weeks from the first initial shipment of excluded wastes. Thereafter, confirmation samples shall be collected and analyzed once a month.

(5) Verification and confirmation samples shall be representative of all ranges of operating conditions in the dust collection system.

(g) Data Submittal. NUCOR shall submit all analytical results and documentation generated during the verification and confirmation testing within seven days of receipt from the laboratory. All data submitted to the Executive Secretary shall be accompanied by a signed certification statement specified by R315-2-16, which incorporates by reference 40 CFR 260.22(i)(12).

(h) NUCOR shall maintain the following information in an operating record:

(1) Volumes of excluded waste generated;

(2) Locations and dates of excluded waste disposal; and

(3) Analytical records from verification and confirmation testing.

(i) Changes in Operating Conditions. NUCOR shall immediately notify the Executive Secretary if any changes are made in the treatment process or chemicals used in the treatment process, and shall immediately cease disposal operations. NUCOR shall handle excluded wastes as hazardous waste until NUCOR has demonstrated that the wastes continue to meet exclusion exit levels set forth in R315-50-18(a) and that no new hazardous constituents listed in R315-50-10, which incorporates by reference 40 CFR 261, Appendix VIII, have been introduced and NUCOR has received written approval from the Executive Secretary.

(j) Reopener language. If at anytime after disposal of the excluded waste, NUCOR discovers or is otherwise made aware of any data that demonstrates that the constituent levels identified in R315-50-18(a) have not been met, NUCOR shall notify the Executive Secretary in writing within ten days of first possessing or being aware of that data.

(k) Based on any information described in R315-50-18(i) or any other information received from any source, the Executive Secretary shall make a preliminary determination as to whether the reported information requires agency action to protect human health and the environment. Further action may include suspension or

revocation of the exclusion, or other appropriate response necessary to protect human health and the environment.

(l) If the Executive Secretary determines that the reported information requires action by the Executive Secretary, NUCOR shall be notified in writing of the Executive Secretary's decision for further actions. The written notice shall include a statement of proposed action and a statement providing NUCOR an opportunity to present information as to why the action is unnecessary or to suggest an alternative action. NUCOR shall have 30 days from the date of the Executive Secretary's written notice to present the information.

(m) If after 30 days NUCOR does not present any further information, the Executive Secretary shall issue a final written determination describing the actions that are necessary to protect human health and the environment. All required actions described in the Executive Secretary's determination shall be implemented immediately unless the Executive Secretary indicates otherwise.

KEY: hazardous waste

[September 15, 2003]2005

Notice of Continuation October 18, 2001

19-6-106

19-6-108

19-6-105

Health, Health Care Financing, Coverage and Reimbursement Policy

R414-33C

Targeted Case Management for the Homeless

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 27703

FILED: 02/15/2005, 12:16

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rulemaking is necessary to comply with Subsection 26-18-3(2)(a), which requires policy to be implemented by rule.

SUMMARY OF THE RULE OR CHANGE: This is a new rule that outlines targeted case management services that are available to homeless Medicaid clients. Specifically, this rule outlines client eligibility requirements, program access requirements, service coverage, qualified providers, and reimbursement methodology.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-1-5 and 26-18-3

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no impact to the state budget associated with this rulemaking because the program was previously implemented by policy and now needs to be implemented by rule pursuant to Subsection 26-18-3(2)(a).

❖ LOCAL GOVERNMENTS: There is no budget impact to local governments as a result of this rulemaking because the program was previously implemented by policy and now needs to be implemented by rule pursuant to Subsection 26-18-3(2)(a).

❖ OTHER PERSONS: There is no budget impact to other persons as a result of this rulemaking because the program was previously implemented by policy and now needs to be implemented by rule pursuant to Subsection 26-18-3(2)(a).

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons because the program was previously implemented by policy and now needs to be implemented by rule pursuant to Subsection 26-18-3(2)(a).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No negative fiscal impact on business is anticipated. Medicaid's policy of reimbursement for this type of service is not changed by this rule. David N. Sundwall, MD, Executive Director

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Craig Devashrayee at the above address, by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/31/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2005

AUTHORIZED BY: David N. Sundwall, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-33C. Targeted Case Management for the Homeless.

R414-33C-1. Introduction and Authority.

(1) This rule outlines targeted case management services that are available to homeless Medicaid clients.

(2) This rule is authorized under UCA 26-18-3 and implements 42 USC 1396n(g), which authorizes targeted case management services.

R414-33C-2. Definitions.

In this rule, "CHEC" means Child Health Evaluation and Care and is Utah's version of the federally mandated Early Periodic Screening, Diagnosis and Treatment (EPSDT) program. All

Medicaid clients from birth through age twenty who are in the Traditional Medicaid Plan are eligible for the CHEC program.

R414-33C-3. Client Eligibility Requirements.

Targeted case management services are available to homeless Medicaid clients enrolled in the Non-Traditional Medicaid Plan, pregnant women, and CHEC-eligible Medicaid recipients enrolled in the Traditional Medicaid Plan who:

(1) reside in Salt Lake, Summit, Wasatch, Weber, or Utah County emergency homeless shelters;

(2) do not otherwise have a permanent address, residence, or facility in which they could reside;

(3) do not live in a boarding home, residential treatment facility, or facility that houses only victims of domestic abuse; or

(4) have left the homeless shelter and require continued targeted case management to prevent a recurrence of homelessness.

R414-33C-4. Program Access Requirements.

(1) Targeted case management services may be provided only by an emergency homeless shelter in Salt Lake, Summit, Wasatch, Weber, or Utah County that is capable of providing temporary shelter for at least 30 days in order to assure that sufficient case management services are provided to successfully reintegrate the homeless individual into the community.

(2) A qualified targeted case manager case must complete a management needs assessment that documents that:

(a) the individual requires treatment or services from a variety of agencies and providers to meet the individual's medical, social, educational, and other needs; and

(b) there is reasonable indication that the individual will access needed services only if assisted by a qualified targeted case manager who, in accordance with an individualized case management service plan, locates, coordinates, and regularly monitors the services.

R414-33C-5. Service Coverage.

(1) Targeted case management services include:

(a) assessing and documenting the client's potential strengths, resources and needs;

(b) developing a written, individualized, and coordinated case management service plan;

(i) that assures adequate access to medical, social, educational, and other related services; and

(ii) that is developed with input from the client, family, and other agencies knowledgeable about the client's needs;

(c) linking the client with community resources and needed services, including assisting the client to establish and maintain eligibility for entitlements other than Medicaid;

(d) coordinating the delivery of services to the client, including CHEC screenings, follow-up, and consultation with other agencies to ensure that the most appropriate interventions and services are provided by all agencies and providers involved in the client's care;

(e) monitoring and coordinating prescribed medications with professionals to ensure that all medications are appropriate, as well as providing information on the client's medication regimen to other prescribers, agencies, and providers involved in the client's care;

(f) periodically assessing and monitoring the client's status and functioning and modifying the targeted case management service plan as needed;

(g) monitoring to assure that appropriate and quality service is delivered in a timely manner;

(h) instructing the client or caretaker, as appropriate, to independently access needed services; and

(i) monitoring the client's progress and continued need for targeted case management and other services.

(2) The agency may bill Medicaid for the above activities only if the activities are identified in the case management service plan and the time spent in the activity involves a face-to-face encounter and telephone or written communication with the client, family, caretaker, service provider, or other individual with a direct involvement in providing or assuring that the client obtains the necessary services documented in the service plan.

(3) Targeted case management services provided to a hospital or nursing facility patient are limited to a maximum of five hours per admission.

R414-33C-6. Qualified Providers.

Targeted case management services must be provided by an individual employed by or under contract with the emergency homeless shelter who is:

(1) a licensed physician, a licensed psychologist, a licensed clinical social worker, a licensed certified social worker, a licensed social service worker, a licensed advanced practice registered nurse, a licensed registered nurse, a licensed professional counselor, a licensed marriage and family counselor; or

(2) an individual working toward licensure in one of the professions identified in subsection (1) to the extent permitted by Utah Code Title 58; or

(3) a licensed practical nurse or a non-licensed individual working under the supervision of one of the individuals identified in subsection (1) or (2).

R414-33C-7. Reimbursement Methodology.

The Department pays the lower of the amount billed and the rate on the fee schedule. The fee schedule was initially established after consultation with provider representatives. A provider shall not charge the Department a fee that exceeds the provider's usual and customary charges for the provider's private pay clients.

KEY: Medicaid

2005

26-1-5

26-18-3



Health, Health Systems Improvement,
Licensing
R432-270-10
Admissions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 27692

FILED: 02/02/2005, 15:05

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In November 2003, the Health Facility Committee reviewed the number of variances issued for residents receiving Hospice

Services in Assisted Living Facilities. The majority of the variances were issued since the residents no longer had a stable health condition, although most were still able to evacuate the building with little or no assistance. Based on the number of variances, it is proposed to add to the rule conditions whereby facilities may retain these residents without the need to request a Department variance.

SUMMARY OF THE RULE OR CHANGE: This change amends the admission criteria for assisted living facilities to allow hospice residents to stay in the facilities without submitting a variance application.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-21-1 and 26-21-5

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The estimated savings is \$3,060 per year to the Department. This is figured by calculating the number of variances issued and the time it takes for each one to be processed.

❖ LOCAL GOVERNMENTS: No effect on local government. The rule changes only affect state requirements and do not affect any local requirements or other health programs.

❖ OTHER PERSONS: The Department estimates cost savings in time to assisted living providers who will not have to use staff time to submit variance applications for hospice residents. This will save approximately \$5,100 in staff time to assisted living facilities per year. There will be no loss of revenue to nursing facilities because this process has been in assisted living for the last nine years. The residents in assisted living will not see any cost savings from this rule change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated costs for any parties as a result of this rulemaking. This rulemaking will alleviate requirements for providers and streamline a process that has been in effect for nine years.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impact on Assisted Living Facilities is expected to be positive by avoiding the need to apply for variances. Comments from nursing homes have been sought. This rule mirrors current practice and should not have a major fiscal impact on the operation of any providers. Fiscal impact will be reevaluated based on public comments received. David N. Sundwall, 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:

Joel Hoffman at the above address, by phone at 801-538-6165, by FAX at 801-538-6163, or by Internet E-mail at jhoffman@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 03/31/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2005

AUTHORIZED BY: David N. Sundwall, Executive Director

R432. Health, Health Systems Improvement, Licensing.

R432-270. Assisted Living Facilities.

R432-270-10. Admissions.

(1) The facility shall have written admission, retention, and transfer policies that are available to the public upon request.

(2) Before accepting a resident, the facility must obtain sufficient information about the person's ability to function in the facility through the following:

(a) an interview with the resident and the resident's responsible person; and

(b) the completion of the resident assessment.

(3) If the Department determines during inspection or interview that the facility knowingly and willfully admits or retains residents who do not meet license criteria, then the Department may, for a time period specified, require that resident assessments be conducted by an individual who is independent from the facility.

(4) The facility shall accept and retain only residents who meet the following criteria:

(a) Residents admitted to a Type I facility shall meet the following criteria before being admitted:

(i) be ambulatory or mobile and be capable of taking life saving action in an emergency;

(ii) have stable health;

(iii) require no assistance or only limited assistance in the activities of daily living; and

(iv) require and receive intermittent care or treatment in the facility from a licensed health care professional either through contract or by the facility, if permitted by facility policy.

(b) Residents admitted to a Type II facility may be independent and semi-independent, but shall not be dependent.

(5) Type I and Type II assisted living facilities shall not admit or retain a person who:

(a) manifests behavior that is suicidal, sexually or socially inappropriate, assaultive, or poses a danger to self or others; or

(b) has active tuberculosis or other chronic communicable diseases that cannot be treated in the facility or on an outpatient basis; or may be transmitted to other residents or guests through the normal course of activities; or

(c) requires inpatient hospital or long-term nursing care.

(6) A Type I facility may accept or retain residents who:

(a) do not require significant assistance during night sleeping hours;

(b) are able to take life saving action in an emergency without the assistance of another person; ~~or~~ and

(c) do not require significant assistance from staff or others with more than two ADL's.

(7) A Type II facility may accept or retain residents who require significant assistance from staff or others in more than two ADL's, provided the staffing level and coordinated supportive health and social services meet the needs of the resident.

(8) The prospective resident or the prospective resident's responsible person must sign a written admission agreement prior to admission. The admission agreement shall be kept on file by the facility and shall specify at least the following:

- (a) room and board charges and charges for basic and optional services;
- (b) provision for a 30-day notice prior to any change in established charges;
- (c) admission, retention, transfer, discharge, and eviction policies;
- (d) conditions under which the agreement may be terminated;
- (e) the name of the responsible party;
- (f) notice that the Department has the authority to examine resident records to determine compliance with licensing requirements; and
- (g) refund provisions that address the following:
 - (i) thirty-day notices for transfer or discharge given by the facility or by the resident,
 - (ii) emergency transfers or discharges,
 - (iii) transfers or discharges without notice, and
 - (iv) the death of a resident.

(9) A type I assisted living facility may accept and retain residents who have been admitted to a hospice program, under the following conditions:

(a) hospice residents comprise no more than 25 percent of the facility's resident census.

(b) the facility keeps a copy of the physician's diagnosis and orders for care;

(c) the facility makes the hospice services part of the resident's service plan which shall explain who is responsible to meet the resident's needs; and

(d) if a resident is admitted to a hospice program and is no longer capable of exiting the facility without assistance and the facility wants to retain the resident in the facility, the facility must:

(i) submit a Request for Agency Action Variance Application to the Department; and

(ii) ensure that the an individual capable of assisting the resident to exit the facility in an emergency is with the resident 24 hours a day, seven days a week.

(10) A type II assisted living facility may accept and retain residents who have been admitted to a hospice program, under the following conditions:

(a) hospice residents comprise no more than 25 percent of the facility's resident census.

(b) the facility keeps a copy of the physician's diagnosis and orders for care;

(c) the facility makes the hospice services part of the resident's service plan which shall explain who is responsible to meet the resident's needs; and

(d) if a resident becomes dependent while on hospice care and the facility wants to retain the resident in the facility, the facility must:

(i) develop an emergency plan to evacuate the hospice resident in the event of an emergency; and

(ii) integrate the emergency plan into the resident's service plan.

KEY: health facilities
[May 26, 2004]2005

Notice of Continuation January 31, 2005

26-21-1

26-21-5



Insurance, Administration R590-225-3 Documents Incorporated by Reference

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27709

FILED: 02/15/2005, 17:09

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being changed to update the dates of documents incorporated by reference in the rule.

SUMMARY OF THE RULE OR CHANGE: Edition dates of two documents in Section R590-225-3 are being changed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-2-201.1, 31A-2-202, and 31A-19a-203

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: The NAIC Uniform Property and Casualty Transmittal Document, dated January 1, 2004; and the NAIC Uniform Property and Casualty Coding Matrix, dated January 1, 2005

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** This change will have no impact on the state's budget nor on the work of the Insurance Department.
- ❖ **LOCAL GOVERNMENTS:** The changes to this rule will have no impact on local government since the rule only deals with the relationship of property and casualty insurers licensed to do business in Utah and the Utah Insurance Department.
- ❖ **OTHER PERSONS:** This change will have very little fiscal impact on property and casualty insurers doing business in Utah and throughout the United States. Two forms used by the insurers in filing their new rates and forms with states have changed. Information requested on the forms has changed slightly. The affected insurers are already aware of these changes and are using the new forms. The newly formatted forms are provided to the insurers and the only cost to insurers is the printing cost.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This change will have very little fiscal impact on property and casualty insurers doing business in Utah and throughout the United States. Two forms used by the insurers in filing their new rates and forms with states have changed. Information requested on the forms has changed slightly. The affected insurers are already aware of these changes and are using the new forms. The newly formatted forms are provided to the insurers and the only cost to insurers is the printing cost.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this rule will have very little fiscal impact on property and casualty insurers doing business in Utah. All of these insurers had an opportunity to provide their suggestions and input when these changes were made by the National Association of Insurance Commissioners (NAIC).

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

INSURANCE
ADMINISTRATION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/31/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2005

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-225. Submission of Property and Casualty Rate and Form Filings.

R590-225-3. Documents Incorporated by Reference.

(1) The department requires that the documents described in this rule shall be used for all filings. Actual copies may be used or you may adapt them to your word processing system. If adapted, the content, size, font, and format must be similar.

(2) The following filing documents are hereby incorporated by reference and are available on the department's web site, <http://www.insurance.utah.gov/RF-Flgs.html>.

(a) "NAIC Uniform Property and Casualty Transmittal Document", dated January 1, ~~2003~~2004;

(b) "NAIC Instruction Sheet for Property and Casualty Transmittal Document", dated January 1, 2003;

(c) "NAIC Uniform Property and Casualty Coding Matrix", dated ~~December 20, 2004~~January 1, 2005;

(d) "Utah Insurer Loss Cost Multiplier and Expense Constant Supplement Filing Forms", dated October 2003;

(e) "Utah Workers Compensation Insurer Loss Cost Multiplier Filing Form", dated October 2003.

KEY: property casualty insurance filing

~~March 24, 2004~~2005

31A-2-201

31A-2-201.1

31A-2-202

31A-19a-203



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).

Agriculture and Food, Animal Industry **R58-10** Meat and Poultry Inspection

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 27693
FILED: 02/03/2005, 10:38

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 4-32-7 directs the Department of Agriculture and Food to establish rules regarding the inspection of meat and poultry facilities, the licensing of these facilities, and the certification of meat and poultry products.

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 in order to prevent any contaminated or adulterated meat or poultry from entering into the market place for human consumption. Therefore, the rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mike Marshall, Earl Rogers, Kyle Stephens, or Marolyn Leetham at the above address, by phone at 801-538-7160, 801-538-7162, 801-538-7102, or 801-538-7114, by FAX at

801-538-7169, 801-538-7169, 801-538-7126, or 801-538-7126, or by Internet E-mail at mmarshall@utah.gov, erogers@utah.gov, kylestephens@utah.gov, or mleetham@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 02/03/2005



Agriculture and Food, Animal Industry **R58-17** Aquaculture and Aquatic Animal Health

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 27696
FILED: 02/03/2005, 12:48

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 4-37-101 et seq. of the Aquaculture Act provides the responsibilities of the Department of Agriculture and Food for the marketing and promotion of the state's aquaculture industry. Subsection 4-2-2(j) authorizes the department to make rules. Subsection 4-37-503 authorizes the Fish Health Policy Board to make policies to prevent the spread of disease in aquatic animals.

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: The rule establishes a program for the registration and fish health monitoring of aquaculture facilities, fee-fishing facilities, public aquaculture facilities, public fishery resources, private fish ponds,

institutional facilities, private stocking, short-term fishing events and displays, and the importation of aquatic animals into the State of Utah. All of these items still exist so therefore, the rule should be continued.

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

AGRICULTURE AND FOOD
ANIMAL INDUSTRY
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, Mike Marshall, Kent Hauck, or Kyle Stephens at the above address, by phone at 801-538-7114, 801-538-7160, 801-538-7025, or 801-538-7102, by FAX at 801-538-7126, 801-538-7169, 801-538-7169, or 801-538-7126, or by Internet E-mail at mleetham@utah.gov, mmarshall@utah.gov, khauck@utah.gov, or kylestephens@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 02/03/2005

Agriculture and Food, Animal Industry

R58-21

Trichomoniasis

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR File No.: 27694
FILED: 02/03/2005, 12:03

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 4-31-21 authorizes the Department of Agriculture and Food to establish rules for the prevention and control of trichomoniasis in cattle and bison.

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: The Cattleman's Association requested the testing of bulls for trichomoniasis, which causes infertility and abortion in cows. This rule establishes the requirements for this testing, and therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mike Marshall, Marolyn Leetham, Earl Rogers, or Kyle Stephens at the above address, by phone at 801-538-7160, 801-538-7114, 801-538-7162, or 801-538-7102, by FAX at 801-538-7169, 801-538-7126, 801-538-7169, or 801-538-7126, or by Internet E-mail at mmarshall@utah.gov, mleetham@utah.gov, erogers@utah.gov, or kylestephens@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 02/03/2005



Agriculture and Food, Animal Industry

R58-22

Equine Infectious Anemia (EIA)

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR File No.: 27695
FILED: 02/03/2005, 12:19

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: Title 4, Chapter 31; and Subsection 4-2-2(1)(c), list the duties and functions of the Department of Agriculture and Food if there is an outbreak of contagious or infectious disease among domestic animals in the State of Utah. Subsection 4-2-2(1)(j) authorizes the department to make 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 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: The intent of this rule is to eliminate or reduce the spread of Equine Infectious Anemia (EIA) among equines by providing for a protocol for testing and handling of equines infected and exposed to EIA. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mike Marshall, Marolyn Leetham, Earl Rogers, or Kyle Stephens at the above address, by phone at 801-538-7160, 801-538-7114, 801-538-7162, or 801-538-7102, by FAX at 801-538-7169, 801-538-7126, 801-538-7169, or 801-538-7126, or by Internet E-mail at mmarshall@utah.gov, mleetham@utah.gov, erogers@utah.gov, or kylestephens@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 02/03/2005



Agriculture and Food, Plant Industry

R68-20

Utah Organic Standards

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 27697
FILED: 02/04/2005, 10:20

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 4-2-2(1)(j), Sections 4-3-2 and 4-4-2, Subsection 4-5-17(1), Sections 4-9-2, 4-11-3, and 4-12-3, Subsection 4-14-6(5), Section 4-16-3, and Subsections 4-32-7(7)(a)(ii) and 4-37-109(2) authorize the Department of Agriculture and Food to make rules for the administration of the agricultural laws of the state.

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: Organic Certification is an added value to products of agriculture. Producers that can certify their product organic are subjected to rigid inspection procedures that verify a plan for sustainable agriculture productions. As a result of the inspection and certification, organic producers are able to sell their product at a premium. The certification program was implemented by request from agriculture producers and processors to be more competitive in the agriculture markets. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dick Wilson, Marolyn Leetham, Seth Winterton, or Kyle Stephens at the above address, by phone at 801-538-7180, 801-538-7114, 801-538-7141, or 801-538-7102, by FAX at 801-538-7126, 801-538-7126, 801-538-7126, or 801-538-7126, or by Internet E-mail at dwilson@utah.gov, mleetham@utah.gov, sethwinterton@utah.gov, or kylestephens@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 02/04/2005



Environmental Quality, Water Quality

R317-4

Onsite Wastewater Systems

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 27699
FILED: 02/10/2005, 11:07

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: Subsection 19-5-104(1)(f)(iv) authorizes the Utah Water Quality Board to adopt rules to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: This rule was last amended on 1/30/2003. The limited comments which were received on the rule were of a technical and noncontroversial nature. Comments received during hearings and public comment periods for rule changes were addressed through preparation of responsiveness summaries by the Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process. All changes to this rule are reviewed by a technical review committee consisting of the regulated community and other interested and affected parties that was formed to provide input to the Division of Water Quality and the Board.

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 required to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems; and therefore, the rule should be continued.

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

AUTHORIZED BY: Dianne R. Nielson, Executive Director

EFFECTIVE: 02/10/2005



End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (*Utah Code* Section 63-46a-9 (1996)). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file an extension with the Division of Administrative Rules. The extension permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed extensions for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date. The five-year review extension is governed by *Utah Code* Subsection 63-46a-9(4) and (5) (1996).

Environmental Quality

Air Quality

No. 27701 (filed 02/14/2005 at 2:44 p.m.): R307-320. Davis, Salt Lake and Utah Counties, and Ogden City: Employer-Based Trip Reduction Program.

Enacted or Last Five-Year Review: 04/05/2000 (No. 22724, 5YR, filed 04/05/2000 at 10:38 a.m., published 05/01/2000)

Extended Due Date: 08/03/2005

End of the Notices of Five-Year Review Extensions Section

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. 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

Health Care Financing, Coverage and Reimbursement Policy

No. 27629 (NEW): R414-507. Medicaid Long Term Care Managed Care.
Published: January 15, 2005
Effective: February 15, 2005

Agriculture and Food

Regulatory Services

No. 27628 (AMD): R70-440-2. Adopt by Reference.
Published: January 15, 2005
Effective: February 15, 2005

Insurance

Administration

No. 27556 (R&R): R590-147. Annual and Quarterly Statement Filing Instructions.
Published: December 15, 2004
Effective: February 10, 2005

Commerce

Administration

No. 27633 (NEW): R151-1. Department of Commerce General Provisions.
Published: January 15, 2005
Effective: February 15, 2005

No. 27554 (REP): R590-163. Filing Quarterly Statements.
Published: December 15, 2004
Effective: February 10, 2005

No. 27636 (AMD): R151-46b. Department of Commerce Administrative Procedures Act Rules.
Published: January 15, 2005
Effective: February 15, 2005

No. 27555 (REP): R590-174. Diskette Filing of Annual and Quarterly Statements.
Published: December 15, 2004
Effective: February 10, 2005

Health

Administration

No. 27571 (AMD): R380-40. Local Health Department Minimum Performance Standards.
Published: December 15, 2004
Effective: February 2, 2005

No. 27558 (AMD): R590-196. Bail Bond Surety Fee Standards, Collateral Standards, and Disclosure Form.
Published: December 15, 2004
Effective: February 10, 2005

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 1, 2005, including notices of effective date received through February 15, 2005, the effective dates of which are no later than March 1, 2005. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: The index may contain inaccurate page number references. Also the index is incomplete in the sense that index entries for Changes in Proposed Rules (CPRs) are not preceded by entries for their parent Proposed Rules. Bulletin issue information and effective date information presented in the index are, to the best of our knowledge, complete and accurate. If you have any questions regarding the index and the information it contains, please contact Nancy Lancaster (801 538-3218), Mike Broschinsky (801 538-3003), or Kenneth A. Hansen (801 538-3777).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

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ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
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